



CITY PLANNING COMMISSION

October 7, 2008/Calendar No. 29

N 090031 ZRM

IN THE MATTER OF an application submitted by the Department of City Planning pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, concerning Article IX, Chapter 7 (Special 125th Street District), to modify height and bulk regulations within the C4-7 zoned portion of the Core Subdistrict, Borough of Manhattan, Community District 10

The application for an amendment of the Zoning Resolution was filed by the Department of City Planning on July 17, 2008. The requested action would change height and bulk regulations within the C4-7 zoned portion of the Special 125th Street District – Core Subdistrict.

BACKGROUND

The Department of City Planning seeks approval of a zoning text amendment to modify height and bulk regulations within the C4-7 zoned portion of the Special 125th Street District- Core Subdistrict.

The proposed zoning text amendment is a follow-up corrective action that fulfills the Department's commitment with the City Council and the greater Harlem community to reduce building height in the C4-7-zoned portion of the Core Subdistrict. The affected area is located on the north side of West 125th Street between Frederick Douglass Boulevard and a point 545 feet east of Lenox Avenue/Malcolm X Boulevard, in Manhattan Community District 10.

Special 125th Street District

The Special 125th Street District includes 24 blocks in East, Central and West Harlem, within an area generally bounded by 124th Street, 126th Street, Broadway and Second Avenue. The special district is part of a city initiative to support the ongoing revitalization of 125th Street, Harlem's Main Street.

On March 10, 2008, the City Planning Commission approved the Special 125th Street District and related rezoning action (N 080100 (A) ZRM and C 080099 (A) ZMM). The special district included an innovative Arts Bonus, which was further modified by the Commission to broaden its application in terms of use, with appropriate restrictions, and enforcement. The special district also restricted residential entrances on 125th Street frontage in the Core Subdistrict to further incentivize commercial and arts-related activity on the street.

On April 30, 2008, the City Council approved the Special 125th Street District and related rezoning action with a modification to the special district zoning text (C 080100(A) ZRM) that reduced the allowed residential density in the C6-3 district within the Core Subdistrict, and incorporated changes to the Arts Bonus to expand public participation opportunities in the selection of proposed operators for the bonused arts space.

Proposed Zoning Text Amendment

The proposed action would change height and bulk regulations applicable to the C4-7 zoned portion of the Special 125th Street District - Core Subdistrict. Zoning text sections to be amended include ZR 97-411 (Maximum floor area in C4-4D, C4-7 and C6-3 Districts), ZR 97-422 (Floor area bonus for visual or performing arts uses) and ZR 97-442 (Height and setback regulations for C4-7 and C6-3 Districts). The affected area is located on the north side of West 125th Street between Frederick Douglass Boulevard and a point 545 feet east of Lenox Avenue/Malcolm X Boulevard.

Within the Core Subdistrict, the C4-7 district has bulk regulations to limit the height of new buildings, while still providing sufficient flexibility for commercial and mixed-use build programs. In the current text, the C4-7 district permits commercial and community facility uses up to 10.0 FAR (with commercial uses bonusable to 12.0 FAR through the Arts Bonus) and residential uses up to 9.0 FAR (bonusable to 12.0 FAR through the Inclusionary Housing Program). The street wall could rise 60 to 85 feet, with a maximum building height of 290 feet.

Portions of a building within 50 feet of 126th Street between Adam Clayton Powell Jr. Boulevard and Malcolm X Boulevard/Lenox Avenue would have a maximum height of 80 feet.

The proposed zoning text amendment would change height and bulk regulations for the C4-7 zoned portion of the Core Subdistrict (i.e., the affected area). In sum, the proposed action would:

Reduce the maximum building height

- The maximum building height in the affected area, originally set at 290 feet, would be reduced to a maximum height of 195 feet. The 195-foot height limit would not change the 60-85 foot street wall height. Portions of a building within 50 feet of 126th Street between Adam Clayton Powell Jr. Boulevard and Malcolm X Boulevard/Lenox Avenue would still have a maximum height of 80 feet.

