Attachment 11

Discussion of Findings

Special Permits pursuant to ZR § 96-112

96-112
Special Permits

For #developments# or #enlargements# within the Preservation Area, or subject to the regulations of paragraph (a) of Section 96-31 (Special Regulations in R8 Districts), the City Planning Commission may allow, by special permit, the modifications set forth in paragraph (a) of this Section, provided that the findings in paragraph (b) are met.

(a) Commission may allow modifications to:

(1) the special height and setback regulations set forth in Section 96-104 (Height and setback regulations), provided that the height of the #building# shall not exceed 115 feet within 100 feet of a #wide street#, and 99 feet beyond 100 feet of a #wide street#; and

The Proposed Development's heights of (i) 85 feet and up to 99 feet within 100 feet of a wide street (Ninth Avenue) and (ii) up to 99 feet on a narrow street (West 54th Street) beyond 100 feet of a wide street are all within the parameters set forth above for the relief that may be granted by the CPC through this special permit.

(2) the other applicable #bulk# regulations of this Resolution, except #floor area ratio#, for #buildings# that are located on a #zoning lot# that has an area of at least 40,000 square feet, occupies the frontage of a #wide street#, and contains existing public infrastructure.

The Development Site contains 92,057 sf of lot area, has frontage on a wide street (Ninth Avenue) and contains existing public infrastructure. Specifically, the New York City Transit ("NYCT") Rail Control Center ("RCC") and Power Control Center ("PCC") are existing-to-remain facilities on the Development Site. NYCT, an agency of the region-serving Metropolitan Transportation Authority ("MTA"), operates the New York City public transit system. The RCC is the location from which NYCT monitors the operations and safety of the subway system on a 24-hour basis. The PCC monitors the electrical substations that provide power to New York City's subway lines.

(b) In order to grant such special permit, the Commission shall find that:

(1) for height modifications of paragraph (a)(1) of this Section, the distribution of #bulk# permits adequate access to light and air to surrounding #streets# and properties;

The proposed massing shifts the highest portions of the Proposed Development (up to 99 feet, but currently proposed at 95 feet) away from both adjoining streets and properties adjoining the Development Site. The proposed street walls along Ninth Avenue and West 54th Street within 65 feet of Ninth Avenue are both located on the street line and rise to 66 feet in height, in compliance with the underlying maximum base height of 66 feet. Above each 66 foot high street wall, the required 10 and 15 foot setbacks are provided (along Ninth Avenue and East 54th Street, respectively), before rising to a maximum height of 99 feet as facilitated by the proposed height waiver. For the remainder of the West 54th Street frontage (beyond 65 feet from Ninth Avenue), the up to 99 foot tall portions of the Proposed Development would also be set back from the street line by 15 feet above an 85 foot high base.

Within 100 feet of Ninth Avenue, approximately 100 feet of separation is provided between the proposed up to 99 foot high portion of the Proposed Development and the rear lot line of the adjoining Lot 101, which contains a four-story residential building. Beyond 100 feet of Ninth Avenue, a 30 foot rear yard separates the up to 99 foot high portion of the Proposed Development from the rear lot line of the adjoining Lots 5 and 6, which are also improved with four-story residential buildings. Consequently, the design ensures adequate light and air to the adjoining residential properties. Additionally, the Proposed Development's up to 99 foot-tall portion would be constructed along the western façade of the RCC building, which is a transit facility that does not contain any west-facing windows. Accordingly, the proposed waivers would not impair access to light and air for workers at the RCC.

(2) for other #bulk# modifications:

(i) there are physical conditions, including the presence of existing #buildings or other structures#, public infrastructure, or topographical features, that create practical difficulties in complying with the #bulk# regulations that would adversely affect the #building# configuration or site plan;

The presence of the existing RCC and PCC buildings constrains the ability of the Development Site to accommodate the Proposed Development in accordance with ZR § 96-102's special

Preservation Area lot coverage regulations. Within the Preservation Area of the Special Clinton District, the underlying lot coverage regulations for residential and community facility uses are superseded by lot coverage regulations set forth in ZR § 96-102, which apply to all buildings. While commercial and community facility buildings are excluded from lot coverage calculations in Commercial Districts pursuant to the underlying regulations, such buildings are included as lot coverage in the Preservation Area of the Special Clinton District.

