CITY PLANNING COMMISSION

October 11, 2022 / Calendar No. 16 C 220311 ZSK

IN THE MATTER OF an application submitted by Innovative Urban Living, LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to the following Sections of the Zoning Resolution Section 74-743(a)(2) of Zoning Resolution to modify:

1. the side and rear yard regulations of Section 23-40 (YARD REGULATIONS), Section 23-50 (Additional Yard Regulations), Section 33-30 (OTHER SPECIAL PPROVISIONS FOR REAR YARDS), and 35-50 (MODIFICATION OF YARD REGULATIONS);

2. the height and setback requirements of Sections 23-66 (Height and Setback Requirements for Quality Housing Buildings), 23-69 (Special Height Limitations), and 35-65 (Height and Setback Requirements for Quality Housing Buildings); and

3. the minimum distance between buildings regulations of Section 23-711 (Standard minimum distance between buildings);

in connection with a proposed mixed-use development, within a Large-scale General Development generally bounded by Flatlands Avenue, Pennsylvania Avenue, a line 295 feet southeasterly of Flatlands Avenue, a line 235 feet southwesterly of Pennsylvania Avenue, a line 370 feet southeasterly of Flatlands Avenue, a line 535 feet southwesterly of Pennsylvania Avenue, a line 550 feet southeasterly of Flatlands Avenue, a line 245 feet northwesterly of Vandalia Avenue, and Louisiana Avenue (Block 4430, Lot 1, and Block 4434, Lots 1 & 10), in an R7-2/C2-4 District, Borough of Brooklyn, Community District 5.

This application for a special permit was filed by Innovative Urban Living, LLC on February 10, 2022. This application, in conjunction with the related actions, would facilitate the construction of an approximately 1.93 million-square-foot mixed-use large-scale general development (LSGD) containing approximately 2,050 residential units, 98,000 square feet of community facility uses, 108,000 square feet of commercial space, four acres of public open space, and a public parking garage located in the East New York neighborhood of Brooklyn, Community District 5.

RELATED ACTIONS

In addition to the special permit (C 220311 ZSK) that is the subject of this report, implementation of the proposed project also requires action by the City Planning Commission on the following applications, which are being considered concurrently with this application:

N 220313 ZRK Zoning text amendment to Appendix F to establish the project area as a Mandatory Inclusionary Housing (MIH) area and to Appendix I to expand the boundary of Transit Zone 12 to include the project area;

C 220312 ZMK Zoning map amendment to rezone an R5 zoning district to an R7-2/C2-4 zoning district;

C 220314 ZSK Special permit to permit a public parking garage at the development site.

BACKGROUND

A full background discussion and description of this project appears in the report for the related zoning map amendment (C 220312 ZMK).

ENVIRONMENTAL REVIEW

This application (C 220311 ZSK), in conjunction with the related applications (C 220312 ZMK, C 220314 ZSK, and N 220313 ZRK), 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 New York City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The designated CEQR number is 20DCP057K. The lead is the City Planning Commission.

A summary of the environmental review, including the Final Environmental Impact Statement (FEIS) dated September 30, 2022, appears in the report on the related application for a zoning map amendment (C 220312 ZMK).

WATERFRONT REVITALIZATION PROGRAM CONSISTENCY

This application (C 220311 ZSK) was reviewed by the City Coastal Commission 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 30, 2013 and by the New York State

Department of State on February 3, 2016, 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 18-208. This action was determined to be consistent with the policies of the New York City Waterfront Revitalization Program.

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UNIFORM LAND USE REVIEW

This application (C 220311 ZSK), along with the related applications (C 220312 ZMK and C 220314 ZSK), was certified as complete by the Department of City Planning on May 6, 2022 and was duly referred to Community Board 5 and the Brooklyn Borough President, in accordance with Title 62 of the Rules of the City of New York, Section 2-02(b) along with the related application for a zoning text amendment (N 220313 ZRK), which was referred for information and review on May 6, 2022 in accordance with the procedures for non-ULURP matters.

Community Board Review

Community Board 5 held a public hearing on this application (C 220311 ZSK), in conjunction with the related actions, on July 19, 2022, and, on August 8, 2022, by a vote of 29 in favor, one opposed, and one abstaining, adopted a resolution recommending approval of the application with conditions. A summary of the community board's recommendation and conditions appears in the report for the related zoning map amendment (C 220312 ZMK).

Borough President Recommendation

This application (C 220311 ZSK), in conjunction with the related actions, was considered by the Brooklyn Borough President, who held a public hearing on July 21, 2022, and, on August 17, 2022, issued a recommendation to approve the application with conditions. A summary of the borough president's recommendation and conditions appears in the report for the related zoning map amendment (C 220312 ZMK)).

City Planning Commission Public Hearing

On August 10, 2022 (Calendar No. 10), the City Planning Commission scheduled August 24, 2022, for a public hearing on this application (C 220311 ZSK). The hearing was duly held on August 24, 2022 (Calendar No. 26). There were 12 speakers in favor of the application and none in opposition, as described in the report on the related zoning map amendment (C 220312 ZMK).

CONSIDERATION

The Commission believes that this application for a grant of a special permit (C 220311 ZSK), in conjunction with the related applications (C 220312 ZMK, C 220314 ZSK, and N 220313 ZRK) and as modified, is appropriate. A full consideration and analysis of the issues and the reasons for approving the application appear in the report for the related zoning map amendment (C 220312 ZMK).

