



CITY PLANNING COMMISSION

April 25, 2012/Calendar No. 11

N 120176 ZRM

IN THE MATTER OF an application submitted by ERY Tenant 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 Article IX, Chapter 3 (Special Hudson Yards District), Borough of Manhattan, Community District 4.

This application (N 120176 ZRM) for an amendment of the Zoning Resolution relating to Article IX, Chapter 3 (Special Hudson Yards District), was filed by ERY Tenant LLC on January 19, 2012.

BACKGROUND

ERY Tenant LLC has proposed an amendment of certain provisions of the Special Hudson Yards District (SHYD) concerning the ground floor retail requirements, signage regulations and public access areas applicable within the Eastern Rail Yard Subarea A1 (“Subarea A1”).

Subarea A1 encompasses the property located between West 30th Street, West 33rd Street, Tenth Avenue and Eleventh Avenue, which is currently occupied by the eastern section of the Metropolitan Transportation Authority’s West Side Rail Yards. This amendment is intended to enable the development of an open space network that maximizes the pedestrian experience and facilitates the transformation of Subarea A1 from an open rail yard to a new mixed-use Manhattan neighborhood under an improved site plan.

The SHYD zoning text and map adopted in 2005 (N 040500(A) ZRM) envisioned the replacement of the existing open rail yard within Subarea A1 with a mixed-use neighborhood allowing the construction of buildings comprising up to 11.0 FAR of commercial, residential and community uses, while requiring that at least 55% of the lot area be occupied by public access areas. Subarea A1 is located on the southernmost portion of the new Hudson Yards neighborhood extending from 30th Street to 33rd Street.

The amendment would not affect the existing requirements for minimum lot coverage for public access areas within Subarea A1 (i.e., 55% lot coverage, of which 40% must be open to the sky), but would refine certain design controls applicable to these public access areas to enhance the pedestrian experience. This proposal would integrate the building program with the broader pedestrian circulation within Subarea A1 and area-wide.

The other elements of the amendment would increase the permitted signage along the three-block long frontage of 10th Avenue while also limiting signage that faces and is proximate to the High Line, as well as modify the retail continuity requirements to enable a more flexible site plan.

The amendment as referred contains the following elements:

Modification of Sign Regulations

To allow for greater flexibility for signage displays along Tenth Avenue within Subarea A1, taking in account the unique condition where the Tenth Avenue frontage runs three blocks without interruption from West 30th Street to West 33rd Street, Section 93-17(a) would be amended to permit within 100 feet of Tenth Avenue the following additional signage controls: (i) up to four signs that exceed the maximum height limitations (currently 40 feet), provided that no sign exceeds 95 feet; and (ii) up to five signs that exceed the maximum surface area limitations (currently 500 feet within the corner lot portions and interior lot portions of the zoning lot), provided that (A) the aggregate surface area of such additional signs does not exceed 4,400 sf and (B) each sign would have a maximum surface area of 650 sf (except one sign may have a maximum surface area of 1,800 sf).

Section 93-17(a) would further be modified to restrict flashing signs within 150 feet of the High Line and above the level of the High Line bed that are within view of the High Line. This section would also be amended, consistent with signage controls in the Special West Chelsea District and Subdistrict F of the SHYDC, to apply the more limited signage regulations of C1 districts

applicable to signs within 50 feet of the High Line and above the High Line bed. These amendments would protect the visual experience for pedestrians along the High Line.

Outdoor plaza

Section 93-71(b) sets forth the requirements for the development of a large outdoor plaza as the major public access area on Subarea A1. To allow for an accessory use to the outdoor plaza, this section would be amended to permit a building containing an eating or drinking establishment and retail uses listed in Use Groups 6A and 6C within the southwestern portion of the outdoor plaza that occupies no more than 6,000 sf of lot area (with a maximum floor area of 12,000 sf) and does not exceed a height of 30 feet.

Public plaza

Section 93-71(c) requires that a public plaza be located at the intersection of Tenth Avenue and West 30th Street with a minimum area of 12,000 sf , a minimum frontage of 200 feet along Tenth Avenue, and a minimum frontage of 60 feet along West 30th Street. This section would be amended to reduce the minimum frontage along Tenth Avenue from 200 feet to 180 feet and reduce the ground floor retail requirements along the public plaza set forth in Section 93-14 from 70% to 25%. In addition, the proposal would exclude the building walls of any facility operated by the Long Island Rail Road or its successors from the transparency requirements. These changes are designed to accommodate the design constrictions with respect to entryways and building frontages as a result of the location of Long Island Rail Road facilities in the midblock along Tenth Avenue.

This section would further be amended to modify the existing design controls for the public plaza with tailored controls related to the specific dimensions and location of the plaza. These controls will require a mix of fixed and moveable seating, trees and other plantings as well as amenities, including artwork, water features and food service, so as to activate and beautify this important entryway into Hudson Yards. These changes are also required to accommodate an existing New York City Department of Environmental Protection access easement.

Through block connection

Section 93-71(d) sets forth the requirements for a publicly accessible through block connection connecting the outdoor plaza with the Tenth Avenue sidewalk. This section currently requires that the through block connection have a minimum width of 30 feet, and if enclosed, have a minimum height of 30 feet. To allow for a more flexible design of the through block connection, Section 93-71(d) would be amended to allow alternative controls if the owner elects to construct a large atrium adjacent to the outdoor plaza.

Such atrium would be required to be at least 4,000 sf in area with a minimum height of 60 feet and depth of 50 feet, except for permitted vertical circulation elements occupying no more than 500 sf of a contiguous area. If the atrium is provided, the remainder of the through block connection shall meet the following dimensional requirements: (i) a minimum width of 24 feet and a minimum height of 34 feet for at least 70 percent of the enclosed area of the through block connection (including the atrium), provided that no portion of the connection has a height of less than 17 feet.

The Section would also be amended to make clear that certain permitted obstructions would be allowed including: escalators, stairs and elevators, columns and lighting elements, provided that elements do not interfere with a single path of travel of at least 24 feet in width within the through block connection and do not occupy more than 20 percent of the through block connection. Section 93-71(d) would further be amended to allow for the connection to Tenth Avenue to be located anywhere north of West 32nd Street and to make it clear that the connection to the Tenth Avenue bridge is required only when the bridge is built.

Connection to public plaza

Section 93-71(e) requires that a public way, open or enclosed, shall be provided connecting the outdoor plaza, or the through block connection, to the public plaza with a minimum clear width of 20 feet, and if enclosed, with a minimum clear height of 30 feet. To allow for a more flexible design, Section 93-71(e) would be amended to increase the minimum clear height to 34 feet for at least 50 percent of the enclosed area of the connection to the public plaza, provided that no

portion of the connection to the public plaza has a minimum height less than 17 feet. In addition, Section 93-71(e) would be amended to also allow the connection to the public plaza to be occupied by the following obstructions: vertical circulation elements including escalators, stairs, and elevators; as well as columns and lighting elements, provided that such permitted obstructions do not interfere with a single path of travel of at least 20 feet in width within the connection to the public plaza and shall not occupy more than 20 percent of the connection to the public plaza.

Connection to High Line

Section 93-71(f) requires that a publicly accessible connection between the High Line and the outdoor plaza be provided and sets forth the minimum width requirements of the space (80 feet) and requires that the average height of any covered portions of this connection be 60 feet. In addition, Section 93-71(f) sets forth retail and glazing requirements that are applicable for at least 50 percent of the length of all buildings facing this publicly accessible connection. Due to the need for lobby space and the tight configuration of the adjoining building, Section 93-71(f) would be amended to eliminate the ground floor retail requirement (but the transparency requirement would be maintained). Section 93-71(f) would also be amended to require that any covered portion of the High Line connection have a minimum clear height of 60 feet (as opposed to an average clearance).

