



## CITY PLANNING COMMISSION

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October 21, 2009 / Calendar No. 12

C 090440 ZSM

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**IN THE MATTER OF** an application submitted by 14-62 Realty Corp. pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-711 of the Zoning Resolution to modify the requirements of Section 23-691 (Limited Height Districts), to facilitate the 1-story enlargement of two existing 5-story buildings at 12 and 14 East 62<sup>nd</sup> Street (Block 1376, Lots 63 and 62, respectively), on property located at 12-18 East 62<sup>nd</sup> Street (Block 1376, Lots 60, 61, 62 and 63), in R8B and C5-1 Districts, partially within the Special Limited Height District (LH-1A) and the Special Madison Avenue Preservation District (MP), within the Upper East Side Historic District, Borough of Manhattan, Community District 8.

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The application for the special permit pursuant to Section 74-711 of the Zoning Resolution was filed by 14-62 Realty Corp. on May 14, 2009, to modify certain bulk regulations to facilitate the enlargement of two existing, five-story buildings at 12 and 14 East 62<sup>nd</sup> Street (Block 1376, Lots 63 and 62) by constructing a one-story rooftop addition on top of each building, in Community District 8, Manhattan.

### **BACKGROUND**

The subject site consists of a single zoning lot, made up of four separate tax lots (Block 1376, Lots 60, 61, 62 and 63) and which contains four adjacent existing buildings at 12, 14, 16 and 18 East 62<sup>nd</sup> Street, located on the south side of the street between Fifth Avenue and Madison Avenue. The subject site is split between an R8B/LH-1A (Limited Height) and a C5-1/MP (Special Madison Avenue Preservation District) zoning district, and is located within the boundaries of the Upper East Side Historic District.

The subject site, at 12-18 East 62<sup>nd</sup> Street (Block 1376, Lots 60, 61, 62, 63), is currently improved with four buildings on a single zoning lot (100 feet, 5 inches deep and 95 feet, 6

inches wide) containing approximately 9,590 square feet. At the westerly end of the site, 12 East 62<sup>nd</sup> Street ("Building 12") is an existing five-story building (59 feet, 11 inches in height at roof level). To the east, 14 East 62<sup>nd</sup> Street ("Building 14") is an existing five-story building (59 feet, 11 inches in height at roof level); 16 East 62<sup>nd</sup> Street ("Building 16") is an existing six-story building (71 feet, 8 inches in height at roof level); and 18 East 62<sup>nd</sup> Street ("Building 18") is an existing five-story building (59 feet, 10 inches in height at roof level). Combined, all four buildings contain 38,693 square feet of floor area. The four existing rowhouses on the zoning lot were developed as part of a row of eight original brownstone residences built in 1879; Buildings 12 through 18 were all originally designed with four-stories, a basement and stoop. Beginning in 1903, significant exterior alterations have been completed, including the construction of an additional floor at Building 16, and the removal of the stoop at all four addresses. In 1935, Buildings 16 and 18 were combined internally. Currently, all four buildings on the zoning lot are vacant; they previously housed approximately 26 residential units and one doctor's office.

The subject zoning lot is located near the southeast corner of Central Park and within the boundaries of the Upper East Side Historic District. The district is characterized by a mix of mansions, town houses, apartment houses, private carriage houses and garages and institutional buildings erected by or for the city's wealthiest citizens in the early decades of the 20<sup>th</sup> century. The immediate surrounding area of the zoning lot features a range of uses, including residential, community facility, office, retail and other uses. Community facility uses include private clubs such as the Metropolitan Club and the Knickerbocker Club, a number of synagogues, private doctors' offices and the former New York Academy of Sciences building. Commercial uses

include ground-floor retail shops and office, high-rise office buildings, the Barneys department store and the Hotel Pierre. Many nearby buildings contain a mix of these uses such as high-rise apartments and offices with a range of ground-floor retail uses. Central Park is to the west and within a 400-foot radius around the project site.

The subject site is located mostly within the R8B/LH-1A zoning district. The R8B/LH-1A district is mapped at a distance 100 feet beyond Madison Avenue and applies to all but the easternmost 4 feet, 6 inches of the project zoning lot; Buildings 12 and 14, which are the subject buildings of the requested height waivers, are located completely within the R8B/LH-1A portion of the site. In R8B zoning districts, the maximum allowable residential FAR is 4.0; the maximum allowable streetwall height is 60 feet, after which a setback of 15 feet is required; and the maximum permitted building height is 75 feet. In LH-1A Limited Height Districts, however, the maximum permitted building height is 60 feet. The easternmost 4 feet, 6 inch portion of the zoning lot is located within a C5-1/MP District. The C5-1 zoning district allows an FAR of 10 for residential and community facility uses, and an FAR of 4.0 for commercial uses. The maximum permitted floor area for the zoning lot is 41,071.78 square feet.

