



CITY PLANNING COMMISSION

October 20, 2004/Calendar No. 23

N 050030 ZRM

IN THE MATTER OF an application submitted by the Department of City Planning 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 Section 96-104 (Height Regulations) to limit the height and bulk of new development within 100 feet of a wide street within the Preservation Area of the Special Clinton District, Community District 4, Borough of Manhattan.

The application for amendment to section 96-104 of the Zoning Resolution was filed by the Department of City Planning on July 22, 2004, to limit the height and bulk of new developments fronting Ninth and Tenth Avenues within the Preservation Area of the Special Clinton District.

BACKGROUND

The Special Clinton District, adopted November 21, 1974, was established to, among other objectives, preserve and strengthen the residential character of the community, to permit rehabilitation and new construction in character with the existing scale of the community, and to protect the area's small-scale character. The Special District is generally bounded by West 58th and 59th Street on the north, Eighth Avenue on the east, West 41st Street on the south, and Twelfth Avenue on the west. The Special District is divided into four subareas: Preservation Area, Perimeter Area, Other Areas, and Excluded Areas.

The Preservation Area of the Special Clinton District is generally bounded on the north by 56th Street between Eighth and Tenth Avenues, on the south by 43rd Street, on the east by a line 150' west of Eighth Avenue, and on the west by Tenth Avenue. Located at the core of the Special

Clinton District, the Preservation Area comprises a thriving residential neighborhood with ground floor retail located along the avenues. The Perimeter Area includes high-density corridors located along 42nd Street and Eighth Avenue; portions along Eighth Avenue overlap with the Special Midtown District. The Other Areas include areas zoned for light or medium density manufacturing generally west of Tenth Avenue and north of 56th Street. The Excluded Areas include, among other areas, the Clinton Urban Renewal Plan bounded by West 50th and 56th Streets and Tenth and Eleventh Avenues.

The Preservation Area of the Special Clinton District is zoned R8 and C6-2 with a C1-5 or C2-5 commercial overlay along Ninth and Tenth Avenues. Throughout the entire Preservation Area the maximum Floor Area Ratio (FAR) allowed for any residential or community facility development is 4.2 and the maximum for commercial development is 2.0.

The Preservation Area's built character is primarily five to six story walk-up apartment buildings, with ground floor retail along Ninth and Tenth Avenues. The current zoning regulations, recognizing this character, restrict buildings along the midblocks within the Preservation Area to a height of 66 feet or seven stories, whichever is less. The height and setback of buildings located within 100 feet of a wide street (fronting an avenue) are regulated by the underlying zoning district, R8 or C6-2, through a sky exposure plane, without a height limit. Within the Preservation Area along Ninth and Tenth Avenues, 56% of the buildings are between 50 feet and 66 feet tall, and 98% have a height of 85 feet or lower.

This text amendment responds to a request from Community Board 4 to limit the height of new developments along Ninth and Tenth Avenues in order to better reflect the existing built character along the avenues and the adjacent midblocks.

The bulk regulations in the current zoning text allow for development along the avenues to be considerably taller than the surrounding context. The proposed text amendment would establish new bulk controls to ensure that new development is consistent with the scale and character of the surrounding neighborhood.

Within the Preservation Area of the Special Clinton District residential and community facility buildings are allowed a maximum FAR of 4.2. The height of buildings in the midblock is limited to 66 feet or 7 stories, whichever is less. The Commission may also grant a special permit pursuant to section 96-104 of the Zoning Resolution to allow buildings to reach a height of 99 feet. The height and bulk of buildings fronting an avenue is determined by the underlying zoning district, R8 or C6-2, through a sky exposure plane, without a height limit. There is a 70 percent maximum lot coverage requirement for buildings fronting an avenue and a requirement for buildings containing residential uses to provide 20 percent of the lot area as usable, landscaped open area accessible for the residential tenants.

Proposed text amendment

The Department is proposing a text amendment to section 96-104 (Height regulations) of the Special Clinton District applicable to buildings fronting an avenue within the Preservation Area. The proposed text would require a streetwall with a minimum height of 50 feet and a maximum height of 66 feet. The portion of the building above 66 feet would have to set back 10 feet on a wide street and 15 feet on a narrow street, and total building height would be limited to a maximum of 85 feet. Up to 30 percent of the proposed streetwall could be recessed and ground floor recesses up to three feet deep would be allowed for building entrances. Consistent with the existing regulations on development along the midblocks, the proposed text amendment would allow buildings to rise above the height limit to 115 feet through a special permit.

The proposed text amendment would ensure that new development is consistent with the existing character along Ninth and Tenth Avenues. The proposed streetwall maximum height matches the existing 66 foot height limit on the midblocks, providing height continuity between the midblocks and the avenues. The proposed 85 foot maximum building height would ensure development is consistent with the neighborhood scale while recognizing that buildings fronting the avenues can accommodate more height than those on the narrow street midblocks. The proposed height limit would also allow for ground floor retail, which typically requires a higher floor-to-ceiling height.

