



CITY PLANNING COMMISSION

September 8, 2004/Calendar No. 30

C 030415 ZSK

IN THE MATTER OF an application submitted by IKEA Property, Inc. pursuant to Sections 197-c and 201 of the New York City Charter **for the grant of a special permit pursuant to Section 62-736 of the Zoning Resolution to modify the maximum building height requirements of Section 62-341(b)(3) to facilitate the development of a 3-story commercial building development on a zoning lot located at 1 Beard Street, a.k.a. 21 Erie Basin** (Block 612, Lot 130), in M1-1 and M3-1 Districts, Community District 6, Borough of Brooklyn.

The application for the special permit was filed by IKEA Property, Inc. on March 31, 2003, to facilitate the development of an approximately 346,000 square foot furniture store, three ancillary retail or restaurant buildings and a 6.3 acre waterfront public access area on an approximately 22-acre site in Red Hook, Community District 6, Brooklyn.

RELATED ACTIONS

In addition to the special permit which is the subject of this report, implementation of the proposed development also requires action by the City Planning Commission on the following applications which are being considered concurrently with this application:

1. C 030413 ZMK A zoning map amendment from M3-1 to M1-1;
2. C 030414 ZSK A special permit to allow a large retail establishment in an M1-1 district. This special permit would allow a Use Group 10A furniture store as well as three other Use Group 6 or 10 retail establishments with no limitation on floor area;
3. C 030412 MMK Changes to the City Map;

4. N 030416 ZAK An authorization to modify the waterfront public access and visual corridor regulations pursuant to Section 62-722; and
5. N 030418 ZCK Certification by the Chair of the City Planning Commission pursuant to Section 62-711 that a site plan has been submitted showing compliance with the waterfront zoning regulations.

BACKGROUND

A full background discussion and description of this project appears in the report on the related application for the grant of a special permit (C 030414 ZSK).

ENVIRONMENTAL REVIEW

This application (C 030415 ZSK), in conjunction with the applications for the related actions (C 030413 ZMK, C 030414 ZSK, C 030412 MMK, N 030416 ZAK and N 030418 ZCK), 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 03DCP041K. The lead agency is the City Planning Commission.

A summary of the environmental review and the Final Environmental Impact Statement appears in the report on the related application for the grant of a special permit (C 030414 ZSK).

UNIFORM LAND USE REVIEW

This application (C 030415 ZSK), in conjunction with the applications for the related actions (C 030413 ZMK, C 030414 ZSK and C 030412 MMK), was certified as complete by the Department of City Planning on April 26, 2004, and was duly referred to Community Board 6 and the Borough President, in accordance with Article 3 of the Uniform Land Use Review Procedure (ULURP) rules.

Community Board Public Hearing

Community Board 6 held a public hearing on this application on May 13, 2004, and on June 9, 2004, by a vote of 34 to four with two abstentions, adopted a resolution recommending approval of the application with conditions.

A summary of the recommendation of Community Board 6 appears in the report on the related application for the grant of a special permit (C 030414 ZSK).

Borough President Recommendation

This application was considered by the Borough President, who issued a recommendation approving the application with conditions on July 12, 2004.

A summary of the Borough President's recommendation appears in the report on the related application for the grant of a special permit (C 030414 ZSK).

City Planning Commission Public Hearing

On July 14, 2004 (Calendar No. 8), the City Planning Commission scheduled July 28, 2004, for a public hearing on this application (C 030415 ZSK). The hearing was duly held on July 28, 2004 (Calendar No. 30), in conjunction with the public hearings on the applications for the related actions (C 030413 ZMK, C 030414 ZSK, C 030412 MMK, N 030416 ZAK and N 030418 ZCK).

There were a number of speakers, as described in the report on the related application for the grant of a special permit (C 030414 ZSK), and the hearing was closed.

Waterfront Revitalization Program Consistency Review

This application, in conjunction with the applications for the related actions, 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 03-019.

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

CONSIDERATION

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

A full consideration and analysis of the issues, and the reasons for approving this application, appear in the report on the related application for the grant of a special permit (C 030414 ZSK).

