



CITY PLANNING COMMISSION

February 8, 2006, Calendar No. 16

N 060199 ZRM

IN THE MATTER OF an application submitted by the Department of City Planning 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.

The application for the zoning text amendment (N 060199 ZRM) was filed by the Department of City Planning on October 27, 2005.

BACKGROUND

In June 2005, the several applications related to the West Chelsea area and the High Line elevated rail structure were approved by the City Council. The applications included the establishment of a new Special West Chelsea District to provide new opportunities for market-rate and affordable housing, enhance the West Chelsea art gallery district, and facilitate the rehabilitation of the High Line into a new, public open space. During the public review, the need for additional text changes requiring subsequent action was identified. Subsequently, the need for other text changes to clarify the approved text, eliminate inaccurate references in the text, and add new provisions consistent with the intent of the text were also identified. The proposed zoning text amendment (N 060199 ZRM) includes these additional text changes.

The area affected by the proposed text changes is the Special West Chelsea District. This area is generally bounded by West 16th Street to the south, Eleventh Avenue to the west, West 30th Street to the north and Tenth Avenue to the east.

The proposed zoning text changes are described below.

Affordable Housing

Addition of Harassment and demolition provisions for West Chelsea (Section 98-70)

The proposed text change would make harassment provisions specified in Section 93-90(a)-(d) of the Special Hudson Yards District applicable within the Special West Chelsea District. The text change also redefines the terms 'anti-harassment area' and 'referral date' to apply to the Special West Chelsea District. The provisions would provide a process to evaluate whether harassment of tenants has occurred in the event of certain types of alteration and demolition permit applications for older residential multiple dwellings, subsequent to the adoption of the Special West Chelsea District. The proposed text amendment includes zoning-based remedies, in addition to any other legal penalties. The provision is intended to deter harassment of tenants.

Clarifications

Designation of official responsible for High Line maintenance and inspection determination (Section 98-11)

The proposed text change reflects further development of the protocols and processes related to the City's review of plans for development within 25 feet of the High Line structure. The Commissioner of Parks would be designated as the official responsible for making the determination that building plans would not affect the City's ability to inspect and maintain the High Line on an ongoing basis.

Floor area ratio table (Section 98-22 table)

The proposed text changes correct an erroneous column header and clarify ambiguous language regarding floor area ratios in a portion of Subarea D.

Lot coverage calculations (Section 98-23)

The proposed text clarifies the process for the calculation of lot coverage on lots over which the High Line passes. The current text does not specify how the area between the level of the High Line bed and the underside of the High Line should factor into lot coverage calculations. The proposed text indicates that the portion of the lot below the level of the High Line bed does not factor into lot coverage calculations.

Street wall location and minimum base height for corner lots (Section 98-423(a))

The proposed text change would clarify the area within which a minimum base height of 15 feet is required. The current text requires a minimum base height of 15 feet along a corner lot's entire narrow street frontage, beyond 50 feet of an intersection with a wide street. The proposed text would clarify the original intent by requiring a 15-foot base height only between 50 and 100 feet of a street intersection.

Street wall location and minimum base height for corner lots within Subarea D (Section 98-423(b)(1))

The proposed text change would clarify the area within which a minimum base height of 15 feet is required. The current text requires a minimum base height of 60-90 feet for all street frontages, regardless of the length of such frontage. The proposed text would permit a 15 foot base height only between 50 and 150 feet of a street intersection and would clarify the intent of the original requirement.

Threshold High Line frontage length (Section 98-51(b))

The current text requires development on zoning lots with High Line frontage of less than 120 feet to rise no more than 3 feet 6 inches higher than the level of the High Line bed, within 25 feet of the High Line. Development on zoning lots with High Line frontage of more than 120 feet can rise to the permitted maximum building height for a maximum of 40 percent of the lot's High Line frontage. The proposed text would reduce the minimum frontage length from 120 to 115 feet. The change would correct an erroneous calculation of the threshold length and would more accurately reflect the original intent.