The applicant requests a special permit pursuant to Section 74-711 to modify the requirements of Section 23-691 (Limited Height Districts), in order to allow for the construction of two rooftop additions on top of Building 12 and Building 14, of approximately 575 and 607 square feet, respectively. While complying with the maximum FAR requirements, the proposed additions would add approximately 9 feet, 6 inches to the existing roof heights of Buildings 12 and 14, for a new roof height of approximately 69 feet, 5 inches. The LPC determined that the proposed additions would not be visible from the street and approved the work as appropriate.

## **REQUESTED ACTIONS**

To facilitate the proposed development, a waiver is requested to modify the governing maximum allowable height limit, as set forth in Section 23-691 of the Zoning Resolution. For the subject buildings, which are located in an R8B/LH-1A (Limited Height) district, a maximum height limit of 60 feet applies. The proposed work would result in a building height at both 12 and 14 East 62<sup>nd</sup> Street of 69 feet, 5 inches. No other bulk waivers are required as part of the proposed project.

Section 74-711 of the Zoning Resolution allows the City Planning Commission, by special permit, to modify use and bulk regulations (except floor area) in order to further the preservation of designated landmark buildings or buildings located within historic districts.

Section 74-711 requires a report from the Landmarks Preservation Commission (LPC) stating that a program has been established for continuing maintenance that will result in the preservation of the subject building or buildings and that such use or bulk modifications, or restorative work required under the continuing maintenance program, contributes to a preservation purpose.

On January 7, 2008, the Landmarks Preservation Commission issued a report stating that a program for continuing maintenance has been established for 12-18 East 62<sup>nd</sup> Street (Block 1376, Lot 60, 61, 62 and 63) and a restrictive declaration will be filed against the property. On January 7, 2009, the Landmarks Preservation Commission issued a Certificate of Appropriateness.

## **ENVIRONMENTAL REVIEW**

This application (C 090440 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 New York City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The designated CEQR number is 09DCP080M. The lead agency is the City Planning Commission (CPC).

After a study of the potential environmental impact of the proposed action, a negative declaration was issued on June 29, 2009.

## **UNIFORM LAND USE REVIEW**

On June 29, 2009, the original application (C 090440 ZSM) was certified as complete by the Department of City Planning and was duly referred to Community Board 8 and the Borough President in accordance with Title 62 of the Rules of the City of New York, Section 2-02(b).

## **Community Board Public Hearing**

Community Board 8 (“CB8”) held a public hearing on this application (C 090440 ZSM) on July 15, 2009, and on that date, by a vote of 40 in favor, 0 opposed, and 0 abstaining, adopted a resolution recommending approval of the application.

## **Borough President Recommendation**

This application (C 090440 ZSM) was considered by the Borough President, who issued a recommendation approving the application on September 4, 2009.

### **City Planning Commission Public Hearing**

On September 9, 2009 (Calendar No. 7), the City Planning Commission scheduled September 23, 2009, for a public hearing on this application (C 090440 ZSM). The hearing was duly held on September 23, 2009 (Calendar No. 16). There were three speakers in favor of the application and none in opposition.

A representative of the Borough President's office, the applicant's attorney, and the applicant's architect appeared in favor. The representative of the Borough President's office reiterated his office's approval of the application. The applicant's attorney and architect described the proposal and noted that the top of the proposed new additions would not be visible from across the street.

There were no other speakers and the hearing was closed.

### **CONSIDERATION**

The Commission believes that the grant of this special permit (C 090440 ZSM) is appropriate.

The Commission believes that the proposed development would have minimal adverse impacts on the structures or open space in the vicinity in terms of scale, location and access to light and air, and that the waiver to exceed the maximum height of 60 feet is appropriate. The proposed development would raise the overall roof height of the buildings at 12 and 14 East 62<sup>nd</sup> Street from 59 feet, 11 inches to 69 feet, 5 inches. The Commission notes that the Limited Height District, created in 1982, was intended to preserve the built character of historic residential midblocks. The Commission further notes that the buildings' proposed height is generally consistent with the heights of other buildings along East 62<sup>nd</sup> Street and in the surrounding

midblock areas. The Commission also notes that the proposed additions are set back from the buildings' streetwalls and, as determined by the LPC in its approval process, would not be visible from the street. Additionally, the Commission notes that the R8B zoning district and the historic district designations together have been successful in preserving the Upper East Side midblocks.

