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Title: Resolution approving the decision of the City Planning Commission on Application No. N 120227 ZRM, for an amendment of the Zoning Resolution of the City of New York, modifying Sections 74-743 (Special Provisions for bulk modifications) and 74-744 (Modification of use regulations) concerning special permit regulations for large scale general developments, relating to the former Seward Park Extension Urban Renewal Area, (L.U. No. 689).

Sponsors: Leroy G. Comrie, Jr., Brad S. Lander

Indexes:

Attachments: 1. Committee Report, 2. Hearing Transcript - Stated Meeting 10-11-12

Date	Ver.	Action By	Action	Result
9/27/2012	*	Committee on Land Use	Approved by Committee with Modifications and Referred to CPC	
10/11/2012	*	City Council	Approved, by Council	Pass

THE COUNCIL OF THE CITY OF NEW YORK
RESOLUTION NO. 1552

Resolution approving the decision of the City Planning Commission on Application No. N 120227 ZRM, for an amendment of the Zoning Resolution of the City of New York, modifying Sections 74-743 (Special Provisions for bulk modifications) and 74-744 (Modification of use regulations) concerning special permit regulations for large scale general developments, relating to the former Seward Park Extension Urban Renewal Area, (L.U. No. 689).

By Council Members Comrie and Lander

WHEREAS, the City Planning Commission filed with the Council on August 24, 2012 its decision dated August 22, 2012 (the "Decision"), pursuant to Section 201 of the New York City Charter, regarding an application submitted by the Department of Housing Preservation and Development (HPD) and Department of Citywide Administrative Services (DCAS) for an amendment of the text of the Zoning Resolution of the City of New York, concerning special permit regulations for large scale general developments, relating to the former Seward Park Extension Urban Renewal Area, which along with other related actions would facilitate the development of a proposed, mixed-use development of approximately 1.65 million square feet on nine City-owned sites, generally centered on the intersection of Delancey Street and Essex Street, in the Lower East Side neighborhood of Manhattan Community District 3; the program for the proposed development is expected to include a variety of mixed-income residential, commercial such as retail and office space, and community or cultural uses; the project would also allow for a number of neighborhood amenities, including parking, a 10,000-square-foot, publicly-accessible open space, and a new and expanded public Essex Street Market facility (Application No. N 120227 ZRM), Community District 3, Borough of Manhattan (the "Application");