Reduce the maximum allowable residential, commercial and community facility density

- The commercial density in the affected area, originally set at a base FAR of 10.0, bonusable to a maximum FAR of 12.0, would be reduced to a base FAR of 7.2, bonusable to a maximum FAR of 8.65 with the Arts Bonus;
- The residential density in the affected area, originally set at a base FAR of 9.0, bonusable to a maximum FAR of 12.0, would be reduced to a base FAR of 5.4, bonusable to a maximum FAR of 7.2 with the Inclusionary Housing or Arts Bonus, and
- The maximum community facility FAR, originally set at 10.0, would be reduced to a maximum FAR of 7.2.

It should be noted that the proposed residential density (i.e., 5.4 FAR bonusable to 7.2 FAR) is the same as that for the C6-3 district that is also located in the Core Subdistrict and faces the affected area on the south side of 125th Street between Frederick Douglass Boulevard and a point 545 feet east of Malcolm X Boulevard.

The proposed action would reduce the maximum FAR for residential, commercial and community facility uses, and would reduce the maximum height on the north side of 125th Street within the Core Subdistrict. As compared to the existing rezoning and special district plan, the proposed action would result in 86 fewer projected residential units, 243,719 square feet less of projected commercial space and 10,004 square feet less of arts space.

ENVIRONMENTAL REVIEW

A Technical Memorandum (CEQR No.07DCP030M) was filed in conjunction with the ULURP application, N 090031 ZRM. The Technical Memorandum assessed whether the proposed text amendment would have the potential to cause any significant adverse environmental impacts not previously identified in the Final Environmental Impact Statement (“FEIS”) for the 125th Street Rezoning and Related Actions (ULURP No. N 080100(A) ZRM). The Technical Memorandum 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 New York City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The lead agency is the City Planning Commission (CPC).

A Notice of Minor Modification was issued on July 18, 2008, which concluded that the action represents a minor modification and does not alter the conclusions of the earlier review. Therefore, the Notice of Completion of the FEIS issued on February 29, 2008 remains valid.

PUBLIC REVIEW

On July 21, 2008, the application, N 090031 ZRM, was duly referred to Community Board 10 and the Borough President for information and review in accordance with the procedures for non-ULURP matters.

Community Board Review

The application, N 090031 ZRM, was considered by Community Board 10, who issued a recommendation for approval on July 24, 2008.

Borough President Recommendation

The application, N 090031 ZRM, was considered by the Borough President, who issued a recommendation for approval on September 2, 2008.

City Planning Commission Public Hearing

On September 10, 2008, (Calendar No. 1), the City Planning Commission scheduled September 24, 2008, for a public hearing on the application, (N 090031 ZRM). The hearing was duly held on September 24, 2008 (Calendar No. 31).

There were 2 speakers in favor of the application and no speakers in opposition.

Those who spoke in favor included a representative from the Borough President's Office, who reiterated the Borough President's support for the proposed zoning text amendment. Community Board 10's Economic Development Committee Chair, who also spoke in favor, expressed the Board's support for the proposed action, which addressed concerns raised by the Board during the 125th Street Rezoning public review process.

There were no other speakers and the hearing was closed.

CONSIDERATION

The Commission believes that the proposed zoning text amendment to modify height and bulk regulations within the Special 125th Street District – Core Subdistrict is appropriate.

The affected area is located on the north side of West 125th Street between Frederick Douglass Boulevard and a point 545 feet east of Lenox Avenue/Malcolm X Boulevard, in Manhattan Community District 10.

Within the Core Subdistrict, as approved by the City Council on April 30, 2008, the C4-7 district would permit commercial and community facility uses up to 10.0 FAR (with commercial uses bonusable to 12.0 FAR through the Arts Bonus) and residential uses up to 9.0 FAR (bonusable to 12.0 FAR through the Inclusionary Housing Program). The street wall could rise 60 to 85 feet, with a maximum building height of 290 feet. Portions of a building within 50 feet of 126th Street between Adam Clayton Powell Jr. Boulevard and Malcolm X Boulevard/Lenox Avenue would have a maximum height of 80 feet.

