

Prepared for:
CITY OF NEW ROCHELLE



NEW ROCHELLE Downtown Density Bonus Amendment FSGEIS

Prepared by:



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CITY OF NEW ROCHELLE
DOWNTOWN DENSITY BONUS AMENDMENTS

FINAL SUPPLEMENTAL GENERIC ENVIRONMENTAL IMPACT STATEMENT

October 16, 2008

Lead Agency: City of New Rochelle City Council

Prepared by: AKRF, Inc.

**DOWNTOWN DENSITY BONUS AMENDMENTS
FINAL SUPPLEMENTAL GENERIC ENVIRONMENTAL IMPACT STATEMENT**

Project Name: Downtown Density Bonus (DDB) Amendments

Project Location: DB, DMU, and DMUR Zoning Districts within the Central Parking Area

Lead Agency: City of New Rochelle City Council
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Public Hearing Date: November 10, 2008

Public Comment Period Ends: November 20, 2008

This document is the Final Supplemental Generic Environmental Impact Statement for the above-referenced project. Copies are available for review at the office of the Lead Agency. Comments are solicited and may be submitted to the Lead Agency.

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A. INTRODUCTION

The City Council of the City of New Rochelle (the “City”) proposes to repeal the Downtown Density Bonus (DDB) Overlay Zone (§ 331-85.3 of the City’s Zoning Code) and create a new DDB Floating Overlay Zone (§ 331-153 and 331-154 of the City’s Zoning Code) (the “Proposed Action”) to permit additional Floor Area Ratio (FAR) and height at certain locations within the Downtown Business (DB), Downtown Mixed Use (DMU), and Downtown Mixed Use Urban Renewal (DMUR) zoning districts within the Central Parking Area.

On May 16, 2006, through Ordinance No. 110-2006, the City Council adopted an initial DDB Overlay Zone that allows development with an FAR of up to 4.0 on parcels or assemblages of up to 10,000 square feet in the DB Zoning District and with an FAR up to 5.5 and 9.0 on parcels at least 60,000 square feet in the DMU and DMUR Zoning Districts, respectively. In addition, the initial DDB Overlay Zone permits a total height not exceeding 390 feet on qualifying parcels in the DMU and DMUR Zoning Districts. Both FAR and height bonuses require City Council Special Permit approval subject to provision of specified “Public Benefits” and a City Council determination that the public benefits obtained by virtue of the density bonus substantially meet the goals of the City as expressed in the City’s Comprehensive Plan and that the applicant demonstrates to the Council’s satisfaction that sufficient capacity exists within water supply, wastewater conveyance and treatment, and roadway infrastructure to support the density bonus or that appropriate mitigation is provided to the maximum extent practicable.

Following adoption of the initial DDB Overlay Zone, and as part of the City’s evaluation of several applications seeking height and/or density bonuses, the City has determined that additional amendments (the Proposed Action) are required to achieve the intended goals of the DDB Overlay and the City’s downtown redevelopment goals as expressed in the City’s Comprehensive Plan. Specifically, the City is considering repealing the original DDB Overlay Zone and creating a new DDB Floating Overlay Zone that would permit an FAR bonus of up to 6.0 FAR (to a total maximum of 11.5 FAR) in the DMUR Zoning District and additional height of up to 500 feet in the DMU and DMUR Zoning District. The change to a Floating Overlay Zone would clarify that FAR and/or height bonuses are not to be considered as-of-right subject to simple consistency with Special Permit standards, but are granted solely at the discretion of the City Council based upon a number of objective and legislative policy factors relating to the Public Benefits offered in return for the bonuses. The Proposed Action also includes the possibility of attainment of certain “green building” standards defined by the United States Green Building Council’s (USGBC) Leadership in Energy and Environmental Design (LEED) program as “Public Benefits” for which density bonuses may be sought in the DB, DMU, and DMUR Zoning Districts.

This document is the Final Supplemental Generic Environmental Impact Statement (FSGEIS) for the Proposed Action. This FSGEIS was prepared pursuant to the State Environmental Quality Review Act (SEQRA) (Article 8 of Environmental Conservation Law) and its

Downtown Density Bonus FSGEIS

implementing regulations (6 NYCRR Part 617). The Draft Supplemental Generic Environmental Impact Statement (DSGEIS), which was issued a Notice of Completeness by the City Council of the City of New Rochelle (acting as Lead Agency) on September 24, 2007, is hereby incorporated by reference. The Draft Generic Environmental Impact Statement (DGEIS) on the initial DDB Overlay Zoning District, for which the City Council issued a Notice of Completeness on January 17, 2006, and the Final Generic Environmental Impact Statement (FGEIS) on the initial DDB Overlay Zoning District, for which the City Council issued a Notice of Completeness on April 20, 2006, are also hereby incorporated by reference.

