STATE OF NEW YORK

10224

IN ASSEMBLY

May 14, 2024

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Simone, Glick, L. Rosenthal, Fall) -- read once and referred to the Committee on Cities

AN ACT to amend the Hudson river park act, in relation to the rights, powers, duties and jurisdiction of the Hudson river park trust and the boundaries and uses of the Hudson river park

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The opening paragraph of subdivision (e) and subdivisions (g), (j) and (m) of section 3 of chapter 592 of the laws of 1998, constituting the Hudson river park act, as amended by chapter 517 of the laws of 2013, are amended to read as follows:

"Hudson river park" or "park" means the area in the city and county of New York within the following boundaries, but excluding [~~pier 76 except as otherwise provided in paragraph (c) of subdivision nine of section seven of this act and~~] piers 78, 88, 90, 92 and 94 and their associated upland areas:

(g) "Park/commercial use" means a use that is not a prohibited use and is compatible with park use, and that is:

(i) a transportation water dependent use, including commercial maritime and marine ferry terminals;

(ii) an entertainment, retail, restaurant, broadcast, television, or film or media studio facility, commercial recreational use, commercial amusements, performing arts, schools and educational facilities;

(iii) limited parking spaces incidental to permitted uses;

(iv) solely at piers 59, 60, and 61 and the headhouse (commonly known as "Chelsea Piers") the uses authorized at such piers and headhouse as of the effective date of this act;

(v) [~~a non-tourism/non-recreation heliport for commercial and emergency transportation use; and~~

~~(vi)~~] solely at [~~pier~~] **piers** 57 **and 76**, business, professional or governmental offices[~~;~~]**, provided that at pier 76, the height of any commercial office building may not exceed a height of one hundred eighty-five feet measured from the deck of the pier, excluding building**

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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mechanicals, and provided further that any such office building may not be located proximate to the pier's edge along the western or southern portion of the pier; and

(vi) solely at pier 76, large-scale amusement rides and other tourist attractions; warehouse facilities needed for waterborne transportation activities occurring at the pier; and floating restaurants.

(j) "Prohibited use" means any of the following uses:

(i) residential;

(ii) manufacturing, except in furtherance of and incidental to park uses, provided that small scale creation of artisan foods or other craft products shall not be considered manufacturing;

(iii) warehousing;

(iv) hotel;

(v) incompatible governmental uses;

(vi) casino and riverboat gambling, and the docking of vessels to be used substantially for gambling or for transportation to such a vessel;

(vii) any facility for motorized aircraft, including a heliport [~~except a heliport which is defined as a park/commercial use~~];

(viii) commercial office, except office space that is incidental to a permitted use, and further provided that such prohibition shall not apply to [~~pier~~] **piers** 57 **and 76**; and

(ix) other uses determined by the trust to be incompatible with the purposes of this act.

(m) "Water dependent use" excludes any prohibited use and means:

(i) any use that depends on utilization of resources found in the water section;

(ii) recreational activities that depend on access to the water section, such as fishing, boating, swimming in such waters, passive enjoyment of the Hudson river and wildlife protection and viewing;

(iii) facilities and incidental structures needed to dock and service boats;

(iv) scientific and educational activities that by their nature require access to marine reserve waters; **and**

(v) [~~the development, operation and maintenance of a non-tourism/non-recreational heliport located between west 29th and west 32nd streets provided (A) that there shall be no structures other than the helicopter take-off or landing pads built on floating structures; and (B) such floating structures shall be no higher than a pier deck at low tide; and~~

~~(vi)~~] mooring or docking of a barge used as part of a cultural, educational, historic or other public programming in the park; provided that no more than two barges may be moored or docked per year and provided further that the duration of any such mooring or docking of a barge shall be limited to six months per year at any location within the boundaries of the park**, except that at pier 76, the limit of six months per year shall not apply**.

§ 2. Subdivision 1-a of section 7 of chapter 592 of the laws of 1998, constituting the Hudson river park act, as added by chapter 517 of the laws of 2013, is amended to read as follows:

1-a. The trust shall not be authorized to forgo or assign any revenues or payments due to it by law, provided however that the trust may assign revenues or payments to maintain, reconstruct and repair the piers and bulkheads existing and as depicted in the May 20, 1998 final environmental impact statement within their historic footprints or boundaries subject to a determination by the department of environmental conservation that, to the maximum extent practicable, any significant adverse impact on the marine environment resulting from such maintenance, recon-

struction or repair will be minimized or avoided, and provided further that the reconstruction of pier 54 and pier 76 shall not be subject to the historic footprint restriction, provided that at pier 76, any change to the historic footprint shall result in the same size footprint and in more than fifty percent of the footprint dedicated to a park use.

