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May 5, 2021 / Calendar No. 4

C 210149 ZMX

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**IN THE MATTER OF** an application submitted by SHAR-JO Rest. Inc. d/b/a/ Crab Shanty pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 4d, by establishing within an existing R3A District a C1-2 District bounded by a line 100 feet northerly of Tier Street, City Island Avenue, Tier Street and a line 120 feet westerly of City Island Avenue, as shown on a diagram (for illustrative purposes only) dated December 14, 2020, and subject to the conditions of CEQR Declaration E-594.

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The applicant, SHAR-JO Rest. Inc d/b/a Crab Shanty Restaurant, seeks a zoning map amendment to establish a C1-2 commercial overlay over an existing R3A zoning district on a portion of Block 5633 in City Island, Bronx, Community District 10.

### **BACKGROUND**

The project area, contiguous with the area to be rezoned, is comprised of approximately 12,000 square feet of lot area over portions of five lots. The project area is generally bounded by Ditmars Street to the north, Tier Street to the south, City Island Avenue to the east, and Hunter Avenue to the west. The rezoning area has approximately 120 feet of frontage along Tier Street and 100 feet of frontage along City Island Avenue. Considered a wide street, City Island Avenue is an 80-foot-wide street running north- south. Ditmars Street and Tier Street are both 50-foot-wide narrow streets running east-west. Hunter Avenue is a mapped street, but is not improved or built.

The project area consists of privately-owned sites within an area that includes a portion of Block 5633, including part of Lot 120, Lot 122, part of Lot 124, part of Lot 127, and part of Lot 137. The easternmost 120 feet of Lot 124 is included in the project area and is unimproved. Lot 137, which is a 3,300-square-foot corner lot improved with a one-story building that is occupied by the Crab Shanty restaurant, has a built floor area ratio (FAR) of approximately 0.89. Lot 122 (4,550 square feet), part of Lot 124 (6,959 square feet), and part of Lot 127 (6,165 square feet) are partially improved with 19 surface parking spaces designated for the Crab Shanty restaurant.

The southernmost 1.5 feet of Lot 120 is part of the project area and is improved with a 1.5-story one-family residence.

Land uses in the area surrounding the project area include a mix of primarily low-density one- and two-family residential buildings. Mixed-use and commercial buildings, as well as some single-family homes, are located along City Island Avenue, the main commercial corridor on City Island. There is a concentration of commercial uses along City Island Avenue in the village core area of City Island between Bay Street and Carroll Street, where there are C1-2 overlays mapped to a depth of 100 feet. There is a large vacant area on Block 5633 immediately to the west of the project area, and marine-related and commercial uses in the M1-1 zoning district located approximately 500 feet northwest of the project area.

City Island is automobile-oriented and located outside of the Transit Zone. Bus service is accessible from the project area, with a stop for the Bx29 line, providing service to Co-op City from City Island, and the BxM8 line, providing service between Pelham Bay and Midtown Manhattan.

There are two parks owned and operated by the Department of Parks and Recreation located within the surrounding area. These include Hawkins Park, a small park on City Island Avenue between Fordham Street and Hawkins Street, approximately 650 feet to the south of the project area, and the City Island Wetlands, an 8-acre park in Eastchester Bay between William Avenue and Bay Street, approximately 1,000 feet to the west of the project area.

The project area is located within an existing R3A zoning district. R3A zoning districts are low density residential district that do not permit commercial uses as-of-right. R3A zoning districts permit a commercial FAR of up to 0.5 and the Special City Island District restricts height to 35 feet. Required parking, which is subject to Lower Density Growth Management Area provisions, is 1.5 spaces per dwelling unit. The project area is located within the Special City Island District, which encompasses the entirety of City Island, as well as a Lower Density Growth Management Area, which encompasses all of Bronx Community District 10. Other zoning districts within

proximity to the project area include R3A and R3A/C1-2 districts to the south along City Island Avenue, and a portion of an M1-1 zoning district to the northwest along the waterfront.

The project area was initially mapped in 1961 with an R3-2 zoning district. In 1977, the Special City Island District was established to protect the existing character of City Island and to help guide future growth (CP-23258). In 2003, the City Island Rezoning (C 030467 ZMX) changed the zoning designation of the project area from R3-2 to R3A. The 2003 City Island Rezoning amended the Special City Island District to facilitate the development of mixed-use buildings along the City Island Avenue commercial corridor.

A portion of the project area, 361 City Island Avenue (Block 5633, Lot 137), is occupied by the Crab Shanty Restaurant, which opened in 1977, and is a legal, non-conforming eating and drinking establishment. The historic uses (originally a silent movie theater, and subsequently a post office) on Lot 137 predated the establishment of the R3-2 zoning district that was mapped in 1961 and the current R3A zoning district that was mapped at the site in 2003. The current restaurant use on Lot 137 is permitted by Department of Buildings (DOB) Certificate of Occupancy No. 059028, but the rear dining room area of the restaurant enclosed under a canvas roof is not reflected on the DOB-approved plans, and the Fire Department has issued violations for this portion of the establishment.

