CITY PLANNING COMMISSION

May 25, 2016 / Calendar No. 6 N 160126 ZRK

IN THE MATTER OF an amendment to the Zoning Resolution submitted by 19 Kent Development, LLC and the Department of City Planning modifying Article VII, Chapter 4 (Special Permits by the City Planning Commission), creating a new Special Permit within Section 74-96 (Modifications of Use, Bulk, Parking and Loading Regulations in Industrial Business Incentive Areas) for a newly designated M1-2 Kent Avenue Industrial Business Incentive Area in the Borough of Brooklyn, Community District 1.

The application for an amendment to the Zoning Resolution was filed by 19 Kent Development, LLC and the Department of City Planning on November 25, 2015, and revised on January 8, 2016, to facilitate the construction of an approximately 380,000 square foot mixed office, retail, and industrial development located at 19-25 Kent Avenue (Block 2282, Lot 1) in Williamsburg's Northside neighborhood.

RELATED ACTIONS

In addition to the amendment to the Zoning Resolution, which is the subject of this report (N 160126 ZRK), implementation of the applicant's proposal also requires action by the City Planning Commission on the following applications which are being considered concurrently:

C 160124 ZSK Special Permit by 19 Kent Development, LLC pursuant to Section 74-962 of the Zoning Resolution to modify the permitted floor area requirements of Section 43-12 (Maximum Floor Area Ratio) and to modify the public plaza requirements of Section 37-70 (Public Plazas)

C 160125 ZSK Special Permit by 19 Kent Development, LLC pursuant to Section 74-963 to modify the off-street parking requirements of Section 44-20 and the loading berth requirements of Section 44-50.

BACKGROUND

A full background discussion and description of this application appears in the related report for a Special Permit pursuant to Section 74-964 (C 160124 ZSK).

ENVIRONMENTAL REVIEW

This application (N 160126 ZRK), in conjunction with the application for the related actions (C 160124 ZSK and C 160125 ZSK), 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 61.00 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 16DCP065K. The lead agency is the City Planning Commission.

A summary of the environmental review and Revised Negative Declaration appears in the related report for a Special Permit pursuant to Section 74-964 (C 160124 ZSK).

WATERFRONT REVITALIZATION PROGRAM

This application and its related actions (C 160124 ZSK, C 160125 ZSK, and N 160126 ZRK), 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 30, 2013 and by the New York State Department of State on February 3, 2016, 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 15-132.

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

UNIFORM LAND USE REVIEW

This application (N 160126 ZRK) was duly referred to Community Board 1 and the Brooklyn Borough President on January 4, 2016 in accordance with the procedures for non-ULURP matters, along with the related actions (C 160124 ZSK and C 160125 ZSK), which were certified as complete by the Department of City Planning on January 4, 2016, in accordance with Article 3 of the Uniform Land Use Review Procedure (ULURP) rules.

Community Board Review

Brooklyn Community Board 1 held public hearings on this application (N 160126 ZRK) on February 9, 2016, February 22, 2016, and March 2, 2016. A summary of the vote and recommendations of Community Board 1 appears in the related report for a Special Permit (C 160124 ZSK).

Borough President Recommendation

This application (N 160126 ZRK) was considered by the Borough President of Brooklyn, who held a public hearing on March 21, 2016, issued a recommendation approving the application with conditions. A summary of the Borough President's recommendation appears in the related report for a Special Permit (C 160124 ZSK).

City Planning Commission Public Hearing

On March 30, 2016 (Calendar No. 1), the City Planning Commission scheduled April 13, 2016, for a public hearing on this application (C 160125 ZSK) in conjunction with the public hearings on the applications for the related actions (C 160124 ZSK and N 160126 ZRK). The hearing was duly held on April 13, 2016 (Calendar No. 12). There were a total of 18 speakers, 11 in favor and 7 in opposition, as described in the report for the related Special Permit application (C 160124 ZSK), and the hearing was closed.

CONSIDERATION

The Commission believes that this application (C 160125 ZSK) is appropriate. A full consideration and analysis of issues and the reasons for approving this application appear in the related report for the related Special Permit application (C 160124 ZSK).

