



August 23, 2023 /Calendar No. 1

C 200101 ZMK

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**IN THE MATTER OF** an application submitted by Zaliv LLC pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 29a:

1. changing from a C3 District to an R3-2 District property bounded by a line 135 feet northerly of Harkness Avenue and its easterly prolongation, the easterly street line of Shell Bank Avenue, a line 50 feet southerly of Harkness Avenue and its easterly prolongation, Plumb 3<sup>rd</sup> Street, Harkness Avenue, and Plumb 2<sup>nd</sup> Street; and
2. establishing within the proposed R3-2 District a C2-3 District bounded by a line 135 feet northerly of Harkness Avenue and its easterly prolongation, the easterly street line of Shell Bank Avenue, a line 50 feet southerly of Harkness Avenue and its easterly prolongation, Plumb 3<sup>rd</sup> Street, Harkness Avenue, and Plumb 2<sup>nd</sup> Street;

Borough of Brooklyn, Community District 15, as shown on a diagram (for illustrative purposes only) dated April 24, 2023, and subject to the conditions of CEQR Declaration E-698.

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This application was filed by Zaliv LLC on September 11, 2019. This application would allow an existing eating and drinking establishments to continue operating without renewing the 73-242 Board of Standards and Appeals (BSA) Special Permit every five years. The project area is located at 2761 Plumb 2<sup>nd</sup> St (Block 8841, Lot 500 and Block 8844, Lot 340) in the Sheepshead Bay neighborhood of Brooklyn, Community District 15.

## **BACKGROUND**

The applicant seeks a zoning map amendment to change a C3 zoning district to an R3-2 zoning district with a C2-3 overlay. No development, enlargement, or change of use is proposed. The project area is located on the blocks bounded by Plumb 2<sup>nd</sup> Street and Plumb 3<sup>rd</sup> Street to the west, Harkness Avenue to the south, and Shell Bank Creek to the north and east, and consists of six tax lots (Block 8841, Lot 500 and part of Lots 450 and 490, and Block 8844, Lot 340 and part of Lots 342 and 345.) Harkness Avenue, Plumb 2<sup>nd</sup> Street, and Plumb 3<sup>rd</sup> Street are all 60-foot wide and are considered narrow streets (i.e., less than 75 feet wide) by zoning regulations.

The project area is comprised of the development site (Block 8841, Lot 500, and Block 8844, Lot 340), as well as parts of four additional lots (Block 8841, Lot 450, and Lot 490, and Block 8844, of Lot 342, and Lot 345). Block 8841, Lot 500 is an applicant-owned, approximately 38,250 square foot lot improved with a two-story, 15,614 square foot, 0.42 FAR commercial building. Within this commercial building are three storefronts: a Cold Stone Creamery, approximately 3,973 square feet; a TGI Friday's, approximately 10,432 square feet; and a vacant storefront, approximately 1,244 square feet, home to the former Jordan's Seafood. Lot 500 also contains 79 accessory attended parking spaces. Block 8844, Lot 340 is an approximately 4,550 square foot, unimproved lot controlled by the applicant that is utilized for 17 accessory parking spaces. Block 8841, Lot 450 and Block 8844, Lot 342 are approximately 178,325 square foot and 8,150 square foot lots, respectively, that are entirely submerged under Shell Bank Creek. A small sliver of each lot is included in the project area and are controlled by the applicant. Block 8841, Lot 490 is an approximately 16,000 square foot lot that is partially used for Harkness Avenue. Block 8844, Lot 345 is an approximately 26,300 square foot lot that is partially submerged under Shell Bank Creek and partially within the bed of Plumb 3rd Street, Shore Parkway, and Shell Bank Avenue, which is a mapped, unbuilt street. A small portion of each of these lots are included in the Project Area.

The proposed development site has been under Board of Standards and Appeals (BSA) jurisdiction since May 27, 1980, when, under BSA Cal. No. 1233-79-BZ, the BSA granted a variance pursuant to Section 72-21 of the Zoning Resolution (ZR 72-21) to permit the construction of a two-story enlargement of an existing, non-conforming wholesale and retail fish-packing establishment, Jordan's Seafood. On December 1, 1987, the BSA granted a special permit pursuant to ZR 73-242 to permit a one-story enlargement and partial conversion of the enlargement into an eating and drinking establishment for a term of five years under BSA Cal. No. 733-86-BZ. Additionally, under BSA Cal. No. 734-86-A, the BSA permitted the accessory use of parking on Lot 500. On April 26, 1994, the term of BSA Cal. No. 733-86-BZ was extended to 1997. On March 26, 2002, under BSA Cal. No. 214-00-BZ, the BSA permitted the reestablishment of the expired special permit formally granted under BSA Cal. No. 733-86-BZ, allowing the existing eating and drinking establishment, to continue operating for a term of five years. On November 16, 2010, the BSA extended the term for an additional five years and