WHEREAS, the Application is related to Application C 120226 ZMM (L.U. No. 688), a proposed amendment to the Zoning Map, Section No. 12c, establishing a C2-5 District within an existing R8 District; C 120228 ZSM (L.U. No. 690), a Special Permit, to modify the bulk regulations within a Large-Scale General Development; C 120229 ZSM (L.U. No. 691), a Special Permit, to modify the use regulations within a Large-Scale General Development; C 120231 ZSM (L.U. No. 692), a Special Permit, pursuant to Sections 13-562 and 74-52 of the Zoning Resolution, to allow a public parking garage on property bounded by Delancey Street, Norfolk Street, Broome Street and Essex Street (Site 2, Block 352, p/o Lot 1 and Lot 28), in a C6-1 District; C 120233 ZSM (L.U. No. 693), a Special Permit, pursuant to Sections 13-562 and 74-52 of the Zoning Resolution, to allow a public parking garage on property bounded by Delancey Street, Suffolk Street, Broome Street and Norfolk Street (Site 3, Block 346, p/o Lot 40), in an R8/C2-5 District; C 120234 ZSM (L.U. No. 694), a Special Permit, pursuant to Sections 13-562 and 74-52 of the Zoning Resolution, to allow a public parking on property bounded by Delancey Street, Clinton Street, Broome Street and Suffolk Street (Site 4, Block 346, p/o Lot 40), in an R8/C2-5 District; C 120235 ZSM (L.U. No. 695), a Special Permit, pursuant to Sections 13-562 and 74-52 of the Zoning Resolution, to allow a public parking garage on property bounded by Broome Street, Clinton Street, Grand Street and Suffolk Street (Site 5, Block 346, p/o Lot 40), in an R8/C2-5 District; N 120236 HAM (L.U. No. 696), an Urban Development Action Area Project (UDAAP) designation and project approval, for properties located on Essex, Delancey, Norfolk, Grand, Stanton and Broome streets (Block 346, part of Lot 40; Block 347, Lot 71; Block 352, Lots 1, 28; Block 353, Lot 44; Block 354, Lots 1, 12; and Block 409, Lot 56), as an Urban Development Action Area, to facilitate the development of residential, community facility and commercial uses, including the redevelopment of the Essex Street Market; C 120237 PQM (L.U. No. 697), Acquisition of property bounded by Essex, Delancey, Norfolk, and Broome Streets (Block 352, p/o Lots 1 and 28), by the New York City Department of Citywide Administrative Services; C 120245 PPM (L.U. No. 698), Disposition of city-owned property (Block 346, p/o of Lot 40; Block 347, Lot 71; Block 352, Lots 1 and 28; Block 353, Lot 44; Block 354, Lots 1 and 12; and Block 409, Lot 56), by the New York City Department of Housing Preservation and Development to a future developer, or by the New York City Department of Citywide Administrative Services to the New York City Economic Development Corporation (NYCEDC) or a successor local development corporation; C 120156 MMM (L.U. No. 699), a proposed amendment to the City Map involving: the establishment of Broome Street between Norfolk Street and Clinton Street; the establishment of Suffolk Street between Grand Street and Delancey Street; the narrowing, by elimination, discontinuance and closing, of Clinton Street between Grand Street and Delancey Street; the narrowing, by elimination, discontinuance and closing, of Delancey Street between Norfolk Street and Clinton Street; the establishment of the name Delancey Street for the Unnamed Street between Clinton Street and Franklin D. Roosevelt Drive; and the adjustment of grades necessitated thereby, including authorization for any disposition or acquisition of real property related thereto, in accordance with Map No. 30236, dated March 14, 2012, and signed by the Borough President;

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 September 19, 2012;

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 Final Generic Environmental Impact Statement (“FGEIS”) for which a Notice of Completion was issued on August 10, 2012 and the CEQR Technical Memorandum dated October 1, 2012 (the “CEQR Technical Memorandum”) (CEQR

No. 11DME012M);

RESOLVED:

Having considered the FGEIS and the CEQR Technical Memorandum with respect to the Decision and Application, the Council finds that:

- (1) The FGEIS meets the requirements of 6 N.Y.C.R.R. Part 617;
- (2) Consistent with social, economic and other essential considerations, from among the reasonable alternatives thereto, the Proposed Action, as modified with the modifications adopted herein, is one that avoids or minimizes adverse environmental impacts to the maximum extent practicable; and
- (2) The adverse environmental impacts disclosed in the FGEIS and the CEQR Technical Memorandum will be minimized or avoided to the maximum extent practicable by incorporating as conditions to the approval, in accordance with environmental commitment letters, dated August 15, 2012, from HPD and August 15, 2012, from NYCEDC, those project components related to the environment and mitigation measures that were identified as practicable.
- (2) The Decision together with the FGEIS and the CEQR 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 6 N.Y.C.R.R. §617.11(d).

Pursuant to Sections 197-d and 200 of the City Charter and on the basis of the Decision and Application, and based on the environmental determination and consideration described in this report, N 120227 ZRM, incorporated by reference herein, 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 old, to be deleted;

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

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

Article VII

Chapter 4

Special Permits by the City Planning Commission

74-74

Large-Scale General Development

* * *

74-743

Special provisions for bulk modification

- (a) For a #large-scale general 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 #large-scale general 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 #large-scale general 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 permitted³, except that for a #large-scale general development# located partially or wholly within the former Seward Park Extension Urban Renewal Area, a transfer of commercial #floor area# from a C6 District to a C2 District may be permitted;
 - (2) location of #buildings# without regard for the applicable #yard#, #court#, distance between #buildings#, or height and setback regulations;

