



CITY PLANNING COMMISSION

June 17, 2009/ Calendar No. 9

C 090272 ZMK

IN THE MATTER OF an application submitted by the Department of City Planning pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 28d:

1. eliminating from within an existing R6 District a C1-2 District bounded by Mermaid Avenue, Stillwell Avenue, a line 150 feet southerly of Mermaid Avenue, West 17th Street, a line 250 feet southerly of Mermaid Avenue, West 19th Street, a line 150 feet southerly of Mermaid Avenue, and West 20th Street;
2. changing from a C7 District to an R5 District property bounded by a line 300 feet northerly of the northerly boundary line of Coney Island Beach, a line 150 feet northerly of former Highland View Avenue, West 22nd Street, the northerly and easterly boundary line of a park, the northerly boundary line of Coney Island Beach, and West 24th Street and its southerly centerline prolongation;
3. changing from an R6 District to an R7A District property bounded by Mermaid Avenue, West 15th Street, a line 100 feet southerly of Mermaid Avenue, and West 20th Street;
4. changing from a C7 District to an R7D District property bounded by Surf Avenue, the northerly prolongation of the westerly boundary line of a park, the northerly and westerly boundary line of a former park, the northerly boundary line of Coney Island Beach, the easterly and northerly boundary line of a park, and West 22nd Street; and excluding the area bounded by the southerly street line of Surf Avenue, the westerly street line of West 21st Street, the southerly, easterly and southerly boundary line of a former park, and the easterly street line of West 22nd Street;
5. changing from an R6 District to an R7X District property bounded by Mermaid Avenue, Stillwell Avenue, a line 150 feet southerly of Mermaid Avenue, West 17th Street, Surf Avenue, West 20th Street, a line 100 feet southerly of Mermaid Avenue, and West 15th Street;
6. changing from a C7 District to an R7X District property bounded by a line 150 feet southerly of Mermaid Avenue, Stillwell Avenue, Surf Avenue, and West 17th Street;
7. establishing an R7D District bounded by:
 - a. the southerly street line of Surf Avenue, the westerly street line of West 21st Street, the southerly, easterly and southerly boundary line of a former park, and the easterly street line of West 22nd Street; and
 - b. the southerly street line of Surf Avenue, the proposed westerly boundary line of a park, the northerly boundary line of Coney Island Beach, and the westerly boundary line of a former park;

8. establishing within a proposed R7A District a C2-4 District bounded by Mermaid Avenue, West 15th Street, a line 100 feet southerly of Mermaid Avenue, and West 20th Street;
9. establishing within a proposed R7D District a C2-4 District bounded by Surf Avenue, the westerly boundary line of a park, the northerly boundary line of Coney Island Beach, the easterly and northerly boundary line of a park, and West 22nd Street;
10. establishing within a proposed R7X District a C2-4 District bounded by Mermaid Avenue, Stillwell Avenue, Surf Avenue, West 20th Street, a line 100 feet southerly of Mermaid Avenue, and West 15th Street; and
11. establishing a Special Coney Island District (CI) bounded by Mermaid Avenue, Stillwell Avenue, the southerly boundary of the MTA New York City Transit Authority right-of-way, West 8th Street, Surf Avenue, the centerline of former West 8th Street and its northerly centerline prolongation, the northerly boundary line of Coney Island Beach, the easterly and northerly boundary line of a park, West 22nd Street, Surf Avenue, and West 20th Street;

as shown on a diagram (for illustrative purposes only) dated January 20, 2008 and subject to the conditions of CEQR Declaration E-229, Borough of Brooklyn, and Community District 13.

The application for an amendment of the Zoning Map was filed by the Department of City Planning on January 15, 2009.

RELATED ACTIONS

In addition to the amendment to the Zoning Map, which is the subject of this report, implementation of the proposal for Coney Island requires action by the City Planning Commission on the following applications which are considered concurrently with this application.

1. **N 090273 (A) ZRK:** Zoning Text amendment to create the Special Coney Island District.
2. **C 090107 MMK:** Amendment of the City Map to eliminate and establish parkland, to eliminate, discontinue and close, establish and extend certain streets and to modify the grades of existing streets.
3. **C 090274 POK:** Acquisition of property located within the Coney East subdistrict.
4. **C 090275 POK:** Acquisition of property located at West 19th Street and Surf Avenue.