Hours of operation

The amendment would modify 93-71(a) to establish hours of operation for the public access areas in Subarea A1, except for the High Line which would have hours controlled by the City. Public access areas that are open to the sky on the Eastern Rail Yard would be required to be open between 6:00 am and 1:00 am, and enclosed portions of the through block connection and connection to public plaza would be required to be open from 8:00 am to 10:00 pm.

Retail continuity

Section 93-14 governs ground floor retail continuity requirements on certain portions of Subarea A1, including for specified percentages of the building walls facing required public access areas.

However, the text does not specifically enable public access areas to count towards these requirements, thus causing an unintentional conflict. The amendment would address this inconsistency within Subarea A1. It would also allow for a lobby area along the eastern edge of the outdoor plaza consistent with the scale of this frontage.

ENVIRONMENTAL REVIEW

The application (N 120176 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 New York City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The designated CEQR number is 12DCP095M. The lead is the City Planning Commission.

After a study of the potential impacts of the proposed actions, a Negative Declaration was issued on January 25, 2012.

PUBLIC REVIEW

On January 27, 2012, this application (N 120171 ZRM) was duly referred to Community Board 4 and the Borough President for information and review in accordance with the procedures for non-ULURP matters.

Community Board Review

Community Board 4 held a public hearing on the application on March 7, 2012, and on that date, unanimously voted to adopt a resolution to deny the application, subject to the following conditions:

Modification of Sign Regulations

Decrease the proposed height and square footage of the signs, limit the lumens and intensity of the flashing signs, and control the hours of operation. Further, given CB4's experience with both the Yotel sign lighting and the Port Authority north wing signs, (which have created major

quality of life issues for residents a full block away from the sign), CB4 must be assured that any "bounce" from flashing signs will not drive nearby residents or office workers to distraction.

Hours of operation

Make it clear that, barring emergencies or maintenance, access through the public areas will remain passable by the public 24 hours a day, 7 days a week.

Outdoor plaza

The Board recommends approval of the inclusion of a small pavilion on the southwestern portion of the outdoor plaza provided it not exceed 20 feet in height; that its use is restricted to small-scale retail; that outdoor tables or chairs be available for public use even when not ordering food or drink; that there is 24-hour access from the Eleventh Avenue entrance; and that a cultural use, such as a not-for-profit theater, be considered for the space below the pavilion on Eleventh Avenue.

Public plaza

That the developer engages with DEP, DCP and CB4 to find creative ways to enhance the DEP access easement area and make it a usable public space with extensive greening and works with CB4 to find appropriate public works of art for the plaza; that artwork, water features, and food service all be required amenities on the Public Plaza; and that a public access stair to the High Line be located at the corner of 30th Street and Tenth Avenue.

30th Street

CB4 cannot support the amendments to the text unless a porte cochère be disallowed, that curb cuts be reduced to the minimum necessary (15 feet wide), except as needed for required for loading docks, including the LIRR, that the text be modified to include retail continuity requirements in the spaces underneath the High Line along West 30th Street. The Board requests that West 30th Street between Tenth and Eleventh Avenues be fully landscaped and that sidewalk widening be considered.

Borough President Review

This application was considered by the Borough President, who issued a recommendation in support of the application on July 9, 2010. Specific comments included that:

- The proposed hours reasonably accommodate daytime and evening activity while making necessary provisions for maintenance and safety.
- The proposed signage is acceptable. However to prevent any unintended impacts from disruptive signs along 10th Avenue, the City should take the necessary precaution to limit levels of illumination and prohibit flashing signage in consideration of neighboring residents.

City Planning Commission Public Hearing

On February 29, 2012 (Calendar No. 3), the City Planning Commission scheduled March 14, 2012 for a public hearing on this application (N 120176 ZRM). The hearing was duly held on March 14, 2012 (Calendar No. 12). There were three speakers in favor of the application and two in opposition.

Two representatives of the applicant, ERY Tenant LLC, spoke in favor of the application, describing the overall project and more specifically the rationale for the signage proposal, including their intent to have modern LED signage on the Tenth Avenue façade. They also discussed their design ideas for the pavilion in the outdoor plaza, which they anticipate to include a mix of retail tenants and restaurant uses.

Two representatives of Community Board 4 spoke in opposition to the proposal, generally reiterating the recommendations of the full Board. They described the Board's opposition to certain pieces of the text amendment, specifically: that the signage proposal for Tenth Avenue was too large and the allowance for flashing signs was not in keeping with the character of the

surrounding area; that the public access areas on the site should be opened 24 hours per day; and that the height and size of the proposed pavilion, as proposed, was too large.

A representative from the Manhattan Borough President's office spoke in favor of the application, but noted the Borough President's recommendation requesting that the illumination of the proposed signage along Tenth Avenue be limited and that flashing signs be prohibited.

There were no other speakers and the hearing was closed.

CONSIDERATION

The Commission believes that the zoning text amendment (N 120176 ZRM), as modified herein, is appropriate. Overall, the Commission believes the amendment's various provisions will help facilitate the overall transformation of the Eastern Rail from an open rail yard to a new mixed-use neighborhood under an improved site plan. This consideration looks at each provision separately.

Modification of Sign Regulations

The Commission notes the unique condition along the Tenth Avenue frontage, which is made up of a single zoning lot that is three city blocks long. The underlying C6-4 signage regulations, written for much smaller frontages, would permit a maximum of 1,500 square feet of accessory signage limited to 40 feet in height. The Commission agrees that this amount is limited given the length and scale of this frontage and therefore believes the area of additional signage and height requested as part of the amendment is appropriate.

However, the Commission agrees with Community Board and the Borough President that the ability of the additional signs located at higher elevations to draw attention to multiple tenants of the building and to be flashing signs is not appropriate given the possible negative effects such signs could have on the surrounding area. Therefore, the Commission modifies the text herein so that any of the additional signs which are built above 40 feet in height must direct attention to only one business operating on the site and that none of the signs above this height are permitted to be flashing signs. Further, to ensure that this does not inadvertently encourage all the additional signage to be constructed below 40 feet where flashing signs would be permitted pursuant to the underlying district regulations, the Commission further modifies the text so that only two of additional signs below 40 feet are permitted to be flashing.

Additionally, in order to address concerns about the flashing effects of the flashing signs, which may total 2,800 square feet in area (1,500 square feet pursuant to the underlying sign regulations and 1,300 square feet for the two additional signs permitted under the amendments) the Commission modifies the text herein to allow for additional restrictions on all flashing signs constructed along the Tenth Avenue frontage as proscribed by the Commission pursuant to a restrictive declaration. The purpose of these further restrictions to prohibit old-fashioned ‘Times Square’-type flashing signs and ‘Zipper’ signs, while permitting the use of modern digital and video technologies which produce a ‘smoother’ form of moving imagery. If signage technology changes and amendments to the declaration are necessary to accommodate this or other changes, this can be accomplished through future action of the Commission.

