



CITY PLANNING COMMISSION

September 19, 2007/Calendar No. 5

C 070156 ZSK

IN THE MATTER OF an application submitted by Two Trees Management Co. LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-711 of the Zoning Resolution to modify the requirements of Section 23-47 (Minimum Required Rear Yards), Section 23-691 (Limited Height Districts), Section 23-711 (Standard minimum distance between buildings), Section 23-84 (Outer Court Regulations), Section 23-86 (Minimum Distance Between Legally Required Windows and Walls or Lot Lines), Section 23-145 (For residential buildings developed or enlarged pursuant to the Quality Housing Program) and Section 36-33 (Requirements Where Group Parking Facilities Are Provided), to facilitate the development of a 6-story mixed used building on property located at 130 Court Street a.k.a. 182 Atlantic Avenue (Block 286, Lots 17 and 21), in an R6/C2-3 District, within a Special Limited Height District (LH-1), Community District 6, Borough of Brooklyn.

The subject application was filed by Two Trees Management Co. LLC on October 12, 2006 for a special permit pursuant to Section 74-711 of the Zoning Resolution to modify certain use and bulk regulations for the development of a new, 6-story, 37 unit residential building at 130 Court Street (Block 286, lots 17 and 21) within a Special Limited Height District (LH-1) and R6/C2-3 District in Community District 6, Brooklyn.

BACKGROUND

The subject site occupies the southwest corner of Court Street and Atlantic Avenues, in the Cobble Hill Historic District of Brooklyn Community District 6. The site is zoned R6/C2-3 and is also within a Special Limited Height District (LH-1). Lot 21 is occupied by the South Brooklyn Savings Bank (SBSB) and parking lot. The SBSB is a 58-foot tall Renaissance Revival style bank building built in 1922, designed by McKenzie, Voorhees and Gmelin, with additions designed by Charles A. Holmes in 1936. The additions are: a two-story, 23-foot extension to the south of the

bank building, and the other is a one-story, 27-foot extension to the east facing Atlantic Avenue. Lot 17 is currently occupied by a non-contributing one-story office structure which is also owned by the applicant that would be demolished and redeveloped under the proposed action.

Land uses surrounding the site include residential buildings with ground floor commercial uses along Atlantic Avenue to the east and west, ranging from 3- and 4-story buildings to a 74-foot, five-story building. The lots adjoining the site to the south on Pacific Street include residential uses, a medical facility, and a parking garage which has filed an application with the Landmarks Preservation Commission for a Certificate of Appropriateness for an enlargement. Buildings on the opposite side of Atlantic Avenue include grocery stores, other local retail shops and a church, some of which have residential uses above the ground floor commercial uses, and are generally less than 50 feet in height.

The applicant is requesting a special permit pursuant to Section 74-711 to modify the requirements of Section 23-47 (Minimum Required Rear Yards), Section 23-691 (Limited Height Districts), Section 23-711 (Standard minimum distance between buildings), Section 23-84 (Outer Court Regulations), Section 23-86 (Minimum Distance Between Legally Required Windows and Walls or Lot Lines), Section 23-145 (For residential buildings developed or enlarged pursuant to the Quality Housing Program) and Section 36-33 (Requirements Where Group Parking Facilities Are Provided), in order to develop a six-story, 60-foot-tall mixed use building containing 31,512 square feet of residential use (37 dwelling units) and 6,865 square feet of ground floor commercial use. The project will be developed pursuant to the Quality Housing Program.

The proposed building would be 60 feet tall after a ten-foot setback, which exceeds the 50 foot limited height district. The building would also provide a 20-foot rear yard, which requires a waiver from the required distance of 30 feet because the lot is shallower than most lots at 80 feet deep. In addition, waivers are requested for distance between buildings, lot lines, and windows.

Section 74-711 also requires a report from the Landmarks Preservation Commission stating that a program has been established for continuing maintenance that will result in the preservation of the subject building or buildings and that such use or bulk modifications, or restorative work required under the continuing maintenance program, contributes to a preservation purpose.

On October 2, 2006, the Landmarks Preservation Commission issued a report stating that a program for continuing maintenance has been established for the SBSB building and a restrictive declaration will be filed against the property. As part of the continuing maintenance program, the applicant has agreed to undertake work to restore the designated building and bring it up to a sound, first class condition, including restorative work at the exterior facades of the main bank building, the one-story rear extension and the two-story adjacent extension. On October 2, 2006, the Landmarks Preservation Commission issued a Certificate of Appropriateness.

ENVIRONMENTAL REVIEW

This application (C 070156 ZSK) 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 lead agency is the City Planning Commission. The designated CEQR number is 07DCP069K.

After a study of the potential environmental impacts of the proposed action, a Negative Declaration was issued on August 20, 2007.

UNIFORM LAND USE REVIEW

This application (C 070156 ZSK) was certified as complete by the Department of City Planning on May 7, 2007, and was duly referred to Brooklyn Community Board 6 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 6 held a public hearing on this application on May 24, 2007, and on June 13, by a vote of 37 to 0 with 1 abstention, adopted a recommendation disapproving the application.

Borough President Recommendation

This application was considered by the Brooklyn Borough President who issued on August 15, 2007, a recommendation approving the application subject to the following condition:

- 1) That the requested Special Permit to exceed the LH-1 height limit of 50 feet be denied.

City Planning Commission Public Hearing

On August 8, 2007 (Calendar No. 2), the City Planning Commission scheduled August 22, 2007 for a public hearing on this application (C 0060477 ZMK). The hearing was duly held on August 22, 2007 (Calendar No. 25). There were sixteen speakers, six in favor and ten in opposition.

