



## CITY PLANNING COMMISSION

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August 10, 2011/Calendar No. 11

N 110307 ZRM

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IN THE MATTER OF an application submitted by Century 21 Department Stores, LLC, pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York concerning the waiver of accessory off-street loading berths within the Special Lower Manhattan District in Community District 1, Borough of Manhattan.

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The application for an amendment of the Zoning Resolution was filed by Century 21 Department Stores, LLC on April 29, 2011. The text amendment would create Section 91-53 (Waiver of Requirements for Accessory Off-Street Loading Berths) of the Zoning Resolution to allow a waiver of loading berth requirements for buildings that contain both office and department store and are seeking a change of use from office to department store use. The text would modify the Special Lower Manhattan District in Community District 1, Borough of Manhattan.

### RELATED ACTION

In addition to the application which is the subject of this report, implementation of the applicant's proposal also requires action on the following application which is being considered concurrently with this application:

N 110308 ZCM      Certification to waive accessory off-street loading berths in the Special Lower Manhattan District

### BACKGROUND

The requested actions would facilitate the expansion of Century 21 Department Stores at their 22 Cortlandt Street location in Community District 1, Borough of Manhattan.

Century 21 Department Stores, LLC, proposes to amend ZR Section 91-50 of the Lower Manhattan Special District regulations to create ZR Section 91-53 (Waiver of Accessory Off-

Street Loading Berth Requirements). The proposed Section 91-53 would establish a certification that would allow the Chairperson of the City Planning Commission to waive loading berth requirements for department stores within existing buildings that contain both department store use (UG 10A) and office use (UG 6B) and where the department store use resulted from a change of use from office to department store.

Century 21 is a department store located on Church Street, between Cortlandt and Dey streets in a C5-5 District within the Special Lower Manhattan District. It currently occupies the cellar and first three floors (about 120,000 square feet of space) in a 34-story building at 22 Cortlandt Street (Block 63, Lot 3). Century 21 also occupies and sells merchandise in the adjacent building, 26 Cortlandt Street (Block 63, Lot 6), and also two buildings fronting along Broadway; 10-12 Cortlandt Street (Block 63, Lot 1) and 177 Broadway (Block 63, Lot 19). The subject application only applies to the merged zoning lot (“Century 21”) comprised of 22 Cortlandt Street and 26 Cortlandt Street.

Century 21 currently occupies the cellar, 1<sup>st</sup>, 2<sup>nd</sup>, and 3<sup>rd</sup> floors of 22 Cortlandt Street for approximately 120,000 square feet. It is proposing to expand into the 4<sup>th</sup>, 5<sup>th</sup>, and 6<sup>th</sup> stories of 22 Cortlandt Street, which had been occupied by offices but are currently vacant. The expansion would result in an increase of approximately 76,500 square feet of retail space creating a department store of about 196,500 square feet in 22 Cortlandt Street .

Under Section 36-62 of the Zoning Resolution, office use requires one berth for the first 300,000 square feet and one for each additional 300,000 square feet thereafter, while retail uses require one berth for the first 40,000 square feet, one for the next 60,000 square feet and one for each additional 150,000 square feet thereafter. Under existing zoning regulations, 22 Cortlandt Street is required to have five loading berths. However, because it was built pre-1961 zoning, it is grandfathered with three loading berths. One loading berth is used for the office use located in the upper floors, and two loading berths are required for the department store. The loading berths open on to Dey Street, a narrow street with a width of 25 feet.

Century 21's proposed expansion of an additional approximately 76,500 square feet would still require five loading berths with three of these berths allocated to the department store.

