



CITY PLANNING COMMISSION

May 11, 2011/Calendar No. 12

N 110176 ZRM

IN THE MATTER OF an application submitted by New York City Department of City Planning and Manhattan Community Board 4 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 6 (Special Clinton District), Article I, Chapter 4 (Sidewalk Café Regulations), and Appendix F, Borough of Manhattan, Community District 4.

The application for an amendment of the Zoning Text was filed by the Department of City Planning and Manhattan Community Board 4 on December 15, 2010. The proposed Zoning Text change, together with the proposed Zoning Map change, is intended to provide new opportunities for residential development, including new affordable housing, in the West Clinton neighborhood, to encourage new manufacturing compatible uses between Eleventh Avenue and the West Side Highway, and to ensure that the form of new buildings relates to and enhances neighborhood character.

RELATED ACTION

In addition to the application which is the subject of this report (N 110176 ZRM), implementation of the proposal also requires action by the City Planning Commission on the following application which is being considered concurrently with this application:

C 110177 ZMM Application for an amendment of the Zoning Map to rezone all or portions of 18 blocks in West Clinton.

BACKGROUND

A full background discussion and description of this application appears in the report on the related application for a zoning map amendment (C 110177 ZMM).

ENVIRONMENTAL REVIEW

This application (N 110176 ZRM), in conjunction with the application for the related action (C 110177 ZMM), 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 11DCP041Q. 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 January 3, 2011. The Negative Declaration included (E) designations to avoid the potential for significant adverse impacts related to air quality, noise and hazardous

materials impacts. A summary of the environmental review appears in the report on the related application for a zoning map amendment (C 110177 ZMM).

UNIFORM LAND USE REVIEW

On January 3, 2011 this application (N 110176 ZRM) was referred to Manhattan Community Board 4 and the Manhattan Borough President in accordance with the procedures for non-ULURP matters.

The related action (C 110177 ZMM) was certified as complete by the Department of City Planning on January 3, 2011, and was duly referred to Community Board 4 and the Borough President, in accordance with Title 62 of the Rules of the City of New York, Section 2-02(b).

Community Board Public Hearing

Community Board 4 held a public hearing on this application (N 110176 ZRM), in conjunction with the application for the related action (C 110177 ZMM), on March 6, 2011 and on that date by a vote of 35 to 0 with 2 abstentions, adopted a resolution recommending approval of the application with conditions.

A summary of the recommendation of Community Board 4 appears in the related report for a zoning map amendment (C 110177 ZMM).

Borough President Recommendation

The application (N 110176 ZRM), in conjunction with the application for the related action (C 110177 ZMM), was considered by the Manhattan Borough President, who issued a recommendation approving the application with conditions on April 5, 2011.

A summary of the recommendation of the Manhattan Borough President appears in the related report for a zoning map amendment (C 110177 ZMM).

City Planning Commission Public Hearing

On March 30, 2011 (Calendar No. 2), the City Planning Commission scheduled April 13, 2011 for a public hearing on this application (N 110176 ZRM). The hearing was duly held on April 13, 2011 (Calendar No. 12) in conjunction with the public hearing on the application for the related zoning map change (C 110177 ZMM).

There were 22 speakers, as described in the related report for a zoning map amendment (C 110177 ZAM), and the hearing was closed.

Waterfront Revitalization Program Consistency Review

This application (N 110176 ZRM), in conjunction with the application for the related action (C 110177 ZMM), was 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 WRP #10-021.

The action was determined to be consistent with the policies of the New York City Waterfront Revitalization Program.

CONSIDERATION

The Commission believes that this amendment to the Zoning Resolution (N 110176 ZRM), as modified, is appropriate.

A full consideration and analysis of the issues, and the reasons for approving this application with modifications, appears in the report on the related application for a zoning map amendment (C 110177 ZMM).

