



IN THE MATTER OF an application submitted by West 16-22 St Properties LLC pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 28d:

1. changing from an R5 district to an R6A district property bounded by a line perpendicular to the easterly street line of West 23rd Street distant 200 feet southerly (as measured along the street line) from the point of intersection of the southeasterly street line of Surf Avenue and easterly street line of West 23rd Street, a line 110 feet easterly of West 23rd Street, the northerly boundary line of a park and its westerly prolongation, and West 23rd Street;
2. changing from an existing R5 district to an R7D district property bounded by Surf Avenue, West 22nd Street, the northerly boundary line of a park, a line 110 feet easterly of West 23rd Street, a line perpendicular to the easterly street line of West 23rd Street distant 200 feet southerly (as measured along the street line) from the point of intersection of the southeasterly street line of Surf Avenue and the easterly street line of West 23rd Street, and West 23rd Street;
3. establishing within a proposed R6A district a C2-4 district bounded by a line perpendicular to the easterly street line of West 23rd Street distant 200 feet southerly (as measured along the street line) from the point of intersection of the southeasterly street line of Surf Avenue and easterly street line of West 23rd Street, a line 110 feet easterly of West 23rd Street, the northerly boundary line of a park and its westerly prolongation, and West 23rd Street;
4. establishing within a proposed R7D district a C2-4 district bounded by Surf Avenue, West 22nd Street, the northerly boundary line of a park, a line 110 feet easterly of West 23rd Street, a line perpendicular to the easterly street line of West 23rd Street distant 200 feet southerly (as measured along the street line) from the point of intersection of the southeasterly street line of Surf Avenue and easterly street line of West 23rd Street, and West 23rd Street; and
5. establishing a Special Coney Island district (CI) bounded by Surf Avenue, West 22nd Street, a line 150 feet northerly of former Highland View Avenue and its easterly prolongation, a line 110 feet easterly of West 23rd Street, a line perpendicular to the easterly street line of West 23rd Street distant 245 feet northerly (as measured along the street line) from the point of intersection of the easterly street line of West 23rd Street and the northerly boundary line of Riegelmann Boardwalk, and West 23rd Street;

Borough of Brooklyn, Community District 13, as shown on a diagram (for illustrative purposes only) dated August 20th, 2018, and subject to the conditions of CEQR Declaration E-488.

This application for a zoning map amendment was filed by West 16-22 St Properties, LLC on June 13, 2017. Together with the related action, it would facilitate a new approximately 101,000-square-foot mixed-use development with ground floor commercial uses on property located in the Coney Island neighborhood of Brooklyn, Community District 13.

RELATED ACTION

In addition to the zoning map amendment (C 170458 ZMK) that is the subject of this report, the proposed project also requires action by the City Planning Commission on the following application, which is being considered concurrently with this application:

N170459 ZRK Zoning text amendment to change an Inclusionary Housing designated area to a Mandatory Inclusionary Housing (MIH) area, and to extend the Special Coney Island District (SCID) and to extend the Transit Zone.

BACKGROUND

The applicant proposes a zoning map amendment and a zoning text amendment to facilitate a new mixed-use development in the Coney Island neighborhood of Brooklyn, Community District 13. The area proposed to be rezoned (the rezoning area) is a block generally bounded by Surf Avenue to the north, West 22nd Street to the east, West 23rd Street to the west and the landmarked Riegelmann Boardwalk immediately to the south.

The rezoning area is directly west of the SCID that was mapped as part of the City-led Coney Island Comprehensive Rezoning Plan (N 090273(A) ZRK et al.), approved in 2009. The 27-acre rezoning sought to reestablish Coney Island as a year-round amusement and entertainment area, while encouraging mixed-use development, local retail and services, and job growth. The SCID was established with three subdistricts, including Coney East, the core amusement and entertainment area, and Coney North and Coney West, residential and local retail districts. The SCID was also designated as “CI” on the zoning map as part of a related action (C 090272 ZMK).

