



CITY PLANNING COMMISSION

July 25, 2007/Calendar No. 19

C 070349 PSM

IN THE MATTER OF an application submitted by the Department of Citywide Administrative Services and the Department of Small Business Services, pursuant to Section 197-c of the New York City Charter, for the site selection of property located under the FDR Drive and Piers 35, 36, and 42, Borough of Manhattan, Community Districts 1 and 3, for use as enhancements to the East River Waterfront.

The application for the site selection of city-owned property was filed by the Department of Citywide Administrative Services and the Department of Small Business Services on February 14, 2007, to facilitate development of property located under the FDR Drive and Piers 35, 36, and 42 for use as enhancements to the East River Esplanade Project (“the Esplanade Project.”).

RELATED ACTION

In addition to site selection of city-owned property which is the subject of this report, implementation of the proposed project also requires action by the City Planning Commission on the following application which is being considered concurrently with this application:

C 070350 PPM Disposition of City-Owned Property

AREA AND SITE DESCRIPTION

Lower Manhattan’s East River Waterfront was, historically, a working waterfront characterized by maritime activity, commerce, and loading and unloading of cargo. The Fulton Fish Market operated at this waterfront for more than 100 years until it was relocated in 2005. The project area extends from the Battery Maritime Building to Pier 42 at Montgomery Street and includes waterfront areas and areas under the FDR Drive (FDR). Adjacent neighborhoods include the Financial District, South Street Seaport, Chinatown and the Lower East Side.

The entire Project area falls within the M1-4, C2-8, C4-6, and C6-4 zoning districts. The Community District 1 portion of the project is also within the Special Lower Manhattan District. The adjacent upland neighborhoods are a mix of residential, commercial, and park uses with high density commercial and residential uses in the Financial District and near the Manhattan Bridge, and a medium to lower density mix in the upland South Street Seaport neighborhood. Currently, under the FDR in the marginal street, there are parking lots, an existing esplanade, and bikeway. Piers 15, 35, and 42 are also currently vacant. Pier 36 is currently the site of NYC Department of Transportation milling and paving operations.

Access to the project area is via multiple upland connections which include intersecting streets and historic slips including Maiden Lane, Burling Slip, Fulton Street, Peck Slip, Montgomery and Catherine slips, and Pike Street. There are also “gateways” such as the Battery Maritime Building and Plaza which connects to Battery Park and the Battery Park City waterfront and Pier 42 which connects the project area to East River Park. Major subways, bus lines, the Staten Island Ferry Terminal, and Battery Maritime Building Ferry Terminal are in close proximity to the project area providing convenient connections to all boros.

BACKGROUND

In 2005, the Department of City Planning (DCP) in cooperation with the Economic Development Corporation (EDC) initiated the East River Waterfront Concept Plan (“Concept Plan”). The Concept Plan was developed with intensive public input including over 70 public meetings. A report entitled “Transforming the East River Waterfront,” summarized the results

of the planning process and included the Concept Plan, a comprehensive vision for the 2-mile stretch of waterfront, from the Battery Maritime Building to Pier 42 at Montgomery Street.

The Concept Plan made recommendations for improvements of the slips, piers, the esplanade, and the Battery Maritime Building Plaza and East River Park connector. Several of these improvements are not part of the subject applications and will be implemented separately or in the future phases and could require separate ULURP actions. The Concept Plan received \$150 million in funding from the Lower Manhattan Development Corporation as part of its efforts to revitalize Lower Manhattan following the events of September 11th, 2001.

ACTIONS REQUESTED

Implementation of the plan for the subject properties requires applications for site selection (C 03749 PSM) and disposition of city-owned property (C 073050 PPM).

Site selection (C 03749 PSM) is necessary for portions of Marginal Street, wharf or place under the FDR, Pier 35, Pier 36, and Pier 42. The site selection for marginal street would allow for the development of five pavilions located at Maiden Lane, between Fletcher Street and John Street, Pike Street and Rutgers Slip, and Rutgers Slip. The pavilions would provide a variety of uses that would enliven the area under the elevated FDR. Site selection for Pier 35, 36, and 42 would allow for the development of new park open spaces and accessory uses on the piers.

