



IN THE MATTER OF an application submitted by 23rd and 11th Associates, L.L.C. pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, relating to Article IX, Chapter 8 (Special West Chelsea District) to permit the distribution of floor area across C6-3/Subarea D and C6-3A zoning districts and subarea boundaries for zoning lots fronting on 11th Avenue and West 23rd Street within Community District 4, Borough of Manhattan.

The application for an amendment of the Zoning Resolution was filed by 23rd and 11th Associates LLC on June 28, 2016. The proposed text amendment to Section 98-24 would permit the distribution of floor area across C6-3/Subarea D and C6-3A zoning district and subarea boundaries for zoning lots fronting on 11th Avenue and West 23rd Street within the Special West Chelsea District in Manhattan Community District 4. The text amendment would not increase floor area permitted today, but would allow the allocation of floor area across a single zoning lot encompassing Block 694, Lots 5, 58, 60, 61, and 65 to construct a mixed residential and commercial building, and maintain an existing U-Haul facility on West 23rd Street on the same zoning lot.

BACKGROUND

The proposed zoning text amendment would permit the distribution of floor area across C6-3/Subarea D and C6-3A zoning districts and subarea boundaries, for zoning lots fronting on 11th Avenue and West 23rd Street, within the Special West Chelsea District, to allow the allocation of floor area across a single zoning lot on West 23rd Street (Block 694, Lots 5, 58, 60, 61, and 65). The lots that comprise the project area were acquired by U-Haul through a series of conveyances between 1977 and 1980. Since then, the project area has been under single ownership by U-Haul. The project area was included in the Special West Chelsea District (“WCh”) text and map amendments adopted in 2005 (N 150161 (A) ZRM, et al.), which changed the zoning along West 23rd Street and Eleventh Avenue from an M1-5/R9A district, which permitted a residential FAR of 7.52, to two separate zoning districts. The portion to a depth of 100 feet east from Eleventh Avenue was changed to the C6-3/Subarea D district to allow the 7.5 FAR and bulk regulations

prescribed in the WCh text; the remaining frontage on West 23rd Street was changed from an M1-5/R9A mixed use district to a contextual C6-3A district permitting 7.52 FAR.

The West Chelsea rezoning envisioned the Eleventh Avenue and West 23rd Street intersection as an entrance to the 23rd Street corridor. The rezoning permitted tower-on-a-base forms at this intersection, allowing new development to provide a gateway from the west side of Manhattan near Chelsea Waterside Park to the 23rd Street corridor and the West Chelsea neighborhood. The FARs that apply in subareas in WCh are structured around a basic maximum FAR with graduated increases of floor area from the High Line Transfer Corridor and the Inclusionary Housing bonus up to the total permitted maximum. All of these FARs are expressed in regular numbers, ending in .0, .25 and .5.

Pursuant to the regulations of Article VII, Chapter 2 of the Zoning Resolution, floor area may not be transferred across district boundary lines on zoning lots divided by district boundaries if such districts do not permit the same FARs. Given the 0.02 FAR differential between the C6-3A district that permits 7.52 FAR and the C6-3/Subarea D district that permits 7.5 FAR, floor area cannot be distributed across these portions of the zoning lot. The text amendment would resolve this discrepancy and would allow 70,000 square feet of unused floor area over Lot 58 to be reapportioned.

The project area is a zoning lot comprised of Block 694, Lots 5, 58, 60, 61 and 65 in the West Chelsea neighborhood in Manhattan Community District 4. It is located on a block bounded by West 23rd Street to the north, Eleventh Avenue to the west, West 22nd Street to the south, and Tenth Avenue to the east. The project area is primarily located on the southeast corner of West 23rd Street and Eleventh Avenue, with a small portion along West 22nd Street. It has 375' of frontage along West 23rd Street, 148'-1.5" of frontage along Eleventh Avenue, and 50' of frontage on West 22nd Street. The single zoning lot is approximately 46,635 square feet in area. It is completely within the WCh and, as described above, is mapped with three zoning districts: C6-3A, C6-3 (Subarea D), and M1-5.

In the C6-3A district (West 23rd Street in the midblock) portion, the maximum residential FAR is 7.52 and the maximum lot coverage is 70 percent for interior lot portions. The maximum building height is 145 feet and the required street wall must extend between 60 and 105 feet before setback. In the C6-3/Subarea D district (within 100 feet of Eleventh Avenue), the maximum FAR for all permitted uses is 7.5, the maximum building height is 250 feet, and the required street wall must extend between 60 and 90 feet before setback. In both districts, on wide streets, the minimum setback distance is 10 feet. Uses permitted as-of-right in both districts include residential (Use Groups 1 and 2), community facility (Use Groups 3 and 4) and commercial (Use Groups 5 to 12). In the M1-5 district, the maximum permitted FAR is 5.0, the maximum building height is 135 feet, and the required street wall must be 50 (minimum) to 95 (maximum) feet tall before a minimum setback of 15 feet on narrow streets.

