



CITY PLANNING COMMISSION

November 14, 2007/Calendar No. 21

N 070515 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 X, Chapter 9 (Special Little Italy District), to modify the provisions of Sections 109-132 and 109-332 (Treatment of the Ground Level Wall) and to delete Section 109-25 (Mandatory Sidewalk Improvements), Community District 2, Borough of Manhattan.

This application for an amendment of the Zoning Resolution was filed by the Department of City Planning on June 7, 2007 to modify the provisions of the Special Little Italy District pertaining to decorative sidewalks and the requirement that planting or art work mandated by the provisions of the special district receive approval by the New York City Art Commission prior to the issuance of a building permit.

BACKGROUND

The Special Little Italy District (SLID) was established in 1977. The objective of the SLID is to protect and enhance the residential and retail character of Little Italy and includes provisions designed to retain the area's most significant and characteristic qualities in existing buildings and in new construction. These qualities include the vitality of the street life, the scale of the buildings, the mix of uses, and the variety of retail stores. Provisions of the SLID intended to protect the physical characteristics of the area include height and FAR limits, ground floor regulations governing storefront design, and tree planting requirements in the residentially-zoned portions of the District. In addition, the SLID text lists buildings located within the District of special significance to the City's Italian community with a regulatory approval process governing their alteration or demolition. The SLID text also contains a special Use Group (LI) intended to strengthen the existing commercial character of the area.

The area within the SLID is developed with a mix of residential and commercial uses. The upper floors of buildings are primarily occupied by residential uses; while ground floor spaces are occupied by retail and restaurant uses. The area is generally characterized by buildings of five to seven stories.

Mulberry Street is the primary commercial spine of the Little Italy neighborhood. One objective of the SLID is to revitalize and strengthen the Mulberry Street area by requiring retail uses on the street level and by requiring (among other things) sidewalk improvements in the form of decorative pavements for any large conversion, alteration, or new building on the street (Section 109-25)..

It was believed in 1977 that requiring decorative pavements in conjunction with development would reinforce the economic health of the Little Italy neighborhood and the City. There have been only six installations of decorative pavements and there have been several instances where decorative pavements should have been installed but had not been.

Sections 109-132 and 109-332 of the SLID mandate planting or art work for portions of the front walls of developments throughout the most of the area within the SLID with the exception of the Kenmare Street and Bowery corridors. These sections also require approval by the Art Commission of the art work prior to the issuance of a building permit.

The Art Commission has requested that the Department of City Planning propose this zoning text amendment to eliminate the requirements for decorative sidewalks for future developments in the SLID. The Art Commission has stated that the SLID provisions pertaining to the decorative sidewalks do not fall under the purview of the Department of City Planning or the City Planning

Commission. Although all applications for decorative sidewalks still require Art Commission review and approval, its recent practice has been to reject proposals for decorative sidewalks. In addition, the Art Commission's review is restricted to art, architecture and landscape architecture proposed for City-owned property.

The Department therefore proposes the elimination of the requirement for decorative sidewalks in recognition of the concerns raised by the Art Commission. The Department is also proposing to eliminate the requirement for Art Commission approval for mandated art work prior to the issuance of a building permit since this requirement extends the jurisdiction of the Art Commission to include private property

The text amendment would modify the SLID text by: (1) eliminating Section 109-25 (Mandatory Sidewalk Improvements) which requires decorative sidewalks; and (2) deleting all references to the Art Commission in Sections 109-132 and 109-332 (Treatment of the ground level wall). These two Sections describe the required art work and planting mandated for portions of the front walls of developments throughout most of the area within the SLID.

ENVIRONMENTAL REVIEW

This application (N 070515 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 08DCP004M. The lead is the City Planning Commission. After a study of the potential environmental impact of the proposed action, a Negative Declaration was issued on July 23, 2007.

PUBLIC REVIEW

On August 14, 2007, this text change application was duly referred to Manhattan Community Board 2 and the Manhattan Borough President for information and review in accordance with the procedure for referring non-ULURP matters.

On September 20, 2007, Community Board 2 adopted a resolution approving the proposed text amendment by a vote of 45 in favor and 0 opposed and 0 abstentions.

Borough President Review

The Borough President did not submit a recommendation on this application..

City Planning Commission Public Hearing

On October 3, 2007 (Calendar No. 7), the City Planning Commission scheduled October 17, 2007 for a public hearing on this application (N 070515 ZRM). The hearing was duly held on October 17, 2007 (Calendar No. 15).

There were no speakers and the hearing was closed.

CONSIDERATION

The Commission believes that the proposed amendment to modify the provisions of Section 109-132 and 109-332 to delete references to artwork approved by the New York City Art Commission; and to delete Section 109-25 to remove the requirement for mandatory sidewalk improvements is appropriate.