The disposition application (C 073050 PPM) includes areas on Pier 15, Pier 35, and portions of Marginal Street under the FDR. The city intends to dispose of the property to EDC.

Through a Request for Proposals (RFP) process, EDC would determine specific operators and uses for the pavilions and piers that would be consistent with the Concept Plan. The disposition application limits the amount of area that can be disposed and imposes a maximum height of 20 feet.

For portions of land under the FDR in Community District 1, uses envisioned are for indoor recreation (squash, racquetball, handball, etc), bicycle rental and/or storage, food services such as a cafe or refreshment stand, and arts or community space. The spaces under the FDR in Community District 3 are envisioned as supporting local arts and community groups, performance space for dance or practice of martial arts, gallery and exhibition space, and also for small local retailers, food services or other community related uses..

Pier 35, is primarily envisioned as a community event space -- one that is open and available for local community events and gatherings. A portion of Pier 15 would include educational use such as maritime or environmental education, hands-on workshops, presentation space, or exhibition space. The pier could also include a small restaurant or catering facility.

ENVIRONMENTAL REVIEW

This application (C 070349 PSM), in conjunction with the application for the related action (C 070350 PPM) was reviewed pursuant to the National Environmental Policy Act and its implementing regulations (NEPA) Section 106 of the National Historic Preservation Act and

its implementing regulations (Section 106), 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. The designated CEQR number is 07LMD001. The lead agency is the Lower Manhattan Development Corporation (LMDC). LMDC served as lead agency pursuant to both NEPA and SEQRA for the environmental review of the Esplanade Project.

LMDC is a subsidiary of the New York State Urban Development Corporation d/b/a Empire State Development Corporation (a political subdivision and public benefit corporation of the State of New York). LMDC is responsible, pursuant to federal statute 42 U.S.C. 5304(g) as the recipient of US Department of Housing and Urban Development (HUD) Community Development Block Grant program funds, for conducting environmental reviews of projects receiving HUD funds in accordance with 24 CFR Part 58 as well as other laws and regulations.

Because SEQRA does not require a separate EIS to be prepared under SEQRA when a federal EIS is prepared, LMDC prepared the FEIS pursuant to NEPA. SEQRA and CEQR, and their implementing regulations, were referenced in the FEIS as appropriate, and because the Esplanade Project is entirely within New York City, the CEQR Technical Manual generally served as the guide for methodologies and impact criteria. The analysis in each substantive area of impact assessment is consistent with Federal, State and City requirements and guidelines, which are identified in the FEIS as applicable.

The lead agency prepared a DEIS and issued a Notice of Availability on January 24, 2007.

Pursuant to NEPA regulations, a public hearing was held on the DEIS on March 5th, 2007.

The Final Environmental Impact Statement (FEIS) was completed and a Notice of Availability of the FEIS was issued on May 30, 2007.

The FEIS identified significant adverse impacts and proposed mitigation measures with respect to the Esplanade Project that are summarized below. Several of the impacts discussed below are associated with aspects of the Esplanade Project not the subject of this application, and which require other reviews and approvals.

HISTORIC RESOURCES

Because the designs for some project components are not yet complete and because the actual presence of archaeological resources cannot be confirmed without field testing, LMDC, State Historic Preservation Office (SHPO), and the Advisory Council on Historic Preservation concluded that it is appropriate to enter into a Programmatic Agreement pursuant to Section 106 of the National Historic Preservation Act. Any adverse effects on historic resources that are identified as the design process moves forward will be minimized or avoided to the maximum extent possible as set forth in a Programmatic Agreement.

