



## **CITY PLANNING COMMISSION**

June 17, 2009 / Calendar No. 19

C 090222 ZSM

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**IN THE MATTER OF** an application submitted by the New York City Economic Development Corporation and MMPI Piers LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 62-734(b) of the Zoning Resolution to modify the height and setback and length requirements of Section 62-342 (Developments on Piers) for a structure on a pier in connection with a proposed trade exposition facility on property located at Piers 92 and 94, westerly of Route 9A (Miller Highway) between West 51st Street and West 55th Streets (Block 1109, Lots 5 and 30, and p/o Marginal Street Wharf or Place), in an M2-3 District, Borough of Manhattan, Community District 4.

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This application for a special permit was filed by the applicant on November 25, 2008. The special permit, along with its related actions, would facilitate the renovation and enlargement of Piers 92 and 94 and their associated upland areas as a venue for trade shows and exhibitions, as well as the development of new public open space and public amenity space on the project site.

### **RELATED ACTIONS**

In addition to the special permit (C 090222 ZSM) which is the subject of this report, implementation of the proposed development also requires action by the City Planning Commission on the following, which are being considered concurrently with this application:

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|--------------|---|
| C 090220 PPM | Disposition of City-Owned Property pursuant to zoning;  |
| C 090221 ZSM | Special permit to allow a trade exposition facility with a rated capacity in excess of 2,500 persons;                         |
| N 090223 ZAM | Authorization for the modification of waterfront public access requirements pursuant to Sections 62-722(a) and 62-722(b); and |
| N 090224 ZCM | Chairperson's certification of waterfront public access and visual corridors pursuant to Section 62-711.                      |

### **BACKGROUND**

A full background discussion and description of this application appears in the report for a special permit (C 090221 ZSM).

## **ENVIRONMENTAL REVIEW**

This application (C 090222 ZSM) 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 designated CEQR number is 09SBS002M. The lead agency is the Department of Small Business Services.

After a study of the potential environmental impact of the proposed action, a Negative Declaration was issued on February 11, 2009.

## **UNIFORM LAND USE REVIEW**

This application (C 090222 ZSM), in conjunction with the application for the related actions, (C 090220 PPM, C 090221 ZSM) was certified as complete by the Department of City Planning on February 17, 2009, and was duly referred to Community Board 4 and the Borough President, in accordance with Title 62 of the Rules of the City of New York, Section 2-02(b) along with the related non-ULURP applications (N 090223 ZAM and N 090224 ZCM), which were referred for review and comment.

## **Community Board Public Hearing**

Community Board 4 held a public hearing on this application (C 090222 ZSM) and the related actions, and on April 1, 2009, voted to adopt a resolution recommending approval of the application with conditions.

A summary of the recommendations of Community Board 4 appears on the related application for a special permit (C 090221 ZSM).

## **Borough President Recommendation**

This application (C 090222 ZSM), in conjunction with the related actions, was considered by the Borough President, who issued a recommendation of conditional approval of the application on April 24, 2009.

A summary of the recommendation of the Borough President appears on the related application for a special permit (C 090221 ZSM).

### **City Planning Commission Public Hearing**

On May 6, 2009 (Calendar No. 6), the City Planning Commission scheduled May 20, 2009, for a public hearing on this application (C 090222 ZSM). The hearing was duly held on May 20, 2009 (Calendar No. 25) in conjunction with the public hearings on the applications for the related actions (C 090220 PPM and C 090221 ZSM).

There were ten speakers, as described in the related application for a special permit (C 090221 ZSM), and the hearing was closed.

### **Waterfront Revitalization Program Consistency Review**

This application (C 090222 ZSM), in conjunction with those for the related actions (C 090220 PPM, C 090221 ZSM, N 090223 ZAM, and N 090224 ZCM), was reviewed by the Department of City Planning 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 13, 1999 and by the New York State Department of State on May 22, 2002, 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 09-009.

This action was determined to be consistent with the policies of the New York City Waterfront Revitalization Program.

### **CONSIDERATION**

The Commission believes that this application for a special permit pursuant to Section 62-734 (C 090222 ZSM), in conjunction with the application for related actions, is appropriate.

A full consideration and analysis of the issues, and reason for approving this application appear in the related report for a special permit (C 090221 ZSM).

## **FINDINGS**

The City Planning Commission hereby makes the following findings pursuant to Section 62-734(b) (Development on Piers or Platforms):

- (1) the facility is so designed as to significantly enhance public use and enjoyment of the waterfront;
- (2) accessory parking or loading facilities provided in conjunction with such uses are arranged and designed so as to not adversely impact public access areas anywhere on the zoning lot;
- (3) the proposed development does not violate the bulk provisions of Section 62-341 (Developments on land and platforms);
- (4) within the seaward lot, the ratio of floor area on the pier to water coverage of the pier does not exceed the maximum floor area ratio for the use as set forth in the district regulations;
- (5) such bulk modifications would not unduly obstruct the light and air or waterfront views of neighboring properties; and
- (6) such modifications will not adversely affect the essential character, use or future growth of the waterfront and the surrounding area.

## **RESOLUTION**

**RESOLVED**, by the City Planning Commission finds that the action described herein will have no significant effect on the environment; 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 is consistent with WRP policies; and be it further

**RESOLVED**, by the City Planning Commission, pursuant to Sections 197-c and 201 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 the New York City Economic Development Corporation and MMPI Piers LLC for the grant of a special permit pursuant to

Section 62-734(b) of the Zoning Resolution to modify the height and setback and length requirements of Section 62-342 (Developments on Piers) for a structure on a pier in connection with a proposed trade exposition facility on property located at Piers 92 and 94, westerly of Route 9A (Miller Highway) between West 51st Street and West 55th Streets (Block 1109, Lots 5 and 30, and p/o Marginal Street Wharf or Place), in an M2-3 District, Borough of Manhattan, Community District 4, is approved, subject to the following terms and conditions:

1. The property that is the subject of this application (C 090222 ZSM) shall be developed in size and arrangement substantially in accordance with the dimensions, specifications and zoning computations indicated on the following plans, prepared by Dattner Architects, filed with this application and incorporated in this resolution:

<u>Drawing Number</u>	<u>Title</u>	<u>Last Date Revised</u>
Z-101	Site Plan	November 5, 2008
Z-101A	Zoning Calculations	November 5, 2008
Z-102	Pier 92/94 Floor Plans	April 6, 2009
Z-103	Waterfront Bulk Requirements	April 6, 2009
Z-105	Waterfront Public Access	April 6, 2009
Z-106	Waterfront Details	November 5, 2008
Z-107	Site Details	April 6, 2009

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. 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.

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 covenants, 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 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.
  
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 090222 ZSM), duly adopted by the City Planning Commission on June 17, 2009 (Calendar No. 19), 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.

**AMANDA M. BURDEN, FAICP, Chair**  
**KENNETH J. KNUCKLES, Esq., Vice Chairman**  
**ANGELA M. BATTAGLIA, IRWIN G. CANTOR, P.E., ANGELA R. CAVALUZZI, AIA,**  
**ALFRED C. CERULLO, III, BETTY Y. CHEN, MARIA M. DEL TORO,**  
**RICHARD W. EADDY, NATHAN LEVENTHAL, SHIRLEY A. McRAE,**  
**KAREN A. PHILLIPS, Commissioners**

**RAYANN BESSER, Commissioner, Abstained**