Such restrictive declaration would provide as follows:

“Declarant shall not apply for or accept building permits for any additional flashing signs permitted pursuant to section 93-17(a)(2) of the Zoning Resolution, unless the Chairperson has certified to the Department of Buildings that Declarant has submitted evidence, in a form satisfactory to the Chair, demonstrating that (i) any flashing signs previously erected pursuant to the underlying sign regulations, and (ii) any such additional flashing sign, do not utilize technologies which produce sudden and repetitive patterns of bursts in the intensity or color of light, or which create the appearance of a continuous scrolling of words or numeric information through switching on and off (or alteration of colors) of individual light fixtures, including those utilizing light emitting diode tickers or other similar displays. The foregoing shall not prohibit signs that use digital screens or other video technology to exhibit moving text and/or images, or changes of text and/or images with a fade-in and fade-out sequence. Compliance with the foregoing restrictions shall be an enforceable condition of this Declaration.”

Finally, the Commission believes the modifications to Subarea A1’s regulations to ensure that the signage along this portion of the High Line is similar to that in West Chelsea and in the future Western Rail Yard development are appropriate.

Outdoor plaza

The Commission believes the inclusion of a retail building in the Outdoor plaza would help enliven the plaza’s western edge and Eleventh Avenue. However, the Commission agrees with the Community Board that the size of the building as originally proposed is too large and would have a negative effect on the use and enjoyment of the outdoor plaza. The Commission has considered the size of similar buildings in other City open spaces and believes the proposed size is not appropriate given the scale of the surrounding outdoor plaza. Therefore, the Commission modifies the text herein so that the maximum footprint of the building is 3,600 square feet. Commensurate with this change, the maximum amount of floor area at the plaza level and above

is changed to 7,200 square feet, while a maximum of 3,600 square feet would be permitted below plaza level along Eleventh Avenue.

Additionally, the Commission modifies the text in order to ensure the building's overall form is appropriate to the size and shape of the plaza. These modifications include maximum north-south and east-west dimensions for the building, as well as a requirement that the maximum height along the building's perimeter be limited to 24 feet with provisions for additional height beyond the perimeter, up to a maximum height of 30 feet. The Commission believes these changes will permit design flexibility as the outdoor plaza is designed, while ensuring an appropriate size and shape to the building.

Public plaza

The Commission notes the variety of infrastructural constraints in and around the Public Plaza, including the adjacent Long Island Rail Road building and the third water tunnel access tunnel within the space. The Commission therefore believes the changes to the requirements for this public access area are warranted and appropriate, while still ensuring an inviting entrance to the Eastern Rail Yard at 30th Street and Tenth Avenue.

Through block connection and connection to public plaza

The Commission is pleased with the proposed changes to the requirements for the through block connection and the connection to the public plaza, and believes that these changes are appropriate. The Commission notes that the amendment includes alternative controls for the connections if the owner elects to construct an enclosed large atrium adjacent to the outdoor

plaza. The Commission believes these alternative controls will create an exciting indoor public atrium commensurate with the scale of the development in Subarea A1 while still ensuring public, civic-scaled connections through the building.

Connection to High Line

The Commission believes the modifications to the controls for the Connection to the High Line are appropriate as they would ensure a welcoming connection between the High Line and the Eastern Rail Yard site, while permitting a building entrance befitting the proposed adjacent office tower.

Hours of operation

The Commission notes that the existing text contains no requirements as to hours of operation for the public access areas in Subarea A1. The Commission believes it is appropriate for this oversight to be corrected. The Commission has considered the proposed hours of operation and believes them to be appropriate, as modified below.

The Commission notes that Community Board 4 requested that all of the public access areas on the site remain open 24 hours per day; however the Commission believes such a requirement is unwarranted as surrounding parks and other open spaces have more limited hours of operation. In particular, the Commission believes the requirement that all outdoor spaces be opened from 6 am to 1 am is appropriate since this matches the hours of operation of Hudson River Park and the future Western Rail Yard open spaces. However, the Commission modifies the text so that roadways on the outdoor plaza shall be opened 24 hours per day, subject to limited temporary closure as necessary to address maintenance and other requirements, in order to allow for

unimpeded vehicular access to and through the site. The Commission also believes the hours of operation for the interior spaces are appropriate, except that the access between the future Tenth Avenue Bridge and the outdoor plaza should be subject to greater hours of access as this passage is part of an overall public space plan for the Hudson Yards area connecting Moynihan Station with the Hudson River along West 32nd Street. Therefore, the Commission modifies the text herein so that access between the bridge and the outdoor plaza must be provided between the hours of 6 am and 1 am when the bridge is constructed. Finally, the Commission modifies the text herein to require the installation of public space signage at conspicuous locations stating the spaces are open to the public and identifying the hours of operation.

Retail continuity

The Commission believes the modifications to the retail continuity requirements for Subarea A1 are appropriate. The Commission notes that these modifications ensure these requirements are consistent with other requirements for public access areas on the site.

Finally, the Commission's modifications to the amendment also include a series of technical clarifications and corrections to ensure the intent of the text is clear to the reader.

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;

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

Article IX – Special Purpose Districts

Chapter 3

Special Hudson Yards District

* * *

93-14

Ground Floor Level Requirements

* * *

(a) Retail continuity along designated streets in Subdistricts A, B, C, D and E

* * *

A #building#’s street# frontage shall be allocated exclusively to such #uses#, except for lobby space, entryways, entrances to subway stations, ~~or~~ other subway-related #uses# as described in Section 93-65 (Transit Facilities) or as follows within the Eastern Rail Yards Subarea A1 where such retail continuity requirements are applicable to #building# walls facing certain public access areas described in Section 93-71:

(1) for #building# walls facing the outdoor plaza described in Section 93-71(b): the through block connection described in Section 93-71(d) and the connection to the public plaza described in Section 93-71(e);

(2) for #building# walls facing the through block connection described in Section 93-71(d), the outdoor plaza described in Section 93-71(b);

(3) for #building# walls facing the connection to the public plaza described in Section 93-71(e), the outdoor plaza described in Section 93-71(b) and the public plaza described in Section 93-71(c): or

(4) a combination of retail #uses# and public access areas so as to satisfy the 50 foot depth requirement for retail continuity.

In no event shall the length of #street# frontage (exclusive of any portion of such #street# frontage allocated to entrances to subway stations and other subway-related #uses#) occupied by lobby space or entryways exceed, in total, 40 feet or 25 percent of the #building's# total #street# frontage, whichever is less, except that (1) the width of a lobby need not be less than 20 feet, and (2) within the Eastern Rail Yards Subarea A1, the width of a lobby located on a #building# wall facing the eastern boundary of the outdoor plaza may occupy 120 feet or 25 percent of such #building# wall, whichever is less.

* * *

93-17

Modification of Sign Regulations

(a) Subdistricts A, B, C, D and E

Within Subdistricts A, B, C, D and E, the underlying #sign# regulations shall apply, except that #flashing signs# shall not be allowed within 100 feet of Hudson Boulevard, its northerly prolongation to West 39th Street and its southerly prolongation to West 33rd Street. Furthermore, The following additional modifications to the underlying #sign# regulations shall apply in the Eastern Rail Yard Subarea A1:

- (1) #flashing #Flashing signs# shall not be allowed on any portion of a #building# fronting upon the outdoor plaza required in the Eastern Rail Yard Subarea A1, pursuant to Section 93-71.
- (2) For #signs# facing Tenth Avenue or on a portion of a #building# within 100 feet of Tenth Avenue, in addition to #signs# permitted under the underlying #sign# regulations, (i) up to four #signs# may exceed the maximum height limitations of the underlying #sign# regulations, provided that no such #sign# exceeds 95 feet in height and (ii) up to five #signs# may be located without regard to the maximum #surface area# limitations of the underlying #sign# regulations, provided that (a) the aggregate #surface area# of such #signs# does not exceed 4,400 square feet; and (b) each such #sign# shall have a maximum #surface area# of 650 square feet except for one #sign# that may have a maximum #surface area# of 1,800 square feet. Any #sign # which exceeds the maximum height permitted by the underlying sign regulations shall direct attention to no more than one business conducted on the #zoning lot# and no such #signs# shall be #flashing signs#. Additionally, no more than two of the additional #signs# permitted under this paragraph (a)(2) , if located below the maximum height permitted by the underlying #sign# regulations, shall be #flashing signs#.