FINDINGS

The City Planning Commission hereby makes the following findings pursuant to Section 62-736 (Height and Setback Regulations on Waterfront Blocks) of the Zoning Resolution that:

- (a) the zoning lot has unique natural features such as rock outcroppings, significant grade changes or wetlands; or has an irregular shoreline or shape; or contains existing buildings or other structures;
- (b) the site plan of the proposed development would result in better bulk placement and articulation of buildings, and a better arrangement of open spaces than would be possible by strict adherence to the bulk regulations;
- (c) the proposed development would provide physical or visual public access to the waterfront in a way that is superior to that which would be possible by strict adherence to the bulk regulations; and
- (d) such modifications would significantly enhance the relationship between the proposed development and the surrounding area.

RESOLUTION

RESOLVED, that having considered the Final Environmental Impact Statement (FEIS), for which a Notice of Completion was issued on August 27, 2004, with respect to this application (CEQR No. 03DCP041K), the City Planning Commission finds that the requirements of Part 617, State Environmental Quality Review, 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 possible by incorporating as conditions to the approval those mitigative measures that were identified as practicable.

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 617.9(c)(3) 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 Sections 197-c and 201 of the New York City Charter, that based on the environmental determination, and the consideration and findings described in this report, the application of IKEA Property, Inc. for the grant of a special permit pursuant to Section 62-736 of the Zoning Resolution to modify the maximum building height requirements of Section 62-341(b)(3) to facilitate the development of a 3-story commercial building development on a zoning lot located at 1 Beard Street, a.k.a. 21 Erie Basin (Block 612, Lot 130), in M1-1 and M3-1 Districts, Borough of Brooklyn, Community District 6, is approved, pursuant to

Section 62-736 of the Zoning Resolution, subject to the following terms and conditions:

1. The property that is the subject of this application (C 030415 ZSK) shall be developed in size and arrangement substantially in accordance with the dimensions, specifications and zoning computations indicated on the following plans, prepared by the architecture firm of Greenberg Farrow, filed with this application and incorporated in this resolution:

<u>Drawing No.</u>	<u>Title</u>	<u>Date</u>
Z2.0	Attachment #7, #8 - Zoning Sectional Maps/Proposed Zoning/Tax Maps	9/01/04
Z3.0	Attachment #2 - Ground Floor Plan	9/01/04
Z4.0	Attachment #2 - Roof Plan	9/01/04
Z5.0	Attachment #4 - Height and Setback Diagrams	9/01/04
ZW 1.0	Zoning Computations and Site Plans	9/01/04
ZW 2.0	Waterfront Public Access Design Plan	9/01/04
ZW 3.0	Waterfront Paving Plan	9/01/04
ZW3.1	Waterfront Paving Plan	9/01/04
ZW 4.0	Waterfront Planting Plan	9/01/04
ZW4.1	Waterfront Planting Plan	9/01/04
ZW4.2	Waterfront Planting Plan	9/01/04
ZW 5.0	Waterfront Seating Plan	9/01/04
ZW5.1	Waterfront Seating Plan	9/01/04
ZW 6.0	Waterfront Lighting Plan	9/01/04
ZW6.1	Waterfront Lighting Plan	9/01/04
ZW7.0	Building Sections and Site Details	9/01/04

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. The development shall include those mitigative measures listed in the Final Environmental Impact Statement (CEQR No. 03DCP041K) issued on August 27, 2004, (and identified as practicable), as follows:

HISTORIC RESOURCES

The demolition of structures on the project site identified as historic resources—Buildings 1 through 5—as well as the partial filling of Graving Dock No. 1 would constitute a significant adverse impact on historic resources. As requested by LPC, the retention of a portion of Buildings 1 through 5 was considered as a way of recalling the maritime and commercial history of the project site. However, Buildings 3, 4, and 5 are in a severe state of disrepair, and thus could not be utilized in their present condition or relocated on or off-site, and the Proposed Project would require the widening of Beard Street on its southerly side between Otsego Street and a point west of Dwight Street, to accommodate project-generated traffic and meet NYCDOT requirements for standard street geometry. These constraints would require the demolition of Buildings 1 through 5.

