



## CITY PLANNING COMMISSION

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March 28, 2012 / Calendar No. 9

C 120108 ZMK

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**IN THE MATTER OF** an application submitted by NYC Department of Small Business Services pursuant to Sections 197-c and 201 of the New York City Charter for the amendment of the Zoning Map, Section Nos. 29a and 29c, changing from a C3 District to a C8-1 District property bounded by a line perpendicular to the northeasterly street line of Flatbush Avenue distant 1290 feet northwesterly (as measured along the street line) from the point of intersection of the northeasterly street line of Flatbush Avenue and the northerly street line of Shore Parkway, a line 100 feet northeasterly of Flatbush Avenue, a line at an angle of 42 degrees to Flatbush Avenue and passing through a point on the northeasterly street line of Flatbush Avenue distant 1290 feet northwesterly (as measured along the street line) from the point of intersection of the northeasterly street line of Flatbush Avenue and the northerly street line of Shore Parkway, a line 400 feet northeasterly of Flatbush Avenue, a line perpendicular to the northeasterly street line of Flatbush Avenue distant 420 feet northwesterly (as measured along the street line) from the point of intersection of the northeasterly street line of Flatbush Avenue and the northerly street line of Shore Parkway, and Flatbush Avenue, Borough Brooklyn, Community District 18, as shown on a diagram (for illustrative purposes only) dated November 28, 2011.

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This application for a zoning map amendment was filed by the New York City Department of Small Business Services (DSBS) on November 21, 2011 and revised on January 12, 2012 to facilitate the development of 106,781 square-foot automotive sales and service establishment and the re-configuration of the existing open accessory parking for an existing retail use. The project is generally located at 2875 Flatbush Avenue on Block 8591, Lots 125, 175, 980 and part of Lot 100, in Mill Basin, Borough of Brooklyn, Community District 18.

### **RELATED ACTIONS**

In addition to the proposed zoning map amendment (C 120108 ZMK), which is the subject of this report, implementation of the proposed project also requires action by the City Planning Commission on the following applications, which are being considered concurrently with this application:

- C 070512 MMK:** The narrowing, by elimination, discontinuance and closing, of a portion of Flatbush Avenue between Avenue U and Pelican Street; the elimination, discontinuance and closing of Marginal Street, Wharf or Place bounded by Flatbush Avenue, Shore Parkway and Mill Basin and the adjustment of grades necessitated thereby.
- C 120111 PPK:** The Disposition of City-owned Property (Block 8591, p/o Lots 100, 125 and 175).
- N 120110 ZCK:** Certification by the Chairperson of the City Planning Commission pursuant to ZR Section 62-812, Waterfront zoning lot subdivision (Block 8591, p/o Lot 100, Lots 125, 175, and 980).
- N120109 ZAK:** Authorization by the City Planning Commission, pursuant to ZR Section 62-822 (a) (1), Modification of waterfront public access area and visual corridor requirements, modifying the minimum width of portions of the shore public walkway and the location requirements of visual corridors and upland connections (Block 8591, p/o Lot 100, and Lots 125, 175, and 980).

## **BACKGROUND**

This New York City Department of Small Business Services (DSBS) has submitted several actions to facilitate the development of 106,781 square-foot automotive sales and service establishment and the re-configuration of the existing open accessory parking for an existing retail use. The project is generally located at 2875 Flatbush Avenue (Block 8591, Lots 125, 175, 980 and part of Lot 100), in Mill Basin, Borough of Brooklyn, Community District 18. The project site is owned by New York City and is located between Flatbush Avenue and the Mill Basin Waterways in a C3 zoning district.

The site is currently occupied by a Toys ‘R’ Us store, a Restaurant & Seafood Market, and two marinas: Sea Travelers Marina & Sunsatons Marina. All of these uses are operated through leases held by the City of New York.

The Toys 'R' Us store occupies a one-story, 45,969 square-foot building and an open accessory parking lot with approximately 400 spaces. The toy store is not permitted as of right in the C3 District, but was the subject of a variance granted by the Board of Standards and Appeals (Cal. No. 135-90-BZ, April 16, 1991) which permitted its construction. At that time, the BSA also approved a Special Permit under ZR Section 73-482 (accessory parking facility for more than 150 spaces) which permitted the large open accessory parking. Due to its large open parking lot, the site is considered underutilized and is the subject of requested actions for rezoning, subdivision and disposition and the proposed new development.

The Sea Travelers Marina, which occupies the balance of zoning lot (Lot 125) and a small portion of an adjacent lot (Lot 175), is an as-of-right use. It consists of 150 boat slips, boat storage area, a small facility building, a refueling facility, and a limited number of surface parking spaces. Sea Travelers currently uses the existing underutilized Toys 'R' Us parking lot to supplement their parking requirement. With the exception of a small portion of Lot 175, the Marina will remain in a C3 district.

Other land uses on the zoning lot include approximately 402,605 square-feet of City-owned, vacant and undeveloped land immediately south of the Toy 'R' Us building (part of Lot 100); the Sunations Marina, which has 20 slips and occupies parts of Lot 175 and Lot 980; Nick's Lobster Restaurant and Seafood Fish Market, located in a 1-story 5,200 square feet building with 95 open accessory parking spaces, also located on part of Lot 980; and of a long (approximately 1100 linear feet), narrow strip of undeveloped waterfront property which makes

up the balance of Lot 980.

Other land uses within a quarter-mile radius include a mix of commercial, residential and parkland. Commercial properties are located to the north of the project site, along Flatbush Avenue and at the intersection of Flatbush Avenue and Avenue U. The Kings Plaza shopping center which has large retail chain stores and 100 smaller shops is located at intersection of Avenue U and Flatbush Avenue in an M3-1 district. Restaurants, small retail stores, and large retail stores are also located at and near this intersection in a C8-1 district. Residential one and two-family detached and semi-detached residences to the east are separated from the project site by the waters of Mill Basin in an R2, R3-1 and R5 district. Marine Park and its golf course are located across Flatbush Avenue to the west of the project site and the Belt/Shore Parkway interchange is to the south.

The proposed development involves the subdivision of the City-owned property (Block 8591, Lots 125, 175, 980 and part of Lot 100) into three new zoning lots and the disposition of two of these to Toy 'R' Us and the Kristal Auto Mall and a third parcel will remain in City ownership,

Toys 'R' Us site (p/o Lot 125; 132,500 square feet of lot area.)

No new building program is proposed for the Toys 'R' Us parcel, which would continue operating within their existing 45,969 square feet one-story, 24 foot height retail building. Only minor site improvements are needed relative to storm water management and sanitary utilities, as well as, pavement upgrades, striping and the re-configuration and re-design of the existing open

accessory parking. The site will also include new landscaping and screening buffers.

This parking area would have a total of 199 spaces (154 would be required as per the proposed zoning), including 118 spaces on this zoning lot and 81 spaces to be located offsite on a portion of p/o Lot 100 (26,800 square feet) which is remaining in city ownership. The main access/egress to this parking area will be via an existing 58.5' curb cut which is located to the southerly most side of the site and it will provide ingress and egress to the Toys 'R' Us site, as well as, the existing Sea Travelers Marina. A second shared access to the parking will also be provided via a proposed new 30' curb cut located to the north at the proposed property line of the Kristal and Toys.

Both the use and the accessory parking would conform and comply under the proposed C8-1 District.

Kristal Auto Mall site (p/o Lot 125 & p/o Lot 175; 110,302 square feet of lot area)

The Kristal Auto mall is currently located at 5200 Kings Highway, Brooklyn. The auto dealership would be relocating and expanding their operations to this location with a two new buildings totaling 106,781 square feet of floor area. Kristal proposes to construct a new 103,349 square feet 2-story plus mezzanine building, 35 feet in height for use as automobile sales, showroom, offices, and a service facility. The proposed building would contain a showroom and service space on the ground floor and one (1) off-street loading berth. Overlooking the ground floor would be a mezzanine for offices. The second floor would be used for offices, inventory

storage, and attended accessory parking for 151 spaces. Open uses will include open 27 accessory parking spaces (for a total of 178 parking spaces) and an auto display area along the street line. The roof of the building would be used for inventory storage. In addition, an accessory 3,432 square feet 1-story building would also be constructed to the north of the Kristal Main Building for the sale of used cars.

An existing 28' curb cut which is located on the northerly side of the site will provide ingress/egress to Kristal Auto main building with direct access to the attended parking, staging area and a self-parking area. This curb cut will also allow direct access for trucks accessing the proposed loading berth, as well as, provide access for fuel delivery to existing underground storage tanks for the Sea Travelers Marina. Additionally, directional signage will be provided to assist customers and visitors utilizing the Kristal Auto Mall facility.

A proposed new 30' curb cut located at the property line of the Kristal and Toys Property will provide shared ingress/egress with Toys 'R' Us. This curb cut will provide direct access to the Kristal Auto service write-up area where customers will be able to drop off their vehicles for servicing. Vehicles will be dropped off for servicing from 7:00 a.m. through 2:00 p.m. The service write-up area and outside queuing area will be able to accommodate up to 18 vehicles simultaneously and vehicles will then be moved accordingly to the service department. A Kristal Auto Mall staff member will then take responsibility of the vehicle until servicing is completed and it will be returned to the owner on site and queued to directly exit the site.

