



## CITY PLANNING COMMISSION

March 28, 2007/ Calendar No.16

C 070227 ZSK

**IN THE MATTER OF** an application submitted by Capri Optics, Inc., the Economic Development Corporation and the Department of Citywide Administrative Services, pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-681(a)(2) of the Zoning Resolution to allow a portion of a railroad right-of-way that has been permanently discontinued or terminated to be included in the lot area of a 3-story warehouse building, on property located at 37<sup>th</sup> Street between 14<sup>th</sup> and 15<sup>th</sup> avenues (Block 5348, p/o Lot 9), in an M2-1 District, Borough of Brooklyn, Community District 12.

The application for a special permit pursuant to Section 74-681(a)(2) was filed by Capri Optics, Inc., the Economic Development Corporation (EDC) and the Department of Citywide Administrative Services (DCAS) on December 7, 2006, to allow a portion of a railroad right-of-way which has been permanently discontinued or terminated, to be included in the lot area of a proposed three-story warehouse building on property located at 37<sup>th</sup> Street between 14<sup>th</sup> and 15<sup>th</sup> avenues in the Borough Park section of Brooklyn Community District 12.

### **BACKGROUND**

The subject site is located in an M2-1 district, at 37<sup>th</sup> Street between 14<sup>th</sup> Avenue and 15<sup>th</sup> Avenue in the Borough Park section of Brooklyn. The immediate area is zoned M2-1 and M1-2 and is generally characterized by manufacturing and warehouse uses with some residential uses to the north and south of the site. The site itself is located on Block 5348, part of Lot 9.

The site is an approximately 3,367 square foot city-owned property within the permanently discontinued railroad right-of-way. The site is currently vacant and is leased by the Department

of Administrative Services (DCAS) to Capri Optics, an optical frame and accessories distribution company, on a month-to-month basis for employee parking and deliveries. On June 4, 2003, the City Planning Commission approved the disposition of Block 5348, part of Lot 9 pursuant to zoning (C 020442 PPK, Cal. No. 17). Block 5348, the block where the site is located, is developed with a number of industrial and commercial uses, including a gasoline service station, a bakery, a printing supplies manufacturer and a building material warehouse. The southern portion of Block 5348 has a number of two-story residential buildings.

Capri Optics (“Capri”), founded in 1972, moved into its present location at 1459 38<sup>th</sup> Street in 1979. The company imports optical frames primarily from mainland China, South Korea and Hong Kong. As the exclusive distributor for many manufacturers, Capri exports its frames throughout the world. Capri’s business has grown rapidly and as a result, Capri is in great need of additional space.

The purchase of the subject site would enable Capri to construct a three-story building to expand its operations. The building would have a Floor Area Ratio (FAR) of 2.0 and would contain 6,733 square feet of floor area. The new building would be built directly adjacent to Capri’s existing warehouse. Three large roll-up gates would provide access between the two buildings. The ground floor of the new building would contain a shipping area, a reception office, an elevator and stairs. The second and third floors would house offices as well as a conference room, kitchenette and bathrooms. The new building would provide three parking spaces and one loading berth.

The former railroad right-of-way, which is the subject of this special permit application, was beneath the former Culver Shuttle elevated transit line and at ground level, the South Brooklyn Railroad, which ran along 37<sup>th</sup> Street between Fort Hamilton Parkway and McDonald Avenue in the Borough Park section of Brooklyn. Service on the rapid transit line was terminated in 1975 and on the railroad line in the early 1980's. The elevated structure was demolished in 1985. Following the demolition of the transit line, the New York City Transit Authority (NYCTA) surrendered the railroad right-of-way to DCAS.

### **ENVIRONMENTAL REVIEW**

This application 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 (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The designated CEQR number is 05DME010K. The lead agency is the Deputy Mayor for Economic Development and Rebuilding.

After a study of the potential environmental impact of the proposed actions, a Negative Declaration was issued on December 6, 2006.

### **UNIFORM LAND USE REVIEW**

This application (C 070227 ZSK) was certified as complete by the Department of City Planning on December 18, 2006, and was duly referred to Community Board 12 and the Borough

President, in accordance with Article 3 of the Uniform Land Use Review Procedure (ULURP) rules.

### **Community Board Public Hearing**

Community Board 12 held a public hearing on this application on January 16, 2007, and on that same date, by a vote of 36 to 0 with 0 abstentions, adopted a resolution recommending approval of the application.