The impact on historic resources would be lessened by components of the Proposed Project which would serve to retain and enhance the maritime and industrial elements of the site, such as the incorporation of some of the existing gantry cranes on the site (including the northern gantry crane adjacent to Graving Dock No. 1) into the waterfront esplanade, and the retention of an approximately 130-foot end portion of Graving Dock No. 1 and its caisson wall as a water feature within the esplanade. Measures to further mitigate this impact have been developed with and approved by OPRHP. A draft Memorandum of Agreement (MOA) has been developed with OPRHP and will be implemented in order to take into account the effect of the Proposed Project on historic resources. The provisions of the draft MOA include:

- The project elements listed above;
- Indicating the boundaries of Graving Dock No. 1 by unique pavers and/or landscaping within the proposed parking lot;

- Creating a design for the waterfront esplanade in keeping with the historic industrial waterfront;
- Creating interpretive displays within the waterfront esplanade;
- Avoiding the potential archaeological resources on the site by not excavating below the current ground surface in the relevant areas;
- Offering the portions of the piers to remain on a case-by-case basis to historic ships in need of a temporary mooring location that does not require land access, to the extent that such mooring does not interfere with barging and other maritime uses occurring along such piers; and
- Recording Buildings 1 through 5 and Graving Dock No. 1 through a Historic American Buildings Survey (HABS)-level photographic documentation and accompanying narrative.

With these measures, the adverse impact of the Proposed Project on historic resources would be partially mitigated.

HAZARDOUS MATERIALS

To prevent any significant adverse impacts from the contaminated materials on the site, IKEA has entered into an agreement with NYSDEC with respect to the remediation of environmental conditions on the site under the Voluntary Cleanup Program. The goal of that agreement (the “Voluntary Cleanup Agreement”) is to remediate contamination identified during the site investigation to a level that is protective of public health and the environment, consistent with the proposed future commercial use of the property. NYCDEP has reviewed the Voluntary Cleanup Agreement and concurred with the provisions set forth in the agreement. IKEA will continue to submit documentation pertaining to the cleanup to NYCDEP for review. In addition, IKEA has submitted an application under New York State’s newly-enacted Brownfields Program, which has been determined to be complete by NYSDEC. IKEA expects to transfer into that program by executing a Brownfields Cleanup Agreement subsequent to NYSDEC’s approval of the application.

A draft Remedial Work Plan (RWP) for the site has been submitted to NYSDEC. Implementation of the measures specified in the RWP would minimize any significant adverse impacts from the contaminated materials on the site.

Before construction, the identified “hot spots” of soil contamination would be

remediated by excavating the contaminated soil and disposing of it at a permitted off-site treatment/disposal facility. The electric transformers on the site would be decommissioned and removed, along with associated stained concrete flooring. Waste stockpiles, and other potentially contaminated materials including stained wood and concrete surfaces, and the dust collection system in Building 93 would also be removed for proper off-site disposal. Existing monitoring wells would be filled and sealed. Sub-grade drainage structures would be removed for proper off-site disposal, or cleaned and abandoned in place.

The RWP includes a number of measures intended to eliminate pathways for potential exposure to contaminants in the on-site fill material during construction. Disturbance of the existing fill material on the site would be minimized by importing clean fill material to raise the grades throughout the site. Construction activities would be performed in accordance with a construction health and safety plan to minimize exposure of construction workers and others to potentially hazardous materials, and a community air monitoring plan to detect and respond to any emissions of vapors or dust from the site. Dust suppression measures would be taken during all activities that involve disturbance of the existing fill on the site. In accordance with a soil management plan, all earth-moving construction activities would be monitored, and excavated soil would be field screened and sampled for laboratory analysis where necessary. Sedimentation and erosion control measures also will be implemented. The location of all fill material that is relocated on the site would be documented.

Following construction, most of the site would be covered with new buildings, asphalt-paved parking areas, and concrete walkways. These structures would serve as barriers to prevent direct contact with the existing fill material on the site after construction is completed, and also to prevent infiltration of water through the fill. The only portion of the site that would not be capped in this way is the landscaped portion of the waterfront promenade. In that area, all the existing fill material would be excavated down to the level of the groundwater surface and replaced by imported clean fill. The excavated materials from this area, along with any other fill material that must be excavated to install utilities, pile caps, or other subsurface structures, would be placed in locations beneath the new buildings, where they would be capped and isolated.