5. **C 090276 HAK:** UDAAP designation, project approval and disposition of City-owned property located between West 19th Street and West 20th Street and between Surf Avenue and Mermaid Avenue.
6. **C 090277 PPK:** Disposition of City-owned property within the Coney East subdistrict.

BACKGROUND

A full background discussion and description of this application appears in the report on the related zoning text change application N 090273 (A) ZRK.

ENVIRONMENTAL REVIEW

This application (C 090272 ZMK), in conjunction with the related applications (N 090273 ZRK, C 090107 MMK, C 090274 PQK, C 090275 PQK, C 090276 HAK and C 090277 PPK) 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 08DME007K. The lead agency is the Office of the Deputy Mayor for Economic Development.

It was determined that the proposed actions may have a significant effect on the environment. A Positive Declaration was issued on January 11, 2008, and distributed, published and filed. Summaries of the environmental review process, the Final Environmental Impact Statement (FEIS), and the Technical Memorandum, dated June 15, 2009, appear in the report on the related zoning text change application, N 090273 (A) ZRK.

(E) DESIGNATIONS

As part of the Zoning Map amendment, (E) Designations would be mapped for hazardous materials, air quality, and noise. An (E) is designated on the appropriate Zoning Map (by block and lot) and indicates that on that site no change of use or development requiring a New York City Department of Buildings (DOB) permit may be issued without approval of the New York

City Department of Environmental Protection (DEP). (E) designations for Hazardous Materials, Air Quality and Noise would be mapped as part of the proposed rezoning, as detailed below.

Hazardous Materials

To avoid the potential for hazardous materials impacts, the proposed zoning map amendment includes (E) designations for hazardous materials on the following properties:

- Block 7060 – Lots 6, 10-12, 41-43
- Block 7061 – Lots 1-9, 11, 14, 20, 27
- Block 7062 – Lots 1, 4-11, 14, 25, 28, 34 (entire block)
- Block 7063 – Lots 1-4, 6, 8, 9, 11, 12, 32-35, 38-41 (entire block)
- Block 7064 – Lots 1, 2, 4, 5, 7, 14, 16, 27, 28, 31, 32, 35, 37, 38, 43, 45 (entire block)
- Block 7071 – Lots 123 and 130
- Block 7072 – Lot 1 (entire block)
- Block 7266 – Lot 250
- Block 7268 – Lots 213 and 218

The (E) designation would require that the fee owner of such a site conduct a testing and sampling protocol, and remediation where appropriate, to the satisfaction of the Department of Environmental protection (DEP) before the issuance of a building permit by the Department of Buildings (DOB) (pursuant to Section 11-15 of the Zoning Resolution – Environmental Requirement). The (E) designation also includes a mandatory construction-related health and safety plan which must also be approved by DEP.

Land Disposition Agreements would be placed on the following properties that are currently owned or would be acquired by the City for disposition by HPD to a private developer:

- Block 7060 – Lots 1, 3-5, 7-9, 14, 16-22, 24, 27, 31, 32, 35, 44-51, 147
- Block 7061 – Lots 16, 21, 39-43, 45

Memorandums of Understanding would be entered into by NYCEDC for the following properties:

- Block 7071 – Lots 100 and 142
- Block 7073 – Lot 101 (western portion of block)
- Block 7074 – Lot 256
- Block 8694 – Lots 5 and 11
- Block 8696 – Lot 212

Memorandums of Understanding would be entered into by DPR for the following properties:

- Block 7069 – Lot 14
- Block 8697 – Lot 8
- Block 8698 – Lot 50

With these in place, there would be no potential for any significant impacts.

Air Quality

At certain sites, to preclude the potential for impacts from HVAC systems at certain potential and projected development sites, an air quality E-designation would be mapped as part of the proposed zoning or a Memorandum of Understanding would be established for city-owned parcels with a subsequent Restrictive Declaration for land disposed of by the City:

