

## CITY PLANNING COMMISSION

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June 7<sup>th</sup>, 2010 | Calendar No. 6



N 100190 ZAK

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**IN THE MATTER OF** an application submitted by The Refinery LLC for the grant of an authorization pursuant to Section 62-822 of the Zoning Resolution to modify the requirements of Sections 62-50 (GENERAL REQUIREMENTS FOR VISUAL CORRIDORS AND WATERFRONT PUBLIC ACCESS AREAS) and 62-60 (DESIGN STANDARDS FOR THE WATERFRONT AREA) and to approve a phasing plan for implementation of required waterfront public access area improvements to facilitate a proposed mixed use development on property bounded by Grand Street and its northwesterly prolongation, Kent Avenue, South 3rd Street, a line 100 feet westerly of Wythe Avenue, South 4th Street, Kent Avenue, South 5th 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 General Large-Scale Development, Borough of Brooklyn, Community District 1.

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**WHEREAS**, the City Planning Commission has received an application (N 100190 ZAK) dated December 24, 2009, from The Refinery, LLC requesting an authorization pursuant to ZR Section 62-822 of the Zoning Resolution to modify the requirements of Sections 62-50 (GENERAL REQUIREMENTS FOR VISUAL CORRIDORS AND WATERFRONT PUBLIC ACCESS AREAS) and 62-60 (DESIGN STANDARDS FOR THE WATERFRONT AREA) and to approve a phasing plan for implementation of required waterfront public access area improvements to facilitate the construction of a proposed mixed use development on property bounded by Grand Street and its northwesterly prolongation, Kent Avenue, South 3rd Street, a line 100 feet westerly of Wythe Avenue, South 4th Street, Kent Avenue, South 5th Street and its northwesterly prolongation, and the U.S. Pierhead Line on an approximately 11-acre site in the Williamsburg neighborhood, Borough of Brooklyn, Community District 1; and

**WHEREAS**, implementation of the project also requires the following related approvals

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| C 100185 ZMK | Zoning map amendment to replace an M3-1 district with C6-2 districts and with R6 and R8 districts with C2-4 commercial overlays.     |
| N 100186 ZRK | Zoning text amendment relating to the inclusionary housing program and regulations for non-conforming advertising signs.             |
| C 100187 ZSK | Special Permit pursuant to ZR section 74-743 to modify height and bulk regulations as part of a general large-scale development.     |
| N 100188 ZSK | Special Permit pursuant to ZR section 74-744 to modify use regulations as part of a general large-scale development.                 |
| N 100191 ZCK | Chair Certification pursuant to ZR section 62-811 to show compliance with waterfront public access and visual corridor requirements. |
| N 100192 ZCK | Chair Certification pursuant to ZR Section 62-812 to subdivide a waterfront lot.   |

In addition to these actions, the applicant proposed a special permit pursuant to ZR section 74-53 to exceed the maximum number of permitted parking spaces accessory to uses in a general large-scale development (C 100189 ZSK). This application was certified in conjunction with the above listed applications but was withdrawn by the applicant on June 2, 2010.

**WHEREAS**, detailed descriptions of this and the related actions are provided in the report for the related special permit application (C 100187 ZSK); and

**WHEREAS**, A full summary of the environmental review (CEQR No.07DCP094K) appears in the report on the related application for a special permit (C 100187 ZSK); and

**WHEREAS**, this application (N 100190 ZAK) in conjunction with the applications for the

related non-ULURP applications was duly referred to Brooklyn Community Board 1 and the Brooklyn Borough President on January 4, 2010 in accordance with the procedure for referring non-ULURP matters in conjunction with the applications for the related ULURP actions which were certified as complete by the Department of City Planning on January 4, 2010 in accordance with Title 62 of the Rules of the City of New York, Section 2-02(b); and

**WHEREAS**, a summary of the recommendations of the Community Board and the Borough President may be found in the report on the related special permit action (C 100187 ZSK); and

**WHEREAS**, this application, in conjunction with the related applications, 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.*) and determined that it was consistent with the policies of the WRP. The designated WRP number is 07-058; and

**WHEREAS**, the City Planning Commission hereby makes the following findings pursuant to ZR Section 62-822(a)(2) of the Zoning Resolution:

- (1) such #development# would be impracticable, physically or programmatically, due to site planning constraints such as the presence of existing #buildings or other structures# or elements having environmental, historic or aesthetic value to the public; and
- (2) that the reduction or waiver of requirements is the minimum necessary; and