Currently, trucks supplying Century 21 cannot utilize the existing loading berths on Dey Street because modern day delivery vehicles are too long to use the shallow loading docks on narrow Dey Street. Instead, Century 21 loads and unloads its merchandise on Dey Street. Century 21 begins on-street deliveries at 5:00 a.m., and it can extend until 4:30 p.m. Currently, the average loading time of each truck is approximately 90 minutes, and this is partly due to an inefficient loading system within 22 Cortlandt Street, which does not have existing freight elevators which access all the floors. Specifically, the freight elevator does not access the third floor, and goods must be carted through the second floor to a shared passenger elevator to arrive at the third floor. In addition, on all floors, goods must be staged in the sales areas as there is no dedicated, separate, staging area. The combination of the inability to use the existing loading berths and this cumbersome and time-consuming delivery procedure can often result in merchandise obstructing the Dey Street sidewalk as goods are being transferred from the loading truck to the building.

For the reasons described above, a text amendment is proposed that would grant the Chairperson of the City Planning Commission the authority to waive, by certification, the requirement for accessory off-street loading berths for both the existing loading requirement and also any additional requirement as part of a change of use from office to department store use. The certification would apply to buildings with both department store use and office use and where the department store has resulted from a change of use from office use. The certification could be granted provided the following findings are met:

1. The Department of Transportation has approved a plan for curbside deliveries, which would be based upon a traffic study prepared by a qualified professional;
2. An improved goods receiving system is provided, including at least 6,000 square feet of new staging areas within the building and at least one additional freight elevator; and

3. There is a plan showing that the floor space exempted from the definition of floor area will be used for an improved goods receiving and in-store transport system in conjunction with the curbside delivery plan approved by the Department of Transportation; and
4. A restrictive declaration is executed, ensuring maintenance of the staging areas and additional elevators and continued compliance with the curbside delivery plan and approved store plans.

The Chairperson certification would allow Century 21 to provide only one loading berth for the office use in the upper floors of 22 Cortlandt Street. This application would allow the waiver of the loading berth required for the change of use to department store from office use and also the waiver of the existing department store loading berth requirement provided the above findings are met.

#### **ENVIRONMENTAL REVIEW**

This application (N 110307 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 lead is the City Planning Commission. The designated CEQR number is 11DCP133M.

After a study of the potential environmental impacts of the proposed action, a Negative Declaration was issued on May 9, 2011.

#### **PUBLIC REVIEW**

On May 9, 2011, this application (N 110307 ZRM) was referred to Community Board 1 and the Borough President in accordance with the procedure for referring non-ULURP matters.

### **Community Board Review**

Community Board 1 held a public hearing on this application on June 28, 2011, and on that date, by a vote of 35 to 0 with 0 abstentions, adopted a resolution recommending approval of the application.

### **Borough President Recommendation**

This application (N 110307 ZRM) was considered by the Office of the Manhattan Borough President, which issued a recommendation supporting the application on July 5, 2011.

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

On June 22, 2011 (Calendar No. 16), the City Planning Commission scheduled July 13, 2011 for a public hearing on this application (N 110307 ZRM). The hearing was duly held on July 13, 2011 (Calendar No. 29).

There were five appearances in favor and none opposed. The applicant's attorney explained that the text amendment would facilitate the expansion of Century 21 into the upper floors of 22 Cortlandt Street. He explained the constraints of the Lower Manhattan street grid in making it impossible to utilize the existing loading berths. He also described the proposed improvements to the internal loading operation of Century 21 in addition to the new Curbside Delivery Plan, which was approved by DOT. Finally, he emphasized that all provisions of off-street loading including number of vehicles, hours of operation, any sidewalk loading, and any internal building changes such as a staging areas or freight elevators would all be secured under a restrictive declaration. He expressed his belief that the new internal loading operations and Curbside Delivery Plan would result in an improved and regulated loading system.

The Director of Corporate Relations for Century 21 also spoke in favor. She described Century 21's longstanding commitment to Lower Manhattan and that the expansion into the upper floors would provide for more circulation areas in the shopping aisles. She reiterated that the new

loading system would expedite the transfer of goods from the truck into the building. The Director of Corporate Development and Construction for Century 21 also appeared in favor.

The Director of Equity Environmental stated that his company did the environmental review and coordinated with DOT on the Traffic Study. He described pedestrian circulation patterns and explained that the improved internal loading operations would benefit pedestrian movement by implementing the proposed improvements.