- Block 7072, Lot 1 (Projected Development Site 1)
Any new residential and/or commercial development on Block 7072, Lot 1 (southwest tower on Site 1) must ensure that No. 2 fuel oil or natural gas is used for the heating, ventilation, and air conditioning systems.
- Block 7063, Lot 12 (Projected Development Site 4)
Any new residential and/or commercial development on Block 7063, Lot 12 (southeast tower on Site 4) must ensure that No. 2 fuel oil or natural gas is used for the heating, ventilation, and air conditioning systems.
- Block 7061, Lots 6 and 8 (Potential Development Site F)
Any new residential and/or commercial development on Block 7061, Lots 6 and 8 (Site F) must ensure that No. 2 fuel oil or natural gas is used for the heating, ventilation, and air conditioning systems.
- Block 7064, Lot 45 (Potential Development Site C)
Any new residential and/or commercial development on Block 7064, Lot 45 (Site C) must ensure that No. 2 fuel oil or natural gas is used for the heating, ventilation, and air conditioning systems.

The Technical Memorandum identifies one additional air quality E-designation as a result of the proposed modifications. To preclude the potential for significant adverse air quality impacts, an E-designation that would restrict the use of No. 4 oil would be incorporated into the proposed zoning for Site 3. The text of the E-designation would be as follows:

- Block 7063, Lots 27, 28, 31, 32, 35, 37, and 38 (Projected Development Site 3)
Any new residential and/or commercial development on Block 7063, Lots 27, 30, 31, 32, 35 (Surf Avenue tower on Site 3) must ensure that No. 2 fuel oil or natural gas is used for the heating, ventilation, and air conditioning systems.

With these restrictions in place, there would be no potential for any significant air quality impacts from HVAC system emissions.

UNIFORM LAND USE REVIEW

This application (C 090272 ZMK) was certified as complete by the Department of City Planning on January 20, 2009, and was duly referred to Brooklyn Community Board 13 and the Brooklyn Borough President for information and review, in accordance with Title 62 of the Rules of the City of New York, Section 2-02(b).

Community Board Public Hearing

Community Board 13 held a public hearing on the application (C 090272 ZMK) and related applications (N 090273 ZRK, C 090107 MMK, C 090274 PQK, C 090275 PQK, C 090276 HAK and C 090277 PPK) on March 3, 2009. A full discussion of the Community Board 13 resolution appears in the report on the related zoning text change application N 090273 (A) ZRK.

Borough President Recommendation

This application (C 090272 ZMK) and related applications (N 090273 ZRK, C 090107 MMK, C 090274 PQK, C 090275 PQK, C 090276 HAK and C 090277 PPK) were considered by the Brooklyn Borough President. A full discussion of the Brooklyn Borough President resolution appears in the report on the related zoning text change application N 090273 (A) ZRK.

City Planning Commission Public Hearing

On April 22, 2009, (Calendar Nos. 4), the City Planning Commission scheduled May 6, 2004, for a public hearing on the application (C 090272 ZMK). The hearing was duly held on May 6, 2009, (Calendar Nos. 19), in conjunction with the public hearings on the related applications (N 090273 ZRK, N 090273 (A) ZRK, C 090107 MMK, C 090274 PQK, C 090275 PQK, C 090276 HAK and C 090277 PPK).

There were several speakers as described in the report on the related zoning text change application N 090273 (A) ZRK, and the hearing was closed.

WATERFRONT REVITALIZATION PROGRAM CONSISTENCY REVIEW

This application in conjunction with the applications for 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 New York City Council on October 13, 1999 and by the New York State Department of State on May 22, 2002, pursuant to the New York State Waterfront Revitalization and Coastal Resources Act of 1981 (New York State Executive Law, Section 910 et seq.). The WRP number is 08-097. This action was

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

CONSIDERATION

The Commission believes that the proposed zoning map amendment (C 090272 ZMK) is appropriate.

A full consideration and analysis of the issues, and reasons for approval of the application, appear in the report on the related zoning text change application N 090273 (A) ZRK.

RESOLUTION

RESOLVED, that having considered the Final Environmental Impact Statement (FEIS), for which a Notice of Completion was issued on June 5, 2009 with respect to this application, together with the Technical Memorandum, dated June 15, 2009, the City Planning Commission finds that the requirements of the New York State Environmental Quality Review Act and Regulations have been met and that:

1. Consistent with social, economic and other essential considerations, from among the reasonable alternatives thereto, the action, together with the modifications thereto adopted herein, and as described in the Technical Memorandum, dated June 15, 2009, is one which minimizes or avoids adverse environmental impacts to the maximum extent practicable; and
2. The adverse environmental impacts disclosed in the FEIS will be minimized or avoided to the maximum extent practicable by incorporating as conditions to the approval, those mitigative measures that were identified as practicable.