For the portion of the Development Site within 100 feet of Ninth Avenue, the maximum permitted lot coverage is 70 percent and the existing lot coverage is 0.0 percent. For the portion of the Development Site located beyond 100 feet of Ninth Avenue (where the RCC and PCC are located), the maximum permitted lot coverage is 60 percent. The existing RCC and PCC buildings cover approximately 90 percent of this area, resulting in a maximum adjusted average lot coverage over the entire Development Site of approximately 61.5 percent. Despite an entirely vacant portion within 100 feet of Ninth Avenue, the existing adjusted average lot coverage over the entire Development Site is approximately 76.7 percent, due exclusively to the existence of the NYCT's public infrastructure buildings. If the existing buildings were not located on the Development Site, the proposed floor area in the new building (310,940 sf) could be massed within a six-story building with a lot coverage of approximately 59 percent in compliance with the maximum adjusted average lot coverage of 61.5 percent. Thus, the presence of the existing RCC and PCC public infrastructure buildings creates practical difficulties in complying with lot coverage requirements.

The proposed landscaped open area waiver is necessitated by the existing-to-remain NYCT RCC and PCC buildings, which occupy 76% of the zoning lot. The RCC building contains sensitive, high security uses and has a sloped roof, making it unsuitable for residential tenant outdoor space use. The PCC also contains sensitive and high security uses, which make it unsuitable for residential tenant outdoor space use. Due to the presence of the existing-to-remain NYCT buildings, the development footprint is limited to approximately 24 percent of the zoning lot. Full compliance with the 20% landscaped open area requirement over the entire zoning lot would require that nearly every roof surface of the proposed building be used for landscaped open area. Given that tenant occupancy cannot occur above elevator, stair and mechanical bulkheads and solar panels, this arrangement is not possible.

(ii) the proposed modifications will not unduly obstruct access to light and air to adjoining properties or #streets#;

Within 100 feet of Ninth Avenue, the Proposed Development adjoins the rear lot line of Lot 101, which contains a four-story residential building. At this location, the Proposed Development provides a large inner court (measuring approximately 60 by 70 feet) at the second-story roof. Beyond 100 feet of Ninth Avenue, where the Proposed Development adjoins Lots 5 and 6, which are also improved with four-story residential buildings, a required 30-foot rear yard is provided above the Proposed Development's first-story roof. These generously sized courts and yards would provide a buffer between the Proposed Development and the rear facing windows of the existing residential buildings, allowing ample light and air to the adjoining properties.

The proposed modifications to lot coverage would not affect access to light and air to adjoining streets. Because lot coverage in the Preservation Area is determined by the floorplate of the lowest story of a building, the proposed lot coverage modifications would not result in a taller building than would otherwise be constructed. Accordingly, the proposed lot coverage waivers would not result in reduced daylight to adjoining streets.

(iii) the proposed scale and placement of the #development# or #enlargement# relates harmoniously with the surrounding area; and

The Proposed Development would fill one of the remaining major gaps in the otherwise well-knit urban fabric of the area at a location where additional mixed-use development at the scale that would be compatible with the character of the surrounding built environment. The Proposed Development would provide visual and physical continuity with the existing-to-remain buildings within the Rezoning Area, replacing the current parking lot, which interrupts the existing built context, while also ensuring that adequate light and air are provided to surrounding streets and properties.

(iv) the requested modification is reasonable in relation to the practical difficulties on the site or the public benefit derived from the #development# or #enlargement#.

The Proposed Development, containing approximately 30,000 sf of space for roughly 125 NYCT employees assigned to the RCC and PCC, would provide a vitally important public benefit to New Yorkers. The RCC is the location from which NYCT monitors the operations and safety of the subway system on a 24-hour basis. Such activities include coordinating train service, monitoring field conditions and directing emergency responses. When a situation arises in the subway system requiring elevated and immediate response, RCC-based NYCT staff are dispatched to respond in a vehicle that is part of a small fleet of emergency response vehicles stationed on-site. The PCC monitors the electrical substations that provide power to New York City's subway lines.

The entire second story of the Proposed Development would be occupied by expansion space for the existing RCC, in which a new control center for the planned Communications-Based Train Control ("CBTC") system would be located. CBTC, which is a signaling system that makes use of telecommunications between the train and track equipment to improve traffic management and infrastructure control, is a critical component of NYCT's mission to improve the capacity and efficiency of the subway. It will provide enhanced safety, reliability, and customer information, as well as the potential to reduce run times and increase throughput on subway lines. Given the critical role that the subway system plays in a well-functioning New York City, the proposed lot coverage modifications for the Development Site are reasonable in relation to their public benefit.