



CITY PLANNING COMMISSION

August 10, 2011 / Calendar No. 2

C 110058 ZMK

IN THE MATTER OF an application submitted by R.A. Real Estate, Inc., pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section Nos. 28b and 28d:

1. changing from an R6A District to an R7-3 District property bounded by Surf Avenue, West 35th Street, the northerly boundary line of Coney Island Beach, and a line 140 feet westerly of West 36th Street; and
2. establishing within a proposed R7-3 District an C2-4 District bounded by Surf Avenue, West 35th Street, the northerly boundary line of Coney Island Beach, West 36th Street, a line 100 feet southerly of Surf Avenue, and a line 140 feet westerly of West 36th Street;

Borough of Brooklyn, Community District 13, as shown on a diagram (for illustrative purposes only) dated March 28, 2011, and subject to the conditions of CEQR Declaration E-274.

This is an application for a zoning map amendment by R.A. Real Estate, Inc., to change an R6A district to an R7-3 and R7-3/C2-4 district on property generally bounded by West 35th Street, The Riegelmann Boardwalk, West 37th Street and Surf Avenue, in the Coney Island section of Brooklyn Community District 13. The proposed action would facilitate Ocean Dreams, a mixed-use development with 415 units of market-rate housing, up to 24,750 square feet of commercial floor area and 418 parking spaces on two blocks within the rezoning area.

RELATED ACTIONS

In addition to the application for a zoning map amendment, which is the subject of this report (C 110058 ZMK), implementation of the proposed Ocean Dreams proposal also requires action by the City Planning Commission on the following applications which are being considered concurrently with this application:

C 110059 ZSK: Special permit pursuant to Section 62-836 of the Zoning Resolution (ZR) to modify the lot coverage requirements of Section 62-322, height and setback, maximum tower size, and ground floor streetscape requirements of Section 62-341, and the rear yard requirements of Section 23-44.

C 110060(A) ZSK: Special permit pursuant to Section 62-836 of the Zoning Resolution to modify the lot coverage requirements of Section 62-

322, height and setback, maximum tower size, and ground floor streetscape requirements of Section 62-341, and the rear yard requirements of Section 23-44 within a Large-Scale General Development.

C 110061 ZSK: Special permit pursuant to Section 74-743 of the Zoning Resolution to modify the requirements of Section 23-87 to allow balconies within courts within a Large-Scale General Development.

C 110062(A) ZSK: Special permit pursuant to Section 74-744 of the Zoning Resolution to modify the use requirements of Section 32-421 within a Large-Scale General Development.

N 110063 ZCK: Chair Certification pursuant to ZR Sec. 62-811 that no waterfront public access or visual corridors are required (Block 7065, Lots 6 & 12).

N 110064 ZCK: Chair Certification pursuant to ZR Sec. 62-811 that no waterfront public access or visual corridors are required (Block 7065, Lots 15, 20 & 25).

BACKGROUND

R.A. Real Estate, Inc. is requesting several actions to facilitate the development of Ocean Dreams, a proposed mixed-use development with 415 units of market-rate housing, up to 24,750 square feet of commercial floor area and 418 parking spaces, to be located in the Coney Island Section of Brooklyn, Community District 13.

The two-block project site, which is coterminous with the rezoning area, is located at the western end of the Coney Island peninsula in an R6A district. The western block, bounded by Surf Avenue, West 36th Street, the Riegelmann Boardwalk and West 37th Street (Block 7065, Lots 6 and 12), has an area of 37,217 square feet and the eastern block, bounded by Surf Avenue, West 35th Street, the Riegelmann Boardwalk and West 36th Street (Block 7065, Lots 15, 20 and 25), has an area of 69,848 square feet.

The Jewish Community Council of Greater Coney Island occupies a three-story building (Block 7065, Lot 1) located to the west of the rezoning area in an R6A zoning district. This parcel, together with the project site, was rezoned from R5 to R6A in 2005 (ULURP C

050393 ZMK); however, the Jewish Community Council building is outside of the area of the proposed rezoning and would remain zoned R6A.

To the west of West 37th Street is Sea Gate, a gated community consisting primarily of one- and two-family homes in an R3-1 zoning district. To the north of the project site, across Surf Avenue, are high-rise tower-in-the-park residential and community facility buildings, including the 17-story Scheuer House senior housing development and the 14- to 16-story NYCHA Coney Island I Houses, and Mayor William O'Dwyer Gardens Houses, with approximately 700 dwelling units in an R6 zoning district.

The area to the east of the project site across 35th Street is occupied by the two-story Henry and Jeanette Weinberg Brooklyn Behavioral Health and Community Rehab Center and a five-story adult assisted living facility in an R5 district. Further to the east is a vacant block followed by a superblock (between West 32nd and West 29th Streets) with a NYCHA high-rise development, also in an R5 district. To the south of the site is a public park containing the Riegelmann Boardwalk and Coney Island Beach. The project site is nine blocks west of the Special Coney Island District, established in 2009 to facilitate a mixed-use amusement and entertainment development, housing and retail services on mostly vacant and underutilized land.

Scattered local commercial uses are along Mermaid and Neptune Avenues to the north, primarily consisting of delis, small supermarkets, 99-cent stores, take-out restaurants and drugstores.

The nearest subway station is the Stillwell Avenue terminal, one mile to the east of the site, which is served by the D, F, N and Q trains. The B36 bus runs along Surf Avenue and provides a connection to the Stillwell Avenue Station. The B74 bus runs one block north along Mermaid Avenue and the X28 and X38 express buses provide express service between Sea Gate and Midtown Manhattan.

The actions would facilitate a proposal by the applicant to develop a 14-story mixed-use building on the western block (Block 7065, Lots 6 and 12) and a 22-story mixed-use

residential and commercial building on the eastern block (Block 7065, Lots 15, 20 and 25) with ground-floor retail along Surf Avenue and possibly on the Boardwalk.

The building on the western block would contain up to 104,172 square feet of residential floor area comprising up to 104 dwelling units, and up to 3,640 square feet of ground-floor local retail use along Surf Avenue. The building would have a three- to five-story, L-shaped base along Surf Avenue and West 36th Street and a 14-story, 164 feet high tower at the corner of West 36th Street and Surf Avenue.

The building on the eastern block would contain up to 312,516 square feet of residential floor area, with up to 311 dwelling units, a double-heighted local retail store containing 11,570 square feet along Surf Avenue and up to 9,580 square feet of possible additional area for local retail/service uses along the Boardwalk. The U-shaped base of the building would range in height from three- to five-stories along West 36th Street, four- to five-stories along Surf Avenue and five- to six-stories along West 35th Street and would be topped by a 22-story, 244 feet high tower at the corner of Surf Avenue and West 36th Street (Tower 1) and a 18-story, 194 feet high tower at the corner of Surf Avenue and West 35th Street (Tower 2).

149 off-street parking spaces would be provided on the western block and 269 spaces on the eastern block. No parking would be required for the potential commercial uses pursuant to zoning. The enclosed parking facilities would be located above grade on the interiors of the 1st and 2nd stories of the building bases due to the high water table near the ocean. The parking garage on the western block would be accessed via West 36th Street and the parking facility on the eastern block would be accessed by two curb cuts on West 35th Street. Landscaped outdoor private courtyards located above the parking facilities would contain swimming pools and other recreation space for project residents.

In connection with the proposed project, the applicant is proposing to replace the existing steep, narrow and non-ADA compliant access ramps to the Boardwalk with fully landscaped, grade-compliant ramps connecting the sidewalks on both sides of each street to the Boardwalk.

To facilitate the development of the proposed project, the applicant requests to rezone the project site from R6A to R7-3 and R7-3/C2-4, Special Permits pursuant to ZR Section 62-836, one for each block, to modify height, setback and other bulk requirements, Large-Scale General Development Special Permits pursuant to ZR Section 74-743 to modify requirements with respect to permitted obstructions in inner courts and inner court recesses, and pursuant to ZR Section 74-744 to modify requirements with respect to the location of commercial uses in mixed-use buildings.

Zoning Map Amendment (C 110058 ZMK)

The proposed zoning map amendment would rezone the property from R6A to R7-3 and R7-3/C2-4 covering all of the eastern block and a 100 foot-deep strip parallel to Surf Avenue on the western block. R6A districts allow residential and community facility uses (Use Groups 1-4) up to a maximum FAR of 3.0, require a base height of 40 to 60 feet and limit the maximum building height to 80 feet, and mandate the Quality Housing program.

