



CITY PLANNING COMMISSION

September 24, 2003/Calendar No. 27

M 840260 (C) ZMM

IN THE MATTER OF an application submitted by Gansevoort Street LLC for the modification of Restrictive Declaration D-94, which was previously approved as part of an application for a Zoning Map amendment (M 840260 ZMM), to allow Use Group 6 and 9 uses in addition to the list of permitted uses for property located at 52-74 Gansevoort Street (Block 643, Lots 43 and 49), and to allow Use Group 9 uses in addition to the list of permitted uses for property located at 46-50 Gansevoort Street (Block 643, Lot 54) in an M1-5 District, Community District 2, Borough of Manhattan.

WHEREAS, on October 2, 1998, Gansevoort Street LLC submitted an application (M 840260 (C) ZMM) to modify Restrictive Declaration D-94 as it relates to Tax Lots 43, 49 and 54 of Block 643 in the Borough of Manhattan (46-74 Gansevoort Street); and

WHEREAS, Restrictive Declaration D-94 dates from April 13, 1984, and was entered into in connection with an approval for a Zoning Map amendment (M 840260 ZMM), sponsored by the Rockrose Development Corporation and affecting a nearby two-block area bounded by Gansevoort, Washington, W. 12th and West streets. This action generally changed the zoning designation on these two blocks from M1-5 and C8-4 districts to a C6-2A District. The rezoning was intended to facilitate the development of new residential buildings on properties owned by the project sponsor and the residential conversion of non-residential buildings also owned by the project sponsor; and

WHEREAS, the application for the Zoning Map amendment (C 840260 ZMM) was the subject of a Final Environmental Impact Statement (FEIS). The FEIS (82-270M) disclosed that the map amendment could potentially result in adverse impacts on industrial/meat production-related

businesses occupying properties owned by the rezoning applicant, but located outside of the rezoning area, namely, the south side of Gansevoort Street between Washington and Greenwich streets (Block 643, Lots 43, 49 and 54). To mitigate these potential impacts, it was proposed that industrial uses be required on the Gansevoort properties so as to prohibit residential conversions and preserve the southern boundary of the Meat Market; and

WHEREAS, the mitigation which was incorporated in Restrictive Declaration (D-94) provides that the use of these properties is limited to certain commercial and light manufacturing uses defined in Section 15-58 of the New York City Zoning Resolution. The declaration obligates the owner of these properties to maintain space for meat-related uses contained in Use Groups 17A and 17B and, in the event of a vacancy, to use best efforts to rent to such uses; and

WHEREAS, Section 2.01 of the Restrictive Declaration was modified in 1998 (M 840260(B) ZMM) to allow Use Group 6 uses, as allowed within an M1-5 District, for property located at 46-50 Gansevoort Street (Block 643, Lot 54), while Lots 43 and 49 would continue to be limited to Section 15-58 uses; and

WHEREAS, the current application seeks to modify Section 2.01 of the Restrictive Declaration to allow Use Group 6 and 9 retail and commercial uses at 52-74 Gansevoort Street (Block 643, Lots 43 and 49) and to allow Use Group 9 commercial uses at 46-50 Gansevoort Street. Under the proposed modification, the uses permitted on Lots 43 and 49 would be expanded to include Use Group 6 and Use Group 9 uses as allowed within an M1-5 District, and the uses

permitted on Lot 54 would be expanded to include Use Group 9 uses as allowed within an M1-5 District. The proposed modification would facilitate the leasing of vacant space located on these lots and would legalize the uses which, although located in these spaces, are not allowed under the terms of the Restrictive Declaration. In addition, the proposed modification would rationalize the allowed uses on all three lots included under the aegis of the Restrictive Declaration; and

WHEREAS, this application (M 840260 (C) ZMM) 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 91 of 1977. The designated CEQR number is 82-270M. The lead agency is the City Planning Commission. After a study of the potential environmental impacts of the proposed action, it was determined that the proposed modification of the Restrictive Declaration (D-94) would not result in greater or different impacts than were disclosed in the previously-completed FEIS. By letter dated June 2, 2003, it was determined that the proposed modification does not alter the conclusions of the earlier review and, therefore, the Notice of Completion (NOC) issued on April 5, 1984 remains in effect; and

WHEREAS, on June 2, 2003, this application was referred by the Department of City Planning to Community Board 2 in accordance with procedures for non-ULURP items; and