The 2009 plan envisioned the development of approximately 5,000 housing units, including 900 affordable units, as well as an invigorated amusement area within its boundaries.

In 2013 the City Council approved a joint application from the NYC Economic Development Corporation and Coney Island Holdings LLC to facilitate the development of the Seaside Park and Community Arts Center, a 5,000-seat amphitheater, on the southern portion of Block 7071 (C 140063 ZSK et al.). The Seaside Park project also involved the restoration and adaptive reuse of the former Childs Restaurant building, a designated NYC landmark (N 110194 HKK), and the creation of Highland View Park (now known as Seaside Park), a publicly accessible open space directly to the south of the rezoning area. The application also enlarged the SCID and created Parcel G of the Coney West subdistrict.

The subject rezoning area is located within the Federal Emergency Management Agency (FEMA)-designated 100-year floodplain. The Base Flood Elevation, or expected height of flooding from a 100-year flood, ranges from approximately two to eight feet above grade. All new construction in this floodplain is subject to Appendix G of the New York City Building Code, which ensures that new buildings meet or exceed FEMA regulations for resiliency.

The rezoning area contains a mix of residential and commercial buildings and vacant parcels. Lots fronting on Surf Avenue contain a two-story, mixed use building with a deli on the ground floor and two residential units, unimproved vacant lots ranging in area from 2,000 to 3,500 square feet, a one-story industrial building occupied by a roofing company, a one-story commercial building, and a three-story residential building.

A similar mix of uses are along the West 22nd Street and West 23rd Street frontages and include two one-story light industrial buildings, a six-story multi-family building constructed pursuant to a Board of Standards and Appeals variance (BSA Cal. No. 91-02-BZ), two three-story multi-family buildings and unimproved vacant lots ranging in size from 2,000 to 7,000 square feet.

The remaining lots in the proposed rezoning area (Lots 13, 16, 93, 94, and 114), are in the middle of the block and are owned by the applicant and contain a mix of one- to three-story, multi-family buildings.

The area is well-served by transit, with the Stillwell Avenue subway station less than half a mile to the east. The entire area to the south and east of the project area is within the Transit Zone. Nearby subway lines include the N, Q, D, and F, at the Stillwell Avenue subway station located six blocks away from the project area. The area is also served by the B36, X28, and X38 buses along Surf Avenue.

The surrounding area is characterized by a variety of uses, densities, and building typologies. Development in the neighborhood is concentrated along the main pedestrian and automotive thoroughfares, including Surf Avenue and Mermaid Avenue. Outside of the project area, multi-family residential and commercial buildings range in height from one to seven stories. To the north are several tower-in-the-park style developments between 13 and 22 stories tall. Southeast of the proposed development on the adjacent block is the Seaside Park and Community Arts Center, which holds concerts and events seasonally. Farther to the east, outside of the immediate surrounding area, are recreational and amusement uses like MCU Park and Luna Park. There are also several assisted living facilities, including a nursing home, a therapy and rehabilitation center for seniors, and a seniors-only residential building east of the rezoning area. Other land uses nearby include vacant land, vehicle storage, and public facilities.

The applicant is proposing to develop a new mixed-use building with 78 dwelling units on West 22nd and West 23rd streets on their mid-block properties. The building would rise to 12 stories on West 22nd Street and would rise to five stories on West 23rd Street. It would contain 86,000 square feet of residential floor area and 15,000 square feet of commercial floor area for a total of 101,000 square feet and a floor area ratio (FAR) of 5.79. The five-story portion of the proposed building would front on West 23rd Street and have a maximum height of approximately 60 feet, while the twelve-story portion of the building would front West 22nd Street and have a base height of approximately 60 feet and a maximum height of approximately 130 feet.

The ground floor would contain retail uses and the second floor would contain 34 accessory parking spaces wrapped with a 15-foot-deep commercial mezzanine as permitted by the SCID regulations. There is currently no tenant secured for the commercial space. The upper floors would contain 78 dwelling units of which approximately 20 units would be permanently affordable.