granted an amendment to the plan for a proposed as-of-right enlargement that was never built. The BSA permitted the reestablishment of the ZR § 73-242 special permit for an eating and drinking establishment under BSA Cal. No. 214-00-BZ on April 10, 2018, for which an extension of term was granted to permit the operation of the TGI Fridays on the proposed development site. The term of this extension was set to expire on November 16, 2020. Due to Executive Order 110 §§ 5 and 7, issued during the Covid-19 Pandemic, the expiration of the special permit was tolled to the end of the emergency. The special permit has since expired.

The project area is currently mapped C3, which is a commercial district designed specifically for waterfront recreational areas that are usually adjacent to residential areas. C3 zoning districts permit a commercial FAR of 0.5 and require one parking space per every 150 square feet. C3 districts permit community facility uses, as well as residential uses at an R3-2 equivalent. C3 districts only allow uses in Use Group 14, which include boat storage and repair, docks, and the sale or rental of bicycles, sporting goods, and fishing equipment. C3 districts do not permit eating and drinking establishments but do permit candy or ice-cream shops. Under the current zoning, the Cold Stone Creamery, an ice-cream shop under Use Group 14, is a permitted use, but the TGI Friday's, an eating and drinking establishment under Use Group 6, is not a permitted use. For this reason, the applicant has historically sought relief from the BSA.

Surrounding the project is a variety of uses, including residential, commercial, and public facility uses, as well as vacant land. The surrounding area is primarily comprised of one- and two-story commercial buildings with one to four story one- and two-family residences east of the project area across Shell Bank Creek in the Gerritsen Beach neighborhood. Local commercial uses can also be found in the vicinity of the project area in single story buildings along Harkness Avenue. South of the project area are two marinas to the southeast and a movie theater and accessory parking lot to the southwest. The area to the west of the project area consists of parking lots, one-story commercial buildings, a school, and one- and two-family detached and semi-detached residences. Shell Bank Creek is located immediately adjacent to north and east of the project area. The area within a 600-foot radius of the project area is zoned R4, C3, C8-1, R3-2/C2-2, and R5. R3-2, R4, and R5 are low-density residential districts that typically produce four-story attached houses and apartment buildings and smaller. C2-2 overlays are commercial overlay

districts mapped within residential districts along streets that serve local retail needs, and C8-1 districts typically cater to automotive and other heavy industrial commercial services. C3 districts, as previously noted, are designed specifically for waterfront recreational uses. The area also has several paved parking lots and a few, smaller, scattered green open spaces.

The project area is located two blocks east of the Knapp Street/Shore Parkway bus stop serving the B4, B44, and B44-SBS lines. The Surrounding Area is also accessible via the BM3 line, stopping at the Shore Parkway/Bragg Street, located four blocks west of the project area. Additionally, the project area is located within the City's Coastal Zone Boundary, the Jamaica Bay Watershed, and in a FEMA designated floodplain, Zone A, with a Base Flood Elevation of 10 feet (NAVD 88) and a Design Flood Elevation of 11 feet (NAVD 88). Any new development within this area is subject to flood resistant building construction requirements.

The requested action is a zoning map amendment from C3 to R3-2 and R3-2 with a C2-3 overlay. An R3-2 zoning district is a general residence district that allows for a variety of housing types, including low-rise attached houses, small multi-family apartment houses, and detached and semi-detached one- and two-family residences. It is the lowest density zoning district in which multiple dwellings are permitted and is the residential equivalent of C3 districts.

The entire rezoning area would be rezoned R3-2, and the two development sites would be mapped with the C2-3 overlay. This proposed rezoning would make the existing eating and drinking establishments conforming, as-of-right uses, and not require the applicant to renew a BSA special permit every five years. It would also reduce the accessory parking requirement. No new development, enlargement, or change of use is proposed. The only operational change would be to the accessory parking lots, which would no longer be valet parking, as they are currently.

## **ENVIRONMENTAL REVIEW**

This application (C 200101 ZMK) 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 lead is the City Planning Commission. The designated CEQR number is 22DCP052K.

After a study of the potential environmental impact of the proposed actions, a Negative Declaration was issued on April 24, 2023. The Negative Declaration included an (E) designation to avoid the potential for significant adverse impacts related to hazardous materials (E-698). The requirements of the (E) designation are described in the Environmental Assessment Statement and Negative Declaration.