Vehicles will also be able to enter this new 30' curb cut and turn left traveling in a northerly direction along the face of the building and either self-park their vehicle or stop at the attended parking staging area. At that point a Kristal Auto Mall staff member will take responsibility of the vehicle and assist the customer. Required accessory parking provided on the second floor of the proposed structure will be fully attended parking and accessed by Kristal staff members only.

Both the use and the accessory parking would conform and comply under the proposed C8-1 District.

City-owned site (p/o Lot 100, p/o Lot 125, p/o Lot175 & Lot 980; 964,678 sq. ft. of lot area)

The City-owned parcel which consist mainly of the waterfront areas, would remain largely unchanged. The DSBS will continue to control an approximate 30 foot strip between the Kristal Property and the shoreline connecting the City-owned properties to both the north and south (Sea Travelers Marina & Sunsations Marina). The two existing marinas, and the Restaurant & Seafood Market, would continue to operate through leases held by the City. Sea Travelers Marina plans to provide racks for the storage of 135 boats, freeing up surface parking area for 84 spaces. Buildings on site include the restaurant and small buildings for the marinas with no building exceeding twenty feet in height.

### **Proposed Actions**

To facilitate the project, the applicant seeks approvals from the City Planning Commission for the following actions:

Zoning Map Amendment:

The Amendment to Zoning Map Sections 29a and 29c will change the zoning of the project site from a C3 District to a C8-1 District. The size of the current C3 zoning lot (Block 8591, p/o lots 100, 125, 175, and 980) is approximately 1,207,480 square feet (27.7 acres). The area to be rezoned to C8-1 totals approximately 262,967 square feet (6.0 acres). This includes the Toys 'R' Us zoning lot, the proposed Kristal Auto Mall zoning lot, and the proposed new surface (Toys) off-site supplemental parking area (approximately 26,800 square feet) located within an easement on the property to remain City-owned.

The proposed C8-1 zoning district allows a floor area ratio (FAR) of 1.0. With a proposed zoning lot size of 132,500 square feet, the existing floor area is 45,956 square feet (FAR .36). The existing retail use in the proposed C8-1 zoning district would require 154 parking spaces. Toys 'R' Us will provide 199 parking spaces, including the 81 off-site spaces on the adjacent City-owned lot.

The proposed Kristal Auto Mall would occupy a zoning lot with approximately 110,302 square feet of lot area and would consist of a two-story automobile sales showroom and service facility, and a smaller second used car building. There would be total of 106,781 square feet of floor area (FAR .97). The proposed use in the C8-1 zoning district would require and provide 178 parking spaces.



Changes to the City Map:

Proposed changes to the City Map involve the narrowing, by elimination, discontinuance and closing, of a portion of Flatbush Avenue between the Shore Parkway and Avenue U; and the elimination, discontinuance and closing of a Marginal Street, Wharf or Place bounded by the U.S. Pierhead and Bulkhead Line, Shore Parkway and Flatbush Avenue.

Originally, the application was filed by the DSBS in 2007 and the proposed alteration map was signed by the Borough President of Brooklyn in 2008. Currently minor changes to the proposed street lines of Flatbush Avenue are made in a revision filed in November 2011.

The subject portion of Flatbush Avenue is City-owned and is approximately 1,800 feet long. It is mapped to a varying width of 135 feet at its southern portion, increasing to 200 feet at its northern portion, but is improved only to a width of 100 feet and open to two-way traffic northbound and southbound. The total area of the portion of the subject street to be closed is 98,886.09 square feet (2.27 acres) and consists entirely of unimproved portions of Flatbush Avenue. Such closed portion of the street is comprised of portions of Lots 100, 125, 175 and 980 in Block 8591 (the "Site"), which lots are City-owned and under the jurisdiction of DSBS (other than a portion of Lot 100 that is under the jurisdiction of DPR). The improved width of Flatbush Avenue would remain unchanged at 100 feet and open to two-way traffic northbound and southbound. The area of the Marginal Street, Wharf or Place to be eliminated is approximately 88.5 acres and is also located within both the project site and the land under the jurisdiction of DPR.

Disposition of City-owned Property:

The project includes the direct fee disposition of two city owned parcels: 1) Kristal Auto Mall with a proposed zoning lot area of 110,302 square feet on Block 8591, part of Lot 125 and part of Lot 175 and 2) Toys 'R' Us, with a proposed zoning lot area of 132,500 square feet on Block 8591 part of Lot 125. In addition, a 26,800 square foot portion of the Lot 100 would be disposed of as a lease easement to Toy 'R' Us for use as surface off-site parking for 81 cars.

The site proposed for sale to the Kristal Auto Mall is currently used as surface parking for the Toys 'R' Us store to the south and the marina to the northeast. The disposition and rezoning would facilitate the development of the proposed auto use on this property. New construction would include a new two-story building and a smaller one-story accessory building totaling 106,781 square feet of floor area.

Toys 'R' Us is currently the lessee of the subject premises pursuant to a lease dated June 7, 1985 with the NYC Department of Ports and Terminals, as landlord. Although the Toys Lease expired on June 6, 2005, Toys has continued to occupy the Subject Premises on a month-to-month basis.

Restrictions are proposed for the disposition of the Toys 'R' Us property and the easement for the 26,800 square foot parking area which will remain in City ownership. The restriction will not allow any Use Group 16 uses on either of these properties, regardless of uses allowed by the underlying zoning district. This restriction will not apply to the parcel proposed to be disposed for the development of the Kristal Auto Mall.

Certification for Waterfront Zoning Lot Subdivision:

The action includes a certification by the Chairperson of the City Planning Commission, pursuant to ZR Section 62-812, Waterfront Zoning Lot Subdivision, for the existing the City-owned zoning lot totaling 1,207,480 square feet (27.7 acres). The existing zoning lot, encompassing Block 8591, p/o Lot 100, and Lots 125, 175, and 980, would be subdivided into three new zoning lots. The three new zoning lots include: A) 964,678 square feet continuing to be held in City ownership by the Department of Small Business Services (DSBS); B) The Kristal Auto Mall parcel, 110,302 square feet; and C) The Toy 'R' Us parcel, 132,500 square feet.

Under the current proposal, the project site does not require a certification pursuant to ZR Section 62-811 for the provision of waterfront public access area, including upland connections, or visual corridors. The proposed Kristal Auto Mall is a Use Group 16 auto use which, in the proposed C8-1 District, is exempt from providing waterfront public access or visual corridors (pursuant to ZR Sections 62-50 and 62-51, respectively) and the Toys 'R' Us parcel is a pre-existing use which will not change and, as such, is not subject to waterfront requirements. Therefore, the waterfront public access areas and visual corridors are not required to be improved at this time.

However, pursuant to ZR Section 62-812 (b), waterfront public access and visual corridors are required, if and when future new non-exempt uses are established on the subdivided zoning lot. As a result, a waterfront zoning lot site plan has been approved, as part of this application, that sets forth the amount and location of the required waterfront public access areas and visual

corridors on all resulting zoning lots, as modified by the concurrent related authorization (C 120109 ZAK). As proposed, all such waterfront public access areas and visual corridors would be on the proposed zoning lot to remain in City ownership. For this City-owned parcel, a letter dated March 13, 2012 from the Department of Small Business Services (DSBS) commits to the provision of waterfront public access areas and visual corridors, in accordance with the approved waterfront zoning site plan, in the event of the development of a new non-exempt use.

Waterfront Public Access would be required for 15% of the existing City-owned 1,207,480 square foot zoning lot, or 181,122 square feet. As indicated on the site plan, the total waterfront public access provided is 197,572 square feet, an amount greater than the requirement. The 197,572 square foot total includes: 99,984 square feet of shore public walkway (3,133 linear feet), 63,542 square feet of supplemental public access area; and six upland connections totaling 34,046 square feet. In addition, five visual corridors will be provided concurrent with the locations of the five planned upland connections.

#### Authorization by the City Planning Commission

In order to meet the findings of the related subdivision action for the existing waterfront zoning lot (Block 8591, p/o Lot 100, and Lots 125, 175, and 980), a site plan that sets forth the amount and location of the required waterfront public access areas and visual corridors on all resulting zoning lots is required. Such waterfront public access areas and visual corridors are required to be provided for the existing zoning lot at the time of development of a non-exempt use.

However, as the site plan does not fully comply with the dimension and location requirements

for waterfront public access areas and visual corridors, an authorization by the City Planning Commission pursuant to ZR Section 62-822(a)(1) is required. The authorization would modify the minimum width of portions of the shore public walkway and the location requirements of visual corridors and upland connections for the existing waterfront zoning lot.

ZR Section 62-53 requires, in C3 Districts, that shore public walkways be 30 feet in width. The shore public walkway is proposed to be narrowed for 419 linear feet, varying in width between 15 - 30 feet, for a total of 2,307 square feet.

