



## **CITY PLANNING COMMISSION**

August 22, 2007/ Calendar No. 7

C 050317 ZMK

**IN THE MATTER OF** an application submitted by 2329-2347 Coney Island Avenue Realty, LLC pursuant to Sections 197-c and 201 of the New York City Charter, for an amendment of the Zoning Map, Section No. 28c:

1. changing from an R5 District to an R6A District property bounded by Avenue T, a line midway between Coney Island Avenue and East 12<sup>th</sup> Street, a line 100 feet southerly Avenue U, and Coney Island Avenue; and
2. establishing within the proposed R6A District a C2-3 District bounded by a line 150 feet southerly of Avenue T, a line midway between Coney Island Avenue and East 12<sup>th</sup> Street, a line 150 feet northerly of Avenue U, and Coney Island Avenue;

as shown on a diagram (for illustrative purposes only) dated March 26, 2007, and subject to the conditions of CEQR Declaration E-177, Community District 15, Borough of Brooklyn.

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The application for an amendment of the Zoning Map was filed by 2329-2347 Coney Island Avenue Realty, LLC on February 23, 2005, and revised on December 7, 2006, to rezone property on the east side of Coney Island Avenue between Avenue T and Avenue U to facilitate the expansion of a two-story restaurant and catering hall.

### **BACKGROUND**

2329-2347 Coney Island Avenue Realty proposes a zoning map amendment from R5, R5/C1-3 and R5/C2-3 to R6A/C2-3 and R6A/C1-3 on portions of two blocks on the east side of Coney Island Avenue between Avenues T and U in the Sheepshead Bay area of Brooklyn, Community District 15. The proposed rezoning would facilitate the expansion of a two-story restaurant and catering hall presently operating under a variance granted by the Board of Standards and Appeals (BSA) on December 10, 1991.

The proposed rezoning area is located on Coney Island Avenue between Avenues T and U (Blocks 7315 and 7343) and contains 20 privately-owned lots, six of which are owned by the applicant (Block 7315, Lots 69 – 76). The rezoning area is developed with commercial and residential uses, including two- and seven-story residential buildings, some with ground floor retail, one- and two-story commercial buildings, a gas station and accessory parking. Block 7315 to the north is currently zoned R5, R5/C2-3 for 150 feet along Coney Island Avenue to the

block's center line along Avenue T, and R5/C1-3 for 150 feet along Coney Island Avenue and along Avenue U. Block 7343 to the south is currently zoned R5/C1-3 along Coney Island Avenue and along Avenue U.

Under the R5, residential uses can be developed to a maximum Floor Area Ratio (FAR) of 1.25 and to a maximum height of 40 feet with a maximum street wall of 30 feet. C1-3 and C2-3 commercial overlays mapped in an R5 district have a maximum commercial FAR of 1.0.

The applicant proposes to extend an existing R6A district from the westerly side of Coney Island Avenue along Avenue U to the center line between Coney Island Avenue East 12<sup>th</sup> Street, north to Avenue T and to extend the C2-3 overlay from 150 feet south of Avenue T to the existing C1-3 overlay along Avenue U.

Under the proposed R6A zoning district, residential developments can be constructed at a maximum FAR of 3.0, with a maximum street wall of 60 feet and to a maximum height of 70 feet. C1-3 and C2-3 commercial overlays mapped in an R6A district have a maximum commercial FAR of 2.0 and allow either a multi-story commercial building or commercial uses on the ground floor of a residential building.

The applicant currently owns six lots on Block 7315 (lots 69-71, 73, 75 and 76). All but two lots are improved with two-story buildings, the inter-connected ground floors of which serve as a popular regional eatery, Sahara Restaurant. The second floors are either used for residential use or for a catering facility. Lot 76 serves as an accessory parking lot for the restaurant with 20 attended parking spaces. The applicant was granted a variance from the BSA to allow a catering hall to be located on the second floor of lot 73. The variance also allowed the restaurant to have outdoor seating in the rear yard. In March 1999, the BSA reopened and amended the original variance to permit interior modifications to the previously approved plans. In June 2005, the BSA granted an extension of time to obtain a permanent Certificate of Occupancy for the restaurant and catering hall, for a period of eighteen months, which expired on December 7<sup>th</sup>, 2006. The applicant filed for an extension in December 2006.

The proposed rezoning to R6A/C2-3 and R6A/C1-3 would increase the compliance of existing buildings from 45 percent to 95 percent, would increase the conformance of the current commercial uses from approximately 71 percent to approximately 87 percent, and obviate the applicant's need for a variance for the restaurant and catering facility. If approved, the applicant would expand the restaurant on the ground floor and the catering area on the second floor, and build a two-story garage containing 48 accessory and public parking spaces. The proposed expansion would total approximately 11,345 square feet at an FAR of 1.69, below the maximum commercial FAR of 2.0 in an R6A/C2-3 district.

