



## **CITY PLANNING COMMISSION**

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September 9, 2009, Calendar No. 14

N 090243 ZRM

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IN THE MATTER OF an application submitted by G&R 11<sup>th</sup> Avenue Associates, LLC 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), Community District 4, Borough of Manhattan.

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The application for the zoning text amendment (N 090243 ZRM) was filed by the G&R 11<sup>th</sup> Avenue Associates, LLC on December 15, 2008.

### **BACKGROUND**

Section 98-22 of the Zoning Resolution provides that the base permissible floor area ratio (FAR) in Subarea C of the Special West Chelsea District is 5.0. This base FAR may be increased by up to 2.5 FAR (for a total of 7.5 FAR) through either (1) a transfer of development rights from the High Line Transfer Corridor or (2) a combination of transfer from the High Line Corridor and participation in the Inclusionary Housing Program pursuant to Section 98-26.

However, the floor area regulations of Section 98-22 do not currently take into account the existence of zoning lots that have existing buildings within the C6-3 district that are built to greater than 5.0 FAR, and other portions of the same zoning lot that are within an M1-5 district and that are built to less than 5.0 FAR.

When both of these conditions are present, there is no mechanism to apply the 2.5 FAR floor area increase to the built portion of the site in the C6-3 district; development in the M1-5 district is therefore reduced by the amount of any floor area above 5.0 FAR within the C6-3 district.

The proposed text amendment would allow the permitted floor area ratio in the C6-3 district to be increased to the floor area ratio existing on June 23, 2005 up to a maximum of 7.5 FAR (the maximum FAR allowed in the C6-3 district in West Chelsea through a transfer of development rights from the High Line), upon City Planning Commission Chair's certification that a payment to the High Line Improvement Fund established under Section 98-25 of the Zoning Resolution has been made. The proposed text would apply only to buildings existing prior to June 23, 2005, the date the Special West Chelsea District zoning was adopted. The text amendment would only be applicable to one zoning lot in the Special West Chelsea District.

The predominant development on the affected zoning lot is a seven-story building at 246 11th Avenue known as the Otis Elevator Building. The Otis Elevator Building occupies the entire 11th Avenue frontage and is located almost completely within the C6-3 district. Adjacent to the Otis Elevator Building on the West 26<sup>th</sup> Street frontage is a six-story building at 549 West 26<sup>th</sup> Street, located entirely in the M1-5 district. Adjacent to the Otis Elevator Building along the West 27th Street frontage is an approximately 12,100 vacant lot, also located entirely in the M1-5 district.

The text amendment would facilitate the development of a contextual in-fill commercial building within the M1-5 district in the Special West Chelsea District. The site fronts on Eleventh Avenue between West 26<sup>th</sup> and West 27<sup>th</sup> streets. The site is zoned C6-3 and M1-5. The site also lies within the West Chelsea Historic District.

## **ENVIRONMENTAL REVIEW**

This application (N 090243 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 New York City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The designated CEQR number is 09DCP036M. The City Planning Commission is the lead agency.

After a study of the potential environmental impact of the proposed action, a Negative Declaration was issued on May 4, 2009.

## **PUBLIC REVIEW**

This application (N 090243 ZRM) was duly referred on May 5, 2009 to Community Board 4 and the Borough President for information and review in accordance with the procedures for non-ULURP matters.

## **Community Board Public Hearing**

Community Board 4 held a public hearing on this application (N 090243 ZRM) on June 8, 2009, and on that date, adopted a resolution recommending approval of the application subject to the following conditions:

- DCP confirmation that only 246 Eleventh Avenue would be affected by the proposed amendment
- Mandating a lower building with a street wall matching the adjacent buildings to the east

### **Borough President Recommendation**

The Borough President did not issue a recommendation for this application (N 090243 ZRM).

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

On July 22, 2009 (Calendar No. 7), the City Planning Commission scheduled August 5, 2009, for a public hearing on this application (N 090243 ZRM). The hearing was duly held on August 5, 2009 (Calendar No. 22). There was one speaker in favor of the application and no speakers in opposition.

The applicant's representative explained the text amendment and the development it could facilitate.

There were no other speakers and the hearing was closed.

### **CONSIDERATION**

The Commission believes that this application for an amendment to the Zoning Resolution (N 090243 ZRM) is appropriate.

The Commission recognizes the need to address a condition that was not anticipated at the time of the West Chelsea Rezoning in 2005. The Commission believes the text amendment would allow the permitted floor area ratio in the C6-3 district to be increased to the floor area ratio existing on June 23, 2005 up to a maximum of 7.5 FAR (the maximum FAR allowed in the C6-3 district in West Chelsea through a transfer of development rights from the High Line), upon City Planning Commission Chair's certification that a payment to the High Line Improvement Fund established under Section 98-25 of the Zoning Resolution has been made.

The Commission believes that any new building that could be developed under the proposed text would be contextual and meet the minimum street wall requirements of the Special West Chelsea District. The Commission understands that any proposed development on the site would need to

obtain a Chairperson's certification and a Certificate of Appropriateness from the New York City Landmarks Preservation Committee, because the site is in the West Chelsea Historic District.

The Commission acknowledges the concern regarding the applicability of the text amendment in the Special West Chelsea District, and does confirm that the project site is the only zoning lot within the Special West Chelsea District that they text amendment could apply.

## **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 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 (DEFINITIONS)

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

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## **Article IX - Special Purpose Districts**

### **Chapter 8**

#### **Special West Chelsea District**

\* \* \*

### **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 portion of the zoning lot may be increased to the #floor area ratio# existing in the C6-3 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 of the City Planning Commission 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.

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The above resolution (N 090243 ZRM), duly adopted by the City Planning Commission on September 9, 2009 (Calendar No. 14), is filed with the Office of the Speaker, City Council, and the Borough President in accordance with the requirements of Section 197-d of the New York City Charter.

**AMANDA M. BURDEN, FAICP, Chair**

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

**ANGELA M. BATTAGLIA, RAYANN BESSER, IRWIN G. CANTOR, P.E.,**

**BETTY Y. CHEN, MARIA M. DEL TORO, RICHARD W. EADDY,**

**NATHAN LEVENTHAL, KAREN A. PHILLIPS, Commissioners**

**ANNA HAYES LEVIN, Commissioner, ABSTAINING**