The proposed zoning text amendment would change height and bulk regulations for the C4-7 zoned portion of the Core Subdistrict (i.e., the affected area). Within the affected area, the proposed action would reduce the maximum building height, originally set at 290 feet, to a maximum height of 195 feet. The 195-foot height limit would not change the 60-85 foot street wall height. Also, portions of a building within 50 feet of 126th Street between Adam Clayton Powell Jr. Boulevard and Malcolm X Boulevard/Lenox Avenue would still have a maximum height of 80 feet.

The proposed action would also reduce the maximum commercial, residential and community facility density. Within the affected area, the commercial density, originally set at 10.0 FAR bonusable to 12.0 FAR would be reduced to 7.2 FAR bonusable to 8.65 FAR, achievable with the Arts Bonus. The residential density, originally set at 9.0 FAR bonusable to 12.0 FAR, would be reduced to 5.4 FAR bonusable to 7.2 FAR, achievable with the Inclusionary Housing or Arts Bonus. The Commission notes that the proposed residential density is the same as that for the C6-3 district that is also located in the Core Subdistrict and faces the affected area on the south side of 125th Street between Frederick Douglass Boulevard and a point 545 feet east of Malcolm

X Boulevard. Finally, the community facility density, originally set at 10.0 FAR would be reduced to 7.2 FAR.

The Commission notes that the proposed action would reduce the maximum FAR for residential, commercial and community facility uses and reduces the maximum height on the north side of 125th Street within the Core Subdistrict. The proposed action, with a higher commercial base (7.2) FAR than residential base (5.4) FAR, would give preference for commercial over residential development, which supports a key goal of the 125th Street Rezoning and Special District Plan to incentivize commercial and arts-related development in the corridor.

The Commission believes that the proposed action acknowledges and addresses comments heard during the 125th Street Rezoning public review process regarding building height and density in the C4-7 zoned portion of the Core Subdistrict and underscores the primary goal of the 125th Street Rezoning and Special District Plan to create and advance a comprehensive planning and development framework for the 125th Street Corridor, while taking into account, local concerns. The Commission, therefore, believes that the proposed zoning text amendment to change building height and bulk regulations within the C4-7 zoned portion of the Special 125th Street District – Core Subdistrict is appropriate.

RESOLUTION

RESOLVED, that the City Planning Commission finds that the actions described herein will have no significant impact on the environment; and be it further

RESOLVED, by the City Planning Commission, pursuant to Section 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 as follows:

Matter in underline is new, to be added
 Matter in ~~strikeout~~ is old, to be deleted;
 Matter within # # is defined in 12-10 or
 * * * indicates where unchanged text appears in the Zoning Resolution

**ARTICLE IX
 SPECIAL PURPOSE DISTRICTS**

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**Chapter 7
 Special 125th Street District**

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**97-411
 Maximum floor area ratio in C4-4D, C4-7 and C6-3 Districts**

In C4-4D, C4-7 or C6-3 Districts, the maximum permitted #floor area ratios# for new #developments# or #enlargements# shall be as listed in the following table for #residential#, #commercial# and #community facility uses and may only be increased pursuant to Section 97-42 (Floor Area Bonuses).

MAXIMUM PERMITTED FLOOR AREA RATIO (FAR) FOR RESIDENTIAL, COMMERCIAL AND COMMUNITY FACILITY USES						
	OUTSIDE THE CORE SUBDISTRICT			WITHIN THE CORE SUBDISTRICT		
District	#Residential floor area ratio#	Commercial #floor area ratio#	Community Facility #floor area ratio#	#Residential floor area ratio#	Commercial #floor area ratio#	Community Facility #floor area ratio#
C4-4D	5.4	4.0	6.0	5.4	4.0	6.0
C4-7	9.0	10.0	10.0	9.0 <u>5.4</u>	10.0 <u>7.2</u>	10.0 <u>7.2</u>
C6-3	6.0	6.0	6.0	5.4	6.0	6.0

