



CITY OF NEW YORK

MANHATTAN COMMUNITY BOARD FOUR

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J. LEE COMPTON
Chair

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

June 12, 2007

Amanda Burden, Chair
City Planning Commission
22 Reade Street, Room 2E

Re: Application N 070394 ZRY – Proposed zoning text amendment to Section 15-41, Enlargements of Converted Buildings

Dear Chair Burden:

At the recommendation of its Chelsea Planning and Preservation Committee and Clinton/Hell's Kitchen Land Use Committee, Manhattan Community Board No. 4 voted unanimously to **recommend approval** of the proposed amendment of Section 15-41 of the Zoning Resolution, subject to the comments in this letter, which are summarized under "Conclusion" at the end.

THE PROPOSED AMENDMENT

The proposed amendment seeks to reconcile two incompatible requirements of the Zoning Resolution in a way that is likely to encourage preservation of buildings built before 1961 by allowing greater flexibility in the conversion and enlargement of these existing buildings for residential use.

Currently, Section 15-12 of the Zoning Resolution requires roof area to be developed for recreational use when an existing non-residential building built before 1961 and located in certain Community Districts including Manhattan Community District 4 is converted to residential use. However, if any such building is in a non-contextual commercial or residential district that is an R6 to R9 zoning district equivalent, any enlargement of the existing building would be subject to the height factor and open space ratio requirements of Section 23-142 of the Zoning Resolution, which generally dictate smaller building footprints surrounded by larger open areas and therefore taller buildings. Height factor zoning does not allow open space to be located on the roof. Since the height factor and open space requirements may not currently be waived, they encourage demolition of existing non-residential buildings rather than their conversion and enlargement.

The proposed text amendment would allow the City Planning Commission to authorize a waiver of Section 15-12 and disregard of the height factor and open space requirements of Section 23-142 for enlargements of non-residential buildings being converted to residential use, provided

that the open areas on the zoning lot are of sufficient size to serve the residents of the building, that the open areas are accessible to and usable by all residents of the building, and that the open areas have appropriate access, circulation, seating, lighting and paving. In addition, the enlarged building must be compatible with the scale of the surrounding area and the site plan must include superior landscaping for all open areas, including the planting of street trees.

Any application for such an authorization would be referred for Community Board review and comment before action by the City Planning Commission.

APPLICATION OF THE AMENDMENT IN COMMUNITY DISTRICT 4

The proposed text amendment would apply to enlargements of non-residential buildings in non-contextual commercial and residential districts that are R6 to R9 zoning district equivalents, which is where height factor zoning applies pursuant to Zoning Resolution Section 23-142. It would not apply in special zoning districts that have special regulations that either supplement or supersede the underlying district regulations. The Conceptual Analysis of the Proposed Text Amendment states that the only special district in which the proposed text amendment would apply is the Special Clinton District, and attaches figures showing that in Community District 4 the amendment would apply only in four areas that are now zoned R8. It is hard to figure out if this statement is technically correct.¹ Moreover, it is likely that future rezonings, particularly in the Clinton Urban Renewal Area and along Eleventh Avenue will result in zoning designations to which the proposed amendment will apply. We have therefore considered this application as it could apply in the future throughout Community District 4.

OPEN SPACE REQUIREMENT

The proposed amendment replaces the quantitative open space requirements of Section 15-12 (which requires that up to 50% of a converted building's roof area be developed for recreational use) and Section 23-142 (which requires open space as a percentage of a new residential building's floor area; the percentage depends on the building's "height factor") with an open space requirement that is entirely qualitative. Under the proposed new text, the open areas must be:

“of sufficient size to serve the residents of the building. Such open areas, which may be located on rooftops, courtyards, or other areas on the zoning lot shall be accessible to and usable by all residents of the building, and have appropriate access, circulation, seating, lighting and paving.”

¹ In the Special Hudson Yards District regulations, we find no general exclusion of the underlying open space regulations. Most of that district, however, has zoning designations to which Section 23-142 does not apply (because they are R10 equivalents or contextual zoning districts). There is one small C6-3 (R9 equivalent) district between 40th and 41st Streets and Ninth and Tenth Avenues, where it seems the amendment could apply. In the Special West Chelsea District, Section 98-22 excludes the underlying open space regulations in Subareas A through I and the balance of the district (the “donut hole”) has zoning designations to which Section 23-142 does not apply (M1-5 or C6-2A). In the Special Clinton District, Section 96-102 excludes the underlying open space regulations in the Preservation Area only.

In addition,

“The site plan [must] include[] superior landscaping for all open areas on the zoning lot, including the planting of street trees.”

These are desirable qualitative requirements. Allowing landscaped open areas to be located on rooftops will encourage the greening of roofs, which should reduce environmental impacts. Requiring that the open space be accessible to and usable by all residents of the building will ensure that all residents can enjoy the amenity, and requiring appropriate access, circulation, seating, lighting and paving, as well as “superior landscaping” will ensure that the open space is indeed an amenity, and not just a paved-over afterthought. While we note that this open space requirement would replace the open space requirement for “recreational use” in Section 15-12, we consider the change appropriate for today’s needs.

However, we are concerned that the proposed text contains no benchmarks for determining the amount of open space that will be required. Applicants should be encouraged to maximize the amount of open space, and all parties to an application will benefit from a clearer understanding of how “sufficient size” will be determined. In any event, the proposed text should not result in less open space that would be required under Sections 15-12 and 23-142. We therefore suggest that an additional finding be required: that the total amount of open area provided on the zoning lot must exceed, or at least be judged against, the sum of the amount of recreation space that would be required for the conversion pursuant to Section 15-12 and the amount of open space that would be required for the enlargement pursuant to Section 23-142, if these portions of the enlarged building are considered separately.

A PROCEDURAL NOTE

Last fall we opposed a proposed text amendment to Section 74-743 that would have allowed disregard of the height factor and open space requirements of Section 23-142 in general large scale developments in certain zoning districts. (Application N 060103 ZRY) Our opposition was based on the many uncertainties involved in how the proposed text could apply to new construction on sites larger than 1.5 acres. There are many fewer uncertainties in the present application, since it involves the enlargement of individual existing buildings. We find no inconsistency in our opposition to that application and our approval of the present application.

CONCLUSION

In our estimation, the proposed text amendment is likely to encourage the preservation of buildings built before 1961, and to provide increased opportunities for development in context with its surroundings. These are outcomes for which this Board has long advocated; the Chelsea Plan and the Special Clinton District regulations are notable examples.

This Board is therefore pleased to recommend approval of Application N 070394 ZRY, with the suggestion that an additional finding be required as to the amount of open space.

Sincerely,



J. Lee Compton
Chair
Manhattan Community Board 4



Walter Mankoff
Co-Chair
Chelsea Preservation and Planning

Lynn Kotler
Co-Chair
Chelsea Preservation and Planning



Anna Hayes Levin
Chair
Clinton/Hell's Kitchen Land Use

cc: Calendar Information Office
Michael Sillerman and Patrick Sullivan, Kramer Levin Naftalis & Frankel
Electeds
Other affected CBs – Manhattan 1, 2, 3, 4, 5, 6; Brooklyn 1, 2, 6, 8; Queens 1, 2