R7-3 districts in waterfront areas allow residential and community facility uses (Use Groups 1-4) for a maximum FAR of 5.0. However, a restrictive declaration would be recorded against the applicant's property in connection with the Large-Scale General Development Special Permits, which would limit the maximum aggregate FAR to be developed on the site to 4.0. No minimum base height is required and the maximum base height is limited to 65 feet, at a maximum building height of 185 feet (225 feet including penthouses). C2-4 districts allow for local retail and service uses (Use Groups 1-9 and 14) with a maximum FAR of 2.0, as governed by the proposed underlying R7-3 district.

Special Permit pursuant to ZR Section 62-836 (C 110059 ZSK)

The applicant is seeking approval of a Special Permit pursuant to ZR Section 62-836 for the western block (Block 7065, Lots 6 and 12), designated as Zoning Lot A, to allow for modifications of requirements regarding lot coverage, height and setback, residential tower size, rear yard permitted obstructions and ground floor streetscape.

Lot Coverage. Pursuant to ZR Section 62-322 the maximum lot coverage permitted on zoning lots on waterfront blocks in R7A Districts is limited to 70 percent for corner-, through- and interior lots. Because of the high water table, the applicant proposes to locate the parking on the first and second floors, which would increase lot coverage on Zoning Lot A to 92 percent.

Height and Setback. Pursuant to ZR Section 62-341(a)(2) and ZR Section 62-341(c)(1) portions of buildings that are within an initial setback distance of 10 feet from a wide street and 15 feet from a narrow street may not exceed a maximum base height of 65 feet above the base plane. The eastern façade of the tower proposed on Zoning Lot A along West 36th Street, a narrow street, is proposed to rise to a height of approximately 122 feet before setting back at the 13th story and is proposed to encroach into the required initial setback distance by 5 feet.

Maximum Residential Tower Size. Pursuant to ZR Section 62-341(c)(4), residential stories that are entirely above the maximum permitted base height of 65 feet may not exceed a gross area of 7,000 square feet on zoning lots of less than 1.5 acres. On Zoning Lot A, which has a lot area of 37,217 square feet, or 0.85 acres, the proposed gross area of the tower floor plate would be 7,800 square feet on the 8th to 10th stories and would exceed the permitted maximum floor plate.

Ground Floor Streetscape. ZR Section 62-341(c)(6) provides that at least fifty percent of street walls that are more than 50 feet in length and within 50 feet of a street must be occupied by commercial or residential floor area at the ground level. On Zoning Lot A, the street wall along Surf Avenue would meet the requirement but along West 36th Street, only 108 feet (41 percent) of the 263-foot street wall would be occupied by floor area with residential or commercial uses.

The reduced percentage of floor area along West 36th Street derives from the need to locate mechanical space and required off-street accessory parking at-grade given the presence of the 100-year flood plain and high water table.

Yards. Under ZR Section 23-44, off-street accessory parking is a permitted obstruction in rear yards if the roof of the accessory building does not exceed 14 feet. Due to the need to locate parking above grade, the roof of the portion of the building containing parking in the rear yard of Zoning Lot A is 22.34 feet, requiring a waiver.

Special Permit pursuant to ZR Section 62-836 (C 110060 (A) ZSK)

The original application (C 110060 ZSK) proposed retail space on the southeast corner of the building on Zoning Lot B that was set back and elevated approximately half a story from the Boardwalk. On June 10, 2011, the applicants filed a modified special permit application (C 110060 (A) ZSK) that changed the configuration of this portion of the building to allow for direct access from the Boardwalk, and on August 4, 2011, withdrew the related application C 110060 ZSK.

The applicant is seeking approval of a Special Permit pursuant to ZR Section 62-836, for the eastern block (Block 7065, Lots 15, 20 and 25), designated as Zoning Lot B, to allow for modifications of requirements regarding lot coverage, height and setback, residential tower size, rear yard permitted obstructions and ground floor streetscape.

Lot Coverage. ZR Section 62-322 limits the maximum lot coverage permitted on zoning lots on waterfront blocks in R7-3 districts to 70 percent for corner-, through- and interior lots. Because of the high water table, the applicant proposes to locate the parking on the first and second floor, which would increase lot coverage 91 percent on Zoning Lot B.

Height and Setback. Pursuant to ZR Section 62-341(a)(2) and ZR Section 62-341(c)(1) provide that portions of buildings that are within an initial setback distance of 10 feet from a wide street and 15 feet from a narrow street may not exceed a maximum base height of 65 feet above base plane. Tower 1 on Zoning Lot B at the corner of West 36th Street and Surf Avenue is proposed to rise to a height of 192 feet before setting back at the 20th story, and would encroach into the required setback distance by 5 feet. Tower 2 on Zoning Lot B on the corner of Surf Avenue and West 35th Street would comply with the setback regulations.

A waiver is also sought with respect to the maximum building height, maximum penthouse height and minimum and maximum penthouse floor plates for Tower 1 on Zoning Lot B. The occupied portion of Tower 1 is proposed to rise to 22 stories (221.93 feet), thus exceeding the permitted building height of 185 feet, and the mechanical penthouse is proposed to rise to 243.93 feet, exceeding the permitted maximum penthouse height of 225 feet. Tower 1 is also proposed to exceed the maximum permitted floor plate area of 6,545 square feet at the top floor, with a proposed floor plate area of 7,700 square feet.

ZR Section 62-341(a)(4)(ii) requires that the gross area of the penthouse floor plate is between 50 and 85 percent of the floor plate of the highest residential story. The floor plate of the mechanical penthouse of Tower 1, at 2,666 square feet, would be less than the minimum required floor plate for a penthouse.

Tower 2 on Zoning Lot B would comply with the applicable building height requirements but the floor plate of the mechanical penthouse, at 2,420 square feet, would be slightly smaller than the minimum requirement of 2,473 square feet. The waivers for the towers would allow more bulk to be located on Zoning Lot B than Zoning Lot A (4.6 FAR v. 2.8 FAR) thereby orienting massing away from the low-rise Sea Gate community. The waivers would also reduce the street wall height along Surf Avenue and West 35th and West 36th streets and would allow for greater variation in the heights of the towers, reflecting the variation in building heights of the surrounding tower-in-the-park developments.

Ground-Floor Streetscape. ZR Section 62-341(c)(6) provides that at least 50 percent of street walls that are more than 50 feet in length and within 50 feet of a street must be occupied by commercial or residential floor area at the ground level. On Zoning Lot B, the street walls along Surf Avenue and West 36th Street would meet the street wall requirement. On West 35th Street only 118 feet, or 39 percent, of the street wall would be occupied at the ground floor level with retail or residential uses. The reduced percentage of floor area along West 35th Street derives from the need to locate mechanical space and required off-street accessory parking at-grade given the 100-year flood plain and high water table.

Yards. Under ZR Section 23-44, off-street accessory parking is a permitted obstruction in rear yards if the roof of the accessory building does not exceed 14 feet. Due to the need to locate parking above grade, the roof of the portion of the building containing parking in the rear yard of Zoning Lot B is 22.34 feet, requiring a waiver.

Special Permit pursuant to ZR Section 74-743 (C 110061 ZSK)

The applicant also seeks a Large-Scale General Development Special Permit pursuant to ZR Section 74-743 to allow for modifications of the requirements regarding permitted obstructions in inner courts and inner court recesses pursuant to ZR Section 23-87. Balconies are not permitted obstructions in inner courts and inner court recesses under ZR Section 23-87. Although Zoning Lot B occupies an entire block, the proposed landscaped courtyard opens onto the Riegelmann Boardwalk, which is considered a side lot line. Accordingly, the approximately 127-foot wide landscaped courtyard, opening onto Coney Island Beach, technically comprises an inner court and inner court recesses. The proposed modification would grant the applicant the ability to locate balconies in these areas.

Special Permit pursuant to ZR Section 74-744 (C 110062 (A) ZSK)

The original application (C 110062 ZSK) proposed retail space on the southeast corner of the building on Zoning Lot B that was set back and elevated approximately half a story from the Boardwalk. On June 10, 2011, the applicants filed a modified special permit application (C 110062 (A) ZSK) that changed the configuration of this portion of the building to allow for direct access from the Boardwalk, and on August 4, 2011, withdrew the related application C 110062 ZSK.