ZR Section 62-511 (Location of visual corridors) requires that visual corridors can be no more than 600 feet apart, as measured along the seaward side of the street line adjacent to the zoning lot. The location requirements of Section 62-56 (Requirements for Upland Connections), also has a 600 feet maximum distance, but this distance is measured along the shore public walkway of the waterfront zoning lot. Five visual corridors and six upland connections are required onsite. All required upland connections and visual corridors would be provided, though one interval between one upland connections and one interval between visual corridors will be more than 600 feet. The authorization request is for an increase in maximum interval of one visual corridor to 915 feet and one upland connection to 1,137 feet.

## **ENVIRONMENTAL REVIEW**

This application (C 120108 ZMK) in conjunction with the related actions (C 070512 MMK, C120111 PPK, N12010 ZCK and N 120109 ZAK) 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 12DME002K. The lead agency is the Office of the Deputy Mayor for Economic Development.

After a study of the potential environmental impact of the proposed action, a Negative Declaration was issued on November 23, 2011.

### **UNIFORM LAND USE REVIEW**

This application (C 120108 ZMK), in conjunction with the applications for the related actions, was certified as complete by the Department of City Planning on November 28, 2011 and was duly referred to Community Board 18 and the Brooklyn Borough President, in accordance with Title 62 of the Rules of the City of New York, Section 2-02(b) on December 7, 2011.

### **Community Board Review**

Community Board 18 held a public hearing on this application (C 120108 ZMK), on January 18, 2012 and by a vote of 30 in favor, 1 in opposition, and 2 abstaining adopted a resolution recommending approval of the application with the following conditions:

1. Property not be leased or parking permitted on 60 feet of the adjacent property, since it will negatively impact on the protection of the Four Sparrows Marsh.
2. Reconfigure the Toys 'R' Us building to allow for the required parking spaces.
3. There be no parking of Auto Mall cars in the street and/or on the sidewalk.
4. Sidewalks shall be double width with trees planted with pervious material to collect storm water and include landscaped property borders.

5. A Deed Restriction to limit the height of the buildings to the approved plans and include roof top parapets that obscure visibility of car storage or equipment storage including HVAC.
6. The lighting and/or signage from the buildings and roof tops must not be visible from the waterside.
7. That the rear of all buildings be landscaped with deciduous trees and tall evergreens, so that no portion of the buildings are ever visible from the waterside.
8. Full compliance with all N.Y.S. Department of Environmental Conservation, N.Y.C. Department of Environmental Protection, New York Police Department, and N.Y.C. Department of Buildings regulations and recommendations.
9. Repave and re-stripe the portions of Flatbush Avenue that are improved.
10. Replacement of the existing water main and fire hydrant in front of the Mill Basin Project.
11. Parcel south of the project be dedicated as “Forever Wild” Parkland.
12. The project must be complete within two (2) years from the date of the completion of the U.L.U.R.P Process.
13. That access to Sea Travelers Marina be maintained throughout the construction period.

U.L.U.R.P. #C 070512 MMK

Community Board #18 recommends approval of the portion of the Application for an amendment to the City Map involving the narrowing, by elimination, discontinuance and closing, of Marginal Street, Wharf of Place bounded by Flatbush Avenue, Shore Parkway and Mill Basin.

We Strongly recommend disapproval of the portion of the Application that includes the amendment to the City Map involving the narrowing, by elimination, discontinuance and closing, of any portion of Flatbush Avenue the demapping of the unused portion of Flatbush Avenue from 200 feet of unused roadway from the Belt Parkway north to where ever it ends and including the authorization of any disposition or acquisition of real property related thereto, in Community District #18, Borough of Brooklyn, in accordance with Map Nos, Z-2703 and Z-2704, dated July 30, 2008 and signed by the Borough President.

U.L.U.R.P. #C 120111 PPK

Community Board #18 recommends approval of the Application with the following Deed Restriction to limit the use of the property to retail toys and children’s wear and accessories

**Borough President Recommendation**

This application (C 120108 ZMK) was considered by the Borough President. On February 23,

2012 the Borough President recommended approval of the proposal subject to the following conditions:

1. That use of Zoning Lot B be restricted to Use Group 6C limited to toy stores and youth clothing or clothing accessory stores (limited to 10,000 square feet per establishment) and eating and drinking establishments;
2. That the access to the Sea Travelers Marina be maintained throughout the construction period;
3. That the area to remain in City ownership along Mill Basin be improved and maintained according to the Zoning Resolution's Special Regulations Applying in the Waterfront Area as it pertains to design requirements; Waterfront Public Access Area Requirements for Shore Public Walkways per sections ZR-62-61, 62-65 and 62-70, prior to the issuance of a Temporary Certificate of Occupancy. Such area along the perimeter of the access drive, along the rear of the automobile dealership, shall be planted with closely-space coniferous plantings that would be expected to rapidly grown to the parapet height and deciduous trees along the shoreline side of the shore public walkway;
4. That the Waterfront Public Access Area is paid for by the City from the proceeds from the dispositions and/or by the Bical and/or Toys 'R' Us in exchange for reducing the acquisition cost subject to City Charter 384-b process;
5. That light shields be integrated into all existing and proposed lighting fixtures for all parking areas and driveways;
6. That with the exception of curb-cuts, the curbside frontage shall be improved as bio-swales as a means to collect storm water from Flatbush Avenue;
7. That for the 26,800 sf easement on City-owned Lot 100 to be developed as replacement accessory parking for Toys 'R' Us, such parking area be developed in accordance with the Zoning Resolution section 37-92 (landscaping and storm water run-off requirements) for accessory commercial parking lots and that such parking area shall pass inspection by the Department of Buildings prior to the issuance for any blocking of access to the existing parking spaces that are intended to be displaced;
8. That Bical Development Corporation (Krystal Auto Mall) shall be required to: a) install along the building facade facing Mill Basin wall covering plants extending down from the parapet; and, b) limit illumination of its roof level accessory storage of automobile sales inventory to the inside of the parapet as noted in the application documents and that such lighting shall be programmed to be turned off when the auto-mall is closed to the public. That Toys 'R' Us Delaware, Inc. shall be required



to: a) provide for the planting along the perimeter of the access drive along the rear of the store of closely-space coniferous plantings that would be expected to rapidly grown to the parapet height and with deciduous trees planted on the shoreline side of the coniferous trees; b) install along the building facade facing Mill Basin wall covering plants extending down from the parapet; c) install one or more “green“ building features on its roof, with preference to introducing storm water retention/detention systems or solar energy generation; and, d) maintain vehicular access rights to the City’s Zoning lot A (Lot 100) whether through its own lot or the easement on Lot 100 as a means to limit further curb cuts along Flatbush Avenue should future actions result in a need for vehicular access.

**Approve the Zoning Map Change on the condition,**

1. That prior to the issuance of a Temporary Certificate of Occupancy for Zoning Lot A (Krystal Auto Mall), the Department of Transportation facilitates improvement of Flatbush Avenue with a dedicated left-turn pocket lane and the installation of a traffic signal in alignment with the proposed shared driveway to be opposite the Marine Park Golf Course driveway;

**Approve the De-Mapping action on the condition,**

1. That Flatbush Avenue’s right-of way shall remain at its existing 135 feet mapped width boundary from where it intersects the southernmost boundary of the easement to be granted to Toys ‘R’ Us, restricting the Flatbush Avenue Street Demapping (narrowing of its right-of-way), to the area to the north.

**Be it Further Resolved**

1. That the City issues a Request for Expression of Interest for a unique, mid-sized specialty food store for the land remaining in City ownership that is not in the jurisdiction of the Department of Parks and Recreation;
2. That the 46 acres of Sparrow Marsh be mapped as parkland according to the Draft Scope of Work issued in December 2010.

**City Planning Commission Public Hearing**

On February 8, 2012 (Calendar No. 5), the City Planning Commission scheduled February 29, 2012, for a public hearing on this application (C 120108 ZMK) application. The hearing was duly held February 29, 2012 (Calendar No. 14) in conjunction with the public hearing on the applications for related actions (Calendar No’s 15 & 16). There were eight speakers in favor of

the application and no speakers opposed.

A speaker from the Deputy Mayor for Economic Development's office spoke of how the project would bring new jobs to the community. It was reiterated that the current project is smaller than an earlier iteration and includes only the disposition of an existing use, Toy's 'R' us, and a second disposition to Kristal Auto Mall for new development. The speaker confirmed that there are no current or future development plans for the parcel directly south of the current project and that parcel will remain under the control of the Department of Small Business Services.

Three speakers from the Economic Development Corporation spoke in favor of the project. They described the project, its site plan, building program and parking and the size of the proposed property dispositions. They indicated that the existing use, Toys 'R' Us, provides between 60 and 200 jobs depending upon the season and that the new development, Kristal Auto Mall, would create 50 construction jobs and 150 new permanent jobs.

