



CITY PLANNING COMMISSION

September 14, 2005/Calendar No.9

C 050393 ZMK

IN THE MATTER OF an application submitted by the Ocean Dreams LLC, pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section Nos. 28b and 28d, changing from an R5 District to an R6A District property bounded by Surf Avenue, West 35th Street, the northerly boundary line of Coney Island Beach, and West 37th Street; Borough of Brooklyn, Community District 13, as shown on a diagram (for illustrative purposes only) dated April 25, 2005.

This application for an amendment of the zoning map was filed by Ocean Dreams LLC on March 31, 2005 to change an R5 district to an R6A district for two blocks adjacent to Coney Island Beach.

RELATED ACTIONS

In addition to the amendment to the Zoning Map which is the subject of this report, implementation of the applicant's proposal also requires action by the Chair of the City Planning Commission on the following applications which are considered concurrently with this application.

1. N 050394 ZCK - Chair Certification pursuant to Section 62-711, Waterfront Public Access and Visual Corridors
2. N 050395 ZCK - Chair Certification pursuant to Section 62-711, Waterfront Public Access and Visual Corridors

BACKGROUND

The two block area is bounded by Surf Avenue on the north, Riegelmann Boardwalk and Coney Island Beach to the south, West 35th Street to the east and West 37th Street to the west.

Part of the proposed rezoning area, the south side of Surf Avenue between West 35th and the easterly portion of the block between W. 36th Street and W. 37th Street, is controlled by the applicant. These applicant owned parcels are currently used as parking lots for school buses. In addition, the area proposed for rezoning includes a parcel at the southeast corner of Surf Avenue and West 37th Street that is occupied by a community center in a three-story building, not owned by the applicant.

The proposed rezoning is just south of the Coney Island Urban Renewal Area, extending from the north side of Surf Avenue from West 37th Street to Stillwell Avenue. Land uses immediately north, in the existing R6 district, include several subsidized residential developments in multi-family buildings including the 19-story Scheuer House between West 36th and West 37th streets and the 14 -to 16-story Coney Island Houses between West 33rd Street and West 36th Street. To the south are Coney Island's boardwalk, beach and oceanfront. Immediately east in the R5 district is a two-story community facility building occupied by Federation Employment and Guidance Service, and to the west is the private residential community of Seagate in an R3-1 district with a mix of detached and semi-detached homes.

In the existing R5 zoning district, residential developments can be constructed to a maximum FAR of 1.25 and to a maximum height of 40 feet with a maximum street wall of 30 feet. Under the proposed R6A zoning district, residential developments can be constructed at a maximum FAR of 3.0 and to a maximum height of 70 feet with a maximum street wall of 60 feet.

If the rezoning is approved, the applicant intends to develop approximately 313 market rate condominiums in two seven-story buildings. The proposed R6A district would allow the applicant to develop the property at a greater bulk, density and height than permitted under the current R5 district regulations.

The proposed development also requires two certifications (N 050394ZCK, N050395 ZCK) by the Chair of the City Planning Commission pursuant to Section 62-711 of the New York City Zoning Resolution that waterfront public access and visual corridors are not required because the project is not being developed on waterfront zoning lots and existing streets provide the necessary view corridors.

ENVIRONMENTAL REVIEW

This application (C 050393 ZMK) 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 03DCP065K. The lead agency is the City Planning Commission.

After a study of the potential environmental impact of the proposed action, the lead agency has determined that the proposed action will have no significant effect on the quality of the environment, once it is modified as follows:

A Phase I Environmental Site Assessment (ESA), available in the proposal's CEQR file, was prepared in June 2002 for the property under the control of the applicant located at 3500-3632 Surf Avenue (Block 7065, Lots 6, 12, 15, 20 and 25). The ESA was reviewed by DEP's Office of Environmental Planning and Assessment, and a restrictive declaration was recommended, as

stated in a memo by DEP dated May 20, 2004, due to the potential presence of hazardous material on the site as a result of past and present land uses at the applicant's site. The declaration requires that Phase II testing would occur and is binding upon the property's successors and assigns. The declaration serves as a mechanism to assure the potential for hazardous material contamination that may exist in the sub-surface soils and groundwater on the applicant's sites would be characterized prior to any site disturbance (i.e., site grading, excavation, demolition, or building construction).

On April 13, 2005 the restrictive declaration was executed and recorded. On January 7, 2005 DEP communicated to City Planning that they approved the language of the restrictive declaration and in an April 21, 2005 letter sent to City Planning, DEP confirmed that they had received a copy of the recorded and executed restrictive declaration.

The applicant signed a conditional negative declaration on April 21, 2005. The conditional negative declaration was published in the City Record on April 27, 2005 and in the New York State Environmental Notice Bulletin on May 4, 2005. Pursuant to the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 et seq., a 30-day comment period followed. No comments were received and the conditional negative declaration was issued on August 8, 2005.

UNIFORM LAND USE REVIEW

This application (C 50393 ZMK), was certified as complete by the Department of City Planning on April 25, 2005, and was duly referred to Community Board 13 and the Borough President, in accordance with Article 3 of the Uniform Land Use Review Procedure (ULURP) rules.