The Director of Land Use Planning for Manhattan Borough President also spoke in favor and described how the proposal would benefit Lower Manhattan and improve the pedestrian circulation on the sidewalk.

There were no other speakers and the hearing was closed.

## **CONSIDERATION**

The Commission believes that this zoning text amendment (N 110307 ZRM), as modified, is appropriate.

Century 21 is a major department store in Lower Manhattan currently occupying the cellar, 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> floors of 22 Cortlandt Street, and is proposing to expand into the 4<sup>th</sup>, 5<sup>th</sup>, and 6<sup>th</sup> floors. In total, Century 21 would occupy the first six floors of the base of the building at 22 Cortlandt Street in Lower Manhattan. The Commission notes that, according to current zoning regulations, the expansion of the department store would require five loading berths with three allocated to the department store use. The proposed text amendment would allow a waiver of both the existing department store loading requirement and also the loading requirement for the change of use from office to department store use. The Commission is also proposing modifications to the text that do not affect the substance of the text being considered. Rather, the changes are administrative clarifications to the language of the text, making it consistent with current formatting and style standards of the Zoning Resolution.

The Commission acknowledges that the narrowness of Dey Street combined with the length of modern day delivery trucks makes it impossible for Century 21 to utilize the loading berths in 22 Cortlandt Street, and that Century 21 currently operates without the use of the loading docks. The Commission also recognizes that the system for delivery of goods within the existing department store is inefficient due to the lack of freight elevators which access all department store floors and the lack of specific areas on each floor for staging of merchandise before being distributed through the sales areas. The combination of the inability to use the existing loading berths and the inefficient internal loading operation often leads to merchandise being staged on the sidewalk and contributing to pedestrian congestion.

The Commission believes that this text amendment and related Chairperson Certification would result in an improved on-street loading system, which would minimize the staging of goods on Dey Street and expedite the transfer of merchandise from the truck to the building interior. The set of findings as part of the Chairperson Certification (N 110308 ZCM) would require a DOT approved Curbside Delivery Plan based on a Traffic Study, an additional freight elevator, and at least 6,000 square feet of dedicated staging area for goods. Together, these would minimize the loading and unloading time per truck. The Commission also recognizes that in order to implement such internal building improvements, a floor area exemption of loading berth areas as part of an improved goods receiving and in-store transport system is necessary. Finally, the Commission notes that these requirements under the Curbside Delivery Plan and as shown in architectural drawings would be secured and executed under a Restrictive Declaration.

The Commission notes that under the DOT approved Curbside Delivery Plan, delivery times would be expanded to include weekends and also begin earlier in the day. Deliveries would be seven days a week, begin no later than 4:30 a.m. on weekdays and 6:30 a.m. on weekends, and end by noon each day. Century 21 is permitted to have no more than 40 days between October and the first week of January when deliveries can extend to 4:30 p.m. When there are such days, DOT will be notified in advance.

The Commission also notes that under the DOT approved Curbside Delivery Plan, there will only be one truck delivery at a time and that, if it is necessary to have staging on the sidewalk, it must be contained in an 80 square foot area along the building and cannot be left there for longer than 15 minutes. Finally, Century 21 is proposing to install two new dedicated freight elevators which would access all seven Century 21 floors (including the cellar) and on each floor, there would be approximately 1,000 square feet of area, separate from the sales floor, for the unloading and sorting of merchandise. The total aggregate area of the staging areas will be approximately 6,976 square feet. The Commission believes that this text amendment would result in an improved internal loading system and allow for DOT to review and approve a Curbside Delivery Plan which would improve pedestrian circulation and flow when on-street loading is necessary.

The Commission believes that in order to implement such internal building improvements as the installation of two new freight elevators, it is necessary that the text amendment also include a floor area exemption for the existing loading berth area. Century 21 proposes to convert the existing loading area into a good receiving and staging area in addition to providing two new freight elevators in this area. Approximately 1,111 square feet of floor area, which currently comprises two loading berths, would need to be waived as part of the Chairperson Certification. The Commission notes that such floor area would not become sales area but would be necessary for the implementation of the in-store transport system.