To facilitate the proposed project, the applicant proposes to change the existing R5 zoning district to an R6A/C2-4 (CI) district on the western portion of the rezoning area (Lots 90, 89, 86, 85, and 83), and to an R7D/C2-4 (CI) district on the remaining lots of the rezoning area along Surf Avenue and West 22nd Street. The proposed zoning map amendment would extend the “CI” special district over the entirety of the rezoning area. The proposed text amendment would extend the SCID westward over the rezoning area, creating a new parcel, “H.” Parcel H and the proposed development would be subject to the SCID provisions that modify the use and bulk requirements of the proposed districts.

R6A is a medium-density residential district with a maximum FAR of 3.6 for developments with MIH. The maximum building height for eligible MIH buildings with qualifying ground floors (13 feet or greater in height) is 85 feet after a setback from the base height of up to 65 feet. Off-street parking is required for 60 percent of the residential dwelling units, but is not required for income-restricted housing units within the Transit Zone.

R7D is a medium-density commercial, residential, and community facility district. As modified by the regulations proposed for Parcel H of the SCID, the maximum FAR for residential buildings is 5.8 with MIH. The maximum height of a building within 100 feet of Surf Avenue or 100 feet of West 22nd Street is 150 feet. Off-street parking is required for 60 percent of the residential dwelling units, but is not required for income-restricted housing units within the Transit Zone.

C2-4 is a local retail and service district that allows locally-oriented commercial developments up to 2.0 FAR. The proposed C2-4 district requires one accessory parking space per 2,000 square feet of commercial floor area for Use Group A uses listed in the SCID text; otherwise the underlying parking regulations apply.

In addition to the SCID related zoning text amendments mentioned above, the applicant is also proposing a zoning text amendment to designate the rezoning area as an MIH area mapped with Options 1 and 2. Option 1 requires that at least 25 percent of the residential floor area be provided as housing permanently affordable to households with incomes at an average of 60 percent of the area median income (AMI). Within that 25 percent, at least 10 percent of the square footage must be used for units affordable to residents with household incomes at an average of 40 percent of the AMI, with no unit targeted to households with incomes exceeding 130 percent of the AMI. Option

2 requires that 30 percent of residential floor area be devoted to housing units affordable to residents with household incomes at an average of 80 percent of the AMI. No more than three income bands can be used to average out to 80 percent, and no income band can exceed 130 percent of the AMI.

The applicant is also proposing a text amendment of ZR Appendix I to extend the Transit Zone to cover the rezoning area, to ensure that the parking regulations for the proposed new SCID Parcel H are consistent with the rest of the SCID.

The applicant stated in its application that the proposed actions would provide opportunities for development that is harmonious with the character of the surrounding area and the objectives of the SCID. The applicant also indicated that the proposed actions would be appropriate as they would facilitate new resilient, flood-resistant, mixed-use development with affordable housing and uses that would be consistent with the intent and purposes of the SCID at a density to enliven and activate the streetscapes of the rezoning area. The applicant further stated that inclusion of all lots located in the rezoning area would be necessary to create a rational land use plan regarding the future development of underutilized property on the subject block and that the proposed development would serve as an appropriate transition between the higher density permitted to the east within the SCID and the lower density residential area permitted to the west.

ENVIRONMENTAL REVIEW

This application (C 170458 ZMK), in conjunction with the application for the related action (N 170459 ZRK), 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 18DCP064K.

After a study of the potential environmental impact of the proposed actions, a Negative Declaration was issued on August 20, 2018. The Negative Declaration included (E) designations to avoid the potential for significant adverse impacts related to hazardous materials, air quality and noise (E-

488). The requirements of the (E) designation are described in the Environmental Assessment Statement (EAS) and Negative Declaration.

The City Planning Commission has determined that the proposed action will have no significant effect on the quality of the environment.