Counsel to Toys 'R' Us spoke in favor of the project. He mentioned that the store had been at the site for the past 30 years and that the disposition would result in an upgraded store serving retail shoppers and providing employment for local residents. The representative addressed several of the community's concerns indicating that there is a landscaping plan for the parking lot and easement area, including bio swales within the islands; Sea Traveler's Marina will continue to have unobstructed access through easement agreements; and light shields will be installed to minimize intrusion on the adjacent community. He further stated that Toys 'R' Us is

amenable to the use restrictions proposed for the property.

The principal owner of Kristal Auto Mall spoke in favor of the project. He expressed his desire to relocate to the current site and remain in Brooklyn. The speaker said he would be sensitive to the concerns of the community, specifically confirming that he will not park dealership vehicles on the street or sidewalk.

Two local area residents spoke in favor of the project. They both identified themselves as advocates and organizers who support local, responsibility-minded retail. Both speakers conceded that they were most concerned with the parcel to the south that is not currently part the proposed development. They specifically stated their objections to a Wal-Mart and that any future development of that site should include smaller stores that employ local residents in quality jobs.

There were no other speakers and the hearing was closed.

#### **WATERFRONT REVITALIZATION PROGRAM CONSISTENCY**

This application (C 120108 ZMK), in conjunction with the related actions, was reviewed by the Department of City Planning for consistency with the policies of the New York City Waterfront Revitalization Program (WRP), as amended, approved by the City Council on October 13, 1999 and by the New York State Department of State on May 28, 2002, pursuant to the New York State Waterfront Revitalization and Coastal Act of 1981 (New York State Executive Law,

Section 910 et seq.). The designated WRP number is 11-073.

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

## **CONSIDERATION**

The Commission believes that this application for a zoning map amendment (C 120108 ZMK), in conjunction with the related applications (C 070512 MMK, C 120111 PPK, N 120110 ZCK, N 120109 ZCK) is appropriate.

The Commission believes that the zoning map amendment from C3 to C8-1 would facilitate development that is consistent with land use trends and the existing commercial context of the area. The existing use, Toys 'R' Us, would be both a conforming use and a complying building in the proposed C8-1 district, while it's only currently permitted by Board of Standards and Appeals variance. The new Kristal Auto Mall would be a permitted use in the C8-1 district and is a use consistent with the C8-1 district mapped to the north of the project site and commercial uses located on Flatbush Avenue.

The Commission believes that the disposition of City-owned property is appropriate. This action would facilitate the sale of a long established retail use, Toys 'R' Us, and the development of a new auto sales and service establishment, Kristal Auto Mall, on underutilized city-owned

property. The Commission believes that the disposition provides an opportunity for the sale a City-owned asset at fair market value, while fostering economic development and job creation.

The Commission believes that the lease disposition permitting 81 off-site parking spaces from the Department of Small Business Services to Toy's 'R' Us is appropriate. This lease of parking spaces would allow Toy's 'R' Us to meet their parking requirement and would allow additional permitted parking to service the store's operational and customer needs.

The Commission believes that the Use Group 16 restriction for both the sale disposition and the lease disposition for off-site parking for Toys 'R' Us is appropriate. While the existing toy store would be a permitted use in the proposed C8-1 district, this restriction would prevent additional auto-related and semi-industrial uses from being permitted on this zoning lot. The Commission believes this restriction would prevent inappropriate future development on this waterfront block.

The Commission believes that narrowing by elimination, discontinuance and closing of a portion of Flatbush Avenue is appropriate as the de-mapping will not change the width of the existing built street. The street is built to a 100-foot width and has three active lanes of traffic in each direction. By de-mapping this undeveloped portion of Flatbush Avenue, the property can be disposed of to the existing use (Toys 'R' Us) and for the new development (Kristal Auto Mall).

The Commission believes that the elimination, discontinuance and closing of Marginal Street, Wharf or Place, adjacent to the development, and on the property under the jurisdiction of the Department of Parks and Recreation is appropriate. The Commission notes that the de-mapping

does not change the existing un-built condition of the street. Historically, this and other waterfront areas were mapped for potential water-related commerce and as this area is devoid of such activity and for its majority is undergoing restoration as a forever wild sanctuary, its de-mapping is deemed appropriate. The de-mapping is further supported by the local Community Board and the Borough President, as a pre-cursor to mapping part of this area with full, park mapping status sometime in the future.

The proposed development would be accessed through three entrances: an existing 58.5-foot curb cut to the south, an existing 28-foot curb cut to the north and a new 30-foot curb cut at the shared central entrance to both commercial uses. The Commission believes that these entrance/egress points together with eighteen (18) reservoir spaces at the car service/repair center will address the volume of traffic anticipated at the site.

The principal vehicular access to the proposed development would be located on Flatbush Avenue adjacent to the Belt Parkway/Shore Parkway. The Commission notes that the proposed development site is within easy access to both the entrances and exits to the parkway, minimizing the amount of traffic generated by the development that would travel on local streets.

The Commission believes that the authorization modifying the minimum width of portions of the shore public walkway and the location requirements of visual corridors and upland connections is appropriate. It is noted that waterfront public access is not required to be built today, as the project consists of an existing retail use with reconfigured parking and a new auto development

that is exempt. As a result, subdivision requirements for waterfront access and the authorization modifying them will only become effective if future non-exempt development occurs on the remaining city-owned parcel. The Commission believes that the waiver allowing the future potential shore public walkway to be narrowed for 419 of 3,133 linear feet (due to site topography) and the waiver of location requirements for 1 of 5 visual corridors and 1 of 6 upland (conflicts with footprint of the new development) are appropriate, as they comply with minimum dimensions and equal the required total area in aggregate, and provide equivalent public use at their locations.

The Commission notes that in a letter dated March 13, 2012 from the Department of Small Business Services (DSBS), there is a commitment for providing waterfront public access areas and visual corridors, in accordance with the approved waterfront zoning site plan, in the event of the development of a new non-exempt use.

The Commission recognizes the recommendations of Community Board 18 and the Brooklyn Borough President and while some of the measures requested are beyond the scope of this project, the Commission encourages and endorses the positive commitments the applicant made in their written response to comments and through their testimony at the CPC public hearing.

The Commission believes that the implementation of the following measures addresses several outstanding site planning issues and the concerns of the residential community to the northeast.

These commitments include:

- Kristal Auto Mall will not park dealership cars on the sidewalk or street;
- To the extent possible, screen the existing and new development through landscaping and tree planting buffers, light shielding and timing, and complying parapet heights;
- Construction of bio-swales to collect storm water on the Toys 'R' Us parking islands and the off-site parking area;
- Between 14 to 20 foot separation between the development and parking lots with a combination of sidewalk, pervious groundcover and landscaping;
- Full and unimpeded access to the adjacent Sea Traveler's Marina during construction and after project completion;
- As required by the City Mapping Agreement: Replace the water main on the north side of Flatbush Avenue, install fire hydrants within a distance of 250 feet of all building entrances and amend the City's existing, proposed and pending drainage plan to reflect the change in the City Map;
- Area traffic signal timing changes and a new left pocket turning lane and its re-signalized intersection at the new 30-foot curb cut to reduce potential traffic conflicts; and
- The ongoing general maintenance of the site and its perimeter, free from bulk trash and debris.



## **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**, 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 and findings 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. 29a and 29c, changing from a C3 District to a C8-1 District property bounded by a line perpendicular to the northeasterly street line of Flatbush Avenue distant 1290 feet northwesterly (as measured along the street line) from the point of intersection of the northeasterly street line of Flatbush Avenue and the northerly street line of Shore Parkway, a line 100 feet northeasterly of Flatbush Avenue, a line at an angle of 42 degrees to Flatbush Avenue and passing through a point on the northeasterly street line of Flatbush Avenue distant 1290 feet northwesterly (as measured along the street line) from the point of intersection of the northeasterly street line of Flatbush Avenue and the northerly street line of Shore Parkway, a line 400 feet northeasterly of Flatbush Avenue, a line perpendicular to the northeasterly street line of Flatbush Avenue distant 420 feet northwesterly (as measured along the street line) from the point

of intersection of the northeasterly street line of Flatbush Avenue and the northerly street line of Shore Parkway, and Flatbush Avenue, Borough Brooklyn, Community District 18, as shown on a diagram (for illustrative purposes only) dated November 28, 2011.