The report of the City Planning Commission, together with the FEIS, and the Technical Memorandum, dated June 15, 2009, constitutes the written statement of facts, and of social, economic and other factors and standards, that form the basis of the decision, pursuant to Section 617.11(d) of the SEQRA regulations; and be it further

RESOLVED, 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 hereby amended by changing the Zoning Map, Section No. 28d:

1. eliminating from within an existing R6 District a C1-2 District bounded by Mermaid Avenue, Stillwell Avenue, a line 150 feet southerly of Mermaid Avenue, West 17th Street, a line 250 feet southerly of Mermaid Avenue, West 19th Street, a line 150 feet southerly of Mermaid Avenue, and West 20th Street;
2. changing from a C7 District to an R5 District property bounded by a line 300 feet northerly of the northerly boundary line of Coney Island Beach, a line 150 feet northerly of former Highland View Avenue, West 22nd Street, the northerly and easterly boundary line of a park, the northerly boundary line of Coney Island Beach, and West 24th Street and its southerly centerline prolongation;
3. changing from an R6 District to an R7A District property bounded by Mermaid Avenue, West 15th Street, a line 100 feet southerly of Mermaid Avenue, and West 20th Street;
4. changing from a C7 District to an R7D District property bounded by Surf Avenue, the northerly prolongation of the westerly boundary line of a park, the northerly and westerly boundary line of a former park, the northerly boundary line of Coney Island Beach, the easterly and northerly boundary line of a park, and West 22nd Street; and excluding the area bounded by the southerly street line of Surf Avenue, the westerly street line of West 21st Street, the southerly, easterly and southerly boundary line of a former park, and the easterly street line of West 22nd Street;
5. changing from an R6 District to an R7X District property bounded by Mermaid Avenue, Stillwell Avenue, a line 150 feet southerly of Mermaid Avenue, West 17th Street, Surf Avenue, West 20th Street, a line 100 feet southerly of Mermaid Avenue, and West 15th Street;
6. changing from a C7 District to an R7X District property bounded by a line 150 feet southerly of Mermaid Avenue, Stillwell Avenue, Surf Avenue, and West 17th Street;
7. establishing an R7D District bounded by:

- a. the southerly street line of Surf Avenue, the westerly street line of West 21st Street, the southerly, easterly and southerly boundary line of a former park, and the easterly street line of West 22nd Street; and
 - b. the southerly street line of Surf Avenue, the proposed westerly boundary line of a park, the northerly boundary line of Coney Island Beach, and the westerly boundary line of a former park;
8. establishing within a proposed R7A District a C2-4 District bounded by Mermaid Avenue, West 15th Street, a line 100 feet southerly of Mermaid Avenue, and West 20th Street;
9. establishing within a proposed R7D District a C2-4 District bounded by Surf Avenue, the westerly boundary line of a park, the northerly boundary line of Coney Island Beach, the easterly and northerly boundary line of a park, and West 22nd Street;
10. establishing within a proposed R7X District a C2-4 District bounded by Mermaid Avenue, Stillwell Avenue, Surf Avenue, West 20th Street, a line 100 feet southerly of Mermaid Avenue, and West 15th Street; and
11. establishing a Special Coney Island District (CI) bounded by Mermaid Avenue, Stillwell Avenue, the southerly boundary of the MTA New York City Transit Authority right-of-way, West 8th Street, Surf Avenue, the centerline of former West 8th Street and its northerly centerline prolongation, the northerly boundary line of Coney Island Beach, the easterly and northerly boundary line of a park, West 22nd Street, Surf Avenue, and West 20th Street;

Borough of Brooklyn, Community District 13, as shown on a diagram (for illustrative purposes only) dated January 20, 2008, and which includes CEQR designation E-229.

The above resolution (C 090272 ZMK), duly adopted by the City Planning Commission on June 17, 2009 (Calendar No. 9), is filed with the Office of the Speaker, City Council, and the Borough President in accordance with the requirements of Section 197-d of the New York City Charter.

AMANDA M. BURDEN, FAICP, Chair
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KAREN A. PHILLIPS, Commissioners

RAYANN BESSER, Commissioner, ABSTAINING