LMDC, SHPO and the Advisory Council on Historic Preservation have entered into a Programmatic Agreement to address any unanticipated or adverse effects of the Esplanade Project on historic resources or properties. The City will carry out the Esplanade Project in conformance with the Programmatic Agreement. The Programmatic Agreement will also provide further opportunity for consultation among LMDC, SHPO, Advisory Council on

Historic Preservation and the City in order to minimize any potential for adverse effects on historic resources to the maximum extent feasible.

TRAFFIC

The Esplanade Project will result in significant adverse traffic impacts at eight intersections, which can be fully mitigated. These impacts are attributable to geometric changes along South Street and the reconfiguration of access to the Battery Park Underpass through construction of the BMB plaza. Additionally, the reconstruction of the Brooklyn Bridge ramps, an independent City project, which is expected to be completed in 2013 or 2014, will also substantially improve operations on South Street by diverting Brooklyn-bound vehicles from local streets in Lower Manhattan.

The City will implement the following traffic mitigation measures to ensure that the Esplanade Project does not result in significant adverse impacts:

South Street between Montgomery Street and Robert F. Wagner Sr. Place

The Esplanade Project will result in the reconfiguration of South Street from two to one southbound lane, which will result in significant adverse impacts at its intersections with Pike Street, Market Slip, and Catherine Slip. To mitigate these impacts it is recommended that parking be prohibited to allow for an additional southbound travel lane through this section of South Street. In addition, a signal timing adjustment will be required at the intersection of South and Pike Streets.

South Street and Fulton Street

The Esplanade Project's PM peak hour impact at this location will be fully mitigated by transferring signal time from the pedestrian-only phase to the north-south traffic phase. This timing adjustment will not adversely affect pedestrian circulation, since a wide crossing area is provided and the remaining signal time will be adequate to safely cross South Street.

Water Street and Broad Street

The Esplanade Project's traffic impacts in the AM and PM peak hour at Water and Broad Street will be fully mitigated by transferring 10 seconds of signal time from the north-south signal phase to the east-west signal phase. There will be adequate capacity for the north-south approach to accommodate a shorter signal phase without resulting in adverse impacts to its operation.

Water Street and Whitehall Street

The Esplanade Project's impact at this location will be mitigated with a combination of lane striping and signal timing and phasing. The existing northbound approach is unmarked and operates as a wide, single traffic lane. This approach could, however, accommodate two lanes within the existing alignment of the roadway, which has been recommended as mitigation for the proposed project. In addition, a new signal timing plan is suggested for the AM peak hour. Although not required as mitigation, the signal plan will also be used for PM peak hour operations.

Pearl Street and Broad Street

The Esplanade Project's AM peak hour impact at this location will be fully mitigated by transferring 1 second of green time from the southbound phase to the east-west phase.

Although this will reduce the green time for southbound traffic, this approach will operate at Level of Service (LOS) D during the AM peak hour. Mitigation is not required at this location during the PM peak hour.

State Street and Broad Street

The Esplanade Project's AM peak hour impact at this location will be fully mitigated by transferring 7 seconds of green signal time from the east-west phase to the southbound phase. Although this will reduce the green time for eastbound and westbound traffic, these approaches will operate at LOS D or better during the AM peak hour. Mitigation is not required at this location during the PM peak period.

NOISE

The Esplanade Project will not significantly increase noise levels at the Project Site. Noise levels within some of the new open space areas created as part of the Esplanade Project, however, will be above the 55 A-weighted decibel (dBA) L_{10} noise level for outdoor areas requiring serenity and quiet contained in the *CEQR Technical Manual* noise exposure guidelines. Noise levels within some of the new open space areas will also exceed the HUD goal of a maximum L_{dn} noise level of 55 dBA for exterior noise levels with the intention of achieving 45 L_{dn} within residences (HUD does not have noise standards pertaining specifically to outdoor public open space).