The above resolution (C 120108 ZMK), duly adopted by the City Planning Commission March 28, 2012 (Calendar No. 9 is filed with the Office of the Speaker, City Council, and the 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**  
**KENNETH J. KNUCKLES, Esq., Vice Chairman**  
**ANGELA M. BATTAGLIA, RAYANN BESSER, IRWIN G. CANTOR, P.E.,**  
**ALFRED C. CERULLO, III, MARIA M. DEL TORO,**  
**RICHARD W. EADDY, ANNA HAYES LEVIN, ORLANDO MARIN,**  
**SHIRLEY A. McRAE, Commissioners**

5+5  
1-26



# Community/Borough Board Recommendation

Pursuant to the Uniform Land Use Review Procedure

Application #: **C 120108 ZMK**

Project Name: **Mill Basin Project**

CEQR Number: 12DME002K

Borough(s): **Brooklyn**

Community District Number(s): 18

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](mailto: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 NYC Department of Small Business Services pursuant to Sections 197-c and 201 of the New York City Charter for the amendment of the Zoning Map, Section Nos. 29a and 29c, changing from a C3 District to a C8-1 District property bounded by a line perpendicular to the northeasterly street line of Flatbush Avenue\* distant 1290 feet northwesterly (as measured along the street line) from the point of intersection of the northeasterly street line of Flatbush Avenue\* and the northerly street line of Shore Parkway, a line 100 feet northeasterly of Flatbush Avenue\*, a line at an angle of 42 degrees to Flatbush Avenue\* and passing through a point on the northeasterly street line of Flatbush Avenue\* distant 1290 feet northwesterly (as measured along the street line) from the point of intersection of the northeasterly street line of Flatbush Avenue\* and the northerly street line of Shore Parkway, a line 400 feet northeasterly of Flatbush Avenue\*, a line perpendicular to the northeasterly street line of Flatbush Avenue\* distant 420 feet northwesterly (as measured along the street line) from the point of intersection of the northeasterly street line of Flatbush Avenue\* and the northerly street line of Shore Parkway, and Flatbush Avenue\*, Borough of Brooklyn, Community District 18, as shown on a diagram (for illustrative purposes only) dated November 28, 2011.

\*Note: a portion of Flatbush Avenue is proposed to be narrowed under a concurrent related application (C 070512 MMK) for a change in the City Map.

Applicant(s): NYC Department of Small Business Services 110 William Street, 7th Floor New York, NY 10038  Phone (212) 513-5000 Fax (212) 618-8991		Applicant's Representative: Hardy Adasko NYC Economic Development Corporation 110 William Street, 3rd Floor New York, NY 10038 Phone (212) 312-3703 Fax (212) 618-5785	
Recommendation submitted by: Brooklyn Community Board 18			
Date of public hearing: 1/18/12		Location: Kings Plaza Community Room Flatbush Avenue & Avenue V Brooklyn, New York 11234	
Was a quorum present? YES <input checked="" type="checkbox"/> 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: January 18, 2012		Location: Same as above	
<b>RECOMMENDATION</b> <input type="checkbox"/> Approve <input checked="" type="checkbox"/> Approve With Modifications/Conditions <input type="checkbox"/> Disapprove <input type="checkbox"/> Disapprove With Modifications/Conditions			
<b>Please attach any further explanation of the recommendation on additional sheets, as necessary.</b>			
<b>Voting</b> # In Favor: 30 # Against: 1 # Abstaining: 2      Total members appointed to the board: 47			
Name of CB/BB officer completing this form <i>Dorothy Turano</i> Dorothy Turano		Title District Manager	Date 1/19/12

CITY PLANNING  
 DEPT. OF CITY PLANNING  
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## COMMUNITY BOARD No. 18

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1097 BERGEN AVENUE • BROOKLYN, NEW YORK 11234-4841  
718.241.0422 tel  
718.531.3199 fax  
email:bkbrd18@optonline.net

MICHAEL R. BLOOMBERG  
Mayor  
MARTY MARKOWITZ  
Borough President

SAUL NEEDLE  
Chairperson  
DOROTHY TURANO  
District Manager

Re: U.L.U.R.P. #C 120108 ZMK

Community Board #18 recommends approval of the Application subject to the following terms and conditions:

- Property not be leased or parking permitted on 60 feet of the adjacent property, since it will negatively impact on the protection of the Four Sparrows Marsh.
- Reconfigure the Toys 'R Us building to allow for the required parking spaces.
- There be no parking of Auto Mall cars in the street and/or on the sidewalk.
- Sidewalks shall be double width with trees planted with pervious material to collect storm water and include landscaped property borders.
- A Deed Restriction to limit the height of the buildings to the approved plans and include roof top parapets that obscure visibility of car storage or equipment storage including HVAC.
- The lighting and/or signage from the buildings and roof tops must not be visible from the waterside.
- That the rear of all buildings be landscaped with deciduous trees and tall evergreens, so that no portion of the buildings are ever visible from the waterside.
- Full compliance with all N.Y.S. Department of Environmental Conservation, N.Y.C. Department of Environmental Protection, New York Police Department, and N.Y.C. Department of Buildings regulations and recommendations.
- Repave and re-stripe the portions of Flatbush Avenue that are improved.
- Replacement of the existing water main and fire hydrant in front of the Mill Basin Project.
- Parcel south of the Project be dedicated as "Forever Wild" Parkland.
- The project must be complete the Project within two (2) years from the date of the completion of the U.L.U.R.P. Process.
- That access to Sea Travelers Marina be maintained throughout the construction period.

5-9 1-26



# Community/Borough Board Recommendation

Pursuant to the Uniform Land Use Review Procedure

Application #: <b>C 070512 MMK</b>	Project Name: <b>Mill Basin / Flatbush Ave Demapping</b>
CEQR Number: 12DME002K	Borough(s): Brooklyn Community District Number(s): 18

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](mailto: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 the Department of Small Business Services pursuant to Sections 1302, 197-c and 199 of the New York City Charter and Section 5-430 *et seq.* of the New York City Administrative Code for an amendment to the City Map involving the narrowing, by elimination, discontinuance and closing, of a portion of Flatbush Avenue between Avenue U and Pelican Street; the elimination, discontinuance and closing of Marginal Street, Wharf or Place bounded by Flatbush Avenue, Shore Parkway and Mill Basin\*; and the adjustment of grades necessitated thereby, including authorization for any disposition or acquisition of real property related thereto, in Community District 18, Borough of Brooklyn, in accordance with Map Nos. Z-2703 and Z-2704, dated July 30, 2008 and signed by the Borough President.

\* This change to Marginal Street, Wharf or Place, where such Marginal Street, Wharf or Place is shown on any existing plans for the water front or portion thereof, shall be incorporated into the City Map.

Applicant(s): NYC-DSBS, 110 William St, 7th Floor, NY, NY 10038 212-512-5300	Applicant's Representative: Hardy Adasko NYC-EDC, 110 William St, 3rd Floor, NY, NY 10038 212-312-3703
Recommendation submitted by: Brooklyn Community Board 18	
Date of public hearing: 1/18/12	Location: Kings Plaza Community Room Flatbush Avenue & Avenue V Brooklyn, New York 11234
Was a quorum present? YES <input checked="" type="checkbox"/> 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: January 18, 2012	Location: Same as above
<b>RECOMMENDATION</b> <input type="checkbox"/> Approve <input type="checkbox"/> Disapprove <input checked="" type="checkbox"/> Approve With Modifications/Conditions <input type="checkbox"/> Disapprove With Modifications/Conditions	
<b>Please attach any further explanation of the recommendation on additional sheets, as necessary.</b>	
<b>Voting</b> # In Favor: 30 # Against: 1 # Abstaining: 2 Total members appointed to the board: 47	
Name of CB/BB officer completing this form <i>Dorothy Turano</i> Dorothy Turano	Title District Manager
Date 1/19/12	



MICHAEL R. BLOOMBERG  
Mayor  
MARTY MARKOWITZ  
Borough President  
SAUL NEEDLE  
Chairperson  
DOROTHY TURANO  
District Manager

## COMMUNITY BOARD NO. 18

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1097 BERGEN AVENUE • BROOKLYN, NEW YORK 11234-4841  
718.241.0422 tel  
718.531.3199 fax  
email:bkbrd18@optonline.net

Re: U.L.U.R.P. #C 070512 MMK

Community Board #18 recommends **approval** of the portion of the Application for an amendment to the City Map involving the narrowing, by elimination, discontinuance and closing, of Marginal Street, Wharf or Place bounded by Flatbush Avenue, Shore Parkway and Mill Basin.

We strongly recommend **disapproval** of the portion of the Application that includes the amendment to the City Map involving the narrowing, by elimination, discontinuance and closing, of any portion of Flatbush Avenue the demapping of the unused portion of Flatbush Avenue from 200 feet of unused roadway from the Belt Parkway north to where ever it ends and including the authorization for any disposition or acquisition of real property related thereto, in Community District #18, Borough of Brooklyn, in accordance with Map Nos. Z-2703 and Z-2704, dated July 30, 2008 and signed by the Borough President.



# Community/Borough Board Recommendation

Pursuant to the Uniform Land Use Review Procedure

Application # **C 120111 PPK**

Project Name: **Mill Basin Project**

CEQR Number **12DME002K**

Borough(s): **Brooklyn**

Community District Number(s): **18**

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](mailto: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 the NYC Department of Small Business Services (SBS), pursuant to Section 197-c of the New York City Charter, for disposition to the New York City Economic Development Corporation (EDC) of city-owned property located at 2875 Flatbush Avenue (Block 8591, p/o Lot 100, p/o Lot 125, and p/o Lot 175), which includes the disposition of an easement over p/o Lot 100 and a restriction prohibiting Use Group 16 on Block 8591, p/o Lot 100 and p/o Lot 125, Borough of Brooklyn, Community District 18.

