



Legislation Text

File #: Res 0745-2004, Version: *

THE COUNCIL OF THE CITY OF NEW YORK
RESOLUTION NO. 745

Resolution approving the decision of the City Planning Commission on Application No. N 040497 ZRY, an amendment to the text of the Zoning Resolution relating to Article VII, Chapter 4, concerning Section 74-721(a), expanding the modifications that may be granted pursuant to that section (L.U. No. 356)

By Council Members Katz and Avella

WHEREAS, the City Planning Commission filed with the Council on November 19, 2004 its decision dated November 17, 2004 (the "Decision"), on the application submitted by 400 Park Avenue South, LLC, pursuant to Section 201 of the New York City Charter, for an amendment to the text of the Zoning Resolution (Application No. N 040497 ZRY) (the "Application");

WHEREAS, the Application is related to ULURP Applications Numbers C 040495 ZSM (L.U. No. 354), grant of a special permit and C 040496 ZMM (L.U. No. 355), an amendment of the Zoning Map;

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 December 13, 2004;

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 and the Negative Declaration, issued on August 9, 2004 (CEQR No. 04DCP058M);

RESOLVED:

The Council finds that the action described herein will have no significant effect on the environment;

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; and

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 within # # is defined in Section 12-10;
- * * * indicates where unchanged text appears in the Zoning Resolution.

* * *

74-721

Height and setback and yard regulations

- (a) In C4-7, C5-2, C5-3, C5-4, C6-1A, C6-4, C6-5, C6-6, C6-7 or M1-6 Districts, the City Planning Commission may permit modification of the height and setback regulations, including tower coverage controls, for #developments# or #enlargements# located on a #zoning lot# having a minimum area of 40,000 square feet or occupying an entire #block#.

In C5-3, C6-6 and C6-7 Districts on such #zoning lots#, the Commission also may modify #yard# and court regulations, and regulations governing the minimum required distance between #buildings# and/or the minimum required distance between #legally required windows# and walls or #lot lines#, provided that the Commission finds that such modifications:

- (1) provide a better distribution of #bulk# on the #zoning lot#;
- (2) result in a better relationship of the #building# to open areas, adjacent #streets# and surrounding #development#; and
- (3) provide adequate light and air for #buildings# on the #zoning lot# and neither impair access to light and air to #legally required windows# in adjacent #buildings# nor adversely affect adjacent #zoning lots# by unduly restricting access to light and air to surrounding #streets# and properties;

As a condition of this special permit, if any open area extending along a #side lot line# is provided at any level, such open area shall be at least eight feet in width;

- (b) In a C6-4 District, the Commission may modify the supplementary #use# regulations of Section 32-422 (Location of floors occupied by non-residential uses), ~~fF~~ or #developments# or #enlargements# on #zoning lots# occupying an entire #block# and located in a C6-4 District with a basic commercial #floor area ratio# of 10.0, the Commission may also modify the supplementary #use# regulations of Section 32-422 (Location of floors occupied by non-residential uses), provided the following findings are made conditions are met:

- (1) ~~that~~ the non-#residential uses# are located in a portion of a #mixed building# ~~which that~~ has separate access to the #street# with no openings of any kind to the #residential# portion of the #building# at any #story#; and
- (2) ~~that~~ the non-#residential uses# are not located above the lowest #story# containing #dwelling units# unless the #residential# and non-#residential# portions are separated in accordance with the provisions of Section 23-82 (Building Walls Regulated by Minimum Spacing Requirements).

- (c) In C5-3, C6-6 and C6-7 Districts, the Commission may modify height and setback and #yard# regulations, including tower coverage controls, for #developments# or #enlargements# located on a #zoning lot# having an area less than 40,000 square feet, ~~provided the #zoning lot# that~~ occupies an entire #block# front on a #wide street#, ~~subject to the following conditions:-~~

~~As a condition for the special permit, the Commission shall make the following findings:~~

- (1) ~~that the modification of height and setback will provide a better distribution of #bulk# on the #zoning lot# and will not adversely affect other adjacent #zoning lots# by unduly restricting access to light and air to surrounding public spaces, #streets# and properties; and~~
- (2) ~~that~~ where #buildings# or portions thereof penetrate the established #sky exposure plane#, the aggregate area occupied by such #buildings# or portions thereof at such elevation shall not exceed:
 - (i) 55 percent of the area of such #zoning lot#; or
 - (ii) an equivalent of 55 percent of the aggregate area of such #zoning lot# and any adjoining #zoning lots# with a common #lot line# for at least 90 feet with negative easements limiting height of existing and future #developments# on the adjoining #zoning lots# by recorded deed or other written instruments; ~~and~~
- (3) ~~that~~ the #development# or #enlargement# includes on-site amenities, such as #arcades#, #through block arcades# or #covered pedestrian spaces# where the size and dimensions of such spaces are substantially greater than the

required minimum standards, and includes sky lights or other provisions for additional access of direct natural light so as to provide for an increased penetration of light and air therein at the #street# level of the #development#, or a transit station improvement that results in a direct major connection to a subway station.

- (3) In lieu of ~~this finding, condition (c)(32)~~, the Commission finds that the #development# or #enlargement# may provide, in the same or an adjoining #block# of such #development# or #enlargement#, compensatory "off-site public open space." For the purposes of this ~~Section paragraph, (c3)~~, the term "adjoining block" shall mean a #block# that is contiguous to the development #block# but for its separation by a #street# or #street# intersection. The area of such off-site public open space shall be at least 4,000 square feet, or 15 percent of the #lot area# of a #zoning lot# containing the #development#, whichever is more, and a width of at least 40 feet at any point.

