



## **CITY PLANNING COMMISSION**

December 4, 2013 / Calendar No. 10

N 140064 ZRK

**IN THE MATTER OF** an application submitted by the Department of City Planning pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, concerning Section 113-00 (Special Coney Island District), 131-60 (Special Permit for Auditoriums), App A (Coney Island District Plan) relating to the development of auditorium use in Borough of Brooklyn, Community District 13.

The application for an amendment to the Zoning Resolution was filed by the Coney Island Holdings LLC and the New York City Economic Development Corporation on August 13, 2013. The amendment, along with its related actions, would facilitate the development of a limited term amphitheater, public open space, and restoration of a historic restaurant, in the Coney Island neighborhood of Brooklyn Community District 13.

### **RELATED ACTIONS**

In addition to the amendment of the Zoning Resolution, implementation of the proposed development also requires action by the City Planning Commission on the following which are being considered concurrently with this application:

M 090107(B) MMK A proposed administrative modification to City Map Amendments approved by the City Planning Commission on December 3, 2010.

C 140063 ZSK Special Permit pursuant to Section 131-60 to allow an open-air auditorium with a maximum of 5,099 seats for a term no greater than ten (10) years  
C 140065 ZMK A proposed amendment to the Zoning Map, Section No. 28d, establishing a Special Coney Island District (CI) generally bounded by West 22<sup>nd</sup> Street, Riegelmann Boardwalk, West 23<sup>rd</sup> Street and a line 245 feet northerly of the boardwalk.

C 140066 PPK A proposed Disposition of City Owned property to the Economic Development Corporation of the following lots on Block 7071: 27, 28, 30, 32, 34 76 79 81 130, 142, 226, and 231, and the beds of the current Highland View Avenue, and portion of West 22<sup>nd</sup> Street

south of the approved Ocean Way.

C 140067 POK      A proposed Acquisition of property by the City to allow the City to purchase the following lots on Block 7071, Lots 27, 28, 30, 32, 34 76 79 81 130, 226, and 231.

## **BACKGROUND**

A full background discussion and description of this application appears in the report on the related zoning special permit application (C 140063 ZSK).

## **ENVIRONMENTAL REVIEW**

This application (N 140064 ZRK), in conjunction with the application for the related actions, was reviewed pursuant to the City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The lead agency is the Office of the Deputy Mayor for Economic Development (ODMED). The designated CEQR number is 13DME014K.

A summary of the environmental review and the Final Environmental Impact Statement appears in the related report for a special permit application (C 140063 ZSK).

## **WATERFRONT REVITALIZATION PROGRAM**

This application (N 140064 ZRK), and its related actions (C 140063 ZSK, C 140065 ZMK, C 140066 PPK, C 140067 POK, M 090107(B) MMK), 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 New York State Department of State on May 28, 2002, pursuant to the New York State Waterfront Revitalization and Coastal Resources Act of 1981 (New York State Executive Law, Section 910 *et seq.*) and determined that it was consistent with the policies of the WRP. The designated WRP number for this application and its related actions is 13-047.

The City Planning Commission, acting as the City Coastal Commission, having reviewed the waterfront aspects of this action, finds that the actions will not substantially hinder the achievement of any WRP policy and hereby determines that this action is consistent with

WRP policies.

## **UNIFORM LAND USE REVIEW**

On September 9, 2013, this application (N 140064 ZRK) was referred to Brooklyn Community Board 13 and the Brooklyn Borough President in accordance with the procedures for non-ULURP matters, along with the related applications (C 140063 ZSK, C 140065 ZMK, C 140066 PPK, C 140067 PQQ, M 090107(B) MMK) which were certified as complete by the Department of City Planning 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 this application (N 140064 ZRK) and the related applications on September 23, 2013, and on that date, by a vote of 15 in favor, 7 opposed and 7 abstentions, adopted a resolution recommending disapproval of the applications.

### **Borough President Recommendation**

This application (N 140065 ZRK), in conjunction with the related actions, was considered by the President of the Borough of Manhattan, who issued a recommendation on October 7, 2013, for approval of the applications.

### **City Planning Commission Public Hearing**

On October 9, 2013 (Supplemental Calendar No. 1), the City Planning Commission scheduled October 23, 2013, for a public hearing on this application (C 140065 ZMK). The hearing was duly held on October 23, 2013 (Calendar No. 16), in conjunction with the public hearing on the related actions.