### **WATERFRONT REVITALIZATION PROGRAM**

This application (C 200101 ZMK) was reviewed by the City Coastal Commission 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 30, 2013, and by the New York State Department of State on February 3, 2016, pursuant to the New York State Waterfront Revitalization and Coastal Resources Act of 1981, (New York State Executive Law, Section 910 *et seq.*). The designated WRP number is 18-046.

This action was determined to be consistent with the policies of the WRP.

### **UNIFORM LAND USE REVIEW**

This application (C 200101 ZMK) was certified as complete by the Department of City Planning on April 24, 2023, and duly referred to Brooklyn Community Board 15 and the Brooklyn Borough President in accordance with Title 62 of the Rules of the City of New York, Section 2-02(b).

### **Community Board Public Hearing**

Community Board 15 held a public hearing on this application (C 200101 ZMK) on May 23, 2023, and, on that date, by a vote of 33 in favor, one opposed, and one abstaining, adopted a resolution recommending approval of the application.

### **Borough President Recommendation**

The Brooklyn Borough President held a public hearing on this application (C 200101 ZMK) on July 11, 2023, and July 13, 2023, recommended approval of the application.

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

On June 28, 2023 (Calendar No. 4), the Commission scheduled July 12, 2023, for a public hearing on this application (C 200101 ZMK). The hearing was duly held on July 12, 2022 (Calendar No. 15). One speaker testified in favor of the application and none in opposition.

The applicant representative described the proposed rezoning, including the existing context, the history of the site, and the impetus of the application. They explained that no development is proposed at this time and that the proposed rezoning would simply align the zoning of the project area with existing uses on site. The applicant representative described a land use rationale that stood independently from the goal of avoiding reengagement with BSA, referencing existing zoning districts within 200 and 400 feet of the project area. Next, they referenced the approvals from Community Board 15 approval and the Brooklyn Borough President.

There were no other speakers, and the hearing was closed.

### **CONSIDERATION**

The Commission believes that this application for a zoning map amendment is appropriate.

The requested action will facilitate a zoning map amendment from C3 to R3-2 and R3-2 with a C2-3 overlay. The entire rezoning area would be rezoned R3-2, within which, two development sites would be mapped with the C2-3 commercial overlay. This proposed rezoning will make the existing eating and drinking establishments conforming, as-of-right uses, and not require the applicant to renew a BSA special permit every five years. Moreover, the proposed R3-2 zoning district is the residential equivalent of a C3 zoning district, and as such, this rezoning will not change or increase the type or scale of residential development that is permitted at the site. Any potential future residential development within the project area would be limited by Appendix G of the building code, which ensures flood-resistant construction, and height restrictions of R3-2.

The Commission notes that the project area, which is adjacent to an existing R3-2 district, has its built FAR and existing parking conditions consistent with the R3-2 requirements. As previously

stated, in C3 districts, residential development is allowed under R3-2 density and bulk rules. Additionally, the proposed C2-3 commercial overlay will allow a broader range of commercial and retail uses, including those that already exist on site. The Commission, therefore, believes that this application for the proposed zoning map amendment, is appropriate.

## **RESOLUTION**

**RESOLVED**, that having considered the Environmental Assessment Statement, for which Negative Declaration was issued on April 24, 2023 with respect to this application (CEQR No. 22DCP052K), the City Planning Commission finds that the actions described herein will have no significant impact on the environment; 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 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 further amended by changing the Zoning Map, Section No. 29a,

1. changing from a C3 District to an R3-2 District property bounded by a line 135 feet northerly of Harkness Avenue and its easterly prolongation, the easterly street line of Shell Bank Avenue, a line 50 feet southerly of Harkness Avenue and its easterly prolongation, Plumb 3<sup>rd</sup> Street, Harkness Avenue, and Plumb 2<sup>nd</sup> Street; and
2. establishing within the proposed R3-2 District a C2-3 District bounded by a line 135 feet northerly of Harkness Avenue and its easterly prolongation, the easterly street line of Shell Bank Avenue, a line 50 feet southerly of Harkness Avenue and its easterly prolongation, Plumb 3<sup>rd</sup> Street, Harkness Avenue, and Plumb 2<sup>nd</sup> Street;

Borough of Brooklyn, Community District 15, as shown on a diagram (for illustrative purposes only) dated April 24, 2023, and subject to the conditions of CEQR Declaration E-698.

The above resolution (C 200101 ZMK), duly adopted by the City Planning Commission on August 23, 2023 (Calendar No. 1), 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.

