



CITY PLANNING COMMISSION

April 24, 2013 / Calendar No. 5

N 130117 ZRK

IN THE MATTER OF an application submitted by 22 Lafayette LLC and the New York City Economic Development Corporation pursuant to Sections 201 of the New York City Charter for an amendment of the Zoning Resolution of the City of New York, relating to Article X Chapter 1 (Special Downtown Brooklyn District), to allow special permits for use and bulk modifications for cultural uses in certain C6-2 districts, Community District 2, Borough of Brooklyn.

This application for a zoning text amendment was filed by 22 Lafayette LLC and the New York City Economic Development Corporation on November 20, 2012. The proposed zoning text amendment, along with its related actions, would create a new special permit that would allow for an increase in the permitted community facility floor area, modification of height and setback requirements, modification of the street wall requirements, and modification of signage regulations for projects containing cultural uses in C6-2 districts east of Flatbush Avenue in the Special Downtown Brooklyn District, in order to facilitate the development of a proposed mixed-use development with space for cultural uses and public open space in Brooklyn Community District 2.

RELATED ACTIONS

In addition to the amendment of the Zoning Resolution (N 130117 ZRK), which is the subject of this report, implementation of the proposed development also requires action by the City Planning Commission on the following actions, which are being considered concurrently with this application:

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| C 130116 ZMK | Zoning Map Amendment changing a C6-1 zoning district to a C6-2 zoning district within the Special Downtown Brooklyn district. |
| C 130118 ZSK | Special permit pursuant to section 101-81 of the Zoning Resolution to modify bulk and signage regulations |

BACKGROUND

A full background discussion and description of this application appears in the report for the application for a Special Permit (C 130118 ZSK).

ENVIRONMENTAL REVIEW

Aspects of the application (N 130117 ZRK), in conjunction with the related applications (C 130116 ZMK and N 130118 ZSK), were first reviewed in an FEIS issued in 2004 related to the Downtown Brooklyn Plan (03DME016K) 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. This FEIS (03DME016K) is discussed in the City Planning Commission report for C 040171 ZMK. The lead is the Deputy Mayor for Economic Development.

A full discussion of the environmental review appears in the report on the related application for a special permit (C 130118 ZSK).

PUBLIC REVIEW

The application (N 130117 ZRK) was referred for review and comment in accordance with the procedures for non-ULURP matters in conjunction with the related actions (C 130116 ZMK and C 130118 ZSK), which were certified as complete by the Department of City Planning on November 26, 2012, and were duly referred to Brooklyn Community Board 2 and the Brooklyn Borough President, in accordance with Title 62 of the Rules of the City of New York, Section 2-02(b).

Community Board Public Hearing

Community Board 2 held a public hearing on the application (N 130117 ZRK) on December 19, 2012. On January 9, 2013, the Community Board met, but was unable to reach a consensus on the application. In a letter to the City Planning Commission dated February 7, 2013, the Board stated:

“...Community Board 2 was not able to make a determination on the BAM South land use applications...”

Borough President Recommendation

The application (N 130117 ZRK) was considered by the President of the Borough of Brooklyn, who recommended approval of the application on March 4, 2013, with conditions.

A full discussion of the Borough President’s recommendation appears in the report on the related application for a special permit (C 130118 ZSK).

City Planning Commission Public Hearing

On March 6, 2013 (Calendar No. 2), the City Planning Commission scheduled March 20, 2013 for a public hearing on the application (N 130117 ZRK) and the related applications (C 130116 ZMK and C 130118 ZSK). The hearing was duly held on March 20, 2013 (Calendar No. 16).

There were a number of speakers, as described in the report on the related application for a special permit (C 130118 ZSK) and the hearing was closed.

CONSIDERATION

The Commission believes that this application for a zoning text amendment (N 130117 ZRK) in conjunction with the related applications for a zoning map amendment and a special permit (C 130116 ZMK and C 130118 ZSK) is appropriate.

A full consideration and analysis of the issues and the reasons for approving this application appear in the related report for a special permit application (C 130118 ZSK).

