



CITY PLANNING COMMISSION

February 11, 2004/Calendar No. 24

C 030214 ZMM

IN THE MATTER OF an application submitted by 2-10 West End Avenue Associates, LLC pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 8c:

1. Changing from an M1-6 District to a C4-7 District property bounded by West End Avenue, West **60th Street, a line 100 feet easterly of West End Avenue, and West 59th Street; and**
2. Changing from an M1-6 District to a C6-2 District property bounded by West **60th Street, the westerly boundary line of a Park and its northerly and southerly prolongations, West 59th Street, and a line 100 feet easterly of West End Avenue;**

as shown in a diagram (for illustrative purposes only) dated November 3, 2003, Borough of Manhattan, Community District 7, and subject to the conditions of CEQR Declaration E-125.

The application for an amendment of the Zoning Map, Section No. 8c was filed by 2-10 West End Avenue Associates, LLC on November 15, 2002 to change an existing M1-6 district, bounded by West End Avenue, West 59th Street, West 60th Street and a line 350 feet east of West End Avenue, to C4-7 and C6-2 districts. This action, in conjunction with the related actions, would facilitate a 31-story residential building with ground floor commercial uses and a below-grade public parking facility at 2 West End Avenue.

RELATED ACTIONS

In addition to the application for an amendment of the Zoning Map which is the subject of this report (C 030214 ZMM), this action is being considered concurrently with the following related actions:

- N 030549 ZRM** Amendment of the Zoning Resolution to allow the Inclusionary Housing program in C4-7 districts in Manhattan Community District 7; and
- C 030215 ZSM** Special permit, pursuant to Sections 13-562 and 74-52, to allow an attended public parking garage with 150 spaces in the ground floor, cellar and sub-cellar of a proposed mixed use building.

BACKGROUND

2-10 West End Avenue Associates, LLC proposes an amendment of the Zoning Map from M1-6 to C4-7 and C6-2. The rezoning area is located on a portion of the block bounded by West End Avenue, Amsterdam Avenue, West 59th Street and West 60th Street (Block 1151; Lots 1, 61, 63, 5, 9, 12, 51, 52, 53).

Land uses within the rezoning area include an automotive service station (lot 1), an auto repair garage (lot 61), and an office building (lot 63), a garage used for auto body repair (lot 5), a vacant commercial building (lot 9), a studio and office building occupied by a public access cable network (lot 12), an accessory garage (lot 51), a partially vacant lot (lot 52), and a warehouse building (lot 53).

The applicant, 2-10 West End Avenue Associates, LLC owns three properties within the rezoning area, including lots 1, 61, and 63. These properties are proposed to be rezoned from M1-6 to C4-7. The applicant intends to construct a 31-story residential building with ground floor commercial uses on its 20,000 square foot project site. The proposed 300-foot high building would contain 300 apartments and consist of 241,000 square feet of zoning floor area with a floor area ratio of 12.0. Fifteen of these apartments would be Inclusionary Housing units pursuant to Zoning Resolution Section 74-52. The applicant also proposes a 150-space public parking garage. The remaining properties in the rezoning area are proposed to be rezoned from M1-6 to C6-2.

The proposal involves three actions requiring City Planning Commission approval: 1) an amendment of the Zoning Map (C 030214 ZMM) to change the eastern side of West End Avenue, between West 59th and West 60th Streets, from an M1-6 zoning district to a C4-7 district and a portion of the adjacent midblock from M1-6 to C6-2; 2) an amendment of Zoning Resolution (N 030549 ZRM) Sections 34-226, 34-221 and 35-31 to allow the Inclusionary Housing bonus in C4-7 zoning districts within Manhattan Community District 7; and 3) a Special Permit (C 030215 ZSM) pursuant to Section 74-52 to allow construction and operation of a 150-space public parking garage.

Existing Zoning

The rezoning area is currently zoned M1-6, a high-density light manufacturing district. M1-6 allows floor area ratios of 10.0 for certain community facility, commercial and manufacturing uses. Residential uses are not allowed. The existing M1-6 district extends 350 feet into the midblock to the east of West End Avenue between West 59th and West 60th streets.