2012 JAN 24 AM 11:11  
 DEPT OF CITY PLANNING  
 117 N. ARMY ST. 5TH FL.

Applicant(s): NYC Department of Small Business Services 110 William Street, 7th Floor New York, NY 10038 Phone (212) 513-5000 Fax (212) 618-8991		Applicant's Representative: Hardy Adasko NYC Economic Development Corporation 110 William Street, 3rd Floor New York, NY 10038 Phone (212) 312-3703 Fax (212) 618-5785	
Recommendation submitted by: Brooklyn Community Board 18			
Date of public hearing: <b>1/18/12</b>		Location: <b>Kings Plaza Community Room Flatbush Avenue &amp; Avenue V Brooklyn, New York 11234</b>	
Was a quorum present? YES <input checked="" type="checkbox"/> 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: <b>January 18, 2012</b>		Location: <b>Same as above</b>	
<b>RECOMMENDATION</b> <input type="checkbox"/> Approve <input checked="" type="checkbox"/> Approve With Modifications/Conditions <input type="checkbox"/> Disapprove <input type="checkbox"/> Disapprove With Modifications/Conditions			
<b>Please attach any further explanation of the recommendation on additional sheets, as necessary.</b>			
<b>Voting</b> # In Favor: <b>30</b> # Against: <b>1</b> # Abstaining: <b>2</b> Total members appointed to the board: <b>47</b>			
Name of CB/BA officer completing this form <i>Dorothy Turano</i> Dorothy Turano		Title District Manager	Date 1/19/12



MICHAEL R. BLOOMBERG  
Mayor  
MARTY MARKOWITZ  
Borough President  
SAUL NEEDLE  
Chairperson  
DOROTHY TURANO  
District Manager

## COMMUNITY BOARD NO. 18

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1097 BERGEN AVENUE • BROOKLYN, NEW YORK 11234-4841  
718.241.0422 tel  
718.531.3199 fax  
email:bkbrd18@optonline.net

Re: U.L.U.R.P. #C 120111 PPK

Community Board #18 recommends approval of the Application with the following Deed Restriction to limit the use of the property to retail toys and children's wear and accessories.



# Brooklyn Borough President Recommendation

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



OFFICE OF THE BROOKLYN BOROUGH PRESIDENT

BROOKLYN BOROUGH HALL  
209 Joralemon Street  
Brooklyn New York 11202  
FAX# (718) 802-3920

## 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 #: **120108 ZMK – 1120111 PPK – 070512 MMK** **MILL BASIN PROJECT**

In the matter of applications submitted by the NYC Department of Small Business Services (SBS), pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map from a C3 district to a C8-1 district and for disposition to the New York City Economic Development Corporation (EDC) for city-owned property located at 2875 Flatbush Avenue in Community District 18; and pursuant to Sections 1302, 197-c and 199 of the New York City Charter and Section 5-430 of the New York City Administrative Code for an amendment to the City Map.

COMMUNITY DISTRICT NO. 18 BOROUGH OF BROOKLYN

## RECOMMENDATIONS (page 6-7)

### **120108 ZMK**

APPROVE w/  
Conditions

### **1120111 PPK**

APPROVE w/  
Conditions

### **070512 MMK**

APPROVE w/  
Conditions

Recommendation report follows

\_\_\_\_\_  
BOROUGH PRESIDENT

February 23, 2012

\_\_\_\_\_  
DATE

**RECOMMENDATION FOR THE PROPOSED  
CITY AND ZONING MAP AMENDMENTS AND DISPOSITION OF CITY OWNED  
PROPERTY  
120108 ZMK – 1120111 PPK – 070512 MMK**

**Public Hearing**

On February 8, 2012 the Borough President held a public hearing on these applications. A representative from the NYC Economic Development Corporation (EDC) detailed the main points of the application and two members of the community provided testimony in favor of the proposal, noting the decrease in scale as compared to the original plan intended for this site. The issue of the remaining undeveloped land was mentioned by both speakers, who agreed that transferring the land to the jurisdiction of the Department of Parks and Recreation (DPR) would be the best course of action.

In response to the Borough President's interest in how the applicant responds to Community Board 18's (CB 18) recommendations, the representative for EDC commented that analysis is still ongoing concerning these recommendations, but did explain that Toys R Us does not intend to reconfigure its building.

**Consideration**

The Borough President generally supports land use actions that will result in the creation or maintenance of businesses and employment opportunities in Brooklyn where appropriately located. This proposal will allow the toy store to modernize and for the auto dealer to relocate to a modern facility.

The Borough President believes that this proposal will result in a number of opportunities as this site along Flatbush Avenue is improved. In addition to the jobs that the new auto-mall will create, by virtue of this proposal, opportunity for access and improvement along the waterfront can be realized – serving as a benefit to the greater Mill Basin area. There would be improvement of the handling of storm water run-off from the site and to traffic control by virtue of the turning lane and traffic signal.

Community Board 18 voted to approve the applications with a number of conditions. Among them were reconfiguring the Toys“R”Us building; not permitting parking on the easement area but rather setting it aside with the balance of the unused land for use as a park left in an undeveloped state; retaining the right-of-way width of Flatbush Avenue for incorporating of a bus pull over or turn-around land; and, landscaping to establish a visual buffer.

In considering the recommendations presented by the CB 18 the Borough President believes that it is not necessary to rebuild Toys“R”Us as a means to retain visual access to Mill Basin. This section of Flatbush Avenue is not within the larger residential neighborhood and there are substantial sections south of Kings Plaza where the shoreline is not obstructed by development. In terms of the interest to create a bus turn-around lane, there will not be enough demand to justify such an amenity for these two uses.

The Borough President recognizes that having the Q35 stop in what is otherwise a moving lane of traffic does not make an ideal condition. If additional development were to be considered in the future, CB 18's recommendation warrants consideration. Without the narrowing of the Flatbush

Avenue right-of-way, property already developed as Toys“R”Us parking would remain as part of the street. As for the auto-mall, it would not be able to locate the used car sales building, its customer parking in the front of the building and its display vehicles along the sidewalk. Without such additional land from the street right-of-way, the auto-mall would have to be reduced in a manner that might compromise the project. The Borough President does not believe there is value to the public to retain this section of right-of-way area.

#### Future Use of Toys“R”Us

The Borough President has some concern over the lack of clarity of what might be the future use of the toy store. The City intends to impose a restriction that precludes re-use as an automotive facility as otherwise permitted by the requested C8 zoning. No other restrictions are under formal consideration.

The Mill Basin Toys R Us store was established pursuant to the granting of a Use variance by the Board of Standards and Appeals, therefore, the Borough President believes it to be appropriate to generally adhere to the community’s acceptance of having a toy store at this location in the years to come. This is especially true given that the property is to be sold to Toys“R”Us Delaware, Inc. (Toys“R”Us) for the exclusive purposes of allowing the facility to be upgraded. The Borough President understands that as part of the store’s upgrading, the merchandise will include clothing products that might otherwise be sold at Babies R Us. As it is impossible to predict consumer trends, the Borough President believes it is appropriate to have a certain amount of flexibility. Therefore as long as the zoning lot to be sold to Toys“R”Us is not merged into some alternative configuration, he supports subdividing the building to incorporate one or more youth clothing or clothing accessory stores, limited to 10,000 square feet per establishment. This would allow, for example, a Babies“R”Us to be established separate from the toy store.

In addition, given this waterfront location, the Borough President believes that the property is very appropriate for locating one or more dining establishments. Given Brooklyn’s population, the borough is truly lacking when it comes to having waterfront dining opportunities. The Borough President believes that waterfront locations are one of a handful of opportunities that can be used to entice destination restaurants to the borough. By attracting destination restaurants to the borough, one of his goals of strengthening the allure of the waterfront can be met. This section already has Nick’s Lobster House and is a perfect site for another such restaurant. The Mill Basin waterway, with its Sea Travelers Marina and views overlooking the Four Sparrow Marsh Forever Wild natural habitat, provides the perfect foreground to the marvelous view extending out to the Belt Parkway overpass as Mill Basin connects to Jamaica Bay. Having such a dining opportunity would enhance the public’s shorefront access experience by enticing even more people to enjoy this section of Mill Basin.

Therefore, the Borough President believes that the use of Zoning Lot B should be restricted to Use Group 6C, limited to Toy Stores, youth clothing or clothing accessory stores (limited to 10,000 square feet per establishment) and Eating and drinking establishments.

#### Mill Basin Shoreline (Access for Pedestrians and the Marina and Building Screening)

The Borough President has concern with regard to access issues to both the Sea Travelers Marina, general public access along the shoreline and the adequacy of visual screening of the buildings from across the Mill Basin.

Application documents do not clarify how access to the Sea Travelers Marina would not be impeded during construction of the sites to be disposed by the City and within the shoreline property to remain

in city ownership. The Borough President believes that without appropriate consideration, it is possible to deny or hinder access for marina users due to any construction between the shoreline and Flatbush Avenue.

