



Legislation Text

File #: Res 1658-2013, **Version:** *

THE COUNCIL OF THE CITY OF NEW YORK RESOLUTION NO. 1658

Resolution approving the decision of the City Planning Commission on ULURP No. C 120397 ZSM (L.U. No. 750), for the grant of a special permit pursuant to the following sections of the Zoning Resolution Section 74-743(a)(1) - to allow the distribution of total allowable floor area under the applicable district regulations without regard for zoning district lines; and Section 74-743(a)(2) - to allow the location of buildings without regard for the front wall height and initial setback requirements of Section 33-432, the tower requirements of Section 33-451, and the distance between building requirements of Section 23-711; in connection with a proposed mixed-use development, on property bounded by West 58th Street, Eleventh Avenue, West 57th Street, and Twelfth Avenue (Block 1105, Lots 1, 5, 14, 19, 29, 36, and 43), within a Large-Scale General Development, in C4-7 and C6-2 Districts, within the Special Clinton District (Other Areas (Northern Subarea C1)), Borough of Manhattan.

By Council Members Comrie and Weprin

WHEREAS, the City Planning Commission filed with the Council on December 20, 2012 its decision dated December 19, 2012 (the "Decision"), on the application submitted by Durst Development, L.L.C., pursuant to Sections 197-c and 201 of the New York City Charter, for the grant of a special permit pursuant to the following sections of the Zoning Resolution:

1. Section 74-743(a)(1) - to allow the distribution of total allowable floor area under the applicable district regulations without regard for zoning district lines;
2. and Section 74-743(a)(2) - to allow the location of buildings without regard for the front wall height and initial setback requirements of Section 33-432, the tower requirements of Section 33-451, and the distance between building requirements of Section 23-711;

in connection with a proposed mixed-use development, on property bounded by West 58th Street, Eleventh Avenue, West 57th Street, and Twelfth Avenue (Block 1105, Lots 1, 5, 14, 19, 29, 36, and 43), within a Large-Scale General Development, in C4-7 and C6-2 Districts, within the Special Clinton District (Other Areas (Northern Subarea C1)), (ULURP No. C 120397 ZSM), Community District 4, Borough of Manhattan (the "Application");

WHEREAS, the Application is related to Applications C 120396 ZMM (L.U. No. 749), an amendment to the Zoning Map changing an M1-5 zoning district to a C6-2 zoning district within the Special Clinton District; and C 120398 ZSM (L.U. No. 751), a special permit pursuant to Section 13-561 of the Zoning Resolution to allow an enclosed attended accessory parking garage;

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(3) of the City Charter;

WHEREAS, the City Planning Commission has made the findings required pursuant to Section 74-743 of the Zoning Resolution of the City of New York;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on January 17, 2013;

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 Supplemental Environmental Impact Statement (“FSEIS”) for which a Notice of Completion was issued on December 7, 2012 (CEQR No. 12DCP020M);

RESOLVED:

Having considered the FSEIS with respect to the Decision and Application, the Council finds that:

- (1) The FSEIS 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, adopted herein is one which minimizes or avoids adverse environmental impacts to the maximum extent practicable; and
- (2) The adverse environmental impacts disclosed in the FSEIS will be minimized or avoided to the maximum extent practicable by incorporating as conditions to the approval, those project components related to the environment and mitigation measures that were identified as practicable.
- (2) The Decision together with the FSEIS constitutes 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, C 120397 ZSM, incorporated by reference herein, the Council approves the Decision, subject to the following conditions:

1. The development that is the subject of this application (C 120397 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 SLCE Architects 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
Z-004	Site - Plan	12/14/2012

Z-005	Zoning - Analysis	12/14/2012
Z-007	Average - Curb - Level	06/04/2012
Z-008	Tower Regulation Plan - Diagrams	07/06/2012
Z-010	Height & Setback Plan - Diagrams	07/06/2012
Z-011	Tower, Height & Setback Section - Diagrams	07/06/2012
Z-012	Tower, Height & Setback Section - Diagrams	07/06/2012
Z-013	Tower, Height & Setback Section - Diagrams	07/06/2012
Z-014	Tower, Height & Setback Section - Diagrams	07/06/2012
Z-015	Tower, Height & Setback Section - Diagrams (Existing Waivers)	07/06/2012
Z-018	Building - Separation Plan & Section - Diagrams	07/06/2012
Z-019	Open - Space Plan - Diagram	12/14/2012
Z-022	Ground - Floor - Plan	12/14/2012

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. Development pursuant to this resolution shall be allowed only after the Modification and Termination of Restrictive Declaration attached as Exhibit A to the City Planning Commission report for concurrent related action M 010148(A) ZMM, 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.
5. 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.
6. 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.
7. 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.

8. 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.

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 February 6, 2013, on file in this office.

City Clerk, Clerk of The Council