The Large-Scale General Development Special Permit pursuant to ZR Section 74-744 would allow the applicant to modify the regulations regarding the location of commercial uses in mixed-use buildings. Pursuant to ZR Section 32-421, commercial uses above the level of the first story ceiling in mixed-use residential-commercial buildings are prohibited. The applicant is seeking the option to locate cafés, an art gallery or similar uses on the Boardwalk on Zoning Lot B. According to the applicant, ground-floor commercial use

along the Boardwalk is not feasible, as the Boardwalk is elevated approximately 8 feet above curb level. The proposed modification would grant the applicant the ability to provide the commercial space on the 2nd and 3rd stories of the building and adjacent to the parking fronting the Boardwalk. The proposed commercial spaces would have separate entrances on West 35th Street or directly onto the Boardwalk and would not be accessible from the residential portions of the building.

ENVIRONMENTAL REVIEW

This application (C 110058 ZMK), in conjunction with the related applications (C 110059 ZSK, C 110060 ZSK, C 110060(A) ZSK, C 110061 ZSK, C 110062 ZSK, C 110062(A) ZSK, N 110063 ZCK, N 110064 ZCK), 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 designated CEQR number is 10DCP038K. The lead is the City Planning Commission.

After a study of the potential environmental impact of the proposed action, a Conditional Negative Declaration, signed by the applicant, was issued on March 25, 2011.

The Conditional Negative Declaration included an (E) designation for air quality and a restrictive declaration for hazardous materials to avoid the potential for significant adverse impacts, as described below:

The (E) designation requirements related to air quality would apply to the following development site:

Brooklyn Block 7065, Lots 6 and 12 (Zoning Lot A)

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

Any new residential and/or commercial development on the above-referenced property must ensure that natural gas is used as the type of fuel for space heating and hot water (HVAC) systems, and that all HVAC exhaust stacks are located at least 25 feet from the lot line facing West 36th Street to avoid any potential significant air quality impacts.

The City Planning Commission has determined that the proposed action will have no significant effect on the quality of the environment, once it is modified as follows:

1. The applicant agrees via a restrictive declaration recorded against the subject property on April 14, 2005 (CRFN 2005000214806) in connection with the previously-approved Surf Avenue Rezoning (CEQR No. 03DCP065K) to prepare a hazardous materials sampling protocol, including a health and safety plan, which would be submitted to the New York City Department of Environmental Protection (DEP) for approval. The declaration establishes a covenant that runs with the land to test and identify any potential hazardous material impacts pursuant to the approved sampling protocol and, if any such impact is found, submit a hazardous materials remediation plan including a health and safety plan to DEP for approval, prior to any ground disturbance (i.e., site grading, excavation, demolition, or building construction). If necessary, remediation measures would be undertaken pursuant to the remediation plan.

The applicant signed the conditional negative declaration on March 25, 2011. The conditional negative declaration was published in the City Record on April 6, 2011 and in the New York State Environmental Notice Bulletin on April 6, 2011. 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.

Subsequent to the issuance of the Conditional Negative Declaration the City Planning Commission modified the actions pursuant to ZR Sections 62-836 and 74-743 to allow for modifications of requirements regarding lot coverage, height and setback, residential tower size, rear yard permitted obstructions, ground floor streetscape and the location of commercial uses in mixed-use buildings. The environmental analysis was modified through a Technical Memorandum dated August 5, 2011.

The Technical Memorandum concluded that the modified action would not alter the conditions and a revised Conditional Negative Declaration was issued on August 8, 2011.

UNIFORM LAND USE REVIEW

This application (C 110058 ZMK), in conjunction with the related applications (C 110059 ZSK, C 110060 ZSK, C 110061 ZSK, C 110062 ZSK), was certified as complete by the Department of City Planning on March 28, 2011, and was duly referred to Community Board 13 and the Brooklyn Borough President in accordance with Title 62 of the Rules of the City of New York,

Section 2-02(b), along with the related non-ULURP application (N 110063 ZCK and N 110064 ZCK) which was duly referred to Community Board 13 and the Borough President, in accordance with the procedure for referring non-ULURP matters.

On June 10, 2011, pursuant to Section 2-06(c)(1) of the ULURP rules, the applicants filed modified special permit applications (C 110060(A) ZSK and C 110062(A) ZSK) for public hearing and consideration by the City Planning Commission. On August 4, 2011, the applicants withdrew related applications C 110060 ZSK and C 110062 ZSK; the subject of this report are applications C 110060 (A) ZSK and C 110062 (A).

Community Board Public Hearing

Community Board 13 held a public hearing on this and the related applications on May 24, 2011, and on that day, by a vote of 25 to 6 with 1 abstaining, adopted a resolution recommending approval of this and the related applications.

Borough President Recommendation

This application (C 110058 ZMK) and the related applications (C 110059 ZSK, C 110060 ZSK, C 110061 ZSK, C 110062 ZSK) were considered by the Office of President of the Borough of Brooklyn, who issued a recommendation on July 1, 2011, approving the application with the following conditions that:

1. the applicant/developer would be obligated to make best efforts to incorporate a supermarket consistent with the attributes of the City's FRESH food store initiative as part of the retail space on Surf Avenue;
2. the applicant/developer would be obligated to provide suitable space for at least one space to accommodate a destination restaurant along the Boardwalk with the remainder of the Boardwalk frontage occupied year-round with seasonal beach-related shops that have the potential to become gallery/artisan locations;
3. the applicant/developer takes necessary steps to utilize local contractors and material supply firms for the project's construction and conduct a local hiring initiative for local residents; and,
4. the applicant/developer would be obligated to make best efforts to provide housing opportunities that would be affordable to middle-income households, including those age 55 and older, such as teachers and other government workers, including the City's uniform workforce ranging from firefighters to sanitation

workers, of and/or retirees of such work force, for at least 20 percent of the residential floor area.

Waterfront Revitalization Program Consistency Review

This application (C 110058 ZMK) and the related applications (C 110059 ZSK, C 110060 ZSK, C 110060(A) ZSK, C 110061 ZSK, C 110062 ZSK, C 110062(A) ZSK), were 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 11-019.

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

City Planning Commission Public Hearing

On June 22, 2011 (Calendar No. 6), the City Planning Commission scheduled July 13, 2011, for a public hearing on this application (C 110058 ZMK). The hearing was duly held on July 13, 2011 (Calendar No. 19), in conjunction with the public hearing on the related applications (C 110059 ZSK, C 110060 ZSK, C 110060(A) ZSK, C 110061 ZSK, C 110062 ZSK, C 110062(A) ZSK).

There were three speakers who spoke in favor of the applications and none opposed. The speakers included the applicant's attorney, the project architect and the developer. The applicant's attorney briefly described the proposed project and how it would compliment this area and the Coney Island Plan adopted in 2009. The speaker stated the applicant's intention to attract a food store and restaurant to the proposed project.

The project architect and the developer also appeared in favor of the proposed project. The developer described his previous success with moderately-priced housing in Brooklyn and stated that he believed that the project would add to the revitalization of Coney Island.

There were no other speakers and the hearing was closed.

CONSIDERATION

The Commission believes that this zoning map amendment (C 110058 ZMK) and related special permit applications (C 110059 ZSK, C 110060(A) ZSK, C 110061 ZSK, C 110062(A) ZSK) are appropriate.

The proposed actions would facilitate the development of approximately 415 units of housing and up to 24,750 square feet of retail space on two, long-vacant blocks in the western end of the Coney Island Peninsula. The proposed project would include three 14-, 18- and 22-story towers on top of two 3- to 6-story high base buildings along the street line. The City Planning Commission believes that the proposed new retail uses would activate the streetscape along Surf Avenue and the Boardwalk between West 35th and West 36th streets. In addition, a total of 418 parking spaces would be provided in the interior of the base buildings, wrapped by active uses or landscaping. The applicant's proposal includes ADA-compliant landscaped ramps for improved access from West 35th and West 36th streets to the boardwalk. The new retail along Surf Avenue could contain a supermarket complying with the City's FRESH program and new retail uses.

