



CITY PLANNING COMMISSION

May 6, 2015 / Calendar No. 7

N 090311 ZRM

IN THE MATTER OF an application submitted by 22-23 Corp. c/o Park It Management, pursuant to Section 201 of the New York City Charter for an amendment of the Zoning Resolution of the City of New York, concerning the transfer of development rights from the High Line Transfer Corridor in Article IX, Chapter 8, Special West Chelsea District, Section 98-33, Borough of Manhattan, Community District 4.

The application (N 090311 ZRM) for an amendment of the Zoning Resolution relating to Section 98-33 (b) of Article IX, Chapter 8, Special West Chelsea District, was filed by 22-23 Corp. c/o Park It Management on February 6, 2009. The text amendment would facilitate the transfer of commercial floor area from a granting site in the C6-2A and C6-3A districts and not within a subarea to an eligible receiving site in the Borough of Manhattan, Community District 4.

BACKGROUND

22-23 Corp. c/o Park It Management proposes to amend Section 98-33(b) of the Special West Chelsea District to modify provisions concerning the transfer of floor area from a granting site in the High Line Transfer Corridor, but outside of its subareas, located within a C6-2A and/or C6-3A zoning district. The proposed amendment would allow the maximum amount of residential floor area to be transferred to a receiving site. According to current text, if a granting site is located in a C6-2A or C6-3A district and located outside of a designated subarea, only its maximum amount of commercial floor area is eligible for transfer. The proposed action would enable the applicant, property owner of 510-512 West 23rd Street (Block 694, Lot 40), to transfer an additional 8,668 square feet of residential floor area to a receiving site.

The Special West Chelsea District was created in 2005 (N 050161 ZRM) to facilitate the preservation and conversion of the High Line into a public open space, to enhance the gallery district already existing in the area, and to encourage new residential and commercial growth appropriate to the neighborhood. The High Line Transfer Corridor was established as part of the Special District to permit the transfer of floor area from granting sites within the corridor to

eligible receiving sites outside the corridor. The Corridor is intended to ensure that light, air, and views are preserved along the High Line and that development rights associated with lots under the High Line may be more fully utilized.

Floor area transferred from the Corridor can be utilized by receiving sites as bonus FAR in ten subareas established by the Special District, Subareas “A” through “J.” These subareas have special provisions related to base FAR and bonus FAR, as well as height and setback regulations. In addition to getting bonus FAR from the Corridor development rights transfers, properties in the subareas can also increase their bonus by participating in the Inclusionary Housing Program. In 2012, the special district was expanded to create Subarea J at the Chelsea Market (N 120142 ZRM). In 2015, the special district was further expanded in the south to W. 14th Street with a City Planning-initiated proposal (N 150102 ZRM).

The areas in the Special West Chelsea District that were not designated in 2005 as subareas are the midblock M1-5 districts and the area subject to this proposed text amendment - in C6-2A and C6-3A districts along West 23rd Street between Tenth and Eleventh Avenues. The midblock M1-5 districts were retained as part of the 2005 rezoning to preserve and enhance arts-related uses. The C6-2A and C6-3A districts had previously been rezoned in 1999 (N 990453 ZMM) from M1-5 to M1-5/R8A and M1-5/R9A districts respectively. Their density and bulk regulations were also retained in the 2005 rezoning, therefore they not designated as a subarea.

The sites subject to the proposed text amendment are lots within the High Line Transfer Corridor, north and south of W. 23rd Street. The surrounding area is represented by a variety of building types and uses, reflecting West Chelsea’s dynamic character. To the northwest of the sites are large loft and warehouse buildings which have been preserved by the West Chelsea Historic District, containing mainly retail and office uses. To the southeast are the Chelsea Historic District and its extension, comprised primarily of lower-scale residential buildings of four to five stories. 10th Avenue has been transitioning from manufacturing and auto-related uses to office and retail uses, as well as recently introduced residential uses. Mid-blocks south of W.

23rd Street have diverse building types and uses, ranging from art galleries, residences, storage and auto-related uses.

There are seven tax lots to which the proposed text change would apply. The applicant owns one property (Block 694, Lot 40), south of W. 23rd Street. The site is currently tenanted by FDNY as an ambulance station, EMS 7, with a five-year lease. In 2012, there was a ULURP for Site Selection and Acquisition (C 120177 PCM) to facilitate a permanent facility on the site.