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, in its capacity as the City Coastal Commission, has reviewed the waterfront aspects of this application and finds that the proposed action is consistent with WRP policies; 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 to be deleted;

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

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

Article 1 – General Provisions

* * *

Chapter 4 Sidewalk Cafe Regulations

* * *

14-44

Special Zoning Districts Where Certain Sidewalk Cafes Are Permitted

#Enclosed# or #unenclosed sidewalk cafes# shall be permitted, as indicated, in the following special zoning districts, where allowed by the underlying zoning. #Small sidewalk cafes#, however, may be located on #streets# or portions of #streets# within special zoning districts pursuant to the provisions of Section 14-43 (Locations Where Only Small Sidewalk Cafes Are Permitted).

	#Enclosed Sidewalk Cafe#	#Unenclosed Sidewalk Cafe#
Manhattan		
125 th Street District	Yes	Yes
Battery Park City District	Yes	Yes
Clinton District	Yes <u>No</u>	Yes
Limited Commercial District	No	No*
Lincoln Square District	No	Yes
Little Italy District	No	Yes
Lower Manhattan District	No	Yes**
Manhattanville Mixed Use District	No***	Yes
Transit Land Use District	Yes	Yes
Tribeca Mixed Use District	Yes	Yes
United Nations Development District	No	Yes

* #Unenclosed sidewalk cafes# are allowed on Greenwich Avenue

** #Unenclosed sidewalk cafes# are not allowed on State, Whitehall or Chambers Streets or Broadway

*** Enclosed sidewalk cafes are allowed in Subdistrict B

Article IX - Special Purpose Districts

Chapter 6 Special Clinton District

* * *

96-10 PRESERVATION AREA

* * *

96-104 Height and setback regulations

The underlying height and setback regulations shall not apply, except as set forth in Sections 23-62 or 33-42 (Permitted Obstructions), as applicable. In lieu thereof, the height and setback provisions of this Section shall apply. All height shall be measured from #curb level#.

(a) Street wall location

For #zoning lots# with #wide street# frontage, ~~the #street walls# of a #building or other structure#~~ shall be located on the #wide street line# and extend along the entire #wide street# frontage of the #zoning lot#. For #corner lots# with #narrow street# frontage, ~~the #street walls# of the #building#~~ shall be located on and extend along the #narrow street line# within 50 feet of the #wide street#.

For #zoning lots# with #narrow street# frontage, #street walls# shall be located on the #street line# and extend along the entire #narrow street# frontage of the #zoning lot# beyond 50 feet of a #wide street#. However, where the #street wall# of an adjacent #building# fronting on the same #narrow street line# is located within 10 feet of the #street line#, the #street wall# of the #building# may be aligned with the #street wall# of the adjacent #building# for a distance of not less than 20 feet measured horizontally from the side wall of such #building#. The portion of a #zoning lot# that is located between a #street wall# and the #street line#, pursuant to the optional #street wall# location provisions of this paragraph (a), shall be maintained at the same elevation as the adjoining sidewalk. In addition, such portion of a #zoning lot# shall be planted, except at the entrances to and exits from the #building#, or adjacent to #commercial uses# fronting on the #street#.

(b) Permitted recesses

Ground floor recesses up to three feet deep shall be permitted for access to building entrances. Above a height of 12 feet, up to 30 percent of the #aggregate width of street walls# may be recessed, provided no such recesses are within 30 feet of the intersection of two #street lines#.

(c) Building height

Within 100 feet of a #wide street#, the #street wall# of a #building or other structure# shall rise without setback to a minimum height of 50 feet or the height of the #building#, whichever is less, and a maximum height of 66 feet. A setback shall be provided for all portions of #buildings# that exceed a height of 66 feet. Such setbacks shall be provided at a height not lower than 50 feet and not higher than 66 feet, and shall have a minimum depth of 10 feet, measured from any #street wall# facing a #wide street#, and a minimum depth of 15 feet, measured from any #street wall# facing a #narrow street#. No #building or other structure# shall exceed a height of 85 feet. Beyond 100 feet of a #wide street#, no #building or other structure# shall exceed a height of seven #stories# or 66 feet, whichever is less.