RESOLUTION

Therefore, the City Planning Commission, deeming the actions described herein to be appropriate, adopts the following resolution:

RESOLVED, by the City Planning Commission, pursuant to Section 200 of the New York City Charter, that based on the environmental determination and consideration described in this report, and subject to the conditions of the CEQR Declaration E-373; and be it further

RESOLVED, the City Coastal Commission finds that the action will not substantially hinder the achievement of any WRP policy and hereby determines that this action is consistent with WRP policies; and be it further

RESOLVED, by the City Planning Commission, pursuant to Section 200 of the New York City Charter, that based on the environmental determination described in this report, The Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended as follows:

Matter in underline is new, to be added;
Matter in ~~strikeout~~ is to be deleted;
Matter within # # is defined in Section 12-10;
* * * indicates where unchanged text appears in the Zoning Resolution

Article VII
ADMINISTRATION

Chapter 4
Special Permits by the City Planning Commission

*** * ***

74-96
Modification of Use, Bulk, Parking and Loading Regulations in Industrial Business Incentive Areas

For #developments# or #enlargements# on #zoning lots# located within any Industrial Business Incentive Area specified in this Section, the City Planning Commission may increase the maximum permitted #floor area ratio# and modify the #use#, #bulk# and #public plaza# regulations as set forth in Section 74-962 **(**Floor area increase and public plaza modifications in Industrial Business Incentive Areas). The Commission may also modify parking and loading requirements for such #developments# or #enlargements# pursuant to Section 74-963 (Parking and loading modifications in Industrial Business Incentive Areas).

For #developments# or #enlargements# receiving a #floor area# increase pursuant to this Section, Section 43-20 (YARD REGULATIONS), inclusive, shall be modified as follows: #rear yard# regulations shall not apply to any #development# or #enlargement# on a #through lot#.

Industrial Business Incentive Areas specified:

Community District 1, Brooklyn: The block bounded by North 12th Street, Kent Avenue, North 13th Street and Wythe Avenue.

74-961
Definitions

For the purposes of Section 74-96 **(**Modification of Use, Bulk, Parking and Loading Regulations in Industrial Business Incentive Areas), inclusive, a "required industrial use" and an "incentive use" shall be defined as follows:

Required Industrial Use

A "required industrial use" is a #use# that helps achieve a desirable mix of #commercial# and #manufacturing uses# in an Industrial Business Incentive Area, and that generates additional #floor area# pursuant to provisions set forth in Section 74-962 and is:

listed in Use Groups 11A, 16A excluding "animal hospitals and kennels" and "animal pounds or crematoriums", 16B, 17B and 17C, as specified in Sections 32-20 (Use Group 11), 32-25 (Use Group 16) and 42-14 (Use Group 17); and

"beverages, alcoholic or breweries" as listed in Section 42-15 (Use Group 18A), where permitted by the provisions of the applicable zoning district, provided the applicable performance standards pursuant to Section 42-20 are met.

Incentive Use

An "incentive use" is a #use# permitted by the applicable zoning district, that is allowed to occupy the additional #floor area# generated by a #required industrial use# with the exception of the following #uses#:

#transient hotels# in Use Group 5, as specified in Section 32-14 (Use Group 5);

#uses# in Use Groups 6A or 6C as specified in Section 32-15 (Use Group 6);

#uses# in Use Group 7A as specified in Section 32-16 (Use Group 7);

#uses# in Use Group 8C as specified in Section 32-17 (Use Group 8);

#uses# in Use Group 10A and any retail spaces #accessory# to "wholesale offices or showrooms, with storage restricted to samples" in Use Group 10B as specified in Section 32-19 (Use Group 10);

#uses# as specified in Sections 32-21 (Use Group 12) and 32-22 (Use Group 13); and

moving or storage offices, with no limitation as to storage or #floor area# per establishment, as well as packing or crating establishments and warehouses as specified in Section 32-25 (Use Group 16).

74-962
Floor area increase and public plaza modifications in Industrial Business Incentive Areas

In Industrial Business Incentive Areas, the Commission may increase the maximum #floor area ratio# on a #zoning lot# in accordance with the Table in this Section.