§ 3. Paragraphs (c) and (i) of subdivision 9 of section 7 of chapter 592 of the laws of 1998, constituting the Hudson river park act, paragraph (c) as amended by section 2 of part WW of chapter 56 of the laws of 2020 and paragraph (i) as amended by chapter 517 of the laws of 2013, are amended to read as follows:

(c) [~~(i) On or before July 1, 2020, the city of New York shall convey to the state of New York under the jurisdiction of the office of parks, recreation and historic preservation its interest in Pier 76, who, upon such conveyance shall immediately lease a possessory interest to the trust. Upon such conveyance, Pier 76 shall become part of the park and shall remain part of the park under the operational control of the trust and following redevelopment at least~~] No less than the equivalent of fifty percent of the Pier 76 footprint shall be used for park uses that are limited to passive and active open space [~~and which shall be contiguous to water; and provided further that the remaining portion shall be for park/commercial use. (ii) The city of New York shall, prior to December 31, 2020, cease using or occupying Pier 76 for any purposes. Should the city of New York continue to use or occupy Pier 76 for any purpose subsequent to December 31, 2020, the city of New York shall (A) compensate the trust in the amount of twelve million dollars, and (B) beginning February 1, 2021, pay fees in the amount of three million dollars for each complete or partial month of occupancy. (iii) On or after the effective date of the chapter of the laws of 2020 which amended this paragraph, the trust shall be entitled to timely and reasonable access to Pier 76 for the purpose of conducting assessments and inspections necessary to further redevelopment of Pier 76 following its inclusion in the park. (iv) Beginning July 1, 2020, the city of New York shall periodically prepare and submit a report to the state of New York, with a copy to the trust, detailing actions taken by the city of New York to relocate the tow pound. In the event that the city provides demonstrable evidence of its effort to relocate the tow pound or any other city uses of Pier 76, initiation of and compliance with land use review processes and environmental review processes, such as, issuance of a request for qualifications or request for proposals for design or construction services for the project; and initiation and completion of construction of, and relocation to a replacement tow pound, the state of New York, in its sole discretion, may waive the fees assessed in subparagraph (iii) of this paragraph. (v) This paragraph may be enforced by a court of competent jurisdiction and in any suit brought by the state, through the attorney general, the trust shall not be a necessary party~~]; provided that up to one hundred percent of this pier may be limited to park use as determined by the trust. Notwithstanding any other provision of this act to the contrary, commercial or municipal parking garages or facilities are not permitted at Pier 76.

(i) Consistent with the general project plan, the area of the park east of the bulkhead line shall be used solely for park use and to permit access to permitted uses; provided that this limitation shall not apply to (i) the area east of the bulkhead line at pier 76 or those areas east of the bulkhead line that are occupied by pier headhouses or other pier-related structures at the base of piers 57, 59, 60, and 61; (ii) [~~a one story heliport terminal building, fuel tank structure and~~

~~five accessory parking spaces used in connection with a water dependent non-tourism/non-recreational heliport to be located on a floating structure located between west 29th and west 32nd streets provided that the landing and takeoff area located east of the bulkhead may continue to operate until the landing and takeoff area west of the bulkhead is completed and operational; or (iii)~~] an interim commercial recreational use along the upland park area between 29th and 34th streets, provided that: (A) any such related enclosed structure shall not exceed two stories; (B) any such use and any related enclosed structure shall not exceed a maximum of two hundred feet in length and shall maintain open view corridors to the Hudson river from streets running towards and away from the park and shall not be located within any designated visual corridors consistent with and to the extent required under the city of New York zoning requirements; and (C) such interim upland commercial recreational use shall not be permitted to be located or continue to operate [~~after July 1, 2024~~].

§ 4. Paragraph (c) of subdivision 3 of section 8 of chapter 592 of the laws of 1998, constituting the Hudson river park act, is amended and a new paragraph (g) is added to read as follows:

(c) Paragraph (b) of this subdivision shall not prohibit floating structures, and lateral stabilizing elements to secure such floating structures, for water dependent uses; minor improvements along the shore front including bulkhead and other repairs, habitat restoration, and platforms either for a waterfront esplanade or to allow public access to the Hudson river; subject to the limitation that, in the aggregate, no more than eight acres of the water section may be covered or altered by floating structures or minor improvements at any time. Any building or other structure constructed on a floating structure must be limited to water dependent uses and may not exceed one story. No dredge spoils shall be allowed for any purpose. Nothing in this subdivision shall impair the ability of the trust or other persons to maintain navigability or maintain, reconstruct and repair the piers and bulkheads existing and as depicted in the May 20, 1998 final environmental impact statement within their historic footprints or boundaries **or as otherwise authorized in this chapter** subject to a determination by the department of environmental conservation that, to the maximum extent practicable, any significant adverse impact on the marine environment resulting from such maintenance, reconstruction or repair will be minimized or avoided.

(g) Notwithstanding the provisions of this section or section 382-a of chapter 190 of the laws of 1990, pier 76 may be reconstructed outside of its historic footprint provided that any change to the historic footprint shall result in the same size footprint and in more than fifty percent of the footprint dedicated to a park use.

§ 5. Severability. If any provision of this act, or any application of any provision of this act, is held to be invalid, or to violate or be inconsistent with any federal law or regulation, that shall not affect the validity or effectiveness of any other provision of this act, or of any other application of any provision of this act, which can be given effect without that provision or application; and to that end, the provisions and applications of this act are severable.

§ 6. This act shall take effect on the one hundred eightieth day after it shall have become a law.