



CITY PLANNING COMMISSION

July 11, 2007/Calendar No. 8

C 060272 ZMK

IN THE MATTER OF an application submitted by the Commerce Bank pursuant to sections 197-c and 201 of the New York City Charter for an amendment of the zoning map, Section Nos. 22b and 22d, establishing within an existing R5 district a C2-3 district bounded by 13th Avenue, a line midway between 64th Street and 65th Street, a line 150 feet southeasterly of 13th Avenue, and 65th Street, Borough of Brooklyn, Community District 10, as shown on a diagram (for illustrative purposes only) dated March 12, 2007.

The application for the amendment to the zoning map was filed by Commerce Bank on December 21, 2005 to establish a C2-3 overlay in an existing R5 zone to facilitate the development of a branch location of Commerce Bank.

BACKGROUND

The applicant is seeking a zoning map change to establish a 100' deep C2-3 overlay in an existing R5 zone for a length of 150' along the 65th street frontage of Block 6134. If approved, the applicant intends to develop a branch location of Commerce Bank at 1301 65th Street (Block 5747, Lot 1) in the Dyker Heights section of Brooklyn, Community District 10.

The lot affected by the zoning map change (Block 5747, Lot 1) is owned by the applicant and had been previously occupied as a gas station. The intersection of 65th Street and 13th Avenue is uniformly developed with commercial establishments on each corner. However, the blocks surrounding the rezoning area contain a mixture of residential and commercial uses. The residential building types in the area are a mixture of single and multi-family residences as well as a mix of detached, semi-detached and attached building types. There are R5 and M1-1 zones to the east, R5 and R5/C2-3 zones to the south, and an R5 zone to the north and west. There are both residential and commercial buildings immediately abutting the rezoning area.

The rezoning area is currently zoned R5, which is a lower density residential district that allows single and multi-family houses and community facilities in Use Groups 1-4. R5 districts have a maximum floor area ratio of 1.25 for residential building and 2.0 for community facilities. The C2-3 overlay proposed by the applicant, would allow local service and retail establishments in Use Groups 5-11 with maximum commercial floor area ratio of 1.0.

The proposed rezoning would facilitate the construction of a one story bank with accessory parking and drive through teller windows. Access to the drive through and parking area would be from 65th Street, with only egress permitted onto 13th Avenue from the drive through teller lanes. The applicant has also proposed that the site be screened from adjacent residential uses by construction of a privacy fence and a landscaped buffer.

ENVIRONMENTAL REVIEW

This application (C 060272 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 lead agency is the City Planning Commission. The designated CEQR number is 06DCP057K.

After a study of the potential environmental impacts of the proposed action, a Conditional Negative Declaration, signed by the applicant, was prepared on March 9, 2007 stating the following:

The applicant agrees via a restrictive declaration to prepare a Remedial Action Plan, including a sampling protocol and a health and safety plan for the Department of Environmental Protection (DEP) for approval. Remediation measure would be undertaken to pursuant to the remediation plan.

The restrictive declaration also restricts the manner in which the property may be developed or redeveloped, by requiring the remediation measures to serve as a condition precedent to any change of use in any such development or redevelopment of the property.

The applicant signed the conditional negative declaration on March 6, 2007. The conditional negative declaration was published in the City Record on March 21, 2007 and in the New York State Environmental Notice Bulletin on March 21, 2007. 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 June 4, 2007.

UNIFORM LAND USE REVIEW

This application (C 060272 ZMK) was certified as complete by the Department of City Planning on March 12, 2007, and was duly referred to Community Board 10 and the Borough President, in accordance with Title 62 of the Rules of the City of New York, Section 20-02(b).

Community Board Public Hearing

Community Board 10 held a public hearing on this application on April 16, 2007 and, on that date, by a vote of 39 in favor, 2 against, and 1 recusal, adopted a resolution recommending approval with the following conditions:

1. The underlying residential zoning would be changed from R5 to R5B as part of the larger Dyker Heights Rezoning (C 070387 ZMK) that was certified subsequent to this application.

2. The applicant must provide a plan for remediation of the soil and the underground tanks that remain in the ground from the former gas station at this location.

Borough President Recommendation

This application was considered by the Brooklyn Borough President, who issued a recommendation approving the application on May 16, 2007.

City Planning Commission Public Hearing

On May 23, 2007 (Calendar No. 7), the City Planning Commission scheduled June 6, 2007 for a public hearing on this application (C 060272 ZMK). The hearing was duly held on June 6, 2007 (Calendar No. 21). There were 2 speakers representing the applicant appearing in favor of the application and none in opposition.

There were no other speakers and the hearing was closed.

CONSIDERATION

The City Planning Commission believes the application for a Zoning Map Amendment to establish a C2-3 overlay in an existing R5 zone is appropriate. The approval of this application would facilitate a project that would be a complimentary use in this location and provide a valuable service to the residents of this community. Furthermore, the property affected by this rezoning has been used for commercial purposes prior to the applicant's acquisition of the

property. Therefore, the zoning designation would reflect the commercial uses that have existing on the applicant's property for quite some time.

The Community Board recommended as a condition of their approval of this application that the underlying zoning at this location be changed from R5 to R5B to prevent out of scale development on this site in the future. The Commission notes that the change to the underlying zoning requested by the community board was included as part of the Dyker Heights Rezoning (C 070387 ZMK) that was approved by The Commission on June 20, 2007 and is currently under review by the City Council.

The Community Board also recommended as a condition of the approval of this application that the applicant provide a remediation plan for removal of contaminated soil and underground tanks that remain on the site from the automotive service station that existed previously on the site. The commission notes that the applicant is required to provide a remediation plan as part of the requirements of the Conditional Negative Declaration (CEQR # 06DCP057K) issued for this application.

RESOLUTION

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

The applicant agrees via a restrictive declaration to prepare a Remedial Action Plan, including a sampling protocol and a health and safety plan for the Department of Environmental Protection (DEP) for approval. Remediation measure would be undertaken to pursuant to the remediation plan.

The restrictive declaration also restricts the manner in which the property may be developed or redeveloped, by requiring the remediation measures to serve as a condition precedent to any change of use in any such development or redevelopment of the property;

and be it further

RESOLVED, by the City Planning Commission, pursuant to Section 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 New York, effective as of December 15, 1961, and as subsequently amended, is further amended by changing the Zoning Map, Section Nos. 22b and 22d, by establishing within an existing R5 district a C2-3 district bounded by 13th Avenue, a line midway between 64th Street and 65th Street, a line 150 feet southeasterly of 13th Avenue, and 65th Street, Borough of Brooklyn, Community District 10, as shown on a diagram (for illustrative purposes only) dated March 12, 2007.

The above resolution (C 060272 ZMK), duly adopted by the City Planning Commission on July 11, 2007 (Calendar No. 8), 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.,

BETTY Y. CHEN, RICHARD W. EADDY, LISA A. GOMEZ, NATHAN LEVENTHAL,

KAREN A. PHILLIPS, DOLLY WILLIAMS, Commissioners