However, the City Planning Commission, by special permit, may modify the special height and setback regulations ~~restrictions~~ set forth in this Section for any #development# or #enlargement#. In order to grant such special permit, the Commission shall find that the distribution of ~~the~~ #bulk# of the #development# or #enlargement# permits adequate access of light and air to surrounding #streets# and properties and that the maximum height of such #development# or #enlargement# does not exceed 99 feet beyond 100 feet of a #wide street#, and 115 feet within 100 feet of a #wide street#.

* * *

96-30

OTHER AREAS

In Area C, the regulations of the underlying districts shall apply, except as otherwise set forth in this ~~Chapter~~ Section 96-30, inclusive.

96-31

Special Regulations in R8 Districts

(a) In R8 Districts, other than R8A Districts, in ~~Other Areas west of Tenth Avenue~~ Western Subarea C2, including #Commercial Districts# mapped within such R8 Districts, the following special regulations shall apply:

~~(a)~~ (1) the provisions of Sections 96-101 (Floor area regulations) and 96-104 (Height and setback regulations) shall apply; and

~~(b)~~ (2) the provisions of Section 96-102 (Lot coverage regulations) shall apply, except that for all portions of a #zoning lot# located in ~~an Other Areas~~ and more than 100 feet from the #street line# of a #wide street#, the maximum #lot coverage# shall not exceed 70 percent of the portion of the #zoning lot# in ~~the Other Areas~~.

(b) In R8A Districts in Western Subarea C2, including #Commercial Districts# mapped within such R8A Districts, the following special regulations shall apply:

(1) Inclusionary Housing Program

R8A Districts in Other Areas, west of Tenth Avenue, shall be #Inclusionary Housing designated areas# pursuant to Section 12-10 (Definitions) for the purpose of making the Inclusionary Housing Program regulations of Section 23-90, inclusive, applicable as modified within the Special District.

(2) Maximum #floor area ratio#

Within such #Inclusionary Housing designated areas#, the maximum #floor area ratio# for any #zoning lot# containing a #residential use# shall not exceed a base #floor area ratio# of 5.4, except that such base #floor area ratio# may be increased to a maximum #floor area ratio# of 7.2, through the provision of #affordable housing#, pursuant to the provisions relating to #Inclusionary Housing designated areas# in Section 23-90. However, any units for which a #floor area# increase has been earned, pursuant to Section 23-90 shall be located within the #Special Clinton District#.

(3) Special Use and Bulk Regulations for Existing Electrical Utility Substations

Electrical utility substations, operated for public utility purposes, existing on (effective date) and located wholly or partially within the portion of Western

Subarea C2 east of 11th Avenue, shall be considered conforming #uses# that are subject to the #bulk# regulations of the underlying district and the #use# regulations of an M1-5 District. Any change of #use# on a #zoning lot# occupied by any such electrical utility substation shall be permitted only pursuant to the regulations of the underlying district. In the event any such electrical utility substation is damaged or destroyed, in whole or in part, by any means, including demolition, the provisions of Section 54-40 (DAMAGE OR DESTRUCTION IN NON-COMPLYING BUILDINGS) shall not apply and such electrical utility substation may be reconstructed, provided that such reconstruction shall not create a new #non-compliance# nor increase the degree of #non-compliance# with the applicable #bulk# regulations. However, in the event there is a complete cessation of #use# of the #zoning lot# as an electrical utility substation for a continuous period of five years, such electrical utility substation shall no longer be considered a conforming #use# on such #zoning lot#.

96-32

Special Regulations in R9 Districts

In R9 Districts in Western Subarea C2, the provisions of Section 23-633 (Street wall location and height and setback regulations in certain districts) for R9A Districts shall apply to all #buildings or other structures#. In #commercial districts# mapped within R9 Districts in Western Subarea C2, the provisions of Section 35-24 (Special Street Wall Location and Height and Setback Regulations in Certain Districts) for C2-7A Districts shall apply to all #buildings or other structures#. Notwithstanding the provisions of paragraph (c) of Section 23-011 (Quality Housing Program), in all such R9 Districts and #commercial districts# mapped within such R9 Districts, the provisions of paragraph (b) of Section 23-011 shall apply.