WHEREAS, Community Board 2, at a meeting on June 19, 2003, by a vote of 42 to 5, with

one recusal, adopted a resolution recommending rejection of the proposed modification of the Restrictive Declaration to allow Use Group 6 and 9 uses on Lots 43 and 49 (52-74 Gansevoort Street) and Use Group 9 uses on Lot 54 (46-50 Gansevoort Street). The board's recommendation stated their belief that if the modification is granted the declarant would rent to uses not allowed by the modification. It also noted the proliferation of restaurants and bars which remain open late at night at the eastern end of the street resulting from the 1998 modification. The board's recommendation stated that the current modification would lead to an increase in these types of establishments which it believes will negatively impact on the residential uses immediately to the south of the subject buildings, on the Horatio Street frontage of the subject block. The Community Board also notes that the subject properties are underbuilt. The board believes that allowing Use Group 6 and 9 uses would provide the incentive for the declarant and subsequent owners of the property to maximize the FAR of 5.0 allowed in the subject M1-5 district by adding additional stories on to the buildings thereby impacting the gardens and a nursery school on the Horatio Street side of the block. The board noted their concern pertaining to the timing of the application prior to the completion of the Landmarks Preservation Commission's designation process for the proposed Gansevoort Market Historic District; and

WHEREAS, the Commission has considered this application (M 840260 (C) ZMM) and believes the proposed modification of the Restrictive Declaration is appropriate; and

WHEREAS, the Commission notes that this modification will add Use Group 6 and 9 uses to the set of allowed uses for Lots 43 and 49 (52-74 Gansevoort Street) and will add Use Group 9

uses to the set of allowed uses for Lot 54 (46-50 Gansevoort Street). The Commission believes this modification reflects the changing mix of uses in the vicinity, notably the substantial reduction in meat-related uses and the increase in retail and commercial uses, such as restaurants, coffee shops, art galleries, architecture and graphic design offices, and photography studios. The Commission believes this evolving use mix stems not from the rezoning in 1984 of two blocks located immediately to the west, but is related to technological and economic changes within the meat industry affecting production and distribution, as well as, broader economic trends within the city; and

WHEREAS, the Commission notes that the Use Group 6 uses allowed by this modification are retail and service establishments which are permitted in the lowest density commercial districts, and that the Use Group 9 uses allowed by this modification are primarily businesses and other services which are appropriate in local service districts and that with this modification the subject property will continue to be restricted from the full range of uses allowed by the M1-5 District which it lies within; and

WHEREAS, in particular, the Commission notes that entertainment uses, such as nightclubs and discotheques, billiard parlors, and theaters, contained within Use Groups 8 and 12 will still be prohibited, thereby, addressing one of the concerns raised by Community Board 2 related to late night uses; and

WHEREAS, the Commission notes that the properties are located within the boundaries of

the Gansevoort Market Historic District, designated by the Landmarks Preservation Commission (LPC) on September 9, 2003. The Commission notes that the appropriateness of enlargements to buildings located within the District would be reviewed by the LPC thereby addressing the Community Board's concern regarding the impact of enlargements to these buildings; and

WHEREAS, the Commission, therefore, concludes that this modification of the Restrictive Declaration provides sufficient flexibility within appropriate parameters to allow the subject property to reasonably adapt to the area's current and foreseeable land use trends;

THEREFORE, be it **RESOLVED** that the City Planning Commission, after consideration of the proposed modification, the state of information in the 1984 FEIS and in a Technical Memorandum dated May 30, 2003, finds that the application will not result in environmental impacts substantially different from or greater than those described in the 1984 FEIS and would not alter the conclusions of the 1984 FEIS, and that having considered such materials and the 1984 FEIS for which a Notice of Completion was issued on April 5, 1984, the City Planning Commission certifies that the requirements of the New York State Environmental Quality Review Act and regulations promulgated pursuant thereto have been met, and finds that, consistent with social, economic, and other essential considerations from among the reasonable alternatives thereto, the action to be approved is one which minimizes or avoids adverse environmental impacts to the maximum extent practicable, and that adverse environmental impacts will be avoided or minimized to the maximum extent practicable by incorporating as conditions to the decision those mitigative measures that were identified as practicable.

The report of the City Planning Commission, together with the 1984 FEIS and a Technical Memorandum dated May 30, 2003, constitutes the written statement of facts that form the basis of the decision; and be it further

RESOLVED, that the City Planning Commission certifies its approval of the application submitted by Gansevoort Street LLC for the modification of Restrictive Declaration D-94, which was previously approved in connection with an application for a Zoning Map amendment (C 840260 ZMM), to allow Use Group 6 and 9 uses in addition to the list of permitted uses for property located at 52-74 Gansevoort Street (Block 643, Lots 43 and 49), and to allow Use Group 9 uses in addition to the list of permitted uses for property located at 46-50 Gansevoort Street (Block 643, Lot 54), in an M1-5 District, Community District 2, Borough of Manhattan.

The above resolution, duly adopted by the City Planning Commission on September 24, 2003 (Calendar No. 27), is hereby filed with the Office of the Speaker, City Council.

AMANDA M. BURDEN, AICP, Chair
KENNETH J. KNUCKLES, ESQ., Vice Chairman

ANGELA M. BATTAGLIA, ANGELA R. CAVALUZZI, R.A., RICHARD W. EADDY,
JANE D. GOL, CHRISTOPHER KUI, JOHN MEROLO, KAREN A. PHILLIPS,
JOSEPH B. ROSE, DOLLY WILLIAMS, Commissioners