The Commission believes that the combination of the DOT approved Curbside Delivery Plan and the new building configuration and internal loading operations will improve the sidewalk condition along Dey Street for pedestrians. The Commission recognizes that the applicant undertook a Traffic Study, which was reviewed by DOT, and that this informed the Curbside Delivery Plan. The text amendment would grant the City the authority to regulate the on-street loading operations of Century 21 as secured under the Restrictive Declaration.



The Commission further believes that the proposed text amendment would facilitate the expansion of a major department store in Lower Manhattan, which is a significant economic contributor for downtown, and New York City.

**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 ~~strikeout~~ is to be deleted;  
Matter within # # is defined in Section 12-10  
\*\*\* indicates where unchanged text appears in the Zoning Resolution

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**Article IX: Special Purpose Districts**

**Chapter 1: Special Lower Manhattan District** (revised 8/5/11)

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**91-50**  
**OFF-STREET PARKING, LOADING AND CURB CUT REGULATIONS**

\* \* \*

**91-53**  
**Waiver of Requirements for Accessory Off-Street Loading Berths**

(a) For #zoning lots# containing Use Group 10A department stores and Use Group 6B offices, where not more than 78,000 square feet of such office #use# is changed to department store #use#, the following modifications may be made provided that the

Chairperson of the City Planning Commission certifies to the Department of Buildings that the conditions in paragraphs (b), (c), (d) and (e) have been met:

- (1) waiver of #accessory# off-#street# loading berths required for such department store #use#;
  - (2) waiver of existing required #accessory# off-#street# loading berths when such waiver is necessary to provide an improved goods receiving and in-store transport system; and
  - (3) exemption of existing loading berth floor space from the definition of #floor area# as set forth in Section 12-10 when such floor space will be used for such improved goods receiving and in-store transport system.
- (b) A plan for curb side deliveries shall have been approved by the Department of Transportation, as part of the improved goods receiving and in-store transport system for the department store #use#. Such plan shall be based upon a traffic study prepared by a qualified professional and a scope of work, both of which have been approved by the Department of Transportation, establishing that the plan for curbside deliveries shall not create or contribute to serious traffic congestion or unduly inhibit vehicular or pedestrian movement and will shall not interfere with the efficient functioning of nearby public transit facilities;
- (c) At least one additional freight elevator and an aggregate of at least 6,000 square feet of staging area for loading and deliveries, exclusive of the area occupied by elevators, shall be provided on the #zoning lot# to be used for the improved goods receiving and in-store transport system for such department store #use#, as depicted on a site plan;
- (d) In the event that any existing loading berth floor space is to be exempted from the definition of #floor area# as set forth in Section 12-10, such floor space shall be used for the improved goods receiving and in-store transport system; and
- (e) A Declaration of Restrictions shall have been executed, in a form acceptable to the Department of City Planning, binding upon the owners and its successors and assigns, and providing for maintenance and use of the staging areas and additional elevators for the improved goods receiving and in-store transport system, as well as continued compliance with the plan for curbside deliveries, and the site plan. Such declaration shall be filed and recorded in the Office of the City Register of the City of New York against the lots comprising the #zoning lot#. Receipt of proof of recordation in a form acceptable to the Department shall be a precondition to the issuance of this certification, and the recording information shall be included on any temporary or final certificate of occupancy for any #building# or portion thereof, issued after the recording date.

