



CITY PLANNING COMMISSION

March 2, 2011 / Calendar No. 10

M 900604(A) ZMX

IN THE MATTER OF an application submitted by G.B.G. Inc for a modification to Restrictive Declaration D-140 (C 900604 ZMX) involving property located at 166-175 Marine Street (Block 5639, Lots 23 and 40, and Block 5640, Lots 90 and 150), within the Special City Island District, Borough of The Bronx, Community District 10.

WHEREAS, on September 4, 2009, G.B.G. Inc submitted an application (M 900604(A) ZMX) for the modification of a Restrictive Declaration dated July 29, 1991 to facilitate the development of the Sea Breeze Estates development, a 36-unit residential development with an attached marina located at Block 5639, Lots 23 and 40, and Block 5640, Lots 90 and 150 within the Special City Island District, of Community District 10, in the Bronx; and

WHEREAS, the Restrictive Declaration (herein the “1991 Declaration”), dated July 29, 1991, was recorded in the New York City Register on October 7, 1991 at Reel 1064, Page 0664; and

WHEREAS, the 1991 Declaration was originally entered in connection with approval of an amendment to the Zoning Map (C 900604 ZMX) rezoning the project site from M1-1 to a C3 district, a change in City Map (C 900603 MMX) to eliminate, discontinue, and close a portion of Marine Street which traversed the project site, and a special permit and authorization (C 900602 ZSX) pursuant to 112-10 of the Zoning Resolution to modify the height and setback regulations to facilitate the proposed residential development; and

WHEREAS, the 1991 Declaration includes a Public Pedestrian Access and Sewer Easement and a Street and Utility Easement adjacent to the portion of the property formerly known as Marine Street; and

WHEREAS, the Declarant wishes to redevelop the property that is the subject of this application (M 900604(A) ZMX) in a manner different from that anticipated by the 1991 Declaration and has submitted an application designation number M 900604(A) ZMX (the “2009 Application”) in conjunction with an authorization pursuant to ZR Section 112-106 for modification of perimeter wall height and setback regulations (N 040483 ZAX), a Text Amendment to amend Appendix A to Article XI, Chapter 2: Special City Island District (N 070384 ZRX), and an Authorization pursuant to ZR Section 22-26 for modification and waiver provisions for private streets (N 070385 ZAX), to the Chairperson of the New York City Planning Commission; and

WHEREAS, in addition to the replacement of the site plan, proposed modifications to the 1991 Declaration would (i) confirm that the Public Pedestrian Access and Sewer Easement, and the Street and Utility Easement remain in effect; (ii) require that the Waterfront Public Access Area/Sitting Area, Public Access Area, and Publicly Traversable Way/Upland Connection, be developed, improved and operated pursuant to Section 62-711 and Section 112-14 of the Zoning Resolution; and (iii) require that the private road be developed, improved and operated pursuant to section 26-20 of the Zoning Resolution; and

WHEREAS, this application (M 900604(A) ZMX), in conjunction with the related actions (N 040483 ZAX, N 070384 ZRX, and N 070385 ZAX), 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 07-081. This action was determined to be consistent with the policies of the New York City Waterfront Revitalization Program; and

WHEREAS, this application (M 900604(A) ZMX), in conjunction with the related action (N 040484 ZRX), was referred to the Community Board for 45 days and in a letter dated October 27, 2010, Bronx Community Board 10 expressed support of the modification of the 1991 Declaration; and

WHEREAS, a Technical Memorandum (CEQR No. 89-040X) was filed in conjunction with the subject modification (M 900604(A) ZMX) and related actions (N 040483 ZAX, N 070384 ZRX, and N 070385 ZAX). The Technical Memorandum assessed whether the proposed actions would have the potential to cause any significant adverse environmental impacts not previously identified in the Final Environmental Impact Statement (“FEIS”) for the Sea Breeze Estates (C 900604 ZMX, C 900603 MMX, and C 900602 ZSX) issued July 19, 1991 by the City Planning Commission 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 New York City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The lead is the City Planning Commission (CPC). A Notice of Minor Modification was issued on September 10,

2010, which concluded that the action represents a minor modification and does not alter the conclusions of the earlier review. Therefore, the Notice of Completion of the FEIS issued on July 19, 1991 remains valid; and

WHEREAS, the Commission has determined that the application warrants approval; and

RESOLVED, that the application (M 900604(A) ZMX) submitted by G.B.G. Inc for a modification to Restrictive Declaration D-140 (C 900604 ZMX) involving property located at 166-175 Marine Street (Block 5639, Lots 23 and 40, and Block 5640, Lots 90 and 150), within the Special City Island District, Borough of The Bronx, Community District 10, is approved subject to the following conditions:

1. The property that is the subject of this application shall be developed in substantial conformity with the following drawings prepared by SLCE Architects, filed with this application and incorporated in this resolution:

<u>Drawing Number</u>	<u>Title</u>	<u>Date</u>
S-1.1A	Waterfront Access Plan (Sheet 1 of 3)	August 25, 2010
S-1.2A	Waterfront Access Plan (Sheet 2 of 3)	July 16, 2010
S-1.3A	Waterfront Access Plan (Sheet 3 of 3)	August 25, 2010
Z-5	Height and Setback Diagrams/Private Road Plan	December 1, 2010

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. Development pursuant to this resolution shall be allowed only after the restrictive declaration dated January 24, 2011 and executed by G.B.G, Inc., the terms of which are hereby incorporated in this resolution, shall have been recorded and filed in the Office of the Register of the City of New York, County of Bronx.
5. 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 attached restrictive declaration whose provisions shall constitute conditions of the approvals granted herein, is grounds for the City Planning Commission or the City Council, as applicable, to disapprove any application for modification, cancellation or amendment of any approvals hereby granted or of the restrictive declaration.

The above resolution (M 900604(A) ZMX), duly adopted by the City Planning Commission on March 2, 2011 (Calendar No. 10), is filed with the Office of the Speaker, City Council.

AMANDA M. BURDEN, FAICP, Chair

KENNETH J. KNUCKLES, Esq., Vice Chairman

ANGELA M. BATTAGLIA, RAYANN BESSER, IRWIN G. CANTOR, P.E.,

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SHIRLEY A. McRAE, KAREN A. PHILLIPS, Commissioners