The block to the south is zoned C4-7 along the West End Avenue frontage and C6-2 in the midblock. C4-7 is a high-density commercial district that permits floor area ratios of 10.0 for residential, community facility and commercial uses. The west side of West End Avenue between West 59th and West 63rd streets and between West 57th and West 58th streets is zoned C4-7. C6-2 is a medium-density commercial district that allows floor area ratios of 6.02 for residential uses, 6.5 for community facility uses, and 6.0 for commercial uses. The remainder of the block to the east of the rezoning area is currently zoned C4-7.

Zoning Policy Framework

The Department of City Planning has established a zoning policy framework to guide rezonings of the existing M1-6 manufacturing district bounded by West 58th Street, West 61st Street, Amsterdam (Tenth) Avenue and West End (Eleventh) Avenue. The site of the proposed development is within an area affected by this zoning policy framework.

Beginning in 1999 with the Rivercenter rezoning (C 970087 ZSM), the framework encourages applicant-sponsored rezonings that reflect changing land use trends and result in building forms that are compatible with the context of blocks to the north and to the west. The blocks surrounding the M1-6 district are typically zoned for high-density mixed uses on avenues and medium-density mixed uses on midblocks. Similarly, the framework recommends rezonings to allow high-density mixed uses on avenues with floor area ratios of 10.0, and medium-density mixed uses on midblocks with floor area ratios of 6.0. For example, the rezoning associated with Rivercenter changed an M1-6 designation to C4-7 along West End Avenue and C6-2 within the midblock. This framework is consistent with earlier approved rezonings along West End Avenue, including:

- West End Towers (C 880506 ZMM);
- Riverside South and Riverside South Studio blocks (C 920357 ZMM); and
- ABC Studios (C 920460 MMM).

In addition to the Rivercenter rezoning, other recent rezonings in the vicinity have facilitated developments that are consistent with this framework, including:

- 101 West End Avenue (C 920650(A) ZMM); and
- Durst Development (C 010148 ZMM).

Amendment of the Zoning Map (C 030214 ZMM)

The rezoning area includes the project site and separate properties on the midblock east of the development site. The proposed amendment of the Zoning Map would change the existing M1-6 district, bounded by West End Avenue, West 59th Street, West 60th Street and a line 350 east of West End Avenue, on the proposed development site and on the midblock east of the development site.

M1-6 to C4-7

The application proposes to rezone the avenue portion of the existing M1-6 district to C4-7, a commercial district that allows residential, community facility and commercial uses up to 10.0 FAR. The C4-7 district would extend to a depth of 100 feet from West End Avenue. The existing M1-6 district does not allow residential uses on this site.

M1-6 to C6-2

The application also proposes to rezone the midblock portion of the existing M1-6 district to C6-2, a commercial district that allows floor area ratios of 6.02 for residential uses, 6.5 for community facility uses, and 6.0 for commercial uses. The C6-2 district would extend to a depth of 300 feet east of the proposed C4-7 district. The existing M1-6 district does not allow residential uses in this area.

Amendment of the Zoning Resolution (N 030549 ZRM)

Section 23-90 of the Zoning Resolution (Inclusionary Housing) is intended to promote a mixture of low to upper income housing opportunities in high-density districts. The Inclusionary Housing program, applicable in most residential and commercial districts with floor area ratios of 10.0, permits an increase in floor area ratio up to 12.0 in compliance with its provisions.

In Manhattan Community District 7, the Inclusionary Housing program does not apply in the C4-7 districts in the southern portion of the community district and in the C1-9 and C2-8 districts on

Columbus and Amsterdam avenues between West 86th and West 97th streets. The Inclusionary Housing program is allowed in R10A and R10X districts, and all R10-equivalent districts within the Lincoln Square Special District.

The proposed amendment of the Zoning Resolution (N 030549 ZRM) Sections 34-221, 34-226, and 35-31 make Inclusionary Housing accessible in all C4-7 Districts in Manhattan Community District 7. In the other R10-equivalent districts in Manhattan Community District 7, including all C1-9 and C2-8 districts, maximum floor area ratios would continue to be restricted to 10.0. The proposed amendment of the Zoning Resolution would allow Inclusionary Housing to apply to the applicant's site and therefore increase the maximum floor area on the site to 241,000 square feet.

