



CITY PLANNING COMMISSION

January 28, 2008 / Calendar No. 8

N 070530(A) ZRM

IN THE MATTER OF a modified application submitted by 685,700,708 First Realty Company, LLC, pursuant to Section 201 of the New York City Charter for amendment of Zoning Resolution of the City of New York concerning Section 12-10 (Definitions), relating to the definition of General Large-Scale Development, Section 23-144 (In Designated Areas where the Inclusionary Housing Program is Applicable), Section 23-15 (Maximum Floor Area Ratio in R10 Districts), Section 23-922 (Inclusionary housing designated areas), Section 24-161 (Maximum floor area ratio for zoning lots containing community facility and residential uses), Section 35-31 (Maximum Floor Area Ratio for Mixed Buildings) and Section 74-743 (Special Provisions for Bulk Modifications), Borough of Manhattan, Community District 6.

The application for the zoning text amendment N 070530 ZRM was filed by 685,700,708 First Realty Company, LLC, on June 12, 2007, and a revised application N 070530 (A) ZRM filed on October 31, 2007, pursuant to Section 2-06(c)(1) of the ULURP rules.

RELATED ACTIONS

In addition to the zoning text amendment which is the subject of this report, implementation of the proposed development also requires action by the City Planning Commission on the following which is being considered concurrently with this application:

- | | |
|-----------------|--|
| C 070522 ZMM | Zoning Map Amendment from M1-5 and M3-2 to C4-6 |
| C 070523(A) ZSM | Special Permit pursuant to Section 74-74 of the Zoning Resolution to modify height and setback regulations inclusionary housing requirements |
| C 070525 ZSM | Special permit pursuant to Section 13-562 and 74-52 for a attended public parking garage |
| N 070527 ZCM | Commission Certification pursuant to Section 26-17 for streetscape |

- modifications
- N 070528 ZCM Commission Certification pursuant to Section 37-015 to modify retail continuity requirements
- N 070529 ZMM Zoning Map Amendment from C1-9 and M3-2 zoning districts to a C5-2 district
- C 070533 ZSM Special Permit pursuant to Section 13-561 for an attended accessory parking garage
- C 070534 ZSM Special Permit pursuant to Sections 13-562 and 74-52 for an attended public parking garage
- N 070536 ZCM Commission Certification pursuant to Section 26-17 for streetscape modifications
- N 070537 ZCM Commission Certification pursuant to Section 26-15 to permit curb cuts on a wide street
- N 070538 ZCM Commission Certification pursuant to Section 37-015 to modify retail continuity requirements

BACKGROUND

A full background discussion and description of this application appears in the related report for a special permit (C 070531(A) ZSM).

ENVIRONMENTAL REVIEW

This application (N 070530(A) 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 06DCP039M. The lead is the City Planning Commission.

It was determined that the proposed action may have a significant effect on the environment. A Positive Declaration was issued on October 3, 2005, and distributed, published and filed. A summary appears in the application on the related report for a special permit (C 070531(A) ZSM).

PUBLIC REVIEW

This application (N 070530(A) ZRM), in conjunction with the application for the related actions was duly referred to Community Board 6 and the Borough President, on August 20, 2007, in accordance with Title 62 of the Rules of the City of New York, Section 2-02(b).

Community Board Public Hearing

Community Board 6 held a public hearing on this application, and related actions on September 9, 2007, and on October 10, 2007, by a vote of 31 in favor, 3 in opposition and 0 abstentions, adopted a resolution recommending conditional disapproval of the application.

A summary of the recommendations of Community Board 6 appears on the related application for a special permit (C 070531(A) ZSM).

Borough President Recommendation

This application (N 070530(A) ZRM), in conjunction with the related actions was considered by the Borough President, who issued a resolution recommending approval of the application on November 28, 2007.

A summary of the recommendations of the Borough President appears on the related application for a special permit (C 070531(A) ZSM).

City Planning Commission Public Hearing

On November 14, 2007 (Calendar No. 8), the City Planning Commission scheduled December 5, 2007, for a public hearing on this application (C 070530(A) ZSM). The hearing was duly held on December 5, 2007 (Calendar No. 35) in conjunction with the public hearing on the applications for related actions.

There were a number of appearances, as described in the report on the related application for a special permit (C 070531(A) ZSM), and the hearing was closed.