A public hearing on the Proposed Action was duly noticed and held on November 20, 2007, for the purpose of hearing any public comment on the Proposed Action and DSGEIS. Written comments on the Proposed Action and DSGEIS were accepted for a period no less than 10 days following the close of the public hearing until November 30, 2007. No written comments were received and only one individual spoke at the public hearing.

Pursuant to 6 NYCRR 617, the purpose of this FSGEIS for the Proposed Action is to respond to the single public comment made during the public hearing. Chapter 2 provides a response to the comment received on the Proposed Action. There have been no revisions to the Proposed Action based upon public comment.

The Proposed Action involves repealing § 331-85.3. of the City's Zoning Code (Downtown Density Bonus (DDB) Overlay Zone) and creating § 331-153 and 331-154 (Downtown Density Bonus (DDB) Floating Overlay Zone). *

A. INTRODUCTION

This chapter lists all comments received during the public comment period. A public hearing was held on November 20, 2007. A written comment period was open until November 30, 2007, but no written comments were received.

The FSGEIS provides a response to each comment made during the public hearing on the Draft Supplemental Generic Environmental Impact Statement (DSGEIS). Only one comment was received at the public hearing. The DSGEIS is made a part of this FSGEIS by reference.

At its October 16, 2008, regular meeting the Common Council voted to accept the FSGEIS as complete, adequate, accurate and responsive to comments received regarding the Draft Supplemental Generic Environmental Impact Statement.

B. COMMENTS AND RESPONSES

Only one comment was made during the public hearing on November 20, 2007:

The speaker raised a general objection to overlay zones and felt that overlay zones were not beneficial to the city or anyone else. (Peggy Godfrey, City Resident)

Response to Comment:

Overlay zones are included in the City of New Rochelle Zoning Ordinance as a means to achieve certain objectives of the City's Comprehensive Plan and Zoning Ordinance. Overlay zones allow for a uniform application of specific provisions subject to City Council or Planning Board review and the adherence of the applicant to specific standards. The overlay zones are intended to provide additional flexibility within the Zoning to encourage sound development or redevelopment but are only implemented subject to review by either the City Council or Planning Board to ensure that application of the overlay zones will be in the public interest. Overlay zones and floating zones are considered a legitimate use of the City's police power to regulate land development and to protect the public health, safety, and welfare.

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Actions Required:

- Amendment to § 331-4. to add definition of Floating Overlay Zone
- Repeal of § 331-85.3. Downtown Density Bonus (DDB) Overlay Zone.
- Add Article XX Floating Overlay Zone, § 331-153. Introduction; definition, § 331-154. Downtown Density Bonus (DDB) Floating Overlay Zone

New items in **bold**

§ 331-4. Specific terms defined.

FLOATING ZONE — A floating zone district defines a use, such as an office complex, educational institution, research laboratory, or multifamily housing, that the community wants to encourage. The floating zone can be affixed to a qualifying parcel of land, either upon the application of the parcel's owner or upon the initiative of the local governing body. Upon approval, the parcel is rezoned to reflect the new use and becomes a separate zoning district as an amendment to the Zoning Ordinance. Its development is governed by the use, dimensional and other provisions of the Floating Zone Ordinance.

FLOATING OVERLAY ZONE — A floating overlay zone is an unmapped district that at the discretion of the City Council may be superimposed on one or more established underlying zoning districts which may be used to impose supplemental restrictions on uses in these districts, permit uses otherwise disallowed, or implement some form of density bonus or incentive bonus program. The floating overlay zone can be affixed to a qualifying parcel of land, either upon the application of the parcel's owner or upon the initiative of the local City Council. Upon approval, the floating overlay zone is applied to the parcel and becomes a mapped overlay district. Its development is governed by the use of the underlying zoning district and the dimensional and other provisions of the Floating Overlay Zone Ordinance.

OVERLAY ZONE — A mapped overlay district superimposed on one or more established underlying zoning districts which may be used to impose supplemental restrictions on uses in these districts, permit uses otherwise disallowed, or implement some form of density bonus or incentive bonus program.

Article XX Floating Overlay Zone

§ 331-153. Introduction; definition.

A. See § 331-4.

B. Introduction. A floating overlay zone is an unmapped district that at the discretion of the City Council may be superimposed on one or more established underlying zoning districts which may be used to impose supplemental restrictions on uses in these districts, permit uses otherwise disallowed, or implement some form of density bonus or incentive bonus program. The floating overlay zone can be affixed to a qualifying parcel of land, either upon the application of the parcel's owner or upon the initiative of the local City Council. Upon approval, the floating overlay zone is applied to the parcel and becomes a mapped overlay district. Its development is governed by the use of the underlying zoning district and the dimensional and other provisions of the Floating Overlay Zone Ordinance.

