



DEPARTMENT OF CITY PLANNING  
CITY OF NEW YORK

February 23, 2018

OFFICE OF THE CHAIR

**REVISED CONDITIONAL NEGATIVE DECLARATION<sup>1</sup>**

**Supersedes the Conditional Negative Declaration issued on March 25, 2011  
and the Revised Conditional Negative Declaration issued on August 8, 2011**

**Project Identification**

CEQR No. 10DCP038K  
ULURP Nos. M 110059(A) ZSK, M 110062(A) ZSK,  
M 110061(A) ZSK, M 110060(B) ZSK  
SEQRA Classification: Unlisted

**Lead Agency**

City Planning Commission  
120 Broadway, 31<sup>st</sup> Floor  
New York, NY 10271  
Contact: Robert Dobruskin  
(212) 720-3423

**Name, Description, and Location of Proposal:**

**Ocean Dreams Minor Modification**

The Applicant, Red Apple Real Estate, Inc. is seeking modifications to previously approved Special Permits pursuant to Zoning Resolution (ZR) Sections 62-836, 74-743, and 74-744 (the "Proposed Action") in connection with the development of an approximately 428,000 gross square foot ("gsf") mixed-use development proposed at 3502 – 3616 Surf Avenue in the Coney Island neighborhood of Brooklyn, Community District 13. The Proposed Action would affect development on two zoning lots that collectively form the Project Site: Block 7065, Tax Lots 6 and 12 ("Zoning Lot A") and Block 7065, Tax Lot 20 ("Zoning Lot B"). The Project Site is bounded by Surf Avenue to the north, West 35<sup>th</sup> Street to the east, the Riegelmann Boardwalk to the south, and West 37<sup>th</sup> Street to the west.

The Proposed Action would facilitate a proposal by the Applicant to develop two mixed-use residential and commercial buildings containing approximately 613,894 gsf of residential and commercial uses. Specifically, the Proposed Development would contain 467,280 gsf of residential uses, or 509 market rate dwelling units ("DUs"), 24,790 gsf of commercial uses, and 121,824 gsf of attended accessory parking (478 spaces). Zoning Lot A would be developed with a 135,751 gsf, 11-story, mixed use building containing 88,865 gsf of residential uses (79 market rate DUs) 4,094 gsf of commercial uses, and 42,792 gsf of attended accessory parking. Zoning Lot B would be developed with a 478,143 gsf, 21-story mixed-use building containing 278,415 gsf of residential uses (430 market rate DUs), 20,696 gsf of commercial uses, and 79,032 gsf of attended accessory parking (308 spaces). The proposed development would also include improvements to the access points to the Riegelmann Boardwalk, located at West 35<sup>th</sup> and West 36<sup>th</sup> Streets, which would incorporate steps, ramps, and landscaped areas within the streetbed approaches to the Boardwalk.

<sup>1</sup> Since the issuance of the Revised Conditional Negative Declaration on August 8, 2011, the Applicant has filed an application to modify the previously-approved 2011 Special Permit. This Revised Conditional Negative Declaration analyzes proposed City Planning Commission modifications that would incorporate changes to the Proposed Development including increasing dwelling unit count and the number of accessory parking spaces. The proposed modifications are described in more detail in this document.

The area affected by the Proposed Action is located in an R7-3/C2-4 zoning district, permitting residential (Use Groups 1 and 2) and community facility (Use Groups 3 and 4) uses with a floor area ratio (FAR) of 5.0. Pursuant to a Restrictive Declaration recorded against the property in connection with the Large-Scale General Development, approved in 2011, the maximum FAR would be limited to 4.0. The C2-4 zoning district permits commercial uses (Use Groups 5-9, 13) within mixed-use buildings at up to 2.0 FAR.

In 2005, the City Planning Commission (CPC) and City Council approved an application to rezone the property (along with an outparcel one block west) from R5 to R6A to facilitate the construction of two 7-story buildings with a maximum of 313 units and 280 on-site accessory parking spaces (C 050393 ZMK) on the Project Site. In connection with the 2005 application, the CPC also granted certifications to waive waterfront public access and visual corridor requirements (N 050394 ZCK and N 050395 ZCK). An Environmental Assessment Statement and Conditional Negative Declaration (CEQR No. 03DCP065K) were issued in 2005. Development contemplated by the 2005 approvals was not constructed.

In 2011, the CPC approved a zoning map change, a chair certification, Special Permits and plans for a General Large-Scale Development to facilitate the redevelopment of the Project Site, with a total of 645,216 gsf of uses, including: 482,529 gsf of residential uses (417 market rate DUs) 24,790 gsf of commercial uses, and 130,472 gsf of attended accessory parking (418 spaces) (the "Applicant's 2011 proposal"). The Applicant's 2011 proposal comprised a 14-story building (Zoning Lot A), and a building containing a 22-story tower and an 18-story tower (Zoning Lot B).

On March 24, 2016, the CPC approved renewals of the Special Permits for three-year terms, which expire on September 7, 2018 (N 160039CMK, N160040 ZMK, N 160041 ZMK, and N 160104 CMK). As a condition to the granting of the Special Permits, the Applicant executed and recorded a Restrictive Declaration of Large-Scale General Development, which requires that in the event the project site is developed in reliance upon the Special Permits, the resulting development must substantially comply with the CPC-approved project site plan.