### **ENVIRONMENTAL REVIEW**

This application (C 050317 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 Procedures of 1991 and Executive Order No. 91 of 1977. This application was determined to be an Unlisted action. The designated CEQR number is 05DCP078K. The City Planning Commission is the lead agency.

After a study of the potential environmental impact of the proposed action, a Negative Declaration was issued on March 26, 2007. The negative declaration included an (E) designation on Block 7315, Lot 1. The placement of the (E) designation (E-177) on the zoning map would eliminate the potential for significant adverse impacts related to hazardous material.

The text of the (E) designation is as follows:

Due to the possible presence of hazardous materials on the aforementioned designated sites there is potential for contamination of the soil and groundwater. To determine if contamination exists and perform and appropriate remediation, the following tasks must be undertaken by the fee owners(s) of the lot restricted by this (E) designation prior to any demolition or disturbance of soil on the lot.

#### Task 1

The fee owner(s) of the lot(s) restricted by this (E) designation will be required to prepare a scope of work for any soil, gas, or groundwater sampling and testing needed to determine if contamination exists, the extent of the contamination, and to what extent

remediation may be required. The scope of work will include all relevant supporting documentation, including site plans and sampling locations. This scope of work will be submitted to DEP for review and approval prior to implementation. It will be reviewed to ensure that an adequate number of samples will be collected and that appropriate parameters are selected for laboratory analysis.

No sampling program may begin until written approval of a work plan and sampling protocol is received from DEP. The number and location of sample sites should be selected to adequately characterize the type and extent of the contamination, and the condition of the remainder of the site. The characterization should be complete enough to determine what remediation strategy (if any) is necessary after review of the sampling data. Guidelines and criteria for choosing sampling sites and performing sampling will be provided by DEP upon request.

#### Task 2

A written report with findings and a summary of the data must be presented to DEP after completion of the testing phase and laboratory analysis for review and approval. After receiving such test results, a determination will be provided by DEP if the results indicate that remediation is necessary.

If DEP determines that no remediation is necessary, written notice shall be given by DEP.

If remediation is necessary according to test results, a proposed remediation plan must be submitted to DEP for review and approval. The fee owner(s) of the lot(s) restricted by this (E) designation must perform such remediation as determined necessary by DEP. After completing the remediation, the fee owner(s) of the lot restricted by this (E) designation should provide proof that the work has been satisfactorily completed.

A DEP-approved construction-related health and safety plan would be implemented during excavation and construction activities to protect workers and the community from potentially significant adverse impacts associated with contaminated soil and/or groundwater. This Plan would be submitted to DEP for review and approval prior to implementation.

With the implementation of the above (E) designation, no significant adverse impacts related to hazardous materials would occur.

#### **UNIFORM LAND USE REVIEW**

This application (C 050317 ZMK), was certified as complete by the Department of City on March 26, 2007 and was duly referred to Community Board 15 and the Borough President in Accordance with Title 62 of the Rules of the City Of New York, Section 2-02(b).

### **Community Board Public Hearing**

Community Board 15 held a public hearing on this application on May 21, 2007, and, on May 29, 2007, by a vote of 38 in favor, 2 against, and 2 abstaining, adopted a resolution recommending disapproval of the application.

### **Borough President Recommendation**

This application was considered by the Brooklyn Borough President, who issued a recommendation on June 29, 2007, approving the application with the following conditions:

- the applicant work with DOT in consultation with CB 15 to establish a “no standing” zone in front of the restaurant during its peak hours, and
- the R6A district boundaries be redrawn.

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

On June 20, 2007 (Calendar No. 5), the City Planning Commission scheduled July 11, 2007, for a public hearing on this application (C 050317 ZMK). The hearing was duly held on July 11, 2007 (Calendar No. 35). There were 10 speakers in favor of the application and 7 opposed.

The speakers in favor of the application included the applicant, the owner of the restaurant and catering facility, the applicant’s attorney, residents of nearby homes and a teacher at a local high school. The applicant testified that the restaurant and catering facility had been in operation for 20 years and that the rezoning would allow the expansion of this use. The applicant’s attorney described that the proposed rezoning was most reflective of the existing uses and built bulk in the rezoning area and the difficulty in securing financing for the restaurant and catering facility with a variance. Neighbors stated that they believed that the owner had been responsive to their concerns. The local high school coach testified that the restaurant easily accommodated large parties from the high school.

