THE COUNCIL OF THE CITY OF NEW YORK
RESOLUTION NO. 403

Resolution approving the decision of the City Planning Commission on ULURP No. C 220311 ZSK, for the grant of a special permit (L.U. No. 145).

By Council Members Salamanca and Riley

WHEREAS, Innovative Urban Living, 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 the following Sections of the Zoning Resolution Section 74-743(a)(2) of Zoning Resolution to modify: the side and rear yard regulations of Section 23-40 (YARD REGULATIONS), Section 23-50 (Additional Yard Regulations), Section 33-30 (OTHER SPECIAL PROVISIONS FOR REAR YARDS), and 35-50 (MODIFICATION OF YARD REGULATIONS); 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 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, which 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 (ULURP No. C 220311 ZSK) (the "Application");

WHEREAS, the City Planning Commission filed with the Council on October 17, 2022, its decision dated October 11, 2022 (the "Decision") on the Application;

WHEREAS, the Application is related to application C 2200312 ZMK (L.U. No. 141), a zoning map amendment to rezone an R5 zoning district to an R7-2/C2-4 zoning district; N 220313 ZRK (L.U. No. 142), a zoning text amendment to designate a Mandatory Inclusionary Housing (MIH) area and to Appendix I to expand the boundary of Transit Zone 12 to include the project area; C 220314 ZSK (L.U. No. 146), a special permit to allow a parking garage at the development site;

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 74-743 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 25, 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 January 31, 2020 (CEQR No. 20DCP057K) and a Final Environmental Impact Statement (FEIS) for which a Notice of Completion was issued on September 30, 2022, in which potential significant adverse impacts related to hazardous materials, air quality, and noise would be avoided through the placement of (E) designations (E-679) on project site as specified in Chapter 10, Chapter 14, and Chapter 16, respectively, of the FEIS. The FEIS determined that the proposed actions could have significant adverse significant adverse impacts with respect to community facilities (early childhood programs and libraries), open space (temporary), transportation (traffic, subway, bus, pedestrian), noise and construction (traffic, noise); and the identified significant adverse impacts and proposed mitigation measures are summarized in Chapter 20, "Mitigation" of the FEIS, and are included in the Restrictive Declaration.

RESOLVED:

Having considered the FEIS and Technical Memorandum 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 available, the action is one which avoids or minimizes 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 October 11, 2022, those project components related to environment and mitigation measures that were identified as practicable.

The Decision, together with the FEIS 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 201 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 220311 ZSK, incorporated by reference herein, and the record before the Council, the Council approves the Decision of the City Planning Commission for the grant of a special permit pursuant to the following Sections of the Zoning Resolution, Section 74-743(a)(2), 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, as modified, is approved, subject to the following terms and conditions:

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.

* * *

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