The applicant proposes to develop a portion of the zoning lot (Block 694, Lots 5, 60, 61, and 65). Lot 58 is developed with an existing three-story U-Haul building that will remain during and following construction of the proposed development. There are 70,000 square feet of unused floor area on Lot 58. All tax lots within the project area are currently owned and occupied by U-Haul, which uses the site as its main truck and trailer rental facility in Manhattan. The project area is currently developed with two, three-story buildings on Lots 58 and 65 that are connected by a one-story structure on Lots 60 and 61 (all structures fronting on West 23rd Street). The three-story building on Lot 65 is also connected to another one story structure that fronts on West 22nd Street. A small open area is located on the southwest portion of Lot 65 (fronting on Eleventh Avenue).

The proposed development would be constructed on the portion of the lot nearest the corner of Eleventh Avenue and West 23rd Street (and a small portion fronting on West 22nd Street). The applicant is proposing a 22-story mixed use building with approximately 288,000 square feet of floor area (inclusive of the 70,000 square feet of unused floor area distributed from Lot 58). The building will rise to approximately 250 feet in the C6-3/Subarea D portion of the project area and 145 feet in the C6-3A portion. Retail and gallery uses will be located on the ground floor along West 23rd Street and Eleventh Avenue, and approximately 140 residential units will be located on the upper floors. The U-Haul Building on Lot 58 in the West 23rd Street midblock will remain

owned and operated by U-Haul, with truck and trailer rental, and accessory moving and packing supplies. The U-Haul building is not proposed to be enlarged as part of the development.

Eleventh Avenue is developing with new, largely residential buildings. West 23rd Street, a wide street, serves as an entry into West Chelsea. Adjacent blocks between Tenth and Eleventh Avenues have recently been developed with several residential buildings. The neighboring four-story building on Eleventh Avenue and West 22nd Street is currently being enlarged to an eight-story residential building with ground floor commercial use. A self-storage facility occupies the building immediately east of the development site on West 23rd Street. The High Line is located at the eastern end of the project area block and Chelsea Waterside Park, Chelsea Piers, both in Hudson River Park, are to the west of the project block. The nearest transit includes the 23rd Street A, C, and E subway station; the M23 bus stop next to the project area on West 23rd Street; the M12 bus on Eleventh and Twelfth Avenues; and the M11 bus on Ninth and Tenth Avenues.

To facilitate the project, the Applicant seeks an amendment to Section 98-24 of the Zoning Resolution to permit the distribution of floor area across C6-3/Subarea D and C6-3A zoning district and subarea boundaries for zoning lots fronting on West 23rd Street and Eleventh Avenue. The text amendment would allow the distribution of unused floor area across zoning district boundaries to construct an as-of-right building on the Eleventh Avenue portion of the zoning lot. The text amendment does not increase FAR or introduce new uses. It resolves an unintended consequence of assigning regular numbers to FARs in WCh subareas when the special district was established in 2005.

ENVIRONMENTAL REVIEW

The subject application (N 160396 ZRM) was reviewed pursuant 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 (NYCRR), Section 617.00 et seq. and the New York City Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The designated CEQR number is 16DCP188M. The lead is the City Planning Commission.

After a study of the potential environmental impacts of the proposed action, a Negative Declaration was issued on November 14, 2016.

A portion of the project site was previously analyzed in connection with the *Special West Chelsea District Rezoning and High Line Open Space Final Environmental Impact Statement (FEIS)* (CEQR 03DCP069M). An (E) Designation (E-142) relating to hazardous materials and noise was assigned to Lots 58, 60, 61, and 65. This previously assigned (E) designation will continue to apply to aforementioned sites. In addition, no significant adverse impacts related to hazardous materials or air quality would be expected to result from the proposed actions.

The City Planning Commission has determined that the proposed action will have no significant effect on the environment.

PUBLIC REVIEW

On November 14, 2016, this application (N 160396 ZRM) was referred for information and review to Community Board 4 and the Borough President in accordance with the procedures for referring non-ULURP matters.

Community Board Review

Community Board 4 held a public hearing on this application (N 160396 ZRM) on December 19, 2016, and on that date, by a vote of 36 in favor, 0 opposed, 2 abstaining and 0 present but not eligible, adopted a resolution recommending disapproval of the proposed action conditioned on the fulfillment of an affordable housing commitment by the applicant as part of an unrelated building demolition in West Chelsea. Notwithstanding the conditional disapproval, the Community Board did state in its comments that is in favor of the proposed text amendment.