Erection of one or both of the additional #flashing signs# permitted under this paragraph shall be conditioned upon and subject to additional limitations upon flashing effects for all #flashing signs# located on a #building# wall facing Tenth Avenue or on a #building# wall within 100 feet of Tenth Avenue, as prescribed by the Commission pursuant to a restrictive declaration. Recordation of such restrictive declaration in the Office of the Register and compliance with the terms thereof with respect to any previously erected #flashing signs# permitted under the underlying #sign# regulations shall be a precondition to the issuance of permits by the Commissioner of Buildings for an additional #flashing sign# permitted under this paragraph.

(3) Along the #ERY High Line#, the #sign# regulations as set forth in Section 93-17(b)(1) shall apply. In addition, no #flashing signs# above the level of the #High Line bed# shall be located within 150 feet of and facing the #ERY High Line#.

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**93-70
PUBLIC ACCESS REQUIREMENTS FOR SPECIAL SITES**

* * *

The Chairperson shall allow for the phased #development# of public access areas upon certification to the Commissioner of Buildings that a plan has been submitted that provides for the completion of any public access area that is integral to the #development# of a #building# or #buildings# within each phase. Such plan may provide for the outdoor plaza described in Section 93-71(b) to be constructed in phases. Where the public use and enjoyment of a public access area is contingent upon #development# on an adjacent #zoning lot# that has not yet occurred, the Chairperson may allow for the future #development# of such public access area at the time that the adjacent #zoning lot# is #developed#.

* * *

**93-71
Public Access Areas in the Eastern Rail Yards Subarea A1**

* * *

(a) Amount of public access areas

Public access areas shall be provided in an amount not less than 55 percent of the #lot area# of the #zoning lot#. At least 40 percent of the #lot area# of the #zoning lot# shall be publicly

accessible and open to the sky. At least an additional 15 percent of the #lot area# of the #zoning lot# shall be publicly accessible and may be either open or enclosed. Such open or enclosed areas shall be comprised of the types of public access areas listed in paragraphs (b) through (f) of this Section. Open areas may also include the area of the sidewalk widening along Eleventh Avenue required pursuant to Section 93-61.

All public access areas listed in this Section, other than the #ERY High Line# and the #Tenth Avenue Spur#, shall be accessible to the public as follows: (i) unenclosed public access areas shall be accessible between the hours of 6:00 and 1:00 am, except that any portions of the outdoor plaza described in paragraph (b) designed and constructed for purposes of vehicular use shall be accessible at all times except as necessary to perform maintenance and repairs or address hazardous or emergency conditions; (ii) enclosed portions of the through block connection and connection to the public plaza described in paragraphs (d) and (e) shall be accessible to the public between the hours of 8:00 am and 10:00 pm; and (iii) upon completion of the Tenth Avenue bridge described in paragraph (g), access between the bridge and the outdoor plaza shall be provided through the through block connection between the hours of 6:00 am to 1:00 am.

All public access areas, other than the #ERY High Line# and the #Tenth Avenue Spur#, shall include public space signage at erected at conspicuous locations. Such signs shall include the statement “Open to the Public”, followed by the hours of operation specified under this subsection.

* * *

(b) Outdoor plaza

* * *

Such open area may extend beyond such boundaries and have necessary grade changes, and up to ten percent of the area of such outdoor plaza may be covered by a #building or other structure#.

In addition, a #building# containing eating or drinking places and #uses# listed in Use Groups 6A and 6C may be located within the outdoor plaza (but shall not be included as public access area pursuant to Section 93-71(a)), provided that any such #building#:

- (i) is located within the area west of the southerly prolongation of the western sidewalk widening line of Hudson Boulevard West and within 400 feet of West 30th Street;
- (ii) covers no more than 3,600 square feet of the lot at the level of the outdoor plaza and above;
- (iii) contains no more than 7,200 square feet of #floor area# at the level of the outdoor plaza and above, and no more than 3,600 square feet of #floor area# below the level of the outdoor plaza;

- (iv) has a maximum north-south dimension of 85 feet at the level of the outdoor plaza and above;
- (v) is located such that the maximum east/west dimension measured along a line 355 feet from West 30th Street is 40 feet at the level of the outdoor plaza and above. For portions of the #building# located north or south of such line, the maximum east/west dimension shall increase at a rate of 1 foot in the east/west dimension for every 4 feet in the north/south dimension from such line, up to a maximum east/west dimension of 60 feet; and
- (vi) has a maximum perimeter wall height of 24 feet, and a maximum #building# height of 30 feet. Above a height of 24 feet, no portion of a #building# may penetrate a #sky exposure plane# that begins at a height of 24 feet above the perimeter walls and rises over the #building# at a slope of 2.5 feet of horizontal distance for each foot of vertical distance. Such heights shall be measured from the highest level of the adjoining portions of the outdoor plaza.

* * *

(c) Public plaza

A publicly accessible space, (hereinafter referred to as a “public plaza”), shall be provided at the intersection of Tenth Avenue and West 30th Street. Such public plaza shall have a minimum area of 12,000 square feet with a minimum frontage of ~~200~~ 180 feet along Tenth Avenue and a minimum frontage of 60 feet along West 30th Street, ~~and be provided in accordance with the standards for #public plazas# set forth in Section 37-70 (PUBLIC PLAZAS).~~ Such public plaza shall be open to the sky except that such space may be covered by the ~~existing or reconstructed #ERY High Line# structure, including any connections to the #ERY High Line# or other design features, as well as a #building# or portion of a #building# as allowed pursuant to Section 93-514(a)(4), except that no #building# or portion of a #building# may encroach within the area that is within 60 feet of Tenth Avenue and 180 feet of West 30th Street.~~ In addition, no more than 50 percent of the public plaza shall be covered by the permitted obstructions described in Section 37-726(a) as well as any vents or shafts that are placed by the Department of Environmental Protection within the portion of the public plaza that is subject to an access easement.

Such public plaza shall contain the following amenities: (i) no less than 120 linear feet of fixed seating; (ii) no less than 12 moveable tables and 48 moveable chairs; and (iii) no less than four trees or multi-stemmed equivalents measuring at least 4 inches in caliper at the time of planting, which trees or multi-stemmed equivalents may be planted in a planting bed. In addition, such public plaza shall contain at least two of the following additional amenities: (i) artwork; (ii) water features; or (iii) food service located in a retail space directly accessible from the public plaza.

The ~~retail and~~ glazing requirements of Section 93-14(c) shall apply to at least 70 percent of the length of all building walls, ~~other than the building walls of any facility operated by the Long Island Rail Road or its successor,~~ facing each side of the ~~urban~~ public plaza. In addition, 25

percent of the frontage of all #building# walls facing the portion of the public plaza that is within 60 feet of Tenth Avenue and 180 feet of West 30th Street shall be occupied by #uses# listed in Use Groups 6A and 6C or the connection to the public plaza described in paragraph (e).

