



## **CITY PLANNING COMMISSION**

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August 22, 2012 / Calendar No. 10

C 120229 ZSM  
CORRECTED

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**IN THE MATTER OF** an application submitted by the Department of Housing Preservation and Development pursuant to Sections 197-c and 201 of the New York City Charter, for the grant of special permits pursuant to the following sections of the Zoning Resolution:

1. Section 74-744(a)(3), to modify the 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, within the R8/C2-5 District; and
2. Section 74-744(b), to modify the applicable district regulations, to allow residential and non-residential uses to be arranged within a building without regard for the location requirements of Section 32-42;

in connection with a proposed mixed-use development, within a large-scale general development bounded by Delancey Street, a line 150 feet easterly of Clinton Street, Broome Street, Clinton Street, Grand Street, Suffolk Street, Broome Street, Essex Street, a line 95.62 feet northerly of Broome Street, a line 50.54 feet westerly of Essex Street, Broome Street, Ludlow Street, a line 155 feet northerly of Broome Street, and Essex Street (Block 346, p/o Lot 40, Block 347, Lot 71, Block 352, Lots 1 & 28, and Block 409, Lot 56), in R8/C2-5 and C6-1 Districts, partially within the former Seward Park Extension Urban Renewal Area.

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This application for a special permit pursuant to Zoning Resolution Section 74-744 (Modification of use regulations) was filed by the New York City Department of Housing Preservation and Development on March 21, 2012. The requested special permit, along with its 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.

### **RELATED ACTIONS**

In addition to the proposed special permit (C 120229 ZSM) 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 120156 MMM 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.
- C 120226 ZMM A proposed amendment to the Zoning Map, Section No. 12c, establishing a C2-5 District within an existing R8 District.
- N 120227 ZRM A proposed amendment to the Zoning Resolution, 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.
- C 120228 ZSM Special Permit, to modify the bulk regulations within a Large-Scale General Development.
- N 120230 ZAM A request for the grant of an Authorization by the Commission, pursuant to Section 74-744, to modify signage regulations to allow signs accessory to non-residential uses above the level of the finished floor of the third story.
- C 120231 ZSM 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 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 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 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 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<sup>1</sup>, 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 Acquisition of property bounded by Essex, Delancey, Norfolk, and Broome Streets (Block 352<sup>2</sup>, p/o Lots 1 and 28), by the New York City Department of Citywide Administrative Services.
- C 120245 PPM 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

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<sup>1</sup> Correction 8/30/12: Due to administrative error, the block number had been previously identified as Block 352; it is Block 353.

<sup>2</sup> Correction 8/30/12: Due to administrative error, the block number had been previously identified as Block 353; it is Block 352.

New York City Economic Development Corporation (NYCEDC) or a successor local development corporation.

## **BACKGROUND**

A full background discussion and description of this application appears in the related report for a special permit application (C 120228 ZSM).

## **ENVIRONMENTAL REVIEW**

This application (C 120229 ZSM), in conjunction with the application for the related actions, 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 lead agency is the Office of the Deputy Mayor for Economic Development (ODMED). The designated CEQR number is 11DME012M.

A summary of the environmental review and the Final Environmental Impact Statement appears in the related report for a special permit application (C 120228 ZSM).

## **UNIFORM LAND USE REVIEW**

This application (C 120229 ZSM), in conjunction with the application for the related actions (C 120156 MMM, C 120226 ZMM, N 120227 ZRM, C 120228 ZSM, N 120230 ZAM, C 120231 ZSM, C 120233 ZSM, C 120234 ZSM, C 120235 ZSM, N 120236 HAM, C 120237 PQM, C 120245 PPM), was certified as complete by the Department of City Planning on March 26, 2012, and was duly referred to Community Board 3 and the Borough President, in accordance with Title 62 of the Rules of the City of New York, Section 2-02(b), along with the related non-ULURP applications which were referred for information and review.

