



IN THE MATTER OF an application submitted by Lightstone Acquisitions X, LLC 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 1 (Special Lower Manhattan District) relating to regulations allowing a floor area bonus for public plazas, Borough of Manhattan, Community District 1.

This application for a zoning text amendment was filed by Lightstone Acquisitions X, LLC on February 28, 2017. The requested zoning text amendment would expand the applicability of the public plaza bonus for developments and enlargements located within C6-4 districts of the Special Lower Manhattan District, provided that the public plaza is located more than 50 feet from a street where street wall or retail continuity is required.

BACKGROUND

The applicant proposes a modification to the provisions relating to the locations where public plazas are permitted within the Special Lower Manhattan District. The Special Lower Manhattan District (“Special LM District”) was adopted as a new special zoning district in 1998 (N 980314 ZRM, C 980315 ZMM, and C 980316 HUM) and established controls intended to facilitate development consistent with the character of existing buildings in the area. Certain streets were designated street wall “type” streets with different base height, setback, and continuity regulations to reflect the built character of those particular streets. Of these street wall streets, Type 1 (Broadway, Park Row, Whitehall Street, and Battery Place) and Type 2A (Wall Street, Broad Street, and West Street) streets are those with the strongest street walls, characterized by tall bases that typically extend for the full length of the street line. Certain streets (such as Broadway, Fulton Street, and Greenwich Street) were designated “retail streets” with requirements for high transparency and retail uses close to the sidewalk. Lobby frontage and other non-active ground floor uses are limited on these streets.

Within the Special LM District, in the C5-3, C5-5, C6-4, and C6-9 districts, a floor area bonus for an eligible public plaza is permitted (Section 37-70 of the Zoning Resolution); however, the public plaza bonus is not available for developments or enlargements located within 50 feet of a Type 1 or 2A street wall street or a designated retail street (Section 91-24 of the Zoning

Resolution). Public plaza bonuses are also not permitted for developments and enlargements located within the Historic and Commercial Core and the South Street Seaport Subdistrict. The rationale for limiting the availability of the public plaza bonus, as stated in the report for the zoning text amendment establishing the Special LM District, was so that the location of new plazas would not interfere with the district's street wall or retail requirements. The text based a site's eligibility for a public plaza bonus on the location of a development or enlargement in relation to a designated street, rather than on the location of the public plaza itself.

The applicant proposes an amendment to ZR Section 91-24 regarding the applicability of the public plaza bonus to sites located within the C6-4 districts of the Special LM District. The proposed zoning text amendment would, for C6-4 districts only, base the eligibility of the public plaza bonus on the location of the public plaza instead of the development or enlargement. More specifically, the proposed zoning text amendment would allow a public plaza bonus, provided that the public plaza is located more than 50 feet from a Type 1 or 2A street wall street or designated retail street, and irrespective of the location of the development or enlargement. The Special LM District contains two C6-4 districts: the C6-4 district west of Broadway is mapped over a portion of the World Trade Center site and the areas to the north that represent the former Washington Street Urban Renewal Area, and the C6-4 district east of Broadway is mapped north of John Street, west of Water Street, and east of Nassau Street and Park Row. Within these C6-4 districts, the FAR for all uses may be increased from 10 to 12 with the provision of a public plaza, and the residential FAR may be increased to 12 with the provision of inclusionary housing (ZR Section 23-90). Any public plaza that generates a floor area bonus within the Special LM District must comply with the design requirements of ZR Section 37-70, and the additional locational and bonus rate provisions of ZR Section 91-24.

The applicant is the developer of a zoning lot located in the eastern C6-4 district of the Special LM District with frontage on Fulton Street and William Street, and intends to provide a new public plaza on William Street in connection with the development of a new residential tower. The proposed "L"-shaped development will occupy approximately 71 feet of frontage along Fulton Street, which is a designated retail street, and the proposed public plaza will occupy

approximately 74 feet of frontage along William Street. Given the configuration of the zoning lot, while the development is located along Fulton Street, the public plaza is located approximately 81 feet from Fulton Street and is separated from the Fulton Street frontage of the development by two other buildings. The Fulton Street frontage of the development will be required to comply with the location, length, access, and glazing requirements of ZR Section 91-41 for required retail uses along designated retail streets. William Street is not a designated retail street, nor is it designated a street wall street. Since the proposed development is located on – and within 50 feet of – Fulton Street, a designated retail street, paragraph (a) of ZR Section 91-24 does not permit a floor area bonus from a public plaza for this proposed development.

In addition to an amendment to ZR Section 91-24, a clarifying amendment to ZR Section 37-713 is also proposed. ZR Section 37-713 establishes locational restrictions for public plazas based on proximity to other public plazas and public parks. The proposed amendment to ZR Section 37-713 states that additional locational restrictions may apply to a new public plaza if located in the Special Midtown, Lower Manhattan, or Downtown Brooklyn District.