* * *

(d) Through block connection

A publicly accessible through block connection shall be provided connecting the outdoor plaza with the Tenth Avenue bridge required pursuant to paragraph (g) of this Section, with the Tenth Avenue sidewalk within 50 feet or anywhere north of the center line of West 32nd Street. Public access shall also be provided between such through block connection and the Tenth Avenue sidewalk within 50 feet of the center line of West 32nd Street, and the Tenth Avenue bridge at the time such bridge is constructed pursuant to paragraph (g) of this Section, and may connect to other public access areas or sidewalks. Such through block connection may be open to the sky or enclosed, need not be linear, and may have necessary grade changes.

Such through block connection shall have a minimum width of 30 feet. ~~If such through block connection is~~ and any enclosed portion, it shall have a minimum height of 30 feet. As an alternative, if an enclosed atrium space adjacent to the outdoor plaza is provided as part of the through block connection that meets all the following dimensional requirements: (1) comprises no less than 4,000 square feet with a minimum height of 60 feet and a minimum depth of 50 feet as measured by a line parallel from the #building# wall facing the outdoor plaza; (2) is free of #building# structural obstructions other than vertical circulation and other elements occupying no more than 500 square feet in the aggregate; and (3) contains interior walls facing such area that comply with the ground floor retail #use# requirements of Section 93-14(a), then such through block connection may (i) have a minimum width of 24 feet and (ii) have a minimum height of 34 feet for at least 70 percent of the aggregate enclosed area of the through block connection (including the atrium), provided that no portion of the through block connection shall have a minimum height less than 17 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 the through block connection (or, if enclosed, the interior walls facing the through block connection). The through block connection may be occupied by the following permitted obstructions: vertical circulation elements including escalators, stairs and elevators, columns and lighting elements, provided that (i) such permitted obstructions shall not occupy more than 20 percent of the through block connection and (ii) a single path of travel no less than 24 feet in width is maintained. Vertical circulation elements traversing the grade changes of the through block connection shall be considered a part of the through block connection and not an obstruction.

(e) Connection to public plaza

A public way, open or enclosed, shall be provided connecting the outdoor plaza or the through block connection with the public plaza. Such connection need not be linear and may have necessary grade changes. 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 (or, if enclosed, the interior walls facing the connection). The minimum clear width of such public way shall be 20 feet. ~~If~~ For any portions that are enclosed, the minimum clear height shall be ~~30~~ 34 feet within at least 50 percent of the enclosed area of the connection to the public plaza, provided that no portion of the connection to public plaza shall have a minimum height less than 17 feet. The connection to the public plaza may be occupied by the following permitted obstructions: vertical circulation elements including escalators, stairs and elevators, columns and lighting elements, provided that (i) such permitted obstructions shall not occupy more than 20 percent of the connection to the public plaza and (ii) a single path of travel no less than 20 feet in width is maintained. Vertical circulation elements traversing the grade changes of the connection to the public plaza shall be considered a part of the connection to the public plaza and not an obstruction.

(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 any portion is covered, the average clear height of such connection shall be at least 60 feet. The ~~retail and glazing requirements of Section 93-14(c) shall apply to at least 50 percent of the length of all building walls facing 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.~~

(g) Tenth Avenue Bridge

A publicly-accessible pedestrian bridge shall be provided over Tenth Avenue linking the through block connections required pursuant to paragraph (d) of this Section and paragraph (a) of Section 93-72 (Public Access Areas at 450 West 33rd Street). Such bridge need not be constructed until the 450 West 33rd Street through block connection has been completed.

* * *

The above resolution (N 120176 ZRM), duly adopted by the City Planning Commission on April 25, 2012 (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
KENNETH J. KNUCKLES, Esq., Vice Chairman
ANGELA M. BATTAGLIA, RAYANN BESSER, IRWIN G. CANTOR, P.E.,
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ORLANDO MARIN, SHIRLEY A. McRAE, Commissioners



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COREY JOHNSON
Chair

ROBERT J. BENFATTO, JR., ESQ.
District Manager

March 12, 2012

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

**Re: Text Amendment for Eastern Rail Yards
ULURP Application # N120176ZRM**

Dear Chair Burden:

On February 8, 2012, a joint meeting of Manhattan Community Board 4's (CB4) Clinton/Hell's Kitchen Land Use Committee and Chelsea Preservation and Planning Committee heard a presentation by Michael Samuelian of The Related Companies (Developer) on proposed text amendments to the Special Hudson Yards District (SHYD). These text amendments primarily concern public access areas, ground floor requirements, and signage regulations applicable within the Eastern Rail Yard Subarea A1 in order to facilitate a revised and improved site plan consistent with the overall goals of the SHYD. On March 7, 2012, by unanimous vote, CB4 recommended **denial** of the application **unless** certain conditions were met.

History of the Site

Subarea A1 of the SHYD, the focus of this application, is the Eastern Rail Yards which run from West 30th Street to West 33rd Street between Tenth and Eleventh Avenues. This site is currently occupied by the Metropolitan Transit Authority's (MTA) Long Island Railroad Cammerer lay up yards. In 2005, when the zoning for the Eastern Rail Yards was adopted, the text and accompanying site diagrams were, at best, a schematic plan. The goal then was to facilitate the replacement of the existing rail yards with a mixed-use neighborhood of which 55% of the lot area would be occupied by public access areas. While that goal remains, there have been many changes since 2005 including updates to the site plan, the selection of The Related Companies as the developer and the City and Developer committing to preserve Phase III of the High Line. As the plan for the Eastern Rail Yards moves forward, multiple text amendments are

needed to facilitate the updated site plan.

Summaries of the Proposed Text Amendments, followed by the Board's comments, are below.

Modification of Existing Sign Regulations

Existing Regulations

The existing sign regulations in Subarea A1 of the SHYD are the sign regulations of a C6-4 District. Accordingly:

- Both illuminated or flashing signs and non-illuminated signs can be five times the street frontage of the zoning lot, but no more than 500 square feet for an interior or through lot and no more than 500 square feet on each frontage for a corner lot;
- The maximum allowable height of a sign is 40 feet from curb level; and,
- No roof signs are allowed.

Additional applicable existing sign regulations in Subarea A1 state:

- Flashing signs shall not be allowed within 100 feet of Hudson Boulevard, its northerly prolongation to West 39th Street and its southerly prolongation to West 33rd Street; and,
- Flashing signs shall not be allowed on any portion of a building fronting upon the outdoor plaza.

Proposed Modifications

For signs facing Tenth Avenue or within 100 feet of Tenth Avenue:

- Up to 4 signs can exceed the maximum height limitations, as long as no sign exceeds 95 feet in height;
- Up to 5 signs can be located without regard to the underlying limitations on maximum surface area as long as:
 - The aggregate surface area does not exceed 4,400 square feet; and,
 - Each sign has a maximum surface area of 650 square feet, except for one sign which may be 1,800 square feet.
- No flashing signs are allowed above the High Line bed within 150 feet of and facing the ERY High Line.

CB4 Comments

The proposed sign regulations nearly double the height limits allowed under the existing sign regulations for a C6-4 District. In some instances, the modifications to the allowable square footage allow almost a fourfold increase in square footage. The Board fails to see how signs on steroids are consistent with the overall goals of the SHYD. CB4 does not

want Hudson Yards to become Times Square West.

While the goal of restricting flashing signs in order to protect the visual experience for pedestrians along the High Line may be laudable, the Board is adamant that the visual experience of residents or office workers who are not on the High Line, who even may be across the street from the Eastern Rail Yards, should also be protected. The Board requests that DCP require a text amendment to explore reducing the lumens of the flashing signs and turning the signs off at a set hour in the evening.