**DANIEL R. GARODNICK, Esq., *Chair***

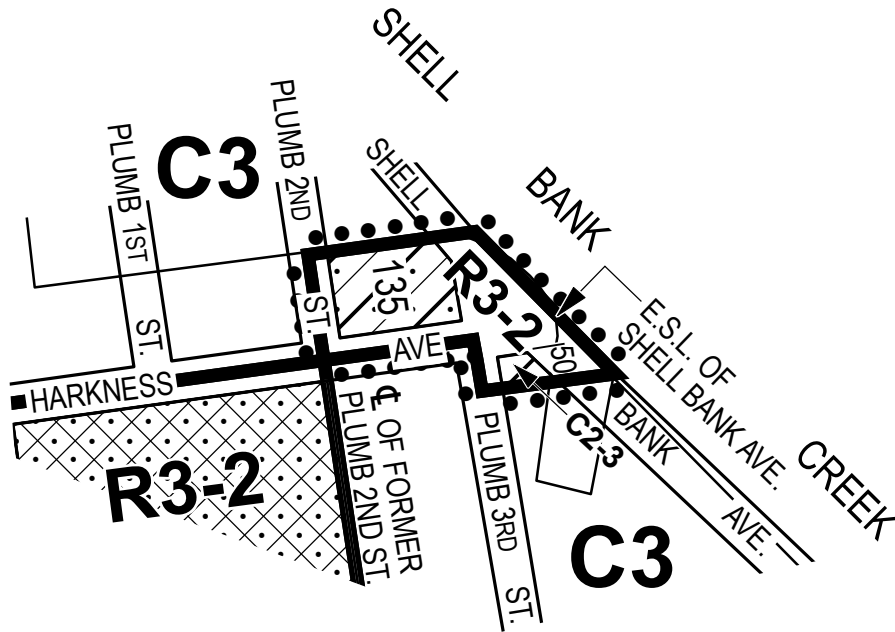
**KENNETH J. KNUCKLES Esq., *Vice-Chairman***

**GAIL BENJAMIN, ALFRED C. CERULLO, III, ANTHONY CROWELL, Esq.,**

**JOSEPH DOUEK, DAVID GOLD, Esq., LEAH GOODRIDGE, Esq.,**

**ORLANDO MARIN, JUAN CAMILO OSORIO, RAJ RAMPERSHAD, *Commissioners***





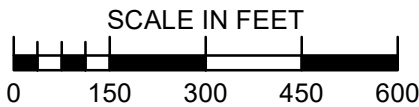
CITY PLANNING COMMISSION  
 CITY OF NEW YORK  
 DIAGRAM SHOWING PROPOSED  
**ZONING CHANGE**  
 ON SECTIONAL MAP

**29a**  
 BOROUGH OF  
**BROOKLYN**

*S. Lenard*  
 S. Lenard, Director  
 Technical Review Division



New York, Certification Date:  
 April 24, 2023



**NOTE:**

- Indicates Zoning District Boundary
- The area enclosed by the dotted line is proposed to be rezoned by changing a C3 District to an R3-2 District, and by establishing a C2-3 District within the proposed R3-2 District.
- Indicates a C2-2 District
- Indicates a C2-3 District



# COMMUNITY/BOROUGH BOARD RECOMMENDATION

<b>Project Name:</b> 2761 Plumb 2nd Street Rezoning	
<b>Applicant:</b> Zaliv LLC	<b>Applicant's Primary Contact:</b> Richard Lobel
<b>Application #</b> 200101ZMK	<b>Borough:</b>
<b>CEQR Number:</b> 22DCP052K	<b>Validated Community Districts:</b> K15

**Docket Description:**  
 IN THE MATTER OF an application submitted by Zaliv LLC pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 29a: 1. changing from a C3 District to an R3-2 District property bounded by a line 135 feet northerly of Harkness Avenue and its easterly prolongation, the easterly street line of Shell Bank Avenue, a line 50 feet southerly of Harkness Avenue and its easterly prolongation, Plumb 3rd Street, Harkness Avenue, and Plumb 2nd Street; and 2. establishing within the proposed R3-2 District a C2-3 District bounded by a line 135 feet northerly of Harkness Avenue and its easterly prolongation, the easterly street line of Shell Bank Avenue, a line 50 feet southerly of Harkness Avenue and its easterly prolongation, Plumb 3rd Street, Harkness Avenue, and Plumb 2nd Street; Borough of Brooklyn, Community District 15, as shown on a diagram (for illustrative purposes only) dated April 24, 2023, and subject to the conditions of CEQR Declaration E-698.