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97-422

Floor area bonus for visual or performing arts uses

In C4-4D, C4-7 or C6-3 Districts within the #Special 125th Street District#, for a new #development# or #enlargement# with frontage on 125th Street , the maximum #floor area ratio# otherwise permitted for #residential# or #commercial uses# listed in Section 97-411 may be increased up to the maximum #floor area ratio# specified in the following table, provided that for every four square feet of bonused #floor area#, an amount of space equivalent to one square foot of such bonused #floor area# shall be used for those visual or performing arts #uses# designated in paragraph (b) of Section 97-11 (Special Arts and Entertainment Uses). Such bonused #floor area# shall be permitted only upon certification by the Chairperson of the City Planning Commission to the Commissioner of Buildings that the conditions set forth in Section 97-423 have been met.

MAXIMUM PERMITTED FLOOR AREA RATIO (FAR) FOR RESIDENTIAL AND COMMERCIAL USES WITH FLOOR AREA BONUS FOR VISUAL OR PERFORMING ARTS USES								
	OUTSIDE THE CORE SUBDISTRICT				WITHIN THE CORE SUBDISTRICT			
District	#Residential floor area ratio		Commercial #floor area ratio#		#Residential floor area ratio		Commercial #floor area ratio#	
	Base	Maximum	Base	Maximum	Base	Maximum	Base	Maximum
C4-4D	5.4	7.2	4.0	5.4	5.4	7.2	4.0	5.4
C4-7	9.0	12.0	10.0	12.0	9.0 <u>5.4</u>	12.0 <u>7.2</u>	10.0 <u>7.2</u>	12.0 <u>8.65</u>
C6-3	6.0	8.0	6.0	8.0	5.4	7.2	6.0	8.0

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97-442

Height and setback regulations for C4-7 and C6-3 Districts

The following modifications of the underlying district regulations shall apply for C4-7 and C6-3 Districts within the Special District:

- (a) The minimum and maximum base height of the #street wall# and the maximum height of a

#development# or #enlargement# shall be modified, as set forth in the following table:

MINIMUM BASE HEIGHT, MAXIMUM BASE HEIGHT AND MAXIMUM BUILDING HEIGHT			
District	Street Wall Height (in feet)		Maximum Building Height (in feet)
	Minimum Base Height	Maximum Base Height	
C4-7	60	85	290 <u>195</u>
C6-3	60	85	160

All portions of buildings that exceed a height of 85 feet in C4-7 and C6-3 Districts shall be set back at least 15 feet from the #street line#, except that such setback depth may include the depth of any permitted recess in the #street wall#, according to the provisions of 97-433 (Street wall location).

(b) Special regulations for certain C4-7 Districts

- (1) For the area located within 50 feet of the 126th Street frontage and between 200 feet east of Adam Clayton Powell Boulevard and 150 feet west of Lenox Avenue/Malcolm X Boulevard, the height of any portion of a #development# or #enlargement# shall be limited to 80 feet.
- (2) For #zoning lots# bounded by 125th Street, Park Avenue and 124th Street, the maximum #building# height shall be 330 feet.
- (3) For Lots 1 and 7501 on #Block# 1910, the requirements of City Environmental Quality Review (CEQR) Environmental Designation number (E-201) have been modified, as set forth in the Technical Memorandum to the Final Environmental Impact Statement for CEQR Number 07DCP030M, dated July 18, 2008.

(c) In C6-3 Districts, the maximum length of any #story# located above a height of 85 feet shall not exceed 150 feet. Such length shall be measured by inscribing within a rectangle the outermost walls at the level of each #story# entirely above a height of 85 feet. No side of such rectangle shall exceed a width of 150 feet.

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The above resolution, duly adopted by the City Planning Commission on October 7, 2008 (Calendar No. 29), is filed with the Office of the Speaker, City Council and the Manhattan Borough President, pursuant to Section 197-d of the New York City Charter.

AMANDA M. BURDEN, FAICP, Chair
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