Borough President Recommendation

This application, (N 160396 ZRM) was considered by the President of the Borough of Manhattan. On January 9, 2017, the Borough President issued a recommendation approving the proposed

action.

City Planning Commission Public Hearing

On January 4, 2017 (Calendar No. 7), the City Planning Commission scheduled January 18, 2017, for a public hearing on this application (N 160396 ZRM). The hearing was duly held on January 18, 2017 (Calendar No. 30). There was one speaker in favor of the application and one in opposition.

A representative of the applicant testified in favor of the application, describing the action, the background of the proposed text amendment and the intended development at West 23rd Street and Eleventh Avenue in West Chelsea.

A representative of Manhattan Community Board 4 spoke in opposition to the application, stating that the Board understands the need for and merit of the proposed text amendment, but that the Board does have concerns about the unrelated demolition of a building owned by the applicant.

There were no other speakers and the hearing was closed.

WATERFRONT REVITALIZATION PROGRAM CONSISTENCY

This application (N 160396 ZRM) was reviewed by the City Coastal Commission for consistency with the policies of the New York City Waterfront Revitalization Program (WRP), as amended, approved by the New York City Council on October 30, 2013 and by the New York State Department of State on February 3, 2016 pursuant to the New York State Waterfront Revitalization and Coastal Resources Act of 1981 (New York State Executive Law, Section 910 *et seq.*). The designated WRP number is 16-098.

This action was determined to be consistent with the policies of the New York City Waterfront Revitalization Program.

CONSIDERATION

The Commission believes that the zoning text amendment (N 160396 ZRM) is appropriate.

The text amendment would allow existing floor area to be distributed across a single, long-established zoning lot at West 23rd Street and Eleventh Avenue in the Special West Chelsea District. The zoning lot was under single ownership before the mapping of the special district. The zoning lot is split among three zoning districts. The only factor prohibiting the distribution of floor area across C6-3/Subarea D and C6-3A districts today is the 0.02 FAR difference in applicable floor areas. The Commission believes that this minor difference in permitted FARs is not purposely meant to prevent the movement of floor area between the C6-3/Subarea D and C6-3A districts but is, instead, an unintended result of expressing FARs in increments of 0.0, 0.25 or 0.5 in the Special West Chelsea District.

The Commission understands that the text amendment does not alter permitted uses, does not introduce new floor area on the affected zoning lot and does not change the permitted envelope at the southeast corner of West 23rd Street and Eleventh Avenue. The purpose of the text amendment is to enable distribution of floor area where only a small difference in applicable FARs prevents it. In addition to allowing the allocation of floor area across zoning district and subarea boundaries, the text amendment would allow the current U-Haul business at the eastern end of the zoning lot to remain without disrupting operations or forcing the closure of the business.

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, the City Planning Commission, in its capacity as the City Coastal Commission, has reviewed the waterfront aspects of this application and finds that the proposed action is consistent with WRP policies; 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, is further amended as follows:

Matter in underline is new, to be added;

Matter in ~~strikeout~~ is old, to be deleted;

Matter within # # is defined in Section 12-10;

* * * indicates where unchanged text appears in the Zoning Resolution

Article IX - Special Purpose Districts

Chapter 8

Special West Chelsea District

* * *

98-20

FLOOR AREA AND LOT COVERAGE REGULATIONS

The #floor area# provisions of this Section, inclusive, shall apply. Furthermore, special #floor area# transfer provisions are set forth in Section 98-30 (HIGH LINE TRANSFER CORRIDOR), inclusive.

* * *

98-22

Maximum Floor Area Ratio and Lot Coverage in Subareas

For all #zoning lots#, or portions thereof, located in Subareas A through J, the maximum #floor area ratios#, #open space ratios# and #lot coverages# of the applicable underlying district shall not apply. In lieu thereof, the maximum #floor area ratio# permitted for #commercial#, #community facility# and #residential uses#, separately or in combination, shall be as specified in the table in this Section. For #residential use#, the maximum #lot coverage# shall be 70 percent for #interior# or #through lots# and no maximum #lot coverage# shall apply to any #corner lot#. For the #conversion# to #dwelling units# of non-#residential floor area# where the total #residential floor area# on the #zoning lot# will exceed the applicable basic maximum #floor area ratio# specified in the table in this Section, such excess #residential floor area# shall only be permitted pursuant to Section 98-26 (Modifications of Inclusionary Housing Program).

