



## CITY PLANNING COMMISSION

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April 1, 2009/ Calendar No. 7

C 090179 ZMK

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**IN THE MATTER OF** an application submitted by the Brighton Development LLC pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 28d, by establishing within an existing R7-1 District a C2-4 District bounded by a line 100 feet southerly of Brighton Beach Avenue, a line 200 feet easterly of Coney Island Avenue, a line perpendicular to the easterly street line of Coney Island Avenue distant 340 feet southerly (as measured along the street line) from the point of intersection of the easterly street line of Coney Island Avenue and the southerly street line of Brighton Beach Avenue, and Coney Island Avenue, Community District 13, Borough of Brooklyn as shown on a diagram (for illustrative purposes only) dated November 17, 2008.

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This application for an amendment of the zoning map was filed by the Brighton Development LLC on November 7, 2008, to establish a C2-4 District within an existing R7-1 District for a portion of a block fronting along Coney Island Avenue to facilitate the development of a mixed-use building (“Building P”) in the residential development known as Oceana, in the neighborhood of Brighton Beach, Community District 13, Brooklyn.

### **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 City Planning Commission on the following application which is considered concurrently with this application.

**M910478 (E) ZMK:** Modification of Restrictive Declaration D -131.

### **BACKGROUND**

Brighton Development LLC is proposing a zoning map amendment to add a C2-4 commercial overlay to an existing R7-1 zoning district, and modification of a Restrictive Declaration, to facilitate the development of ‘Building P’, a mixed-use residential building with ground-floor retail along Coney Island Avenue, 100 feet south of Brighton Beach Avenue. The rezoning area, which is entirely owned by the applicant, is located on the east side of Coney Island Avenue, 100 feet south of Brighton Beach Avenue, at the north-west corner of the Oceana, a residential development with seven to twelve stories buildings surrounding a central open space developed

in the late 1990's. Oceana is bounded by Brighton Beach Avenue to the north, the Riegelman Boardwalk to the south, Seacoast Terrace to the east and Coney Island Avenue to the west, in an R7-1 zoning district. The rezoning area is currently vacant.

The surrounding area to the north, east and west contains a mix of residential, commercial and community facility uses in buildings ranging from six to twenty stories in height. Brighton Beach Avenue is a busy commercial corridor lined with three- to six-story buildings, most of which have retail uses on the lower floors and residential uses on the upper floors. These retail uses continue north along Coney Island Avenue. An existing C1-2 overlay abuts the northern boundary of the rezoning area and is occupied by a bank.

The Oceana site, Block 8720, Lot 14, was rezoned in 1992 to R7-1. The rezoning also included a Restrictive Declaration that regulates development on the Oceana site and which has been modified several times. Currently, the restrictive declaration limits development on the subject site to an accessory parking garage (known as Building P) for Oceana residents. As a result of increased market demand for residential units, and a lesser demand for on-site parking by Oceana residents, the applicant proposes to construct an additional residential building, with ground floor commercial uses at the site.

The mapping of the C2-4 commercial overlay would permit the development of 8,406 square feet of ground-floor retail space and 45 public parking spaces. The C2-4 commercial overlay district permits local retail and service uses, as well as public parking garages with a capacity of fewer than 150 spaces, up to a maximum FAR of 2.0.

The proposed development would also require the modification of Restrictive Declaration D - 131 (M910478 (E) ZMK) to permit an additional 88,639 square feet of residential floor area above the current 1.285 million square foot maximum, 62 residential units above the 865 unit maximum and increase the total number of permitted 12-story buildings from five to six.

## **ENVIRONMENTAL REVIEW**

A Technical Memorandum (CEQR No. M89-299K) was filed in conjunction with the ULURP application (C 090179 ZMK) and the related action (M 910478 (E) ZMK). 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 Brighton by the Sea Project (ULURP Nos. C910478 ZMK, C910479 MMK and C910580 ZSK) issued on July 10, 1992 by the City Planning Commission, and the three subsequent Technical Memorandums: a 1998 Technical Memorandum of the Revised Brighton by the Sea Project; the 2002 Technical Memorandum of the Fourth Amended Declaration of the Brighton Beach “Oceana” Residential Project; and the 2005 Technical Memorandum analyzing proposed revisions to the program for the Oceana development’s Building K.

The Technical Memorandum 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 agency is the City Planning Commission (CPC).

A Notice of Minor Modification was issued on November 14, 2008, 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 10, 1992 and the subsequent technical memorandums in 1998, 2002, or 2005 remain valid.