Special Permit (C 030215 ZSM)

The applicant also requests a special permit pursuant to Sections 13-562 and 74-52 to construct a 150-space attended public parking garage within the proposed development. The proposed garage would occupy 5,615 square feet on the ground floor (for reservoir spaces and ramps); 15,188 square feet on the cellar level and 19,182 square feet on the sub-cellar level. Stackers would accommodate 55 spaces. As required, the proposed garage would include 10 reservoir parking spaces. The proposed garage would provide attended public parking services 24 hours a day.

Vehicles would enter the proposed parking garage from West 60th Street, a one-way east-bound street. One new curb cut is proposed on West 60th Street. The curb cut would be 90 feet 6 inches from the intersection of West 60th Street and West End Avenue. It would be 21 feet wide (including splays) for traffic ingress and egress from the proposed garage.

ENVIRONMENTAL REVIEW

This application (C 030214 ZMM), in conjunction with the applications for the related actions (N 030549 ZRM and C 030215 ZSM), was reviewed pursuant to the New York State Environmental Quality Review Act (SEQRA), and the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 *et seq.* and the City Environmental Quality Review

(CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The designated CEQR number is 03DCP037M. The lead is the City Planning Commission.

After a study of the potential environmental impact of the proposed action, a Conditional Negative Declaration, signed by the applicant, was issued on January 5, 2004, stating the following:

1. The applicant agrees to conduct a Phase II Environmental Site Assessment for the project site (Block 1151, Lots 1, 61 and 63), pursuant to the DEP-approved Site Investigation Protocol, which includes site plans displaying existing surface grade and sub-grade elevations and a map depicting the twelve proposed soil boring locations. The borings will be advanced to bedrock or twenty feet below grade, whichever is encountered first. The borings will be monitored with a photo ionizing detector, and two samples will be obtained from each boring for analysis. The samples will be analyzed for VOCs via EPA Method 8260, for SVOCs via EPA Method 8270 and 8 RCRA Metals. In addition to the soil borings, three monitoring wells will be installed on the project site. The groundwater samples will be analyzed for the same parameters as the soil samples. In addition to the above, a sample will be taken and analyzed from a potential dry well present on the site;
2. Implement a DEP-approved Health and Safety Plan (HASP) for the handling and removal of all hazardous materials, including lead-based paints and asbestos containing materials (ACMs), in accordance with all federal, state and local regulations; and
3. Complete an electromagnetic (EM) survey of the project site with the purpose of locating USTs/ASTs. All USTs/ASTs, including dispensers, piping, and fill ports, must be properly removed/closed in accordance with all applicable NYSDEC regulations prior to starting construction and demolition activities. Elements of the approved protocol include a magnetometer survey in order to locate underground storage tanks.

The proposed amendment of the Zoning Map includes (E) designations for hazardous materials and noise to avoid the potential for significant adverse impacts. The (E) designation for hazardous materials would be mapped in the midblock rezoning area on the following parcels:

Block 1151, Lots 5, 9, 12, 51, 52 and 53

The (E) designation would require that the fee owner of an (E) designated site conduct a testing and sampling protocol, and remediation where appropriate, to the satisfaction of the DEP before the issuance of a building permit by the Department of Buildings (pursuant to Section 11-15 of the Zoning Resolution-Environmental Requirements). The (E) designations also include mandatory construction-related health and safety plans which must also be approved by the DEP. The (E)

designations would ensure that future redevelopment of these sites would not result in hazardous materials impacts.

Contamination on (E) designated sites can be classified as “petroleum based” or “non-petroleum based.” The New York City Department of Environmental Protection (NYCDEP) has developed protocols for (E) designated sites that are required to be followed in order to address possible contamination.

(E) Designations for Petroleum Based Contamination

Leakage of underground storage tanks containing petroleum products requires a specific protocol and may contain parts of the near surface and subsurface protocols. To determine if contamination exists on the petroleum (E) designated sites, and to determine and perform any appropriate remediation, the following tasks must be undertaken by the fee owners of the lot restricted by this (E) designation prior to any demolition or excavation on the lot prior to development.