MAXIMUM FLOOR AREA RATIO BY SUBAREA

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Sub-area	Basic #floor area ratio# (max)	Increase in FAR from #High Line Transfer Corridor# (98-30)	Increase in FAR with #High Line# Improvement Bonuses (98-25)	Inclusionary Housing		Permitted #floor area ratio# (maximum)
				FAR required to be transferred ¹ (minimum)	Increase in FAR for Inclusionary Housing Program (98-26)	
A	6.5	2.65	— ²	2.65	2.85	12.0
B	5.0	2.5	— ²	1.25	1.25	7.5
C	5.0	2.5	NA	1.25	1.25	7.5
D ⁵	5.0	2.5 ³	2.5 ³	1.25	1.25	7.5
E	5.0	1.0 ³	1.0 ^{2,3}	NA	NA	6.0
F	5.0	NA	NA	NA	NA	5.0
G	5.0	1.0 ³	1.0 ³	NA	NA	6.0
H	7.5	NA	2.5	NA	NA	10.0
I	5.0	2.5	NA	1.25	1.25	7.5
I ⁴	5.0	NA	2.5	NA	NA	7.5
J ⁶	5.0	NA	2.5	NA	NA	7.5

¹ Minimum #floor area ratios# required to be transferred pursuant to Section 98-30 (HIGH LINE TRANSFER CORRIDOR), inclusive, before Inclusionary Housing #floor area# bonus can be utilized

² In Subareas A, B, and E, the applicable maximum basic #floor area ratio# of that portion of the #zoning lot# that is within the #High Line Transfer Corridor# may be increased up to a maximum of 1.0, and the applicable maximum permitted #floor area ratio# increased accordingly, by certification of the Chairperson of the City Planning Commission, pursuant to Section 98-35 (High Line Transfer Corridor Bonus)

³ For certain zoning lots located in Subareas D, E and G, the provisions of Section 98-25 (High Line Improvement Bonus) may apply in lieu of the provisions of Section 98-30, subject to the provisions of Section ~~98-24~~ 98-241 (~~Special Floor Area Rules for Zoning Lots Divided by District Boundaries in~~ In Subareas D, E and G)

⁴ For #zoning lots# over which the #High Line# passes

⁵ For #zoning lots# between West 22nd Street and West 24th Street, the #floor area ratios# shall be 7.5, and no #floor area# increases shall be permitted

6 Bonus contribution subject to provisions of Section 98-25 governing first contribution to Affordable Housing Fund

* * *

98-24

Special Floor Area Rules for Zoning Lots Divided by District Boundaries in ~~Subareas D, E and G~~

98-241

In Subareas D, E and G

For #zoning lots# fronting on West 18th Street and located partially in Subarea D, partially in Subarea E and partially in Subarea G, #floor area# may be transferred across zoning district and subarea boundaries without restriction. Either the provisions of Sections 98-25 (High Line Improvement Bonus) or 98-30 (HIGH LINE TRANSFER CORRIDOR) may apply to such #zoning lot#, as applicable, and the maximum permitted #floor area ratio# specified in the table in Section 98-22 shall apply, as applicable, for each subarea.

98-27 98-242

Zoning Lots Located Partly ~~partially~~ Within Subarea C and Partly ~~partially~~ Within M1-5 Districts

For #zoning lots# existing prior to June 23, 2005, and located ~~partly~~ partially within an M1-5 District and ~~partly~~ partially within a C6-3 District in Subarea C, the permitted #floor area ratio# for the C6-3 District portion of the #zoning lot# may be increased to the #floor area ratio# existing in the C6-3 District portion on June 23, 2005, up to a maximum #floor area ratio# of 7.5, provided that the Chairperson of the City Planning Commission has certified that a payment has been made to the #High Line# Improvement Fund, established under Section 98-25, to be used at the discretion of the Chairperson to assure that the #High Line# is restored and reused as a public accessible open space. The amount of such contribution shall be determined in the manner prescribed in Section 98-35 (High Line Transfer Corridor Bonus).

No building permit for any #development# or #enlargement# may be issued for any #building or other structure# on the #zoning lot# that will contain #floor area# made available to the #zoning lot# as a result of the application of this Section unless and until such certification has been made.

98-243

Located partially within Subarea D and C6-3A Districts

For a #zoning lot# fronting on West 23rd Street and 11th Avenue, located partially within Subarea D and partially within a C6-3A District, #floor area# may be transferred from the portion of the #zoning lot# in the C6-3A District to the portion in Subarea D.

