



CITY PLANNING COMMISSION

February 4, 2009/Calendar No. 12

C 090120 ZMM

IN THE MATTER OF an application submitted by Dermot BMB, LLC and the NYC Economic Development Corporation pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 12b, changing from an M1-4 District to a C4-6 District property bounded by South Street, the southern prolongation of a line 100 feet westerly of the westerly street line of Broad Street, the US Pierhead Line, and the southerly centerline prolongation of Whitehall Street, Borough of Manhattan, Community District 1, as shown on a diagram (for illustrative purposes only) dated October 27, 2008.

The application for an amendment of the Zoning Map was filed by Dermot BMB, LLC and the New York City Economic Development Corporation on September 24, 2008 to rezone from an M1-4 District to a C4-6 District by extending the C4-6 district to the southern tip of Manhattan within the Special Lower Manhattan District, Borough of Manhattan, Community District 1. This application, in conjunction with the related actions, would facilitate redevelopment of the Battery Maritime Building.

RELATED ACTIONS

In addition to the proposed zoning map change, 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:

N 090122 ZAM: Authorization pursuant to 62-722(a) to modify waterfront public access and waterfront yard requirements

C 090121 PPM: Disposition of city-owned property

N 090123 ZCM: Chairperson Certification pursuant to 62-711 for compliance with Waterfront Public Access and Visual Corridor Requirements

BACKGROUND

Built in 1909, the Battery Maritime Building (BMB) is the last remaining Beaux Arts style ferry terminal in the city. It is located on South Street at the tip of Manhattan, adjacent to the Whitehall

Ferry Terminal and the proposed East River Waterfront and Esplanade. The existing structure is approximately 70 feet tall and has a corrugated metal rooftop addition. The BMB was restored in 2005, and it is a designated NYC Landmark.

The BMB is City-owned. The Governors Island ferry operates from a slip within the building, and the Governors Island Preservation and Education Corporation has offices in the terminal. Other areas of the terminal are currently closed to the public but have been opened for temporary festivals and art exhibitions.

The Battery Maritime Building is located in M1-4 and C4-6 zoning districts within the Special Lower Manhattan District. The only other property in the M1-4 district is the Whitehall Ferry Terminal. The C4-6 district runs northward along South Street to Maiden Lane on the waterside. The M1-4 allows a maximum 2.0 FAR while the C4-6 has a maximum commercial FAR of 3.4. The M1-4 allows primarily light manufacturing uses such as auto related uses or storage and also offices and limited retail services. The C4-6 districts allows for commercial and residential uses, and a greater range of retail uses for serving the region. The C4-6 also allows for residential uses up to 10 FAR.

To the north of the BMB is the city's financial district and a rapidly growing residential community. It is also in close proximity to the city's top tourist destinations including Stone Street, South Street Seaport, and Battery Park. The area is well-served by mass transit, including the subway stations at Bowling Green, Whitehall, and South Ferry stations and there are multiple bus lines serving the area. It is also nearby to commuter ferries and the downtown heliport.

Proposed Development

In 2005, the City completed an extensive exterior restoration, and NYC issued a request for proposals (RFP) for the redevelopment and reuse of the BMB. Dermot BMB, LLC has been conditionally designated as the developer and their proposed redevelopment plan to revitalize the building has two primary programmatic elements:

- (1) The existing 9,200 square feet former waiting room on the 2nd floor would be restored and become a multi-use venue and public space. It would be a public gathering space by day and a space for private events in the evening,
- (2) A proposed enlargement of the existing building would be developed with a 138 room hotel with rooftop bar and restaurant that would be open to the public. The enlargement would remove the existing roof and add a three story glass addition with a one story penthouse above the new addition. Overall, the proposed building height would be 114 ½ feet including the penthouse addition.

The ground floor ferry uses would remain and are anticipated to expand to cover all of the slips in the coming years. The former waiting room will become a public gathering place with possibilities for a private event venue by night.

Implementation of the proposed project requires the following land use actions:

Zoning Map Amendment— C 090120 ZMM

The subject area to be rezoned is bounded by South Street, the southern prolongation of Broad Street, the US Pierhead Line and the southerly centerline prolongation of Whitehall Street within the Special Lower Manhattan District. It is currently zoned M1-4 and is proposed to be rezoned to a C4-6.

The proposed rezoning would extend the existing C4-6 district southerly so that the entire Battery Maritime Building would be located completely in the C4-6 zoning district. This rezoning would raise the FAR from a 2.0 in the M1-4 to a 3.4 in the C4-6. It would also allow for a greater range of commercial uses.