For #developments# or #enlargements# in the district indicated in column (A), the base maximum #floor area ratio# on a #zoning lot# (column (B)) may be increased by 3.5 square feet for each square foot of #required industrial uses# up to the maximum #floor area ratio# for all #uses# on the #zoning lot# (column (E)), provided that such #development# or #enlargement# does not include a #transient hotel#, and that such additional #floor area# is occupied by #required industrial uses# and #incentive uses# up to the maximum #floor area ratio# set forth in column (C) (Maximum Additional #Floor Area Ratio# for #Required Industrial Uses#), and column (D) (Maximum Additional #Floor Area Ratio# for #Incentive Uses#), respectively.

TABLE
FLOOR AREA INCREASE PERMITTED IN
INDUSTRIAL BUSINESS INCENTIVE AREAS

(A) Zoning District	(B) Base Maximum #Floor Area Ratio#	(C) Maximum Additional #Floor Area Ratio# for # Required Industrial Uses#	(D) Maximum Additional #Floor Area Ratio# for #Incentive Uses#	(E) Maximum #Floor Area Ratio# for All #Uses#
M1-2	2.0	0.8	2.0	4.8

For such #developments# or #enlargements# that, pursuant to this Section, increase their permitted #floor area#, and provide a #public plaza#, the Commission may also increase the maximum height of such #development# or #enlargement# and may modify the requirements for #public plazas# set forth in Section 37-70 (PUBLIC PLAZAS).

Applications for such #floor area# increases and modifications are subject to the requirements, conditions and findings set forth in this Section.

(a) Application Requirements

All applications for a special permit pursuant to this Section shall include the following:

(1) site plans and elevations which shall establish distribution of #floor area#, height and #setback#, sidewalk widths, primary business entrances, including parking and loading, #yards# and #public plazas#, signage and lighting;

(2) floor plans of all floors which shall establish the location, access plan and dimensions of freight elevators and loading areas and the location of #floor area# dedicated to # required industrial uses# and #incentive uses#;

(3) drawings that show, within a 600 foot radius, the location and type of #uses#; the location, dimensions and elements of off-site open areas including #streets#, waterfront and #upland# parcels; elements of a Waterfront Access Plan, as applicable; and the location of #street# trees and #street# furniture and any other urban design elements. The plans shall demonstrate that any #public plaza# provided meets the requirements of paragraph (b)(5) of this Section; and

(4) for #zoning lots# in #flood zones#, flood protection plans, which shall show #base flood elevations# and advisory #base flood elevations#, as applicable, location of mechanical equipment, areas for storage of any hazardous materials and proposed structural or design elements intended to mitigate the impacts of flood and storm events.

(b) Conditions

(1) Minimum amount of #required industrial uses#

#Required industrial uses# shall occupy a minimum of 5,000 square feet of horizontally contiguous #floor area# and shall be served by loading areas and freight elevators with sufficient capacity.

(2) Minimum sidewalk width

All #developments# and horizontal #enlargements# that front upon a #street line# shall provide a sidewalk with a minimum width of 15 feet along the entire frontage of the #zoning lot#. Such sidewalk, and any open area on the #zoning lot# required to meet such minimum width shall be improved as a sidewalk to Department of Transportation standards; shall be at the same level as the adjoining public sidewalk; and shall be accessible to the public at all times. For the purposes of applying the #street wall# location requirements and the height and setback regulations of paragraph (b)(3) of this Section, any sidewalk widening line shall be considered to be the #street line#.

(3) Height and setback

The height and setback regulations of the applicable zoning district shall apply as modified by the provisions of this paragraph.

(i) The #street wall# of any #building# shall be located on the #street line# and shall extend to a height not lower than a minimum base height of 40 feet and not higher than a maximum base height of 75 feet or the height of the #building#, whichever is less. At least 70 percent of the aggregate width of such #street wall# below 12 feet shall be located at the #street line# and no less than 70 percent of the aggregate area of the #street wall# up to the base height shall be located at the #street line#. However, up to a width of 130 feet of such #street wall# located on the short end of the #block# may be set back from the #street line# to accommodate a #public plaza#.