The High Line Transfer Corridor runs through Subareas A, B and E. In these subareas, the maximum commercial FAR and maximum residential FAR are the same, 6.5, 5.0, and 5.0 respectively. These FARs can be transferred off to receiving sites in their entirety.

The Corridor also covers portions of the Special District that are not within designated subareas. Floor area can be transferred from properties within these portions of the Special West Chelsea District, pursuant to Section 98-33(b) of the Zoning Resolution. Section 98-33(b) allows only the maximum permitted commercial FAR to be eligible for transfer to a receiving site. Granting sites within M1-5 districts, which are north and south of the subject area, can transfer a maximum FAR of 5.0 commercial FAR. No residential uses are allowed in M1-5 districts, so the transfer of residential FAR is not permitted. For granting sites that are within the existing C6-2A (6.0 commercial FAR, 6.02 residential FAR) and C6-3A (6.0 commercial FAR, 7.52 residential FAR) commercial districts, the current zoning allows the commercial FAR to be transferred to a receiving site, but not the residential FAR. However, in these districts, the allowable residential FARs are higher than the allowable commercial FARs. Since Section 98-33(b) only allows the transfer of commercial FAR, the residual residential FAR cannot be transferred to receiving sites. The proposed action would permit the transfer of residential FAR, would increase the amount of transferrable FAR in the C6-2A and C6-3A districts by .02 and 1.52 FAR respectively. In this specific instance, the applicant would be able to generate an additional 8,668 square feet from his site to be transferred to a receiving site.

ENVIRONMENTAL REVIEW

This application (N 090311 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 lead is the City Planning Commission. The designated CEQR number is 10DCP048M.

After a study of the potential environmental impacts of the proposed action, a Negative Declaration was issued on January 20, 2015.

On May 1, 2015, a Revised Environmental Assessment Statement (EAS) was issued which describes and analyzes modifications to the project area. The Revised EAS concluded that the project area with modifications would not result in any new or different significant adverse environmental impacts not already identified in the previous Negative Declaration. A Revised Negative Declaration was issued on May 4, 2015. The Revised Negative Declaration reflects the modified application and supersedes the Negative Declaration issued on January 20, 2015.

PUBLIC REVIEW

On January 20, 2015, this application (N 090311 ZRM) was referred to Community Board 4 and the Borough President in accordance with the procedure for referring non-ULURP matters.

Community Board Review

On March 16, 2015, Community Board 4 issued a letter recommending approval of the proposed action subject to the following conditions:

1. that DCP certifies that the change conforms to DCP's original intent;
2. that DCP certifies that the change would apply to the two properties in the High Line Transfer Corridor on the north and south sides of 23rd Street; and
3. that DCP draft language limiting the amount of transferrable floor area to the maximum floor area for an as-of-right permitted use at the time the Special West Chelsea District was created.

Borough President Recommendation

On March 16, 2015, the Borough President issued a letter recommending approval of the proposed action subject to the same three conditions noted by Community Board 4.

City Planning Commission Public Hearing

On March 18, 2015 (Calendar No. 5), the City Planning Commission scheduled April 1, 2015 for a public hearing on this application (N 090311 ZRM). The hearing was duly held on April 1, 2015 (Calendar No. 15).

There was one speaker in favor and none opposed. A representative of the applicant described the proposed action, identified the location of a potential receiving site, the land use impact of the unlocked residential FAR, the text's original intention, and the timing of initiating the proposed action.

There were no other speaker and the hearing was closed.

CONSIDERATION

The Commission believes that this zoning text amendment (N 090311 ZRM) to amend Section 98-33 (b) of the Zoning Resolution is appropriate.

The Commission acknowledges the request from Community Board 4 and from the Borough President to limit the amount of transferrable floor area in the event of a future density change. The Commission notes that any future rezoning will require a full public review process. The Commission will review future applications for its appropriateness at such time.

The Commission believes that the proposed zoning text amendment would affect only one site, the site owned by the applicant Block 694 Lot 40, as the other seven properties have already fully utilized their residential FAR.

The Commission recognizes that C6-2A and C6-3A districts have slightly higher residential FAR than commercial FAR and that after transferring maximum commercial floor area off, the residual residential FAR would not be a serviceable amount remaining at the granting site.