WATERFRONT REVITALIZATION PROGRAM CONSISTENCY REVIEW

This application, (N 070530(A) ZRM), in conjunction with those for related actions, was reviewed by the Department of City Planning for consistency with the policies of the New York City Waterfront Revitalization Program (WRP), as amended, approved by the New York City Council on October 13, 1999 and by the New York State Department of State on May 28, 2002, pursuant to the New York State Waterfront Revitalization and Coastal Resources Act of 1981 (New York State Executive Law, Section 910 et. seq.) The designated WRP number is 07-0007.

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

CONSIDERATION

The Commission believes that this application for amendment of the Zoning Resolution (N 070530(A) ZRM), as further modified herein, is appropriate.

A full consideration and analysis of the issues, and reason for approving this application appear in the related report for a zoning map amendment (C 070531(A) ZSM).

RESOLUTION

RESOLVED, that having considered the Final Supplemental Environmental Impact Statement (FSEIS), for which a Notice of Completion was issued on January 18, 2008, with respect to this application (CEQR No. 06DCP039M), together with the Technical Memorandum, dated January 28, 2008, the City Planning Commission finds that the requirements of the New York State Environmental Quality Review Act and Regulations, have been met and that:

1. Consistent with social, economic and other essential considerations, from among the reasonable alternatives thereto, the action to be approved is one which minimizes or avoids adverse environmental impacts to the maximum extent practicable; and
2. The adverse environmental impacts disclosed in the FSEIS will be minimized or avoided to the maximum extent practicable by incorporating as conditions to the approval, pursuant to a Restrictive Declaration, dated January 28 2008, those mitigative measures that were identified as practicable

This report of the City Planning Commission, together with the FSEIS and the Technical Memorandum, constitute the written statement of facts, and of social, economic and other

factors and standards, that form the basis of the decision, pursuant to Section 617.11(d) of the SEQRA regulations; and be it further

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

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

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.

12-10

DEFINITIONS

* * *

Large-scale development, general

A "general large-scale development" is a large-scale #development# or #enlargement# other than a #large-scale residential development# or a #large-scale community facility development#. A

#general large-scale development# may be located in any #Commercial# or #Manufacturing District#, subject to the restrictions of Section 74-743 (Special provisions for bulk modifications), paragraph (a)(1), on a tract of land containing a single #zoning lot# or two or more #zoning lots# that are contiguous or would be contiguous but for their separation by a #street# or a #street# intersection, which tract of land:

- (a) has or will have an area of at least 1.5 acres; and
- (b) is designated as a tract, all of which is to be used, #developed# or #enlarged# as a unit:
 - (1) under single fee ownership or alternate ownership arrangements as set forth in the #zoning lot# definition in Section 12-10 (DEFINITIONS) for all #zoning lots# comprising the #development#; or
 - (2) under single fee, alternate or separate ownership, either:
 - (i) pursuant to an urban renewal plan for the #development# of a designated urban renewal area containing such tract of land; or
 - (ii) through assemblage by any other governmental agency, or its agent, having the power of condemnation.

Such tract of land may include any land occupied by #buildings# existing at the time an application is submitted to the City Planning Commission under the provisions of Article VII, Chapter 4, provided that such #buildings# form an integral part of the #general large-scale development#, and provided that there is no #bulk# distribution from a #zoning lot# containing such existing #buildings#. In C5 and C6 Districts, however, a #general large-scale development# having a minimum #lot area# of five acres may include a #zoning lot# that contains an existing #building# that is not integrally related to the other parts of the #general large-scale development#, provided that such #building# covers less than 15 percent of the #lot

area# of the #general large-scale development# and provided that there is no #bulk# distribution from a #zoning lot# containing such existing #building#.

* * *

23-144

In designated areas where the Inclusionary Housing Program is applicable

In #Inclusionary Housing designated areas#, as listed in the following table, the maximum permitted #floor area ratios# shall be as set forth in Section 23-942 (In Inclusionary Housing designated areas). The locations of such districts are specified in Section 23-922 (Inclusionary Housing designated areas).

Community District	Zoning District
Community District 1, Brooklyn	R6 R6A R6B R7A
Community District 2, Brooklyn	R7A
Community District 7, Brooklyn	R8A
<u>Community District 6, Manhattan</u>	<u>R10</u>
Community District 7, Manhattan	R9A
Community District 2, Queens	R7X

* * *

23-15

Maximum Floor Area Ratio in R10 Districts

R10

In the district indicated, except in #Inclusionary Housing designated areas#, the #floor area ratio# for any #building# on a #zoning lot# shall not exceed 10.0, except as provided in Section 23-17 (Special Provisions for Zoning Lots Divided By District Boundaries) and Section 23-90 (INCLUSIONARY HOUSING).

