



CITY PLANNING COMMISSION

February 11, 2004/Calendar No. 26

N 030549 ZRM

IN THE MATTER OF an application submitted by 2-10 West End Avenue Associates, 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 Article III, Chapter 4, Sections 34-221 34-226 (Bulk Regulations for Residential Buildings in Commercial Districts), and Section 34-31 (Bulk Regulations for Commercial or Community Facility Buildings in Commercial Districts) to allow the Inclusionary Housing program to apply in C4-7 districts in Community District 7 in Manhattan.

This application for an amendment of the New York City Zoning Resolution was filed by 2-10 West End Avenue Associates, LLC, on November 15, 2002 to allow the Inclusionary Housing program to apply in C4-7 districts in Community District 7 in Manhattan. This action, in conjunction with the related actions, would facilitate a 31-story residential building with ground floor commercial uses and a below-grade public parking facility at 2 West End Avenue.

RELATED ACTIONS

In addition to the amendment of the Zoning Resolution that is the subject of this report, this action is being considered concurrently with the following related actions:

C 030214 ZMM Amendment of the Zoning Map, Section No. 8c; and

C 030215 ZSM Special permit, pursuant to Sections 13-562 and 74-52, to allow an attended public parking garage with 150 spaces in the ground floor, cellar and sub-cellar of a proposed mixed use building.

BACKGROUND

2-10 West End Avenue Associates, LLC, is requesting an amendment of the Zoning Resolution, Sections 34-221, 34-226, and 35-31 to make their site, to be located in a C4-7 district in Manhattan Community District 7, eligible for the Inclusionary Housing program. The site is currently within an M1-6 district that would be changed to a C4-7 district as part of the related amendment of the Zoning Map (C 020214 ZMM).

A full background discussion and project description appears in the report on the related application for amendment of the Zoning Map (C 030214 ZMM).

ENVIRONMENTAL REVIEW

This application (N 030549 ZRM), in conjunction with the applications for the related actions (C 030214 ZMM and C 030215 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 03DCP037M. The lead is the City Planning Commission.

After a study of the potential environmental impact of the proposed action, a Conditional Negative Declaration, signed by the applicant, was issued on January 5, 2004, stating the following:

1. The applicant agrees to conduct a Phase II Environmental Site Assessment for the project site (Block 1151, Lots 1, 61 and 63), pursuant to the DEP-approved Site Investigation Protocol, which includes site plans displaying existing surface grade and sub-grade elevations and a map depicting the twelve proposed soil boring locations. The borings will be advanced to bedrock or twenty feet below grade, whichever is encountered first. The borings will be monitored with a photo ionizing detector, and two samples will be obtained from each boring for analysis. The samples will be analyzed for VOCs via EPA Method 8260, for SVOCs via EPA Method 8270 and 8 RCRA Metals. In addition to the soil borings, three monitoring wells will be installed on the project site. The groundwater samples will be analyzed for the same parameters as the soil samples. In addition to the above, a sample will be taken and analyzed from a potential dry well present on the site;
2. Implement a DEP-approved Health and Safety Plan (HASP) for the handling and removal of all hazardous materials, including lead-based paints and asbestos containing materials (ACMs), in accordance with all federal, state and local regulations; and
3. Complete an electromagnetic (EM) survey of the project site with the purpose of locating USTs/ASTs. All USTs/ASTs, including dispensers, piping, and fill ports, must be properly removed/closed in accordance with all applicable NYSDEC regulations prior to starting construction and demolition activities. Elements of the approved protocol include a magnetometer survey in order to locate underground storage tanks.

PUBLIC REVIEW

On November 3, 2003, this text change application was duly referred to Community Board 7 and the Manhattan Borough President for information and review in accordance with the procedure for

referring non-ULURP matters.

Community Board Review

On December 2, 2003, Manhattan Community Board 7 adopted a resolution approving the proposed text amendment by a vote of 32 in favor, 2 opposed and 0 abstentions.

Borough President Review

This application (N 030549 ZRM) was considered by the Borough President of Manhattan who issued a recommendation approving the application on December 10, 2003.

City Planning Commission Public Hearing

On December 15, 2003 (Calendar No. 3), the City Planning Commission scheduled January 7, 2003 for a public hearing on this application (N 030549 ZRM). The hearing was duly held on January 7, 2004 (Calendar No. 15) in conjunction with the hearings on the related applications (C 030214 ZMM and C 030215 ZSM).

