



CITY PLANNING COMMISSION

August 11, 2008/Calendar No. 17

N 080406 ZRM

IN THE MATTER OF an application submitted by the Whitney Museum of American Art and the Economic Development Corporation pursuant to Section 201 of the New York City Charter for amendment of the Zoning Resolution of the City of New York, concerning Section 74-92, (Use Group 3A and 4A Community Facilities and Certain Large Retail Establishments in Manufacturing Districts) to facilitate the Whitney Museum expansion, Borough of Manhattan, Community District 2.

This application for an amendment of the Zoning Resolution was filed by the Whitney Museum of American Art and the New York City Economic Development Corporation on April 28, 2008, to allow height and setback modifications for a building containing a Use Group 3A museum use in a M1-5 zoning district on a zoning lot over which the High Line passes. The proposed zoning text amendment would allow the Whitney Museum to request a special permit pursuant to the proposed text to facilitate the establishment of the subject museum on the north side of Gansevoort Street between Washington and West streets.

RELATED ACTIONS

In addition to the text amendment, which is the subject of this report, implementation of the proposed development also requires action by the City Planning Commission on the following applications which are being considered concurrently with this application:

- | | |
|--------------|---|
| N 080407 PCM | Site Selection and Acquisition for a facility to be used by the Parks Department in connection with the operation and maintenance of the High Line public open space. |
| C 080408 PPM | Disposition of City-owned property to the NYC Economic Development Corporation. |
| C 080409 ZSM | Special permit pursuant to the proposed amended Section 74-921(a) to modify use to allow a museum in a M1-5 zoning district; and the proposed Section 74-921(b) to modify bulk in a building containing a museum use in a M1-5 district, located on a zoning lot over which the High Line passes. |

BACKGROUND

The proposed citywide text amendment would modify Section 74-921 by adding a provision to the Section to allow for certain bulk modifications by special permit in M1-5 districts to facilitate Use Group 3A uses in select locations. The text amendment would provide for the modification of height and setback regulations for a building containing a museum use in a M1-5 district, located on a zoning lot over which the High Line passes.

A detailed explanation of the text amendment is included in the report on the related application for a special permit (C 080409 ZSM).

ENVIRONMENTAL REVIEW

This application (N 080406 ZRM), in conjunction with the related applications (N 080407 PCM, C 080408 PPM, and C 080409 ZSM) were 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 07SBS021M. The lead agency is the Department of Small Business Services.

After a study of the potential environmental impact of the proposed action, a Negative Declaration was issued on April 30, 2008.

PUBLIC REVIEW

On May 5, 2008, this text change application was duly referred to the affected community board, and the borough president for information and review in accordance with the procedure for referring non-ULURP matters.

Community Board Review

Community Board 2 held a public hearing on this application (N 080406 ZRM), in conjunction with the related applications (C 080407 PCM, C 080408 PPM, and C 080409 ZSM) on May 15, 2008, and On May 22, 2008, by a vote of 43 to 0 with 0 abstentions, adopted a resolution recommending

approval of the applications.

Borough President Review

This application (N 080406 ZRM), in conjunction with the related applications was considered by the Borough President of Manhattan, who issued a recommendation on June 30, 2008, approving the applications. A discussion of the Borough President's recommendation is included in the report on the related application for a special permit (C 080409 ZSM).

Planning Commission Public Hearing

On June 18, 2008, Calendar No. 6, the City Planning Commission scheduled July 2, 2008, for a public hearing on this application (N 080406 ZRM). The hearing was duly held on July 2, 2008, Calendar No.28, in conjunction with the hearings on the related applications (C 080407 PCM, C 080408 PPM, and C 080409 ZSM).

There were a number of speakers, as described in the report on the related application for the proposed special permit, (C 080409 ZSM), and the hearing was closed.

Waterfront Revitalization Program Consistency Review

This application (N 080406 ZRM), in conjunction with the related applications (C 080407 PCM, C 080408 PPM, and C 080409 ZSM), was reviewed by the Department of City Planning 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 13, 1999 and by the New York State Department of State on May 28, 2002, 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 08-026M.