- Task 1: The fee owner(s) of the lot restricted by this (E) designation must submit to the New York City Department of Environmental Protection (NYCDEP), for review and approval, a soil, soil gas, and ground water testing protocol, including a description of methods, and a site map with all sampling locations clearly and precisely represented.

No sampling program should begin until written approval of a protocol is received from the NYCDEP. The number and location of sample sites should be selected to adequately characterize the site, the specific source of suspected contamination, and the condition of the remainder of the site. The characterization should be complete enough to determine what remediation strategy (if any) is necessary after review of the sampling data. Guidelines and criteria for choosing sampling sites and performing sampling will be provided by the NYCDEP upon request.

- Task 2: A written report with findings and a summary of the data must be presented to the NYCDEP after completion of the testing phase and laboratory analysis for review and approval. After receiving such test results, a determination will be provided by the NYCDEP if the results indicate that remediation is necessary. Written notice shall be given by the NYCDEP if it determines that no remediation is necessary.

If remediation is necessary according to the test results, a proposed remediation plan must be submitted to the NYCDEP for review and approval. The fee owner(s) of the lot restricted by the (E) designation must perform such remediation as determined necessary

by the NYCDEP. After completing the remediation, the fee owner(s) of the lot restricted by this (E) designation should provide proof that the work has been satisfactorily completed.

(E) Designations for Non-Petroleum Based Contamination

The non-petroleum based contamination protocol has been developed to address potential contamination from all other hazardous materials sources. The procedures in the non-petroleum based protocol are the same as the petroleum based protocol with the exception of the parameters for which the soil and ground water should be tested. These parameters will vary from site to site depending upon the type of non-petroleum contamination expected to be encountered. In general the following steps will be required for non-petroleum (E) designated sites:

- The owner of the property will be required to prepare a scope of work for any sampling and testing needed to determine if contamination exists and to what extent remediation may be required. The scope of work will include all relevant supporting documentation including site plans and sampling locations. This scope of work will be submitted to the NYCDEP for review and approval prior to implementation. It will be reviewed to insure that an adequate number of samples will be collected and that appropriate parameters are selected for laboratory analysis. For all non-petroleum (E) designated sites, the three generic NYCDEP soil and ground water sampling protocols should be followed. These protocols are based on the following three types of releases to soil and ground water that may occur: release of a solid hazardous material to the ground surface; release of a liquid hazardous material to the ground surface; and the release of a hazardous material to the subsurface (i.e., storage tank or piping). The type of release will define the areas of soil to be sampled (surface, near-surface or subsurface) and determine the need for ground water sampling.
- Upon receipt of written approval from the NYCDEP of the scope of work, the sampling program will be implemented. No site investigation work will be initiated without a Site Health and Safety Plan also approved by the NYCDEP.
- Once the site investigation is complete, a report fully documenting the procedures and findings of the report will be submitted to the NYCDEP for review and approval. If remediation is deemed necessary by the NYCDEP, the site owner will be required to develop a remediation plan and subsequently implement the plan to the satisfaction of the NYCDEP.

To avoid any potential impacts associated with noise, (E) designations for noise are proposed for the majority of the lots within the proposed rezoning area. The following (E) designation for noise would be placed on Block 1151, Lots 1, 61 and 63.

In order to ensure an acceptable interior noise environment, future residential uses must provide a closed window condition with a minimum of 35 dB(A) window/wall attenuation on all facades in order to maintain an interior noise level of 45 dB(A). In order to maintain a closed-window condition, an alternate means of ventilation must also be provided. Alternate means of ventilation includes, but is not limited to, central air conditioning or air conditioning sleeves containing air conditioners or HUD-approved fans.

In addition, the following (E) designation for noise would be placed on Block 1151, Lots 5, 9, 12, 51 and 52:

In order to ensure an acceptable interior noise environment, future residential uses must provide a closed window condition with a minimum of 30 dB(A) window/wall attenuation on all facades in order to maintain an interior noise level of 45 dB(A). In order to maintain a closed-window condition, an alternate means of ventilation must also be provided. Alternate means of ventilation includes, but is not limited to, central air conditioning or air conditioning sleeves containing air conditioners or HUD-approved fans.