There were no speakers and the hearing was closed.

CONSIDERATION

The Commission believes that the proposed amendment of the Zoning Resolution is appropriate.

A full consideration and analysis of the issues and reasons for approving this application appear in the report on the related application for amendment of the Zoning Map (C 030214 ZMM).

RESOLUTION

RESOLVED, that the City Planning Commission finds that the action described herein will have no significant impact on the environment subject to the following conditions:

1. The applicant agrees to conduct a Phase II Environmental Site Assessment for the project site (Block 1151, Lots 1, 61 and 63), pursuant to the DEP-approved Site Investigation Protocol, which includes site plans displaying existing surface grade and sub-grade

elevations and a map depicting the twelve proposed soil boring locations. The borings will be advanced to bedrock or twenty feet below grade, whichever is encountered first. The borings will be monitored with a photo ionizing detector, and two samples will be obtained from each boring for analysis. The samples will be analyzed for VOCs via EPA Method 8260, for SVOCs via EPA Method 8270 and 8 RCRA Metals. In addition to the soil borings, three monitoring wells will be installed on the project site. The groundwater samples will be analyzed for the same parameters as the soil samples. In addition to the above, a sample will be taken and analyzed from a potential dry well present on the site;

2. Implement a DEP-approved Health and Safety Plan (HASP) for the handling and removal of all hazardous materials, including lead-based paints and asbestos containing materials (ACMs), in accordance with all federal, state and local regulations; and
3. Complete an electromagnetic (EM) survey of the project site with the purpose of locating USTs/ASTs. All USTs/ASTs, including dispensers, piping, and fill ports, must be properly removed/closed in accordance with all applicable NYSDEC regulations prior to starting construction and demolition activities. Elements of the approved protocol include a magnetometer survey in order to locate underground storage tanks;

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 old, to be deleted;

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

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

* * *

34-221

Maximum floor area ratio

C1 C2 C3 C4 C5 C6 C7 C8

In the districts indicated, the maximum #floor area ratio# for a #residential building# shall be the applicable maximum #floor area ratio# permitted for #residential buildings# under the provisions of Article II, Chapter 3, except as provided for in the following Sections:

Section 34-223 (Floor area bonus for a residential plaza)

Section 23-224 (Floor area bonus for an urban plaza)

Section 34-225 (Floor area bonus for an arcade)

Section 34-226 (Floor area increase for Inclusionary Housing in C4-7 Districts within Community District 7, Borough of Manhattan)

* * *

Section 34-226

**Floor area increase for Inclusionary Housing in C4-7 Districts within
Community District 7, Borough of Manhattan**

In C4-7 Districts within Community District 7 in the Borough of Manhattan, the total #floor area# permitted on a #zoning lot# under the provisions of Section 23-15 (Maximum Floor Area Ratio in R10 Districts) may be increased pursuant to the provisions of Section 23-90 (INCLUSIONARY HOUSING).

* * *

35-31

Maximum Floor Area Ratio for Mixed Buildings

C1 C2 C3 C4 C5 C6

In all districts, except as set forth in Section 35-311, the provisions of this Section shall apply to any #zoning lot# containing a #mixed building.#

The maximum #floor area ratio# permitted for a #commercial# or #community facility use# shall be as set forth in Article III, Chapter 3, and the maximum #floor area ratio# permitted for a #residential use# shall be as set forth in Article II, Chapter 3, provided the total of all such #floor area ratios# does not exceed the greatest #floor area ratio# permitted for any such #use# on the #zoning lot#. However, in C4-7 Districts within Community District 7 in the Borough of Manhattan, such maximum #residential floor area ratio# may be increased pursuant to the provisions of Section 23-90 (INCLUSIONARY HOUSING).

* * *

The above resolution (N 030549 ZRM), duly adopted by the City Planning Commission on February 11, 2004 (Calendar No. 25), 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*

KENNETH KNUCKLES, Esq., *Vice Chairman*

ANGELA M. BATTAGLIA, IRWIN G. CANTOR, P.E., ANGELA R. CAVALUZZI, R.A.,

RICHARD W. EADDY, ALEXANDER GARVIN, CHRISTOPHER KUI, JOHN MEROLO,

KAREN A. PHILIPS, *Commissioners*

JANE D. GOL, *Commissioner, Recused*