Boundaries of High Line Improvement Area within Subarea I (Appendix C, Diagram 5)

The current diagram delineating the High Line Improvement Area for Subarea I defines the southern boundary as the southerly curb line of West 16th Street. The proposed change would extend the Improvement Area to include that portion of the High Line above the sidewalk on the south side of West 16th Street. This change is consistent with

the ongoing development of site preparation and remediation specifications for the High Line and would simplify the performance of this work.

Parking regulations in Subarea H (Section 98-18(b))

The proposed text change adds a requirement that any as-of-right parking facility as permitted by Section 98-18 that is located below the required public plaza provide a minimum depth of 4 feet for the planting of at-grade trees.

Provisions applicable to lots over which the High Line passes

Authorization to modify certain bulk for certain High Line lots (98-424)

The proposed text would permit modification by City Planning Commission authorization of rear yard and minimum distance between legally required windows and lot lines requirements as part of the authorization for constrained lots over which the High Line passes. The change would be consistent with other aspects of the provision that permit modification of height and setback to allow greater flexibility in bulk arrangement for lots over which the High Line passes.

High Line access easement exemption addition (Section 98-61(f))

The proposed text would modify the High Line access requirements to exempt properties fronting on West 23rd Street from providing access easements. The change is consistent with the High Line Framework Plan, developed by the City of New York and the Friends of the High Line, which specifies West 23rd Street as a “Special Access

Location” where High Line access will be provided in the public right-of-way and is therefore not needed on adjacent private properties.

ENVIRONMENTAL REVIEW

Application N 060199 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 03DCP069M. The City Planning Commission is the lead agency.

The Final Environmental Impact Statement (FEIS) for the Special West Chelsea District Rezoning and High Line Open Space was certified as complete and the Notice of Completion was issued on May 13, 2005 by the City Planning Commission (CPC), acting as lead agency. On June 22, 2005, the City Council (Council) approved Application Numbers C 050162(A) ZMM and N 050161(A) ZRM, which together refer to the establishment of the Special West Chelsea District. The approved actions consist of Alternative F, which was analyzed in Chapter 23, “Alternatives,” of the FEIS, together with modifications to Alternative F made by the CPC and Council and assessed in Technical Memoranda dated May 25, 2005 and June 22, 2005, respectively.

A Notice of Minor Modification was issued on October 27, 2005, which determined that the proposed text changes set forth in Application N 060199 ZRM would not result in any new or additional significant adverse impact not already set forth in the FEIS.

PUBLIC REVIEW

This application (N 060199 ZRM) was duly referred on October 31, 2005 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 on December 7, 2005, and on that date, by a vote of 37 to 0 with 0 abstentions and 0 present but not eligible, adopted a resolution recommending approval of the application subject to the following condition:

“a minimum streetwall height of at least 25 feet and preferably higher should be required along the street line of narrow streets no more than 50 feet east of Eleventh Avenue and extending eastward through the midblocks up to the point where the special regulations of the High Line corridor apply...The two text changes proposed should be modified to require effective streetwalls in such locations...”

Borough President Recommendation

The Manhattan Borough President did not submit a recommendation for this application.

City Planning Commission Public Hearing

On January 11, 2006 (Supplemental Calendar No. 1), the City Planning Commission scheduled January 25, 2006, for a public hearing on this application (N 060199 ZRM). The hearing was duly held on January 25, 2006 (Calendar No. 10). There was one speaker in favor of the application and no speakers in opposition.

A representative of Manhattan Community Board 4 briefly explained the Board's resolution on the application and the condition included in the Board's resolution.

There were no other speakers and the hearing was closed.

Waterfront Revitalization Program Consistency Review

The applications related to the establishment of the Special West Chelsea District (N 050161(A) ZRM and C 050162(A) ZMM) were previously 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 04-096. 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 amendments to the Zoning Resolution (N 060199 ZRM) is appropriate.