On June 10, 2011, the applicants filed modified special permit applications (C 110060(A) ZSK and C 110062(A)) for public hearing and consideration by the City Planning Commission. The modified special permit applications change the configuration of the proposed building on Zoning Lot B to facilitate commercial use fronting directly onto the Riegelmann Boardwalk.

The Commission believes that the project would complement the Coney Island Plan, adopted in 2009, located nine blocks to the east of the site, and would contribute to the revival of Coney Island by introducing new mixed-income housing, much needed retail and bringing new development to this area.

The proposed Zoning Map Amendment to change from an R6A to an R7-3 and an R7-3/C2-4 district, in conjunction with the Restrictive Declaration recorded against the property as part of the Large-Scale General Development Special Permit, would increase the allowable FAR on the

site from 3.0 to 4.0, allowing for additional housing in this area. The establishment of the C2-4 commercial district along Surf Avenue and the Boardwalk on Zoning Lot B would allow for commercial uses in a neighborhood underserved by retail and local services. The Commission supports the developer's commitment to locate a 12,000 square-foot supermarket that meets the Department of City Planning's FRESH criteria, which would provide an important amenity not only for the residents of the proposed buildings but the neighborhood as a whole. The new retail or art spaces on the Boardwalk, as proposed by the applicant, could serve as an important anchor for the western end of the Riegelmann Boardwalk.

With regard to the special permits sought by the applicant pursuant to Sections 62-836, the Commission believes that the requested higher lot coverage on Zoning Lots A and B, and a parking structure, which would rise to a height of 22.34 feet, 8.34 feet higher than permitted under zoning, is appropriate. Due to the project's location in the 100-year flood plain and the site's high water table underground parking that would allow compliance with zoning regulations would be infeasible. The proposed parking structure on the first and second floor of each building would be fully wrapped with commercial and residential uses and thus would not adversely affect access to light and air on surrounding public areas and would create a better relationship between the zoning lot and the public streets.

The setback waiver for the building on Zoning Lot A would allow for the tower portion at the corner of West 36th Street and Surf Avenue, which would rise to a height of 164.34 feet, to be located further away from the low-rise Sea Gate community to the west. In conjunction with the modification to the maximum tower floor plate, which would be increased from a permitted 7,000 to 7,800 square feet, the tower of the building would also be lower than the permitted maximum height under the R7-3 zoning (185 feet plus a 40 foot allowance for mechanical penthouses), creating a transition between the Sea Gate and the high-rise NYCHA and other developments to the north and east of the site.

On Zoning Lot B, the setback modification would allow the tower on the northwest corner of the building, on Surf Avenue and West 36th Street, to be located further away from the tower on the northeast corner of the building on Surf Avenue and West 35th Street, thus providing better views

for residents and more light for surrounding properties. The tower on the northwest corner of Zoning Lot B would rise above the permitted maximum building height of 185 feet (plus a 40 foot allowance for mechanical penthouses) to 243.93 feet which would allow the other towers to be lower than permitted, ranging in height between 164.34 feet on Zoning Lot A and 193.93 feet, including mechanical penthouses for the tower on the northeast corner of Zoning Lot B. The Commission notes that this would create a greater variety in tower height and design and would allow for lower, less imposing base buildings, ranging in height between 3- and 6-stories, lower than the permitted 65 foot maximum.

The modifications to the streetscape requirements, which would reduce required active floor area from 50 percent to 39 percent on Zoning Lot B along West 35th Street and 41 percent on Zoning Lot A along West 36th Street would accommodate access to the wrapped parking structures and mechanical space, which, due to the high water table and the flood plain, would be difficult to locate elsewhere on the site. The Commission notes that the ramp the applicant proposes to improve access to the Boardwalk, located approximately eight feet above curb level, would be fully landscaped and would effectively buffer some of the non-residential and –commercial spaces located on the ground floor. It would also replace the existing, non ADA-compliant ramps with ADA compliant access to the Boardwalk. The Commission notes that the applicant has reached out to the Parks Department and the Department of Transportation to develop a design for the Boardwalk access on West 35th and West 36th streets that would be a significant improvement to the currently existing conditions, benefitting not only the residents of the proposed development but also the community at large.

The Large-Scale General Development Special Permit pursuant to ZR Section 74-743 would give the applicant the opportunity to provide balconies on the interior of the U-shaped building base on Zoning Lot B thus providing an additional amenity for the residents of the building on the 127 foot wide court that opens onto the Boardwalk and the ocean.

The Large-Scale General Development Special Permit pursuant to ZR Section 74-744 would allow the applicant to locate retail on the second and third floors at the Boardwalk level on Zoning Lot B, at or above the same level as residential uses. The Commission notes that ground

floor retail is not feasible on the Boardwalk as it is elevated approximately 8 feet above curb level and that there would be no internal connection between the residential and commercial uses. The Commission further believes that retail, restaurants or art spaces along the Boardwalk could activate the western end of the Boardwalk by creating a destination and anchor.

The City Planning Commission acknowledges the Brooklyn Borough President's recommendations for a FRESH supermarket in the commercial space of the proposed building and the need for attractive destination uses for the Boardwalk commercial uses. With regard to the Borough President's condition to use local contractors and suppliers the Commission notes that this is not within its land use purview. With regard to the Borough President's concern for affordable housing, including housing for residents 55 years and older, the Commission acknowledges the response by the applicant in a letter dated July, 21, 2011, stating that "We are committed to continuing to explore opportunities to provide a moderate income housing component as part of the project."

The Commission believes that the requested actions would facilitate a mixed-use development that would complement the nearby, recently-adopted Coney Island Plan by developing new housing and active retail along Surf Avenue and the Boardwalk to bring much-needed services to the current and future residents of this area.

RESOLUTION

RESOLVED, that the City Planning Commission finds that the action described herein will have no significant impact on the environment, subject to the following condition(s):

The applicant agrees via a restrictive declaration recorded against the subject property on April 14, 2005 (CRFN 2005000214806) in connection with the previously-approved Surf Avenue Rezoning (CEQR No. 03DCP065K) to prepare a hazardous materials sampling protocol, including a health and safety plan, which would be submitted to the New York City Department of Environmental Protection (DEP) for approval. The declaration establishes a covenant that runs with the land to test and identify any potential hazardous material impacts pursuant to the approved sampling protocol and, if any such impact is found, submit a hazardous materials remediation plan including a health and safety plan to DEP for approval, prior to any ground disturbance (i.e., site grading, excavation, demolition, or building construction). If necessary, remediation measures would be undertaken pursuant to the remediation plan;

and be it further

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

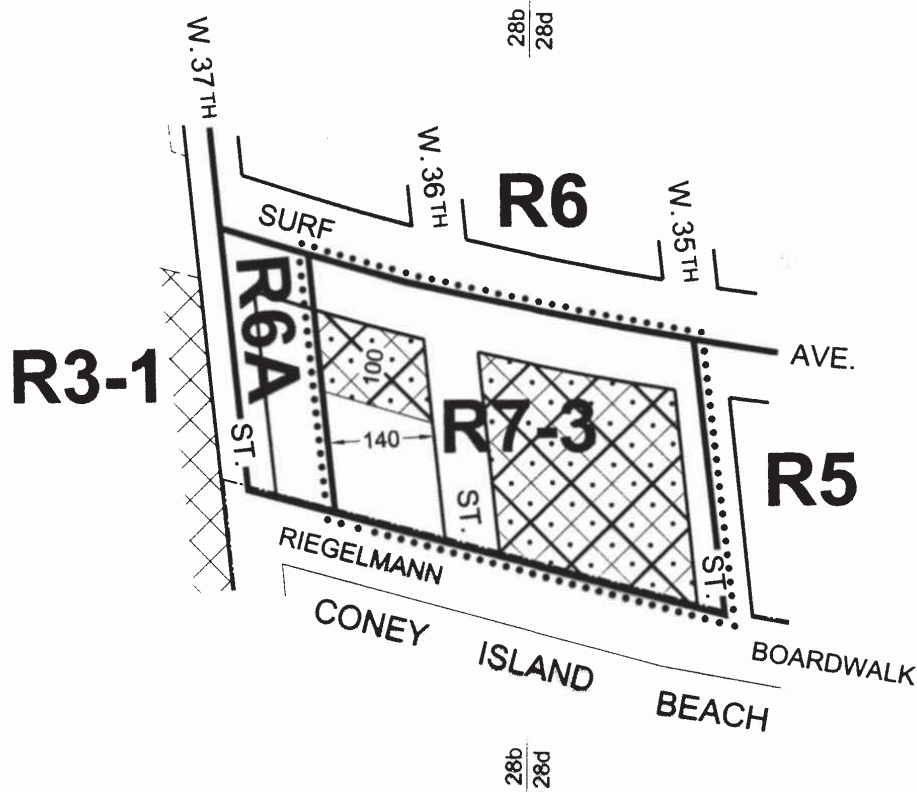
RESOLVED, by the City Planning Commission, pursuant to Sections 197-c and 200 of the New York City Charter, that based on the environmental determination and the consideration described in this report, the Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended by changing the Zoning Map, Section Nos. 28b and 28d:

1. changing from an R6A District to an R7-3 District property bounded by Surf Avenue, West 35th Street, the northerly boundary line of Coney Island Beach, and a line 140 feet westerly of West 36th Street; and
2. establishing within a proposed R7-3 District an C2-4 District bounded by Surf Avenue, West 35th Street, the northerly boundary line of Coney Island Beach, West 36th Street, a line 100 feet southerly of Surf Avenue, and a line 140 feet westerly of West 36th Street;

Borough of Brooklyn, Community District 12, as shown on a diagram (for illustrative purposes only) dated March 28, 2011, and subject to the conditions of CEQR Declaration E-274.

The above resolution, duly adopted by the City Planning Commission of August 10, 2011 (Calendar No. 2), is filed with the Office of the Speaker, City Council, and Borough President together with a copy of the plans of the development, in accordance with the requirements of Section 197-d of the New York City Charter.

AMANDA M. BURDEN, FAICP, *Chair*
ANGELA BATTAGLIA, RAYANN BESSER, IRWIN G. CANTOR, P.E.,
BETTY Y. CHEN, ALFRED C. CERULLO, III, MARIA M. DEL TORO,
SHIRLEY A. MCRAE, KAREN A. PHILLIPS, *Commissioners*.



CITY PLANNING COMMISSION
CITY OF NEW YORK
DIAGRAM SHOWING PROPOSED
ZONING CHANGE

ON SECTIONAL MAPS

28b & 28d

BOROUGH OF
BROOKLYN

New York, Certification Date
MARCH 28, 2011

V. S. Voyages, R.A. Director
S. Voyages, R.A. Director
Technical Review Division

SCALE IN FEET



NOTE:

- Indicates Zoning District Boundary.
- The area enclosed by the dotted line is proposed to be rezoned by changing from an R6A District to an R7-3 District and by establishing a C2-4 District within a proposed R7-3 District.
- Indicates a C1-2 District.
- Indicates a C2-4 District.

Application #: C 110062 ZSK	Project Name: Ocean Dreams
CEQR Number: 10DCP038K	Borough(s): Brooklyn Community District Number(s) 13
Please use the above application number on all correspondence concerning this application	

SUBMISSION INSTRUCTIONS

1. Complete this form and return to the Department of City Planning by one of the following options:
- **EMAIL (recommended):** Send email to CalendarOffice@planning.nyc.gov and include the following subject line: (CB or BP) Recommendation + (6-digit application number), e.g., "CB Recommendation #C100000ZSQ"
 - **MAIL:** Calendar Information Office, City Planning Commission, Room 2E, 22 Reade Street, New York, NY 10007
 - **FAX:** (212) 720-3356 and note "Attention of the Calendar Office"
 -
2. Send one copy of the completed form with any attachments to the applicant's representative at the address listed below, one copy to the Borough President, and one copy to the Borough Board, when applicable.

Docket Description:

IN THE MATTER OF an application submitted by R. A. Real Estate, Inc. pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-744 of the Zoning Resolution to modify the use requirements of Section 32-421 (Limitation on floors occupied by commercial uses) to allow commercial uses listed in Use Group 6, 7, 8, 9 or 14 on portions of the 2nd and 3rd floors of a proposed mixed-use development on property located at 3502-3532 Surf Avenue (Zoning Lot B, Block 7065, Lots 15, 20 & 25), in an R7-3/C2-4* District, within a Large-Scale General Development (Block 7065, Lots 6, 12, 15, 20 & 25), Borough of Brooklyn, Community District 13.

*Note: The site is proposed to be rezoned by changing an R6A District to R7-3 and R7-3/C2-4 Districts under a concurrent related application C 110058 ZMK.

Plans for this proposal are on file with the City Planning Commission and may be seen in Room 3N, 22 Reade Street, New York, N.Y. 10007.

<u>Applicant(s):</u> R. A. Real Estate, Inc. 823 11th Avenue New York, N.Y. 10019	<u>Applicant's Representative:</u> Jay A. Segal Greenberg Traurig, LLP 200 Park Avenue New York, N.Y. 10166
<u>Recommendation submitted by:</u> Brooklyn Community Board 13	
Date of public hearing: <u>April 27, 2011</u>	Location: <u>Coney Island Hospital</u>
Was a quorum present? YES XX NO <input type="checkbox"/>	<i>A public hearing requires a quorum of 20% of the appointed members of the board, but in no event fewer than seven such members.</i>
Date of Vote: May 24, 2011	Location: <u>PS 329</u>
<u>RECOMMENDATION</u> XX Approve <input type="checkbox"/> Approve With Modifications/Conditions <input type="checkbox"/> Disapprove <input type="checkbox"/> Disapprove With Modifications/Conditions <u>Please attach any further explanation of the recommendation on additional sheets, as necessary.</u>	
Voting # In Favor: 25 # Against: 6 # Abstaining: 1 Total members appointed to the board: 50	
Name <i>Charles Reichenthal</i>	Title <i>District Manager</i>
Date <i>May 25, 2011</i>	

Application #: **C 110061 ZSK**

Project Name: **Ocean Dreams**

CEQR Number: **10DCP038K**

Borough(s): **Brooklyn**
Community District Number(s) **13**

Please use the above application number on all correspondence concerning this application

SUBMISSION INSTRUCTIONS

- Complete this form and return to the Department of City Planning by one of the following options:
 - EMAIL (recommended):** Send email to CalendarOffice@planning.nyc.gov and include the following subject line: (CB or BP) Recommendation + (6-digit application number), e.g., "CB Recommendation #C100000ZSQ"
 - MAIL:** Calendar Information Office, City Planning Commission, Room 2E, 22 Reade Street, New York, NY 10007
 - FAX:** (212) 720-3356 and note "Attention of the Calendar Office"
 -
- Send one copy of the completed form with any attachments to the applicant's representative at the address listed below, one copy to the Borough President, and one copy to the Borough Board, when applicable.

Docket Description:

IN THE MATTER OF an application submitted by R. A. Real Estate, Inc. pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-743 of the Zoning Resolution to modify the requirements of Section 23-87 (Permitted Obstructions in Courts) to allow balconies within courts, in connection with a proposed mixed-use development on property located at 3502-3532 Surf Avenue (Zoning Lot B, Block 7065, Lots 15, 20 & 25), in an R7-3/C2-4* District, within a Large-Scale General Development (Block 7065, Lots 6, 12, 15, 20 & 25), Borough of Brooklyn, Community District 13.

*Note: The site is proposed to be rezoned by changing an R6A District to R7-3 and R7-3/C2-4 Districts under a concurrent related application C 110058 ZMK.

Plans for this proposal are on file with the City Planning Commission and may be seen in Room 3N, 22 Reade Street, New York, N.Y. 10007.

Applicant(s):

R. A. Real Estate, Inc.
823 11th Avenue
New York, N.Y. 10019

Applicant's Representative:

Jay A. Segal
Greenberg Traurig, LLP
200 Park Avenue
New York, N.Y. 10166

Recommendation submitted by: **Brooklyn** Community Board 13

Date of public hearing: April 27, 2011 Location: Coney Island Hospital

Was a quorum present? **YES XX** **NO** ☐ *A public hearing requires a quorum of 20% of the appointed members of the board, but in no event fewer than seven such members.*

Date of Vote: May 24, 2011 Location: PS 329

RECOMMENDATION

XX Approve ☐ Approve With Modifications/Conditions
☐ Disapprove ☐ Disapprove With Modifications/Conditions

Please attach any further explanation of the recommendation on additional sheets, as necessary.