Such public open areas shall have a southern exposure, and adjoin a public sidewalk and be #developed# pursuant to the provisions of Section 37-04 (Requirements for Urban Plazas). A plan for the development and maintenance of such off-site public space shall be approved by the Commission. The off-site public area shall be kept open to the general public in accordance with a time schedule specified by the Commission. In no event shall such off-site public open space be eligible for #floor area# or bonus computation in connection with this or any other #development# or #enlargement#.

For such #developments#, the Commission may also modify the applicable regulations of Sections 32-51 (Limitations on Business Entrances, Show Windows or Signs) and 36-683 (Restrictions on location of berths near Residence Districts) where adjoining frontage within a distance of 75 feet on the same side of the #street# is occupied by a #community facility# or ground floor #commercial use#, provided that such modification is part of an overall design for #show windows#, signage and entrances or off-street loading berths developed in conjunction with a public amenity such as an #urban plaza#, #through block arcade# or #covered pedestrian space#, and will not alter the essential character of the immediate neighborhood.

In the case of existing #residential buildings# to remain temporarily on such #zoning lot#, the provisions of Sections 23-70 (MINIMUM REQUIRED DISTANCE BETWEEN TWO OR MORE BUILDINGS ON A SINGLE ZONING LOT) and 23-80 (COURT REGULATIONS AND MINIMUM DISTANCE BETWEEN WINDOWS AND WALLS OR LOT LINES) may be modified provided that each and every one of the following conditions are met:

- (i) that such existing #buildings# with unexpired leasehold interests are located upon such #zoning lot#;
- (ii) that the portions of the #zoning lot# where such existing #buildings# are located and are to be demolished shall be redeveloped according to the approved site plan;
- (iii) that no temporary or final certificate of occupancy shall be issued for that portion of #floor area# in the new #development# equal to twice the #floor area# in the temporary existing #buildings# until such #buildings# are vacated, demolished and their sites are redeveloped in accordance with the approved project plan, except that where the City Planning Commission shall have determined that the applicant for a special permit has made an offer to purchase the leasehold interests from the lessees at a fair market value of the remainder of the lease term, the Commission may decrease the amount of #floor area# for which no certificate of occupancy may be issued; and
- (iv) that the #development# conform with all the applicable laws relating to construction, operation and maintenance.

The owner of the #zoning lot# shall have prominently displayed thereon a sign stating the date by which the #buildings# are to be demolished.

- (d4) As a further condition for the issuance of a permit under this ~~Section, paragraph, (c)~~, the owner of the #zoning lot# upon which new #developments# are to take place, must post a bond or other security payable to the City of New York and approved by the Corporation Counsel as to form, sufficient in amount as determined by the City Planning Commission to cover the cost of demolishing the existing #buildings# should the owner fail to so demolish within the prescribed time set forth in the approved project plan, and insure that all #floor area# which is to be vacant in

the new #development# shall remain unfinished and vacant.

The bonds or other securities shall be payable to the City of New York if any of the above conditions are violated.

The Commission must find, with each grant for a special permit under this paragraph, (dc) of this Section, that the #development#:

- (1)i shall result in improved circulation; and
- (2)ii would eliminate the undesirable pre-emption of ground level space by private #buildings or other structures#.

In making ~~this~~ these findings, the Commission may consider the provision of improved connections to rapid transit facilities, where applicable.

The site plan accompanying each application for a grant of special permit under this ~~Section~~ paragraph, (c), shall include a schedule indicating the timetable of demolition of all existing #buildings# and the schedule of new #development# and other improvements on the #zoning lot#.

In addition to the conditions in paragraphs (c)(1), (c)(2), (c)(3) and (c)(4) of this Section, the Commission shall find that the modification of height and setback will provide a better distribution of #bulk# on the #zoning lot# and will not adversely affect other adjacent #zoning lots# by unduly restricting access to light and air to surrounding public spaces, #streets# and properties;

(ed) Notwithstanding any other provisions of the Zoning Resolution, where a #development# shares an aggregate #lot line# with a landmark building site for a distance of at least 90 feet, or contains a historically significant #street# that has been demapped and an archeologically significant site, both of which have been identified by the Landmark Preservation Commission, the Commission may permit modification of the height and setback and #yard# regulations regardless of the lot size, provided that the following findings are made:

- (1) there is a harmonious architectural relationship between the landmark and the new structure, and such relationship is approved by the Landmarks Preservation Commission or, in the case of a #development# which contains a historically significant #street# that has been demapped and an archeologically significant site, there is a visual recognition of the location of the demapped #street# and of the archeologically significant site created by a design treatment that has been approved by both the Landmarks Preservation Commission and the City Planning Commission
and, if such #development# is located within 200 feet of a historic district, there is a harmonious relationship between the proposed #development# and the historic district; and
- (2) pedestrian amenities are contained in the new structure including, where appropriate, retail stores and substantial pedestrian space at the principal levels of circulation, such as wider sidewalks, #arcades#, #covered pedestrian space#, subsurface concourses and convenient subway connections.

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 December 15, 2004, on file in this office.

.....
City Clerk, Clerk of The Council