\* \* \*

The above resolution (N 110307 ZRM), duly adopted by the City Planning Commission on August 10, 2011 (Calendar No. 11), 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**

**ANGELA M. BATTAGLIA, RAYANN BESSER, IRWIN G. CANTOR, P.E.,  
ALFRED C. CERULLO, III, BETTY Y. CHEN, MARIA M. DEL TORO,  
SHIRLEY A. McRAE, KAREN A. PHILLIPS, Commissioners**

COMMUNITY BOARD #1 – MANHATTAN  
RESOLUTION

DATE: JUNE 28, 2011

COMMITTEE OF ORIGIN: FINANCIAL DISTRICT

COMMITTEE VOTE: 12 In Favor 0 Opposed 0 Abstained 0 Recused  
BOARD VOTE: 35 In Favor 0 Opposed 0 Abstained 0 Recused

RE: Century 21, application for a zoning text amendment

WHEREAS: The application is for a zoning text amendment to the Lower Manhattan Special District regulations of the Zoning Resolution to create a new ZR Section 91-53 entitled “Waiver of Accessory Off-Street Loading Berth Requirements”; and

WHEREAS: The applicant is an internationally known department store, which serves our community by providing low-cost goods to local residents and drawing visitors who contribute to the local economy; and

WHEREAS: The applicant is one of the local businesses most severely affected by the 9/11 attack, yet was one of the first to demonstrate a commitment to this community by deciding to rebuild and reopen on site rather than to relocate, and

WHEREAS: Part of the Century 21 department store is currently located on the first three floors and below grade floors of the existing building located at 22 Cortlandt Street; and

WHEREAS: Century 21 has an opportunity to expand to three additional floors within that building (floors 4, 5 and 6), which are currently used as offices; and

WHEREAS: Pursuant to ZR Section 36-62, the proposed conversion of these three floors from office to department store use requires three loading berths for the total proposed department store floor area, but there are only two existing loading berths allocated for department store use in the building; and

WHEREAS: These two existing loading berths, located on Dey Street, are rendered unusable by the narrowness of Dey Street and the inability of trucks to back into the berths, as the necessary turning radius would require trucks to drive onto the sidewalk; and

WHEREAS: The proposed text amendment would allow the Chairperson of the City Planning Commission to (1) waive the requirements for existing and new loading berths and (2) allow space occupied by existing loading berths being waived to be exempted from the definition of floor area, by certifying that the following findings have been met:

- 1) The Department of Transportation has approved a plan for curbside deliveries, based upon an approved traffic study prepared by a qualified professional, establishing that such plan will not create or contribute to serious traffic congestion or unduly inhibit vehicular or pedestrian movement and will not interfere with the efficient functioning of nearby public transit facilities,
- 2) An improved goods receiving system is provided, including at least 6,000 square feet of new staging areas within the building and at least one additional freight elevator, as depicted on site and floor plans,
- 3) There is a plan showing that the former loading berth floor space exempted from the definition of floor area will be used for the improved goods receiving and in-store transport system, and
- 4) A restrictive declaration is executed, ensuring maintenance of the staging areas and additional elevators and continued compliance with the curbside delivery plan and the site plan; and

WHEREAS: Century 21 desires to improve goods delivery and circulation on the existing floors it occupies as well as on the proposed additional three floors in order to reduce truck delivery times and pedestrian disruption on Dey Street; and

WHEREAS: Century 21 proposes to install high-speed freight elevators in one existing loading berth and to use the second existing loading berth for goods receiving and inventory scanning, along with new staging areas to be located on each floor; and

WHEREAS: The Financial District Committee finds that the proposed text amendment is appropriate due to the difficulties posed by the limitations of existing buildings and narrow, curb-cut restricted streets in Lower Manhattan; and

WHEREAS: The Financial District Committee also finds that the proposed text amendment will permit the expansion of a respected Lower Manhattan business and contribute to the economy of Downtown Manhattan; now

THEREFORE

BE IT

RESOLVED

THAT: CB #1 strongly recommends that the City Planning Commission approve the proposed zoning text amendment.