ENVIRONMENTAL REVIEW

This application (N 050030 ZRM), was reviewed pursuant to the New York State Environmental

Quality Review Act (SEQRA), and the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 et seq. and the City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The designated CEQR number is 05DCP008M. The lead is the City Planning Commission.

After a study of the potential environmental impact of the proposed action, a Negative Declaration was issued on July 26, 2004.

PUBLIC REVIEW

On July 26, 2004, this text amendment application was duly referred to Community Board 4 and the Borough President for information and review in accordance with the procedure for referring non-ULURP matters.

Community Boards

Community Board 4 held a public hearing on this application and on August 11, 2004, by a vote of 30 in favor, 1 opposed and 0 abstentions, adopted a resolution recommending approval of the application.

Borough President

This application was considered by the Borough President who issued a recommendation approving the application on August 23, 2004.

City Planning Commission Public Hearing

On September 8, 2004 (Calendar No. 6), the City Planning Commission scheduled September 22, 2004 for a public hearing on this application (N 050030 ZRM). The hearing was duly held on September 22, 2004 (Calendar No. 7). There was one speaker in favor and no speakers in opposition.

The one speaker in favor of the proposal was a representative of Community Board 4. The speaker noted that in the current text of the zoning resolution the height of buildings fronting Ninth or Tenth Avenues is not restricted and that buildings can be developed to heights considerably taller than the surrounding context through the acquisition of adjacent development rights. The speaker described how the recent development of an 18-story tower at Ninth Avenue and 55th Street prompted the Community Board to seek height restrictions that would ensure new development along the avenues is consistent with the existing small-scale character of the neighborhood.

There were no other speakers and the hearing was closed.

CONSIDERATION

The Commission believes that the proposed text amendment is appropriate.

The Commission believes that the proposed text amendment will help protect the existing character of the Preservation Area of the Special Clinton District. The Commission recognizes

that without a height limit, buildings fronting Ninth or Tenth Avenues within the Preservation Area can be developed to heights considerably taller than the surrounding neighborhood through the transfer of development rights from adjacent lots.

The Commission believes that the proposed controls for buildings fronting Ninth or Tenth Avenues within the Preservation Area are consistent with the existing scale of the neighborhood. The Commission notes that the required streetwall between 50 and 66 feet provides streetwall continuity between the midblocks, where a current 66 feet height limit exist, and the avenues, and that the proposed 85 feet maximum building height limit along Ninth and Tenth Avenues is an appropriate height limit for those buildings, recognizing that buildings fronting a wide street should be allowed a taller height than those fronting a narrow street.

The Commission notes that the proposed regulations would not modify the floor area use regulations in the Preservation Area of the Special Clinton District.

RESOLUTION

RESOLVED, that the City Planning Commission finds that the action, as modified, described herein will have no significant impact on the environment; and be it further

RESOLVED, by the City Planning Commission, pursuant to Section 201 of the New York City

Charter, that based on the environmental determination and consideration described in this report, the Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended as follows:

Matter in Underline is new, to be added;

Matter in ~~Strikeout~~ is old, to be deleted;

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

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

Chapter 6

Special Clinton District

* * *

96-10

PRESERVATION DISTRICT

* * *

96-104

Height regulations

~~The height regulations of this Section apply to any #development# or #enlargement#. For all #zoning lots# or portions thereof located within 100 feet from the #street line# of a #wide street#, the height and setback regulations of the underlying districts shall apply.~~

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 96-104 shall apply to all #developments# and #enlargements#. All height shall be measured from #curb level#.

For #zoning lots# with #wide street# frontage, the #street wall# 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 wall# of the #building# shall be located on and extend along the #narrow street line# within 50 feet of the #wide street#.

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#.

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.

~~The height of a #building or other structure# on a #zoning lot# or portion thereof located more than 100 feet from the #street line# of a #wide street#, shall not exceed 7 #stories# or 66 feet above #curb level#, whichever is less. Beyond 100 feet of a #wide street#, no #building or other structure# shall exceed a height of 7 #stories# or 66 feet, whichever is less.~~

However, the City Planning Commission, by special permit, may modify the special height restrictions set forth in this Section for any #development# or #enlargement# on such #zoning lots#.

As a condition for such modification, 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 ~~above #curb level#~~ beyond 100 feet of a #wide street#, and 115 feet within 100 feet of a #wide street#.

The Commission may prescribe appropriate conditions and safeguards to protect and minimize any adverse effects on the character of the surrounding area.

* * *

The above resolution (N050030ZRM) duly adopted by the City Planning Commission on

October 20, 2004 (Calendar No. 23), is filed with the Office of the Speaker, City Council, and the Borough President in accordance with the requirements of Section 197-d of the New York City Charter.

AMANDA M. BURDEN, AICP, Chair

KENNETH J. KNUCKLES, Esq., Vice-Chairman

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

RICHARD W. EADDY, JANE D. GOL, CHRISTOPHER KUI, JOHN MEROLO,

KAREN A. PHILLIPS, DOLLY WILLIAMS, Commissioners

ALFRED C. CERULLO, III, Commissioner, abstaining