



CITY PLANNING COMMISSION

March 5, 2014/ Calendar No. 13

N 140131 ZRK

IN THE MATTER OF an application submitted by Two Trees Management LLC, Inc. pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, concerning Section 62-352 (Inclusionary Housing) and Section 74-745 (Location of accessory parking spaces and loading births) relating to the inclusionary housing program and loading requirements within large scale general developments in the Borough of Brooklyn, Community District 1.

This application for an amendment to Sections 65-352 and 74-745 of the Zoning Resolution was filed by Two Trees Management, LLC, on October 15, 2013. The amendment would modify the inclusionary housing program and create a new special permit to waive loading requirements to facilitate a 2.95 million-square-foot large-scale general development located at 264-350 & 317-329 Kent Avenue, Community District 1, Brooklyn.

RELATED ACTIONS

In addition to the proposed zoning text amendment (N 140131 ZRK), which is the subject of this report, implementation of the proposed project also requires action by the City Planning Commission on the following applications, which are being considered concurrently with this application:

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|--------------|--|
| C 140132 ZSK | Special Permit pursuant to ZR Section 74-743 to transfer floor area between zoning lots and modify height and setback, minimum distance, floorplate, lot coverage, and yard regulations. |
| C 140133 ZSK | Special Permit pursuant to ZR Section 74-744(a) to use regulations as part of a general large-scale development. |
| C 140134 ZSK | Special Permit pursuant to ZR Section 74-745(a) to modify parking location regulations as part of a general large-scale development. |

- C 140135 ZSK Special Permit pursuant to ZR Section 74-745(b) (proposed) to modify loading regulations as part of a general large-scale development.
- N 140136 ZAK Authorization pursuant to ZR Section 62-822(a) to modify regulations pertaining to the locations and dimensions of required waterfront public access areas.
- N 140137 ZAK Authorization pursuant to ZR Section 62-822(b) to modify regulations pertaining to design requirements for waterfront public access areas.
- N 140138 ZAK Authorization pursuant to ZR Section 62-822(c) to permit phasing of construction of required waterfront public access areas.
- N 140139 ZCK Chair Certification pursuant to ZR Section 62-812 to subdivide a waterfront lot.
- N 140140 ZCK Chair Certification pursuant to ZR Section 62-811 to show compliance with waterfront public access and visual corridor requirements for Zoning Lot 1.
- N 140141 ZCK Chair Certification pursuant to ZR Section 62-811 to show compliance with waterfront public access and visual corridor requirements for Zoning Lot 2.

BACKGROUND

A full background discussion and description of this application appears in the report on the related application for a special permit (C 140132 ZSK).

ENVIRONMENTAL REVIEW

This application (N 140131 ZRK), as modified, in conjunction with the related applications, 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 New York City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The CEQR number is 07DCP094K. The lead is the City Planning Commission.

A full summary of the environmental review appears in the report on the related application for a special permit (C 140132 ZSK).

PUBLIC REVIEW

This application (N 140131 ZRK), in conjunction with the application for the related non-ULURP actions, was duly referred to Community Board 1 and the Brooklyn Borough President on November 4, 2013, in accordance with the procedure for referring non-ULURP matters, along with the applications for related ULURP actions, which were certified as complete by the Department of City Planning on November 4, 2013 in accordance with Title 62 of the Rules of the City of New York, Section 2-02(b).

Community Board Public Hearing

Community Board 1 held a public hearing on the proposed application (N 140131 ZRK) in conjunction with the related ULURP actions, on November 13 and 21, 2013, and on December 10, 2013, by a vote of 24 in favor, 4 in opposition and 2 abstentions, adopted a resolution recommending approval of the application with conditions.

A summary of the recommendations of Community Board 1 appears in the report on the related application for a special permit (C 140132 ZSK).

Borough President Recommendation

The proposed application (N 140131 ZRK) was considered by the Borough President of Brooklyn, who issued a recommendation disapproving the zoning text amendment to modify the floor area exclusion for the Inclusionary Housing Program on December 31, 2013.