The Commission further believes that the proposed action is consistent with the original intention to permit as-of-right floor area within the High Line Transfer Corridor to be transferred to a receiving site in order to preserve light, air and views along the High Line.

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, pursuant to Section 200 of the New York City Charter, that based on the environmental determination and consideration described in this report, the Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended as follows:

Matter in underline is new, to be added;

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

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

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

ARTICLE IX SPECIAL PURPOSE DISTRICTS

* * *

Chapter 8 Special West Chelsea District

* * *

98-33 Transfer of Development Rights from the High Line Transfer Corridor

In the #Special West Chelsea District#, a “granting site” shall mean a #zoning lot#, or portion thereof, in the #High Line Transfer Corridor#. A “receiving site” shall mean a #zoning lot#, or portion thereof, in any subarea other than Subareas F, H and J. #Floor area# from a granting site may be transferred to a receiving site in accordance with the provisions of this Section.

* * *

(b) #Floor area#

The maximum amount of #floor area# transferred from a granting site located outside of a subarea shall not exceed the maximum #floor area ratio# permitted for a #commercial-use# or #residential use# on such granting site, whichever is greater, less any existing #floor area# to remain on such granting site.

The maximum amount of #floor area# transferred from a granting site located in a subarea shall not exceed the basic maximum #floor area ratio# specified for the applicable subarea in the table in Section 98-22 (Maximum Floor Area Ratio and Lot Area in Subareas), less any existing #floor area# to remain on such granting site.

Each transfer, once completed, shall irrevocably reduce the amount of #floor area# that may be transferred from the granting site by the amount of #floor area# transferred.

The amount of #floor area# transferred to a receiving site from a granting site in the #High Line Transfer Corridor# shall not exceed the #floor area ratio# permitted on the receiving site through such transfer, pursuant to the table in Section 98-22.

(c) #Use#

* * *

The above resolution (N 090311 ZRM), duly adopted by the City Planning Commission on May 6, 2015 (Calendar No.7, 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.

CARL WEISBROD, Chairman

**RAYANN BESSER, IRWIN G. CANTOR, P.E., ALFRED C. CERULLO, III,
MICHELLE R. DE LA UZ, JOSEPH DOUEK, RICHARD W.EADDY,
CHERYL COHEN EFFRON, BOMEJ JUNG, ANNA HAYES LEVIN,
ORLANDO MARIN, LARISA ORTIZ, Commissioners**



CITY OF NEW YORK

MANHATTAN COMMUNITY BOARD FOUR

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CHRISTINE BERTHET
Chair

JESSE R. BODINE
District Manager

March 16, 2015

Carl Weisbrod
Chair
NYC Department of City Planning
22 Reade Street
New York, NY 10007

Re: N 090311ZRM
Special West Chelsea District Text Amendment
510-512 West 23rd Street

Dear Chair Weisbrod:

I write to correct erroneous information written in Manhattan Community Board 4's (CB4) letter dated March 3, 2015 to the Department of City Planning regarding application N 090311ZRM, located 510-512 West 23rd Street.

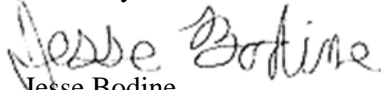
CB4 recognizes that the applicant, after consultation with CB4 and the Department of City Planning over the last year, revised the application to amend the first paragraph of ZR 98-33(b) to read as follows:

The maximum amount of #floor area# transferred from a granting site located outside of a subarea shall not exceed the maximum #floor area ratio# permitted for a #commercial use# or #residential use# on such granting site, whichever is greater, less any existing #floor area# to remain on such granting site.

CB4 reaffirms its support for the proposed text amendment affecting 510-512 West 23rd Street, subject to the conditions listed in CB4's original letter dated January 8, 2009 (enclosed), however CB4 urges the Department of City Planning to change the first paragraph of ZR 98-33(b) to include the following language "#commercial use# or #residential use# whichever is greater".

CB4 believes this more accurately explains the intent of the zoning resolution but defers to the expertise of the Department of City Planning.