UNIFORM LAND USE REVIEW

This application (C 170458 ZMK) was certified as complete by the Department of City Planning on August 20, 2018 and was duly referred to Brooklyn Community Board 13 and the Brooklyn Borough President in accordance with Title 62 of the rules of the City of New York, Section 2-02(b), along with the application for the related action (N70459 ZRK), which was duly referred in accordance with the procedures for non-ULURP matters.

Community Board Public Hearing

Brooklyn Community Board 13 held a public hearing on this application (C 170458 ZMK) on September 26, 2018 and on October 24, 2018, by a vote of three in favor, 23 opposed, with no abstentions, the Community Board voted against recommending approval of the application.

Borough President Recommendation

The Brooklyn Borough President held a public hearing on this application (C 180029 ZMK) on October 25, 2018, and on November 30, 2018 issued a recommendation to disapprove the application.

City Planning Commission Public Hearing

On November 14, 2018 (Calendar No. 15), the City Planning Commission scheduled December 5, 2018, for a public hearing on this application (C 170458 ZMK) and the related application (N 170459 ZRK). The hearing was duly held on December 5, 2018 (Calendar No. 32).

The applicant team spoke in favor of the application and described the substandard nature of the existing housing units in the rezoning area, as well as the applicant's proposal to relocate tenants in the existing rent-regulated units. The applicant indicated that it would work with the relevant

agencies to ensure that the relocation of tenants in rent-regulated and other units would abide by all necessary regulations, and that adequate notice and resources would be provided to existing tenants to assist in their relocation, including identifying other units in properties that the applicant owns nearby that would be comparable in price and available.

A representative of the applicant also responded to local news stories reporting that the applicant would support a smaller rezoning area comprising only the development site and that the applicant wanted to rezone the smallest area possible. This applicant representative stated that the applicant team was in full support of rezoning the entire area as proposed in the land use application and the land use rationale underlying these proposed zoning boundaries.

One speaker, a representative from 32BJ spoke in opposition to the project due to a lack of commitment from the applicant regarding union jobs for the new buildings.

There were no other speakers and the hearing was closed.

CONSIDERATION

The Commission believes that the zoning map change being sought by the applicant has changed from the zoning map amendment that was certified (C 170458 ZMK), and is no longer appropriate.

In its certified application, the applicant sought a zoning map amendment from R5 to R7D/C2-4 (CI) and R6A/C2-4 (CI) and related text amendments that would have covered the majority of the block bounded by West 22nd Street, West 23rd Street, Surf Avenue and the Reigelmann Boardwalk (as more precisely defined above). The proposed zoning map and zoning text amendments within these boundaries would have been appropriate.

On January 3rd, 2019 the applicant submitted an affidavit further emphasizing their commitment to the full rezoning area as proposed.

Included within these boundaries is the applicant's irregularly shaped mid-block parcel on which it seeks to develop a mixed-use building. The Commission cannot turn a blind eye to the facts on the ground. Based on the actions of the applicant's representative in stating in a public meeting that the applicant wanted to rezone the smallest area possible, the Commission believes that the applicant is interested in a rezoning of only its own property, which lies in the middle of the subject

block. Such a rezoning would result in a highly irregular rezoning area of R7D/C2-4 (CI) and R6A/C2-4 (CI) zoning districts on the mid-block, surrounded by an R5 zoning district. This would not be an appropriate and rational land use. The zoning map and text changes sought by the applicant, based on the facts on the ground, would not result in a rational zoning map based on a well-considered plan, and so is not supported by the Commission.

