



CITY PLANNING COMMISSION

March 4, 2009/Calendar No. 11

N 090211 ZRM

IN THE MATTER OF an application submitted by RG ERY LLC, 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 Sections 93-514(a) (Eastern Rail Yards Subarea A1 – Location of Buildings), 93-71 (Public Access Areas in the Eastern Rail Yards Subarea A1), 93-81 (Required and Permitted Parking) and 93-82 (Use and Location of Parking Facilities) in Community District 4, Borough of Manhattan.

The application for an amendment of the Zoning Resolution was filed by RG ERY LLC on November 20, 2009 to revise the site planning and parking regulations pertaining to Eastern Rail Yards Subarea A1 of the Special Hudson Yards District, Borough of Manhattan, Community District 4.

BACKGROUND

Subarea A1 encompasses the property located between West 30th Street, West 33rd Street, Tenth Avenue and Eleventh Avenue and covers the Eastern Rail Yard section of the Long Island Rail Road's John D. Caemmerer West Side Yard, which is owned by the Metropolitan Transportation Authority and its affiliates. It is presently used for rail yard operations of the LIRR. These operations are currently open to the sky and are for the most part surrounded by high walls preventing views into the yards.

The Special Hudson Yards District zoning adopted in 2005 envisioned a completely different use of and character for Subarea A1 than the existing open rail yard. Subarea A1 was to be covered by a platform with significant commercial and residential development and publicly accessible area to be

developed above. To achieve this result, specific zoning controls governing development were established, absent a specific proposal for the site.

Up to 11.0 FAR may be developed within Subarea A1, with commercial development limited to 9.0 FAR, residential development limited to 3.0 FAR, and community facility development limited to 2.0 FAR. The regulations also established building and public access locations on the site, as well as additional controls for street wall continuity, retail, and transparency requirements.

RG ERY LLC was conditionally designated as developer of Eastern Rail Yard Subarea A1 by the Metropolitan Transportation Authority (MTA) in May 2008. Their proposed project for Subarea A1 would consist of commercial office, residential and retail space along the Tenth Avenue frontage of the site; hotel, residential and ground-floor retail use at the corner of Eleventh Avenue and West 33rd Street; an additional residential building with ground-floor retail near the intersection of Eleventh Avenue and West 30th Street; as well as a community facility building along West 30th Street. At least 55 percent of the site will consist of publicly-accessible area, as required by the current zoning regulations. Up to 1,000 on-site accessory parking spaces, with a maximum of 350 of the spaces for commercial and community facility uses, would be provided on the site.

To facilitate the proposed development, the text amendment would amend certain elements of the Special Hudson Yards District relating to Subarea A1 to better reflect conditions around the site, promote design flexibility for community facility buildings, and alter the parking regulations.

The application proposes amendments to the following sections of the Special Hudson Yards District:

Section 93-514(a) (Eastern Rail Yards Subarea A1 – Location of buildings)

The current text denotes the locations where buildings are allowed in the Eastern Rail Yards Subarea A1. The text further requires that buildings in the southwest corner of the site, located west of the southerly prolongation of the eastern sidewalk widening line of Hudson Boulevard East and within 250 feet of West 30th Street, be limited to uses in Use Groups 3 or 4. At the time of the Hudson Yards rezoning in 2005, these location and use controls reflected the assumption that the property to the west of the site would be developed with a multi-use facility and therefore did not envision residential uses across 11th Avenue in the southwest corner of Subarea A1. The proposal for a multi-use facility is no longer being pursued and allowing a residential building at this corner is intended to help activate 11th Avenue.

The text change would allow for residential use in a portion of this southwest corner of Subarea A1, limited to the area west of the prolongation of the western sidewalk widening line of Hudson Boulevard West. This would allow a residential building to be constructed at the corner of West 30th Street and 11th Avenue. The area east of the prolongation of the western sidewalk widening line of Hudson Boulevard West would continue to be limited to uses in Use Groups 3 or 4. The text change would also require a minimum 50-foot separation between the two uses and limit the area where they are allowed to within 220 feet of West 30th street.

Section 93-71 (Public Access Areas in the Eastern Rail Yards Subarea A1)

The current text denotes the locations of a series of required public access areas in the Eastern Rail Yards Subarea A1, including the Outdoor Plaza and the Connection to the High Line.

Buildings fronting on these two areas are required to meet certain retail and glazing requirements – 70 percent of the length of all building walls facing the Outdoor Plaza and 50 percent for the Connection to the High Line. To allow greater design flexibility, the text change would eliminate the retail use requirement for buildings containing only uses in Use Groups 3 or 4 that are located west of the southerly prolongation of the eastern sidewalk widening line of Hudson Boulevard East and within 220 feet of West 30th Street. The glazing requirement would remain.

Section 93-81 (Required and Permitted Parking)

As in most of the Special Hudson Yards District, new development within Subarea A1 is currently required to provide accessory parking, either on- or off-site, at a rate of 1 space for 33 percent of all market-rate residential units, 1 space for 25 percent of government-assisted housing, and 0.3 spaces for each 1,000 square feet of commercial and most community facility uses. Accessory parking is allowed up to a maximum of 1 space for 40 percent of all residential units and .325 spaces for every 1,000 square feet of commercial and community facility floor area. The text amendment would eliminate the current requirement for provision of accessory parking for commercial, residential and community facility uses in Eastern Rail Yards Subarea A1 but permit accessory parking at the same rates as under the current regulations. However the maximum number of spaces accessory to commercial or community facility uses would be limited to not more than 350 and the maximum number of spaces for all uses would be capped at 1,000.

Section 93-82 (Use and Location of Parking Facilities)

The text amendment would require that any parking spaces located in Eastern Rail Yards Subarea A1 be accessory to uses located in the Subarea and not be utilized as public parking. Currently, Hudson Yards zoning permits most accessory off-street parking spaces in the district to be used for public parking.

ENVIRONMENTAL REVIEW

This application (N 090211 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 09DCP031M. The lead agency is the City Planning Commission.

After a study of the potential environmental impact of the proposed action, a Negative Declaration was issued on December 3, 2008.

PUBLIC REVIEW

This application (N 090211 ZRM) was duly referred on December 3, 2008, to Community Board 4 and the Borough President in accordance with the procedure for referring non-ULURP matters.

Community Board Review

Community Board 4 held a public hearing on the application on January 7, 2008, and on that

date, adopted a resolution to approve the application, subject to the following conditions:

- The text change to ZR Section 93-81 (Required and Permitted Parking) should be further limited by “reverting to the standard parking regulations for Manhattan below 60th Street (Article 1, Chapter 3 of the Zoning Resolution) which, according to the RFP for the Western Rail Yard, will be part of the rezoning for the WRY.
- The text change to ZR Section 93-82 (Use and Location of Parking Facilities) should include provisions guaranteeing “residential parking spaces must be available only on a monthly basis, and operational restrictions must be established for other parking spaces to reduce transient parking.”
- The Community Board also recommended consideration of additional future text changes. The first would address the street level on West 30th Street by reducing curb cuts to the “minimum necessary” and keeping the space under the High Line active by requiring “active uses, with transparent storefronts, and should allow a floor area exemption, if necessary for enclosed spaces.” The second text change would preserve the High Line by prohibiting “development in the area occupied by the High Line,” having it “remain open and unobstructed from the High Line bed to the sky,” and establishing “height, setback, transparency and planting requirements for building frontages along the High Line.”

Borough President Recommendation

This application (N 090211 ZRM) was considered by the Borough President, who issued a resolution in support of the application on January 14, 2008.

City Planning Commission Public Hearing

On January 21, 2009 (Calendar No. 5), the City Planning Commission scheduled February 4, 2009, for a public hearing on this application (N 090211 ZRM). The hearing was duly held on February 4, 2009 (Calendar No. 24). There were three speakers in favor of the application and two in opposition.

A representative of the applicant appeared in favor and described the proposed text changes.

The Chair of Community Board 4's Land Use Committee spoke in favor of the application, and described the board's conditions. A representative of the Manhattan Borough President reiterated the Borough President's recommendation.

Two representatives of the Friends of the High Line appeared in opposition and spoke on the importance of preserving the High Line and integrating the High Line with the proposed development.

There were no other speakers and the hearing was closed.

CONSIDERATION

The Commission believes that the zoning text amendment (N 090211 ZRM) is appropriate.

With regard to the text change to Section 93-514(a) (Eastern Rail Yards Subarea A1 – Location of buildings), the Commission believes that allowing residential uses at the corner of West 30th Street and 11th Avenue would help enliven the intersection. The Commission believes the text change to Section 93-71 (Public Access Areas in the Eastern Rail Yards Subarea A1) will allow greater flexibility in the design of the community facility building on the site.

The Commission notes the recommendation of Community Board 4 to further limit parking at the site but believes that the text changes to sections 93-81 and 93-82 appropriately address the parking needs of the site.

The Commission also notes the recommendations of Community Board Four regarding the importance of preserving the High Line and integrating High Line open space into the development. The High Line is a matter of great importance to the City and, as planning for the Eastern Rail Yards (Subarea A1) proceeds, the Commission will continue to consider the relationship of the High Line to that development. The Commission believes that the proposed text amendment would not adversely affect the High Line or preclude its integration into the proposed development. Likewise, as a practical matter, no decisions regarding the High Line north of 30th Street will be made without the City's participation and involvement. The Commission therefore looks forward to further consideration of the role of the High Line in the development.

RESOLUTION

RESOLVED, that the City Planning Commission has determined that the action described herein will have no significant adverse 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 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;

* * * indicates where unchanged text appears in the Zoning Resolution

**Article IX
Chapter 3
Special Hudson Yards District**

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**93-51
Special Height and Setback Regulations in the Large Scale Plan Subdistrict A**

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**93-514
Eastern Rail Yards Subarea A1**

(a) Location of buildings

#Buildings# shall be located only in the following areas:

- (1) east of the southerly prolongation of the eastern sidewalk widening line of Hudson Boulevard East;
- (2) west of the southerly prolongation of the western sidewalk widening line of Hudson Boulevard West and within 220 feet of West 33rd Street; and
- (3) ~~for #buildings# containing only uses in Use Group 3 or 4, the footprint of such #buildings# at the level of the outdoor plaza required pursuant to paragraph (b) of Section 93-71 shall be west of the southerly prolongation of the eastern sidewalk widening line of Hudson Boulevard East and within 250 feet of West 30th Street.~~
 - (3) west of the southerly prolongation of the eastern sidewalk widening line of Hudson Boulevard East and within 220 feet of West 30th Street, provided that either:
 - (i) #development# in such area contains only #uses# in Use Groups 3 and 4;
or
 - (ii) where #development# in such area includes #residential use#:
 - (a) such #residential use# is permitted only in a #building# located west of the southerly prolongation of the western sidewalk widening line of Hudson Boulevard West, and such #building# may also include #uses# in Use Groups 3, 4, 6A and 6C; and
 - (b) a #building# containing only #uses# in Use Groups 3 or 4 may be

located not closer than 50 feet east of such prolongation.

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93-71

Public Access Areas in the Eastern Rail Yards Subarea A1

Any #development# in the Eastern Rail Yards Subarea A1 shall provide public access areas in accordance with the following requirements:

* * *

(b)Outdoor plaza

* * *

The retail and glazing requirements of Section 93-14 (Retail Continuity Along Designated Streets) shall apply to at least 70 percent of the length of all building walls facing each side of the outdoor plaza, except that such retail requirements shall not apply to any #building# containing only #uses# in Use Group 3 or 4 located west of the southerly prolongation of the eastern sidewalk widening line of Hudson Boulevard East and within 220 feet of West 30th Street.

* * *

(f) Connection to High Line

A publicly accessible connection between the High Line and the outdoor plaza shall be provided that has a minimum width, measured parallel to the High Line, of 80 feet. If covered, the average clear height of such connection shall be 60 feet. The retail and glazing requirements of Section 93-14 shall apply to at least 50 percent of the length of all building walls facing each side of such connection, except that such retail requirements shall not apply to any #building# containing only #uses# in Use Group 3 or 4 located west of the southerly prolongation of the eastern sidewalk widening line of Hudson Boulevard East and within 220 feet of West 30th Street.