* * *
 - (8) in an #Inclusionary Housing designated area# in a C4-7 District within the boundaries of Manhattan Community District 7, for the purpose of applying the Inclusionary Housing Program within such #Inclusionary Housing designated area#, as set forth in a restrictive declaration:
 - (i) modification of the base and maximum #floor area ratios# specified in Section 23-952 (Floor area compensation in Inclusionary Housing designated areas), not to exceed the maximum #floor area ratios# permitted by the underlying district, based on a proportionality between #affordable floor area#, as defined in Section 23-911, and #residential floor area# in #buildings# containing multiple #uses#; and
 - (ii) modification of the requirements regarding distribution of #affordable housing units#, as defined in Section 23-911, specified in paragraph (b) of Section 23-96 (Requirements for Generating Sites);~~or~~
 - (9) within the boundaries of Community District 3 in the Bronx, portions of any #building#, at any level, that contain permitted or required #accessory# off-street parking spaces, to be excluded from the calculation of #lot coverage#; or
 - (10) for a #large-scale general development# located partially or wholly within the former Seward Park Extension Urban Renewal Area, waiver of the planting requirements of Section 23-892 (In R6 through R10 Districts), provided the area between the #street line# and the #street walls# of the #building# and their prolongations is to be improved as a publicly accessible widened sidewalk.
- (b) In order to grant a special permit pursuant to this Section for any #large-scale general development#, the Commission shall find that:

- (1) the distribution of #floor area#, #open space#, #dwelling units#, #rooming units# and the location of #buildings#, primary business entrances and #show windows# will result in a better site plan and a better relationship among #buildings# and open areas to adjacent #streets#, surrounding development, adjacent open areas and shore lines than would be possible without such distribution and will thus benefit both the occupants of the #large-scale general development#, the neighborhood and the City as a whole;
- (2) the distribution of #floor area# and location of #buildings# will not unduly increase the #bulk# of #buildings# in any one #block# or unduly obstruct access of light and air to the detriment of the occupants or users of #buildings# in the #block# or nearby #blocks# or of people using the public #streets#;
- (3) where a #zoning lot# of a #large-scale general development# does not occupy a frontage on a mapped #street#, appropriate access to a mapped #street# is provided;
- (4) considering the size of the proposed #large-scale general development#, the #streets# providing access to such #large-scale general development# will be adequate to handle traffic resulting therefrom;
- (5) when the Commission has determined that the #large-scale general development# requires significant addition to existing public facilities serving the area, the applicant has submitted to the Commission a plan and timetable to provide such required additional facilities. Proposed facilities that are incorporated into the City's capital budget may be included as part of such plan and timetable;
- (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 #large-scale general development# shall include superior landscaping for #open space# of the new or #enlarged buildings#;
- (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 or modification of the base and maximum #floor area ratios# or requirements regarding distribution of #affordable housing units# in accordance with paragraph (a)(8) of this Section, such modification will facilitate a desirable mix of #uses# in the #large-scale general development# and a plan consistent with the objectives of the Inclusionary Housing Program and those of Section 74-74 (Large-Scale General Development) with respect to better site planning;
- (8) where the Commission permits portions of #buildings# containing #accessory# parking spaces to be excluded from the calculation of #lot coverage# in accordance with the provisions of paragraph (a)(7) of this Section, the exclusion of #lot coverage# will result in a better site plan and a better relationship among #buildings# and open areas than would be possible without such

exclusion and therefore will benefit the residents of the #large-scale general development#; and

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

The Commission may prescribe additional conditions and safeguards to improve the quality of the #large-scale general development# and to minimize adverse effects on the character of the surrounding area.

For a phased construction program of a multi-#building# complex, the Commission may, at the time of granting a special permit, require additional information, including but not limited to a proposed time schedule for carrying out the proposed #large-scale general development#, a phasing plan showing the distribution of #bulk# and #open space# and, in the case of a site plan providing for common #open space#, common open areas or common parking areas, a maintenance plan for such space or areas and surety for continued availability of such space or areas to the people they are intended to serve.