While the proposed zoning text amendment would make the applicant’s site eligible for a public plaza bonus, in order for the public plaza to generate any bonus floor area the applicant would still be required to seek and obtain a certification by the Chairperson of the City Planning Commission, pursuant to paragraph (a) of ZR Section 37-78, that the proposed public plaza complies with the provisions of ZR Section 37-70.

ENVIRONMENTAL REVIEW

This application (N 170286 ZRM) 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 17DCP124M. The lead is the City Planning Commission.

After a study of the potential environmental impacts of the proposed zoning text amendment, a

Negative Declaration was issued on March 6, 2017.

PUBLIC REVIEW

On March 6, 2017 the application (N 170286 ZRM) was referred to Community Board 1 and the Borough President in accordance with the procedures for non-ULURP matters.

Community Board Public Hearing

Community Board 1 held a public hearing on this application (N 170286 ZRM) on March 28, 2017, and on that date, by a vote of 32 in favor, one opposed, and with two abstentions, adopted a resolution recommending approval the application with the following conditions:

- 1) The applicant must stipulate in the plaza plan that it will be regularly and permanently maintained by the building owner.
- 2) The applicant must return to CB1 to present the final plaza design before the application is approved by the City Planning Commission.
- 3) The City Planning Commission will not approve the final plaza design until it is presented to CB1.
- 4) CB1 supports programming in the plaza, as long as it does not disturb neighborhood residents.

Borough President Recommendation

This application (N 170286 ZRM) was considered by the Borough President, who did not issue a recommendation.

City Planning Commission Public Hearing

On April 26, 2017 (Calendar No. 13), the City Planning Commission scheduled May 10, 2017 for a public hearing on this application (N 170286 ZRM). The hearing was duly held on May 10, 2017 (Calendar No. 46). There were two speakers in favor of the application and none in opposition.

A representative of the applicant provided an overview of the proposed zoning text amendment and described how the amendment would facilitate a new public plaza at the applicant's property at 130 William Street. She said that the intent of ZR Section 91-24 was to preserve the integrity of

the designated retail and street wall streets of the Special LM District, and that locating a plaza more than 50 feet away from those streets would not affect their retail or street wall character. Addressing the recommendations of the Community Board, the representative noted that a rendering of the proposed public plaza had already been shown to the Community Board, but stated that the applicant is committed to returning to the Community Board to present more detailed plans of the proposed public plaza before seeking a Chairperson certification for a floor area bonus.

A representative of the Manhattan Borough President spoke in favor of the proposed zoning text amendment and expressed support for the Community Board's request that the applicant present detailed plans of the public plaza before seeking a Chairperson certification.

The Commission also received written testimony from the Director of Planning and Land Use at Manhattan Community Board 1 reiterating the Community Board's support for the proposed zoning text amendment and the conditions outlined in its recommendation.

There were no other speakers and the hearing was closed.

WATERFRONT REVITALIZATION PROGRAM CONSISTENCY

This application (N 170286 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 16-167.

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

CONSIDERATION

The Commission believes that this application for a zoning text amendment (N 170286 ZRM) is appropriate.

In its consideration of the zoning text amendment and related actions establishing the Special Lower Manhattan District in 1998, the Commission supported the prohibition of the plaza bonus in certain areas, particularly on those streets where street walls are required in order to maintain the character of the area, and within the Historic and Commercial Core and the South Street Seaport Subdistrict. The Commission cited Broadway as an example of an inappropriate street on which to locate a plaza.

The Commission acknowledges that, while the special district regulations intended to keep plazas off key streets where retail or street wall continuity is required, the zoning text, as adopted, regulates the plaza bonus based on the location of the development or enlargement, without any reference to the location of the plaza. The Commission understands that this may have led to the unintended consequence of prohibiting a plaza on zoning lots where the development is located on or near a designated street but the plaza is more than 50 feet away from the designated street. In such instances, the plaza's distance from the designated street does not affect the development's ability to comply with the retail and street wall requirements of the designated street.

The proposed zoning text would, for C6-4 districts within the Special LM District, allow the location of the public plaza to determine a site's eligibility for a floor area bonus from a public plaza, instead of the location of the development or enlargement. The proposed zoning text would require that a public plaza be located more than 50 feet from a street where retail or street wall continuity is required. The Commission believes that it is appropriate for the location of a public plaza to determine a site's eligibility for a floor area bonus, as is done in the Special Midtown District, since it is the public plaza itself, if located on or close to a designated street, that could erode a strong street wall character or cause retail uses to be set too far from the sidewalk.

