CITY PLANNING COMMISSION

February 16, 2022 / Calendar No. 10 C 210379 ZSK

IN THE MATTER OF an application submitted by EMP Capital Group 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 required number of accessory off-street parking spaces to 20 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 1034 -1042 Atlantic Avenue (Block 1125, Lots 29 and 33) in R7A/C2-4 and C6-3A Districts, Borough of Brooklyn, Community District 8.

This application for a special permit was filed by EMP Capital Group on May 11, 2021. This application, in conjunction with the related zoning map amendment (C 210386 ZMK) and zoning text amendment (N 210387 ZRK), would facilitate the construction of a 17-story mixed use development containing 210 dwelling units, 52 to 63 of which would be permanently affordable, along with commercial and community facility space, at 1034-1042 Atlantic Avenue in the Crown Heights neighborhood of Brooklyn, Community District 8.

RELATED ACTIONS

In addition to the special permit (C 210379 ZSK) that is the subject of this report, the proposed project also requires action by the City Planning Commission (CPC) on the following applications, which are being considered concurrently:

C 210386 ZMK Zoning map amendment to change an M1-1 zoning district to C6-3A and R7A/C2-4 zoning districts

N 210387 ZRK Zoning text amendment to designate a Mandatory Inclusionary Housing (MIH) area and amend street wall regulations

BACKGROUND

A full background discussion and description of this application appears in the report for the related zoning map amendment (C 210386 ZMK).

ENVIRONMENTAL REVIEW

This application (C 210379 ZSK), in conjunction with the related zoning map amendment (C 210386 ZMK) and zoning text amendment (N 210387 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 21DCP170K.

A summary of the environmental review appears in the report for the related zoning map amendment (C 210386 ZMK).

UNIFORM LAND USE REVIEW

This application (C 210379 ZSK) and the related application for a zoning map amendment (C 210386 ZMK) were certified as complete by the Department of City Planning on September 20, 2021, and were duly referred to Brooklyn Community Board 8 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 210387 ZRK), which was referred in accordance with the procedures for non-ULURP actions.

Community Board Public Hearing

On October 19, 2021, Brooklyn Community Board 8 held a public hearing on this application (C 210379 ZSK) and on November 10, by a vote of 22 in favor, 10 opposed, and three abstaining, adopted a resolution recommending disapproval of the application with conditions. A summary of the community board's recommendation appears in the report for the related zoning map amendment (C 210386 ZMK).

Borough President Recommendation

On November 17, 2021, the Brooklyn Borough President held a public hearing on this

application (C 210379 ZSK) and the related actions (C 210386 ZMK and N 210387 ZRK), and on December 30, 2021, issued a recommendation to approve the application with conditions. A summary of the borough president's recommendation appears in the report for the related zoning map amendment (C 210386 ZMK).

City Planning Commission Public Hearing

On December 15, 2021 (Calendar No. 4), the City Planning Commission scheduled a public hearing on this application (C 210379 ZSK) and the application for the related actions (C 210386 ZMK and N 210387 ZRK). The hearing was duly held on January 5, 2022 (Calendar No. 22). There were four speakers in favor of the application and six in opposition, as described in the report for the related action (C 210386 ZMK), and the hearing was closed.

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CONSIDERATION

The Commission believes that this application for a special permit (C 210379 ZSK), in conjunction with the application for the related actions (C 210386 ZMK and N 210387 ZRK), is appropriate. A full consideration and analysis of issues and the reasons for approving this application appear in the report for the related zoning map amendment (C 210386 ZMK).

FINDINGS

The City Planning Commission hereby makes the following findings pursuant to Section 74-533 of the Zoning Resolution:

(a) will facilitate such #development# or #enlargement. Such finding shall be made in 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 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 and findings described in this report, that the application submitted by EMP Capital Group 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 required number of accessory off-street parking spaces to 20 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 1034 -1042 Atlantic Avenue (Block 1125, Lots 29 and 33), in R7A/C2-4 and C6-3A Districts, Borough of Brooklyn, Community District 8 is approved, subject to the following conditions:

1. The property that is the subject of this application (C 210379 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 Archimaera Architects filed with this application and incorporated in this resolution:

Drawing No.	Title	Last Date Revised
Dwg. No. 28	Zoning Analysis	02/10/2022
Dwg. No. 16	Zoning Site Plan	02/10/2022

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. 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.

5. 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.

6. 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 210379 ZSK), duly adopted by the City Planning Commission on February 16, 2022 (Calendar No. 10), 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.

KENNETH J. KNUCKLES, Esq., *Vice Chairman*

DAVID J. BURNEY, ALLEN P. CAPPELLI, Esq., ALFRED C. CERULLO, III, JOSEPH I. DOUEK, RICHARD W. EADDY, LARISA ORTIZ, RAJ RAMPERSHAD, *Commissioners*

DANIEL R. GARODNICK, Esq., *Chair,* **ANNA HAYES LEVIN,** *Commissioner, ABSTAINING*

LEAH GOODRIDGE, ORLANDO MARIN, *Commissioners*, VOTING NO