* * *

98-27

Zoning Lots Located Partly Within Subarea C and Partly Within M1-5 Districts

For #zoning lots# existing prior to June 23, 2005, and located partly within an M1-5 District and partly within a C6-3 District in Subarea C, the permitted #floor area ratio# for the C6-3 District portion of the #zoning lot# may be increased to the #floor area ratio# existing in the C6-3 District portion on June 23, 2005, up to a maximum #floor area ratio# of 7.5, provided that the Chairperson of the City Planning Commission has certified that a payment has been made to the #High Line# Improvement Fund, established under Section 98-25, to be used at the discretion of the Chairperson to assure that the #High Line# is restored and reused as a public accessible open space. The amount of such contribution shall be determined in the manner prescribed in Section 98-35 (High Line Transfer Corridor Bonus).

No building permit for any #development# or #enlargement# may be issued for any #building or other structure# on the #zoning lot# that will contain #floor area# made available to the #zoning lot# as a result of the application of this Section unless and until such certification has been made.

* * *

98-423

Street wall location, minimum and maximum base heights and maximum building heights

The provisions set forth in paragraph (a) of this Section shall apply to all #buildings or other structures#. Such provisions are modified for certain subareas as set forth in paragraphs (b) through (g) of this Section.

* * *

(d) Subarea E

The #street wall# location provisions set forth in paragraph (a) of this Section shall not apply on a #zoning lot# fronting on West 18th Street and located partially in Subareas D, E and G, where #floor area# has been transferred pursuant to Section 98-24 98-241. A maximum of 60 percent of the West 18th Street frontage within Subarea E may rise without setback to a maximum #building# height of 250 feet, and a minimum of 20 percent of the West 18th Street frontage within Subarea E shall rise without setback to a minimum height of 60 feet and a maximum height of 85 feet and be located within 10 feet of the #street line#.

* * *

The above resolution (N 160396 ZRM), duly adopted by the City Planning Commission on February 22, 2017 (Calendar No. 15), is filed with the Office of the Speaker, City Council, and Borough President in accordance with the requirements of Section 197-d of the New York City Charter.

KENNETH J. KNUCKLES, ESQ., Vice Chairman
RAYANN BESSER, IRWIN G. CANTOR, P.E.,
ALFRED C. CERULLO, III, JOSEPH I. DOUEK, RICHARD W. EADDY,
CHERYL COHEN EFFRON, HOPE KNIGHT,
ANNA HAYES LEVIN, ORLANDO MARIN, Commissioners



DELORES RUBIN
Chair

JESSE R. BODINE
District Manager

CITY OF NEW YORK

MANHATTAN COMMUNITY BOARD FOUR

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January 9, 2017

Hon. Carl Weisbrod, Chair
City Planning Commission
120 Broadway, 31st Floor
New York, NY 10271

Re: Zoning Text Amendment No. N160396ZRM
536-552 West 23rd Street

Dear Chair Weisbrod:

On the recommendation of its Chelsea Land Use Committee, following a duly noticed public hearing at the committee's meeting on December 19, 2016, Manhattan Community Board 4 (CB4), by a vote of 36 in favor, 0 opposed, 2 abstaining and 0 present but not eligible to vote, recommended denial of an application for a zoning text amendment (ZR Section 98-24) to facilitate a mixed residential and commercial development unless the developer fulfills the conditions outlined in the attached letter to the Department of Housing Preservation and Development (HPD) regarding the substitution of affordable housing units for those lost with the demolition of 500 West 28th Street.

Background

The applicant's project site is located in the Special West Chelsea District (SWCD). The site is on the eastern side of Eleventh Avenue and the southern side of West 23rd Street with a small portion that fronts on West 22nd Street (on Block 694, lots 5, 58, 60, 61 and 65). U-Haul, owns the site, and operates a truck rental and storage unit business there. The site is governed by three zoning districts:

Area #1: The western portion (lots 65 and p/o 5), primarily along Eleventh Avenue and the West 23rd Street corner is in SWCD Subarea D with a C6-3 district which has an FAR of 7.5 and a height limit of 250.

Area #2: The eastern portion fronting on the mid-block West 23rd Street (lots 58, 60 and 61) is in a C6-3A district with an FAR of 7.52 and a height limit of 145.

Area #3: A small portion of the site which fronts on West 22nd Street (p/o lots 5, 61 and 65) is in SWCD and governed by an M1-5 district with an FAR of 5.0 and a maximum height of 135 feet; most commercial uses are permitted; residential use is not permitted.

Before the project site was rezoned in 2005, the portions of the site on Eleventh Avenue (Area #1 above) and mid-block on West 23rd Street (Area #2) were mapped M1-5/R9A . The floor area in these portions could be distributed across the site as-of-right. However when the SWCD was created, different FARs were established for these two portions of the site. Area #1 was changed to a C6-3 district which has an R9 equivalent with an FAR of 7.5 (SWCD Subarea D). Area #2 (midblock) was changed to a C6-3A district with an R9A equivalent with an FAR of 7.52, the same FAR before the 2005 rezoning.