The proposed zoning text change (N 060199 ZRM) addresses several deficiencies, ambiguities and errors in the zoning text adopted in June of 2005.

The Commission believes that the creation of anti-harassment provisions within the Special West Chelsea District, which are consistent with similar provisions adopted within the adjoining Hudson Yards area, responds to the concerns raised by the Community Board and the City Council that there be additional protections for existing residential units.

The Commission recognizes the concerns expressed by Community Board 4 regarding the required streetwall height of 15 feet in certain midblock locations. While modification of these streetwall heights is not within the scope of this application, the Commission acknowledges that the Department of City Planning is involved in ongoing discussions with the Community Board regarding this issue.

The Commission notes that two necessary, additional administrative corrections were identified during the public review process. Both changes, to Section 98-22, Table A,

and Section 98-23, are clarifications of ambiguous sections of text and have no significant bearing on the provisions or intent of the Special West Chelsea District.

The Commission believes that this proposed text amendment (N 060199 ZRM) is consistent with the goals and objectives of the original West Chelsea/High Line proposal adopted in June of 2005.

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, and based on the environmental determination set forth in the modified Notice of Minor Modification dated October 27, 2005, 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

* * *

Article IX - Special Purpose Districts

**Chapter 8
Special West Chelsea District**

* * *

**98-10
SPECIAL USE AND PARKING REGULATIONS WITHIN THE SPECIAL WEST
CHELSEA DISTRICT**

**98-11
Special Regulations for Developments and Enlargements Above, Beneath or Adjacent to the
High Line**

The Commissioner of Buildings shall not issue any building permit for demolition, excavation or foundation work to be performed above or beneath the #High Line# or within 25 feet of support structures of the #High Line#, except by determination by such Commissioner that such work would not adversely affect the structural integrity of the #High Line# and by determination by the ~~City agency or official designated by the Office of the Mayor for such purpose~~ Commissioner of Parks that such work would not adversely affect the City's ability to inspect and maintain as necessary to ensure the structural integrity of the #High Line#.

* * *

**98-18
Parking Regulations in Subarea H**

#Accessory# off-street parking spaces for existing or new governmental offices may be located on a #zoning lot# other than the same #zoning lot# as the #use# to which such spaces are #accessory#, provided that:

- (a) such spaces are located within Subarea H and in a facility, or portion thereof, that is entirely below #curb level#;
- (b) the portion of such facility beneath the required public plaza area shown on Diagram 3 in Appendix A is sufficiently below #curb level# so that trees may be planted at #curb level# within such public plaza but is in no case less than 4 feet below curb level; and
- (c) ~~and that~~ no more than 377 spaces are provided within such facility

For purposes of this Section, the governmental offices on Block 688, Lots 1001-1002 as of June 23, 2005, may have up to 377 #accessory# off-street parking spaces in such facility.

* * *

**98-22
Maximum Floor Area Ratio and Lot Coverage in Subareas**

* * *

Maximum Floor Area Ratio by Subarea

| Sub-area | Basic #floor area ratio# (max) | Increase in FAR within <u>from</u> #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 |

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

²In 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)

³For 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 (Special Floor Area Rules for Zoning Lots Divided by District Boundaries in Subareas D, E and G).

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

⁵For #zoning lots# between West 22nd Street and West 24th Street, the ~~maximum~~ #floor area ratio#s shall be 7.5, and no #floor area# increases shall be permitted.