(a) Inclusionary Housing Program

R9 Districts in Other Areas, west of Tenth Avenue, shall be #Inclusionary Housing designated areas# pursuant to Section 12-10 (Definitions) for the purpose of making the Inclusionary Housing Program regulations of Section 23-90, inclusive, applicable as modified within the Special District.

(b) Maximum #floor area ratio#

Within such #Inclusionary Housing designated area#, the maximum #floor area ratio# for any #zoning lot# containing a #residential use# shall not exceed a base #floor area ratio# of 6.0, except that such base #floor area ratio# may be increased to a maximum #floor area ratio# of 8.0, through the provision of #affordable housing#, pursuant to the

provisions relating to #Inclusionary Housing designated areas# in Section 23-90. However, any units for which a #floor area# increase has been earned pursuant to Section 23-90 shall be located within the #Special Clinton District#.

96-33

Special Regulations in M2-4 Districts

96-331

Adult establishments

The provisions of Section 52-77 (Termination of Adult Use Establishments) shall not apply to any #adult establishment# that located within the #Special Clinton District# after October 25, 1995 and prior to [Date of CPC Approval], and which, as of [Date of CPC Approval] and [Date of City Council Approval], was an existing #use# and conformed to all provisions of Section 42-01 (Special Provisions for Adult Establishments) applicable to M2-4 Districts.

96-332

Height and setback

In M2-4 Districts in Western Subarea C2, the underlying height and setback regulations shall apply as modified by the following special bulk regulations.

For all #buildings or other structures#, the #street wall# of a #building# shall rise without setback to a minimum base height of 50 feet, or the height of the #building#, whichever is less, and a maximum base height of 95 feet. No portion of a #building# shall exceed a height of 135 feet and no #sky exposure plane# shall apply.

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.

On #narrow street# beyond 50 feet of their intersection with a #wide street#, 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.

Where #street walls# are required to be located on the #street line#, recesses, not to exceed three feet in depth from the #street line#, shall be permitted on the ground floor where required to provide access to the #building#. Above a height of 12 feet, up to 30 percent of the #aggregate width of street walls# may be recessed beyond the #street line#, provided any such recesses deeper than 10 feet along a #wide street#, or 15 feet along a #narrow street#, are located within

an #outer court#. Furthermore, no recesses shall be permitted within 30 feet of the intersection of two #street lines# except that, to allow articulation of #street walls# at the intersection of two #street lines#, the #street wall# may be located anywhere within an area bounded by the two #street lines# and a line connecting such #street lines# at points 15 feet from their intersection.

* * *

96-80

EXCLUDED AREAS

Except as provided in this Section, the regulations set forth in this Chapter shall not apply to the following areas:

- (a) parcels within the blocks bounded by West 50th Street, Tenth Avenue, West 56th Street and Eleventh Avenue, provided that in this area the provisions of Sections 96-40 (MODIFICATION OF GENERAL LARGE-SCALE DEVELOPMENT PROVISIONS), 96-51 (Mandatory Tree Planting Provisions) and 96-81~~2~~ (C6-3X ~~Designated Districts~~) shall apply.

* * *

- (c) property bounded by West 45th Street, the easterly right-of-way of the Amtrak Empire Line, West 44th Street and Eleventh Avenue, provided that in this area the provisions of Section 96-82~~1~~ (R10 ~~Districts Inclusionary Housing Designated Area~~) shall apply;