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, by the City Planning Commission, pursuant to Section 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 as follows:

Matter in underline is new, to be added;

Matter in ~~strikeout~~ is to be deleted;

Matter with # # is defined in Section 12-10;

* * * indicates where unchanged text appears in the Zoning Resolution

ARTICLE X

Chapter 1

Special Downtown Brooklyn District

* * *

101-80

Special Permits

101-81

Special Permit for Use and Bulk Modifications for Cultural Use in Certain C6-2 Districts

In order to support a concentration of cultural uses and public open spaces in the C6-2 District bounded by Flatbush Avenue, Hanson Place, St. Felix Street and Lafayette Avenue, for #buildings# intended to be occupied in whole or in part by cultural uses, the City Planning Commission may permit the maximum #community facility floor area ratio# to be increased from 6.5 to 7.0, may permit modifications of the special #street wall# location regulations of Section 101-41, and the height and setback regulations of Section 23-632 as applied to the #residential# portion of a #building#, and modifications of applicable #sign# regulations in accordance with this Section. For the purposes of this Section 101-81, "cultural use" shall be defined as public or non-profit libraries, theaters, museums, visual or performing arts spaces, or art, music, dance, theatrical studios or other comparable uses and space occupied by such cultural use shall qualify as #community facility floor area#.

In order to grant such special permit, the conditions of paragraph (a) and the findings of paragraph (b) shall be met. In addition, special regulations pertaining to the certificate of occupancy of such #building# shall apply as set forth in paragraph (c).

(a) Conditions

(1) A letter from the Office of the Mayor shall be submitted certifying that:

- (i) a preliminary agreement has been executed providing for a cultural facility consisting of at least 40,000 square feet of interior gross square feet in the #building# to be transferred for cultural uses and for the

construction of the core and shell of such cultural facility by the applicant;
and

- (ii) floor plans have been provided to the Office of the Mayor which demonstrate that the cultural facility is well-suited for cultural uses, and

(2) A legal commitment in the form of declaration of restrictions shall be executed and delivered to the City for recording upon the approval of the permit, restricting use of the #floor area# to be occupied by cultural uses to cultural use for the life of the related #development#, provided, that in the event the majority of the #zoning lot# containing such #floor area# is in the ownership of a not for profit corporation under contract with the City to provide economic development services at the time of the grant of such permit, execution and recordation of such declaration of restrictions shall be made at the time of the transfer of ownership of the majority of such #zoning lot# for purposes of facilitating the related #development#.

(b) In order to grant such permit, the Commission shall find that:

- (1) the #building# including such cultural uses is designed and arranged on the #zoning lot# in a manner that results in ample visibility of and access to the cultural uses from surrounding #streets#;
- (2) any #street wall# modifications will facilitate access to #open space# on the lot and result in a #development# that activates the pedestrian environment;
- (3) any #bulk# modifications will result in a better distribution of #bulk# on the #zoning lot# by providing for increased light and air to #open space# on the #zoning lot#;
- (4) the appearance of #bulk# is minimized through an enhanced articulation of the base and tower elements of the #building#, an enhanced relationship between the #building# and the #open space# on the #zoning lot#, and an enhanced amount and arrangement of the fenestration of the #building#; and
- (5) any modifications to #sign# regulations will result in greater visibility for the cultural uses provided on the #zoning lot#.

The City Planning Commission may prescribe appropriate additional conditions and safeguards in order to enhance the character of the #development# and to minimize adverse effects on the character of the surrounding area.

(c) Certificate of Occupancy

The Commissioner of Buildings shall not issue a temporary or permanent certificate of occupancy for more than an amount of #floor area# in the #building# equal to the

#floor area# to be occupied by non-cultural uses minus 40,000 square feet of #floor area# unless the Department of Buildings has received a letter from the Office of the Mayor certifying that:

- (1) A deed transferring ownership of a majority of the #zoning lot# has been recorded and that such deed or other recorded document provides for:
 - (i) the construction by transferee of the core and shell of the cultural facility described in paragraph (a)(1)(i) of this Section;
 - (ii) the creation of a condominium unit for such cultural facility and the transfer of ownership thereof to the City; and
 - (iii) a right of the transferor to re-enter and re-acquire the #zoning lot# should the applicant fail to complete the construction of the core and shell of the cultural facility.

Should the certification by the Office of the Mayor not be issued within 30 days of the recording of the deed or other document with the stated provisions, a copy of such deed or document may be provided to the Department of Buildings in satisfaction of such certification.

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The above resolution (N 130117 ZRK), duly adopted by the City Planning Commission on April 24, 2013 (Calendar No. 5), 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.

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