In the M1-4 district, food stores and other retail cannot exceed 10,000 square feet. The proposed C4-6 would allow for maximum flexibility in terms of use and size of the building. This use

would be as-of-right in the proposed C4-6. They would be as-of-right in the proposed C4-6. The proposed C4-6 would also establish a development envelope and floor area ratio that is uniform across the site and that accommodates the proposed development. Without this rezoning, the proposal would exceed the permitted floor area on the seaward portion of the lot.

The proposed C4-6 within the Special Lower Manhattan District allows commercial, residential and community facility use with a maximum FAR of 3.4 FAR.. Buildings could have a maximum street wall height of 110 feet and a maximum building height of 350 feet along the waterfront.

Disposition of city-owned property---C 090121 PPM

Since the BMB is currently city-owned, disposition would facilitate the proposal of the designated developer. The Department of Small Business Services intends to enter into a long term lease with a developer selected by EDC. Dermot BMB LLC has been conditionally designated as developer of the site by EDC.

Authorization pursuant to 62-722(a) to modify Waterfront Public Access and Yard

Requirements ---N 090122 ZAM

Section 62-332 of the Zoning Resolution requires that a waterfront yard be provided. In the case of the BMB, a forty foot rear yard would be required. The existing BMB already encroaches into the waterfront yard. The proposed enlargement would also encroach because it is being located on the portion of the platform where there would be sufficient pilings to support the structure.

The BMB is not providing any waterfront yard.

Section 62-415(b) of the Zoning Resolution requires that a Landmark building provide at least 15% of lot area for public access. Because the BMB covers the entire platform, it is not providing any public access.

Certification pursuant to 62-711 for compliance with Waterfront Public Access and Visual

Corridors ---N 090123 ZCM

Chairperson's Certification pursuant to Section 62-711 that the development complies with the waterfront public access requirements of Section 62-41 and with the visual corridor requirements of Sections 62-42 and 62-60.

ENVIRONMENTAL REVIEW

This application (C 090120 ZMM), in conjunction with the applications for the related actions (C 090121 PPM, N 090122 ZAM, N 090123 ZCM) 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 designated CEQR number is 09SBS003M. The lead agency is the Department of Small Business Services.

After a study of the potential environmental impact of the proposed action, a Negative Declaration was issued on September 23, 2008.

UNIFORM LAND USE REVIEW

This application, C 090120 ZMM, in conjunction with the applications for the related action (C 090121 PPM) was certified as complete by the Department of City Planning on October 27, 2008, and was duly referred to Community Board 1 and the 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 applications (N 090122 ZAM) and N 090123 ZCM), which were referred for information and review.

Community Board Public Hearing

Community Board 1, Manhattan, held a public hearing on this application on November 26, 2008, and on that date, by a vote of 34 to 0 with 0 abstentions, adopted a resolution recommending

approval of the application.

Borough President Recommendation

The application was considered by the Borough President of Manhattan who issued a recommendation on December 31, 2008, approving the application.

City Planning Commission Public Hearing

On December 17, 2008 (Calendar No. 12), the City Planning Commission scheduled January 7, 2008 for a public hearing on this application (C 090120 ZMM). The hearing was duly held on January 7, 2008 (Calendar No. 24), in conjunction with the hearing on the application for the related actions (C 090121 PPM).

There were 8 speakers in favor of the application and related actions and none in opposition.

Those who spoke in support included a representative of EDC, four representatives of Dermot BMB LLC, and a member of Community Board 1, Manhattan. Also speaking in favor, were representatives for the City Councilmember from the 1st District and for the Manhattan Borough President.

The EDC project manager described the project and the chronology and formulation of the restoration and Request for Proposals. He described the project's approval from the Landmarks Preservation Commission and the discussions with the Community Board.

The developer's attorney described the zoning actions, the design, and the agreements with the Borough President, Community Board, and City Councilmember for the provision of a cultural coordinator for the multi-use venue. The project architect described the design, the accessibility from the street to the multi-use venue, and the connectivity with the East River Waterfront and

Esplanade and Peter Minuet Plaza. A partner of the developer who focuses in restaurants and hospitality described their commitment to a variety of programming and development of the multi-use venue. The developer's project manager also appeared in favor.

A representative of the Borough President reiterated the Borough President's support for the project.