Voting

In Favor: 25 # Against: 6 # Abstaining: 1 Total members appointed to the board: 50

Name Charles Reichenthal

Title District Manager

Date May 25, 2011

Application #: **C 110060 ZSK**

Project Name: **Ocean Dreams**

CEQR Number: **10DCP038K**

Borough(s): **Brooklyn**
Community District Number(s) **13**

Please use the above application number on all correspondence concerning this application

SUBMISSION INSTRUCTIONS

- Complete this form and return to the Department of City Planning by one of the following options:
 - EMAIL (recommended):** Send email to CalendarOffice@planning.nyc.gov and include the following subject line: (CB or BP) Recommendation + (6-digit application number), e.g., "CB Recommendation #C100000ZSQ"
 - MAIL:** Calendar Information Office, City Planning Commission, Room 2E, 22 Reade Street, New York, NY 10007
 - FAX:** (212) 720-3356 and note "Attention of the Calendar Office"
 -
- Send one copy of the completed form with any attachments to the applicant's representative at the address listed below, one copy to the Borough President, and one copy to the Borough Board, when applicable.

Docket Description:

IN THE MATTER OF an application submitted by R. A. Real Estate, Inc. pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 62-836 of the Zoning Resolution to modify the lot coverage requirements of Section 62-322 (Residential uses in R1, R2, R6, R7, R8, R9, and R10 Districts), and the height and setback and ground floor streetscape requirements of Section 62-341 (Developments on land and platforms), in connection with a proposed mixed-use development on property located at 3502-3532 Surf Avenue (Zoning Lot B, Block 7065, Lots 15, 20 & 25), in an R7-3/C2-4* District, within a Large-Scale General Development (Block 7065, Lots 6, 12, 15, 20 & 25), Borough of Brooklyn, Community District 13.

*Note: The site is proposed to be rezoned by changing an R6A District to R7-3 and R7-3/C2-4 Districts under a concurrent related application C 110058 ZMK.

Plans for this proposal are on file with the City Planning Commission and may be seen in Room 3N, 22 Reade Street, New York, N.Y. 10007.

Applicant(s):

R. A. Real Estate, Inc.
823 11th Avenue
New York, N.Y. 10019

Applicant's Representative:

Jay A. Segal
Greenberg Traurig, LLP
200 Park Avenue
New York, N.Y. 10166

Recommendation submitted by: **Brooklyn** Community Board 13

Date of public hearing: April 27, 2011 Location: Coney Island Hospital

Was a quorum present? **YES XX** **NO** ☐ *A public hearing requires a quorum of 20% of the appointed members of the board, but in no event fewer than seven such members.*

Date of Vote: May 24, 2011 Location: PS 329

RECOMMENDATION

☒ **XX** Approve ☐ Approve With Modifications/Conditions
☐ Disapprove ☐ Disapprove With Modifications/Conditions

Please attach any further explanation of the recommendation on additional sheets, as necessary.

Voting

In Favor: 25 # Against: 6 # Abstaining: 1 Total members appointed to the board: 50

Name Charles Reichenthal

Title District Manager

Date May 25, 2011

Application #: **C 110059 ZSK**

Project Name: **Ocean Dreams**

CEQR Number: **10DCP038K**

Borough(s): **Brooklyn**
Community District Number(s) **13**

Please use the above application number on all correspondence concerning this application

SUBMISSION INSTRUCTIONS

- Complete this form and return to the Department of City Planning by one of the following options:
 - EMAIL (recommended):** Send email to CalendarOffice@planning.nyc.gov and include the following subject line: (CB or BP) Recommendation + (6-digit application number), e.g., "CB Recommendation #C100000ZSQ"
 - MAIL:** Calendar Information Office, City Planning Commission, Room 2E, 22 Reade Street, New York, NY 10007
 - FAX:** (212) 720-3356 and note "Attention of the Calendar Office"
 -
- Send one copy of the completed form with any attachments to the applicant's representative at the address listed below, one copy to the Borough President, and one copy to the Borough Board, when applicable.

Docket Description:

IN THE MATTER OF an application submitted by R. A. Real Estate, Inc. pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 62-836 of the Zoning Resolution to modify the lot coverage requirements of Section 62-322 (Residential uses in R1, R2, R6, R7, R8, R9, and R10 Districts), the height and setback, maximum tower size, and ground floor streetscape requirements of Section 62-341 (Developments on land and platforms), and the rear yard requirements of Section 23-44 (Permitted Obstructions in Required Yards or Rear Yard Equivalents), in connection with a proposed mixed-use development on property located at 3602-3616 Surf Avenue (Zoning Lot A, Block 7065, Lots 6 & 12), in R7-3* and R7-3/C2-4* Districts, within a Large-Scale General Development (Block 7065, Lots 6, 12, 15, 20 & 25), Borough of Brooklyn, Community District 13.

*Note: The site is proposed to be rezoned by changing an R6A District to R7-3 and R7-3/C2-4 Districts under a concurrent related application C 110058 ZMK.

Plans for this proposal are on file with the City Planning Commission and may be seen in Room 3N, 22 Reade Street, New York, N.Y. 10007.

Applicant(s):

R. A. Real Estate, Inc.
823 11th Avenue
New York, N.Y. 10019

Applicant's Representative:

Jay A. Segal
Greenberg Traurig, LLP
200 Park Avenue
New York, N.Y. 10166

Recommendation submitted by: **Brooklyn** Community Board 13

Date of public hearing: April 27, 2011 Location: Coney Island Hospital

Was a quorum present? **YES XX** **NO** ☐ *A public hearing requires a quorum of 20% of the appointed members of the board, but in no event fewer than seven such members.*

Date of Vote: May 24, 2011 Location: PS 329

RECOMMENDATION

☒ **XX** Approve ☐ Approve With Modifications/Conditions
☐ Disapprove ☐ Disapprove With Modifications/Conditions

Please attach any further explanation of the recommendation on additional sheets, as necessary.

Voting

In Favor: 25 # Against: 6 # Abstaining: 1 Total members appointed to the board: 50

Name Charles Reichenthal

Title District Manager

Date May 25, 2011

Application #: **C 110058 ZMK**

Project Name: **Ocean Dreams**

CEQR Number: **10DCP038K**

Borough(s): **Brooklyn**
Community District Number(s) **13**

Please use the above application number on all correspondence concerning this application

SUBMISSION INSTRUCTIONS

- Complete this form and return to the Department of City Planning by one of the following options:
 - EMAIL (recommended):** Send email to CalendarOffice@planning.nyc.gov and include the following subject line: (CB or BP) Recommendation + (6-digit application number), e.g., "CB Recommendation #C100000ZSQ"
 - MAIL:** Calendar Information Office, City Planning Commission, Room 2E, 22 Reade Street, New York, NY 10007
 - FAX:** (212) 720-3356 and note "Attention of the Calendar Office"
 -
- Send one copy of the completed form with any attachments to the applicant's representative at the address listed below, one copy to the Borough President, and one copy to the Borough Board, when applicable.

Docket Description:

IN THE MATTER OF an application submitted by R. A. Real Estate, Inc. pursuant to Sections 197-c and 201 of the New York City Charter for the amendment of the Zoning Map, Section Nos. 28b and 28d:

- changing from an R6A District to an R7-3 District property bounded by Surf Avenue, West 35th Street, the northerly boundary line of Coney Island Beach, and a line 140 feet westerly of West 36th Street; and
- establishing within a proposed R7-3 District a C2-4 District bounded by Surf Avenue, West 35th Street, the northerly boundary line of Coney Island Beach, West 36th Street, a line 100 feet southerly of Surf Avenue, and a line 140 feet westerly of West 36th Street;

Borough of Brooklyn, Community District 13, as shown on a diagram (for illustrative purposes only) dated March 28, 2011, and subject to the conditions of CEQR Declaration E-274.

Applicant(s):

R. A. Real Estate, Inc.
823 11th Avenue
New York, N. Y. 10019

Applicant's Representative:

Jay A. Segal
Greenberg Traurig, LLP
200 Park Avenue
New York, N. Y. 10166

Recommendation submitted by: **Brooklyn** Community Board 13

Date of public hearing: April 27, 2011 Location: Coney Island Hospital

Was a quorum present? **YES XX** **NO** ☐ *A public hearing requires a quorum of 20% of the appointed members of the board, but in no event fewer than seven such members.*

Date of Vote: May 24, 2011 Location: PS 329

RECOMMENDATION

- XX** Approve ☐ Approve With Modifications/Conditions
☐ Disapprove ☐ Disapprove With Modifications/Conditions

Please attach any further explanation of the recommendation on additional sheets, as necessary.