Based on HUD noise standards, the noise levels at these new open space areas will result in potentially significant adverse noise impacts on their users. Because of safety and aesthetic

considerations, there are no practical and feasible mitigation measures that could be implemented to reduce noise levels to below the 55 dBA $L_{10(1)}$ guideline within the open space areas. Although noise levels in some of these new areas will be above the 55 dBA $L_{10(1)}$ guideline noise level, they will be comparable to noise levels in a number of open space areas that are also located adjacent to heavily trafficked roadways, including the Hudson River Park, the East River Drive Park, Central Park, Riverside Park, and other urban open space areas.

CONSTRUCTION

Traffic

Construction of the Esplanade Project may be disruptive of the surrounding area for limited periods of time throughout the construction period. The possible closure of the Battery Park Underpass during construction of the BMB Plaza could result in temporary significant adverse impacts with respect to traffic circulation. To avoid or mitigate such impacts to the extent practical, LMDC and the City will coordinate construction with the Lower Manhattan Construction Command Center (LMCCC). Whenever possible, deliveries and other construction activities will take place during off-peak travel hours. As much work as practical will take place from the water side. But temporary significant adverse impacts may still occur.

Air

Temporary significant adverse impacts on air quality due to changes in traffic conditions cannot be ruled out during construction of the Battery Park Underpass extension for the BMB Plaza, should closure or partial closure of the tunnel be necessary. LMDC and the City will

coordinate construction activities with LMCCC to minimize potential adverse effects of the closure to the greatest extent practicable.

Cumulative

Because the Esplanade Project is located south of Canal Street and within the jurisdiction of LMCCC, all construction documents will specify adherence to the Environmental Performance Commitments, as appropriate, utilized by LMDC for minimizing construction impacts on air quality and noise during construction. The City will coordinate construction of the Esplanade Project with construction of an improved connection to the East River Park planned as part of the City's East River Access Projects.

UNIFORM LAND USE REVIEW

This application (C 070349 PSM), in conjunction with the application for the related action (C 070350 PPM) was certified as complete by the Department of City Planning on February 26, 2007, and was duly referred to Community Board 1, Community Board 3, the Borough Board, and the Manhattan Borough President, in accordance with Title 62 of the Rules of the City of New York, Section 2-02 (b).

Community Board 1 Public Hearing

Community Board 1 held a public hearing on this application on March 26, 2007, and on April 17, 2007, by a vote of 37 to 1 with no abstentions, adopted a resolution recommending approval of the application subject to the following conditions:

- Maximum public access to the waterfront and open space is provided on Pier 15

- Any use approved for Pier 15 be located as close to the western side (land side) of the Pier as possible

Community Board 3 Public Hearing

Community Board 3 held a public hearing on this application on April 12, 2007, and on April 24, 2007, by a vote of 36 to 0 with no abstentions, adopted a resolution recommending approval of the application subject to the following conditions: CB3 will have significant input in the selection of the concessionaires of the pavilions, and that the same amenities will be provided in the area between the Brooklyn Bridge and Catherine Slip.

- Maximum public access to the waterfront and open space is provided.
- First priority for family-supporting jobs and related training for temporary construction and long term jobs be given to Community Board #3 residents.
- The City of New York continues to meet with the Community Board throughout the design and RFP process.
- The City of New York will return to the Community Board for any future actions necessary to fully implement the waterfront plan.

Borough President Recommendation

This application was considered by the Borough President who issued a recommendation on May 29, 2007, approving the application.

Borough Board Recommendation

This application was considered by the Borough Board who issued a recommendation on May 29, 2007, approving the application with the following conditions:

- Maximum public access to the waterfront, Pier 15, and open space is provided
- Any use approved for Pier 15 be located as close to the western side (land side) of the Pier as possible
- Community Board 1, Community Board 3, and local elected officials will have significant input in the selection of the concessionaires of the pavilions, and that the same amenities will be provided in the area between the Brooklyn Bridge and Catherine Slip.
- To the largest extent possible, the first priority for family-supporting jobs and related training for temporary construction and long term jobs are provided to Community Board #1 and #3 residents

City Planning Commission Public Hearing

On May 23, 2007, (Calendar No. 14) the City Planning Commission scheduled, June 6, 2007, for a public hearing on this application (C 070349 PSM). The hearing was duly held on June 6, 2007 (Calendar No. 26) in conjunction with the applications for the related action (C 070350 PPM). There were three speakers in favor of the application and no speakers in opposition.