Sincerely,


Jesse Bodine
District Manager

Enclosure

cc: Gary Spindler, Park It Management
Michael Kramer, Park It Management



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MANHATTAN COMMUNITY BOARD FOUR

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JEAN-DANIEL NOLAND
Chair

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

January 8, 2009

Mr. Gary Spindler
Park It Management
250 West 26th St. – 4th Floor
New York, NY 10001

RE: 510-512 West 23rd Street

Dear Mr. Spindler:

On the recommendation of its Chelsea Preservation and Planning Committee, Manhattan Community Board No. 4 voted at its January 7, 2009 meeting to encourage you to apply to the Department of City Planning for a text amendment affecting your property, subject to the conditions listed below. The board will review any proposed text amendment that results from your application in the normal course of the review process and will determine at that time whether or not to recommend approval of the amendment.

510-512 West 23rd Street is located within the Special West Chelsea District (SWCD) created by Article IX Chapter 8 of the Zoning Resolution. The SWCD was created in part to facilitate the conversion of the High Line elevated railroad into a public park through the transfer of development rights from properties underneath the High Line.

ZR 98-33(b) governs the floor area transferrable from a granting site in the High Line Transfer Corridor. You propose to change #commercial use# to #conforming use# in the first paragraph of this section:

The maximum amount of #floor area# transferred from a granting site located outside of a subarea shall not exceed the maximum #floor area ratio# permitted for a **#commercial use#** [**#conforming use#**] on such granting site, less any existing #floor area# to remain on such granting site.

510-512 West 23rd Street is zoned C6-3A and is not located in a SWCD subarea. In a C6-3A district the maximum commercial FAR is 6.0 while the maximum residential FAR is 7.52. The effect of the proposed change would be to permit you to transfer an additional 1.52 FAR, the difference between the maximum residential FAR and the maximum commercial FAR.

The Department of City Planning has indicated to the board that their intent with the existing text was to prevent the transfer of FAR from community facilities, not to prevent a property owner from being able to transfer the greater residential FAR from property with commercial zoning. DCP has indicated that while they are not prepared to initiate the process for a text amendment they would be receptive to one from an owner seeking to correct this oversight.

CB4 supports your intention to apply for a text amendment subject to three conditions:

- i) that DCP certify that the change conforms to DCP's original intent;
- ii) that DCP certify that the change would apply to the two properties in the High Line Transfer Corridor on the north and south sides of 23rd Street and to no other properties in the SWCD, as the board believes from its own analysis; and
- iii) that DCP draft appropriate language limiting the amount of transferred floor area to the maximum floor area for an as-of-right permitted use at the time the SWCD was created. The board notes that "conforming use," as you propose, is not defined in the Zoning Resolution.

Sincerely,



Jean-Daniel Noland, Chair
Manhattan Community Board 4



J. Lee Compton, Chair
Chelsea Preservation and Planning

Cc: Michael Kramer, for applicant
Owner across 23rd Street



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Gale A. Brewer, Borough President

March 16, 2015

Carl Weisbrod, Chair
City Planning Commission
22 Reade Street
New York, NY 10007

Re: 510-512 West 23rd Street Text Amendment – N 090311 ZRM

Dear Chair Weisbrod:

I write in support of the application by Park-It Management, Inc. to amend Section 98-33(b) of the Zoning Resolution (“ZR”) to modify the transfer provisions concerning the transfer of residential floor area from a granting site located outside of a subarea in the Special West Chelsea District (“WCh”). The High Line Transfer Corridor was created to preserve light, air, and views along the length of the High Line while ensuring that properties within the Corridor were able to utilize their development rights. This mechanism was not intended to overly limit the amount of residential floor area that could be transferred: within all subareas, granting sites are allowed to transfer their full commercial or residential floor area. Outside of subareas, however, in C6-2A and C6-3A districts, granting sites are allowed to transfer the full commercial floor area ratio (“FAR”) of 6.0, but not the higher residential floor area of 6.02 and 7.52.

The proposed text amendment would permit, under specific conditions, a limited subset of granting sites to transfer floor area pursuant to the underlying zoning. This change is appropriate and will have a limited effect on the neighborhood. In a letter dated March 3, 2015, Manhattan Community Board 4 affirmed its support of the proposed amendment, based on three conditions:

1. That the Department of City Planning (“DCP”) confirm that this change conforms with the original intent of the WCh;
2. That DCP confirm that the proposed change would only effect two properties in the WCh; and
3. That DCP draft language limiting the maximum floor area that can be transferred to the amount of as-of-right floor area available at the time the WCh was created.

These conditions and requests for clarification are reasonable and minor, and the City Planning Commission should ensure that they are fully addressed before approval of the proposed amendment.

Sincerely,


Gale A. Brewer