There were a number of appearances, as described in the related report for a special permit application (C 140063 ZSK), and the hearing was closed.

## **CONSIDERATION**

The Commission believes that this amendment to the zoning text, as modified, (N 140064 ZRK) is appropriate, along with the related applications (C 140063 ZSK as modified, C 140065 ZMK, C 140066 PPK, C 140067 POK, M 090107(B) MMK).

A full consideration and analysis of the issues, and the reasons for approving this application appear in the report on the related special permit application (C 140063 ZSK as modified).

## **RESOLUTION**

**RESOLVED**, that having considered the Final Environmental Impact Statement (FEIS), for which a Notice of Completion was issued on November 21, 2013, with respect to this application (CEQR No. 13DME014K), the City Planning Commission finds that the requirements of the New York State Environmental Quality Review Act & regulations, have been met and that:

1. Consistent with social, economic and other essential considerations, from among the reasonable alternatives thereto, the Proposed Action adopted herein is one that avoids or minimizes 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, in accordance with environmental commitment letters, dated December 3, 2013, from the Deputy Mayor for Economic Development and November 26, 2013, from Coney Island Holdings, LLC, those project components related to the environment and mitigation measures that were identified as practicable.

This report of the City Planning Commission, together with the FEIS, 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**, 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, as modified, is consistent with WRP policies; and be it further

**RESOLVED**, by the City Planning Commission, pursuant to Section 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 modified, is further amended as follows:

**Article XIII: Special Purpose Districts**

\* \* \*

**Chapter 1  
Special Coney Island District**

\* \* \*

**131-60  
Special Permit for Auditoriums**

The special permit set forth in this Section is established to allow outdoor entertainment #uses# on a limited-term basis in a unique beachfront location within the #Special Coney Island District#. The #development# of such a #use# on a temporary basis pursuant to this special permit provides for the opportunity for a valuable public amenity to exist within an area that, while approved for future #residential development# pursuant to the #Special Coney Island District# plan, is currently underutilized and does not exhibit the characteristics of a well-developed #residential# neighborhood. Any special permit granted under this Section shall be subject to a term of years, in order to ensure that such #use# is consistent with and does not impede the goal of long-term revitalization of the surrounding area, pursuant to the #Special Coney Island District# plan.

In the Coney West Subdistrict, for Parcels B and G, the City Planning Commission may approve, by special permit, open-air auditoriums with greater than 2,000 seats, for a term no greater than ten years from the date a certificate of occupancy, including a temporary certificate of occupancy, has been issued, provided that the proposed auditorium meets the conditions of paragraph (a) and the findings of paragraph (b) of this Section, in addition to the #sign# and parking provisions of paragraphs (c) and (d) of this Section, respectively.

For any application for such special permit, the applicant shall provide plans to the Commission including but not limited to a site plan, signage plan, parking and loading plan, lighting plan and operations plan (the “Proposed Plans”).

(a) The Commission may permit open-air auditoriums with a maximum of 5,100 seats, provided the Proposed Plans demonstrate that:

- (1) at all times when the Riegelmann Boardwalk is open to the public, all publically accessible space, as shown on the proposed plans, will remain accessible to the public, except that access may be restricted as necessary during scheduled events, for the setup and takedown for such events, and in connection with maintenance activities; any barriers erected for the purpose of restricting access or visibility during such events shall be completely removed at all other times;
- (2) the height of all structures, temporary or fixed, does not exceed 70 feet in height, as measured from the level of the Riegelmann Boardwalk;
- (3) any roof or structural canopy above the open-air auditorium seating area will be removed prior to the month of November and shall remain removed during the entire off-season period between November through April, as well as in advance of severe weather events;
- (4) the signage plan and parking and loading plan comply with the provisions of paragraphs (c) and (d) of this Section, respectively; and
- (5) the City and applicant will enter into an agreement under which Parcel G will be returned to the City as of the expiration of the term of the special permit in a condition set forth in such agreement appropriate for #use# as a #public park#.