* * *

74-744

Modification of use regulations

- (a) #Use# modifications

- (1) Waterfront and related #commercial uses#

In a C4 District, the City Planning Commission may modify applicable district regulations to allow certain boating and related #uses# listed in Use Group 14A, not otherwise allowed in such district, provided the Commission shall find that:

- (i) the #uses# are appropriate for the location and blend harmoniously with the rest of the #large-scale general development#; and
- (ii) the #streets# providing access to such #uses# will be adequate to handle the traffic generated thereby.

- (2) Automotive sales and service #uses#

For #large-scale general developments#, previously approved by the City Planning Commission, in a C4-7 District within the boundaries of Manhattan Community District 7, the City Planning Commission may modify applicable district regulations to allow automotive sales and service establishments that include repair services and preparation for delivery, provided the Commission shall find that:

- (i) the portion of the establishment used for the servicing and preparation of automobiles is located entirely in a #cellar# level and below grade or established #curb level#, and the ground floor level of such establishment is used only for showrooms and sales;
- (ii) sufficient indoor space for storage of vehicles for sale or service has been provided; and

(iii) such #use# will not create or contribute to serious traffic congestion and will not unduly inhibit surface traffic or adversely affect pedestrian movement.

(3) Retail Establishments

For a #large-scale general development# located partially or wholly within the former Seward Park Extension Urban Renewal Area, the City Planning Commission may modify applicable district regulations to allow Use Groups 10, 11A and 12A except for arenas or auditoriums, skating rinks, public auction rooms, trade expositions and stadiums, provided the Commission finds that:

(i) such #uses# will not impair the character of future #uses# or development of the surrounding area; and

(ii) the #streets# providing access to such #uses# will be adequate to handle the traffic generated thereby.

(b) Location of #commercial uses#

For any #large-scale general development#, the City Planning Commission may permit #residential# and non-#residential uses# to be arranged within a #building# without regard for the regulations set forth in Section 32-42 (Location within Buildings), provided the Commission shall find:

(1) the #commercial uses# are located in a portion of the #mixed building# that has separate access to the outside with no opening of any kind to the #residential# portion of the #building# at any #story#;

(2) the #commercial uses# are not located directly over any #story# containing #dwelling units#; and

(3) the modifications shall not have any adverse effect on the #uses# located within the #building#.

(c) Modifications of #sign# regulations

(1) In all #Commercial# or #Manufacturing Districts#, the City Planning Commission may, for #developments# or #enlargements# subject to the provisions of paragraphs (a)(1), (a)(2) or (a)(3) of Section 74-743 (Special provisions for bulk modification), permit the modification of the applicable provisions of Sections 32-64 (Surface Area and Illumination Provisions), 32-65 (Permitted Projection or Height of Signs), 32-66 (Additional Regulations for Signs Near Certain Parks and Designated Arterial Highways), 42-53 (Surface Area and Illumination Provisions), 42-54 (Permitted Projection or Height of Signs), 42-55 (Additional Regulations for Signs Near Certain Parks and Designated Arterial Highways) and the limitations on the location of #signs# in Sections 32-51 and 42-44 (Limitations on Business Entrances, Show Windows or Signs), provided the Commission finds that such modification will result in a better site plan.

(2) For a #large-scale general development# located partially or wholly within the former Seward Park Extension Urban Renewal Area, the City Planning Commission, by authorization, may make the #sign# regulations of a C6-1 District applicable to those portions of such #large-scale general development# within a C2 District, and in addition, may modify the provisions of Section 32-68 (Permitted Signs on Residential or Mixed Buildings) to allow #signs accessory# to non-#residential uses# above the level of the finished floor of the third #story#, provided such #signs# do not exceed a height of 40 feet above #curb level#. In order to grant such authorizations, the Commission shall find that such modifications are consistent with the amount, type and location of #commercial uses# that the Commission finds appropriate within such #large-scale general development#.

The Commission may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the development.

* * *

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 October 11, 2012, on file in this office.

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