RESOLUTION

Based on the consideration described in this report, the Commission determines that this application does not warrant approval, and adopts the following resolution:

RESOLVED, by the City Planning Commission, pursuant to Sections 197-c and 200 of the New York City Charter, that the application (C 170458 ZMK) by West 16-22 St Properties LLC, pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 28d:

1. changing from an R5 district to an R6A district property bounded by a line perpendicular to the easterly street line of West 23rd Street distant 200 feet southerly (as measured along the street line) from the point of intersection of the southeasterly street line of Surf Avenue and easterly street line of West 23rd Street, a line 110 feet easterly of West 23rd Street, the northerly boundary line of a park and its westerly prolongation, and West 23rd Street;
2. changing from an existing R5 district to an R7D district property bounded by Surf Avenue, West 22nd Street, the northerly boundary line of a park, a line 110 feet easterly of West 23rd Street, a line perpendicular to the easterly street line of West 23rd Street distant 200 feet southerly (as measured along the street line) from the point of intersection of the southeasterly street line of Surf Avenue and the easterly street line of West 23rd Street, and West 23rd Street;
3. establishing within a proposed R6A district a C2-4 district bounded by a line perpendicular to the easterly street line of West 23rd Street distant 200 feet southerly (as measured along the street line) from the point of intersection of the southeasterly street line of Surf Avenue and easterly street line of West 23rd Street, a line 110 feet easterly of West 23rd Street, the northerly boundary line of a park and its westerly prolongation, and West 23rd Street;
4. establishing within a proposed R7D district a C2-4 district bounded by Surf Avenue, West 22nd Street, the northerly boundary line of a park, a line 110 feet easterly of West 23rd Street, a line perpendicular to the easterly street line of West 23rd Street distant 200 feet

southerly (as measured along the street line) from the point of intersection of the southeasterly street line of Surf Avenue and easterly street line of West 23rd Street, and West 23rd Street; and

5. establishing a Special Coney Island district (CI) bounded by Surf Avenue, West 22nd Street, a line 150 feet northerly of former Highland View Avenue and its easterly prolongation, a line 110 feet easterly of West 23rd Street, a line perpendicular to the easterly street line of West 23rd Street distant 245 feet northerly (as measured along the street line) from the point of intersection of the easterly street line of West 23rd Street and the northerly boundary line of Riegelmann Boardwalk, and West 23rd Street;

Borough of Brooklyn, Community District 13, dated August 20th, 2018, and, subject to the conditions of CEQR Declaration E-488 is **DISAPPROVED**.

Pursuant to Section 200 of the New York City Charter, the action by the City Planning Commission in this matter is final.

MARISA LAGO, *Chair*

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

ALLEN P. CAPPELLI, ESQ., JOSEPH DOUEK, RICHARD W. EADDY, HOPE KNIGHT, ORLANDO MARIN, RAJ RAMPERSHAD, *Commissioners*

MICHELLE de la UZ, LARISA ORTIZ, *Commissioners*, ABSTAINING

ANNA HAYES LEVIN, *Commissioner*, VOTING NO

Application #: **C 170458 ZMK**

Project Name: **West 22nd - West 23rd Street Rezoning**

CEQR Number: 18DCP064K

Borough(s): **Brooklyn**

Community District Number(s): **13**

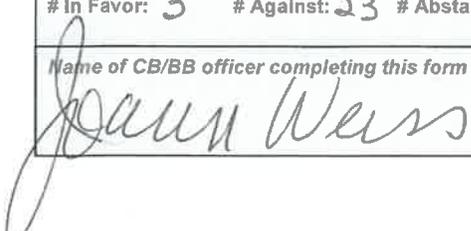
Please use the above application number on all correspondence concerning this application

SUBMISSION INSTRUCTIONS

- Complete this form and return to the Department of City Planning by one of the following options:
 - EMAIL (recommended):** Send email to CalendarOffice@planning.nyc.gov and include the following subject line: (CB or BP) Recommendation + (6-digit application number), e.g., "CB Recommendation #C100000ZSQ"
 - MAIL:** Calendar Information Office, City Planning Commission, 120 Broadway, 31st Floor, New York, NY 10271
 - FAX:** to (212) 720-3488 and note "Attention of the Calendar Office"
- Send one copy of the completed form with any attachments to the applicant's representative at the address listed below, one copy to the Borough President, and one copy to the Borough Board, when applicable.