As an existing use, the toy store will not trigger requirements for waterfront public access. The auto-mall, as a Use Group 16 use, also does not trigger such a requirement. Though, in anticipation of the fact that the requested zoning allows retail and commercial establishments, the city is setting aside the shoreline area to meet future public access requirement should the auto-mall subsequently be converted to retail or other forms of commercial use that have such a requirement. The Borough President believes that it is appropriate to provide the waterfront public access improvements in conjunction with the planned construction pertaining to both dispositions. Such an improvement would essentially link Nick's Lobster House to the Sea Travelers Marina and the Forever Wild section of the Four Sparrow Marsh parkland.

The Borough President believes that existing and proposed buildings should be adequately screened from what can be viewed by the residents that live across Mill Basin. Unfortunately, the illustrative development plan merely provides just enough yard width for driveways behind the toy store and auto-mall. The sole opportunity to establish a visual buffer as part of the screening should be accomplished through tree planting on the remaining city-owned property. This should be achieved through a combination of the tree planting requirements for the waterfront public access area and whatever supplemental plantings that result in an inner line of coniferous trees and a line of deciduous trees closer to the shoreline.

The Borough President believes that the City should either use the proceeds of the land sales or reduce the sales price and have one or both parties to the land disposition construct the waterfront public access area and the supplemental landscaping for the purposes of achieving a visual screening.

The existing building height of the toy store and the planned height of the auto-mall will exceed the height of the landscaped visual buffer for many years. In being respectful of the views for those living across the Basin, the Borough President believes that additional steps should be taken to introduce landscaping to these facades. He believes that this could be addressed through wall covering plants that extend down from the top of the parapet or through other techniques that can establish a wall of greenery.

In order to address his concerns about disrupted shorefront access, the Borough President believes that as part of the disposition agreements, access to the Sea Travelers Marina should be maintained throughout the construction period. In addition, shoreline public access for pedestrians should be achieved on the area to remain in city ownership along the Mill Basin. This pathway should be improved and maintained according to the Zoning Resolution's Special Regulations Applying in the Waterfront Area as it pertains to design requirements from Waterfront Public Access Area Requirements for Shore Public Walkways. The improvements should be performed in conjunction with the work on both the auto-mall and toy store sites.

The city-owned area along the perimeter of the access drive, along the rear of the automobile dealership and the toy store, should be planted with closely-space coniferous plantings that would be expected to rapidly grown to the parapet height and deciduous trees along the shoreline side of the shore public walkway. In order to pay for these improvements on the city-owned land, funds should either be diverted from the proceeds from the dispositions and/or by Bical Development Corporation and/or Toys R Us Delaware in exchange for reducing the acquisition cost subject to City Charter 384-b

process. Further, both Bical Development Corporation (Krystal Auto Mall) and Toys“R”Us should be required to install along the building facade facing Mill Basin wall covering plants extending down from the parapet

#### Light Pollution

The Borough President has concern for how light pollution could potentially disturb the adjacent Mill Basin and Four Sparrow Marsh wild life habitat as well as be a quality-of-life impact for those who reside across the Mill Basin. The project documents disclose that light shields would be part of parking lot light fixtures and that low-level lighting, such as being incorporated on the inside perimeter of the parapet wall. The Borough President believes that these are adequate design solutions to address his concerns.

In order to assure that these aspects are included in the construction, the Borough President believes that the land disposition agreement should require for light shields to be integrated into all existing and proposed lighting fixtures for all parking areas and driveways. Furthermore, Bical Development Corporation (Krystal Auto Mall) should be required to limit illumination of its roof level accessory storage of automobile sales inventory to the inside of the parapet and that such lighting shall be programmed to be turned off when the auto-mall is closed to the public.

#### Storm Water Management

The Borough President has concerns regarding the storm water that has been finding its way to Mill Basin from the site and the adjacent section of Flatbush Avenue. He recognizes that the City does not have storm water infrastructure to capture such run-off for treatment at one of the City’s water pollution control plants, thus, storm water makes its way into Mill Basin either as surface water sheet flow or through a storm water outlet at the shoreline. The application documents describe several alternative means to best filter on-site storm water runoff. As for Flatbush Avenue, other than a relocation of the storm line in order to accommodate the proposed septic system to handle projected sanitary waste demands, there does not appear to be any attempt to improve the water quality of storm water collected from Flatbush Avenue that is drained to Mill Basin.

The Borough President believes that development of this site provides an opportunity to take advantage of innovative storm water “green” design solutions. For example, with the exception of curb-cuts, the curbside frontage should be improved as bio-swales as a means to collect storm water from Flatbush Avenue while improving the aesthetics of this section of the gateway into southern Brooklyn. In addition, he seeks that the 26,800 square foot easement on City-owned Lot 100 being developed as replacement accessory parking for the toy store be developed in accordance with the Zoning Resolution section regarding landscaping and storm water run-off requirements for accessory commercial parking lots. Finally, Toys“R”Us should be required by the land disposition agreement to install one or more “green” building features on its roof, with preference to introducing storm water retention/detention systems or solar energy generation.

#### Parking and Traffic

The Borough President has concerns regarding the shifting of the parking area for the toy store as well as how access to parking on the remaining city-owned land should a need be identified at a subsequent date. In addition, he seeks assurances that traffic improvements would be implemented in a timely manner.

The construction site for the auto-mall requires the displacement of a significant number of parking spaces that have been available to the toy store. Partial compensation for the loss of these parking

spaces would be achieved by having approximately a width of 60 feet dedicated as an easement to construct parking spaces on the adjacent city-owned property. The city would retain all other rights to this property. The timing of when these spaces are constructed/made available to toy store patrons in relationship to when other spaces would be taken out of use is critical to avoid unintended consequences.

Without adequate provisions, subsequent use of the remaining city-owned land would require a curb cut to provide vehicular access, whether that be for site maintenance or permitting additional public access to the property. Given the proximity of this property to the westbound Belt Parkway exit ramp to Flatbush Avenue, it might not be in the best interest of traffic safety to introduce a future curb cut.

Traffic to and from the site would benefit from a signalized traffic control in alignment with the Marine Park Golf Course and that a dedicated left-turn lane be incorporated into south bound Flatbush Avenue as part of the traffic management consideration. Implementation of such traffic improvements in a timely manner is expected to improve safety and quality-of-life through better managing traffic congestion.

In order to address his concerns, the Borough President believes that the 26,800 square foot easement on the city-owned land should be fully developed as replacement accessory parking for the toy store, and only after passing inspection by the Department of Buildings to permit use should there be any blocking of access to the existing parking spaces that are intended to be displaced. Furthermore, the land disposition agreement and/or the terms of the easement should set forth that Toys“R”Us should be required to maintain vehicular access rights to the City’s Zoning lot A (Lot 100) whether through its own lot and/or through the easement as a means to limit further curb cuts along Flatbush Avenue should future intentions result in a need for vehicular access.

With regards to the roadway improvements, he believes that prior to the issuance of a Temporary Certificate of Occupancy for Zoning Lot A (Krystal Auto Mall), the Department of the Transportation should facilitate improvement of Flatbush Avenue with a dedicated left-turn pocket lane and the installation of a traffic signal in alignment with the proposed shared driveway to be opposite the Marine Park Golf Course driveway.

#### Future Use of Remaining City-Owned Property

The Borough President has an interest in what should happen with the remaining city-owned property. He believes that it is premature for the section along Flatbush Avenue to be enlarged through the reduction of right-of-way width until there is a clear mandate for how the adjacent city-owned land should be utilized. For example, if plans to pursue additional retail were re-instated, it is possible that the excess right-of-way could accommodate a bus pull over lane for the Q-35 or perhaps a bus turnaround lane if transit use demands warranted such an improvement. Even if the property were to be transferred to the jurisdiction of the Department of Parks and Recreation, the excess right-of-way area could be utilized for school bus pull over parking to assist school children in gaining access to the adjacent natural area.

Should the property be pursued for commercial development, the Borough President believes that this location is not an appropriate site for big-box type development. It is the Borough President’s preference that development be limited to a medium sized, full-service specialty food market such as a Fairway or Trader Joe’s. There are few sites in southern Brooklyn to bring the type of fresh food and low prices that is available elsewhere in Brooklyn. Fairway’s product line is complimentary to supermarkets yet brings something unique that is often not obtainable except from some of the largest

supermarket operators. The Borough President believes the city should learn whether the development of such a store, which clearly would represent less development than had been considered when the original development proposal was under consideration last year, would be feasible at this location.

The Borough President appreciates that DPR has the majority of its Four Sparrow Marsh holdings designated as “Forever Wild.” He believes that having all of its Four Sparrow Marsh holdings would benefit from being mapped as parkland as that is the highest level of protection to see that properties are preserved in perpetuity. It is unfortunate that a decision was made to not pursue the parkland mapping when it was determined that a portion of city-owned property would be deferred from consideration.