### **Borough President Recommendation**

This application was considered by the Borough President, who issued a recommendation approving the application on February 14, 2007.

### **City Planning Commission Public Hearing**

On February 7, 2007, (Calendar No. 4), the City Planning Commission scheduled February 28, 2007 for a public hearing on this application (C 070227 ZSK). The hearing was duly held on February 28, 2007 (Calendar No. 16). There was one speaker in favor of the application and none in opposition.

The speaker in favor of the application was the owner of Capri Optics, Inc. who stated that the approval of the special permit application would allow Capri Optics to expand its rapidly growing business.

There were no other speakers and the hearing was closed.

## **CONSIDERATION**

The Commission believes that the grant of this special permit is appropriate.

The proposed three-story warehouse building would provide an opportunity for Capri Optics to expand their rapidly growing business. There are no plans for the use of the railroad right-of-way for transit purposes and therefore the site provides an excellent opportunity for Capri Optics to enlarge its business operations and meet its needs for future growth.

The Commission notes the streets providing access to the uses generated by the proposed three-story warehouse are adequate to handle the resulting traffic. Access to the site would be from 37<sup>th</sup> Street which is adequate to handle the small amount of traffic generated by the proposal.

The proposed three-story warehouse building will be located entirely on the zoning lot created within a portion of the former railroad right-of-way. The proposed facility will not adversely affect neighboring uses, and will be in character with the surrounding area which is zoned M2-1 and M1-2 and contains several manufacturing and auto-related uses along 37<sup>th</sup> Street.

The Commission also notes that the railroad right-of-way has been permanently discontinued.

## **FINDINGS**

The City Planning Commission hereby makes the following findings pursuant to Section 74-681 (Development within or over a railroad or transit right-of-way or yard) of the Zoning Resolution:

- (1) the streets providing access to all uses are adequate to handle increased traffic therefrom;
- (2) the distribution of floor area and the number of rooms or dwelling units does not adversely affect the character of the surrounding area by being unduly concentrated in any portion of such development;
- (3) all uses, and developments or enlargements located on the zoning lot do not adversely affect one another;
- (4) the railroad right-of-way is not deemed appropriate for future transportation use.

## **RESOLUTION**

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

**RESOLVED**, by the City Planning Commission, pursuant to Section 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 of Capri Optics, Inc., the Economic Development Corporation and the Department of Citywide Administrative Services for the grant of a special permit, pursuant to Section 74-681(a)(2) of the Zoning Resolution to allow a portion of a railroad right-of-way that has been permanently discontinued or terminated to be included in the lot area of a proposed three-story warehouse building on property located at 37<sup>th</sup> Street

between 14<sup>th</sup> and 15<sup>th</sup> avenues (Block 5348, p/o Lot 9), in an M2-1 District, Borough of Brooklyn, Community District 12, is approved, pursuant to Section 74-681 of the Zoning Resolution, subject to the following terms and conditions:

1. The property that is the subject of this application (C 070227 ZSK) shall be developed in size and arrangement substantially in accordance with the dimensions, specifications and zoning computations indicated on the following plan, prepared by Lewis Eliezer Garfinkel, R.A., filed with this application and incorporated in this resolution:

<u>Drawing No.</u>	<u>Title</u>	<u>Last Date Revised</u>
A-1	Proposed Plot Plan & Zoning Calculations	December 19, 2006

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. 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 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.
  
5. 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, sublessee or occupant.
  
6. 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 said special permit. Such power of evocation shall be in addition to and not limited to any other powers of the City Planning Commission, or 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 modification, cancellation or amendment of the special permit hereby granted.



7. 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 070227 ZSK), duly adopted by the City Planning Commission on March 28, 2007 (Calendar No. 16), is filed with the Office of the Speaker, City Council, and the Borough President together with a copy of the plans of the development, in accordance with the requirements of Section 197-d of the New York City Charter.

**AMANDA M. BURDEN, AICP, Chair**

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

**ANGELA M. BATTAGLIA, IRWIN G. CANTOR, P.E., ANGELA R. CAVALUZZI, R.A.,**

**ALFRED C. CERULLO, R.A., RICHARD W. EADDY, LISA A. GOMEZ,**

**JOHN MEROLO, KAREN A. PHILLIPS, DOLLY WILLIAMS, Commissioners**

**BETTY Y. CHEN, NATHAN LEVENTHAL, Commissioners, Abstaining**