Docket Description:

See Attached

Applicant(s): West 16-22 St Properties LLC 1030 Ocean Avenue, Suite 1B, Brooklyn NY 11226		Applicant's Representative: Richard Lobel Sheldon Lobel, P.C 18 E 41st Street, 5th Fl New York, NY 10007	
Recommendation submitted by: Brooklyn Community Board 13			
Date of public hearing: 9-26-2018		Location: Education Hall N.Y. Aquarium 602 Surf Ave. BKLYN, NY 11224	
Was a quorum present? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>		<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>	
Date of Vote: 10-24-2018		Location: Education Hall NY Aquarium 602 Surf Ave BKLYN NY 11224	
RECOMMENDATION			
<input type="checkbox"/> Approve		<input type="checkbox"/> Approve With Modifications/Conditions	
<input checked="" type="checkbox"/> Disapprove		<input type="checkbox"/> Disapprove With Modifications/Conditions	
Please attach any further explanation of the recommendation on additional sheets, as necessary.			
Voting			
# In Favor: 3		# Against: 23	
# Abstaining: 0		Total members appointed to the board: 47	
Name of CB/BB officer completing this form 		Title Chairperson	Date 10-26-18



BROOKLYN COMMUNITY BOARD 13
1201 Surf Avenue – 3rd Fl., Brooklyn, NY 11224
(718) 266-3001 FAX (718) 266-3920
<http://www.nyc.gov/html/bkncb13>

ERIC L ADAMS
Borough President

JOANN WEISS
Chairperson

EDDIE MARK
District Manager

Oct. 25, 2018

Inna Guzenfeld
Community Liaison
Office of the Brooklyn Borough
President
209 Joralemon Street
Brooklyn, N.Y. 11201

Inna.guzenfeld@brooklynbp.nyc.gov

Dear Ms Guzenfeld:

At the October meeting of Brooklyn Community Board 13 held on Wednesday evening October 24, 2018 the following motion was voted on. CEP No. 18DCP064K
ULURP no. 170458ZMK & N170459ZRK – Brooklyn Community Board 13 approves the following: The applicant, West 16-22 St Properties, LLC is proposing a zoning map amendment to the New York City Zoning Map, section 28d, to rezone a portion of a block located in Coney Island from existing R5 zoning district to a combination of R7D/C2-4 and R6A/C2-4 zoning district.

Vote: In favor: 3 Opposed: 23 Abstention: 0 (Quorum present)
Motion denied. Roll call on file at C.B. office.

Sincerely,

Eddie Mark
District Manager
Brooklyn Community Board 13

Cc: Daphne Lundi, Dept. of City Planning
dlundi@planning.nyc.gov

Brooklyn Borough President Recommendation
CITY PLANNING COMMISSION
120 Broadway, 31st Floor, New York, NY 10271
CalendarOffice@planning.nyc.gov



INSTRUCTIONS

1. Return this completed form with any attachments to the Calendar Information Office, City Planning Commission, Room 2E at the above address.
2. Send one copy with any attachments to the applicant's representatives as indicated on the Notice of Certification.

APPLICATION

WEST 22ND – WEST 23RD STREET REZONING – 170458 ZMK, 170459 ZRK

Applications submitted by West 16-22 Properties LLC pursuant to Sections 197-c and 201 of the New York City Charter for zoning map and text amendments affecting 25 lots on a block bounded by West 22nd Street, West 23rd Street, Seaside Park, and Surf Avenue. The zoning map amendments would change portions of such property, currently zoned R5, to R6A and R7D districts, and establish C2-4 commercial overlays within those districts. The zoning text amendments would enlarge the Special Coney Island District (SCID) with a new parcel of the Coney Island West Subdistrict, comprised by the 25 lots in the project area, establish an MIH area coterminous with the project area, and extend the Transit Zone Map of Coney Island to cover the project area. