



Legislation Text

File #: Res 1556-2008, **Version:** *

THE COUNCIL OF THE CITY OF NEW YORK RESOLUTION NO. 1556

Resolution approving the decision of the City Planning Commission on Application No. N 080358 ZRM, for an amendment to the text of the Zoning Resolution of the City of New York, concerning Section 62-416 (Special regulations for zoning lots that include parks) relating to the East River Waterfront Esplanade and Piers Project in Community Districts 1 and 3, in the Borough of Manhattan (L.U. No. 826).

By Council Members Katz and Avella

WHEREAS, the City Planning Commission filed with the Council on July 7, 2008 its decision dated July 2, 2008 (the "Decision"), pursuant to Section 201 of the New York City Charter, regarding an application submitted by the Department of Small Business Services for an amendment of the Zoning Resolution of the City of New York, concerning Section 62-416 (Special regulations for zoning lots that include parks) relating to the East River Waterfront Esplanade and Piers Project in Community Districts 1 and 3, in the Borough of Manhattan (Application No. N 080358 ZRM), (the "Application");

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(1) of the City Charter;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on July 21, 2008;

WHEREAS, the Council has considered the land use implications and other policy issues relating to the Decision and Application; and

WHEREAS, the Council has considered the relevant environmental issues: During the environmental review conducted by the LMDC, the text amendment as described in the City Planning Commission report (N 080358 ZRM) was not identified as an action needed to facilitate the development of the ERW Project. Following project approval and upon design plans being prepared for project implementation, the City determined that such a text amendment would be needed. As the result, the Department of City Planning in consultation with LMDC conducted a review of the text amendment. A Technical Memorandum, dated April 17, 2008, determined that adoption of the text amendment and its use in implementing the East River Esplanade and Piers Project would not result in any significant adverse impacts not previously identified in the FEIS.

RESOLVED:

That having considered the Final Environmental Impact Statement (FEIS) for the East River Waterfront Esplanade and Piers Project that was issued by the Lower Manhattan Development Corporation (LMDC) on May 30, 2007, with respect to this application, together with Technical Memorandum, dated April 17, 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 the adoption of the text amendment and its use in implementing the East River Esplanade and Piers Project as described herein will have no significant impact on the environment. The report of the City Planning Commission, together with the FEIS 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.

Pursuant to Sections 197-d and 200 of the City Charter and on the basis of the Decision and Application the Council approves the Decision.

The Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended as follows:

Matter in underline is new, to be added;

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

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

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

ARTICLE VI

SPECIAL REGULATIONS APPLICABLE TO CERTAIN AREAS

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Chapter 2

Special Regulations Applying in the Waterfront Area

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62-40

REQUIREMENTS FOR WATERFRONT PUBLIC ACCESS AND VISUAL CORRIDORS

* * *

62-416

Special regulations for zoning lots that include parks

(a) In M2 and M3 Districts as permitted in Section 62-27 (Special Use Regulations for Public Parks, Playgrounds or Private Parks), where a #zoning lot# or adjoining #zoning lots# are

#predominantly developed# as a park, the requirements of Section 62-41, inclusive, and Section 62-60 shall be deemed satisfied for that portion of the #zoning lots# occupied by such park #use#, provided that:

(a)(1) such park is comprised of a minimum of nine acres of land above water and the #water coverage# of #piers# or #platforms#, located on the #zoning lot# or the #zoning lot# and adjoining #zoning lots#, having at least 600 feet of #shoreline#;

(b)(2) such park provides a continuous paved walkway along the entire portion of the #zoning lots# occupied by such #use# with a minimum clear width of no less than 12 feet, within 40 feet of the #shoreline# for at least 75 percent of those portions of the park that abut the #shoreline#;

(c)(3) such walkway connects with all other #shore public walkways# on the #zoning lot# and adjoining #zoning lots# and any adjoining public sidewalks or other pedestrian areas within #pier# public access areas, a public #street#, #public park#, other public place or park;

(d)(4) such walkway shall be open and accessible from #pier# public access areas, a public #street#, park or other public place at intervals over the length of the park, not exceeding 1,000 feet with an average of 600 feet, by a continuous paved walkway with a minimum clear width of not less than 10 feet;

(e)(5) such park is open and accessible to the public from dawn to dusk, except when hazardous conditions are present that would affect public safety;

(f)(6) a maintenance and operation agreement providing for the maintenance and operation of the park in good condition is entered into with the Department of Parks and Recreation (DPR), except that no such maintenance and operation agreement shall be required for a park developed and maintained by the State or the City of New York, any subdivision or agency of the State or the City, or any public authority or other entity created pursuant to State or local statute for the purpose of operating such a park; and

(g)(7) #visual corridors# shall be provided in accordance with Section 62-42 (Requirements for Visual Corridors).