(b) In granting such permit, the Commission shall find that:

- (1) such open-air auditorium will not unduly impair the essential character or the future #use# or #development# of the surrounding area, pursuant to the goals and objectives of the #Special Coney Island District# plan;
- (2) the outdoor lighting for such open-air auditorium is located and arranged so as to minimize any negative effects on nearby #residences# and #community facilities#, and that Proposed Plans include noise attenuation features and measures which serve to reduce the effect of noise from the open-air auditorium on the surrounding area, including nearby #residences# and #community facilities#;
- (3) the construction of a stage as part of any #building# on Parcel B, for the

purpose of accommodating an open-air auditorium #use#, will:

- (i) enable the stage area to be closed to the outdoor portion of the open-air auditorium during the off-season when the open-air auditorium is not in use, so as to be operated for indoor entertainment #uses# with an eating and drinking establishment or other #use# permitted on Parcel B; and
  - (ii) allow for such #building# to be operated subsequent to the expiration of the special permit for #uses# permitted on Parcel B, such as eating or drinking establishments with entertainment;
  - (4) appropriate visual and pedestrian connections are maintained in the general area of the former street bed from the termination of West 22st Street to the Riegelmann Boardwalk;
  - (5) the portions of the site not dedicated to stage area or event seating are so designed to serve as a full time park-like resource for the public, and the portions of the site designed for open-air auditorium #use# serve as a high-quality open space resource when not in auditorium use;
  - (6) any roof or structural canopy above the open-air auditorium seating area will be visually unobtrusive, and maximize openness and visibility between the site and the Riegelmann Boardwalk,
  - (7) the operations plan, which shall include a protocol for queuing for concert-goers, demonstrates that there would be no interference with the public use and enjoyment of adjacent public facilities; and
  - (8) the site plan, signage plan and lighting plan incorporate good design, effectively integrate the site with surrounding streets and the Riegelmann Boardwalk, and are consistent with the purposes of the #Special Coney Island District#.
- (c) The Commission may, through approval of the Proposed Plans, permit #signs# notwithstanding the applicable #sign# regulations, except that #flashing signs# shall not be permitted and only #advertising signs# that are oriented toward the interior of the open-air amphitheater and not visible from the Riegelmann Boardwalk or other public area shall be permitted.

In order to permit such #signs#, the Commission shall find that proposed signage is appropriate in connection with the permitted open-air auditorium #use#, is not unduly concentrated within one portion of the site, and will not negatively affect the surrounding area.

- (d) The Commission may, through approval of the Proposed Plans, reduce or waive required parking or loading requirements, provided the Commission finds that the open-air auditorium will be adequately served by a combination of surrounding public parking facilities and mass transit. In addition, the Commission shall find that the proposed loading facilities on the site are located so as not to adversely affect the movement of pedestrians or vehicles on the #streets# surrounding the auditorium.

The City Planning Commission may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area. Such conditions and safeguards may include, but are not limited to restrictions on signage or requirements for soundproofing of auditoriums, shielding of floodlights or screening of open #uses#.

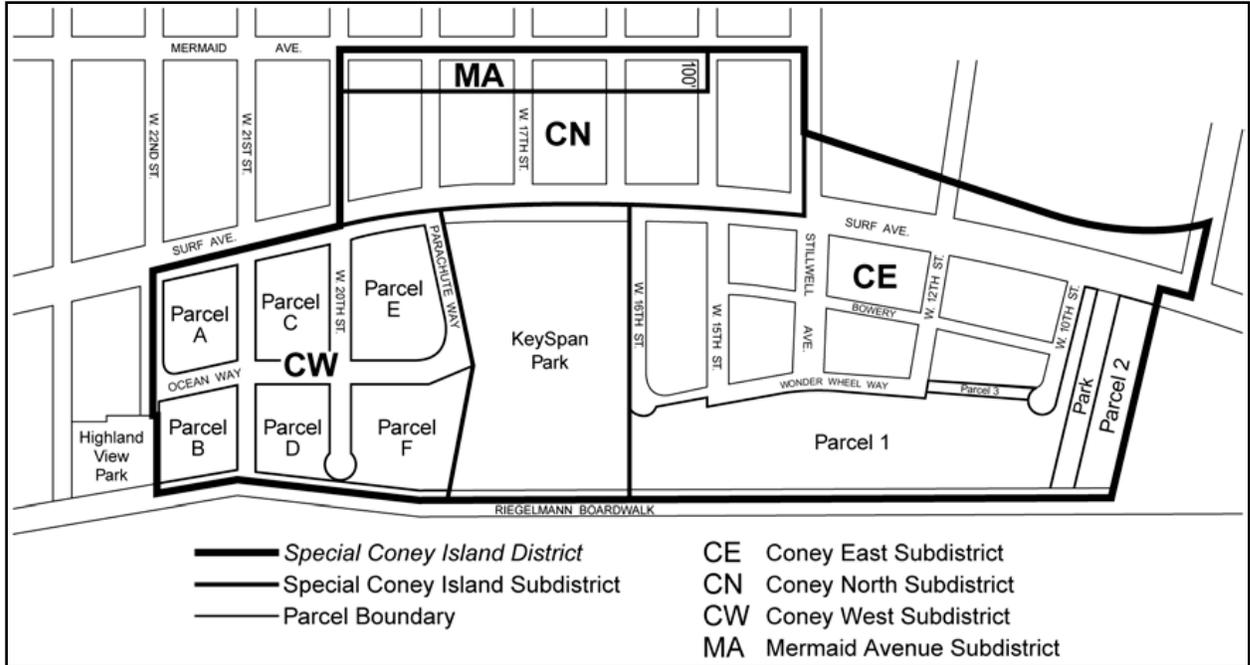
Upon the first issuance of this permit for an open-air auditorium, the effective period of the permit shall be ten years from the date a certificate of occupancy, including a temporary certificate of occupancy, has been issued. To establish the term of years for subsequent applications for this special permit, the Commission shall, in determining whether the finding of paragraph (b)(1) of this Section is met, take into account the existing character of the surrounding area, as well as #residential# and #community facility development# proposed or under construction on surrounding #blocks#, and shall also consider whether continuation of such auditorium #use# within a proposed term of years would be compatible with or may hinder achievement of the goals and objectives of the #Special Coney Island District# plan. Subsequent applications for this special permit shall be filed no later than one year prior to expiration of the term of the permit then in effect.