Voting

In Favor: 25 # Against: 6 # Abstaining: 1 Total members appointed to the board: 50

Name *Charles Reichenthal*

Title *District Manager*

Date *May 25, 2011*

Brooklyn Borough President Recommendation

CITY PLANNING COMMISSION
22 Reade Street, New York, NY 10007
FAX # (212) 720-3356

INSTRUCTIONS

1. Return this completed form with any attachments to the Calendar Information Office, City Planning Commission, Room 2E at the above address.

2. Send one copy with any attachments to the applicant's representatives as indicated on the Notice of Certification.

APPLICATION #: 110058 ZMK; 110059 ZSK; 110060 ZSK; 110061 ZSK; 110062 ZSK; 110063 ZCK; 110064 ZCK. **Ocean Dreams**

In the matter of an application submitted by R. A. Real Estate, Inc. pursuant to Sections 197-c and 201 of the New York City Charter for:

- a) an amendment of the Zoning Map changing from an R6A District to an R7-3 District property bounded by Surf Avenue, West 35th Street, the northerly boundary line of Coney Island Beach, and a line 140 feet westerly of West 36th Street and, establishing a C2-4 District within the proposed R7-3 District;
- b) the grant of Special Permits pursuant to Sections 62-836, 74-743, 74-744 of the Zoning Resolution in connection with a proposed development with 415 units, 24,790 square feet of retail and 418 parking spaces on property located at 3502-3532 Surf Avenue.

COMMUNITY DISTRICT NO. 13

BOROUGH OF BROOKLYN

RECOMMENDATION

☐ APPROVE

☒ APPROVE WITH

MODIFICATIONS/CONDITIONS

☐ DISAPPROVE

☐ DISAPPROVE WITH

MODIFICATIONS/CONDITIONS

These applications seeks an amendment to the zoning map and special permits that would allow for the shifting of building bulk in a manner that would result in three towers, with larger tower floor plates than permitted as-of-right; the permitting of balconies in the inner courts; providing for retail at the level of the boardwalk; and, a pool deck/open space on the roof of the enclosed parking lot at a height nearly 10 feet higher than otherwise permitted.

PUBLIC HEARING

On June 6, 2011 the Borough President held a public hearing for the Ocean Dreams, residential proposal. A representative for the applicant explained that though the requested R7-3 allows for a floor area ratio (FAR) of five, the project will be limited to four FAR through a restrictive declaration. The higher zoning was requested as a means to accommodate the height of the towers, with their varied number of floors. The representative noted that in response to input of the community since the application was first presented in 2008, the intent is to include a supermarket along Surf Avenue and possibly a waterfront restaurant, along with retail along the boardwalk.

In response to the Borough President's comments regarding those individuals and couples age 55 and over and the level of affordability the development might accommodate, the representative noted the intent to advertise very heavily to this 55 and over population because it is believed this population will be most interested to live there, though the

logistics of where it might make sense to house these residents would need further consideration. As for the degree of affordability, without further analysis of the expense to construct, the applicant was not sure what could be done at this point. The Borough President's Office staff noted the potential to incorporate additional frontage along the boardwalk for dining.

CONSIDERATION

Community Board 13 (CB 13) voted to approve these applications.

It is the Borough President's policy to support land use changes that increase the supply of housing for Brooklyn residents.

The Borough President believes that this is a wonderful site for encouraging housing development as he had affirmed when he previously had the opportunity to approve the initial rezoning for this property in 2005. These applications would increase the density as compared to the 2005 proposal by 33 percent. There are 415 dwelling units proposed (an increase of 102 units from the 2005 proposal), with 418 enclosed parking spaces and nearly 25,000 square feet (sf) of retail space, including some along the boardwalk. The height and placement of the three towers is consistent with the nearby 19-story Scheuer House and 14 to 16 story towers within the NYCHA developments.

The application documents indicate that development is conditioned with vastly improved public access connections to the Riegelmann Boardwalk at Beach 35th and 36th Streets. These fully landscaped, accessible pedestrian connections are to be designed in consultation with the Department of Transportation and the Department of Parks and Recreation. The Borough President believes that such improvements would further encourage beach and boardwalk use at this section of Coney Island.

Fresh Food - Supermarkets

One of the Borough President's top priorities has been to advocate for food justice in order to provide access to healthy food stores in those neighborhoods that are underserved. Many Brooklyn neighborhoods lack access to affordable fresh food and vegetables. In order for all of Brooklyn to flourish, it is imperative that residents have an adequate supply of supermarkets and grocery stores in their neighborhoods to access fresh and affordable foods. One of his top priorities has been to provide access to healthy food stores in those neighborhoods that are underserved. In light of this, the borough president has been seeking ways to establish more supermarkets. Among his policies is to review all discretionary land use applications to determine whether it is appropriate to include a supermarket within the plans.

The Borough President believes that the proposed retail space along Surf Avenue is an appropriate location to house a supermarket of up to 12,000 square feet. This would bring additional opportunities to the community to offer quality fresh food that is consistent with the attributes according to the FRESH food store initiative. The applicant has expressed an interest in locating a supermarket at a location along Surf Avenue between West 35th and West 36th Streets. The Borough President believes that the applicant/developer should be obligated to make best efforts to tenant the Surf Avenue retail space with a supermarket consistent with the city's FRESH food store initiative.

In a letter, attached, dated July 1, 2011, the applicant expressed intent towards using or leasing approximately 11,500 sf of retail space for the operation of a supermarket or other store selling fresh food and produce.

Boardwalk Restaurant and Retail/Gallery

Given Brooklyn's population, the borough is truly lacking when it comes to having waterfront dining opportunities. There are only a handful of opportunities that the Borough President believes can entice destination restaurants as much as waterfront locations. Though this section of the boardwalk is located a distance from the Coney Island amusement area, a destination restaurant can achieve success along the lines of what Tatianna's has contributed to Brighton Beach. The Ocean Dreams proposal is the perfect site with the synergy from its three residential towers to its several hundred feet of boardwalk frontage. The beach provides the perfect foreground to the marvelous ocean extending out from Sandy Hook. Having such a dining opportunity, along with an activated retail frontage lining the boardwalk, would enhance the beach-going experience by contributing to the vitality of the western end of the beach by enticing even more people to enjoy this section of Coney Island.

With the development offering twice as much parking as zoning requires, it further supports such a destination restaurant for year-round success. The retail space provides an opportunity for complimentary beach uses during the sun-bathing and swimming season. Beach compatible uses such as: eating and drinking establishments; beach rentals; food related uses such as bakeries, candy and/or ice cream stores; beach outfits and accessories are preferred for the in season beach months. It is appropriate for such storefronts to be leased in a flexible manner to have the potential to become an off-season destination by transforming into the remainder of the year as primarily gallery space and/or artisan space for Brooklyn's creative economy. Joint use as gallery/artisan (wares such as handmade jewelry, etc.) space could help sustain such retail space during the months with cooler temperature. Convention retail and service establishments such as beauty parlors, drug stores, dry cleaning; hardware; laundry; are examples of uses that should be prohibit. The Borough President believes that the applicant/developer should be obligated to provide suitable space to accommodate a destination restaurant along the boardwalk with the remainder of the boardwalk frontage occupied year round with seasonal beach related shops and entertainment retail that have the potential to become gallery/artisan locations.

In a letter, attached, dated July 1, 2011, the applicant expressed intent towards exploring opportunities to locate a restaurant in all or a portion of the approximately 5,400 sf of the proposed Boardwalk commercial space. In the event that not all of the commercial space is used for a restaurant, the applicant will explore other opportunities for galleries, artisan cafes, and other active retail spaces along the Boardwalk.

Jobs

It is the policy of the Borough President to seek to have maximum participation by Brooklyn contractors and material suppliers on construction projects as a means of providing jobs for Brooklyn residents. This project presents an opportunity to get unemployed and underemployed Coney Island residents, and other Brooklynites, into living wage jobs. He encourages the developer to create a strategy for this project that seeks participation of those willing residents from Coney Island to be hired during the construction phase of the project.

