



## CITY PLANNING COMMISSION

June 7, 2010/ Calendar No. 2

N 100186 ZRK

---

**IN THE MATTER OF** an application submitted by Refinery LLC, Inc. pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, concerning Section 23-953 (Special floor area compensation provisions in specified areas), Section 62-35 (Special Bulk Regulations in Certain Areas Within Community District 1, Brooklyn), Section 62-352 (Inclusionary Housing), Section 52-83 (Non-Conforming Advertising Signs), and Appendix F (Inclusionary Housing Designated Areas) relating to the Inclusionary Housing Program and advertising signs on landmark buildings that are part of general large scale developments in the Borough of Brooklyn, Community District 1

---

This application for an amendment to the Zoning Resolution was filed by Refinery LLC, Inc on December 24, 2009. The proposed text amendment will allow the Inclusionary Housing Program to be used in proposed R6, R8, and commercial equivalent districts to facilitate a 2.75 million-square-foot mixed use general large-scale development located at 264-350 & 317-329 Kent Avenue, Community District 1, Brooklyn.

### **RELATED ACTION**

In addition to the amendment to the Zoning Resolution that is the subject of this report, implementation of the proposal also requires action by the City Planning Commission on the following applications which are being considered concurrently with this application:

- |              |  |
|--------------|--|
| C 100185 ZMK | Zoning map amendment to replace an M3-1 district with C6-2 districts and with R6 and R8 districts with C2-4 commercial overlays. |
| C 100187 ZSK | Special Permit pursuant to ZR section 74-743 to modify height and bulk regulations as part of a general large-scale development. |
| C 100188 ZSK | Special Permit pursuant to ZR section 74-744 to modify use regulations as part of a general large-scale development.             |
| N 100190 ZAK | Authorization pursuant to ZR section 62-822 to modify regulations pertaining to required waterfront public access areas.         |

N 100191 ZCK Chair Certification pursuant to ZR section 62-811 to show compliance with waterfront public access and visual corridor requirements.

N 100192 ZCK Chair Certification pursuant to ZR Section 62-812 to subdivide a waterfront lot.

In addition to these actions, the applicant proposed a special permit pursuant to ZR section 74-53 to exceed the maximum number of permitted parking spaces accessory to uses in a general large-scale development (C 100189 ZSK). This application was certified in conjunction with the above listed applications but was withdrawn by the applicant on June 2, 2010.

## **BACKGROUND**

A full background discussion and description of this application appears in the report on the related application for a special permit (C 100187 ZSK).

## **ENVIRONMENTAL REVIEW**

This application (C 100186 ZRK), in conjunction with the related applications, 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 CEQR number is 07DCP094K. The lead agency is the City Planning Commission.

A full summary of the environmental review appears in the report on the related application for a special permit (C 100187 ZSK).

## **PUBLIC REVIEW**

This application (N 100186 ZRK), in conjunction with the application for the related non-ULURP actions, was duly referred to Community Board 1 and the Brooklyn Borough President

on January 4, 2010, in accordance with the procedure for referring non-ULURP matters, along with the applications for related ULURP actions, which were certified as complete by the Department of City Planning on January 4, 2010 in accordance with Title 62 of the Rules of the City of New York, Section 2-02(b).

### **Community Board Public Hearing**

Community Board 1 held a public hearing on this application (N 100186 ZRK) and on applications for the related actions on February 9, 2010, and on March 9, 2010, by a vote of 23 in favor, 12 in opposition and 1 abstention, adopted a resolution recommending disapproval of the application with conditions.

A summary of the recommendations of Community Board 1 appears in the report on the related application for a special permit (C 100187 ZSK).

### **Borough President Recommendation**

This application (N 100186 ZRK), in conjunction with the related actions, was considered by the Borough President, who recommended approval of the application on April 9, 2010.

A summary of the recommendations of the Borough President appears in the report on the related application for a special permit (C 100187 ZSK).

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

On April 14, 2010 (Calendar No. 6), the City Planning Commission scheduled April 28, 2010, for a public hearing on this application (N 100186 ZRK). The hearing was duly held on April 28, 2010 (Calendar No. 31) in conjunction with the public hearing on the applications for related actions. There were 37 speakers in favor of the application and 24 speakers opposed, as described in the report on the related application for a special permit (C 100187 ZSK), and the hearing was closed.

## **WATERFRONT REVITALIZATION PROGRAM CONSISTENCY REVIEW**

This application (N 100186 ZRK), in conjunction with 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 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 Act of 1981 (New York State Executive Law, Section 910 et seq.). The designated WRP number is 07-058.

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

## **CONSIDERATION**

The Commission believes these zoning text amendment (N 100186 ZRK), in conjunction with the related actions, is appropriate.

A full consideration and analysis of the issues, and reason for approving this application appears in the related report for a special permit (C 100187 ZSK).

## **RESOLUTION**

**RESOLVED**, that having considered the Final Environmental Impact Statement (FEIS), for which a Notice of Completion was issued on May 28, 2010, with respect to this application (CEQR No. 07DCP094K), together with the Technical Memorandum, dated June 4, 2010, the City Planning Commission finds that the requirements of the New York State Environmental Quality Review Act and Regulations have been met and that, consistent with social, economic, and other essential considerations:

1. From among the reasonable alternatives thereto, the action to be approved, with the modifications set forth and analyzed in the Technical Memorandum, is one which minimizes

- or avoids adverse environmental impacts to the maximum extent practicable; and
2. The adverse environmental impacts disclosed in the FEIS will be minimized or avoided to the maximum extent practicable by incorporating as conditions to the approval, pursuant to the Restrictive Declaration attached as Exhibit A to the report on the related application for a special permit (C 100187 ZSK), those mitigation measures that were identified as practicable.