Speakers in opposition included the Chair of Community Board 15, a representative of the local Assembly Member and residents of other neighborhoods in Community District 15. The Chair of the Community Board testified that she believed that the proposed use would exacerbate traffic and a shortage of parking around the area of the proposed rezoning and would lead to additional accidents. The Chair also stated the concern about the possibility of an apartment

building being built over the restaurant. The representative of the local Assembly Member testified that he was not opposed to the restaurant and catering use but to the rezoning. Other speakers testified that they believed that the proposed rezoning would deteriorate the quality of life in the area of the rezoning.

There were no other speakers and the hearing was closed.

## **CONSIDERATON**

The Commission believes that this amendment of the Zoning Map (C 050317 ZMK) is appropriate.

Approval of the proposed rezoning action would significantly increase the conformance and compliance of existing uses and buildings within the rezoning area and would facilitate the expansion and use of an existing two-story restaurant and catering establishment, currently operating under a variance from the Board of Standards and Appeals, along Coney Island Avenue, a major north-south thoroughfare lined with other highly active commercial uses and residential buildings varying between two and six stories. The proposed rezoning would significantly increase the conformance of uses in the rezoning area from 45 percent to 95 percent and increase the compliance of buildings from 71 percent to 87 percent.

The proposed C2-3 district would be an extension of an existing C2-3 district to the north and allows a variety of commercial uses that serve both local and large areas and would make the currently existing retail, restaurant and catering uses in the rezoning area conforming to zoning. The proposed R6A district would be an extension of an existing R6A district across Coney Island Avenue to the west and would make many of the currently existing buildings complying with zoning. The proposed C2-3 district, mapped over an R6A district, would allow the density of the buildings in which the current restaurant and catering establishments are located.

The Commission notes that, allowing the restaurant and catering establishment to be a conforming use and not subject to variance terms would permit the owners to expand and improve their successful facility. The expansion would facilitate an increase in the capacity of

the establishment from 425 to 600 patrons and would include a new parking garage that would increase on-site parking from 20 to 48 spaces as required by zoning and improve the facility's parking operation. The applicant intends to continue to lease an adjacent property for additional accessory parking for 20 cars. Coney Island Avenue is lined with many other intensive commercial uses, including other restaurants and catering establishments, apartment buildings, and several bus lines and is therefore an appropriate location for the establishment of a C2-3 district and a R6A district.

Regarding the recommendations of the Borough President regarding reducing the length of the proposed R6A district, the Commission notes that the proposed extension of the existing R6A zoning district along the entire length of the rezoning area is appropriate. Coney Island Avenue is a wide north-south thoroughfare and an appropriate corridor for apartment building construction. It is lined with other apartment buildings, including an existing apartment building on the same block as the restaurant and catering hall in the proposed rezoning area. A new apartment building along Coney Island Avenue pursuant to the proposed R6A district would be similar in scale as the existing building on the same block and on nearby blocks.

Regarding the concerns raised at the Commission's public hearing regarding the possibility of a residential building being constructed within the proposed rezoning area, the Commission notes that, were the applicant to develop a residential building pursuant to the R6A district, that the traffic, noise and refuse generated by the residential building would be lower than that of the current commercial uses and that such a building would be similar to other such residential and commercial buildings along the length of Coney Island Avenue.

The Commission further notes that the applicant has stated his intention to work with the Department of Transportation to address parking and traffic issues related to the operation of the restaurant and catering facility on Coney Island Avenue.

## **RESOLUTION**

**RESOLVED**, that the City Planning Commission finds that the action described herein will have no significant impact on the environment; 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 No. 28c:

1. changing from an R5 District to an R6A District property bounded by Avenue T, a line midway between Coney Island Avenue and East 12<sup>th</sup> Street, a line 100 feet southerly of Avenue U, and Coney Island Avenue; and
2. establishing within the proposed R6A District a C2-3 District bounded by a line 150 feet southerly of Avenue T, a line midway between Coney Island Avenue and East 12<sup>th</sup> Street, a line 150 feet northerly of Avenue U, and Coney Island Avenue;

as shown on a diagram (for illustrative purposes only) dated March 26, 2007, and subject to the conditions of CEQR Declaration E-177.

The above resolution (C 050317 ZMK), duly adopted by the City Planning Commission on August 22, 2007 (Calendar No. 7), 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**  
**ANGELA M. BATTAGLIA, ANGELA R. CAVALUZZI, R.A.,**  
**ALFRED C. CERULLO, III, RICHARD W. EADDY, LISA A. GOMEZ,**  
**NATHANIEL LEVENTHAL, JOHN MEROLO, KAREN A. PHILLIPS,**  
**DOLLY WILLIAMS, Commissioners**