Any maintenance and operation agreement required pursuant to paragraph (a)(6) of this Section shall include a requirement that prior to obtaining any building permit or opening any portion of the park to the public, the property owner or operator of the park shall post with DPR security in the form of a maintenance bond, letter of credit or other security acceptable to DPR, in an amount certified by a registered architect or landscape architect to be sufficient to cover 125 percent of the cost of maintaining the park for a 12 month period following its final completion, and that such security shall be replaced every five years with new security in an amount sufficient to cover 125 percent of the then current annual cost of maintaining the park, as certified by a registered architect or landscape architect, for the life of the park. Any maintenance and operation agreement shall be attached to or included within a duly recorded, signed declaration of restrictions, indexed against the #zoning lot#, binding the owners and any lessees, tenants, successors and assigns to maintain and operate the park in conformance with this Section and with the maintenance and operation agreement for the life of the park. The filing of such declaration, where required, shall be a precondition to certification pursuant to paragraph (e) of Section 62-711.

Any portion of a #zoning lot# that is not #developed# for a park #use# shall be subject to all of the requirements of Sections 62-40 and 62-60. For purposes of determining obligations pursuant to this Section,

such portions of a #zoning lot# not used for park purposes shall be treated as a separate #zoning lot# or separate #zoning lots#, except that the entire #zoning lot#, including the portion used for park purposes, shall be considered in determining #lot area# for purposes of Section 62-411 (Requirements for shore public walkways).

(b) In order to implement the East River Waterfront Esplanade and Piers Project described in the Final Environmental Impact Statement (FEIS) dated May 18 2007, of the Lower Manhattan Development Corporation and the record of decision (ROD) adopted by such corporation on November 7, 2007 (the ERW Project), in C2-8, C4-6, C6-4 and M1-4 Districts located in Manhattan Community Districts 1 and 3, for #zoning lots predominantly developed# as publicly accessible open space under the ERW Project, the Chairperson shall allow for the phased implementation of such publicly accessible open space, and the requirements of Section 62-40 (REQUIREMENTS FOR WATERFRONT PUBLIC ACCESS AND VISUAL CORRIDORS), inclusive, and 62-60 (DESIGN STANDARDS FOR THE WATERFRONT AREA), inclusive, shall be deemed satisfied, provided that:

(1) the application for certification pursuant to Section 62-711 for any such phase(s) includes a report demonstrating that:

(i) a site plan of the design of the publicly accessible open space in such phase(s) has been shown by the applicant to the affected Community Boards and Council Member(s) and such Community Boards and Council Member(s) have had at least 45 days to review such plan;

(ii) any comments and recommendations of the affected Community Boards and Council Member(s) have been considered by the applicant, and such report includes a response to such comments or recommendations. Where design modifications have been made in response to such recommendations, the report shall address how the design has been modified;

(iii) the publicly accessible open space in such phase(s) will be open and accessible to the public at a minimum from dawn to dusk, except when hazardous conditions are present that would affect public safety; and

(iv) a maintenance and operation agreement providing for the maintenance and operation of the publicly accessible open space in such phase(s) in good condition is entered into with the DPR, except that no such maintenance and operation agreement shall be required for a publicly accessible open space developed and maintained by the State or the City of New York, any subdivision or agency of the State or the City, or any public authority or other entity created pursuant to State or local statute for the purpose of operating such publicly accessible open space; and

(2) the site plan of the design for the publicly accessible open space phase(s) in such application is determined by the Chair to be in substantial compliance with the ERW Project as described in the FEIS and ROD.

No excavation or building permit shall be issued for #development# under any phase for publicly accessible open space under the ERW Project certified pursuant to Section 62-711 in accordance with this paragraph until all applicable federal, state and local permits and approvals have been received with respect to such phase, including, without limitation, permits and approvals of the New York State Department of Environmental Conservation.

Adopted.

Office of the City Clerk, }
The City of New York, } ss.:

I hereby certify that the foregoing is a true copy of a Resolution passed by The Council of The City of New York on July 23, 2008, on file in this office.

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City Clerk, Clerk of The Council