* * *

98-23

Special Floor Area and Lot Coverage Rules for Zoning Lots Over Which the High Line Passes

~~#Lot coverage# requirements shall not apply to the portion of the #zoning lot# that lies directly beneath the #High Line#. That portion of the #zoning lot# that lies directly beneath the #High Line# shall be exempt from #lot coverage# requirements below the level of the #High Line bed#. The remaining portion of the #zoning lot# shall be considered a separate #zoning lot# for the purposes of calculating maximum #lot coverage#. Easement volumes provided in accordance with the provisions of Section 98-60 (SPECIAL ACCESS REGULATIONS FOR CERTAIN ZONING LOTS) and access structures constructed therein, as well as any structure required pursuant to Appendix D or E in relation to an increase in the basic maximum #floor area # ratio of a #zoning lot# pursuant to Section 98-25 (High Line Improvement Bonus), shall not be considered #floor area# or #lot coverage#.~~

However, at or above the level of the #High Line bed#, #lot coverage# requirements shall apply to the entire #zoning lot#.

* * *

98-40

SPECIAL YARD, HEIGHT AND SETBACK, AND MINIMUM DISTANCE BETWEEN BUILDINGS REGULATIONS

* * *

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 #developments# and #enlargements#. Such provisions are modified for certain subareas as set forth in paragraphs (b) through (f) of this Section.

- (a) On #wide streets#, and on #narrow streets# within 50 feet of their intersection with a #wide street#, the #street wall# shall be located on the #street line# and extend along such entire #street# frontage of the #zoning lot# up to at least the minimum base height specified in the table of this Section. On #corner lots# with both #wide# and #narrow street# frontages, a #street wall# with a minimum height of 15 feet shall be located on a the #narrow street line# beyond 50 feet of its intersection with a #wide street# and extend along such entire #narrow street# frontage of the #zoning lot# between 50 and 100 feet from its intersection with a #wide street#. On all other #narrow street# frontages, the #street wall# shall be located on the #street line# and extend along at least 70 percent of the #narrow street# frontage of the #zoning lot# up to at least the minimum base height specified in the table in this Section.

* * *

- (b) Subareas A and D

(1) #Street wall# location

In Subarea D, on #corner lots# between the north side of West 18th Street and the south side of West 22nd Street, a #street wall# with a minimum height of 15 feet shall be located on the #narrow street line# between 50 and 150 feet of its intersection with Eleventh Avenue.

In Subarea D, for #buildings# that do not include towers as set forth in paragraph (b)(3) of this Section, the #street wall# location provisions set forth in paragraph (a) shall not apply to any #zoning lot# that occupies the entire Eleventh Avenue #block# front. In lieu thereof, #street walls# with a minimum base height of 60 feet shall be located within 10 feet of all #street lines# bounding such #zoning lot# and extend along at least 70 percent of each #street# frontage of the #zoning lot#.

* * *

98-424

Authorization to modify ~~height and setback~~ certain bulk regulations

For #zoning lots# located entirely within 75 feet of the west side of the #High Line#, the City Planning Commission may authorize the modification of height and setback regulations set forth in Section 98-40 and 98-50, inclusive, ~~and~~ the transparency requirements set forth in Sections 98-141 and 98-54, and the underlying #rear yard# and minimum distance between #legally required windows# and walls or #lot lines# regulations. The Commission shall find that such modification will result in a better distribution of #bulk# on the #zoning lot# and will not adversely affect access to light and air for surrounding public areas.

* * *

98-50

SPECIAL HEIGHT AND SETBACK, OPEN AREA AND TRANSPARENCY REGULATIONS FOR ZONING LOTS WITHIN OR ADJACENT TO THE HIGH LINE TRANSFER CORRIDOR

98-51

Height and Setback Regulations on the East Side of the High Line

* * *

(b) In C6-3A Districts and in Subareas C, F and G

For #zoning lots# extending less than ~~420~~ 115 feet along the eastern side of the #High Line#, no portion of the eastern #High Line frontage# of a #building# shall exceed a height of 3 feet, 6 inches above the level of the #High Line bed#.

For #zoning lots# that extend for at least ~~120~~ 115 feet along the eastern side of the #High Line#, no portion of the eastern #High Line frontage# of the #building# shall exceed a height of 3 feet, 6 inches above the level of the #High Line bed#, except that a maximum of 40 percent of such #High Line frontage# may rise without setback above a height of 3 feet, 6 inches above the level of the #High Line bed# provided such portion of the #building# is not located directly between the #High Line# and any #street wall# of a #building# that is subject to a maximum height of 45 feet in accordance with paragraph (c) (Subareas C, F and I) of Section 98-423 (Street wall location, minimum and maximum base heights and maximum building heights).