This report of the City Planning Commission, together with the FEIS and the Technical Memorandum, constitute the written statement of facts, and of social, economic and other factors and standards, that form the basis of the decision, pursuant to Section 617.11(d) of the SEQRA regulations; and be it further

**RESOLVED**, 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 described in this report, the Zoning Resolution of the City of New York, effective as of December 15, 1961, and subsequently amended, is further amended as follows:

**23-953**

**Special floor area compensation provisions in specified areas**

\* \* \*

(b) Special provisions apply to #compensated zoning lots#:

- (1) Within R6, R7-3, and R8 Districts and equivalent #Commercial Districts on waterfront blocks# in #Inclusionary Housing designated areas# ~~Waterfront Access Plan BK 1 and R7-3 Districts~~ within Community district 1, Borough of Brooklyn, as set forth in Section 62-352.

\* \* \*

**62-35**

**Special Bulk Regulations in Certain Areas Within Community District 1, Brooklyn**  
On ~~#waterfront blocks# in #Inclusionary Housing designated areas#~~~~R7-3 Districts~~ in Community District 1, Borough of Brooklyn, and ~~within Waterfront Access Plan BK-1,~~ the special ~~#bulk#~~ regulations of this Chapter are further modified as set forth in this Section, inclusive.

\* \* \*

**62-352**

**Inclusionary Housing**

The provisions of Section 23-90 (INCLUSIONARY HOUSING) shall apply in ~~R7-3 Districts~~ ~~#Inclusionary Housing designated areas#~~ on ~~#waterfront blocks#~~ in Community District 1, Borough of Brooklyn, and ~~in R6 and R8 Districts within Waterfront Access Plan BK-1,~~ as modified in this Section.

\* \* \*

APPENDIX F

INCLUSIONARY HOUSING DESIGNATED AREAS

The boundaries of ~~#Inclusionary Housing designated areas#~~ are shown on the maps listed in this Appendix F. The ~~#Residence Districts#~~ listed for such areas shall include ~~#Commercial Districts#~~ where ~~#residential buildings#~~ or the ~~#residential#~~ portion of ~~#mixed buildings#~~ are governed by ~~#bulk#~~ regulations of such ~~#Residence Districts#~~.

\* \* \*

Brooklyn, Community District 1

In Waterfront Access Plan BK-1, ~~as set forth in Section 62-352,~~ and in the R6, R6A, R6B, R7A, ~~and R7-3~~ and R8 Districts within the areas shown on the following Maps 1, 2 and 3:

\* \* \*

Map 2 (3/06/06)



**EXISTING (TO BE DELETED)**  
Portion of Community District 1, Brooklyn

Map 2 (x/xx/xx)



**PROPOSED**



Portion of Community District 1, Brooklyn

\* \* \*

**ARTICLE V**

**Non-Conforming Uses and Non-Complying Buildings**

\* \* \*

**52-83**

**Non-Conforming Advertising Signs**

In all #Manufacturing Districts#, or in C1, C2, C4, C5-4, C6, C7 or C8 Districts, except as otherwise provided in Sections 32-66 (Additional Regulations for Signs Near Certain Parks and Designated Arterial Highways) or 42-55, any #non-conforming advertising sign# except a #flashing sign# may be structurally altered, reconstructed or replaced in the same location and position, provided that such structural alteration, reconstruction or replacement does not result in:

- (a) the creation of a new #non-conformity# or an increase in the degree of #non-conformity# of such #sign#;
- (b) an increase in the #surface area# of such #sign#; or
- (c) an increase in the degree of illumination of such #sign#.

However, in Community District 1 in the Borough of Brooklyn, a #non-conforming advertising sign# may be structurally altered, reconstructed or replaced in a different location, and may create a new #non-conformity# or #non-compliance#, or an increase in the degree of #non-conformity# or non-#compliance#, provided such #sign# is reconstructed pursuant to a Certificate of Appropriateness from the Landmarks Preservation Commission, is located on a landmark #building# that is part of a #general large scale development#, and there is no increase in the #surface area# or degree of illumination of such #sign#. Furthermore, the discontinuance provisions of Section 52-61 shall not apply to such #sign# provided such #sign# is reconstructed on the landmark #building# prior to the issuance of a temporary certificate of occupancy for any #use# within such #building#.

No #sign# that exceeds or is otherwise in violation of any illumination standard established by rule of the Department of Buildings shall be #non-conforming# as to such illumination standard one year after such rule becomes effective.

To the extent that such structural alteration, reconstruction or replacement of #non-conforming advertising signs# is permitted under the provisions of this Section, the provisions of the following Sections are modified:

Section 52-22 (Structural Alterations)

Sections 52-51 to 52-55, inclusive, relating to Damage or Destruction.

\* \* \*

The above resolution (N 100186 ZRK), duly adopted by the City Planning Commission on June 7, 2010 (Calendar No.2), 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, RAYANN BESSER,**  
**IRWIN G. CANTOR, P.E., ALFRED C. CERULLO, III,**  
**BETTY Y. CHEN, MARIA M. DEL TORO, RICHARD W. EADDY,**  
**NATHAN LEVENTHAL, ANNA HAYES LEVIN, SHIRLEY A. MCRAE,**  
**KAREN A. PHILLIPS Commissioners**