A representative from EDC discussed the proposal and thanked those who participated in the planning process. A representative of the Alliance for Downtown New York spoke in favor of the proposed actions. The Director of Land Use Planning for the Manhattan Borough President spoke in favor of the application and expressed a desire for the pavilions to

represent local community groups and encouraged EDC and DCP to continue to work with the community to make appropriate decisions.

Waterfront Revitalization Program Consistency Review

This application (C 070349 PSM), in conjunction with the applications for the related actions (C 070350 PPM), 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 07-010.

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

CONSIDERATION

The Commission believes that this site selection application (C 070349 PSM) in conjunction with the related application on the disposition of city-owned property (C 070350 PPM) is appropriate.

The Commission recognizes that the actions are the result of a comprehensive planning effort with significant community outreach and input. The East River Waterfront Concept Plan has economic, recreational, and open space goals that are supported by the local community

boards and the Manhattan Borough President. The actions under consideration would facilitate only a portion of which those envisioned in the Concept Plan. The Commission believes that they are important to the implementation of the Esplanade Project and the ongoing revitalization of Lower Manhattan.

The requested actions will facilitate creation of passive and active recreation areas and waterfront uses such as small retail, cultural, and community facility spaces. Along with other non-ULURP actions, they will help fulfill the vision of the East River Waterfront Concept Plan and the specific elements included in the Esplanade Project by providing new and a variety of uses to the waterfront which will provide amenities for the abutting neighborhoods and make the waterfront a more attractive and appealing place. They will promote cultural development, enhance the proposed open space and provide improved links to the upland areas..

The Commission urges EDC to continue to work with the community boards in the development of selection criteria for the issuance of RFPs and selection of operators and uses for the Piers and proposed pavilions.

The Commission notes that both Community Board 1 and Community Board 3 recommended maximum public access be provided to the waterfront. The Commission also notes that Community Board 1 requested that Pier 15 be kept open with the use being placed on the land edge of the Pier. The Commission encourages EDC to work with the community on the design of the waterfront including the piers. The Commission further notes that the

waterfront design must comply with all waterfront regulations of the Zoning Resolution including, but not limited to, preservation of view corridors, and the provision of buffer zones and shore public walkways to provide maximum access to the waterfront.

Community Board 3 recommended that the area from Catherine Slip to Brooklyn Bridge should not be underserved in amenities. The Commission urges EDC to work with the Community Board on the design and additional recreation amenities in this area.

RESOLUTION

RESOLVED, that having considered the Final Environmental Impact Statement (FEIS), for which a Notice of Availability was issued on May 30, 2007 with respect to the application (CEQR No. 07LMD001), 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 actions to be approved are ones which minimize or avoid adverse environmental impacts to the maximum extent practicable; and
2. The adverse environmental impacts revealed in the FEIS will be minimized or avoided to the maximum extent practicable by incorporating as conditions to the approval those mitigative measures that were described above.

The report of the City Planning Commission, together with the FEIS, constitutes 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, 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 Section 197-c of the New York City Charter, that based on the environmental determination and consideration described in this report, the application (C 070349 PSM), submitted by the Department of Citywide Administrative Services and the Department of Small Business Services, pursuant to Section 197-c of the New York City Charter, for the site selection of property located under the FDR Drive and Piers 35, 36, and 42, Borough of Manhattan, Community Districts 1 and 3, for use as enhancements to the East River Waterfront, Community District 1 and Community District 3, Borough of Manhattan, is approved.

The above resolution, duly adopted by the City Planning Commission on July 25, 2007 (Calendar No. 19), 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, AICP Chair
KENNETH J. KNUCKLES, Esq. Vice Chair
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