However, the provisions of this paragraph, (b), shall not apply to any #zoning lot# existing on June 23, 2005 where the greatest distance between the eastern side of the #High Line# and a #side lot line# east of the #High Line# is 35 feet when measured parallel to the nearest #narrow street line#.

* * *

98-60
SPECIAL ACCESS REGULATIONS FOR CERTAIN ZONING LOTS

98-61
High Line Access Easement Volume Requirement

* * *

- (e) such #development# or #enlargement# is located wholly within an M1-5 District and no portion of such #development# or #enlargement# has more than 10,000 square feet of #floor area# and is located within five feet of the #High Line#; or
- (f) such #development# or #enlargement# is located on a #zoning lot# that fronts on West 23rd Street.

* * *

98-70
SUPPLEMENTAL REGULATIONS

In the Special West Chelsea District, the provisions of paragraphs (a) through (d), inclusive, of Section 93-90 (HARASSMENT) shall apply as modified in this Section.

For the purposes of this Section, the following definitions in Section 93-90 (HARASSMENT) shall be modified:

Anti-harassment area

“Anti-harassment area” shall mean the #Special West Chelsea District#

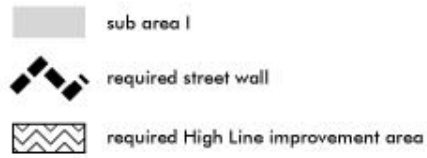
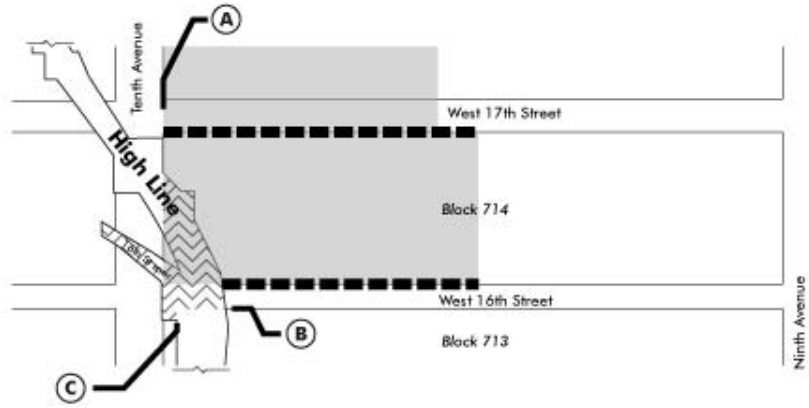
Referral date

“Referral date” shall mean December 20, 2004.

In addition, Section 93-90(d)(3) is modified as follows:

No portion of the #low income housing# required under this Section shall qualify to:

- (a) increase the #floor area ratio# pursuant to the provisions of the #Special West Chelsea District#, #Special Hudson Yards District#, #Special Garment Center District#, #Special Clinton District# or Section 23-90, or
- (b) satisfy an eligibility requirement of any real property tax abatement or exemption program with respect to any #multiple dwelling# that does not contain such #low income housing#.



boundaries of High Line improvement area*

- (A) Curb Line, east side of Tenth Avenue
- (B) Property Line, south side of West 16th Street (Block 713, Lot 1)
- (C) Property Line, south side of West 16th Street (Block 713, Lot 1)

*High Line improvement area includes entirety of West 16th Street spur

**APPENDIX C - Diagram 5
Sub Area I requirements between West 16th and West 17th Streets**

* revised diagram

The above resolution (N 060199 ZRM), duly adopted by the City Planning Commission on February 8, 2006 (Calendar No. 16), 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, AICP, Chair
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