**WHEREAS**, the City Planning Commission hereby makes the following finding pursuant to ZR Section 62-822(b) of the Zoning Resolution:

(1) the requested modifications would result in a design of #waterfront public access areas# that is functionally equivalent or superior to the design prescribed by strict adherence to the applicable provisions; and

**WHEREAS**, the City Planning Commission hereby makes the following finding pursuant to ZR Section 62-822(c) of the Zoning Resolution:

(1) the amount of #waterfront public access area# developed in any phase is proportionate to the #lot area# being developed in such phase; and

**WHEREAS**, the Commission has determined that the application warrants approval and therefore adopts the following 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, that based on the environmental determination described in this report, the application submitted by The Refinery, LLC for the grant of an authorization pursuant to ZR Section 62-822 of the Zoning Resolution to modify the requirements of Sections 62-50 (GENERAL REQUIREMENTS FOR VISUAL CORRIDORS AND WATERFRONT PUBLIC ACCESS AREAS) and 62-60 (DESIGN STANDARDS FOR THE WATERFRONT AREA) and to approve a phasing plan for implementation of required

waterfront public access area improvements to facilitate a proposed mixed use development on property bounded by Grand Street and its northwesterly prolongation, Kent Avenue, South 3rd Street, a line 100 feet westerly of Wythe Avenue, South 4th Street, Kent Avenue, South 5th 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 General Large-Scale Development, Borough of Brooklyn, Community District 1, is approved subject to the following terms and conditions:

1. The properties that are the subject of this application (N 100190 ZAK) shall be developed in size and arrangement substantially in accordance with the dimensions, specifications, and zoning computations indicated on the following plans, prepared by Quennell Rothschild Partners and Rafael Vinoly Architects PC, and filed with this application and incorporated in this resolution:

<u>Number</u>	<u>Title</u>	<u>Last Date Revised</u>
Z00-4	Subdivision Plan	12-24-09
L1.1	Open Space Zoning Calculations	12-22-09
L2.1	Waterfront Public Access Plan	12-22-09
L3.1	Open Space Phasing Plans – Phase 2	12-22-09
L3.2	Open Space Phasing Plans – Phase 3	12-22-09
L3.3	Open Space Phasing Plans – Phase 4	12-22-09
L3.3a	Alternate Open Space Phasing Plans –Phase 4	06-07-10
L3.4	Open Space Phasing Plans – Phase 5	12-22-09
L3.5	Open Space Phasing Plans – Phase 6	12-22-09
L5.1	Layout Plan	12-22-09
L5.2	Layout Plan	12-22-09
L6.1	Materials Plan	12-22-09
L6.2	Materials Plan	12-22-09
L7.1	Grading Plan	12-22-09

L7.2	Grading Plan	12-22-09
L8.1	Planting Plan	12-22-09
L8.1	Planting Plan	12-22-09
L8.3	Planting Schedule and Details	12-22-09
L9.1	Furnishing & Lighting Plan	12-22-09
L9.2	Furnishing & Lighting Plan	12-22-09
L9.3	Site Furnishing Schedule & Lighting Details	12-22-09
L10.1	Lighting Foot Candle Diagram	12-22-09
L10.2	Lighting Foot Candle Diagram	12-22-09
L11.1	Material & Signage Details	12-22-09

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.
  
3. Such development shall conform to all applicable laws and regulations relating to its construction 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 application for a special permit (C 100187 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. 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 restrictions, agreements, terms or conditions of this resolution whose provisions shall constitute conditions of the authorization hereby granted, the City Planning Commission may, without the consent of any other party, revoke any portion of or all of said authorization. Such power of revocation shall be in addition to and not limited to any other

powers of the City Planning Commission or of any 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 to disapprove any application for modification, cancellation or amendment of the authorization.

6. 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 authorization.

The above resolution is duly adopted by the City Planning Commission on June 7<sup>th</sup>, 2010  
(Calendar No. 6).

**AMANDA M. BURDEN, FAICP, Chair**  
**KENNETH J. KNUCKLES, ESQ., Vice Chairman,**  
**ANGELA M. BATTAGLIA, RAYANN BESSER,**  
**IRWIN G. CANTOR, P.E., ALFRED C. CERULLO, III,**  
**BETTY Y. CHEN, MARIA M. DEL TORO, RICHARD W. EADDY,**  
**NATHAN LEVENTHAL, ANNA HAYES LEVIN, SHIRLEY A. MCRAE,**  
**KAREN A. PHILLIPS Commissioners**