



## **CITY PLANNING COMMISSION**

March 5, 2014 / Calendar No. 12

C 140135 ZSK

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**IN THE MATTER OF** an application submitted by Two Trees Management, LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-745(b) of the Zoning Resolution to waive the requirements for loading berth for retail or service uses listed in Use Group 6A, 6C, 7B, 8B, 9A, 10A, 12B & 14A, and where no single establishment exceeds 8,500 square feet for a zoning lot (Zoning Lot 3, Block 2428, Lot 1), in connection with a proposed mixed use development on property generally bounded by Grand Street and its northwesterly prolongation, Kent Avenue, South 3<sup>rd</sup> Street, a line 100 feet northwesterly of Wythe Avenue, South 4<sup>th</sup> Street, Kent Avenue, South 5<sup>th</sup> Street and its northwesterly prolongation, and the U.S. Pierhead line (Block 2414, Lot 1; and Block 2428, Lot 1), in R6/C2-4, R8/C2-4 and C6-2 Districts, within a large-scale general development, Borough of Brooklyn, Community District 1.

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This application for the special permit pursuant to Section 74-745(b) to permit the modification of loading requirements within a large-scale general development was filed by Two Trees Management, LLC on October 15, 2013 to facilitate a 2.95 million-square-foot mixed use large-scale general development located at 264-350 & 317-329 Kent Avenue, Community District 1, Brooklyn.

### **RELATED ACTIONS**

In addition to the proposed special permit (C 140135 ZSK), 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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| N 140131 ZRK | Zoning Text Amendment of ZR Section 62-352 and 74-745 related to inclusionary housing and loading requirements.  |
| 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.
- 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 (C 140135 ZSK), 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).

## **UNIFORM LAND USE REVIEW**

This application (C 140135 ZSK), in conjunction with the applications for the related ULURP actions, was certified as complete by the Department of City Planning on November 4, 2013, and was duly referred to Community Board 1 and the Brooklyn Borough President, in accordance with Title 62 of the Rules of the City of New York, Section 2-02(b) along with the related non-ULURP actions, which were referred for information and review on November 4, 2013 in accordance with the procedures for non-ULURP matters.

### **Community Board Public Hearing**

Community Board 1 held a public hearing on this application (C 140135 ZSK), 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**

This application (C 140135 ZSK), in conjunction with the related ULURP actions, was considered by the Borough President of Brooklyn, who recommended approval of the application with conditions 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.9), the City Planning Commission scheduled January 22, 2014, for a public hearing on this application (C 140135 ZSK). The hearing was duly held on January 22, 2014 (Calendar No. 17) 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 (C 140135 ZSK) 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 the special permit proposed in this application (C 140135 ZSK), in conjunction with the related actions, is appropriate.

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

## **FINDINGS**

The City Planning Commission hereby makes the findings pursuant to Sections 74-745(b) of the Zoning Resolution:

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.

## **RESOLUTION**

**RESOLVED**, that having considered the Final Environmental Impact Statement (FEIS), for which a Notice of Completion was issued on May 28, 2010, with respect to this application (CEQR No. 07DCP094K), together with the Technical Memoranda, dated June 4, 2010, July 10, 2010, October 31, 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 197-c and 200 of the New York City Charter that based on the environmental determination, and the consideration and findings described in this report, the application submitted by Two Trees Management, LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-745(b) of the Zoning Resolution to waive the requirements for loading berth for retail or service uses listed in Use Group 6A, 6C, 7B, 8B, 9A, 10A, 12B & 14A, and where no single establishment exceeds 8,500 square feet for a zoning lot (Zoning Lot 3, Block 2428, Lot 1), in connection with a proposed mixed use development on property generally bounded by Grand Street and its northwesterly prolongation, Kent Avenue, South 3<sup>rd</sup> Street, a line 100 feet northwesterly of Wythe Avenue, South 4<sup>th</sup> Street, Kent Avenue, South 5<sup>th</sup> Street and its northwesterly prolongation, and the U.S. Pierhead line (Block 2414, Lot 1; and Block 2428, Lot 1), in R6/C2-4, R8/C2-4 and C6-2 Districts, within a large-scale general development, Borough of Brooklyn, Community District 1, as modified, is approved, subject to the following terms and conditions:

1. The property that is the subject of this application (C 140135 ZSK) shall be developed in size and arrangement substantially in accordance with the dimensions, specifications and zoning computations indicated on the following plans, prepared by SHoP Architects, P.C. and James Corner Field Operations, filed with this application and incorporated in this resolution:

<b>Dwg. No.</b>	<b>Title</b>	<b>Last Date Revised</b>
Z00-0	Title Sheet	10.31.2013
Z00-2A	Zoning Lot Calculations	10.31.2013
Z00-2B	Zoning Waivers	10.31.2013
Z00-2C	Zoning Actions and Design Guidelines	03.05.2014
Z00-3	Upland/Seaward Lot Calculations	10.31.2013
Z01-1	Site Plan	10.31.2013
Z03-1	Adjusted Base Plane Calculations	10.31.2013
Z03-2	Shoreline Facing Walls	10.31.2013
Z05-B	Zoning Lot 1 Building A – Site Plan	10.31.2013
Z05-C1	Zoning Lot 1 Building A – Height and Setback Diagrams	10.31.2013
Z05-C2	Zoning Lot 1 Building A – Height and Setback Diagrams	10.31.2013
Z05-C3	Zoning Lot 1 Building A – Height and Setback Diagrams	10.31.2013
Z06-B	Zoning Lot 1 Building B – Site Plan	03.05.2014
Z06-C1	Zoning Lot 1 Building B – Height and Setback Diagrams	03.05.2014
Z06-C2	Zoning Lot 1 Building B – Height and Setback Diagrams	03.05.2014
Z06-C3	Zoning Lot 1 Building B – Height and Setback Diagrams	03.05.2014
Z06-C4	Zoning Lot 1 Building B – Height and Setback Diagrams	03.05.2014
Z06-C5	Zoning Lot 1 Building B – Height and Setback Diagrams	03.05.2014
Z06-C6	Zoning Lot 1 Building B – Height and Setback Diagrams	03.05.2014
Z07-B	Zoning Lot 2 Refinery Building – Site Plan	10.31.2013
Z07-C1	Zoning Lot 2 Refinery Building – Height and Setback Diagrams	10.31.2013
Z07-C2	Zoning Lot 2 Refinery Building - Height and Setback Diagrams	10.31.2013
Z09-B	Zoning Lot 1 Building D – Site Plan	10.31.2013

Z09-C1	Zoning Lot 1 Building D – Height and Setback Diagrams	10.31.2013
Z09-C2	Zoning Lot 1 Building D – Height and Setback Diagrams	10.31.2013
Z09-C3	Zoning Lot 1 Building D – Height and Setback Diagrams	10.31.2013
Z10-B	Zoning Lot 3 Building E – Site Plan	03.05.2014
Z10-C1	Zoning Lot 3 Building E – Height and Setback Diagrams	03.05.2014
Z10-C2	Zoning Lot 3 Building E – Height and Setback Diagrams	03.05.2014
Z11-1	Location of Uses	10.31.2013
G-001.00	Title Sheet	10.29.13
G-100.00	Survey	09.14.13
G-110.00	Zoning Lots	10.29.13
L-001.00	WPAA Zoning Calculations	10.29.13
L-002.00	WPAA Zoning Calculations	10.29.13
L-003.00	WPAA Zoning Calculations	10.29.13
L-100.00	Waterfront Public Area Access Diagram	10.29.13
L-121.00-A	Layout Plan – Area 1	10.29.13
L-122.00-A	Layout Plan – Area 2	10.29.13
L-131.00-A	Materials Plan – Area 1	10.29.13
L-132.00-A	Materials Plan – Area 2	10.29.13
L-141.00-A	Grading Plan – Area 1	10.29.13
L-142.00-A	Grading Plan – Area 2	10.29.13
L-151.00-A	Planting Plan – Area 1	10.29.13
L-152.00-A	Planting Plan – Area 2	10.29.13
L-161.00-A	Furnishing Plan – Area 1	10.29.13
L-162.00-A	Furnishing Plan – Area 2	10.29.13
L-171.00-A	Lighting Plan – Area 1	10.29.13
L-172.00-A	Lighting Plan – Area 2	10.29.13
L-181.00-A	Lighting Foot Candle Diagram – Area 1	10.29.13
L-182.00-A	Lighting Foot Candle Diagram – Area 2	10.19.13
L-121.00-B	Layout Plan	10.19.13
L-131.00-B	Materials Plan	10.29.13
L-141.00-B	Grading Plan	10.29.13
L-151.00-B	Planting Plan	10.29.13
L-161.00-B	Furnishing Plan	10.29.13