A summary of the recommendations of the Borough President appears in the report on the related application for a special permit (C 140132 ZSK).

City Planning Commission Public Hearing

On January 8, 2014 (Calendar No. 10), the City Planning Commission scheduled January 22, 2014, for a public hearing on the proposed application (N 140131 ZRK). The hearing was duly held on January 22, 2014 (Calendar No. 18) in conjunction with the public hearing on the applications for related actions. There were 22 speakers in favor of the application and 10 speakers opposed, as described in the report on the related application for a special permit (C 140132 ZSK), and the hearing was closed.

WATERFRONT REVITALIZATION PROGRAM CONSISTENCY REVIEW

This application (N 140131 ZRK), as modified, was reviewed by the City Coastal Commission for consistency with the policies of the New York City Waterfront Revitalization Program (WRP), as amended, approved by the New York City Council on October 13, 1999 and by the New York State Department of State on May 28, 2002, pursuant to the New York State Waterfront Revitalization and Coastal Resources Act of 1981, (New York State Executive Law, Section 910 et seq.) The designated WRP number is 13-004.

This action was determined to be consistent with the policies of the New York City Waterfront Revitalization Program.

CONSIDERATION

The Commission believes that this zoning text amendment (N 140131 ZRK), as modified, in conjunction with the related actions, is appropriate.

A full description of Commission modifications, and consideration and analysis of the issues, and reason for approving this modified application appears in the related report for a special permit (C 140132 ZSK).

RESOLUTION

RESOLVED, that having considered the Final Environmental Impact Statement (FEIS), for which a Notice of Completion was issued on May 28th, 2010, with respect to this application (CEQR No. 07DCP094K), together with the Technical Memoranda, dated June 4, 2010, July 10th, 2010, October 31st, 2013, and March 5, 2014, the City Planning Commission finds that the requirements of the New York State Environmental Quality Review Act and Regulations have been met and that, consistent with social, economic, and other essential considerations:

1. From among the reasonable alternatives thereto, the action to be approved, with the modifications set forth and analyzed in the Technical Memorandum dated March 5, 2014, is one which minimizes or avoids adverse environmental impacts to the maximum extent practicable; and
2. The adverse environmental impacts disclosed in the FEIS and subsequent technical memoranda will be minimized or avoided to the maximum extent practicable by incorporating as conditions to the approval, pursuant to the Restrictive Declaration attached as Exhibit A hereto, those mitigation measures that were identified as practicable.

This report of the City Planning Commission, together with the FEIS and the subsequent Technical Memoranda (TM 001, TM 002, TM 003 and TM 004), constitute the written statement

of facts, and of social, economic and other factors and standards, that form the basis of the decision, pursuant to Section 617.11(d) of the SEQRA regulations; and be it further

RESOLVED, the City Coastal Commission, having reviewed the waterfront aspects of this action finds that the action will not substantially hinder the achievement of any WRP policy and hereby determines that this action is consistent with WRP policies; and be it further

RESOLVED, by the City Planning Commission, pursuant to Sections 200 of the New York City Charter, that based on the environmental determination and the consideration described in this report, the Zoning Resolution of the City of New York, effective as of December 15, 1961, and subsequently amended, is further amended as follows:

Matter in underline is new, to be added;

Matter in ~~strikeout~~ is old, to be deleted;

Matter within # # is defined in Section 12-10;

* * * indicates where unchanged text appears in the Zoning Resolution

62-352

Inclusionary Housing

* * *

(3) For #zoning lots# containing #residences# in R8 or C6-2 Districts within a #large-scale general development# that is located in or partially within a C6 District, the #floor area# of a #zoning lot# may not exceed the base #floor area ratio# of 4.88, except that such #floor area# may be increased on a #compensated zoning lot# by 1.25 square feet for each square foot of #low income floor area# provided, or by 0.833 square feet for each square foot of #moderate income floor area# provided, up to a maximum #floor area ratio# of 6.5, provided that for each square foot of #floor area compensation# for #moderate income floor area#, there is one square foot of #floor area compensation# for #low income floor area#.

