



IN THE MATTER OF an application submitted by NYC Department of Housing Preservation and Development pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-681 of the Zoning Resolution to allow that portion of a railroad or transit right right-of-way which will be completely covered over by a permanent platform to be included in the lot area, in connection with a proposed 8-story mixed-use building, on property located at 705 10th Avenue (Block 1077, Lot 29), in R8 and R8/C2-5 Districts, within the Special Clinton District (Preservation Area and Western Subarea C2), Borough of Manhattan, Community District 4.

This application for special permit pursuant to Section 74-681 of the Zoning Resolution (ZR) to allow development over a railroad-right-of-way was filed by the New York City Department of Housing Preservation and Development (HPD) on November 24, 2021. The special permit, along with the related actions, would facilitate the construction of an eight-story mixed-use development containing approximately 157 permanently affordable dwelling units along with approximately 6,128 square feet of community facility space and approximately 0.58 acres of publicly accessible open space to be operated by the New York City Department of Parks and Recreation (DPR) at 705 Tenth Avenue in the Clinton/Hell's Kitchen neighborhood of Manhattan Community District 4.

On June 8th, 2022, the City Planning Commission approved the application for the Lirio (C 220221 (A) ZSM), the proposed development on an MTA-owned site at 806 Ninth Avenue at West 54th Street. The proposed text amendment action (N 220339 ZRM) of this application was the same as that for the Lirio. Subsequently, the text amendment action was withdrawn.

RELATED ACTIONS

In addition to the special permit (C 220337 ZSM) that is the subject of this report, implementation of the proposed development also requires action by the City Planning Commission on the following applications, which are being considered concurrently with this application:

- C 220338 ZSM** Special permit pursuant to Zoning Resolution Section 96-104 to allow for modifications to Article IX, Chapter 6 (Special Clinton District) regulations
- N 220339 ZRM** Zoning text amendment to allow CPC to modify, by special permit, non-FAR bulk regulations (withdrawn)
- C 220340 HAM** Urban Development Action Area Program (UDAAP) designation, project approval and disposition of City-owned property

BACKGROUND

A full background discussion and description of this application appears in the report for the related special permit (C 220338 ZSM).

ENVIRONMENTAL REVIEW

This application (C 220337 ZSM), in conjunction with the applications for the related actions was reviewed pursuant to the New York State Environmental Quality Review Act (SEQR), and the SEQR regulations set forth in Volume 6 of the New York Code of Rules and Regulations (NYCRR), Section 617.00 et seq. and the New York City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The designated CEQR number is 21HPD031M. The lead agency is HPD.

After a study of the potential environmental impacts of the proposed action, a Negative Declaration was issued on March 23, 2021.

UNIFORM LAND USE REVIEW

On March 28, 2022, the application (C 220337 ZSM), in conjunction with the applications for the related actions (C 220338 ZSM and C 220340 HAM), was certified as complete by the Department of City Planning and duly referred to Manhattan Community Board 4 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 application for a zoning text amendment (N 220339 ZRM), which was referred for information and review in accordance with the procedures for non-ULURP matters.

Community Board Public Hearing

Manhattan Community Board 4 held public hearings on this application and the related actions on June 1, 2022. On June 1, 2022, by a vote of 38 in favor, three opposed, and five abstaining, Manhattan Community Board 4 adopted a resolution recommending disapproval of the application with conditions. A summary of the Community Board’s recommendations appears in the report for the related special permit (C 220338 ZSM).

Borough President Recommendation

The application was considered by the Manhattan Borough President, who, on July 6, 2022, issued a recommendation approving the application with conditions. A summary of the Borough President’s recommendations appears in the report for the related special permit (C 220338 ZSM).

City Planning Commission Public Hearing

On July 13, 2022 (Calendar No. 11), the City Planning Commission scheduled July 27, 2022, for a public hearing on this application (C 220337 ZSM) and the related applications (C 220338 ZSM and C 220340 HAM) The hearing was duly held on July 27, 2022 (Calendar No. 26). There were 11 speakers in favor of the application and three in opposition, as described in the report for the related special permit application (C 220338 ZSM), and the hearing was closed.

CONSIDERATION

The Commission believes that the application for a special permit (C 220337 ZSM), in conjunction with the related applications (C 220338 ZSM and C 220340 HAM), is appropriate. A full consideration and analysis of the issues and the reasons for approving the application appears in the report for the related special permit (C 220338 ZSM).

FINDINGS

The City Planning Commission hereby makes the findings pursuant to Section 74-681 of the Zoning Resolution:

1. the streets providing access to all uses pursuant to paragraph (a) of Section 74-681 are adequate to handle traffic resulting therefrom; and
2. the distribution of floor area and the number of dwelling units or rooming units does not adversely affect the character of the surrounding area by being unduly concentrated in any portion of such development or enlargement, including any portion of the development of enlargement located beyond the boundaries of such railroad or transit right-of-way or yard; and
3. all uses, developments, or enlargements located on the zoning lot or below a platform do not adversely affect one another; and
4. if such railroad or transit right-of-way or yard is deemed appropriate for future transportation use, the site plan and structural design of the development does not preclude future use of, or improvements to, the right-of-way for such transportation use.

RESOLUTION

RESOLVED, that the City Planning Commission finds that the action described herein will have no significant impact on the environment; and be it further

RESOLVED, by the City Planning Commission, pursuant to Sections 197-c and 200 of the New York Charter, that based on the environmental determination, and the consideration and findings described in this report, the application submitted by the New York City Housing Authority pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant Section 74-681 of the Zoning Resolution to allow that portion of a railroad or transit right-of-way which will be completely covered over by a permanent platform to be included in the lot area, in connection with a proposed 8-story mixed-use building, on property located at 705 10th Avenue (Block 1077, Lot 29), in R8 and R8/C2-5 Districts, within the Special Clinton District (Preservation Area and Western Subarea C2), Borough of Manhattan, Community District 4, is approved, subject to the following conditions:

- 1) The property that is the subject of this application (C 220337 ZSM) shall be developed in size and arrangement substantially in accordance with the dimensions, specifications and

zoning computations indicated on the following plans, prepared by S9 Architecture, filed with this application and incorporated in this resolution:

<u>Dwg. No</u>	Title	Last Date Revised
U-002.00	ZONING SITE PLAN	08/22/2022
U-003.00	ZONING ANALYSIS, ZONING DIAGRAMS	08/22/2022
U-004.00	ZONNG WAIVER PLAN	08/22/2022
U-006.00	ZONING WAIVER SECTIONS	08/22/2022

2) Such development shall conform to all applicable provisions of the Zoning Resolution, except for the modifications specifically granted in this resolution and shown on the plans listed above which have been filed with this application. All zoning computations are subject to verification and approval by the New York City Department of Buildings.

3) Such development shall conform to all applicable laws and regulations relating to its construction, operation and maintenance.

4) 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, sublessee or occupant.

5) 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 attached restrictive declaration 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 attached restrictive declaration.

6) Neither the City of New York nor its employees or agents shall have any liability for money damages by reason of the city's or such employee's or agent's failure to act in accordance with the provisions of this special permit.

The above resolution (C 220337 ZSM), duly adopted by the City Planning Commission on August 24, 2022 (Calendar No. 12), is filed with the Office of the Speaker, City Council, and the Borough President in accordance with the requirements of Section 197-d of the New York City Charter.

KENNETH J. KNUCKLES, Esq., *Vice-Chairman*

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