L-171.00-B	Lighting Plan	10.29.13
L-181.00-B	Lighting Foot Candle Diagram	10.29.13
L-210.00	Typical Details 1	10.15.13
L-211.00	Typical Details 2	10.15.13
L-220.00	Typical Details 3	10.15.13
L-230.00	Typical Details 4	10.15.13
L-231.00	Typical Details 5	10.15.13
L-232.00	Typical Details 6	10.15.13
L-233.00	Typical Details 7	10.15.13
L-234.00	Typical Details 8	10.15.13
L-235.00	Typical Details 9	10.15.13
L-300.00	Site Sections 1	10.15.13
L-301.00	Site Sections 2	10.29.13
L-302.00	Site Sections 3	10.29.13
L-303.00	Site Sections 4	10.29.13

2. Such development shall conform to all applicable provisions of the Zoning Resolution, except for the modifications specifically granted in this resolution and shown on the plans listed above which have been filed with this application. All zoning computations are subject to verification and approval by the New York City Department of Buildings.
3. Such development shall conform to all applicable laws and regulations relating to its construction, operation and maintenance.
4. Development pursuant to this resolution shall be allowed only after the restrictive declaration attached as Exhibit A to the report on the related special permit (C 140132 ZSK), with such administrative changes as are acceptable to Counsel to the City Planning Commission, has been executed and recorded in the Office of the Register, King County. Such restrictive declaration shall be deemed incorporated herein as a condition of this resolution.
5. The development shall include those project components related to the environment and mitigation measures identified in the Final Environmental Impact Statement (CEQR No. 07DCP094K) issued on May 28, 2010, as adjusted by the subsequent Technical Memoranda,

dated June 4, 2010, July 10, 2010, October 31, 2013, and March 5, 2014, and in accordance with the restrictive declaration attached hereto as Exhibit A.

6. In the event the property that is the subject of the application is developed as, sold as, or converted to condominium units, a homeowners' association, or cooperative ownership, a copy of this report and resolution and any subsequent modifications shall be provided to the Attorney General of the State of New York at the time of application for any such condominium, homeowners' or cooperative offering plan and, if the Attorney General so directs, shall be incorporated in full in any offering documents relating to the property.
7. All leases, subleases, or other agreements for use or occupancy of space at the subject property shall give actual notice of this special permit to the lessee, sub-lessee or occupant.
8. Upon the failure of any party having any right, title or interest in the property that is the subject of this application, or the failure of any heir, successor, assign, or legal representative of such party, to observe any of the covenants, restrictions, agreements, terms or conditions of this resolution whose provisions shall constitute conditions of the special permit hereby granted, the City Planning Commission may, without the consent of any other party, revoke any portion of or all of said special permit. Such power of revocation shall be in addition to and not limited to any other powers of the City Planning Commission, or of any other agency of government, or any private person or entity. Any such failure as stated above, or any alteration in the development that is the subject of this application that departs from any of the conditions listed above, is grounds for the City Planning Commission or the City Council, as applicable, to disapprove any application for modification, cancellation or amendment of the special permit hereby granted.
9. Neither the City of New York nor its employees or agents shall have any liability for money damages by reason of the city's or such employee's or agent's failure to act in accordance with the provisions of this special permit.

The above resolution (C 140135 ZSK), duly adopted by the City Planning Commission on March 5, 2014 (Calendar No. 12), 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.*,**

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**ANNA HAYES LEVIN, ORLANDO MARIN, *Commissioners***