In order to address his concerns, the Flatbush Avenue right-of way should remain at its existing 135 feet mapped width boundary to the south of the easement to be granted to Toys“R”Us. Further, the City should issue a Request for Expression of Interest for a unique, mid-sized specialty food store, such a Fairway or Trader Joe’s, for the land remaining in City ownership that is not in the jurisdiction of the Department of Parks and Recreation. Finally, that the 46 acre Four Sparrow Marsh should be mapped as parkland.

### **Recommendation**

Be it resolved that the Borough President of Brooklyn, pursuant to section 197-c of the New York City Charter, recommends the following actions to the City Planning Commission and City Council:

#### **Approve the land disposition based on the condition,**

1. That use of Zoning Lot B be restricted to Use Group 6C limited to toy stores and youth clothing or clothing accessory stores (limited to 10,000 square feet per establishment) and eating and drinking establishments;
2. That the access to the Sea Travelers Marina be maintained throughout the construction period;
3. That the area to remain in City ownership along Mill Basin be improved and maintained according to the Zoning Resolution’s Special Regulations Applying in the Waterfront Area as it pertains to design requirements; Waterfront Public Access Area Requirements for Shore Public Walkways per sections ZR-62-61, 62-65 and 62-70, prior to the issuance of a Temporary Certificate of Occupancy. Such area along the perimeter of the access drive, along the rear of the automobile dealership, shall be planted with closely-space coniferous plantings that would be expected to rapidly grown to the parapet height and deciduous trees along the shoreline side of the shore public walkway;
4. That the Waterfront Public Access Area is paid for by the City from the proceeds from the dispositions and/or by the Bical and/or Toys“R”Us in exchange for reducing the acquisition cost subject to City Charter 384-b process;
5. That light shields be integrated into all existing and proposed lighting fixtures for all parking areas and driveways;
6. That with the exception of curb-cuts, the curbside frontage shall be improved as bio-swales as a means to collect storm water from Flatbush Avenue;

7. That for the 26,800 sf easement on City-owned Lot 100 to be developed as replacement accessory parking for Toys“R”Us, such parking area be developed in accordance with the Zoning Resolution section 37-92 (landscaping and storm water run-off requirements) for accessory commercial parking lots and that such parking area shall pass inspection by the Department of Buildings prior to the issuance for any blocking of access to the existing parking spaces that are intended to be displaced;
8. That Bical Development Corporation (Krystal Auto Mall) shall be required to:
  - a) install along the building facade facing Mill Basin wall covering plants extending down from the parapet; and,
  - b) limit illumination of its roof level accessory storage of automobile sales inventory to the inside of the parapet as noted in the application documents and that such lighting shall be programmed to be turned off when the auto-mall is closed to the public.
9. That Toys“R”Us Delaware, Inc. shall be required to:
  - a) provide for the planting along the perimeter of the access drive along the rear of the store of closely-space coniferous plantings that would be expected to rapidly grown to the parapet height and with deciduous trees planted on the shoreline side of the coniferous trees;
  - b) install along the building facade facing Mill Basin wall covering plants extending down from the parapet;
  - c) install one or more “green“ building features on its roof, with preference to introducing storm water retention/detention systems or solar energy generation; and,
  - d) maintain vehicular access rights to the City’s Zoning lot A (Lot 100) whether through its own lot or the easement on Lot 100 as a means to limit further curb cuts along Flatbush Avenue should future actions result in a need for vehicular access.

**Approve the Zoning Map Change on the condition,**

1. That prior to the issuance of a Temporary Certificate of Occupancy for Zoning Lot A (Krystal Auto Mall), the Department of Transportation facilitates improvement of Flatbush Avenue with a dedicated left-turn pocket lane and the installation of a traffic signal in alignment with the proposed shared driveway to be opposite the Marine Park Golf Course driveway;

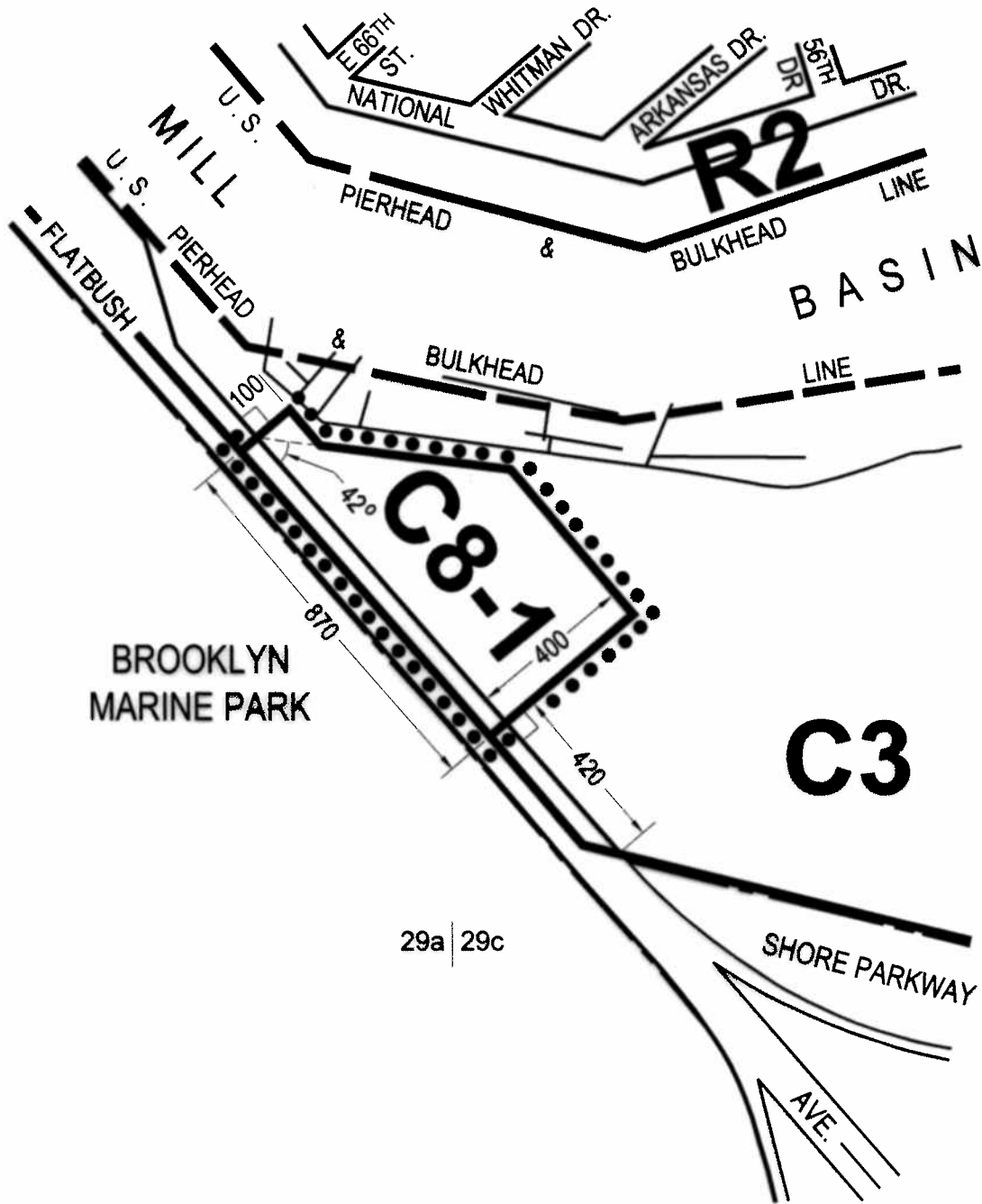
**Approve the De-Mapping action on the condition,**

1. That Flatbush Avenue’s right-of way shall remain at its existing 135 feet mapped width boundary from where it intersects the southernmost boundary of the easement to be granted to Toys“R”Us, restricting the Flatbush Avenue Street Demapping (narrowing of its right-of-way), to the area to the north.

**Be it Further Resolved**

1. That the City issues a Request for Expression of Interest for a unique, mid-sized specialty food store for the land remaining in City ownership that is not in the jurisdiction of the Department of Parks and Recreation;
2. That the 46 acres of Sparrow Marsh be mapped as parkland according to the Draft Scope of Work issued in December 2010.

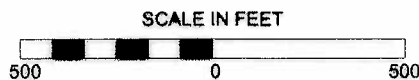




CITY PLANNING COMMISSION  
 CITY OF NEW YORK  
 DIAGRAM SHOWING PROPOSED  
**ZONING CHANGE**  
 ON SECTIONAL MAP  
**29a & 29c**  
 BOROUGH OF  
**BROOKLYN**

New York, Certification Date  
 NOVEMBER 28, 2011

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



- NOTE:
- Indicates Zoning District Boundary.
  - The area enclosed by the dotted line is proposed to be rezoned by changing from a C3 District to a C8-1 District.

NOTE: THIS DIAGRAM IS FOR ILLUSTRATIVE PURPOSES ONLY.  
 THIS DIAGRAM REFLECTS PROPOSED CHANGES IN THE CITY MAP  
 PURSUANT TO RELATED MAPPING APPLICATION C 070512 MMK