## **Appendix A**

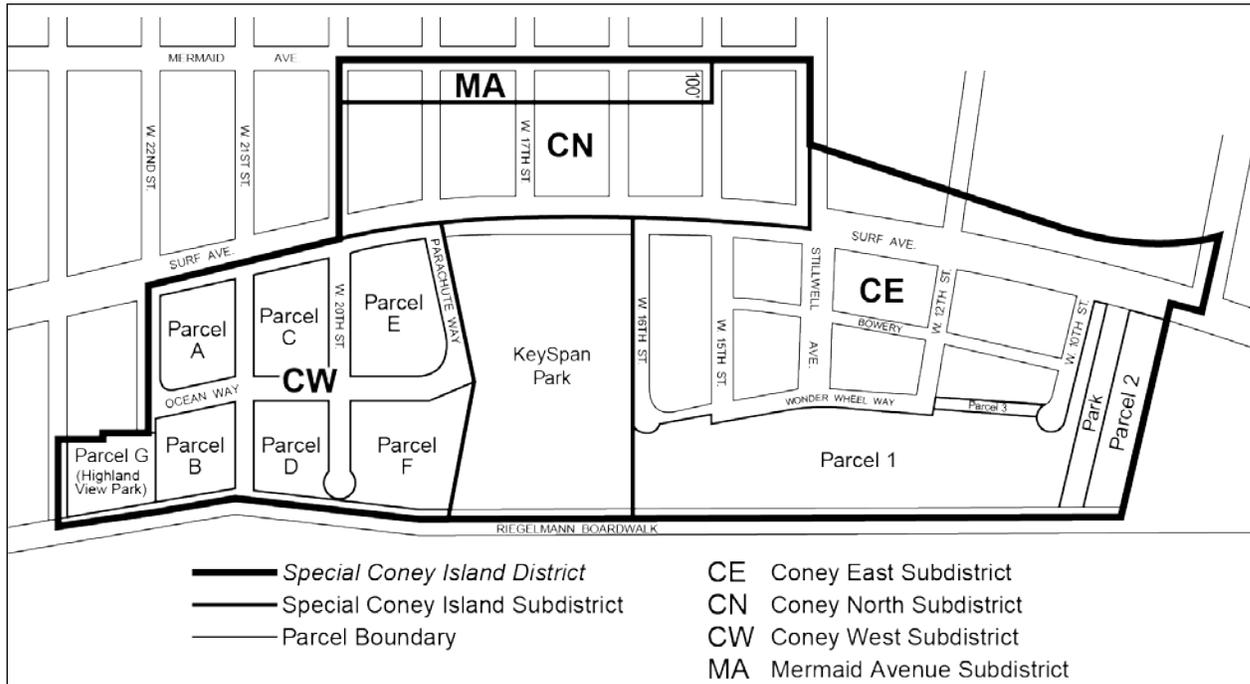
### **Coney Island District Plan**

Map 1 - Special Coney Island District and Subdistricts

[MAP TO BE DELETED]