Community Board Public Hearing

Community Board 13 held a public hearing on this application on May 25, 2005 and on June 22, 2005 by a vote of 24 to 5 with 0 abstentions, adopted a resolution recommending approval of the application.

Borough President Recommendation

This application was considered by the Borough President, who issued a recommendation approving the application on August 4, 2005 subject to the following conditions:

A. That the developer investigate participation in the following programs of the New York City Housing Development Corporation:

-Affordable Cooperative Program targeting middle income households;

-Mixed-Income Program targeting 50% market-rate, 30% middle-income and 20% lower-income;

-New Housing Opportunities Program targeting middle-income households;

for not less than 20% of the development, or,

B. That the developer specify in the offering plan submitted to the Attorney General or other covenants running with the property that for not less than 20% of the development that be affordable to moderate and middle income households by having:

Three-bedroom apartments average: 10% at \$475,000; and 10% at \$380,000

Two-bedroom apartments average: 10% at \$400,000; and 10% at \$320,000

One-bedroom apartments average: 10% at \$250,000; and 10% at \$200,000

And, further, the Borough President urges that the applicant pursue best efforts to hire Brooklyn contractors and use of Brooklyn material suppliers.”

City Planning Commission Public Hearing

On July 27, 2005 (Calendar No. 2), the City Planning Commission scheduled August 10, 2005, for a public hearing on this application (C 050393 ZMK). The hearing was duly held on August 10, 2005 (Calendar No. 18). There were two speakers in favor of the application and none in opposition.

The applicant described the proposed zoning map amendment and how the map change is consistent with area land uses and density. The applicant spoke of plans to develop market rate condominiums in an area predominantly occupied by subsidized residential towers. In addition, the applicant indicated that they met with both HPD and HDC to consider their participation in available affordability programs, but the offered programs were limited to rentals or cooperatives with strict income restrictions, rendering them inapplicable. The applicant further indicated that they hoped to attract middle-income households, equivalent to two civil service incomes, by limiting their sale prices to a range of \$350,000 to \$600,000.

A clergymen and member of the community expressed his support for the rezoning and proposed project, as it would provide an opportunity for area renters to purchase apartments at affordable prices.

There were no other speakers and the hearing was closed.

WATERFRONT REVITALIZATION PROGRAM CONSISTENCY REVIEW

This application, in conjunction with the applications for the related actions, 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 28, 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 04-025.

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

CONSIDERATION

The Commission believes that this amendment of the Zoning Map is appropriate.

The Commission notes that the zoning map change is consistent with existing area land uses and density. Directly north of the rezoning area are residential towers ranging from 11 to-19-stories and to the east and west are community facility and residential buildings.

The Commission believes that R6A contextual district bulk regulations provide an appropriate transition between the residential towers in the R6 zoning district to the north and the Coney Island boardwalk and beach to the south. The rezoning would facilitate the development of two residential buildings with a maximum base height of 60 feet and a maximum height of 70 feet.

The Commission wants to encourage development in Coney Island, particularly on vacant and undeveloped sites and believes that the proposed rezoning and the anticipated project will play a positive role in the area's future development.

The Commission notes that the anticipated development is the first unsubsidized residential development in over five decades of urban renewal activity in this part of Coney Island. The proposed development would be constructed on land that has been vacant for several decades.

The Commission believes that requiring affordable units is beyond the scope of this amendment of the Zoning Map.

RESOLUTION

RESOLVED, that the City Planning Commission finds that the action described herein will have no significant impact on the environment subject to the following conditions:

For the properties located at 3500-3632 Surf Avenue (Block 7065, Lots 6, 12, 15, 20 and 25) the applicant agrees via a restrictive declaration to prepare a hazardous materials sampling protocol, including a health and safety plan, which would be submitted to the New York City Department of Environmental Protection (DEP) for approval. The declaration establishes an agreement to test and identify any potential hazardous material impacts pursuant to the approved sampling

protocol and, if any such impact is found, submit a hazardous material remediation plan including a health and safety plan the DEP for approval. If necessary, remediation measures would be undertaken pursuant to the remediation plan.

;and be it further

RESOLVED, that the City Planning Commission, in its capacity as the City's Coastal Commission, has reviewed the waterfront aspects of this application and finds that the proposed project is consistent with WRP policies; 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 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 by changing the Zoning Map Section Nos. 28b and 28d, changing from an R5 District to an R6A District property bounded by Surf Avenue, West 35th Street, the northerly boundary line of Coney Island Beach, and West 37th Street; Borough of Brooklyn, Community District 13, as shown on a diagram (for illustrative purposes only) dated April 25, 2005.

The above resolution (C 050393 ZMK), duly adopted by the City Planning Commission on September 14, 2005 (Calendar No. 9), 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, AICP, Chair
KENNETH J. KNUCKLES, Esq., Vice Chairman
ANGELA M. BATTAGLIA, IRWIN G. CANTOR, P.E.,
ANGELA R. CAVALUZZI, R.A., ALFRED C. CERULLO, III,
JANE D. GOL, LISA A. GOMEZ, CHRISTOPHER KUI, JOHN MEROLO,
KAREN A. PHILLIPS, DOLLY WILLIAMS, Commissioners