The speakers in favor included representatives of the applicant, the City Council Member for the 39th district, and representatives of business and civic organizations. The applicant's representatives stated that the proposed building was designed to relate to the heights of neighboring buildings, and that several existing buildings on the block also exceed the LH-1 height limit of 50 feet. A representative for the applicant also testified on the economics of this project and the necessity of the special permit for a feasible development.

The City Council Member from the 39th district testified in favor of this project, stating that this project's location on the corner of two wide streets helps justify an exception to the LH-1 Limited Height District height limit of 50 feet. A representative of the Downtown Brooklyn Partnership also supported the project stating that it would provide jobs and quality retail to the neighborhood.

A representative of Sovereign Bank, originally operated as South Brooklyn Savings Bank, testified that this development would preserve the historic Bank building as well as benefit Atlantic Avenue with increased retail space and foot traffic. A resident of another recent residential building built by the applicant diagonally across from this site spoke in favor of increasing the liveliness of the general area.

Those who spoke in opposition to the application included residents of the area as well as representatives of the Cobble Hill Association, Historic District Council, Society for the Architecture of the City, and the Brooklyn Heights Association. These speakers all testified in opposition to the proposed modification of the LH-1 Limited Height District height limit by 10 feet, raising concern that this project would set a precedent in the LH-1 district, altering the overall scale of the neighborhood. In addition, one local resident voiced concern over blocked views from the Pacific Street side. Two of the speakers also added concern over the special permit to modify the rear yard requirement and its potential effect on adjacent property.

There were no other speakers and the hearing was closed.

CONSIDERATION

The City Planning Commission believes the application for a special permit (C 070156 ZSK) is appropriate.

The Commission notes that the proposed new development would be appropriate with the Atlantic Avenue streetscape. This corner of Atlantic Avenue and Court Street is a highly utilized intersection with residential uses above the ground floor commercial uses lining both streets in all directions, and this project would reactivate what is currently an underutilized parking lot while preserving the historic structures of the South Brooklyn Savings Bank buildings.

The Commission believes that the proposed waiver of the 50 foot height limit of the LH-1 district is appropriate for the proposed building given its location on Atlantic Avenue, a wide street, and

the similar heights of the main bank building and other nearby buildings. In addition, while the proposed building would rise to 60 feet, it would have a ten-foot setback at a height of 50 feet, minimizing the impact and visibility of the additional height from the street. The Commission also notes that the Landmarks Preservation Commission considered the scale of the proposed building when issuing the Certificate of Appropriateness. The Commission also acknowledges that the applicant made changes to the height, size, and orientation of the bulkhead to make it shorter, smaller and less visible, as well as removing two cooling towers completely in order to obtain the Certificate of Appropriateness. The Commission notes that these proposed modifications minimize the impact on surrounding structures.

The Commission also notes that many of the buildings in the immediate area are already built to the lot line. The proposed modifications adapt the building to the constraints of the unusually shaped and sized lot and the historic structures to be preserved, and provides adequate open space given the shallowness of the lot.

FINDINGS

The City Planning Commission hereby makes the required findings pursuant to Section 74-711 of the Zoning Resolution:

- 1) That the bulk modifications shall have minimal impacts on area structures and open space in the vicinity in terms of scale, location and access to light and air;
- 2) That the use modifications shall have minimal adverse effects on the conforming uses within the buildings and in the surrounding area.

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 Sections 197-c and 200 of the New York City Charter, that based on the environmental determination and the consideration described in this report, the application submitted by Two Trees Management Co, LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-711 of the Zoning Resolution to modify the requirements of Section 23-47 (Minimum Required Rear Yards), Section 23-691 (Limited Height Districts), Section 23-711 (Standard minimum distance between buildings), Section 23-84 (Outer Court Regulations), Section 23-86 (Minimum Distance Between Legally Required Windows and Walls or Lot Lines), Section 23-145 (For residential buildings developed or enlarged pursuant to the Quality Housing Program) and Section 36-33 (Requirements Where Group Parking Facilities Are Provided), to facilitate the development of a 6-story mixed used building on property located at 130 Court Street a.k.a. 182 Atlantic Avenue (Block 286, Lots 17 and 21), in an R6/C2-3 District, within a Special Limited Height District (LH-1) within the Cobble Hill Historic District, Borough of Brooklyn, Community District 6, is approved, subject to the following conditions:

- 1) The property that is the subject of this application (C 070156 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 WASA Studio, filed with this application and incorporated in this resolution:

<u>Drawing No.</u>	<u>Title</u>	<u>Last Date Revised</u>
2	Site Plan Diagram	4.27.07
3.	Zoning Analysis	3.26.07
4.	Encroachment Diagram	3.26.07

- 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) In the event that the property that is the subject of the application is developed as, sold as, or converted to condominium units, a homeowners' association, or cooperative ownership, a copy of this report and resolution and the restrictive declaration described below and any subsequent modifications to either document shall be provided to the Attorney General of the State of New York at the time of application for any such condominium, homeowners' or cooperative offering plan and, if the Attorney General so directs, shall be incorporated in full in any offering documents relating to the property.

- 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) Development pursuant to this resolution shall be allowed only after the attached restrictive declaration dated September 12, 2007, executed by 194 Atlantic LLC and 130 Court LLC, the terms of which are hereby incorporated in this resolution, shall have been recorded and filed in the Office of the Register of the City of New York, County of Kings.

- 7) 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 and the attached restrictive declaration 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 or of the attached restrictive declaration.

- 8) 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 special permit.

The above resolution (C 070156 ZSK), duly adopted by the City Planning Commission on September 19, 2007 (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.

AMANDA M. BURDEN, AICP, Chair

KENNETH J. KNUCKLES, Esq., Vice-Chairman

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