96-81

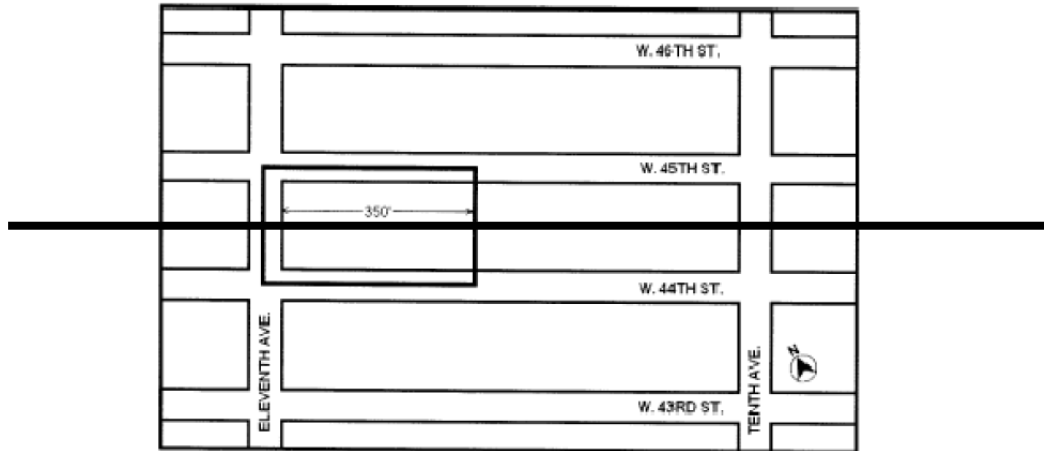
R10 Districts

~~96-82~~

~~R10 Inclusionary Housing Designated Area~~

~~The R10 ~~d~~Districts in Excluded Areas the area shown on the map in this Section shall be an #Inclusionary Housing designated areas# pursuant to Section 12-10 (Definitions) for the purpose of making the Inclusionary Housing Program regulations of Section 23-90, inclusive, applicable as modified within the Special District. The provisions of paragraph (a) of Section 23-954 (Additional requirements for compensated developments) shall not apply.~~

<DELETE MAP. No IZ map required>



96-81 82

C6-3X Designated Districts

- (a) Inclusionary Housing Program

~~Where the designated district is C6-3X Districts within the Excluded Areas, such district shall be an #Inclusionary Housing designated areas# pursuant to Section 12-10 (Definitions) for the purpose of making the Inclusionary Housing Program regulations of Section 23-90, inclusive, applicable as modified within the Special District.~~

- (b) Maximum #floor area ratio#

Within such #Inclusionary Housing designated areas#, the maximum #floor area ratio# for any #zoning lot# containing a #residential use# shall not exceed the base #floor area ratio# of 6.75, except that such base #floor area ratio# may be increased to the maximum #floor area ratio# of 9.0, through the provision of #affordable housing#, pursuant to the provisions relating to #Inclusionary Housing designated areas# in Section 23-90.

* * *

APPENDIX F

Inclusionary Housing Designated Areas

The boundaries of #Inclusionary Housing designated areas# are shown on the maps listed in this Appendix F. The #Residence Districts# listed for such areas shall include #Commercial Districts# where #residential buildings# or the #residential# portion of #mixed buildings# are governed by the #bulk# regulations of such #Residence Districts#.

* * *

In addition, the following special purpose districts contain #Inclusionary Housing designated areas#, as set forth within the special purpose district:

Special 125th Street District – see Section 97-421 (Inclusionary Housing)

Special Clinton District – see Sections ~~96-81 (C6-3X Designated District) and 96-82 (R10 Inclusionary Housing Designated Area)~~ 96-31 (Special Regulations in R8 Districts) paragraph (b), 96-32 (Special Regulations in R9 Districts), 96-81 (R10 Districts) and 96-82 (C6-3X Districts)

Special Coney Island District – see Section 131-321 (Special floor area regulations for residential uses)

Special Downtown Jamaica District – see Section 115-211 (Special Inclusionary Housing Regulations)

Special Garment Center District – see Section 93-23 (Modifications of Inclusionary Housing Program)

The above resolution (N 110176 ZRM), duly adopted by the City Planning Commission on May 11, 2011 (Calendar No. 12), is filed with the Office of the Speaker, City Council, and the Queens 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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