(ii) The height of a #building or other structure#, or portion thereof, located within ten feet of a #wide street# or within 15 feet of a #narrow street# shall not exceed a maximum base height of 75 feet. Permitted obstructions as set forth in Section

43-42 shall be modified to include dormers above the maximum base height within the front setback area, provided that on any #street# frontage, the aggregate width of all dormers at the maximum base height does not exceed 50 percent of the #street wall# and a maximum height of 110 feet. Beyond ten feet of a #wide street# and 15 feet of a #narrow street#, the height of a #building or other structure# shall not exceed a maximum #building# height of 110 feet. All heights shall be measured from the #base plane#. Where a #public plaza# is provided pursuant to paragraph (b)(5) of this Section, such maximum #building# height may be increased to 135 feet.

(iii) Along the short dimension of a #block#, up to 130 feet of such #street wall# may be set back from the #street line# to accommodate a #public plaza#, and a #street wall# located at the #street line# that occupies not more than 40 percent of the short end of the #block# may rise without setback to the maximum #building# height.

(4) Ground floor design

(i) The ground floor level #street walls# and ground floor level walls fronting on a #public plaza# of a #development# or horizontal #enlargement# shall be glazed with transparent materials which may include #show windows#, transom windows or glazed portions of doors. Such transparent materials shall occupy at least 50 percent of the surface area of such #street wall#, measured between a height of two feet above the level of the adjoining sidewalk or #public plaza# and a height of 12 feet above the level of the first finished floor above #curb level#. The floor level behind such transparent materials shall not exceed the level of the window sill for a depth of at least four feet, as measured perpendicular to the #street wall#. The ground floor transparency requirements of this paragraph (b)(4)(i) shall not apply to #uses# listed in Use Groups 11, 16, 17 and 18, or to #accessory# loading berths, or garage entrances#; or

(ii) For #zoning lots# within flood hazard areas, in lieu of the requirements of paragraph (b)(4)(i) of this Section, the provisions of Section 64-22 (Transparency Requirements) shall apply; and

(iii) For any #street wall# widths greater than 40 feet in length that do not require glazing as specified in paragraphs (b)(4)(i) or (b)(4)(ii), as applicable, the facade, measured between a height of two feet above the level of the adjoining sidewalk and a height of 12 feet above the level of the first finished floor above #curb level#, shall incorporate design elements, including lighting and wall art, or physical articulation.

(5) #Public plazas#

A #public plaza# shall contain an area of not less than 12 percent of the #lot area# of the #zoning lot# and minimum of at least 2,000 square feet in area. All #public plazas# shall comply with the provisions set forth in Section 37-70, inclusive, except certification requirements of Sections 37-73 (Kiosks and Open Air Cafes) and 37-78 (Compliance) shall not apply.

(6) Signs

(i) In all Industrial Business Incentive Areas, #signs# are subject to the regulations applicable in C6-4 Districts as set forth in Section 32-60, inclusive. Information #signs# provided pursuant to paragraph (b)(6)(ii) of this Section shall not count towards the maximum permitted #surface area# regulations of Section 32-64 (Surface Area and Illumination Provisions), inclusive.

(ii) An information #sign# shall be provided for all #buildings# that are #developed# or #enlarged#. Such required #signs# shall be mounted on an exterior #building# wall adjacent to and no more than five feet from all primary entrance of the #building#. The #sign# shall be placed so that it is directly visible, without any obstruction, to persons entering the building, and at a height no less than four feet and no more than five and a half feet above the adjoining grade. Such #sign# shall be legible, no less than 12 inches by 12 inches in size and shall be fully opaque, non-reflective and constructed of permanent, highly durable materials. The information #sign# shall contain: the name and address of the building in lettering no less than three-quarters of an inch in height; and the words in lettering no less than one-half of an inch in height, "This building is subject to Industrial Business Incentive Area (IBIA) regulations which require a minimum amount of space to be provided for specific industrial uses." The information #sign# shall include the Internet URL, or other widely accessible means of electronically transmitting and displaying information to the public, where the information required in paragraph (e) of this Section is available to the public.

(c) Findings

In order to grant an increase of the maximum permitted #floor area ratio# and modification of #public plaza# regulations, the Commission shall find that such increase or modification:

(1) will promote a beneficial mix of #required industrial # and #incentive uses#;

(2) will result in superior site planning, harmonious urban design relationships and a safe and enjoyable streetscape;

(3) will result in a #building# that has a better design relationship with surrounding #streets# and adjacent open areas;

(4) will result in a #development# or #enlargement# that will not have an adverse effect on the surrounding neighborhood; and

(5) any modification of the #public plaza# requirements will result in a #public plaza# of equivalent or greater value as a public amenity.