[MAP TO BE INSERTED]



Map 2 - Mandatory Ground Floor Use Requirements

[EXISTING MAP TO BE UPDATED WITH REVISED DISTRICT BOUDARY]

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Map 4 - Street Wall Location

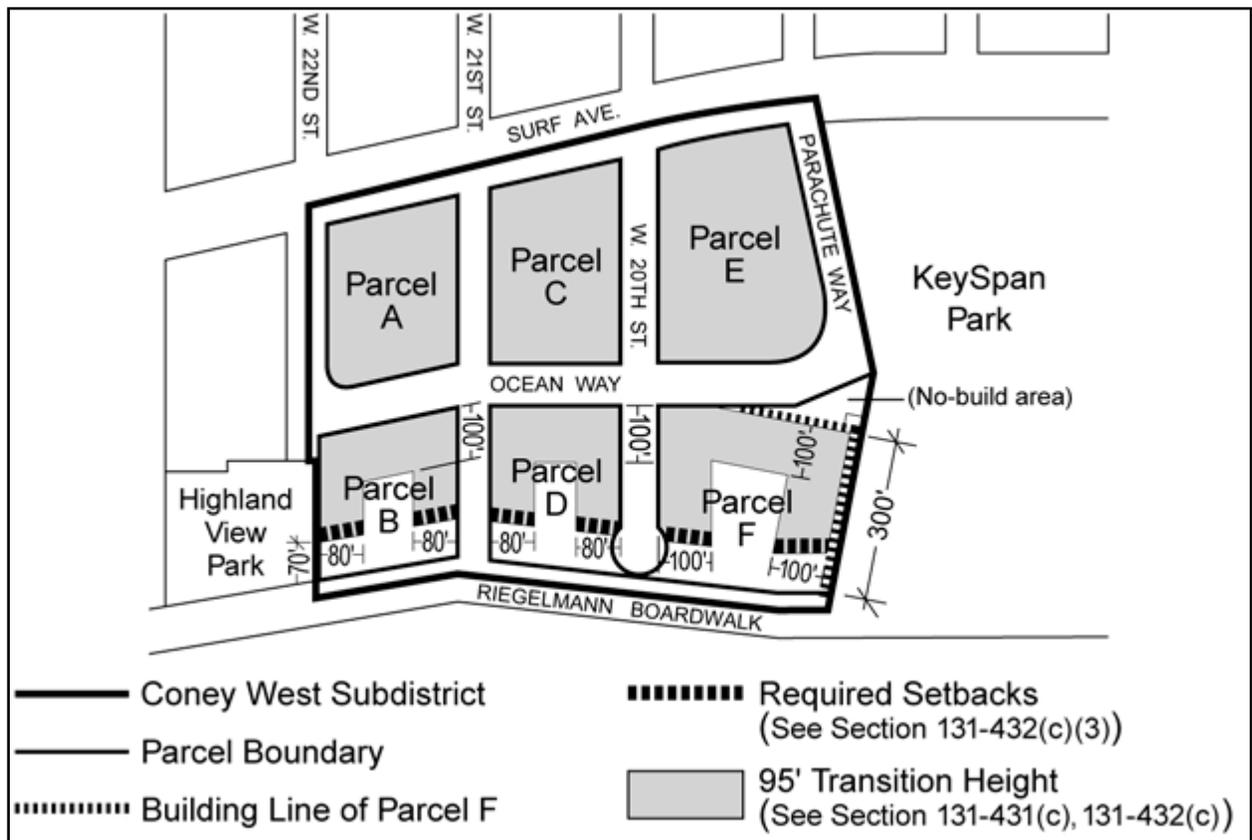
[EXISTING MAP TO BE UPDATED WITH REVISED DISTRICT BOUDARY]