## **Community Board Public Hearing**

Community Board 3 held a public hearing on this application (C 120229 ZSM) and the related applications on May 22, 2012, and on that date, by a vote of 44 in favor, 0 opposed and 1 present not voting, adopted a resolution recommending conditional approval of the applications.

A summary of the recommendations of Community Board 3 appears in the related report for a special permit application (C 120228 ZSM).

### **Borough President Recommendation**

This application (C 120229 ZSM), in conjunction with the related actions, was considered by the President of the Borough of Manhattan, who issued a recommendation on July 5, 2012, for conditional approval of the applications.

A summary of the recommendations of the Borough President appears in the related report for a special permit application (C 120228 ZSM).

### **City Planning Commission Public Hearing**

On June 20, 2012 (Calendar No. 10), the City Planning Commission scheduled July 11, 2012, for a public hearing on this application (C 120229 ZSM). The hearing was duly held on July 11, 2012 (Calendar No. 20), in conjunction with the public hearing on the related actions.

There were a number of appearances, as described in the related report for a special permit application (C 120228 ZSM), and the hearing was closed.

### **CONSIDERATION**

The Commission believes that the grant of the special permit as described in this application (C 120229 ZSM), in conjunction with the related applications (C 120156 MMM, C 120226 ZMM, N 120227 ZRM, C 120228 ZSM, N 120230 ZAM, C 120231 ZSM, C 120233 ZSM, C 120234 ZSM, C 120235 ZSM, C 120237 PQM, N 120236 HAM, C 120245 PPM) is appropriate.

A full consideration and analysis of the issues, and the reasons for approving this application, appear in the related report for a special permit application (C 120228 ZSM).

### **FINDINGS**

The City Planning Commission hereby makes the following findings pursuant to Section 74-744(a)(3) of the Zoning Resolution, as amended pursuant to the related application for a zoning text amendment (N 120227 ZRM):

- (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.

and the findings pursuant to Section 74-744(b) of the Zoning Resolution, as amended pursuant to the related application for a zoning text amendment (N 120227 ZRM):

- (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#.

## **RESOLUTION**

**RESOLVED**, that having considered the Final Generic Environmental Impact Statement (FGEIS), for which a Notice of Completion was issued on August 10, 2012, with respect to this application (CEQR No. 11DME012M), the City Planning Commission finds that the requirements of the New York State Environmental Quality Review Act & regulations, have been met and that:

1. Consistent with social, economic and other essential considerations, from among the reasonable alternatives thereto, the Proposed Action 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 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.

This report of the City Planning Commission, together with the FGEIS, constitutes 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**, by the City Planning Commission, pursuant to Sections 197-c and 200 of the New York City Charter that based on the environmental determination, and the consideration and findings described in this report and the related report for a special permit application (C 120228 ZSM), the application submitted by the New York City Department of Housing Preservation and Development pursuant to Sections 197-c and 201 of the New York City Charter for the grant of special permits pursuant to the following sections of the Zoning Resolution:

1. 74-744(a)(3) to modify the 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 within the R8/C2-5 District; and
2. 74-744(b) to modify the applicable district regulations to allow residential and non-residential uses to be arranged within a building without regard for the location requirements of Section 32-42;

in connection with a proposed mixed use development, within a large-scale general development bounded by Delancey Street, a line 150 feet easterly of Clinton Street, Broome Street, Clinton Street, Grand Street, Suffolk Street, Broome Street, Essex Street, a line 95.62 feet northerly of Broome Street, a line 50.54 feet westerly of Essex Street, Broome Street, Ludlow Street, a line 155 feet northerly of Broome Street, and Essex Street (Block 346, p/o Lot 40, Block 347, Lot 71, Block 352, Lots 1 & 28, and Block 409, Lot 56), in R8/C2-5 and C6-1 Districts, partially within the former Seward Park Extension Urban Renewal Area, Borough of Manhattan, Community District 3, is approved subject to the following conditions:

1. The development that is the subject of this application (C 120229 ZSM) shall be developed in size and arrangement substantially in accordance with the dimensions, specifications and zoning computations indicated on the following approved plans prepared by Beyer Blinder Belle Architects & Planners LLP, filed with this application and incorporated in this resolution, and in accordance with the provisions and procedures set forth in the Restrictive Declaration:

Dwg. No.	Title	Date
001	Zoning Calculations (1 of 4)	03/21/2012
002	Zoning Calculations (2 of 4)	03/21/2012
003	Zoning Calculations (3 of 4)	03/21/2012

Dwg. No.	Title	Date
004	Zoning Calculations (4 of 4)	03/21/2012
008	Proposed Site Plan	03/21/2012
101	Proposed Site Plan- Zoning Lot 1	03/21/2012
102	Ground Floor Plan- Zoning Lot 1	03/21/2012
103	Building Envelope Diagrams- Zoning Lot 1	03/21/2012
104	Base Plane Diagram- Zoning Lot 1	03/21/2012
104N	Average Curb Level- Zoning Lot 1	03/21/2012
105M	Zoning Actions Plan (Mixed-Use)- Zoning Lot 1	03/21/2012
105N	Zoning Actions Plan (Non-Residential)- Zoning Lot 1	03/21/2012
106M	Zoning Actions Sections (Mixed-Use)- Zoning Lot 1	03/21/2012
106N	Zoning Actions Sections (Non-Residential)- Zoning Lot 1	03/21/2012
201	Proposed Site Plan- Zoning Lot 2	03/21/2012
202	Ground Floor Plan- Zoning Lot 2	03/21/2012
203.1	Building Envelope Diagrams- Zoning Lot 2	03/21/2012
203.2	Building Envelope Diagrams- Zoning Lot 2	03/21/2012
203.3	Building Envelope Diagrams- Zoning Lot 2	03/21/2012
203.4	Building Envelope Diagrams- Zoning Lot 2	03/21/2012
204M	Base Plane Diagram- Zoning Lot 2	03/21/2012
204N	Average Curb Level- Zoning Lot 2	03/21/2012
205M	Zoning Actions Plan (Mixed-Use)- Zoning Lot 2	03/21/2012
205N	Zoning Actions Plan (Non-Residential)- Zoning Lot 2	03/21/2012
206M	Zoning Actions Sections (Mixed-Use)- Zoning Lot 2	03/21/2012
206N	Zoning Actions Sections (Non-Residential)- Zoning Lot 2	03/21/2012
301	Proposed Site Plan- Zoning Lot 3	03/21/2012
302	Ground Floor Plan- Zoning Lot 3	03/21/2012
303.1	Building Envelope Diagrams- Zoning Lot 3	03/21/2012
303.2	Building Envelope Diagrams- Zoning Lot 3	03/21/2012
303.3	Building Envelope Diagrams- Zoning Lot 3	03/21/2012
304M	Base Plane Diagram- Zoning Lot 3	03/21/2012
304N	Average Curb Level- Zoning Lot 3	03/21/2012
305M	Zoning Actions Plan (Mixed-Use)- Zoning Lot 3	03/21/2012
305N	Zoning Actions Plan (Non-Residential)- Zoning Lot 3	03/21/2012
306M	Zoning Actions Sections (Mixed-Use)- Zoning Lot 3	03/21/2012
306N	Zoning Actions Sections (Non-Residential)- Zoning Lot 3	03/21/2012
307	Inner Court Diagrams- Zoning Lot 3	03/21/2012
308	Outer Court Diagrams- Zoning Lot 3	03/21/2012
401	Proposed Site Plan- Zoning Lot 4	03/21/2012
402	Ground Floor Plan- Zoning Lot 4	03/21/2012
403.1	Building Envelope Diagrams- Zoning Lot 4	03/21/2012