Floor area is not allowed to be transferred between zoning lots divided by zoning district boundaries if these districts do not have the same FARs (Zoning Resolution, Article VII, Chapter 7). Because U-Haul intends to keep Lot 58 (eastern-most lot on the site with an existing three story building with 41,130 square feet) for its business and because that lot would have 70,000 square feet of unused floor area, it would be beneficial for the applicant to transfer that unused FAR to other lots in the project site to facilitate the proposed mixed commercial and residential development. However, the Zoning Resolution does not permit that transfer as-of-right.

Description of Proposal

The applicant proposes an amendment to the Zoning Resolution that would permit the distribution of floor area across zoning districts on the project site so that other portions of the site could utilize the 70,000 square feet of unused floor area from Lot 58 where U-Haul intends to remain. U-haul would keep its retail and truck rental operation but not its storage unit business. The applicant plans to distribute 59,000 square feet of unused floor area from Lot 58 to Lot 65 and the remaining 11,000 square feet to other portions of the Project within the C6-3A district.

The proposed text amendment would be ZR Section 98-243 “Located partially within Subareas D and C6-3A Districts” and would read as follows:

For a #zoning lot# fronting on West 23rd Street and 11th Avenue, located partially within Subarea D and partially within a C6-3A District, #floor area# may be transferred from the portion of the #zoning lot# in the C6-3A District to the portion of the #zoning lot# in the C6-3A District to the portion in Subarea D.

If the proposed text amendment permitting the transfer of unused FAR from Lot 58 is approved, the applicant’s project would consist of a 22-story, 288,000 square foot mixed residential and commercial use building. Approximately 140 residential units would be on the upper floors. Retail and gallery uses would be located on the ground floor along West 23rd Street and Eleventh Avenue. The height of the building on Eleventh Avenue would be 250 feet as permitted by the existing Subarea D zoning regulations and would be consistent with other buildings north and south of the site.

The proposed development in the C6-3A portion would rise to a height of 145 feet. The M1-5 portion of the site fronting along West 22nd Street would be occupied with permitted commercial uses. Except for the transfer permitted by the proposed text amendment the proposed development would be as-of-right under the existing zoning.

Community Board 4 Considerations and Recommendation

CB4 believes that the difference in FARs (.02) for Subarea D (7.5) and the adjacent C6-3A district (7.52) is an unintended consequence of the 2005 SWCD mapping. The New York City Department of City Planning staff agree that creation of the two different FARs was not planned and that the proposed text amendment is appropriate. This text amendment would only pertain to the applicant's location and no other site. No new floor area would be created as a result of the proposed text amendment.

CB4 is in favor of the proposed text amendment permitting the transfer of FAR across zoning districts at 536-552 West 23rd Street, but we recommend to the City Council that the application be denied unless the applicant fulfills the conditions outlined in the attached letter to HPD.

Sincerely,



Delores Rubin
Chair
Manhattan Community Board 4



John Lee Compton, Co-Chair
Chelsea Land Use Committee



Betty Mackintosh, Co-Chair
Chelsea Land Use Committee

Enclosure

cc: Vicky Been, Commissioner, NYC Department of Housing Preservation and Development
Rick Chandler, Commissioner, NYC Department of Buildings
Hon. Gale A. Brewer, Manhattan Borough President
Hon. Corey Johnson, City Council
Hon. Brad Hoylman, State Senate
Hon. Richard Gottfried, State Assembly
Greg Gushee, Senior Vice President, Related Companies



January 3, 2017

Manhattan Community Board 4
330 West 42nd Street, 26th Floor
New York, New York 10036

RE: 500 West 28th Street and U-Haul site

Ladies and Gentlemen:

Related is pleased to work with CB4 once again in the creation and preservation of affordable housing. To address your request for additional affordable housing in CB4 in conjunction with our conversations on 500 West 28th Street, and in acknowledgement of your agreement that the zoning text amendment for the U-Haul site should be approved with no other condition other than resolving the 500 West 28th Street concern, we are pleased to do one of the following per our agreement:

- 1) Increase the affordability of 9 units at the Tate from 130% AMI to 90% AMI as follows: In the likely event (and Related's current intention) that Related extends the 421a program at the Tate (a 313-unit existing 80/20 rental building in West Chelsea on West 23rd Street between 10th and 11th Avenues), Related would increase the affordability of 9 units of the 16 units that would otherwise be income restricted to 130% AMI under the existing Chapter 47 421a Extended Affordability Program Rules, to 90% AMI. CB4 can determine what income level (AMI%) for each of the 9 units (between 50% AMI and 130% AMI, averaging 90% AMI), or
- 2) Provide a substitute plan for contributing to affordable housing in Chelsea (CB4 below 34th Street) of similar value to the increased affordability of the 9 units to be approved by CB4 and HPD (not to be unreasonably withheld, delayed or conditioned), or
- 3) In the event neither of these has occurred within 12 months after the expiration of the existing 421a program at the Tate on June 30, 2023, then CB4, HPD, or designee, can take title to the property at 500 West 28th Street.