A representative of the Councilmember from the 1st District also spoke in favor. He congratulated the developer on their efforts to work with the community and their proposed use of the multi-use venue.

A representative of Community Board 1 reiterated support for the project and stated that EDC and the developer went to great efforts to work with them, and it was greatly appreciated.

There were no other speakers and the hearing was closed.

Waterfront Revitalization Program Consistency Review

This application (C 090120 ZMM), in conjunction with the applications for the related actions (C 090121 PPM, N 090122 ZAM, N 090123 ZCM), was reviewed by the Department of City Planning 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 08-102.

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

CONSIDERATION

The Commission believes that the proposed zoning map amendment, in conjunction with the related actions, is appropriate. .

The proposed actions would facilitate redevelopment of the BMB into a multi-use venue with public spaces, a hotel and a penthouse rooftop restaurant and bar. In the 2002 Mayor's Vision for Lower Manhattan, one of the objectives was to draw people to the waterfront and revitalize the City's waterfronts. This approval for the restoration and re-use of the BMB helps to meet the Mayor's objectives. Not only will the BMB draw residents and visitors to a multi-use venue, but it will also help to connect people to Governor's Island and Staten Island. Key open spaces, such as Battery Park and the East River Waterfront, will also be connected by the BMB helping to complete the Manhattan Greenway.

The revitalization and multi-faceted purpose and use of the BMB will help to encourage and foster the growing residential neighborhood in the financial district by providing a cultural resource and an amenity to residents, employees, and visitors. It will help to bring activity to the waterfront in the day time but also in the evening as visitors, and area residents go to the BMB.

Zoning Map Amendment – C 090120 ZMM

The Commission believes that the proposed zoning map amendment is appropriate.

The Commission notes that the maximum bulk will be 3.4 FAR to eliminate the shortfall of allowable floor area on the seaward portion of the lot thus allowing the enlargement for the hotel and penthouse rooftop bar and restaurant.

The Commission also notes that the proposed zoning change from a manufacturing to a

commercial district would allow for a greater range of uses in the multi-use venue. Uses such as retail and food stores greater than 10,000 square feet that are not allowed in the M1-4 would be allowed in the proposed C4-6 district. The Commission finds the zoning map change to be appropriate so that the BMB site is in one zoning district and that a greater range of uses can be accommodated.

The Commission also notes that the BMB development will also be regulated under waterfront zoning and the Special Lower Manhattan District controls.

Disposition of City-owned Property – C 090121 PPM

The Commission also believes that the proposed Disposition of city-owned property is appropriate. The requested disposition action would allow SBS to enter into a long term agreement with a developer selected by EDC. The Commission notes that Dermot BMB LLC has been conditionally designated by EDC. The disposition would affect portions of the ground floor, excluding slips and areas intended for use by water taxis of GIPEC, and all of the upper floors. The Commission notes that no disposition is being requested for either GIPEC or for water taxi use at this time. The requested disposition action would enable the project to achieve its program and objectives.

***Modification of Waterfront Public Access and Waterfront Yard requirements –
N 090122 ZAM***

The Commission believes that the requested modifications of waterfront public access and waterfront yard is appropriate. In order to provide public access the building would need to be considerably modified. The Commission notes that the required 30 foot waterfront yard could not be provided because of the existing building and waterfront platform. The Commission believes that it would be impractical to satisfy the development's programmatic if the waterfront public access and yard were provided.

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, that the City Planning Commission, in its capacity as the City Coastal Commission, has reviewed the waterfront aspects of this application and finds that the proposed 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 described in this report, the Zoning Resolution of the City of New York, effective as of December 15, 1961 and as subsequently amended, is further amended by changing the Zoning Map, Section Nos. 12b:

changing from an M1-4 District to a C4-6 District property bounded by South Street, the southerly prolongation of a line 100 feet westerly of the westerly street line of Broad Street, the US Pierhead Line, and the southerly centerline prolongation of Whitehall Street,

Borough of Manhattan, Community District 1, as shown on a diagram (for illustrative purposes only) dated October 27, 2008.

The above resolution (C 090120 ZMM), duly adopted by the City Planning Commission on February 4, 2009 (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.

AMANDA M. BURDEN, FAICP, Chair
ANGELA M. BATTAGLIA, ANGELA CAVALUZZI, AIA, IRWIN G. CANTOR, P.E.,
ALFRED C. CERULLO, III, BETTY Y. CHIN, MARIA M. DEL TORO,
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JOHN MEROLO, Commissioners