FINDINGS

The Commission hereby makes the following findings pursuant to Section 74-743 of the Zoning Resolution:

(1) the distribution of floor area, open space, dwelling units, rooming units and the location of buildings, primary business entrances and show windows will result in a better site plan and a better relationship among buildings and open areas to adjacent streets, surrounding development, adjacent open areas and shorelines than would be possible without such distribution and will thus benefit both the occupants of the general large-scale development, the neighborhood, and the City as a whole;

(2) the distribution of floor area and location of buildings will not unduly increase the bulk of buildings in any one block or unduly obstruct access of light and air to the detriment of the occupants or users of buildings in the block or nearby blocks or of people using the public streets;

(3) Not applicable;

(4) considering the size of the proposed general large-scale development, the streets providing access to such general large-scale development will be adequate to handle traffic resulting therefrom;

(5) Not applicable;

(6) Not applicable;

(7) Not applicable;

(8) Not applicable;

(9) Not applicable;

(10) a declaration with regard to ownership requirement in paragraph (b) of the #large-scale general development# definition in Section 12-10 (DEFINITIONS) has been filed with the Commission; and

(11) Not applicable;

RESOLUTION

RESOLVED, that having considered the Final Environmental Impact Statement (FEIS), for which a Notice of Completion was issued on September 30, 2022, with respect to this application (CEQR No. 20DCP057K), the City Planning Commission finds that the requirements of the New York State Environmental Quality Review Act and Regulations have been met and that:

1. The environmental impacts disclosed in the FEIS were evaluated in relation to the social, economic, and other considerations associated with the action[s] that are set forth in this report; and
2. Consistent with social, economic and other essential considerations from among the reasonable alternatives available, the action is one which avoids or minimizes adverse environmental impacts to the maximum extent practicable; and
3. The adverse environmental impacts identified in the FEIS will be minimized or avoided to the maximum extent practicable by incorporating as conditions to the approval, pursuant to the restrictive declaration dated October 11, 2022, those project components related to the environment and mitigation 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 617.11(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 will not substantially hinder the achievement of any WRP policy and hereby determines that this action is consistent with WRP policies; 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 and findings described in this report, the application submitted by Innovative Urban Living, LLC pursuant to Sections 197-c and 201 of the New York City Charter for, for the grant of a special permit pursuant to the following Sections of the Zoning Resolution Section 74-743(a)(2) of Zoning Resolution to modify:

1. the side and rear yard regulations of Section 23-40 (YARD REGULATIONS), Section 23-50 (Additional Yard Regulations), Section 33-30 (OTHER SPECIAL PPROVISIONS FOR REAR YARDS), and 35-50 (MODIFICATION OF YARD REGULATIONS);

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1. The property that is the subject of this application (C 220311 ZSK) shall be developed in size and arrangement substantially in accordance with the dimensions, specifications and zoning computations indicated on the following approved plans, prepared by Practice for Architecture Urbanism DPC and MPFP PLLC, filed with this application and incorporated in this Resolution:

Drawing No.	**Title**	**Last Date Revised**
Z-020.00	LSGD Zoning Analysis	10/4/2022
Z-021.00	LSGD Zoning Diagram	10/4/2022
Z-030.00	Overall Large Scale Site Plan	10/4/2022
Z-050.00	Waiver Plan	10/4/2022
Z-060.00	Zoning Section	10/4/2022
Z-061.00	Zoning Section	10/4/2022
Z-062.00	Zoning Section	10/4/2022

Z-063.00	Zoning Section	10/4/2022
Z-064.00	Zoning Section – Street Frontages	10/4/2022
Z-070.00	Urban Design Notes	10/4/2022
Z-071.00	Urban Design Notes	10/4/2022
L-000	Overall Landscape & Phasing Plan	10/4/2022
L-001	Publicly Accessible Area Plan	10/4/2022
L-002	Overall Key Plan	10/4/2022
L-003	Amenity Plan	10/4/2022
L-100	Key & Dim Plan	10/4/2022
L-101	Key & Dim Plan	10/4/2022
L-102	Key & Dim Plan - Garage Roof	10/4/2022
L-200	Materials & Grading Plan	10/4/2022
L-201	Materials & Grading Plan	10/4/2022
L-202	Materials & Grading Plan- Garage Roof	10/4/2022
L-300	Planting, Furniture & Lighting Plan	10/4/2022
L-301	Planting, Furniture & Lighting Plan	10/4/2022
L-600	Furniture Details	10/4/2022
L-601	Planting Details	10/4/2022
L-602	Lighting Details	10/4/2022
L-603	POP Signage Details	10/4/2022
L-604	Bollard Details	10/4/2022

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. No development pursuant to this resolution shall be permitted until the Restrictive Declaration dated October 11, 2022 and executed by Innovative Urban Living, LLC, as a condition of the special permit, is recorded and filed in the Office of the Register of the City of New York, County of Kings. Such restrictive declaration shall be deemed incorporated herein.

5. The development shall include those project components related to the environment and mitigation measures identified in the Final Environmental Impact Statement (CEQR No. 20DCP057K) issued on September 30, 2022, and in accordance with the restrictive declaration attached hereto as Exhibit A.

6. In the event 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 any subsequent modifications 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.

7. 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, sub-lessee or occupant.

8. 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 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 restrictive declaration.

9. Neither the City of New York nor its employees or agents shall have any liability for money damages by reason of the city or such employees or agents failure to act in accordance with the provisions of this special permit.

The above resolution (C 220311 ZSK), duly adopted by the City Planning Commission on October 11, 2022 (Calendar No. 16), 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.

DANIEL R GARODNICK, Esq., *Chair*

KENNETH J. KNUCKLES, Esq., *Vice Chairman*
GAIL BENJAMIN, LEILA BOZORG, ALFRED C. CERULLO, III,
ANTHONY CROWELL, Esq., LEAH GOODRIDGE, RASMIA KIRMANI-FRYE,
JUAN CAMILO OSORIO, RAJ RAMPERSHAD, *Commissioners*