The proposal only applies to C6-4 districts, and the applicability of the public plaza bonus in other zoning districts within the special district will continue to be determined by the location of the

development or enlargement in relation to designated retail streets or Type 1 or 2A street wall streets. While it is possible that the proposed text amendment could be appropriate in other zoning districts, a full study of the effects of expanding this proposed zoning text amendment to other zoning districts has not been undertaken. Although the proposed zoning text amendment applies to the two C6-4 zoning districts within the special district, only the C6-4 zoning district east of Broadway contains designated streets that regulate the applicability of the public plaza bonus. The Commission believes that this particular C6-4 district is more residential in nature than other zoning districts in the special district, and believes that it is not inappropriate to modestly expand the applicability of the public plaza bonus in this particular district, which may lead to the provision of quality public spaces in an area with few open space opportunities.

The Community Board conditioned its recommendation for approval on, among other things, a requirement that the applicant present the final design for the public plaza before it is approved, and the Commission is also in receipt of a letter from the Chairperson of Manhattan Community Board 1, dated April 6, 2017, urging the Commission to not approve any public plaza for the applicant's site until it is presented to the Community Board. At the City Planning Commission public hearing, and again in letter to the Commission dated May 17, 2017, the applicant stated its intention to return to the Community Board to present detailed plans of the public plaza before seeking a Chairperson certification of public plaza compliance pursuant to ZR Section 37-70. The Commission is pleased that the applicant has made this commitment, but notes that the process for a Chairperson's certification of public plaza compliance is separate from the Commission's consideration of this proposed zoning text amendment.

The Commission believes that the proposed zoning text amendment is consistent with the goals and intent of the Special LM District, and is unlikely to affect the ability of a development or enlargement to comply with the retail continuity and street wall requirements of those key streets designated by the special district. The Commission also believes that the clarifying amendment to ZR Section 37-713 is appropriate and will notify readers that special locational restrictions for public plazas exist in the identified special districts.

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 Coastal Commission finds that the action will not substantially hinder the achievement of any WRP policy and hereby determines that this 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 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 underlined is new, to be added;

Matter ~~struck out~~ is to be deleted;

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

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

Article III - Commercial District Regulations

Chapter 7

Special Urban Design Regulations

* * *

37-713

Locational restrictions

No #public plaza#, or portion thereof, shall be located within 175 feet of an existing #publicly accessible open area# or #public park# as measured along the #street line# on which the existing amenity fronts if the #public plaza# is to be located on the same side of the #street#, or as measured along the directly opposite #street line# if the #public plaza# is to be located on the other side of the #street#. Such distance shall include the width of any #street# that intersects the #street# on which the amenity fronts. However, such location restriction may be waived if the #public plaza# is located directly across the #street# from the existing #publicly accessible open

area# or #public park# and if the Chairperson of the City Planning Commission finds that the location of the #public plaza# at such location would create or contribute to a pedestrian circulation network connecting the two or more open areas.

Additional provisions regarding the location of a #public plaza# are set forth in the #Special Midtown District#, the #Special Lower Manhattan District#, and the #Special Downtown Brooklyn District#.

* * *

Article IX - Special Purpose Districts

Chapter 1

Special Lower Manhattan District

* * *

91-24

Floor Area Bonus for Public Plazas

The maximum permitted #floor area# on a #zoning lot# may be increased, in accordance with the following regulations, where a #public plaza# is provided that meets the requirements of Section 37-70 (PUBLIC PLAZAS):

- (a) A #floor area# bonus for a #public plaza# shall not only be permitted for ~~any a~~ #development# or #enlargement# that is located ~~within~~:
 - (1) outside the Historic and Commercial Core;
 - (2) outside the South Street Seaport Subdistrict; or
 - (3) beyond 50 feet of a #street line# of a designated #street#, except in C6-4 Districts, on which:
 - (i) retail continuity is required, pursuant to Section 91-41 (Regulations for Designated Retail Streets); or
 - (ii) #street wall# continuity is required, pursuant to the regulations for Type 1 or Type 2A #street walls# pursuant to Section 91-31 (Street Wall Regulations).
- (b) Within a C6-4 District, paragraph (a)(3) of this Section shall not apply to the location of a #development# or #enlargement#; however, a #floor area# bonus for a #public plaza#

shall be permitted, provided that such #public plaza# is located beyond 50 feet of the designated #streets# referenced in paragraph (a)(3) of this Section.