The current proposal would achieve the following: modify the massings of the proposed buildings previously-approved in 2011, including building heights and tower floorplate sizes; Increase the total number of DU in the proposed development to 509 from 417; Increase the total number of attended accessory off-street parking spaces to 478 from 418; Redistribute floor area between the two zoning lots; Modify location of ground floor uses to eliminate the need for Ground Floor Waivers; and Eliminate the need for all of the waivers previously granted under the Special Permits, except the Lot Coverage Waiver on Zoning Lot B.

The build year for the Proposed Action is 2021.

Absent the Proposed Action, the Applicant has stated that the Project Site would be developed pursuant to previous 2011 approvals.

To avoid the potential for significant adverse impacts related to air quality, an (E) designation (E-467) has been assigned to the Project Site as described below. This (E) designation supersedes an

(E) designation (E-274) previously assigned to the development site pursuant to the 2011 approvals and associated environmental review.

The (E) designation (E-467) requirements related to air quality would apply to the entire Project Site, which entails:

**Brooklyn Block 7065, Lots 6 and 12 (Zoning Lot A)**  
**Brooklyn Block 7065, Lot 20 (Zoning Lot B)**

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

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

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 36<sup>th</sup> Street to avoid any potential significant air quality impacts.

**Brooklyn Block 7065, Lot 20 (Zoning Lot B)**

Any new residential and/or commercial development must ensure that the heating, ventilating, and air conditioning stack(s) is located at the highest tier or at least 263 feet above grade and 180 feet from the lot line facing West 36<sup>th</sup> Street to avoid any potential significant adverse 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 Technical Memorandum 002, dated February 23, 2018, prepared in connection with the revised ULURP Application (ULURP Nos. M 110059(A) ZSK, M 110063(A) ZSK, M 11061(A) ZSK, and M 110060(B) ZSK). The City Planning Commission has determined that the proposed action will have no significant effect on the quality of the environment, once it is modified as follows:

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

**Supporting Statement:**

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

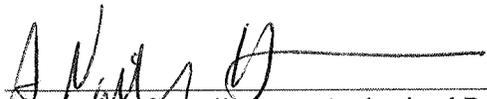
1. An Environmental Assessment Statement and Conditional Negative Declaration were issued in 2005 in connection with the previously-approved Surf Avenue Rezoning (CEQR No. 03DCP065K). The environmental review conducted at the time concluded that the proposed actions at the time could result in significant adverse impacts related to hazardous materials. A hazardous materials Restrictive Declaration recorded against the Project Site 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. An Environmental Assessment Statement, dated March 5, 2011, was prepared in connection with a subsequent proposal for development of the Project Site, subject to the ULURP Application (Nos. 110058 ZMK, 110059 ZSK, 110060 ZSK, 110061 ZSK, 110062 ZSK, N110063 ZCK, N110064 ZCK, C 110062(A) ZSK and C 110060(A) ZSK). A Conditional Negative Declaration was issued on March 25, 2011 in connection with the project's environmental review. Revised Special Permit applications (C 110062 (A) ZSK and C 110060 (A) ZSK) were filed subsequent to the issuance of the Conditional Negative Declaration, and a revised Environmental Assessment Statement and Technical Memorandum 001, dated August 5, 2011, and a revised Conditional Negative Declaration, dated August 8, 2011, that considered the potential effects of the revised Special Permit applications were issued. The 2011 Revised EAS and Technical Memorandum 001 analyzed a Zoning Map Change and Special Permits for bulk and use modifications to facilitate the Applicant's original proposal. The Special Permits were approved by the CPC on August 10, 2011. The City Council approved the Special Permits, which became effective on September 8, 2011 for a term of four years. Technical Memorandum 002 was prepared to consider the potential environmental effects of the proposed modifications to the Applicant's 2011 proposal.
3. As stated in Technical Memorandum 002, with the incorporation of the (E) Designation related to air quality assigned to the Project Site in connection with the current proposal, no significant adverse impacts are expected to result from the Proposed Action. The (E) designation for air quality (E-467) would ensure that the proposed actions would not result in significant adverse impacts related to air quality. The Technical Memorandum 002 concludes that aside from the newly assigned (E) Designation related to air quality (E-467), the proposed modifications would not alter the conclusions of the Revised Conditional Negative Declaration issued August 8, 2011.

4. No other significant adverse effects which would require an Environmental Impact Statement are foreseeable.

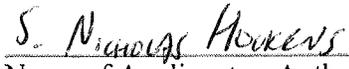
It is fully agreed and understood that if the foregoing conditions, modification, and alterations are not fully incorporated into the proposed action, this Revised Conditional Negative Declaration shall become null and void. In such event, the applicant shall be required to prepare a Draft Environmental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

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.

  
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Signature of Applicant or Authorized Representative

Date: February 23, 2018

  
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Name of Applicant or Authorized Representative

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

Date: February 23, 2018

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Marisa Lago, Chair  
City Planning Commission