* * *

93-80

OFF-STREET PARKING REGULATIONS

93-81

Required and Permitted Parking

All #developments# or #enlargements# on #zoning lots# greater than 15,000 square feet shall provide #accessory# parking spaces in accordance with the provisions of this Section. For #zoning lots# of 15,000 square feet or less, #accessory# parking spaces are permitted up to the maximum number allowed for required spaces as set forth in this Section.

- (a) Except in the Eastern Rail Yards Subarea A1, for #residences#, #accessory# off-street parking spaces shall be provided for at least 33 percent of the total number of dwelling units, except that where such #dwelling units# are government-assisted, pursuant to paragraph (e) of Section 25-25, #accessory# off-street parking spaces shall be provided for at least 25 percent of the total number of such #dwelling units#. In all areas, the total number of off-street parking spaces #accessory# to #residences# shall not exceed 40 percent of the total number of #dwelling units#. However, if the total number of #accessory# off-street parking spaces required for such use on the #zoning lot# is less than 15, no such spaces shall be required.
- (b) Except in the Eastern Rail Yards Subarea A1, for #commercial# and #community facility uses#, a minimum of 0.30 #accessory# off-street parking spaces shall be provided for each 1,000 square feet of #floor area# and not more than 0.325 off-street parking spaces shall be provided for every 1,000 square feet of #floor area#. If the total number of #accessory# off-street parking spaces required for such #uses# on the #zoning lot# is less than 40, no such spaces shall be required. No parking shall be required for houses of worship or #schools#.
- (c) Except in the Eastern Rail Yards Subarea A1, the required and permitted amounts of #accessory# off-street parking spaces shall be determined separately for #residential#, #commercial# and #community facility uses#.
- (d) In the Eastern Rail Yard Subarea A1, no #accessory# off-street parking shall be required, and any #accessory# parking shall comply with the following provisions:
 - (1) For #residences#, #accessory# off-street parking spaces may be provided for not more than 40 percent of the total number of #dwelling units#.
 - (2) For #commercial# and #community facility use#, not more than 0.325 #accessory# off-street parking spaces may be provided for every 1,000 square feet of #floor area# , provided that in no event shall the number of off-street parking

spaces #accessory# to #commercial# or #community facility use# exceed 350 spaces.

(3) In no event shall the total number of #accessory #off-street parking spaces for all #uses# exceed 1,000.

~~(d)~~(e) The provisions of Sections 36-52 (Size and Location of Spaces) and 36-53 (Location of Access to the Street) shall apply to all permitted or required #accessory# off-street parking spaces.

93-82

Use and Location of Parking Facilities

Except as otherwise indicated, the provisions of this Section shall apply to all off-street Parking spaces within the #Special Hudson Yards District#.

(a) All #accessory# off-street parking spaces may be made available for public use. However, any such space shall be made available to the occupant of a #residence# to which it is #accessory# within 30 days after written request therefore is made to the landlord. Furthermore, if #accessory# and public parking spaces are provided on the same #zoning lot#, all such spaces shall be located within the same parking facility. However, such regulations are modified in the following areas:

(1) in C1-7A Districts and in C2-5 Districts mapped within R8A Districts, all #accessory# off-street parking spaces shall be used exclusively by the occupants of the #residential development#, #enlargement# or conversion. Where a parking facility is located partially within a C2-5 District mapped within an R8A District and partially within another district, all such #accessory# off-street parking spaces may be made available for public use provided more than half of the floor space of the parking facility is located outside the C2-5 District mapped within an R8A District.

(2) in the Eastern Rail Yard Subarea 1, #use# of any #accessory# parking spaces shall be exclusively for #uses# located in the Subarea.

* * *

The above resolution (N 090211 ZRM), duly adopted by the City Planning Commission on February 4, 2009 (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

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