September 23, 2024 / Calendar No. 4 C 230358 ZSK

IN THE MATTER OF an application submitted by Franklin Ave Acquisition LLC, pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-533 of the Zoning Resolution to reduce the number of required accessory off-street parking spaces for dwelling units in a development within the Transit Zone, that includes at least 20 percent of all dwelling units as income-restricted housing units, in connection with a proposed mixed-use development on property located at 962-972 Franklin Avenue (Block 1192, Lots 63 and 66), in R8A and R8A/C2-4 Districts, Borough of Brooklyn, Community District 9.

This application for a zoning special permit was filed by Franklin Ave. Acquisition LLC on May 30, 2023. This application, in conjunction with the related zoning map amendment (C 230356 ZMK) and zoning text amendment (N 230357 (A) ZRK) actions would facilitate the construction of a 14-story mixed use buildings containing 475 dwelling units, along with commercial space, at 962 Franklin Avenue in the Crown Heights neighborhood of Brooklyn, Community District 9.

RELATED ACTIONS

In addition to the zoning special permit (C 230358 ZSK) that is the subject of this report, the proposed project also requires action by the City Planning Commission on the following applications, which are being considered concurrently with this application:

C 230356 ZMK	Zoning map amendment to change an R6A district to R8A and R8A/C2-4 districts
N 230357 (A) ZRK	Zoning text amendment to designate a Mandatory Inclusionary Housing (MIH) area, and to modifying bulk regulations in ARTICLE II, Chapter 3 (Residential Bulk Regulations in Residence Districts) and Chapter 4 (Bulk Regulations for Community Facilities in Residence Districts),

BACKGROUND

A full background discussion and description of this project appears in the report for the related zoning map amendment (C 230356 ZMK).

ENVIRONMENTAL REVIEW

This application (C 230358 ZSK), in conjunction with the applications for the related actions (C 230356 ZMK, N 230357 (A) 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 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 23DCP165K.

It was determined that this application, in conjunction with the applications for the related actions, may have a significant effect on the environment and that an Environmental Impact Statement (EIS) would be required. A Positive Declaration was issued on June 27, 2023 and subsequently distributed, published, and filed. Together with the Positive Declaration, a Draft Scope of Work for the Draft Environmental Impact Statement (DEIS) was issued on June 27, 2023. A public scoping meeting was held on July 27, 2023, and the Final Scope of Work was issued on May 10, 2024.

A DEIS was prepared and a Notice of Completion for the DEIS was issued on May 10, 2024. Pursuant to SEQRA regulations and the CEQR procedure, a joint public hearing was held on August 7, 2024 in conjunction with the public hearing on the related Uniform Land Use Review Procedure (ULURP) items (C 230356 ZMK, N 230357 ZRK, N 230357 (A) ZRK, C 230358 ZSK). A Final Environmental Impact Statement (FEIS) reflecting comments made during the public review process was completed, and a Notice of Completion for the FEIS was issued on September 12, 2024.

The proposed project, as analyzed in the FEIS, identified significant adverse impacts with respect to open space, shadows, and natural resources; and construction (noise).

Significant adverse impacts related to hazardous materials and air quality would be avoided through the placement of (E) designations (E-728) on the project site as specified in the Environmental Assessment Statement and Chapter 1, Chapter 7, and Chapter 12, of the FEIS.

The application, as analyzed in the FEIS, contained Project Components Related to the Environment (PCREs) related to air quality, which are set forth in Chapter 10, "Construction". The identified significant adverse impacts and proposed mitigation measures under the proposed actions are summarized in Chapter 11 "Mitigation" of the FEIS which include commitments related to improvements at Jackie Robinson Playground and the Brooklyn Botanic Garden; and construction noise.

UNIFORM LAND USE REVIEW

This application (C 230358 ZSK) and the related application for a zoning map amendment (C 230356 ZMK) were certified as complete by the Department of City Planning on May 13, 2024 and were duly referred to Brooklyn Community Board 9 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 230357 (A) ZRK), which was referred in accordance with the procedures for non-ULURP matters.