## **FINDINGS**

The City Planning Commission hereby makes the following findings pursuant to Section 74-711 of the Zoning Resolution:

- 1) That the proposed bulk modifications shall have minimal adverse impacts on the structures or open space in the vicinity in terms of scale, location and access to light and air; and
- 2) Not applicable.

## **RESOLUTION**

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

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 and findings described in this report, the application of 14-62 Realty Corp., pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-711 of the Zoning Resolution to modify the requirements of Section 23-691 (Limited Height Districts), to facilitate the 1-story enlargement of two existing 5-story buildings at 12 and 14 East 62<sup>nd</sup> Street (Block 1376, Lots 63 and 62, respectively), on property located at 12-18 East 62<sup>nd</sup> Street (Block 1376, Lots 60, 61, 62 and 63), in R8B and C5-1 Districts, partially within the Special Limited Height District (LH-1A) and the Special Madison Avenue Preservation District (MP), within the Upper East Side Historic District, Borough of Manhattan, Community District 8, is approved subject to the following terms and conditions:

1. The property that is the subject of this application (C 090440 ZSM) shall be developed in size and arrangement substantially in accordance with the dimensions, specifications and zoning computations indicated on the following approved plans, prepared by Joseph Pell Lombardi & Associates Architects, filed with this application and incorporated in this resolution:

<b>Drawing No.</b>	<b>Title</b>	<b>Last Date Revised</b>
CPC- 0.1	Zoning Analysis & Calculations	June 24, 2009
CPC- 0.2	Site Plan & Massing	June 24, 2009
L – 300	Building 12-14 Section	June 24, 2009

2. Such development shall conform to all applicable provisions of the Zoning Resolution, except for the modifications specifically granted in this resolution and shown on the plans listed above which have been filed with this application. All zoning computations are subject to verification and approval by the New York City Department of Buildings.
3. Such development shall conform to all applicable laws and regulations relating to its construction, operation and maintenance.
4. Development pursuant to this resolution shall be allowed only after the attached restrictive declaration, dated as of October 9, 2009, executed by 12-62 Realty Corporation, 14-62 Realty Corporation, 16-62 Realty Corporation, and 18-62 Realty Corporation, the terms of which shall be deemed incorporated herein as a condition of this resolution, shall have been recorded and filed in the Office of the City Register of the City of New York, County of New York.
5. All leases, subleases, or other agreements for use or occupancy of space at the subject property shall give actual notice of this special permit to the lessee, sublessee or occupant.
6. Upon the failure of any party having any right, title or interest in the property that is the subject of this application, or the failure of any heir, successor, assign, or legal representative of such party, to observe any of the covenants, restrictions, agreements, terms or conditions of this resolution whose provisions shall constitute conditions of the special permit hereby granted, the City Planning Commission may, without the consent of any other party, revoke any portion of or all of said special permit. Such power of

revocation shall be in addition to and not limited to any other powers of the City Planning Commission, or of any other agency of government, or any private person or entity. Any such failure as stated above, or any alteration in the development that is the subject of this application that departs from any of the conditions listed above, is grounds for the City Planning Commission or the City Council, as applicable, to disapprove any application for modification, cancellation or amendment of the special permit hereby granted.

7. Neither the City of New York nor its employees or agents shall have any liability for money damages by reason of the city's or such employee's or agent's failure to act in accordance with the provisions of this special permit.

The above resolution (C 090440 ZSM), duly adopted by the City Planning Commission on October 21, 2009 (Calendar No. 12), is filed with the Office of the Speaker, City Council and the Manhattan Borough President, in accordance with the requirements of Section 197-d of the New York City Charter.

**AMANDA M. BURDEN, FAICP, Chair**  
**KENNETH J. KNUCKLES, Esq., Vice Chairman**  
**ANGELA M. BATTAGLIA, RAYANN BESSER, ALFRED C. CERULLO, III,**  
**BETTY Y. CHEN, MARIA M. DEL TORO, RICHARD W. EADDY,**  
**NATHAN LEVENTHAL, ANNA HAYES LEVIN,**  
**SHIRLEY A. McRAE, KAREN A. PHILLIPS, Commissioners**