The Commission notes that the current provision requiring Art Commission review of mandated

art work irrespective of whether the subject property is publicly or privately owned is inconsistent with Art Commission jurisdiction. The Commission further notes that the text change to delete references to artwork approved by the New York City Art Commission does not affect the jurisdiction of the Art Commission,

The Commission notes that in order to achieve a coherent and harmonious streetscape, the Art Commission encourages consistency in the character of the City's sidewalks and is therefore not in favor of proposals for decorative sidewalk treatments. The Commission further notes that the Art Commission generally supports the City's standard paving plan, which consists of New York City standard grey concrete, with a 5' x 5' scoring pattern, as specified by the Department of Transportation. Proposed sidewalk treatments that deviate from this standard may be considered under exceptional circumstances such as a condition in which the entire block is uniformly treated, and the design of the sidewalk is integral to the design of the building or open plaza space in front of which it is installed. The Commission notes that the Art Commission strongly discourages piecemeal treatments such as decorative pavements in front of individual buildings as mandated by the existing SLID zoning text that visually disrupt the continuity and civic character of the streetscape.

The deletion of these provisions would not affect the goals and objectives of the SLID. The residential and retail character of the SLID would continue to be protected and enhanced by the remaining provisions of the SLID which would remain unchanged by the text amendment.

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 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 ~~strike out~~ 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 X - Special Purpose Districts

Chapter 9 Special Little Italy District

* * *

2/3/77

109-132 Treatment of the ground level wall

At least 25 percent of the total surface area of the entire front wall of a #development# up to a height of 12 feet above #curb level# or to the ceiling of the ground #story#, whichever is higher, shall be transparent. Transparent areas may include storefronts subject to Section 109-50. Door or window openings within such surface areas shall be considered transparent. Such opening

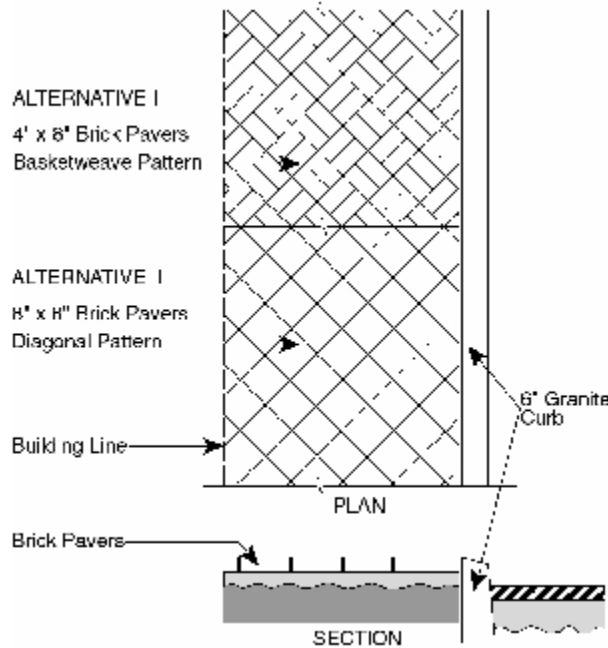
shall have a minimum width of 2 feet. In addition, any portion of such building wall 20 feet or more in length, which contains no transparent areas at ground floor level, shall be covered with vines or similar planting in permitted front wall recesses, ~~or contain art work approved by the New York City Art Commission~~, or be treated so as to provide visual relief from large expanses of blank walls. Planting shall consist of shrubs, ivy or creepers and shall be planted in soil having a depth of not less than 2 feet, 6 inches, and a minimum width of 24 inches. ~~Approval by the New York City Art Commission for any such artwork shall be obtained prior to the issuance of a building permit for the #development#.~~

* * *

**109-25
Mandatory Sidewalk Improvements**

All new #developments#, #enlargements#, changes of #use# within the same or to other #use# groups of at least 50 percent of the #floor area# of an existing #building#, or an alteration above 30 percent of the building value of an existing #building#, pursuant to the applicable articles of the Building Code of the City of New York, within Area A-1 shall provide, extending for the entire length of the #street# frontage of the #zoning lot#, sidewalk paving consisting of brick pavers and granite curbs as illustrated herein and approved by the Department of Transportation. The provisions of Section 109-17 (Mandatory Street Trees) shall not apply in Area A-1.

[DRAWING TO BE ELIMINATED]



~~PAVING AREA A-1~~
(~~Pattern and Size of brick pavers are flexible~~)

~~2/3/77~~

109-332

Treatment of the ground level wall

For a building wall facing a #narrow street#, at least 25 percent of the total surface area of such building wall up to a height of 12 feet above #curb level# or to the ceiling of the ground floor, whichever is higher, shall be transparent. Transparent areas may include storefronts subject to Section 109-50 (SPECIAL REVIEW PROVISIONS). Door or window openings within such surface areas shall be considered transparent. Such openings shall have a minimum width of two feet.

In addition, any portion of such building wall 20 feet or more in length, which contains no transparent area at ground floor level, shall be covered with vines or similar planting in permitted front wall recesses, ~~or contain artwork approved by the New York City Art Commission,~~ or be treated so as to provide visual relief from large expanses of blank walls. Planting shall consist of shrubs, ivy or creepers and shall be planted in soil having a depth of not less than 2 feet 6 inches, and a minimum width of 24 inches. ~~Approval by the New York City Art Commission for any such artwork shall be obtained prior to the issuance of a building permit for the #development#.~~

* * *

The above resolution (N 070515 ZRM), duly adopted by the City Planning Commission on November 14, 2007 (Calendar No. 21), 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.

KENNETH J. KNUCKLES, ESQ., Vice Chairman

**ANGELA M. BATTAGLIA, IRWIN G. CANTOR, P.E., ANGELA CAVALUZZI, R.A.,
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DOLLY WILLIAMS, Commissioners**