## **UNIFORM LAND USE REVIEW**

This application (C 090179 ZMK) was certified as complete by the Department of City Planning on November 17, 2008, and was duly referred to Brooklyn Community Board 13 and the Brooklyn Borough President for information and review, in accordance with Title 62 of the Rules of the City of New York, Section 2-02(b) in conjunction with the application for the related action (M 910478 (E) ZMK) which was referred for information and comment.

### **Community Board Public Hearing**

Community Board 13 held a public hearing on this application on December 17, 2008, and on January 28, 2009, by a vote of 27 to 1 with 0 abstentions, adopted a resolution recommending approval of the application with the following conditions:

There will be some 62 units of residence; that the new structure will be 12 stories; that there will be 45 public parking spaces; that there will be commercial overlay for two floors of rental and community facilities; that there will be a refrigerated compactor room that will alleviate trash dumping on Coney Island Ave. abutting Oceana; that sidewalks will be paved as part of the project; that the Community the Women's Business Enterprise, and the Minority Business Enterprise hiring plans be implemented; that a representative of the applicant be available to deal with C.B.13 on neighborhood problems at committee meetings and other sessions; that there be prevailing wages, complete with accompanying benefits for involved employees; that local residents be given first preference employment and the purchase of housing units.

### **Borough President Recommendation**

This application was considered by the Brooklyn Borough who issued a recommendation approving the application on February 25, 2009.

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

On February 18, 2009 (Calendar No. 4), the City Planning Commission scheduled March 4, 2009 for a public hearing on this application (C 090179 ZMK). The hearing was duly held on March 4, 2009 (Calendar No. 21). There were two speakers in favor and none in opposition.

The speakers in favor included two representatives of the developer who described the proposal and indicated they would implement several of Community Board 13's recommendations, including paving of sidewalks, Minority Business Enterprise hiring plans and the availability of a representative of the applicant to address C.B.13 concerns.

There were no other speakers on the application and the hearing was closed.

## **WATERFRONT REVITALIZATION PROGRAM CONSISTENCY REVIEW**

This application (in conjunction with the application for the related action), 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 22, 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 WRP number is 01-096. This action was determined to be consistent with the policies of the New York City Waterfront Revitalization Program.

## **CONSIDERATION**

The Commission believes that the proposed zoning map amendment to add a C2-4 commercial overlay to an existing R7-1 zoning district to facilitate the development of 8,406 square feet of ground-floor retail space and 45 public parking spaces is appropriate. The C2-4 commercial overlay district would permits local retail and service uses, as well as public parking garages with a capacity of fewer than 150 spaces, up to a maximum FAR of 2.0.

The Commission notes that the zoning map change is consistent with surrounding area land uses. There are existing commercial overlays directly adjacent to the site of the proposed Building P as well as across the street on Coney Island Avenue and along Brighton Beach Avenue.

Allowing ground-floor retail uses along this portion of Coney Island Avenue would extend existing retail development south and enliven the street, as well as serve surrounding residents.

Modification of the Restrictive Declaration would facilitate the development of a new residential building identical in form to the five existing twelve-story buildings at Oceana and would represent only a modest increase in the total number of housing units permitted at the development.

Regarding the recommendation of the Community Board, the Commission notes that the conditions are beyond the purview of its review.

## **RESOLUTION**

**RESOLVED**, that the City Planning Commission finds that the action described herein will have no significant impact on the environment; and

**RESOLVED**, that 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 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. 28d, establishing within an existing R7-1 District a C2-4 District bounded by a line 100 feet southerly of Brighton Beach Avenue, a line 200 feet easterly of Coney Island Avenue, a line perpendicular to the easterly street line of Coney Island Avenue distant 340 southerly (as measured along the street line) from the point of intersection of the easterly street line of Coney Island Avenue and the southerly street line of Brighton Beach Avenue, and Coney Island Avenue, Community District 13, Borough of Brooklyn as shown on a diagram (for illustrative purposes only) dated November 17, 2008.

The above resolution (C 090179 ZMK), duly adopted by the City Planning Commission on April 1, 2009 (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**, FAICP, Chair  
**KENNETH J. KNUCKLES**, ESQ., Vice Chairman  
**ANGELA M. BATTAGLIA**, P.E., **ANGELA R. CAVALUZZI**, AIA, **ALFRED C. CERULLO**,  
**III**, **BETTY Y. CHEN**, **MARIA M. DEL TORO**,  
**RICHARD W. EADDY**, **NATHAN LEVENTHAL**, **SHIRLEY A. McRAE**,  
**JOHN MEROLO**, **KAREN A. PHILLIPS**, Commissioners