The Board cannot recommend approval of these amendments unless modifications to decrease the proposed height and square footage of the signs, limit the lumens and intensity of the flashing signs, and control hours of operation are put in place. Further, given CB4's experience with both the Yotel sign lighting and the Port Authority north wing signs, (which have created major quality of life issues for residents a full block away from the sign), CB4 must be assured that any "bounce" from flashing signs will not drive nearby residents or office workers to distraction.

Public Access Areas

Existing Regulations

Subarea A1 requires that 55% of the lot area be publicly accessible (40% of the lot area must be open to the sky; the additional 15% of the lot area may either be open or enclosed.) These open or enclosed areas include the outdoor plaza, public plaza, through block connection, connection to public plaza, connection to High Line and Tenth Avenue bridge.

Proposed Modifications

- Public access areas, other than the ERY High Line, shall be open to the public between 6:00am and 1:00am, except any enclosed portions of the through block connection and connection to the public plaza which shall be open to the public from 8:00 a.m. to 10:00 p.m.

CB4 Comments

While the Board understands that public access areas may have to be closed on occasion for emergencies, cleaning, or maintenance, it cannot agree to open-ended limitations on public perambulation through such a large area of Manhattan. The Eastern Rail Yards are not a private realm. They are part of the public realm, part of the Hell's Kitchen community, part of a new re-imagined and rebuilt part of New York City.

Passage from Tenth Avenue to Eleventh Avenue or from West 33rd Street to West 30th Street through the public areas must at all times of the day and night remain unrestricted. The site plan for the Eastern Rail Yards was laid out in order to restore the street grid interrupted in 1910 by the construction of the tracks to Pennsylvania Station. Restricting

access across the site to only 8 a.m. to 10 p.m. in our 24 hour city is inconsonant with that goal.

CB4 cannot recommend approval of this change unless it is clear that, barring emergencies or maintenance, access through the public areas will remain passable by the public 24 hours a day, 7 days a week.

Outdoor Plaza

Existing Regulations

A publicly accessible space, open to the sky, shall be located within the area bounded by West 33rd Street, the southerly prolongation of the eastern sidewalk widening line of Hudson Boulevard East, a line 250 feet north of and parallel to West 30th Street, Eleventh Avenue, a line 220 feet south of and parallel to West 33rd Street, and the southerly prolongation of the western sidewalk widening line of Hudson Boulevard West (the "Outdoor Plaza"). No more than 10% of the Outdoor Plaza may be occupied by a building or other structure.

Proposed Modifications

Add language allowing the 10% coverage on the Outdoor Plaza to include an eating or drinking establishment, which will not count as a public access area, as long as the building is no more than 6,000 square feet of the lot at the level of the outdoor plaza and above, contains no more than 12,000 square feet of floor area, and does not exceed a height of 30 feet.

CB4 Comments

The Board agrees with Developer that a small pavilion with a newsstand or café would provide a public amenity and enliven the Eleventh Avenue entrance to the Outdoor Plaza. However, the Board requests that the pavilion be no more than 20 feet in height. Additionally, CB4 insists that the entire Outdoor Plaza, including the area around the proposed pavilion, must be accessible to the public; that there is an entrance to the pavilion from Eleventh Avenue; and that there is 24-hour access from the Eleventh Avenue entrance to the Outdoor Plaza.

The Board recommends approval of the inclusion of a small pavilion on the southwestern portion of the outdoor plaza provided it not exceed 20 feet in height; that its use is restricted to small-scale retail; that outdoor tables or chairs be available for public use even when not ordering food or drink; that there is 24-hour access from the Eleventh Avenue entrance; and that a cultural use, such as a not-for-profit theater, be considered for the space below the pavilion on Eleventh Avenue.

Public Plaza

Existing Regulations

A publicly accessible space shall be provided at the intersection of Tenth Avenue and West 30th Street. Such Public Plaza shall have a minimum area of 12,000 square feet with a minimum frontage of 200 feet along Tenth Avenue and a minimum frontage of 60 feet along West 30th Street.

Proposed Modifications

- Reduce the minimum frontage for the Public Plaza on Tenth Avenue from 200 feet to 180 feet;
- Reduce the ground floor retail requirement from 70% to 25%;
- Exempt the building walls of the Long Island Rail Road (LIRR) facilities from glazing requirements;
- Add language requiring the Public Plaza to contain the following amenities:
 - No less than 120 linear feet of fixed seating;
 - No less than 12 moveable tables and 48 moveable chairs; and,
 - No less than 4 trees which may be planted in a planting bed.
- Add language requiring the Public Plaza to contain at least two of the following amenities:
 - Artwork;
 - Water features; or,
 - Food service in a retail space directly accessible from the public plaza.

CB4 Comments

The Board accepts the necessity for reducing the minimum frontage along Tenth Avenue and the reduction of the retail requirements along the public plaza given the LIRR use. Further, the Board enthusiastically supports the requirement to activate and beautify this important entryway into Hudson Yards. As such, the Board feels that public works of art would be the element which might best enhance this public space and urges Developer to engage with CB4 and the Department of Cultural Affairs in a process to select an appropriate work of public art for display. Further, the Board requests that DCP require artwork, water features, and food service to all be required amenities of the Public Plaza.

Developer reported to the Board that they would be unable to plant the portion of the Public Plaza occupied by the NYC Department of Environmental Protection (DEP) access easement area, with the exception of two trees. As the Board has learned from dealing with another DEP site, at Tenth Avenue between West 48th and West 49th Streets, public use of the water tunnel shaft easement area may not be incompatible with the necessity of having access to the area in case of an emergency. Without greening, this area will be a barren, concrete plaza. The Board has urged Developer, and Developer has willing agreed, to work with DEP and CB4's City Council representative to develop creative ways to make the access easement area an inviting and usable public space

including the use of moveable planters.

The Board also recommends that a public access stair to the High Line be located at the corner of 30th Street and Tenth Avenue. This High Line stair should be similar in size and treatment to the stair at Gansevoort Street that descends into a similar public plaza.

The Board recommends approval to these modifications on the condition that Developer engages with DEP, DCP and CB4 to find creative ways to enhance the DEP access easement area and make it a usable public space with extensive greening and works with CB4 to find appropriate public works of art for the plaza; that artwork, water features, and food service all be required amenities on the Public Plaza; and that a public access stair to the High Line be located at the corner of 30th Street and Tenth Avenue.

Through Block Connection and Tenth Avenue Bridge

Existing Regulations

A publicly accessible through block connection shall be provided connecting the outdoor plaza with the Tenth Avenue pedestrian bridge. Public access shall also be provided between such through block connection and the Tenth Avenue sidewalk within 50 feet of the center line of West 32nd Street. Such through block connection may be open to the sky or enclosed, need not be linear, and may have necessary grade changes. Such through block connection shall have a minimum width of 30 feet. A publicly accessible pedestrian bridge shall be provided over Tenth Avenue linking the through block connections.

Proposed Modifications

- Allow Developer to build an atrium adjacent to the outdoor plaza as part of the through block connection;
- Require the Atrium to be at least 4,000 square feet with a minimum height of 60 feet and depth of 50 feet;
- If Developer elects to build an atrium, the remainder of the through block connection shall be:
 - A minimum width of 24 feet and height of 34 feet for at least 70% of the enclosed area, including the atrium, as long as no portion of the connection is less than 17 feet high;
 - Permitted obstructions such as escalators, elevators, stairs, and lighting are allowed as long as they do not interfere within a 24-foot wide travel path and do not occupy more than 20% of the connection.
- Allow outdoor plaza to connect to Tenth Avenue sidewalk anywhere north of West 32nd Street instead of to the Tenth Avenue bridge;
- The publicly-accessible pedestrian bridge over Tenth Avenue need not be constructed until the 450 West 33rd Street through block connection is completed.