Community Board Public Hearing

Brooklyn Community Board 9 held a public hearing on this application (C 230358 ZSK) and the related actions for a zoning map amendment (C 230356 ZMK) and a zoning text amendment (N 230357 (A) ZRK) on June 18, 2024, and on June 24th, by a vote of 24 in favor, zero in opposition, and two abstaining, adopted a resolution recommending disapproval of the application.

A full description and discussion of the community boards' recommendation, and a copy of the resolution, appear in the report on the related action (C 230356 ZMK).

Borough President Recommendation

The Brooklyn Borough President held a public hearing on this application (C 230358 ZSK) and the related actions for a zoning map amendment (C 230356 ZMK) and a zoning text amendment (N 230357 (A) ZRK) on July 16, 2024, and on August 25, 2024 issued a recommendation to disapprove the application.

CITY PLANNING COMMISSION PUBLIC HEARING

On July 24, 2024 (Calendar No. 7), the City Planning Commission scheduled a public hearing on this application (C 230358 ZSK) and the related applications for a zoning map amendment (C 230356 ZMK) and a zoning text amendment (N 230357 (A) ZRK). The hearing was duly held on August 7, 2024 (Calendar No. 34). There were eight speakers in favor of the application and 48 in opposition.

A full account of public testimony given at this hearing appears in the report for the related zoning map amendment (C 230356 ZMK).

CONSIDERATION

The Commission believes that this application for the grant of a special permit (C 230358 ZSK), in conjunction with the related actions is appropriate. A full consideration and analysis of the issues and reasons for approving the application, with modifications, appear in the report for the related zoning map amendment (C 230356 ZMK).

FINDINGS

The Commission hereby makes the following findings pursuant to Section 74-52 of the Zoning Resolution:

(a) will facilitate such #development# or #enlargement#. Such finding shall be made upon consultation with the Department of Housing Preservation and Development;
(b) will not cause traffic congestion; and
(c) will not have undue adverse effects on residents, businesses, or community facilities in the surrounding area, as applicable, including the availability of parking spaces for such uses.

RESOLUTION

RESOLVED, that having considered the Final Environmental Impact Statement (FEIS), for which a Notice of Completion was issued on September 12, 2024, with respect to this application (CEQR No. 23DCP165K), the City Planning Commission finds that the requirements of the New York State Environmental Quality Review Act and regulation, 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 thereto, the action adopted herein is one which avoids or minimizes adverse environmental impacts to the maximum extent practicable;
3. 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 September 23, 2024, 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, 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 Franklin Ave Acquisition 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 74-52 of the Zoning Resolution to reduce the number of required accessory off-street parking spaces for dwelling units in a development within a Transit Zone that includes at least 20 percent of all dwelling

units as income-restricted housing units, in connection with a proposed mixed-use development on property located at 962-972 Franklin Avenue (Block 1192, Lots 63 and 66), in R7D and R7D/C2-4 Districts, Borough of Brooklyn, Community District 9, is approved, subject to the following terms and conditions:

1. The property that is the subject of this application (C 230358 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 Hill West Architects filed with this application and incorporated in this Resolution:

Drawing No.	**Title**	**Last Date Revised**
Z-02	Site Plan/ Zoning Analysis	09/23/2024

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 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.

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, sub-lessee or occupant.

6. 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.

7. 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 230358 ZSK) duly adopted by the City Planning Commission on September, 23, 2024 (Calendar No. 4), 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.

DANIEL R. GARODNICK, Esq Chair
GAIL BENJAMIN, ALFRED C. CERULLO, III, Esq, ANTHONY CROWELL, Esq
JOSEPH I. DOUEK, DAVID GOLD, Esq, RASMIA KIRMANI-FRYE,
ORLANDO MARÍN, RAJU MANN, *Commissioners*

LEAH GOODRIDGE, Esq., JUAN CAMILO OSORIO,
RAJ RAMPERSHAD, *Commissioners,* VOTING NO