Zoning Resolution

THE CITY OF NEW YORK
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CITY PLANNING COMMISSION
Sideya Sherman, Chair

62-59 - Special Regulations for Zoning Lots That Include Parks

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LAST AMENDED
4/22/2009

(a) In M2 and M3 Districts pursuant to Section 62-27 (Special Use Regulations for Playgrounds or Private Parks), where a #zoning lot# or adjoining #zoning lots# are #predominantly# #developed# as a park, the requirements of Sections 62-50, inclusive, and 62-60, inclusive, shall be deemed satisfied for that portion of the #zoning lots# occupied by such park #use#, provided that:

(1) such park is comprised of a minimum of nine acres of land above water and the #water coverage# of #piers# or #platforms#, located on the #zoning lot# or the #zoning lot# and adjoining #zoning lots#, having at least 600 feet of #shoreline#;

(2) such park provides a continuous paved walkway along the entire portion of the #zoning lots# occupied by such #use# with a minimum clear width of no less than 12 feet, within 40 feet of the #shoreline# for at least 75 percent of those portions of the park that abut the #shoreline#;

(3) such walkway connects with all other #shore public walkways# on the #zoning lot# and adjoining #zoning lots# and any adjoining public sidewalks or other pedestrian areas within #pier# public access areas, a public #street#, #public park#, other public place or park;

(4) such walkway shall be open and accessible from #pier# public access areas, a public #street#, park or other public place at intervals over the length of the park, not exceeding 1,000 feet with an average of 600 feet, by a continuous paved walkway with a minimum clear width of not less than 10 feet;

(5) such park is open and accessible to the public from dawn to dusk, except when hazardous conditions are present that would affect public safety;

(6) a maintenance and operation agreement providing for the maintenance and operation of the park in good condition is entered into with the Department of Parks and Recreation (DPR), except that no such maintenance and operation agreement shall be required for a park developed and maintained by the State or the City of New York, any subdivision or agency of the State or the City, or any public authority or other entity created pursuant to State or local statute for the purpose of operating such a park; and

(7) #visual corridors# shall be provided in accordance with Section 62-51 (Applicability of Visual Corridor Requirements).

Any maintenance and operation agreement required pursuant to paragraph (a)(6) of this Section shall include a requirement that prior to obtaining any building permit or opening any portion of the park to the public, the property owner or operator of the park shall post with DPR security in the form of a maintenance bond, letter of credit or other security acceptable to DPR, in an amount certified by a registered architect or landscape architect to be sufficient to cover 125 percent of the cost of maintaining the park for a 12 month period following its final completion, and that such security shall be replaced every five years with new security in an amount sufficient to cover 125 percent of the then current annual cost of maintaining the park, as certified by a registered architect or landscape architect, for the life of the park. Any maintenance and operation agreement shall be attached to or included within a duly recorded, signed declaration of restrictions, indexed against the #zoning lot#, binding the owners and any lessees, tenants, successors and assigns to maintain and operate the park in conformance with this Section and with the maintenance and operation agreement for the life of the park. The filing of such declaration, where required, shall be a precondition to certification pursuant to paragraph (e) of Section 62-811.

Any portion of a #zoning lot# that is not #developed# for a park #use# shall be subject to all of the requirements of Sections 62-50 and 62-60. For purposes of determining obligations pursuant to this Section, such portions of a #zoning lot# not used for park purposes shall be treated as a separate #zoning lot# or separate #zoning lots#, except that the entire #zoning lot#, including the portion used for park purposes, shall be considered in determining #lot area# for purposes of Section 62-53 (Requirements for Shore Public Walkways).

(b) In order to implement the East River Waterfront Esplanade and Piers Project described in the Final Environmental Impact Statement (FEIS) dated May 18, 2007, of the Lower Manhattan Development Corporation and the record of decision (ROD) adopted by such corporation on November 7, 2007 (the ERW Project), in C2-8, C4-6, C6-4 and M1-4 Districts located in Manhattan Community Districts 1 and 3, for #zoning lots# #predominantly# #developed# as publicly accessible open space under the ERW Project, the Chairperson of the City Planning Commission shall allow for the phased implementation of such publicly accessible open space, and the requirements of Sections 62-50 (GENERAL REQUIREMENTS FOR VISUAL CORRIDORS AND WATERFRONT PUBLIC ACCESS AREAS), inclusive, and 62-60 (DESIGN REQUIREMENTS FOR WATERFRONT PUBLIC ACCESS AREAS), inclusive, shall be deemed satisfied, provided that:

(1) the application for certification pursuant to Section 62-811 for any such phase(s) includes a report demonstrating that:

(i) a site plan of the design of the publicly accessible open space in such phase(s) has been shown by the applicant to the affected Community Boards and Council Member(s) and such Community Boards and Council Member(s) have had at least 45 days to review such plan;

(ii) any comments and recommendations of the affected Community Boards and Council Member(s) have been considered by the applicant, and such report includes a response to such comments or recommendations. Where design modifications have been made in response to such recommendations, the report shall address how the design has been modified;

(iii) the publicly accessible open space in such phase(s) will be open and accessible to the public at a minimum from dawn to dusk, except when hazardous conditions are present that would affect public safety; and

(iv) a maintenance and operation agreement providing for the maintenance and operation of the publicly accessible open space in such phase(s) in good condition is entered into with the DPR, except that no such maintenance and operation agreement shall be required for a publicly accessible open space developed and maintained by the State or the City of New York, any subdivision or agency of the State or the City, or any public authority or other entity created pursuant to State or local statute for the purpose of operating such publicly accessible open space; and

(2) the site plan of the design for the publicly accessible open space phase(s) in such application is determined by the Chairperson to be in substantial compliance with the ERW Project as described in the FEIS and ROD.

No excavation or building permit shall be issued for #development# under any phase for publicly accessible open space under the ERW Project certified pursuant to Section 62-811 in accordance with this paragraph, (b), until all applicable Federal, State and local permits and approvals have been received with respect to such phase, including, without limitation, permits and approvals of the New York State Department of Environmental Conservation.

(c) In order to implement a portion of the East Side Coastal Resiliency Project described in the Final Environmental Impact Statement (FEIS) dated September 13, 2019, located in a marginal street, wharf or place used as a park, in an M1-1 District located in Manhattan Community District 6, for #zoning lots# #predominantly# #developed# as a park, the requirements of Section 62-50 (GENERAL REQUIREMENTS FOR VISUAL CORRIDORS AND WATERFRONT PUBLIC ACCESS AREAS), inclusive, and Section 62-60 (DESIGN REQUIREMENTS FOR WATERFRONT PUBLIC ACCESS AREAS), inclusive, shall be deemed satisfied, and the certification pursuant to Section 62-811 (Waterfront public access and visual corridors) shall not be required, provided that:

(1) the park will be open and accessible to the public at a minimum from dawn to dusk, except when hazardous conditions are present that would affect public safety; and

(2) a maintenance and operation agreement providing for the maintenance and operation of the park in good condition is entered into with the City of New York, except that no such maintenance and operation agreement shall be required for a park developed and maintained by the State or the City of New York, any subdivision or agency of the State or the City, or any public authority or other entity created pursuant to State or local statute for the purpose of operating such park.

No excavation or building permit shall be issued within such #zoning lot# #predominantly# #developed# as a park, for the portion of the East Side Coastal Resiliency Project implemented pursuant to this paragraph (c), until all applicable Federal, State and local permits and approvals have been received, including, without limitation, permits and approvals of the New York State Department of Environmental Conservation.