However, to receive such #floor area# increase, the amount of #low income floor area# plus two-thirds of the amount of #moderate income floor area# need not exceed 20

percent of the total #floor area# on all #zoning lots# in R8 or C6-2 districts within the #large-scale general development#, exclusive of ground-floor non-#residential floor area#, #floor area# within a #school#, and #floor area# within a non-#residential building# that is vacant above the ground floor.

For the purposes of the calculations in this paragraph (3), inclusive, an amount of #moderate income floor area# not exceeding 50,000 square feet may be considered #low income floor area#.

For the purposes of this paragraph, (b), inclusive, #low income floor area# may be considered #moderate income floor area#, and #moderate income floor area# may be considered #middle income floor area#.

* * *

74-745

~~Location of a~~ Accessory parking spaces and loading berths

For a #large-scale general development# the City Planning Commission may permit:

(a) Modification of location requirements

When a #large-scale general development# includes two or more #zoning lots#, the City Planning Commission may permit required or permitted #accessory# off-street parking spaces, bicycle parking spaces or loading berths to be located anywhere within a #large-scale general development# without regard for #zoning lot lines#, provided that the Commission shall find:

- ~~(a)~~(1) such off-street parking spaces, bicycle parking spaces and loading berths will be conveniently located in relation to the #use# to which such spaces or berths are #accessory#;
- ~~(b)~~(2) such location of off-street parking spaces, bicycle parking spaces and loading berths will result in a better site plan; and
- ~~(c)~~(3) such location of off-street parking spaces, bicycle parking spaces and loading berths will not unduly increase the number of spaces in any single #block#, draw excessive traffic through local #streets#, or otherwise adversely affect traffic conditions in the surrounding area.

Whenever required off-street parking spaces, bicycle parking spaces and loading berths are permitted to be located without regard for #zoning lot lines# in accordance with the provisions of this Section, the number of spaces required for each #building# shall be kept available for such #building# throughout its life.

(b) Waiver or reduction of loading berth requirements

When a #zoning lot# in a #large scale general development#, that is located within a waterfront area pursuant to Section 62-132(b), in Community District 1 in Brooklyn, contains one or more #retail or service uses# listed in Use Group 6A, 6C, 7B, 8B, 9A, 10A, 12B, 14A or 16A, and where no single such establishment exceeds 8,500 square feet in #floor area#, the City Planning Commission may waive the requirement for loading berths, or reduce the number of required loading berths, provided that:

- (1) curbside deliveries will not create or contribute to serious traffic congestion or unduly inhibit vehicular or pedestrian movement and will not interfere with the efficient functioning of nearby #uses#;
- (2) an efficient goods receiving system will be implemented within the #commercial# establishment to expedite the movement of goods from the curb to areas within the establishment;
- (3) such modification allows for a better relationship of the #street walls# of the #building# containing such establishment with the sidewalks and surrounding area; and
- (4) such modification will not impair or adversely affect the development of the surrounding area.

The City Planning Commission may prescribe additional conditions and safeguards to minimize adverse effects on the surrounding area.

* * *

The above resolution (N 140131 ZRK), duly adopted by the City Planning Commission on March 5, 2013 (Calendar No. 13), is filed with the Office of the Speaker, City Council, and the Borough President in accordance with the requirements of Section 197-d of the New York City Charter.

CARL WEISBROD, *Chairman*

KENNETH J. KNUCKLES, *Esq., Vice Chairman*

ANGELA M. BATTAGLIA, RAYANN BESSER, IRWIN G. CANTOR, *P.E.*,

ALFRED C. CERULLO, III, BETTY Y. CHEN, MICHELLE DE LA UZ,

MARIA M. DEL TORO, JOSEPH I. DOUEK, RICHARD W. EADDY,

ANNA HAYES LEVIN, ORLANDO MARIN, *Commissioners*