Floating overlay zones are distinct from overlay zones because of several features, the most significant of which is that overlay zones are mapped, and floating overlay zones are not mapped until legally placed. Floating overlay zones are also distinct from floating zones; the substantive difference is that a floating zone replaces an underlying zoning district, while a floating overlay zone works in tandem with existing underlying zoning districts.

§ 331-154. Downtown Density Bonus (DDB) Floating Overlay Zone

- A. Legislative Findings and Purpose: There exist within the Central Parking Area, as shown on the Zoning Map, the potential and desire to redevelop certain large underutilized areas with mixed-use projects to create a vibrant mix of residential, office, hotel, retail, and entertainment uses to serve both resident and non-resident (e.g. office and visitor) populations. There is also the potential and desire to encourage reoccupancy or adaptive reuse of smaller properties along Main Street in a manner consistent with the smaller-scale Main Street character. Recognizing this potential and desire, the City seeks to encourage redevelopment that has significant public benefits and enhances the character of the Downtown area. Density bonuses are intended to give property owners incentives to provide public benefits such as improved parks and open space, new public parking, improved pedestrian areas, and preservation of the Downtown's historic character in conjunction with the development of mixed-use projects.
- B. Initiation. A density bonus on a development site shall be sought from the City Council. An application shall be initiated by filing a petition with the City Council.
- C. Eligibility of Development Site. The Downtown Density Bonus **Floating** Overlay Zone (DDB) is hereby established as a floating overlay zone with potential application to any development site which meets all of the following eligibility requirements:
- (1) The development site shall be located within the DB, DMU, or DMUR zoning district, in the Central Parking Area as shown on the Zoning Map.
 - (2) The development site, in the DMU or DMUR zoning district, shall consist of a parcel or assemblage of parcels with an area of at least 60,000 square feet.
 - (3) The development site, in the DB zoning district, shall consist of a parcel or assemblage of parcels with an area of not greater than 60,000 square feet.
 - (4) The development site, in the DMU or DMUR zoning district, shall be located within 500 feet of the New Rochelle Transit Center or a public parking facility with greater than 300 spaces.
 - (5) The development site, in the DB zoning district, shall be located within 500 feet of any public parking facility, except that where a development site does not meet such distancing requirement but satisfies all other zoning requirements, provides all parking on-site, all such parking is subsurface, and the applicant submits an environmental impact statement for the proposed project on the site, the City Council may, in its sole and absolute discretion, waive such distancing requirement for a development site in the DB zoning district.
- D. Permitted uses and Dimensional Standards. Permitted uses and Dimensional Standards within the Downtown Density Bonus Floating Overlay District are the same as those for the underlying DB, DMU, and DMUR Zoning Districts with the exception of Height and FAR which may be increased at the discretion of City Council under the provisions of this Section.
- E. Bonuses. The density bonuses to be applied to a development site can consist of additional FAR and/or Height.
- (1) FAR bonuses, which vary by the underlying zoning district, may be applied to the base FAR of a development site for providing any one or several of the public benefits identified in the table below. In no event may total FAR for a development site exceed 4.0 in the DB, **5.5** in the DMU, or **11.5** in the DMUR.

Public Benefit	Maximum FAR Bonus		
	DB	DMU	DMUR
Provision of new public parking in excess of that required for proposed uses and which provides a significant public benefit, or significant improvement or replacement of an existing parking facility.	N/A	1.0	1.5
Provision of new publicly accessible open space on-site or anywhere within the DB, DMU, or DMUR Zoning Districts in the Central Parking area, and/or improvements to existing open space or streetscape in excess of any improvements required by § 331-119.1	N/A	1.0	1.5
Commitment to design and construct a project to achieve United States Green Building Council Leadership in Energy and Environmental Design (LEED) certification at either of the following levels:			
Silver	2.0	1.25	2.5
Gold	2.0	1.5	3.0
Platinum	2.0	1.5	3.5
Provision of a minimum of 100,000 sq. ft. of office and/or hotel with conference center use guaranteed by a covenant to provide same.	N/A	1.5	3.0
Protection, conservation, or renovation of historic site or building element of historic quality.	2.0	1.0	1.5
Maintain and enhance the overall architectural character, massing, and urban design of Main Street, furthering its critical role as a pedestrian-scaled retail destination.	2.0	N/A	N/A
Provision of public access between Main Street and public or private parking facilities.	0.25	0.25	0.25
New construction with high-quality design that is in context with adjacent buildings or that serves to enhance the downtown visual environment.	2.0	1.5	2.0
Maximum Total FAR Bonus	2.0	1.5	6.0