CB4 Comments

The Board supports Developer having the option to build an atrium (though we would not impose the unreasonable requirement that it be "iconic" — an attribution only a future generation can affix). Additionally, CB4 accepts the change in dimensions of the through block connection and agrees that the connection to the Tenth Avenue bridge should be built only when the bridge itself is built.

Connection to Public Plaza

Existing Regulations

- A public way, open or enclosed, shall be provided connecting the outdoor plaza or the through block connection with the public plaza;
- Retail and glazing requirements shall apply to at least 50% of the length of all building walls;
- Minimum clear width of public way is 20 feet;
- Minimum clear height is 20 feet.

Proposed Modifications

- Minimum clear height shall be 34 feet within at least 50% of the enclosed area of the connection to the public plaza, provided no portion of the connection shall be less than 17 feet;
- Permitted obstructions such as stairs, elevators, and lighting are allowed.

CB4 Comments

The proposed text amendment specifies that the connection, open or enclosed, between the public plaza and the outdoor plaza need not be linear and may have necessary grade changes and that permitted obstructions such as escalators and stairs may not occupy more than 20% of the connection to the public plaza.

CB4 recommends approval of this modification, again emphasizing that passage through the public access areas must be open 24 hours a day, 7 days a week.

Connection to the High Line

Existing Regulations

- 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.
- Retail and glazing requirements shall apply to at least 50 percent of the length of all building walls facing each side of such connection.

Proposed Modifications

Remove language about retail requirements

CB4 Comments

CB4 recommends approval of this change.

Retail Continuity

Existing Regulations

Map 2 specifies locations where the special ground floor use and transparency requirements apply. Such regulations apply along either 100 percent or 50 percent of the building's street frontage. Uses within stories that have a floor level within five feet of curb level, and within 50 feet of the street line shall be limited to commercial uses permitted by the underlying district.

Proposed Modifications

- Allow public access areas to count towards retail continuity requirement;
- Allow lobby entrances of 120 feet or 25% of wall, whichever is less, on building walls facing the eastern boundary of the outdoor plaza;
- Other lobby walls are still required not to exceed 40 feet or 25% of building's street frontage, whichever is less.

CB4 Comments

CB4 recommends approval of this change.

Further CB4 Comments: West 30th Street

CB4 notes with concern that not one of the text amendments in this application addresses the central importance of West 30th Street as a gateway to the newest part of the West Side.

Yet 30th Street at Tenth Avenue is the at-grade entrance to the southern portion of Hudson Yards. And the 30th Street High Line entrance, off a large visible public plaza, is the closest to a major public transportation hub, Penn Station, and is ADA accessible. West 30th Street is the only location on the High Line with major entrances along the north and south sides of the same street. And with the West Chelsea rezoning to the south, Hudson Yards to the east, and the High Line running east and west, Hudson River Park is poised to receive a major influx of users and become a major pedestrian boulevard and entrance to the new West Side developments.

In short, West 30th Street is the front door to Hudson Yards, the High Line, and Hudson

River Park.

Current plans for the Eastern Rail Yards, however, include a porte cochère, essentially a large, circular driveway requiring two curb cuts, under the north side of the High Line at West 30th Street and Tenth Avenue. CB4 strongly feels that the first space you encounter in a new section of the city should not be a private driveway for an office building. The Board does not want to replicate the Lincoln Tunnel's Dyer Avenue as the entrance to the Eastern Rail Yards.

Care must be taken to ensure that West 30th Street does not become a "back-of-house" loading dock. This is especially important since the plans for the Western Rail Yards and the northern portion of the Special West Chelsea District envision the transformation of West 30th Street into a public promenade between Tenth Avenue and the Hudson River.

The north side of West 30th Street should be enlivened with retail and public uses and entry lobbies to serve the Hudson Yards development. The structure of the High Line should be framed by storefronts and multiple uses that draw people in to the area. The West 30th Street sidewalks and the spaces under the Highline should function as a pedestrian gateway and boulevard, part of the public realm, not broken by curb cuts for private driveways.

CB4 requests that West 30th Street between Tenth and Eleventh Avenues be fully landscaped and that sidewalk widening be considered. Further, CB4 requests that the SHYD text be amended to require storefront uses under the High Line in the same way that retail continuity has been required in the other Hudson Yards subareas and to require limits on the number of curb cuts. CB4 cannot support a porte cochère entrance on West 30th Street on the Eastern Rail Yards.

CB4 cannot support the amendments to the text unless a porte cochère be disallowed, that curb cuts be reduced to the minimum necessary (15 feet wide), except as needed for required for loading docks, including the LIRR, that the text be modified to include retail continuity requirements in the spaces underneath the High Line along West 30th Street. The Board requests that West 30th Street between Tenth and Eleventh Avenues be fully landscaped and that sidewalk widening be considered.

Conclusion

CB4 believes the Eastern Rail Yards should be designed for the public realm. As such, the public should not be obligated to accommodate to design: design should accommodate the public. CB4 requests that the Eastern Rail Yards be continually viewed as a public space within Hell's Kitchen rather than an isolated private development.

Thank you, as always, for considering our comments.

Sincerely,



Corey Johnson, Chair
Manhattan Community Board 4



Jean-Daniel Noland, Chair
Clinton/Hell's Kitchen Land Use Committee



J. Lee Compton, Co-Chair
Chelsea Preservation & Planning

[Signed 3/12/12]

Bret Firfer, Co-Chair
Chelsea Preservation and Planning

cc: Congressman Jerrold Nadler
NYS Senator Tom Duane
NYS Assembly Member Richard Gottfried
NYC Council Speaker Christine Quinn
Manhattan Borough President Scott Stringer
HYDC – Ann Weisbrod, Wendy Leventer, Aaron Kirsch
DCP – David Karnovsky, Edith Hsu-Chen, Frank Ruchala
MTA
Friends of the High Line – Peter Mullan
Related – Michael Samuelian
Fried Frank – Melanie Meyers, Tal Golumb



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

SCOTT STRINGER
BOROUGH PRESIDENT

March 12, 2012

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

Re: High Line Text Amendment (N 120171 ZRM) and Eastern Rail Yard Site Plan Text Amendment (N 120176 ZRM)

Dear Chair Burden:

Thank you for providing the opportunity to comment on the applications submitted by the Department of City Planning (“DCP”) for two amendments to Article IX, Chapter 3 (Special Hudson Yards District) of the New York City Zoning Resolution (“ZR”). The High Line Text Amendment would require the High Line between 10th and 11th avenues be provided as part of the required public access areas within the Eastern Rail Yard and be associated with its initial phase of development. The portion of the High Line over 10th Avenue could count towards public access area requirements provided certain obligations are met. The Eastern Rail Yard Site Plan Text Amendment modifies ground floor retail requirements, signage regulations and public access area configurations in the Eastern Rail Yard.

