

## **CITY PLANNING COMMISSION**

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December 19, 2012 / Calendar No. S1

M 010148(A) ZMM

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**IN THE MATTER OF** an application submitted by Durst Development L.L.C. for the modification and termination of a previously approved Restrictive Declaration (D-145; C010148 ZMM), as amended, to eliminate restrictions currently governing the Project Site (Block 1105; Lots 1, 5, 14, 19, 29, 36, and 43, Community District 4, Borough of Manhattan) and to allow Durst Development L.L.C. to enter into a new restrictive declaration reflecting the current proposed mixed-use development within a Large-Scale General Development in connection with a concurrent related special permit (C120397 ZSM).

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**WHEREAS**, on June 6, 2012 and December 14, 2012, Durst Development L.L.C., submitted an application (M 010148 (A) ZMM) and revisions to that application to modify and terminate a Restrictive Declaration as it relates to Tax Lots 1, 5, 14, 19, 29, 36, and 43 of Block 1105 in the Borough of Manhattan; and

**WHEREAS**, the Restrictive Declaration, entered into as of March 28, 2001, in connection with an application for an approval for a Zoning Map amendment (C 0101048 ZMM) by Durst Development L.L.C., and affecting property bounded by Eleventh Avenue, West 57<sup>th</sup> Street, Twelfth Avenue, and West 58<sup>th</sup> Street in the Borough of Manhattan. This action, as approved by the City Planning Commission on March 28, 2001 and the City Council on April 25, 2001, changed the zoning on this property from M2-3 to C4-7 and M1-5; and

**WHEREAS**, in connection with the Zoning Map amendment (C 0101048 ZMM), Durst Development L.L.C., sought and obtained approvals, from the City Planning Commission and the City Council, for special permits pursuant to Zoning Resolution Section 74-743 (Large Scale General Development) for bulk and use modifications (Application # C 010151 ZSM and C 010152 ZSM) and Zoning Resolution sections 74-52 and 13-562 for two public parking garages (Application # C 010149 ZSM and C 010150 ZSM); and

**WHEREAS**, on July 13, 2004, Durst Development L.L.C., sought and obtained pursuant to Application # C 010151(A) ZSM a minor modification to the previously approved special permits, to modify the site plan with respect to curb cuts; and

**WHEREAS**, in connection with the minor modification, the 2001 Restrictive Declaration was amended by an Amendment of Restrictive Declaration, made as of May 25, 2004; and

**WHEREAS**, the current application (M 010148(A) ZMM) seeks to modify and terminate the Restrictive Declaration, as amended, in order to allow Durst Development L.L.C. to enter into a new restrictive declaration reflecting the current proposed mixed-use development within a Large Scale General Development in connection with a new, related special permit (Application # C 120397 ZSM); and

**WHEREAS**, this application (C 010148(A) ZMM), in conjunction with the application for related actions (C 120396 ZMM, C 120397 ZSM, C 120398 ZSM, and M 010151(B) ZSM), 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 Act (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The designated CEQR number is 12DCP020M. The lead agency is the City Planning Commission; and

**WHEREAS**, it was determined that the applicant's proposal may have a significant effect on the environment. A Positive Declaration was issued on September 1, 2011, and distributed, published and filed. Together with the Positive Declaration, a Draft Scope of Work for the Draft Supplemental Environmental Impact Statement (DSEIS) was issued on September 1, 2011. A public scoping meeting was held on October 4, 2011. A Final Scope of Work was issued on July 11, 2012; and

**WHEREAS**, a DSEIS was prepared and a Notice of Completion for the DSEIS was issued on July 11, 2012. On November 14, 2012, a public hearing was held on the DSEIS pursuant to SEQRA and other relevant statutes. A Final Supplemental Environmental Impact Statement (FSEIS) reflecting the comments made during scoping and the public hearing on the DSEIS was completed and a Notice of Completion for the FSEIS was issued on December 7, 2012; and

**WHEREAS**, on July 11, 2012, this application, M 010148(A) ZMM, in conjunction with the non-ULURP action (M 010151(B) ZSM), were referred by the Department of City Planning to Community Board 4 and the Manhattan Borough President, for information and review, along with the concurrent related ULURP actions (C 120396 ZMM, C 120397 ZSM, and C 120398 ZSM); and

**WHEREAS**, Community Board 4, at a public meeting on September 5, 2012, by a vote of 38 in favor, 0 opposed, and 3 present not voting, adopted a resolution disapproving proposed application C 120397 ZSM and related ULURP and non-ULURP actions with conditions; and

**WHEREAS**, the Manhattan Borough President, on October 19, 2012, recommended approval of the applications with conditions; and

**WHEREAS**, the Commission has determined that this application, M 010148(A) ZMM, in conjunction with related actions (C 120396 ZMM, C 120397 ZSM, C 120398 ZSM, and M 010151(B) ZSM) warrants approval.

**THEREFORE**, be it **RESOLVED** that the City Planning Commission finds that the action described herein will have no significant effect on the quality of the environment; and be it further;

**RESOLVED**, by the City Planning Commission that the application submitted by Durst Development L.L.C. for the modification and termination of a Restrictive Declaration, as amended, which was previously approved in connection with an application for a Zoning Map amendment (D-145; C 010148 ZMM), to eliminate restrictions currently governing the Project Site (Block 1105; Lots 1, 5, 14, 19, 29, 36, and 43, Community District 4, Borough of Manhattan) and to allow Durst Development L.L.C. to enter into a new restrictive declaration reflecting the current proposed mixed-use development within a Large-Scale General Development in connection with a concurrent related special permit C120397 ZSM, is approved subject to the following condition:

The Modification and Termination of Restrictive Declaration attached hereto as Exhibit A, with such administrative changes as are acceptable to Counsel to the Department of City Planning, shall be executed and recorded in the Office of the Register, New York County. Such Modification and Termination of Restrictive Declaration shall be deemed incorporated herein as a condition of this resolution.

The above resolution (M 010148(A) ZMM), duly adopted by the City Planning Commission on December 19, 2012 (Calendar No. S1), is hereby filed with the Office of the Speaker, City Council.

**AMANDA M. BURDEN, FAICP, Chair**  
**KENNETH J. KNUCKLES, Esq., Vice Chairman**  
**ANGELA M. BATTAGLIA, RAYANN BESSER, IRWIN G. CANTOR, P.E.,**  
**BETTY Y. CHEN, MARIA M. DEL TORO, JOSEPH I. DOUEK, ANNA HAYES LEVIN,**  
**ORLANDO MARÍN, Commissioners**

Commissioners **ALFRED C. CERULLO and RICHARD W. EADDY**: Recused

Commissioner **MICHELLE R. de la UZ**, voting NO