



CITY PLANNING COMMISSION

February 4, 2009 | Calendar No. 14

N 090122 ZAM

IN THE MATTER OF an application submitted by Dermot BMB, LLC, and the Economic Development Corporation for the grant of an authorization pursuant to Section 62-722(a) to modify the waterfront public access requirements of Section 62-40 (REQUIREMENTS FOR WATERFRONT PUBLIC ACCESS AND VISUAL CORRIDOR), and in conjunction therewith, Section 62-332 (Rear yards and waterfront yards) to facilitate a partial conversion and enlargement of an existing building, on property located at 10 South Street (Block 2, p/o Lot 1), in a C4-6 District, within the Special Lower Manhattan District, Community District 1, Borough of Manhattan.

WHEREAS, the City Planning Commission has received an application (N 090122 ZAM) dated October 27, 2008, from the Economic Development Corporation (EDC) and Dermot BMB, LLC requesting an authorization pursuant to Section 62-722(a) of the Zoning Resolution to modify the requirements of 62-40 (REQUIREMENTS FOR WATERFRONT PUBLIC ACCESS AND VISUAL CORRIDORS) to facilitate the development of a multi-use venue and hotel with rooftop restaurant bar located at 10 South Street in the Battery Maritime Building (BMB), Community District 1, Borough of Manhattan; and

WHEREAS, implementation of the project also requires the related approvals of a zoning map amendment from M1-4 to C4-6 in an area bounded by South Street, the southern prolongation of Broad Street, the US Pierhead Line and the southerly centerline prolongation of Whitehall Street (C 090120 ZMM), the disposition of city-owned property at the BMB (C 090121 PPM), and a chairperson certification pursuant to 62-711 for waterfront public access and visual corridor compliance (N 090123 ZCM); and

WHEREAS, detailed descriptions of this and the related actions are provided in the Commission

report for the related zoning map amendment application (C 090120 ZMM); and

WHEREAS, this application (N 090122 ZAM), in conjunction with the applications for the related actions (C 090120 ZMM, C 090121 PPM, and 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 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; and

WHEREAS, this application (N 090122 ZAM) was referred to Community Board 1 and the Borough President, in conjunction with the application for the related actions (C 090120 ZMM and C 090121 PPM), which were certified as complete by the Department of City Planning on October 27, 2008, 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 zoning map amendment action (C 090120 ZMM); and

WHEREAS, this application 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 08-102; and

WHEREAS, the City Planning Commission hereby makes the following finding pursuant to Section 62-722(a) of the Zoning Resolution:

for a commercial or community facility development, it would be impractical to satisfy the development's programmatic requirements while adhering to the regulations.

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 Economic Development Corporation

and Dermot BMB, LLC for the grant of an authorization pursuant to Section 62-722 of the Zoning Resolution to modify the requirements of Sections 62-40 (REQUIREMENTS FOR WATERFRONT PUBLIC ACCESS AND VISUAL CORRIDORS) to facilitate the re-use of the Battery Maritime Building as a multi-use venue and hotel with rooftop hotel and bar at 10 South Street (Block 2, Lot 1), Community District 1, Borough of Manhattan, is approved subject to the following terms and conditions:

1. The properties that are the subject of this application (N 090122 ZAM) shall be developed in size and arrangement substantially in accordance with the dimensions, specifications, and zoning computations indicated on the following plan, prepared by Rogers Marvel Architects, PLLC, and filed with this application and incorporated in this resolution:

Drawing No.	Title	Date
Z-200	Site Plan	October 10, 2008
Z-203	Zoning Analysis, Average Curb Level	October 10, 2008
Z-301	Building Envelope Controls	October 10, 2008
Z-302	Building Envelope Controls	October 10, 2008

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 plan 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 and maintenance.
4. 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.

5. 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, duly adopted by the City Planning Commission on February 4, 2009 (Calendar No. 14) is filed with the Office of the Speaker, City Council in accordance with Section 62-722(a) of the Zoning Resolution.

AMANDA M. BURDEN, FAICP, Chair
ANGELA M. BATTAGLIA, ANGELA R. CAVALUZZI, AIA, IRWIN G. CANTOR, P.E.,
ALFRED C. CERULLO, III, BETTY Y. CHIN, MARIA M. DEL TORO,
RICHARD W. EADDY, NATHAN LEVENTHAL, SHIRLEY A. McRAE,
JOHN MEROLO, Commissioners