Dwg. No.	Title	Date
403.2	Building Envelope Diagrams- Zoning Lot 4	03/21/2012
404M	Base Plane Diagram- Zoning Lot 4	03/21/2012
405M	Zoning Actions Plan (Mixed-Use)- Zoning Lot 4	03/21/2012
406M	Zoning Actions Sections (Mixed-Use)- Zoning Lot 4	03/21/2012
407	Inner Court Diagrams- Zoning Lot 4	03/21/2012
408	Outer Court Diagrams- Zoning Lot 4	03/21/2012
501	Proposed Site Plan- Zoning Lot 5	03/21/2012
502	Ground Floor Plan- Zoning Lot 5	03/21/2012
503	Building Envelope Diagrams- Zoning Lot 5	03/21/2012
504M	Base Plane Diagram- Zoning Lot 5	03/21/2012
505M	Zoning Actions Plan (Mixed-Use)- Zoning Lot 5	03/21/2012
506M	Zoning Actions Sections (Mixed-Use)- Zoning Lot 5	03/21/2012
507	Inner Court Diagrams- Zoning Lot 5	03/21/2012
508	Outer Court Diagrams- Zoning Lot 5	03/21/2012
601	Proposed Site Plan- Zoning Lot 6	03/21/2012
602	Ground Floor Plan- Zoning Lot 6	03/21/2012
603	Building Envelope Diagrams- Zoning Lot 6	03/21/2012
604M	Base Plane Diagram- Zoning Lot 6	03/21/2012
604N	Average Curb Level- Zoning Lot 6	03/21/2012
605M	Zoning Actions Plan (Mixed-Use)- Zoning Lot 6	03/21/2012
605N	Zoning Actions Plan (Non-Residential)- Zoning Lot 6	03/21/2012
606M	Zoning Actions Sections (Mixed-Use)- Zoning Lot 6	03/21/2012
606N	Zoning Actions Sections (Non-Residential)- Zoning Lot 6	03/21/2012

2. The development which is the subject of this application shall conform to all applicable laws and regulations relating to their construction, operation and maintenance.
3. Development pursuant to this resolution shall be allowed only after the restrictive declaration attached hereto as Exhibit A, with such administrative changes as are acceptable to Counsel to the Department of City Planning, has been executed and recorded in the Office of the Register, New York County. Such restrictive declaration shall be deemed incorporated herein as a condition of this resolution.
4. In the event the property that is the subject of the application is developed as, sold as, or converted to condominium units, a homeowners' association, or cooperative ownership, a copy of this report and resolution and any subsequent modifications shall be provided to the Attorney General of the State of New York at the time of application for any such

condominium, homeowners' or cooperative offering plan and, if the Attorney General so directs, shall be incorporated in full in any offering documents relating to the property.

5. All leases, subleases, or other agreements for use or occupancy of space at the subject property shall give actual notice of this special permit to the lessee, sub-lessee or occupant.
6. Upon the failure of any party having any right, title or interest in the property that is the subject of this application, or the failure of any heir, successor, assign, or legal representative of such party, to observe any of the covenants, restrictions, agreements, terms, or conditions of this resolution and the restrictive declarations whose provisions shall constitute conditions of the special permit hereby granted, the City Planning Commission may, without the consent of any other party, revoke any portion of or all of said special permit. Such power of revocation shall be in addition to and not limited to any other powers of the City Planning Commission, or of any other agency of government, or any private person or entity. Any such failure as stated above, or any alteration in the development that is the subject of this application that departs from any of the conditions listed above, is grounds for the City Planning Commission or the City Council, as applicable, to disapprove any application for modification, cancellation, or amendment of the special permit hereby granted or of the restrictive declarations.
7. Neither the City of New York nor its employees or agents shall have any liability for money damages by reason of the city or such employees or agents failure to act in accordance with the provisions of this special permit.

The above resolution (C 120229 ZSM), duly adopted by the City Planning Commission on August 22, 2012 (Calendar No. 10), 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, FAICP, Chair**  
**ANGELA M. BATTAGLIA, RAYANN BESSER, IRWIN G. CANTOR, P.E.,**  
**ALFRED C. CERULLO, III, MICHELLE DE LA UZ,**  
**MARIA M. DEL TORO, RICHARD W. EADDY, ANNA HAYES LEVIN,**  
**ORLANDO MARÍN, SHIRLEY A. McRAE Commissioners**