*Please use the above application number on all correspondence concerning this application*

<b>RECOMMENDATION: Favorable</b>			
<b># In Favor:</b> 33	<b># Against:</b> 1	<b># Abstaining:</b> 1	<b>Total members appointed to the board:</b> 35
<b>Date of Vote:</b> 5/23/2023 4:00 AM		<b>Vote Location:</b> Webex	

*Please attach any further explanation of the recommendation on additional sheets as necessary*

<b>Date of Public Hearing:</b> 5/23/2023 10:00 PM	
<b>Was a quorum present?</b> Yes	<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>
<b>Public Hearing Location:</b>	Webex Virtual

**CONSIDERATION:** No additional construction is needed. Applicant no longer has to come before the Board every 5 years for a special permit.

Recommendation submitted by	BK CB15	Date: 5/25/2023 1:43 PM
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**Brooklyn Borough President Antonio Reynoso**  
Brooklyn Borough Hall  
209 Joralemon Street, Brooklyn, NY 11201

City Planning Commission  
120 Broadway, 31<sup>st</sup> Floor, New York, NY 10271  
[calendaroffice@planning.nyc.gov](mailto:calendaroffice@planning.nyc.gov)

**Uniform Land Use Review Procedure (ULURP) Application**

2761 PLUMB 2<sup>ND</sup> STREET REZONING – C200101ZMK

Application by Zaliv LLC. pursuant to sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 29a:

1. Changing from a C3 District to an R3-2 District property bounded by a line 135 feet northerly of Harkness Avenue and its easterly prolongation, the easterly street line of Shell Bank Avenue, a line 50 feet southerly of Harkness Avenue and its easterly prolongation, Plumb 3rd Street, Harkness Avenue, and Plumb 2nd Street; and
2. Establishing within the proposed R3-2 District a C2-3 District bounded by a line 135 feet northerly of Harkness Avenue and its easterly prolongation, the easterly street line of Shell Bank Avenue, a line 50 feet southerly of Harkness Avenue and its easterly prolongation, Plumb 3rd Street, Harkness Avenue, and Plumb 2nd Street.

Borough of Brooklyn, Community District 15, as shown on a diagram (for illustrative purposes only) dated April 24, 2023, and subject to the conditions of CEQR Declaration E-698.

The proposed rezoning would render the existing eating and drinking establishments conforming, as-of-right uses and would reduce the accessory parking requirement. No new development, enlargement, or change of use is proposed. The only change would be to the operation of the accessory parking lots, which are now valet parking, but which would be converted to self-park.

**BROOKLYN COMMUNITY DISTRICT 15**

**RECOMMENDATION**

APPROVE  
 APPROVE WITH  
MODIFICATIONS/CONDITIONS

DISAPPROVE  
 DISAPPROVE WITH  
MODIFICATIONS/CONDITIONS

**RECOMMENDATION FOR: 2761 PLUMB 2<sup>ND</sup> STREET REZONING – C200101ZMK**

The applicant's property is within a FEMA designated floodplain, the City's Coastal Zone Boundary, and the Jamaica Bay Watershed. The rezoning area is in Sheepshead Bay neighborhood.

The applicant's property has been under the jurisdiction of the New York City Board of Standards and Appeals (BSA) since May 27, 1980, through various BSA special permit approvals. The BSA permitted the reestablishment of the ZR § 73-242 special permit for an eating and drinking establishment under BSA Cal. No. 214-00-BZ on April 10, 2018, for which an extension of term was granted to permit the operation of an eating and drinking establishment on the applicant's property. Due to Executive Order 110 §§ 5 and 7, the expiration was tolled to the end of the emergency.

The applicant's property is currently mapped with a C3 zoning district. The C3 zoning district allows waterfront recreational activities, including boating and fishing, as well as residential uses equivalent to an R3-2 zoning district. The allowable commercial FAR is 0.5 and the commercial parking requirement is one parking space per 150 square feet of commercial uses.

Borough President Reynoso held a public hearing on this application on July 11, 2023. No members of the public testified on this item.

**Community Board Position**

Community Board 15 voted to approve this application on May 23, 2023.

**Approval Rationale**

Borough President Reynoso believes the applicant's proposed zoning map amendment is appropriate. The proposed changes would allow for the applicant to utilize their property as the existing eating and drinking establishment without the unnecessary administrative red tape of seeking a BSA approval every five years. The Borough President also supports the zoning map amendment to facilitate reducing the site's parking requirements.

**Recommendation**

Be it resolved that the Brooklyn Borough President, pursuant to Section 197-c of the New York City Charter, recommends that the City Planning Commission and City Council approve this application.



July 12, 2023

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

\_\_\_\_\_  
DATE