The northern portion of the project area adjacent to the Crab Shanty is occupied by an unenclosed commercial parking lot located on Lot 122, part of Lot 124, and part of 127. In 1992, the Board of Standards and Appeals (BSA) granted a variance to allow the non-conforming public parking lot use on Lots 122, 124, and 127 (BSA Cal. No. 364-91-BZ). The variance was issued for a 10-year term and lapsed in 2002. In connection with the BSA approval for the parking lot use, a Driveway Declaration, dated March 8, 1993 was recorded against Lots 122, 124, and 127. The Driveway Declaration establishes a driveway easement and a requirement to provide up to 18 parking spaces on lots 122 and 127. While the term of the BSA variance has expired, the Driveway Declaration remains in place requiring that up to 18 spaces “or as many spaces as are required for the [building at 361 City Island Avenue (Block 5633, Lot 137)] at the

time of the issuance of a building permit thereof’ be provided. The Driveway Declaration may not be modified, amended, or terminated without the prior written consent of the DOB.

The applicant proposes to map a C1-2 zoning district over the existing R3A zoning district. The proposed C1-2 overlay permits local retail and service establishments with certain exceptions and additional uses. Within R3A/C1-2 zoning districts, the maximum FAR for commercial uses is generally 1.0, though ground floor commercial floor area in mixed commercial and residential buildings in C1, C2, and C3 districts within the Special City Island District fronting City Island Avenue is excluded from the floor area calculations pursuant to Zoning Resolution Section 112-102.

This proposed action would allow the longstanding business to continue to operate and bring the non-conforming commercial use of the restaurant, along with the enclosed outdoor seating and parking uses into conformance with the use provisions of the Zoning Resolution. The applicant intends to seek a new Certificate of Occupancy from DOB, which is necessary to obtain a Place of Assembly Certificate of Operation and Place of Assembly permit for the restaurant.

### **ENVIRONMENTAL REVIEW**

This application (C 210149 ZMX) 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 21DCP045X. The lead agency is the City Planning Commission.

After a study of the potential environmental impact of the proposed action, a Negative Declaration was issued on December 14, 2020. The Negative Declaration required an (E) Designation (E-594) related to Air Quality.

### **UNIFORM LAND USE REVIEW**

This application (C 210149 ZMX) was certified as complete by the Department of City Planning on December 14th, 2020 and was duly referred to Bronx Community Board 10 and the Bronx

Borough President in accordance with Title 62 of the Rules of the City of New York, Section 2-02(b).

### **Community Board Public Hearing**

Bronx Community Board 10 held a public hearing on this application (C 210149 ZMX) on March 18, 2021, and on that date, by a vote of 34 in favor, none opposed, and none abstaining, adopted a resolution recommending approval of the application.

### **Borough President Recommendation**

This application (C 210149 ZMX) was considered by the Bronx Borough President, who held a public hearing on March 18, 2021 and, on March 24, 2021, issued a recommendation to approve the application.

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

On March 17, 2021 (Calendar No. 4), the City Planning Commission scheduled April 7, 2021, for a public hearing on this application (C 210149 ZMX). The hearing was duly held on April 7, 2021 (Calendar No. 22). There was one speaker in favor of the application, and none opposed.

A representative from the applicant team gave an overview of the project, describing the history of the site, neighborhood context, and requested actions.

### **CONSIDERATION**

The Commission believes that the proposed zoning map amendment (C 210149 ZMX) is appropriate.

The Commission notes the presence of commercial businesses within the project area, which predate the residential zoning. Consequently, neither the historic uses nor the longstanding commercial uses on the site today are consistent with the existing R3A zoning district, a low density residential zoning district.

The proposed C1-2 district will permit the existing local retail uses, and the uses permitted by the proposed district are consistent with those seen along the City Island Avenue corridor to the south. The proposed C1-2 commercial overlay is well-suited for the area, as it will accommodate the existing commercial building and accessory parking use in the project area due to bulk and use provisions. The Commission believes the proposed C1-2 district will better align with the current longstanding commercial uses in the project area and apply more appropriate regulations.

## **RESOLUTION**

**RESOLVED**, that the City Planning Commission finds that the action described herein will have no significant impact on the environment; 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. 4d, by establishing within an existing R3A District a C1-2 District bounded by a line 100 feet northerly of Tier Street, City Island Avenue, Tier Street and a line 120 feet westerly of City Island Avenue, as shown on a diagram (for illustrative purposes only) dated December 14, 2020, and subject to the conditions of CEQR Declaration E-594.

The above resolution (C 210149 ZMX), duly adopted by the City Planning Commission on May 5th, 2021 (Calendar No. 4), 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.

**MARISA LAGO**, *Chair*

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

**DAVID BURNEY**, **ALLEN P. CAPELLI**, *Esq.*, **ALFRED C. CERULLO, III**,

**JOSEPH I. DOUEK**, **RICHARD W. EADDY**, **HOPE KNIGHT**,

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