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

CONSIDERATION

The Commission believes that the proposed amendment to Section 74-921 to allow by special permit height and setback modifications for a building containing a Use Group 3A museum use in a M1-5 zoning district on a zoning lot over which the High Line passes to be appropriate.. It would allow the Whitney Museum of American Art to request a special permit pursuant to facilitate the establishment of the subject museum on the north side of Gansevoort Street between Washington and West streets.

A full consideration and analysis of the issues and reasons for approving this application, appears in the related application for a special permit, (C 080409 ZSM).

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, that 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 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 Greystone is new, to be added;

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

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

* * * indicates where unchanged text would appear in the Zoning Resolution.

* * *

4/24/08 - #5

74-92

Use Groups 3A and 4A Community Facilities and Certain Large Retail Establishments in Manufacturing Districts

74-921

Use Groups 3A and 4A community facilities

(a) Use modifications for Use Groups 3A and 4A in M1 Districts

In M1 Districts, except for houses of worship, the City Planning Commission may permit #uses# listed in Use Group 4A - Community Facilities and, in M1-5 Districts, except in M1-5A, M1-5B and M1-5M Districts, the Commission may permit museums and non-commercial art galleries as listed in Use Group 3A, provided that such community facility is located not more than 400 feet from the boundary of a district where such facility is permitted as-of-right and the Commission finds that:

- (a-1) an adequate separation from noise, traffic and other adverse effects of the surrounding non-residential districts is achieved through the use of sound-attenuating exterior wall and window construction or by the provision of adequate open areas along #lot lines# of the #zoning lot#;
- (b-2) such facility is so located as to draw a minimum of vehicular traffic to and through local #streets# and that such #use# will not produce traffic congestion or other adverse effects that interfere with the appropriate #use# of land in the district or in any adjacent district;
- (c-3) where applicable, adequate reservoir space at the vehicular entrance and sufficient vehicular entrances and exits are provided to prevent congestion;
- (d-4) in selecting the site, due consideration has been given to the proximity and adequacy of bus and rapid transit facilities;
- (e-5) for a Use Group 4A #use#, within the neighborhood primarily to be served by the community facility, there is no practical possibility of obtaining a site of adequate size located in a district where it is permitted as-of-right because appropriate sites in such districts are occupied by substantial improvements; and
- (f-6) such facility will not impair the essential character of the surrounding area.

The provisions of this special permit relating to Use Group 3A museums and non-commercial art galleries shall be inapplicable to the #Special Tribeca Mixed Use District#.

(b) Bulk modifications for museums in M1-5 Districts

For a #building# containing a museum #use# listed in Use Group 3A, in an M1-5 District, on a #zoning lot# over which the High Line (as defined in Section 98-01) passes, the Commission may modify height and setback regulations, provided that such modifications:

- (1) provide a better distribution of #bulk# on the #zoning lot#;
- (2) result in a better relationship of the #building# to open areas including the High Line, adjacent #streets# and surrounding #developments#;
- (3) provide adequate light and air for #buildings# on the #zoning lot# and do not adversely affect adjacent #zoning lots# by unduly restricting access to light and air to surrounding #streets# and properties; and
- (4) result in a #development# that facilitates the public's use and enjoyment of the High Line.

The Commission may prescribe additional conditions and safeguards to minimize adverse effects on the character of the surrounding area.

* * *

The above resolution (N 080406 ZRM), duly adopted by the City Planning Commission on August 11, 2008 (Calendar No. 17), 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, IRWIN G. CANTOR, P.E., ANGELA R. CAVALUZZI, AIA,
ALFRED C. CERULLO, III, MARIA M. DEL TORO, RICHARD W. EADDY,
NATHAN LEVENTHAL, SHIRLEY A. MCRAE, KAREN A. PHILLIPS, Commissioners