In the attached letter dated July 1, 2011, given equivalent availability and pricing, the applicant committed to strive to maximize the purchasing of building supplies from Brooklyn suppliers and using local contractors. The applicant further committed to working with its retail tenants and other commercial tenants to maximize hiring from the local community.

Active Lifestyle 55 and Over Housing

The Borough President believes that too many mature, active individuals and couples age 55 and over do not have local options for living in a development designed and marketed to such populations. The Ocean Dreams development is a choice location to design and market to active mature households with such amenities like pools, fitness centers, tennis courts, paddleball or squash. The adjacent Coney Island beach and the intended boardwalk retail usage perfectly compliment such a marketing strategy. Whether pursuing such a marketing strategy for the entire complex or perhaps for one of its three towers, the Borough President feels strongly that marketing to the active 55 years and older community would be a model for success. Subsequently, the applicant has stated in a letter dated July 1, 2011 an intent to continue exploring ways in which the project can be designed and marketed as a draw for active, mature (age 55+) households.

Affordable Housing

It is the policy of the Borough President to utilize the process of rezoning privately-owned land for residential development in order to provide opportunities for more affordable housing for neighborhood residents. The Borough President is concerned that too many of the borough's residents leave because they can no longer afford to live in Brooklyn.

Typically it is the Borough President's policy for new residential developments subject to ULURP to typically provide a minimum of 20 percent affordable units, including affordable housing for middle-income families.

Pursuant to the proposed rezoning, there would be no obligation to provide any affordable housing. With the increasing demand by Brooklyn residents for affordable housing, he believes every reasonable attempt should be made to provide such housing. He is committed to providing opportunities for Brooklyn's working families, including those that are 55 and older. Such households are representative of those headed by teachers and other government workers, including the City's uniform workforce ranging from firefighters to sanitation workers, to have access to affordable housing. He believes it is appropriate for this project to devote a share of the units for middle-income households, including those limited to households age 55 and older, whose income does not exceed 165 percent of Area Median Income (AMI).

This would go a long way towards helping households represented by tenants, civil servants and uniformed services to obtain quality-affordable apartments while raising families, at the culmination of their dedicated careers or as active, mature retirees. The Borough President sees no better reward for a life of productive civil service than to remain in Brooklyn and better yet, at the beachfront in Coney Island.

For the active mature individual, presently earning between \$55,000 and \$90,000 or mature couple earning between \$60,000 and \$100,000, being able to afford to live in Ocean Dreams would be a great achievement. In the event that the entire Ocean Dreams project is not marketed for active and mature dwellers, families such as a household of four, earning between approximately \$75,000 and \$115,000 should be among the 20 percent affordability target consistent with these objectives.

In order to assist in the development's financing while meeting commitments for such targeted levels of affordability, he believes opportunities might be met through initiatives of the City's Housing Development Corporation (HDC) and the State's Affordable Housing Corporation.

Should affordable units proceed as rental housing, one option to achieve the Borough President's policy might be to pursue development of the smaller building site (between West 36th and West 37th Streets) according to the Mixed Income Program with 50 percent of the units as market rate, 30 percent as middle income (New Housing Opportunities Program income standards) and 20% as low-income with its tax exempt bond financing. Another option could be to pursue whether the development is a condominium or rental housing.

In this scenario, it would be possible to establish a cluster of units as a condo – such as adjoining low-floor units with non-prime views – funded by HDC according to its NewHOP financing. Rents are typically based at 130% of AMI though occupancy would be eligible to those earning up to 165% of AMI (with an option of 20% of the condo as low income up to 60% AMI with addition of recycled tax exempt bonds). Both scenarios come with per unit subsidies and have 30 year minimum affordability comments.

The Borough President believes that with HDC financing and subsidies, the development can achieve his goal of 20 percent of the units being affordable to middle-income households, including those age 55 and older, teachers and other government workers, including the City's uniform workforce ranging from firefighters to sanitation workers, and/or retirees of such work force, that would not otherwise have the opportunity to afford this development.

In a letter, attached, dated July 1, 2011 the applicant noted that a meeting has taken place with the New York City Housing Development Corporation (HDC) to discuss potential opportunities for utilizing HDC programs.

RECOMMENDATION

Be it resolved that the Brooklyn Borough President, pursuant to section 197-c of the New York City Charter, recommends that the City Planning Commission and the City Council approve of the Zoning Map Amendment, and Special Bulk and Use Permit applications on the condition that:

1. the applicant/developer would be obligated to make best efforts to incorporate a supermarket consistent with the attributes of the City's FRESH food store initiative as part of the retail space along Surf Avenue;
2. the applicant/developer would be obligated to provide suitable space for at least one space to accommodate a destination restaurant along the boardwalk with the remainder of the boardwalk frontage occupied year round with seasonal beach related shops that have the potential to become gallery/artisan locations;
3. the applicant/developer takes necessary steps to utilize local contractors and material supply firms for the project's construction and conduct a local hiring initiative for local residents; and,
4. the applicant/developer would be obligated to make best efforts to provide housing opportunities that would be affordable to middle-income households, including those age 55 and older, such as teachers other government workers, including the City's uniform workforce ranging from firefighters to sanitation workers, of and/or retirees of such work force, for at least 20 percent of the residential floor area.



BOROUGH PRESIDENT

July 1, 2011

DATE

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JAC@urc.com



RED APPLE REAL ESTATE, INC.

John Catsimatidis
Chairman
Chief Executive Officer

823 Eleventh Avenue • New York, NY 10019-3535

July 1, 2011

Honorable Marty Markowitz
Brooklyn Borough President
209 Joralemon Street
Brooklyn, New York 11201w

Re: Ocean Dreams Rezoning and Related Actions
(ULURP Nos. C110059 ZSK, 110060 (A) ZSK, C110061 ZSK
110062(A) ZSK, N110063 ZCK & N110064 ZCK)

Dear Borough President Markowitz:

We are the applicant with respect to the above-referenced applications seeking a rezoning and related special permits and certifications from the New York City Planning Commission for the property located at 3502 - 3616 Surf Avenue in the Coney Island section of Brooklyn (Block 7065, Lots 6, 12, 15, 20 and 25), which was the subject of your public hearing on June 6, 2011. This letter will serve to affirm our commitment with regard to certain issues that arose at the hearing:

- Supermarket / Grocery Store on Surf Avenue: We are committed to using or leasing the proposed, approximately 11,500 sf retail space fronting Surf Avenue between West 35th and West 36th Streets for a supermarket or other store selling fresh food and produce.
- Boardwalk Restaurant: We are committed to seeking opportunities to locate a restaurant, café or other Use Group 6 eating and drinking establishment in all or a portion of the approximately 5,400 sf proposed commercial space along West 35th Street and the Riegelmann Boardwalk.
- Boardwalk Retail: We are committed to exploring other opportunities for galleries, artisan spaces, cafes and other active retail spaces for the remaining potential retail space along the Riegelmann Boardwalk.
- HDC Funding: At your recommendation, we met with Joan Tally, Executive Vice President for Real Estate and Chief of Staff, at the New York City Housing Development Corporation (HDC) to discuss potential opportunities for utilizing HDC

programs. The meeting was very informative and we intend to continue our discussions with HDC as the project progresses.

- Housing for Active Seniors: We continue to explore ways the project can be designed and marketed as a draw for active, mature (i.e., 55+) households.
- Using Local Contractors and Materials Suppliers: At the hearing you stated the importance of contracting with local contractors and purchasing materials locally and expressed a desire for us to commit to such efforts. Toward these ends, we will commit to the following efforts:
 - Given equivalent availability, quality and pricing, we will strive to maximize the purchase of building supplies for the development from Brooklyn suppliers.
 - Given equivalent availability, quality and pricing, and working within the structures of any applicable legal agreements to construct the project, we will strive to maximize the use of local contractors in construction of the project.
 - We will also commit to working with retail and other commercial tenants to maximize hiring for their establishments from the local communities.

Sincerely,

R. A. REAL ESTATE, INC.

By: 

Name:

Title:

cc: Hon. Dominic M. Reccia
Winston von Engel
Ralph Blessing
Jay A. Segal, Esq.