



E-274

CITY PLANNING COMMISSION
CITY OF NEW YORK

OFFICE OF THE CHAIR

August 8, 2011

REVISED CONDITIONAL NEGATIVE DECLARATION
Supersedes the Conditional Negation Declaration Issued on March 25, 2011**Project Identification**

CEQR No. 10DCP038K
ULURP Nos. 110058ZMK, 110059ZSK, 110060ZSK,
110061ZSK, 110062ZSK, N110063ZCK, N110064ZCK
C110060(A)ZSK, C110062(A)ZSK
SEQRA Classification: Unlisted

Lead Agency

City Planning Commission
22 Reade Street
New York, NY 10007
Contact: Robert Dobruskin
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Name, Description and Location of Proposal**Ocean Dreams Rezoning and Related Actions**

The applicant, Red Apple Real Estate, Inc., is proposing special permits and a zoning map amendment to affecting the property located on the south side of Surf Avenue between West 35th Street and a line parallel to and 140 feet west of West 36th Street (Brooklyn Block 7065, Lots 6, 12, 15, 20 and 25) in the Coney Island neighborhood of Brooklyn, Community District 13. The discretionary actions sought include (i) a change in the Zoning Map (Section Nos. 28b and 28d) affecting the two zoning lots, which consist of Brooklyn Block 7065, Lots 6 and 12 (Zoning Lot A) and Block 7065, Lots 15, 20 and 25 (Zoning Lot B) from R6A to R7-3 with selected C2-4 commercial overlays, (ii) Special Permits pursuant to Section 62-836 of the New York City Zoning Resolution (ZR) for each Zoning Lot to permit height and setback and other bulk modifications, (iii) a Special Permit pursuant to ZR Sec. 74-743 for a Large-Scale General Development (LSGD) on each Zoning Lot to allow modifications with respect to obstructions in inner courts and inner court recesses and (iv) a Special Permit pursuant to ZR Sec. 74-744 to allow modification of restrictions on the location of commercial uses in mixed buildings. The ministerial actions sought include Certifications for each Zoning Lot from the Chairperson of the City Planning Commission under ZR Sec. 62-811 determining that there are no waterfront public access or visual corridor requirements for the proposed development.

This revised Conditional Negative Declaration, which supersedes the Conditional Negative Declaration issued on March 25, 2011, reflects the revised special permit applications (C 110062 (A) ZSK and C 110060 (A) ZSK) filed subsequent to the issuance of the Conditional Negative Declaration. The revised special permit applications would allow for modifications of requirements regarding lot coverage, height and setback, residential tower size, rear yard permitted obstructions, ground floor streetscape and the location of commercial uses in mixed-use buildings. The revised applications would reallocate 9,850 square feet of commercial floor area from the base of the proposed building at Zoning Lot B into a floor above the ground level of

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the same building in order to allow retail uses along the Riegelman Boardwalk. The total square footage of the waived area and the total commercial floor area for the proposed project would remain unchanged, and therefore the revised applications would not affect the total amount of floor area or total amount of retail use within the Large-Scale General Development.

The proposed actions would facilitate a proposal by the applicant to develop two mixed-use residential and commercial buildings. The proposed buildings would have a combined floor area of 428,256 zoning sf (4.0 FAR), consisting of up to approximately 416,688 sf of residential floor area (417 dwelling units), 24,790 sf of local retail and service uses, and off-street accessory parking for 418 vehicles. Zoning Lot A would consist of a 14-story (plus mechanical penthouse) mixed-use building containing up to 104,172 sf of residential uses (104 dwelling units), 3,640 sf of ground-floor ground-floor retail use and a garage containing 149 off-street accessory parking spaces. Zoning Lot B would consist of a two-tower mixed use building (18-stories and 22-stories plus mechanical penthouses) containing up to 312,516 sf of residential floor area (313 dwelling units), 11,570 sf of ground floor commercial uses and up to 9,580 sf of retail use along the Riegelmann Boardwalk, as well as an enclosed garage accommodating 269 off-street accessory parking spaces for the residential component only. The proposed development would also include improvements to the access points to the Riegelmann Boardwalk at West 35th and West 36th Streets, which would incorporate steps, ramps, and landscaped areas within the streetbed approaches to the Boardwalk.

The rezoning area, owned by the applicant, is currently vacant (Zoning Lot B is classified as an unlicensed parking lot by the NYC Department of Finance property information system) and is zoned R6A, which allows Use Groups 1 through 4 at an FAR of 3.0 for residential uses, and 3.0 for community facility uses. The proposed rezoning would establish an R7-3 zone over the rezoning area, permitting residential uses and community facility uses with an FAR of 5.0. However, pursuant to a restrictive declaration to be recorded against the property in connection with the Large-Scale General Development, the maximum FAR permitted would be limited to 4.0. In addition, the proposed C2-4 zone would allow commercial uses to occupy the ground floor of a mixed-use building at up to 2.0 FAR.