THE CITY OF NEW YORK  
**OFFICE OF THE PRESIDENT**  
BOROUGH OF MANHATTAN

**SCOTT STRINGER**  
BOROUGH PRESIDENT

July 5, 2011

Amanda M. Burden, FAICP, Chair  
City Planning Commission  
22 Reade Street  
New York, NY 10007

**Re: Lower Manhattan Loading Berth Text Amendment (N 110307 ZRM, N 110308 ZCM)**

Dear Chair Burden:

Thank you for providing the opportunity to comment on the application submitted by Century 21 Department Stores LCC ("Century 21") for an amendment to Article IX, Chapter 1 (Special Lower Manhattan District) of the New York City Zoning Resolution ("ZR") relating to the creation of a certification to waive certain off-street loading berth requirements for department store uses in Lower Manhattan and a related certification for Century 21. Generally, the proposed text amendment is intended to facilitate the expansion of department stores in existing buildings in Lower Manhattan and supports the evolving use character of the area.

The proposed text amendment would create a new subsection under ZR Section 91-50 (Off-Street Parking, Loading and Curb Cut regulations) of the Special Lower Manhattan District. The new zoning text would establish a City Planning Commission ("CPC") Chairperson Certification, which would permit the modification of required department store loading berth regulations. The amendment would apply to department store expansions located on zoning lots containing Use Group 10A department store use and Use Group 6B office use, where not more than 78,000 SF of such office use would be converted to department store use.

The proposed certification would specifically allow the CPC Chairperson to: 1) waive new accessory off-street loading berths required for department store use; 2) waive existing required accessory off-street loading berths when necessary to provide an improved goods receiving system; and 3) permit existing loading berth space to be exempted from "floor area" if such space is used for an improved goods receiving system.

In order to grant the newly created certification, the Chairperson would be required to find that: a) DOT has approved a curbside delivery plan based upon a traffic study; b) the applicant will provide at least one additional freight elevator and an aggregate of at least 6,000 SF of staging area for loading and delivery of goods; c) if existing loading berth floor space is exempted from

“floor area,” such space will be used for improved goods receiving and in-store transport system; and d) a restrictive declaration has been executed binding owners and their successors to maintain and use the staging areas, additional elevators, and to be in compliance with the curbside deliveries plan.

Century 21’s proposal includes expansion onto three additional floors in the building it currently occupies, totaling an additional 76,503 SF of area. Currently, Century 21’s building has two loading berths for its existing retail operations. As a result of its proposed expansion, Century 21 would be required to have three loading berths. The additional loading berth required would not be a result of its expanded square footage, but rather as a result of a non-compliance at the site.

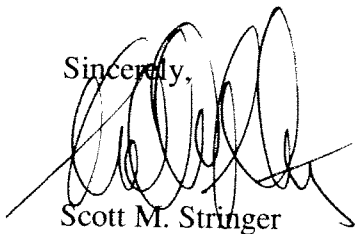
Despite the presence of existing retail loading berths, the conditions on Dey Street make them functionally unusable. Specifically, the narrowness of Dey Street does not allow delivery trucks to back into the loading bay. Consequently, Century 21 already must utilize a curbside delivery system, approved by DOT, that includes staging pallets on the sidewalk for extended periods. If new loading berths were added, they would also be functionally unusable due to the conditions of Dey Street. Therefore, the proposed text amendment and related certification is necessary.

As part of the proposed certification, Century 21’s proposed internal reconfiguration, additional staging space, and new freight elevators will contribute to more efficient delivery, loading and goods movement systems. Additionally, separate elevators would be dedicated for passenger and goods movement, which does not currently exist. The proposed expansion and related internal reconfiguration will not only improve the shopping experience for customers, but will allow Century 21 to minimize its use of the sidewalk as a staging area thereby improving the existing pedestrian condition. The application meets the requirements of the certification.

Loading berth regulations pose a special challenge for new uses within existing buildings in Lower Manhattan, much of which were constructed as office buildings. Lower Manhattan has the City’s oldest street system, which was laid out by the original Dutch settlers and is not part of Manhattan’s standard street grid. These streets, in layout and dimensions, have changed very little since their original establishment.

Given the special conditions of Lower Manhattan’s street conditions, providing flexibility in loading berth requirements for the expansion of existing department stores within existing office buildings will ensure that the commercial vitality of Lower Manhattan continues to thrive. The proposed text amendment and related certification are appropriate.

Sincerely,



Scott M. Stringer  
Manhattan Borough President