Related will record a restrictive declaration or similar document on 500 West 28th Street asap to provide CB4 and HPD the collateral for this agreement.

It has been a pleasure working with you on this and we look forward to drafting the final documents on this.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Greg Gushee', with a long, sweeping underline.

Greg Gushee
Executive Vice President



CITY OF NEW YORK

MANHATTAN COMMUNITY BOARD FOUR

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DELORES RUBIN
Chair

JESSE R. BODINE
District Manager

January 9, 2017

Vicki Been
Commissioner
NYC Dept. of Housing Preservation and Development
100 Gold Street
New York, NY 10038

RE: 500 West 28th Street

Dear Commissioner Been:

On the recommendation of its Chelsea Land Use Committee, Manhattan Community Board 4 (CB4) voted, by a vote of 38 in favor, 0 opposed, 0 abstaining and 0 present but not eligible to vote, to recommend that the Department of Housing Preservation and Development (HPD) enter into agreements with Related and its subsidiary 311 Tenth Avenue Associates, LLC (Related) regarding the providing of affordable housing units in connection with those lost when 508 West 28th Street was demolished.

In conjunction with an application for a zoning text amendment for 536-552 West 23rd Street (N160396 ZRM; see attached CB4 letter dated January 9, 2017), Related has agreed to enter into an agreement with HPD on behalf of CB4 to formalize and secure a commitment to provide additional affordable housing in the Chelsea portion of Manhattan Community District 4 (CD4). Related has provided the Board with a letter committing to such an agreement (attached), and has agreed to have executed an agreement with HPD by the time of the City Council vote on the application.

Background

500 West 28th Street was a four story, six unit residential building on the southwest corner of Tenth Avenue and West 28th Street. The site is located in Subarea C of the Special West Chelsea District (SWCD) and is adjacent to the Related building under construction at 520 West 28th Street. Related purchased the building vacant in 2013 and determined that it was in serious disrepair and unsafe. As a result of an error made by Related on the initial filing forms and by the Department of Buildings (DOB) during review of the application, DOB issued a demolition permit on March 29, 2016 despite SWCD demolition restrictions; the building was removed in its entirety. Related believes that the work required to bring the building up to code would have taken the building out of rent regulation and thus believes that there has been no loss of affordable housing units. Related has sold all but 1 FAR of the site's floor area and plans to build a one-story structure for a gallery or similar use through this mechanism.

The series of claims and counter-claims surrounding the demolition are detailed in the attached letters from CB4's Housing, Health and Human Services committee and Related. In this letter we wish only to note that this is one instance in a pattern of errors and false or misleading statements by applicants and

errors by DOB regarding demolition restrictions in special districts that have led to the loss of nearly one hundred units of affordable housing in our special districts.

Related is one of the most prolific developers in the city and in CD4: its ongoing Hudson Yards development is one of the largest developments in the country; it has multiple projects in Subarea A of the SWCD; and the penthouse at the 39-unit Zaha Hadid-designed building at 520 West 28th Street, adjacent to 500 West 28th Street, is being offered at \$50 million.

In addition to its luxury development, Related is a major provider of affordable housing, utilizing tax incentives such as the 421a program to build buildings with large numbers of affordable units. Despite differences over the years with the implementation of the affordable programs, CB4 recognizes and appreciates the contributions Related has made to the affordable housing stock in CD4.

Related Proposal

Related expects to continue to produce affordable housing in CD4 as part of its future development projects, but the Board is seeking additional affordable units above and beyond those produced during the normal course of development to offset the loss of the six units at 500 West 28th Street. Related has proposed a solution involving currently market rate units in the Tate at 535 West 23rd Street, which it owns. Related also will continue to seek acceptable alternatives that could be implemented more quickly.

The Tate has a total of 313 units, of which 63 are affordable under the 421a tax incentive program. Related intends to apply to extend the Tate's 421a program when it expires in 2023. If the extension is granted, sixteen of the currently market rate units would become income restricted at 130% of Area Median Income (AMI). Related proposes to increase the affordability of nine of these sixteen units to levels between 50% and 130% of AMI as determined by CB4 as long as the average income restriction is 90% of AMI.

As security for their proposal, Related proposes to place a restrictive covenant or other legal device on 500 West 28th Street deeding the property to HPD, or another suitable entity, if they have not complied with the terms of this proposal, or the terms of a substitute proposal acceptable to CB4 and HPD, by a date to be determined.