Map 5 - Minimum and Maximum Base Heights

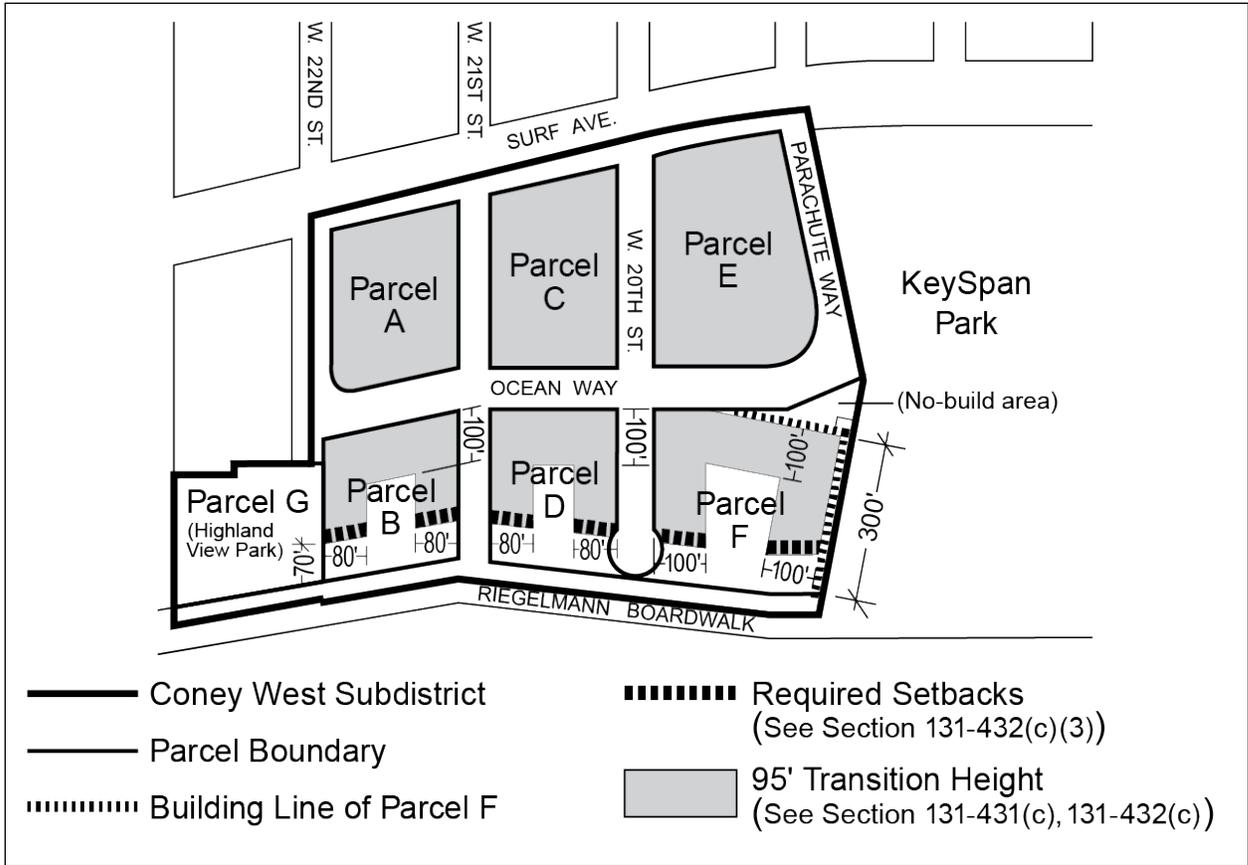
[EXISTING MAP TO BE UPDATED WITH REVISED DISTRICT BOUDARY]

Map 6 - Coney West Subdistrict Transition Heights

[MAP TO BE DELETED]



[MAP TO BE INSERTED]



**EXISTING  
(TO BE DELETED)**  
Map 4 (12/21/09)  
Portion of Community District 1, Brooklyn



**PROPOSED  
(TO REPLACE EXISTING)**

Map 4 (xx/xx/xx)



Portion of Community District 1, Brooklyn

\* \* \*

The above resolution (N 140064 ZRK), duly adopted by the City Planning Commission on December 4, 2013 (Calendar No. 10), 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**

**KENNETH J. KNUCKLES , Vice Chairman**

**ANGELA M. BATTAGLIA, RAYANN BESSER, IRWIN G. CANTOR, P.E.,**

**ALFRED C. CERULLO, III, BETTY Y. CHEN, MICHELLE DE LA UZ,**

**JOESEPH I. DOUEK, MARIA M. DEL TORO, RICHARD W. EADDY,**

**ANNA HAYES LEVIN, ORLANDO MARIN, Commissioners**