THE COUNCIL OF THE CITY OF NEW YORK
RESOLUTION NO. 412

Resolution approving with modifications the decision of the City Planning Commission on ULURP No. C 220371 ZSQ, for the grant of a special permit (L.U. No. 132).

By Council Members Salamanca and Riley

WHEREAS, Kaufman Astoria Bedrock I, LLC and Silverstein Astoria Member, LLC, filed an application pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-922 of the Zoning Resolution to allow certain large retail establishments (Use Group 6 and/or Use Group 10A uses) with no limitation on floor area per establishment, in connection with a proposed mixed-use development, on property bounded by 35th Avenue, Steinway Street, a line 180 feet northeasterly of 36th Avenue, and 38th Street (Block 668, Lot 5), in M1-4/R7-3 and M1-4/R9 Districts, within a Special Mixed Use District (MX-24), which in conjunction with the related actions would facilitate a new five-block, 13-building mixed-use development with approximately 2,843 units, approximately 711 of which would be permanently affordable, as well as retail and office uses, in an area generally bounded by 35th Avenue to the north, 43rd Street to the east, 36th Avenue to the south, and 37th Street to the east in the Astoria neighborhood of Queens, Community District 1 (ULURP No. C 220371 ZSQ) (the "Application");

WHEREAS, the City Planning Commission filed with the Council on October 3, 2022, its decision dated September 21, 2022 (the "Decision") on the Application;

WHEREAS, the Application is related to applications C 220364 ZMQ (L.U. No. 126), a zoning map amendment from M1-1 and C4-2A zoning districts to M1-4/R7X, M1-4/R7-3, M1-4/R9, and M1-5/R9-1 zoning districts; N 220367 ZRQ (L.U. No. 127), a zoning text amendment to establish a Mandatory Inclusionary Housing (MIH) area, to create a new Special Mixed Use District (MX-24), and reduce the required number of loading berths within the development site; C 220365 ZSQ (L.U. No. 128), a special permit to allow for the distribution of parking spaces across the development site; C 220366 ZSQ (L.U. No. 129), a special permit to modify bulk regulations related to the distribution of floor area, rear yard regulations, minimum distance between buildings, and height and setback regulations; C 220368 ZSQ (L.U. No. 130), a special permit to modify sign regulations; C 220369 ZSQ (L.U. No. 131), a special permit to allow for a reduction in the required amount of loading berths; C 220373 ZSQ (L.U. No. 133), a special permit to allow for certain retail uses greater than 10,000 square feet on Block D (withdrawn); and C 220374 ZSQ (L.U. No. 134), a special permit to allow for certain retail uses greater than 10,000 square feet on Block E;

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d of the City Charter;

WHEREAS, the City Planning Commission has made the findings required pursuant to Section 74-922 of the Zoning Resolution of the City of New York;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and

Application on October 19, 2022;

WHEREAS, the Council has considered the land use and environmental implications and other policy issues relating to the Decision and Application; and

WHEREAS, the Council has considered the relevant environmental issues, including the Positive Declaration issued May 12th, 2021 (CEQR No. 21DCP180Q) and a Final Environmental Impact Statement (FEIS) for which a Notice of Completion was issued on September 9, 2022, in which potential significant adverse impacts related to hazardous materials, stationary air quality, and noise would be avoided through the placement of (E) designations (E-675) on project site. The proposed project as analyzed in the FEIS identified significant adverse impacts with respect to community facilities (libraries, childcare), active open space, shadows, transportation (traffic, transit, and pedestrians), and construction activities related to noise and traffic; in addition FEIS analyzed a modified application (called the Proposed Modified Application Alternative), as a new alternative in the FEIS included in Chapter 19 of the FEIS, "Alternatives" and concludes that the Proposed Modified Application Alternative would result in the same or similar impacts as the original application but includes a larger open space area which provides additional mitigation for the identified open space impact; and the identified significant adverse impacts and proposed mitigation measures under the proposed actions and the Proposed Modified Application Alternative are summarized in Chapter 19, "Alternatives" and Chapter 20, "Mitigation" of the FEIS, and are included in the Restrictive Declaration. A Technical Memorandum was issued on September 16, 2022 and concludes that the application as modified would not result in any significant adverse impacts that were not already identified in the FEIS issued on September 9, 2022. The Council has also considered the Technical Memorandum dated November 21, 2022. The FEIS and subsequent Technical Memoranda are collectively referred to as the "Environmental Analysis".

RESOLVED:

Having considered the Environmental Analysis with respect to the Decision and Application, the Council finds that:

1. The FEIS meets the requirements of 6 N.Y.C.R.R. Part 617;

2. The environmental impacts disclosed in the FEIS were evaluated in relation to the social, economic, and other considerations associated with the actions that are set forth in this report; and

3. Consistent with social, economic and other essential considerations from among the reasonable alternatives thereto, the action, with the modifications set forth and analyzed in the Technical Memoranda dated September 16, 2022 and November 21, 2022, is one

which minimizes or avoids adverse environmental impacts to the maximum extent practicable; and

4. The adverse environmental impacts disclosed 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 November 21, 2022, those project components related to environment and mitigation measures that were identified as practicable.

The Decision, together with the Environmental Analysis constitute the written statement of facts, and of social, economic and other factors and standards that form the basis of this determination, pursuant to 6 N.Y.C.R.R. §617.11(d).

Pursuant to Sections 197-d and 200 of the City Charter and on the basis of the Decision and Application, and based on the environmental determination and consideration described in the report, C 220371 ZSQ, incorporated by reference herein, and the record before the Council, the Council approves the Decision of the City Planning Commission with the following modifications.

1. The property that is the subject of this application (C 220371 ZSQ) shall be developed in size and arrangement substantially in accordance with the dimensions, specifications and zoning computations indicated on the following plans, prepared by ODA New York filed with this application and incorporated in this resolution:

Drawing No.	Title	Last Date Revised
U.002	Zoning Analysis	~~09/19/2022~~ 11/21/2022
U.200	Zoning Lot Site Plan	~~09/19/2022~~ 11/21/2022
U.202	Ground Floor Plan	~~09/19/2022~~ 11/21/2022
U.205	Waiver Section	09/19/2022
U.206	Waiver Section	09/19/2022
U.207	Waiver Section	09/19/2022

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 confirm to all applicable laws and regulations relating to its construction, operation and maintenance.

4. Development pursuant to this resolution shall be allowed only after the attached restrictive declaration dated ~~September 21, 2022~~ November 21, 2022, executed by Kaufman Bedrock Astoria I LLC, Silverstein Astoria LLC, Queensboro Farm Products, Inc., Wilbee Corporation, Mayer Malbin Realty I, L.L.C., Cartergavin37 LLC, Jolivia Realty LLC, Sultan Bacchus and Bibi R. Bacchus, Bigfoot Realty, LLC, 35-18 Steinway Street, LLC, 42-11 Northern LLC, and Alfess Realty, L.L.C., 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 Queens.

5. 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.

6. 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.

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 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 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 to disapprove any application for modification, cancellation or amendment of the special permit.

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.

Adopted.

Office of the City Clerk, }
The City of New York, } ss.:

I hereby certify that the foregoing is a true copy of a Resolution passed by The Council of The City of New York on _____, 2022, on file in this office.

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City Clerk, Clerk of The Council