- ~~(b)~~(c) For each square foot of a #public plaza#, the basic maximum #floor area# permitted by Section 91-22 (Floor Area Increase Regulations) may be increased, in C6-4 Districts, by six square feet, to a maximum #floor area# ratio of 12.0 and, in C5-3, C5-5 and C6-9 Districts, by ten square feet, to a maximum #floor area# ratio of 18.0.
- ~~(c)~~(d) When a #public plaza# that meets the requirements for a #floor area# bonus is located on a #zoning lot# divided by a district boundary, the bonusable #floor area# may be credited to either portion of the #zoning lot#, notwithstanding the location of the #public plaza# or the date of the creation of the #zoning lot#. The amount of bonusable #floor area# permitted on either portion of the #zoning lot# shall not exceed the maximum amount of #floor area# permitted on such portion if it were a separate #zoning lot# subject to all other provisions of Article VII, Chapter 7.

* * *

The above resolution, duly adopted by the City Planning Commission on June 7, 2017 (Calendar No. 9), is filed with the Office of the Speaker, City Council in accordance with the requirements of Section 197-d of the New York City Charter.

MARISA LAGO, *Chair*

KENNETH J. KNUCKLES, ESQ., *Vice Chairman*

RAYANN BESSER, ALFRED C. CERULLO, III,

MICHELLE R. DE LA UZ, JOSEPH DOUEK, RICHARD W. EADDY,

CHERYL COHEN EFFRON, HOPE KNIGHT, ANNA HAYES LEVIN,

ORLANDO MARIN, LARISA ORTIZ *Commissioners*

COMMUNITY BOARD #1 –MANHATTAN
RESOLUTION

DATE: MARCH 28, 2017

COMMITTEE OF ORIGIN: FINANCIAL DISTRICT

COMMITTEE VOTE:	4 In Favor	4 Opposed	2 Abstained	0 Recused
BOARD VOTE:	32 In Favor	1 Opposed	2 Abstained	0 Recused

RE: LM Plaza Text Amendment - N1702862ZRM

WHEREAS: The Applicant, Lightstone Acquisitions X, LLC, proposes an amendment to the text of Zoning Resolution which pertains to the permitted floor area bonus for public plazas in the Special Lower Manhattan District (LM District); and

WHEREAS: As currently drafted, this section does not permit a floor area bonus for public plazas connected to developments or enlargements that are located within 50 feet of a designated street on which either retail continuity is required, or street wall continuity is required. For properties in C6-4 zoning districts, the proposed text amendment would make the 50 foot restriction applicable to the plaza itself, allowing developments or enlargements within such districts that are located within 50 feet of a designated street to benefit from the plaza bonus provided that the public plaza is located more than 50 feet from a designated retail street or a Type 1 or 2A street wall street; and

WHEREAS: The Applicant also proposes a minor addition to ZR Section 37-713, to clarify that additional locational restrictions for public plazas exist in the LM District and other Special Zoning Districts; and

WHEREAS: A development that would be facilitated by the proposed zoning text amendment is one being proposed by the Applicant at 130 William Street. The development is located on an L-shaped zoning lot that has frontage on Fulton, William, and Gold Streets. Fulton Street is a designated retail street, but William Street is neither a street designated for retail use nor any street wall type. The proposed development will have frontage along the Fulton Street street line, and the public plaza is proposed to only have frontage along William Street and will be located approximately 81 feet away from Fulton Street; and

WHEREAS: The plaza will contain a total of 5,317 square feet and will generate a floor area bonus at a ratio of 6 to 1 for C6- 4 districts. A residential entrance to the Proposed Development and an entrance to the ground floor retail will open onto the public plaza; and

WHEREAS: The Applicant's Development will be 60 stories and will contain a total of approximately 426,889 gross square feet, including 322,022 residential square feet and 5,373 retail square feet. It will utilize development rights from the other properties on the zoning lot and will derive 31,902 square feet from the plaza bonus and 49,852 square feet from the Inclusionary Housing bonus, coming from off-site Inclusionary housing located at 118 Fulton Street. The building's frontage on Fulton Street will be occupied primarily by retail uses, in compliance with the requirements of ZR 91-41 for designated retail streets. The main residential entrance for the building will be located off the proposed plaza on William Street; and

WHEREAS: At the March 2017 Financial District Committee, Community Board 1 members requested that the applicant return to the monthly full board meeting with more information and visual documentation on the project and the plaza itself; and

WHEREAS: The applicant will be returning to the CB1 Land Use Committee for review of the plaza café; now

THEREFORE

BE IT

RESOLVED

THAT: CB 1 does not oppose the application for LM Plaza Text Amendment N1702862ZRM to modify the Zoning Resolution pertaining to the permitted floor area bonus for public plazas in the Special Lower Manhattan District, subject to the following conditions:

1. The applicant must stipulate in the plaza plan that it will be regularly and permanently maintained by the building owner.
2. The applicant must return to CB1 to present the final plaza design before the application is approved by the City Planning Commission.
3. The City Planning Commission will not approve the final plaza design until it is presented to CB1.
4. CB1 supports programming in the plaza, as long as it does not disturb neighborhood residents.