- (2) A Height bonus for a total Height not exceeding **500** feet may be provided to any development site in the DMU or DMUR Zoning Districts or for a total Height not exceeding 165 feet may be provided to any development site in the DB Zoning District, which site meets all of the criteria in **§331-154(C)** and some or all of the criteria in Sections **331-154(E)(1)** and **331-154(G)**.
- (3) Any Height bonus shall be set back at least fifty-five (55) feet from the right-of-way of Main Street starting at a point a maximum of 40 feet above grade.

F. Application and Procedure. An application to map an eligible development site to the **DDB Floating Overlay** and to seek applicable Height and/or FAR bonuses for such site shall be initiated by formal petition to the City Council. Along with its petition, the applicant shall submit a description of its proposed project, including a conceptual plan and statement of proposed use, together with an environmental assessment of the potential impacts associated with the proposed project to the satisfaction of the City Council, as lead agency, in accordance with the State Environmental Quality Review Act and its implementing regulations. At a minimum, this environmental assessment shall take the form of a Long Environmental Assessment Form (EAF) with supplemental information in Part 3 of the EAF identifying the project’s potential impacts with respect to: aesthetics, streetscapes, and neighborhood character including a visual impact study; parking demand and available supply; traffic generation; and demand on water and sanitary sewer infrastructure. The City Council may require preparation of an Environmental Impact Statement (EIS) based upon its analysis of the EAF. **The petition together with the EAF or EIS, as the case may be, shall be referred to the Planning Board for recommendation and report.**

- G. Review Process. The City Council may, in its sole and absolute discretion, map a development site to the DDB Floating Overlay and grant partial or entire Height or FAR bonuses depending on the substance and degree to which the Public Benefits set forth in **Section 331-154(E)(1) are included in a redevelopment project. In order to grant DDB mapping and height or density bonuses, the applicant must demonstrate and the Council must determine and find the following:**
- (1) That the public benefit(s) obtained by virtue of the density bonus substantially meet the goals of the City as expressed in the City's Comprehensive Plan or as articulated in **§331-154(A)**.
 - (2) That sufficient capacity exists within water supply, wastewater conveyance and treatment, and roadway infrastructure to support the density bonus or that appropriate mitigation is provided to the maximum extent practicable.
 - (3) That the applicant, for a project in the DB zoning district, intends to utilize available off-peak capacity at an existing public parking facility.
 - (4) That a project, in the DMUR zoning district, provides a mix of uses, with at least 60 percent of the total floor area occupied by non-residential uses.
- H. An application for site plan approval shall be made to the Planning Board to develop any development site to which the City Council has mapped the **DDB Floating Overlay** and granted bonuses allowed by the **DDB Floating Overlay**.
- I. Expiration of **DDB Floating Overlay Mapping and Bonuses**. Notwithstanding and superceding where inconsistent the expiration of site plan approval provisions set forth in Section 331-123 of this Chapter, the City Council's mapping of a particular development site to the **DDB Floating Overlay District** and the City Council's granting of partial or entire Height and/or FAR bonuses under the **DDB Floating Overlay**, for the proposed project to be built on such site, shall all expire on the earlier to occur of the following, subject to force majeure:
- (1) Failure to obtain site plan approval for the proposed project to be built on the development site, within three (3) months of the City Council's adoption of ordinance approving such **DDB Floating Overlay** mapping and/or granting of such DDB bonuses;
 - (2) Failure to obtain building permits to build the proposed project on the development site, as follows:
 - (a) For a project containing not more than one hundred fifty thousand (150,000) square foot floor area of new and/or rehabilitated construction, within six (6) months of obtaining site plan approval therefor;
 - (b) For a project containing more than one hundred fifty thousand (150,000) square foot floor area of new and/or rehabilitated construction, within one (1) year of obtaining site plan approval therefor;
 - (3) Failure to commence construction of the proposed project on the development site, within three (3) months of obtaining building permits therefor; and
 - (4) Failure to complete construction of the proposed project on the development site, within two (2) years of obtaining building permits therefor. Based on a showing by the applicant that it has completed construction of more than one-half (1/2) of the proposed project, together with a showing by the applicant that the size of the proposed project prevents its completion within two (2) years of obtaining building permits therefor, the City Council may grant up to one (1) additional year for such completion prior to expiration of such DDB mapping and/or granting of such DDB bonuses.