UNIFORM LAND USE REVIEW

This application (C 030214 ZMM), in conjunction with the application for the related action (C 030215 ZSM) were certified as complete by the Department of City Planning on November 3, 2003 and were duly referred to Community Board 7 and the Borough President in accordance with Article 3 of the Uniform Land Use Review Procedure (ULURP) rules, along with the related application to amend the Zoning Resolution (N 030549 ZRM) which was referred for information and review in accordance with the procedure for referring non-ULURP matters.

Community Board Public Hearing

Community Board 7 held a public hearing on the applications on December 2, 2003 and, on that date, by a vote of 32 to 2 with 0 abstentions, adopted a resolution recommending approval of the applications.

Borough President Recommendation

The applications were considered by the Borough President, who issued a recommendation approving the applications on December 10, 2003.

City Planning Commission Public Hearing

On December 15, 2003 (Calendar No. 1), the City Planning Commission scheduled January 7, 2004 for a public hearing on this application. The hearing was duly held on January 7, 2004 (Calendar No. 13) in conjunction with the public hearings on the related applications (C 030215 ZSM and N 030549 ZRM).

There were no speakers and the hearing was closed.

CONSIDERATION

The Commission believes that the proposed amendment of the Zoning Map (C 030214 ZMM), along with the related amendment of the Zoning Resolution (N 030549 ZRM) and special permit to allow a 150-space public parking garage (C 030215 ZSM) are appropriate.

Amendment of the Zoning Map (C 030214 ZMM)

The Commission believes that the amendment of the Zoning Map is appropriate. The Commission notes that the existing M1-6 designation is a remnant of the area's manufacturing history and that it no longer represents the area's growing institutional and residential land uses. The area's isolation from larger, more active manufacturing uses limits its viability as a future location for manufacturing uses.

The Commission further notes that there have been several major rezonings that have influenced the physical character of this transforming neighborhood. In approving these projects, the Commission has established a pattern regarding density and use controls within the former manufacturing districts in this area. Specifically, the Commission has approved rezonings that reflect the densities of residential and mixed use developments in the Upper West Side. These areas tend to exhibit higher density developments within 100 feet of avenues and medium-density developments within midblocks facing narrow streets. The Commission believes that the proposed change in zoning designations from M1-6 to C4-7 on the avenue and from M1-6 to C6-2 on the midblock are consistent with the density and use controls that are characteristic of mixed use areas in the Upper West Side and that are consistent with the pattern established by past rezoning actions.

Amendment of the Zoning Resolution (N 030549 ZRM)

The Commission believes that the proposed amendment of the Zoning Resolution is appropriate. At the time when the Inclusionary Housing program was first adopted, Community Board 7 expressed concerns that the program could result in developments that were incompatible with the context of certain areas. Community Board 7 was especially concerned about the potential impacts of the Inclusionary Housing program within the C1-9 and C2-8 districts on Columbus and Amsterdam avenues. The proposed text and related zoning map change do not affect those areas. The Commission notes that Inclusionary Housing program would continue to be allowed in all R10A and R10X districts, as well as all R10-equivalent districts in the Lincoln Square Special District in Community District 7.

The Commission believes that the proposed amendment of the Zoning Map and the related amendment Zoning Resolution would contribute to the city's ongoing efforts to foster affordable housing in this portion of Manhattan. The Commission notes that 15 Inclusionary Housing units would be created as part of the proposed development. Pursuant to the requirements of the Inclusionary Housing program, these apartments will permanently retain their status as Inclusionary Housing units throughout the life of the proposed development. The Commission further notes that the proposed amendments to the Zoning Map and the Zoning Resolution would facilitate new affordable housing opportunities in a portion of Manhattan Community District 7 where these opportunities are not currently allowed.