The Commission may prescribe appropriate additional conditions and safeguards to minimize adverse effects on the character of the surrounding area.

(d) Recordation

A Notice of Restrictions, the form and content of which shall be satisfactory to the City Planning Commission, for a #building# containing #use# restrictions or #public plaza# requirements, as applicable, pursuant to this Section, shall be recorded against the subject tax lot in the Office of the City Register or, where applicable, in the County Clerk's office in the county where the lot is located.

The filing and recordation of such Notice of Restrictions shall be a precondition to the issuance of any building permit utilizing the provisions set forth in this Section. The recording information shall be referenced on the first certificate of occupancy to be issued after such notice is recorded, as well as all subsequent certificates of occupancy, for as long as the restrictions remain in effect.

(e) Notification

No later than the first day of each quarter of the year, the owner of a #building# subject to #use# restrictions of this Section shall provide the following information at the designated Internet URL, or other widely accessible means of electronically transmitting and displaying information to the public pursuant to paragraph (b)(6)(ii) of this Section. Such electronic information source shall be accessible to the general public at all times and include the information specified below:

(1) the date of the most recent update of this information;

(2) total #floor area# of the #required industrial uses# in the #development#;

(3) a digital copy of all approved special permit drawings pursuant to paragraph (a), inclusive, of this Section;

(4) the name of each business establishment occupying #floor area# for #required industrial uses#. Such business establishment name shall include that name by which the establishment does business and is known to the public. For each business establishment, the amount of #floor area#, the Use Group, subgroup and specific #use# as listed in this Resolution shall also be included; and

(5) contact information, including the name of the owner of the #building# and the building management entity, if different; the name of the person designated to manage the #building#; and the street address, current telephone number and e-mail address of the management office. Such names shall include the names by which the owner and manager, if different, do business and are known to the public.

(f) Compliance

Failure to comply with a condition or restriction in a special permit granted pursuant to this Section or with approved plans related thereto, shall constitute a violation of this Resolution and may constitute the basis for denial or revocation of a building permit or certificate of occupancy, or for a revocation of such special permit, and for the implementation of all other applicable remedies.

74-963
Parking and loading modifications in Industrial Business Incentive Areas

In association with an application for a special permit for #developments# or #enlargements# pursuant to Section 74-962 (Floor area increase and public plaza modifications in Industrial Business Incentive Areas), the Commission may reduce or waive the off-street parking requirements set forth in Section 44-20 (REQUIRED ACCESSORY OFF-STREET PARKING SPACES FOR MANUFACTURING, COMMERCIAL OR COMMUNITY FACILITY USES), inclusive, not including bicycle parking, and may also reduce or waive the loading berth requirements as set forth in Section 44-50 (GENERAL PURPOSES), inclusive, provided that the Commission finds that:

(a) such reduction or waiver will not create or contribute to serious traffic congestion and will not unduly inhibit vehicular and pedestrian movement;

(b) the number of curb cuts provided are the minimum required for adequate access to off-street parking and loading berths, and such curb cuts are located so as to cause minimum disruption to traffic, including vehicular, bicycle and pedestrian circulation patterns;

(c) the #streets# providing access to the #development# or #enlargement# are adequate to handle the traffic generated thereby, or provision has been made to handle such traffic; and

(d) the reduction or waiver of loading berths will not create or contribute to serious traffic congestion or unduly inhibit vehicular and pedestrian movement.

The Commission may prescribe appropriate additional conditions and safeguards to minimize adverse effects on the character of the surrounding area.

* * *

The above resolution (N 160126 ZRK), duly adopted by the City Planning Commission on May 25, 2016 (Calendar No. 6), 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.

CARL WEISBROD, Chairman
KENNETH J. KNUCKLES, ESQ., Vice Chairman
RAYANN BESSER, IRWIN G. CANTOR, *P.E.*, ALFRED C. CERULLO, III, JOSEPH I. DOUEK, RICHARD W. EADDY, CHERYL COHEN EFFRON, LARISA ORTIZ, ANNA HAYES LEVIN, ORLANDO MARIN, HOPE KNIGHT, Commissioners

MICHELLE R. DE LA UZ, Commissioner, Voted No.