Analysis and Recommendation

The Board's preference would be the rebuilding of the six lost affordable units at 500 West 28th Street. We believe this would send a powerful message to the development community that errors during planning and implementation, willful or not, have significant consequences that warrant careful attention to the regulations designed to protect affordable housing.

While not our preference, Related's Tate proposal would increase the CD4 affordable housing stock in income bands that are difficult to produce under current incentive programs. The principal deficiency of the proposal is its timing and length of affordability; we would greatly prefer that the replacement units be provided immediately. In discussing its proposal with the Board, Related has cited the timing of the expiration of the current 421a tax exemption in 2023 and financing agreements with investors and partners as obstacles to the rapid implementation of the Tate proposal.

While the 421a program provides valuable tax incentives to developers, the housing units that are provided in exchange for the incentives are only transiently affordable to people unable to afford market-rate units. Under the proposed 421-a extension program, the additional affordable units to be made available at the Tate would only be restricted for a 15 year period. CB4 is a strong advocate for

permanently affordable units and therefore requests that any affordable replacement units created be affordable in perpetuity.

CB4 requests the following actions on the part of HPD and Related:

- HPD will create whatever legal documents are necessary to secure an interest in 500 West 28th Street as security for Related's performance on its proposal.
- HPD will work with Related to create additional permanently affordable housing units in Chelsea. The specific manner of their creation may be the Tate proposal or an alternative that achieves CB4's goal of affordable units substituting for those lost at 500 West 28th Street, but the Board requires that the units be permanently affordable.
- HPD will seek a means to accelerate the extension of the Tate's 421a tax exemption, thus permitting the conversion of the sixteen market rate units to affordable units more quickly.
- Related will seek agreements with its investors and partners that would allow it to take advantage of such an accelerated extension in order to create the new affordable units quickly.

CB4 is committed to preserving existing affordable housing in CD4 and to pursuing opportunities to increase it further. We appreciate Related's creative plan to offset the loss of the 500 West 28th Street units, as well as their ongoing efforts to produce new affordable units in CD4.

Sincerely,



Delores Rubin
Chair
Manhattan Community Board 4



John Lee Compton, Co-Chair
Chelsea Land Use Committee



Betty Mackintosh, Co-Chair
Chelsea Land Use Committee

Enclosure

cc: Carl Weisbrod, Chair, City Planning Commission
Rick Chandler, Commissioner, NYC Department of Buildings
Karolina Hall, NYC Department of City Planning
Annie White, NYC Department of City Planning
Hon. Corey Johnson, City Council
Greg Gushee, Senior Vice President, Related Companies



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Gale A. Brewer, Borough President

January 9, 2017

Carl Weisbrod, Chair
City Planning Commission
120 Broadway, 31st Floor
New York, NY 10271

Re: Application No. N 160396 ZRM – West 23rd Street Text Amendment

Dear Chair Weisbrod:

I write in regard to the application by 23rd and 11th Associates, LLC for an amendment to Section 98-24 of the Zoning Resolution (ZR) to permit the distribution of floor area across C6-3 and C6-3A zoning district and subarea boundaries for zoning lots fronting on 11th Avenue and West 23rd Street within the Special West Chelsea District (WCh).

Prior to the rezoning of the project site in 2005, floor area could be distributed as-of-right under the split lot regulations of the ZR as long as the floor area was for the same use – i.e. commercial floor area to commercial floor area. However, the creation of the Special West Chelsea District established two different FARs for the site, splitting the western portion, primarily along 11th Avenue, to a C6-3 District with an FAR of 7.5, while the eastern portion, fronting midblock on West 23rd Street, became a C6-3A district with an FAR of 7.52. Under the special district rules, floor area cannot be distributed if the zoning lot is divided by zoning district boundaries and the districts do not have the same FAR, thus necessitating this proposed text amendment.

Along with Manhattan Community Board 4 and Department of City Planning staff, I believe that this discrepancy in FAR is an unintended consequence of the 2005 rezoning. As the proposed text amendment does not create any new floor area and only applies to the applicant's site, I find it an appropriate way to allow for the distribution of floor area across the zoning district line.

Furthermore, I support the continued presence of U-Haul in the neighborhood, and I appreciate how the plan for the project site takes into account their retail and truck rental operations. In addition to the 10 to 12 jobs to remain in the area from U-Haul's operations, the project is also expected to provide approximately 16 full-time jobs in the residential building and 250 construction jobs for a 30 month period. For these reasons, I recommend approval of this text amendment.

Sincerely,

A handwritten signature in black ink that reads "Gale A. Brewer".

Gale A. Brewer