Special Permit (C 030215 ZSM)

The Commission believes that the grant of the special permit to construct a 150-space attended public parking garage pursuant to Zoning Resolution Sections 13-562 and 74-52 is appropriate. The special permit would facilitate an attended public parking garage that would occupy portions of the ground floor, cellar and sub-cellar of a proposed 300-unit residential building with ground floor retail. The garage would contain 150 spaces, comprise 39,985 square feet, and provide attended public parking services 24 hours a day.

The Commission notes that the proposed garage is expected to generate only 22 vehicle trips during the peak period, between 5:00 p.m. and 6:00 p.m. on weekday evenings. Furthermore, a negligible number of pedestrians travel on the sidewalk in front of the garage entrance during the peak hour. The Commission further notes that the proposed garage would include the required 10 reservoir spaces. Therefore, the Commission believes that the garage use will not cause traffic congestion or inhibit pedestrian traffic.

The Commission believes that the proposed public parking garage would draw a minimum amount of vehicular traffic through local streets. The Commission notes that the proposed garage would be generally accessed from West End Avenue, which is not a local street. The garage entrance is on West 60th Street, which is 60 feet wide and can adequately serve the increased traffic that would be generated by the proposed garage. Furthermore, the proposed public parking garage is expected to serve residents and businesses in the area immediately surrounding the garage.

RESOLUTION

RESOLVED, that the City Planning Commission finds that the action described herein will have no significant impact on the environment subject to the following conditions:

1. The applicant agrees to conduct a Phase II Environmental Site Assessment for the project site (Block 1151, Lots 1, 61 and 63), pursuant to the DEP-approved Site Investigation Protocol, which includes site plans displaying existing surface grade and sub-grade elevations and a map depicting the twelve proposed soil boring locations. The borings will be advanced to bedrock or twenty feet below grade, whichever is encountered first. The borings will be monitored with a photo ionizing detector, and two samples will be obtained from each boring for analysis. The samples will be analyzed for VOCs via EPA Method 8260, for SVOCs via EPA Method 8270 and 8 RCRA Metals. In addition to the soil borings, three monitoring wells will be installed on the project site. The groundwater samples will be analyzed for the same parameters as the soil samples. In addition to the above, a sample will be taken and analyzed from a potential dry well present on the site;
2. Implement a DEP-approved Health and Safety Plan (HASP) for the handling and removal of all hazardous materials, including lead-based paints and asbestos containing materials (ACMs), in accordance with all federal, state and local regulations; and
3. Complete an electromagnetic (EM) survey of the project site with the purpose of locating USTs/ASTs. All USTs/ASTs, including dispensers, piping, and fill ports, must be properly removed/closed in accordance with all applicable NYSDEC regulations prior to starting construction and demolition activities. Elements of the approved protocol include a magnetometer survey in order to locate underground storage tanks.

RESOLVED, by the City Planning Commission, pursuant to Sections 197-c and 200 of the New York City Charter, that based on the environmental determination and the consideration described in this report, the Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended by changing the Zoning Map, Section No. 8c, by

1. Changing from an M1-6 District to a C4-7 District property bounded by West End Avenue, West **60th Street, a line 100 feet easterly of West End Avenue, and West 59th Street; and**
2. Changing from an M1-6 District to a C6-2 District property bounded by West **60th Street, the westerly boundary line of a Park and its northerly and southerly prolongations, West 59th Street, and a line 100 feet easterly of West End Avenue;**

as shown in a diagram (for illustrative purposes only) dated November 3, 2003, Borough of Manhattan, Community District 7, which includes the CEQR designation E-125.

The above resolution (C 030214 ZMM), duly adopted by the City Planning Commission on February 11, 2004 (Calendar No. 24), is filed with the Office of the Speaker, City Council, and the Borough President in accordance with the requirements of Section 197-d of the New York City Charter.

AMANDA M. BURDEN, AICP, *Chair*

KENNETH KNUCKLES, Esq., *Vice Chairman*

ANGELA M. BATTAGLIA, IRWIN G. CANTOR, P.E., ANGELA R. CAVALUZZI, R.A.,

RICHARD W. EADDY, ALEXANDER GARVIN, CHRISTOPHER KUI, JOHN MEROLO,

KAREN A. PHILIPS, *Commissioners*

JANE D. GOL, *Commissioner, Recused*