Notwithstanding any other provision of this Resolution, the maximum #floor area ratio# shall not exceed 12.0. However, within the boundaries of Community District 7 in the Borough of Manhattan, all #developments# or #enlargements# in R10 Districts, except R10A or R10X Districts, shall be limited to a maximum #floor area ratio# of 10.0.

* * *

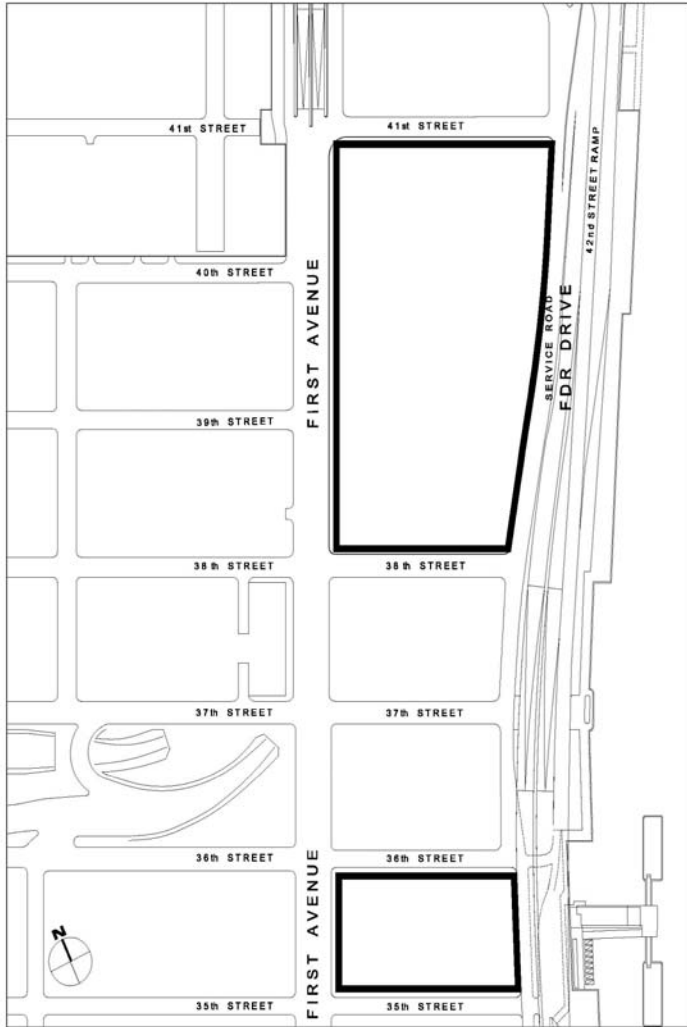
23-922

Inclusionary housing designated areas

The Inclusionary Housing Program shall apply in the following areas:

* * *

(g) In Community District 6, in the Borough of Manhattan, in the R10 Districts within the areas shown on the following Map 11:



Map 11. Portion of Community District 6, Manhattan

The Inclusionary Housing Program shall apply in special purpose districts when specific zoning districts or areas are defined as #Inclusionary Housing designated areas# within the special purpose district.

* * *

24-161

Maximum floor area ratio for zoning lots containing community facility and residential uses

R1 R2 R3-1 R3A R3X R4-1 R4A R4B R5D R6A R6B R7-2 R7A R7B R7X R8 R9 R10

In the districts indicated, for #zoning lots# containing #community facility# and #residential uses#, the maximum #floor area ratio# permitted for a #community facility use# shall be as set forth in Section 24-11, inclusive, and the maximum #floor area ratio# permitted for a #residential use# shall be as set forth in Article II, Chapter 3, provided the total of all such #floor area ratios# does not exceed the greatest #floor area ratio# permitted for any such #use# on the #zoning lot#.

In the designated areas set forth in Section 23-922 (Inclusionary Housing designated areas), except within Waterfront Access Plan Bk-1, the #floor area ratios# of Section 23-942 shall apply within a #general large-scale development# or where the #residential# portion of a #building# is #developed# or #enlarged# pursuant to the Quality Housing Program.