A methane mitigation system would be installed under the southern portion of the proposed Use Group 6 or 10 large retail use (anticipated IKEA) building, where elevated levels of methane have been detected in the soil gas. The system would be designed to prevent the accumulation of methane and other organic vapors in the

subsurface beneath the building. A vapor barrier would be installed as part of this system. To assess the effectiveness of the system, levels of methane and other organic vapors in soil gas would be monitored following completion of construction.

The measures in the RWP would result in the removal of the most significant sources of contamination on the site, and the elimination of potential pathways for human or environmental exposures to the historic urban fill material that would remain. Therefore, the implementation of the RWP is expected to prevent any significant adverse impacts from hazardous and contaminated materials on the site.

TRAFFIC

All significant adverse traffic impacts expected to result from the Proposed Project could be mitigated using standard traffic mitigation measures, as described below.

Primary Study Area

Build Typical Conditions

Under these operating conditions, project-generated traffic at two of the three intersections that would be potentially impacted could be mitigated by implementing signal timing changes. At Lorraine Street and Columbia Street, the removal of parking along westbound Lorraine Street would be required during the Friday evening and Saturday midday peak periods to accommodate a second moving lane. At Van Brunt Street and Coffey Street, daylighting for approximately 100 feet along eastbound Coffey Street would be required during the weekday midday and Friday evening peak periods to accommodate a second moving lane.

Build Sales Conditions

Mitigation measures would be required at five primary study area locations to improve conditions during the Build sales conditions. During weekday and Friday midday and Friday evening peak periods, daylighting along eastbound Coffey Street at Van Brunt Street would be required to create a second moving lane to accommodate additional volumes. Similar parking regulation modifications would be required along westbound Lorraine Street (at Columbia Street) during the Friday midday, evening and Saturday midday peak periods. Daylighting along eastbound Bay Street at Clinton Street would be required during the weekday and Saturday midday peak periods. In addition, signal timing changes at Hamilton Avenue and Clinton Street, Columbia and Lorraine Streets, and Clinton and Lorraine Streets would be required.

Secondary Study Area

Build Typical Conditions

Signal timing changes at the six locations identified within the secondary study area would be required as mitigation during Build typical conditions. These intersections are Atlantic Avenue and Clinton Street, Atlantic Avenue and Court Street, Atlantic Avenue and Boerum Place, Church Avenue and Ocean Parkway, Hamilton Avenue/Prospect Avenue and Third Avenue, and Fourth Avenue and 9th Street.

Build Sales Conditions

Under the Build sales condition, the seven locations identified would require signal timing changes during one or more of the analyzed peak periods. These intersections are Atlantic Avenue and Clinton Street, Atlantic Avenue and Court Street, Atlantic Avenue and Boerum Place, Church Avenue and Ocean Parkway, Hamilton Avenue/Prospect Avenue and Third Avenue, Fourth Avenue and 9th Street, and Fourth Avenue and 38th Street.

NOISE

Significant noise impacts are projected to occur at Receptor Locations 1 and 2 (along Beard Street between Otsego and Dwight Streets, and on Halleck Street). For Receptor Location 1, at the only noise sensitive receptor along this street, a residence located on the northeast corner of Beard and Dwight Streets, the applicant is proposing to make available double-glazed windows and alternative ventilation (i.e., air conditioning) to mitigate project impacts.

UNMITIGATED IMPACTS

NOISE

On Halleck Street (Receptor Location 2), the only sensitive receptor(s) are the users of a portion of the Red Hook Recreational Area, located on the north side of Halleck Street. Projected noise levels at Receptor Location 2 would be representative of the noise levels experienced by people using this recreation area. As a public open space, the project's noise impact at this location is considered significant. Practicable mitigation for the noise impact on this portion of the Red Hook Recreational Area has not been identified. The applicant and NYCDPR have investigated measures to mitigate

this impact, including the construction of a berm or low wall on the southern side of this area. However, even with such a barrier or berm, the significant adverse noise impact would still remain. Mitigation would require a wall, but it would have to be approximately 12 to 14 feet high. A wall of this height would be visually incompatible with the design goals of the New York City Department of Parks and Recreation (NYCDPR), and would be incompatible with the City's design goals for the waterfront. Therefore, the significant noise impact on this area would remain unmitigated.

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

The above resolution (C 030415 ZSK), duly adopted by the City Planning Commission on September 8, 2004 (Calendar No. 30), 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

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