High Line Text Amendment - N 120171 ZRM

The proposed text amendment modifies the building location and public access area requirements within Eastern Rail Yard (“Subarea A1” of the Hudson Yards Special District), which is bounded by 30th and 33rd streets between 10th and 11th avenues. The amendment would modify ZR §§ 93-01 (Definitions) to describe segments of the High Line specific to Subarea A1, 93-51 (Special Height and Setback Regulations in the Large-Scale Plan Subdistrict A), and 93-70 (Public Access Requirements for Special Sites), which stipulate the location of buildings with respect to the High Line and would permit the inclusion of portions of the High Line in Subarea A1 public access area requirements.

The High Line originally opened in 1934 as an elevated railroad track and ceased operation in 1980. It spans from Gansevoort to West 34th Street. The City acquired the segment of the High Line between Gansevoort and West 30th Street in 2005. The section from Gansevoort to West 20th Street opened as a public park in 2009; the second section up to West 30th Street was

completed in 2011. The remainder of the High Line to West 34th Street is not currently in City ownership; its acquisition is anticipated this year.

The bed of the portion of the High Line along West 30th Street and above Subarea A1, between 10th and 11th avenues, measures 35,167 SF. The proposed text defines this segment as the “ERY High Line.” The projecting portion east of 10th Avenue is defined as the “Tenth Avenue Spur,” the bed of which measures 9,626 SF. Subarea A1, comprised of Block 702, Lots 1 and 50 and Block 704, Lots 1, 5 and 6, measures approximately 570,000 SF.

The text amendment addresses three major aspects of the development of the third section of the High Line with respect to the development of The Eastern Rail Yard: the preservation of the ERY High Line and, potentially, the Tenth Avenue Spur; the phasing of contributions towards the High Line as they relate to the development of Subarea A1 and the configuration of any building or structure in Subarea A1 as it relates to the High Line.

As specified in the ZR, 55% of the Eastern Rail Yard is required to be public access area – 40% must be open to the sky. As proposed, ZR § 93-71 requires that ERY High Line be provided as a public access area and allows the Tenth Avenue Spur to be included at the owner’s discretion. The inclusion of these spaces is predicated on a sequence of payments, including the High Line Rehabilitation Deposit, the High Line Landscape Improvement Deposit and High Line Maintenance Funding, at stipulated phases of Subarea A1 development.

ZR § 93-514 sets the configuration of buildings relative to the ERY High Line. The portion of the ERY High Line between 11th Avenue and a line 335 feet west of 10th Avenue must be completely open to the sky and no buildings are permitted closer than 5 feet from the High Line – this distance must be maintained from the High Line bed upwards. Within 335 feet of 10th Avenue, any portion of a building must be a minimum 60 feet above the High Line bed and be no more than 280 feet wide along its north edge and a maximum width of 200 feet along West 30th St. Additionally, structural columns that cantilever the building over the High Line can occupy no more than 50% of the 200-foot maximum width and 25% of this area is permitted to be constructed of opaque materials.

The proposed text provides an enforceable mechanism to ensure that the third section of the High Line is landscaped, maintained and publicly accessible. The High Line has already demonstrated its immeasurable value as a public park and its contribution to the economic vitality of the neighborhoods that surround its current one-mile stretch. To make certain that the third section of the High Line is appropriately showcased, the final design of any proposed building next to the High Line should endeavor to maximize light and view corridors by minimizing obstructions. The third section of the High Line is currently the subject of an extensive public engagement process to inform its design. This office looks forward to participating in these discussions to work towards this aim.

Eastern Rail Yard Site Plan - N 120176 ZRM

The proposed text amendment modifies the ground floor retail requirements, signage regulations and public access area configurations in Subarea A1. The amendment modifies ZR §§ 93-14

(Ground Floor Level Requirements), which provides for retail continuity, 93-17 (Modification of Sign Regulations) relating to signage size and location requirements along 10th Avenue and 93-71 (Public Access Areas in the Eastern Rail Yards Subarea A1) to alter some of the permitted uses in and dimensions of required public access areas.

The Special Hudson Yards District was adopted in 2005 to allow for the development of the Eastern Rail Yards as a complex of commercial, residential and community facility buildings with a minimum 55% public access area. In 2010, the MTA entered into a 99-year lease with a selected developer. Following several years of design and coordination with regulatory agencies, elected officials, the community board and civic groups, the applicant is proposing to adjust ground floor retail, signage and public access area provisions.

ZR § 93-14 is proposed to allow public access areas in Subarea A1 to count towards required retail continuity. Along and within 100 feet of 10th Avenue, ZR § 93-17 would allow up to four signs at a maximum height of 95 feet, rather than the underlying 40 feet. Up to four signs would be permitted to have a maximum surface area of 650 SF and one to be no more than 1,800 SF, rather than the underlying 500-SF limit. ZR § 93-71 is proposed to amend several public access area regulations:

- Hours of access: Excluding the High Line, open air public access areas will be accessible from 6:00 am to 1:00 am; enclosed spaces will be accessible from 8:00 am to 10:00 pm.
- Outdoor Plaza Retail: 10% of the Outdoor Plaza is permitted to be covered by buildings or structures. The text amendment limits permitted uses to Use Groups 6A and 6C and stipulates the maximum dimensions of such a building.
- Public Plaza: To accommodate a Department of Environmental Protection easement at the corner of West 30th Street and 10th Avenue, the Public Plaza frontage along 10th Avenue is proposed to be reduced from a minimum 200 feet to a minimum 180 feet. The Public Plaza is still required to be no less than 12,000 SF in total area.
- Through block connection: At the owner's discretion, the text amendment permits the construction of an atrium adjacent to the Outdoor Plaza that is no less than 4,000 SF in area, a minimum 60 feet in height and at least 50 feet deep parallel from the building wall. If the owner chooses to include such an atrium, the through block connection may be decreased from 30 to 24 feet in width and reach a height of at least 34 feet for at least 70% of the connection, provided no portion has a height lower than 17 feet. The text permits obstructions, including: escalators, stairs, elevators, columns and lighting.
- Connection to the Public Plaza: The public way linking the Outdoor Plaza to the Public Plaza on West 30th Street will increase in height to a minimum 34 feet within at least 50% of the connection provided no portion is lower than 17 feet.
- Connection to High Line: As a result of the lobby space configuration at the connection to the High Line, the text is amended to eliminate the retail requirement.
- Tenth Avenue Bridge: The bridge at West 32nd Street and 10th Avenue does not need to be constructed until the through block connection has been completed.

The proposed revisions of the zoning text are generally appropriate. The inclusion of public access areas in required retail continuity and the modification of certain public access area

dimensions do not detract from the pedestrian experience nor do they adversely affect the quality of public spaces in the Eastern Rail Yard. While this office recognizes the obstacles of limiting entry to public access areas to fixed times of day, the proposed hours reasonably accommodate daytime and evening activity while making necessary provisions for maintenance and safety.

Additionally, the proposed signage changes reflect the magnitude of buildings and structures that will be constructed in the Eastern Rail Yard. The façade of the building anticipated along 10th Avenue will extend the equivalent of three blocks. At such a scale, the proposal to raise signage heights to 95 feet and allow one sign to be as large as 1,800 SF is acceptable. However, to prevent any unintended impacts from disruptive signs along 10th Avenue, if such signs are permitted, the City should take the necessary precautions to limit levels of illumination and prohibit flashing signage in consideration of neighboring residences.

The proposed text amendments are a reflection of the continued thoughtful planning of the Hudson Yards district. The completion of the High Line park is essential to New York City. Equally, the public spaces that are being provided in the Eastern Rail Yard will enhance the experience of visitors. As such, the proposed text amendments are appropriate.

Sincerely,



Scott M. Stringer
Manhattan Borough President