* * *

35-31

Maximum Floor Area Ratio for Mixed Buildings

C1 C2 C3 C4 C5 C6

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

The maximum #floor area ratio# permitted for a #commercial# or #community facility use# shall be as set forth in Article III, Chapter 3, and the maximum #floor area ratio# permitted for a

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

In the designated areas set forth in Section 23-922 (Inclusionary Housing designated areas), except within Waterfront Access Plan BK-1, the #floor area ratios# of Section 23-942 shall apply within a #general large-scale development# or where the #residential# portion of a #building# is #developed# or #enlarged# pursuant to the Quality Housing Program.

A non-#residential use# occupying a portion of a #building# that was in existence on December 15, 1961, may be changed to a #residential use# and the regulations on maximum #floor area ratio# shall not apply to such change of #use#.

* * *

74-74

General Large-Scale Development

* * *

74-743

Special provisions for bulk modification

- (a) For a #general large-scale development#, the City Planning Commission may permit:
 - (1) distribution of total allowable #floor area#, #rooming units#, #dwelling units#, #lot coverage# and total required #open space# under the applicable district regulations within a #general large-scale development# without regard for

#zoning lot lines# or district boundaries subject to the following limitations:

- (i) no distribution of #bulk# across the boundary of two districts shall be permitted for a #use# utilizing such #bulk# unless such #use# is permitted in both districts;
 - (ii) when a #general large-scale development# is located partially in a #Residence District# or in a C1, C2, C3 or C4-1 District and partially in other #Commercial# or #Manufacturing Districts#, no transfer of commercial #floor area# to a #Residence District# or to a C1, C2, C3 or C4-1 District from other districts shall be permitted;
- (2) location of #buildings# without regard for the applicable #yard#, #court#, distance between #buildings#, or height and setback regulations;
 - (3) variation in the location of primary business entrances and #show windows# along frontages adjacent to #zoning lots# outside the #general large-scale development# without regard to regulations applicable near #Residence District# boundaries;
 - (4) the maximum #floor area ratio# permitted pursuant to Section 23-142 (In R6, R7, R8 or R9 Districts) for the applicable district without regard for #height factor# or #open space ratio# requirements provided that the #general large-scale development# is located partially in a C6-1, C6-2 or C6-3 District within the boundaries of Community District 7 in Manhattan and that a minimum of 50 percent of the required #open space# is provided within the #general large-scale development#. Required #open space# for the purposes of paragraph (a)(4) of this Section shall be calculated by utilizing the smallest #open space ratio# at the maximum #floor area ratio# pursuant to Section 23-142 for the applicable district;

(5) in an #Inclusionary Housing designated area# in a C4-6 or C5 District:

(i) a portion of the #lot area# that contains a wholly #commercial building# to be excluded from the calculation of #floor area# for any other #buildings# on the remainder of the #zoning lot#; or

(ii) community facility #floor area# located above the ground floor to be excluded from the calculation of the amount of #lower income housing# required pursuant to Section 23-942;

(b) In order to grant a special permit pursuant to this Section for any #general large-scale development#, the Commission shall find that:

* * *

(6) where the Commission permits the maximum #floor area ratio# in accordance with the provisions of paragraph (a)(4) of this Section, the #open space# provided is of sufficient size to serve the residents of new or #enlarged buildings#. Such #open space# shall be accessible to and usable by all residents of such new or #enlarged buildings#, have appropriate access, circulation, seating, lighting and paving, and be substantially landscaped. Furthermore, the site plan of such #general-large scale development# shall include superior landscaping for #open space# of the new or #enlarged buildings#; ~~and—~~

(7) where the Commission permits the exclusion of #lot area# or #floor area# in accordance with the provisions of paragraph (a)(5) of this Section, such modification will facilitate a desirable mix of #uses# in the #general large-scale development# and a plan consistent with the objectives of the Inclusionary Housing program; and

(78) a declaration with regard to ownership requirements in paragraph (b) of the #general large-scale development# definition in Section 12-10 (DEFINITIONS) has been filed with the Commission.

The above resolution (N 070530(A) ZSM), duly adopted by the City Planning Commission on January 28, 2008 (Calendar No. 8), is filed with the Office of the Speaker, City Council, and the Borough President together with a copy of the plans of the development, 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.,
ALFRED C. CERULLO, III, BETTY Y. CHEN, MARIA M. DEL TORO,
RICHARD W. EADDY, NATHAN LEVENTHAL, JOHN MEROLO,
KAREN A. PHILLIPS, Commissioners

SHIRLEY A. McRAE, Commissioner, Abstaining