The Special Permits pursuant to Section 62-836 of the Zoning Resolution (one for each Zoning Lot) would allow modifications of requirements regarding residential tower size and rear yard permitted obstructions on Zoning Lot A and regarding lot coverage, height and setback, and ground floor streetscapes on both Zoning Lots. The Special Permit pursuant to Section 74-743 of the Zoning Resolution would allow modification of requirements regarding permitted obstructions in inner courts and inner court recesses on Zoning Lot B. The Special Permit pursuant to Section 74-744 of the Zoning Resolution would allow modification of restrictions on the location of commercial uses in mixed buildings for Zoning Lot B. The waivers to be granted under the Special Permits would allow increased design flexibility to address geographical constraints on the project site resulting from the height of the water table and the project site's location within the 100-year flood plain. They would permit the development to locate mechanical spaces and required and permitted accessory off-street parking above the 100-year flood plain and the water table and permit the commercial space in the building on Zoning Lot B to be located on the 2nd and 3rd stories and adjacent to the parking fronting the Boardwalk.

The build year for the proposed actions is 2014.

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Absent the proposed actions, the applicant has stated that the project site would be developed with two 7-story residential buildings totaling 321,195 sf of residential floor area (321 residential units), and two enclosed garages containing a total of 277 off-street accessory parking spaces, similar to the program outlined in the previously-approved Surf Avenue Rezoning proposal (CEQR No. 03DCP065K), which rezoned the project site and one additional lot (Brooklyn Block 7065, Lots 1, 6, 12, 15, 20 and 25) from R5 to R6A.

To avoid any potential significant adverse impacts, the applicant has entered into a restrictive declaration for hazardous materials and an (E) designation for air quality has been incorporated into the proposed actions, as described below.

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

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

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

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

Statement of No Significant Effect:

The Environmental Assessment and Review Division of the Department of City Planning, on behalf of the City Planning Commission, has completed its technical review of the Environmental Assessment Statement, dated March 25, 2011, and the revised Environmental Assessment Statement, dated August 5, 2011, prepared in connection with the ULURP Application (Nos. 110058ZMK, 110059ZSK, 110060ZSK, 110061ZSK, 110062ZSK, N110063ZCK, N110064ZCK, C110062(A)ZSK and C110060(A)ZSK). The revised Conditional Negative Declaration includes a Technical Memorandum addressing the potential effects of the revised special permit applications (C 110062 (A) ZSK and C 110060 (A) ZSK) filed subsequent to the issuance of the Conditional Negative Declaration. The City Planning Commission has determined that the proposed actions will have no significant effect on the quality of the environment, once it is modified as follows:

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

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found, submit a hazardous materials remediation plan including a health and safety plan to DEP for approval, prior to any ground disturbance (i.e., site grading, excavation, demolition, or building construction). If necessary, remediation measures would be undertaken pursuant to the remediation plan.

Supporting Statement:

The above determination is based on an environmental assessment which finds that:

1. The hazardous materials restrictive declaration recorded against the subject property on April 14, 2005 (CRFN 2005000214806) in connection with the previously-approved Surf Avenue Rezoning (CEQR No. 03DCP065K) shall continue to apply and be in full force and effect with respect to the current proposal. With the implementation of the measures provided in the aforementioned restrictive declaration, no significant adverse impacts to hazardous materials would be expected to occur during or following construction as part of the proposed actions.
2. The restrictive declaration to be recorded against the property in connection with the Large-Scale General Development shall limit the maximum FAR permitted on the property to 4.0.

The (E) designation for air quality would ensure that the proposed actions would not result in significant adverse impacts due to air quality.

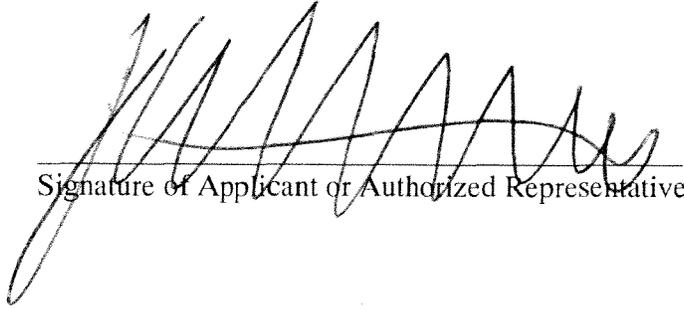
3. The Technical Memorandum incorporated into the revised Environmental Assessment Statement concludes that the revised special permit applications (C 110062 (A) ZSK and C 110060 (A) ZSK) reallocating commercial area within the proposed building at Zoning Lot B would not affect the total floor area proposed for the Large-Scale General Development or increase the total amount of retail proposed on the two zoning lots. Therefore, the revised special permit applications would not alter the conclusions of the Conditional Negative Declaration issued on March 25, 2011.
4. No other significant adverse effects on the environment which would require an Environmental Impact Statement are foreseeable.

It is fully agreed and understood that if the foregoing conditions, modification, and alterations are not fully incorporated into the proposed actions, this Revised Conditional Negative Declaration shall become null and void. In such event, the applicant shall be required to prepare a Draft Environmental Impact Statement before proceeding further with said proposal.

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This Revised Conditional Negative Declaration has been prepared in accordance with Article 8 of the Environmental Conservation Law 6NYCRR part 617.

I, the Undersigned, as the applicant or authorized representative for this proposal, hereby affix my signature in acceptance of the above conditions to the proposed action.



Signature of Applicant or Authorized Representative

Date: August 8, 2011

John Catsimatidis, President
Name of Applicant or Authorized Representative

Robert Dobruskin
Robert Dobruskin, AICP, Director
Environmental Assessment & Review Division
Department of City Planning

Date: August 8, 2011


Amanda M. Burden, FAICP, Chair
City Planning Commission

Date: August 8, 2011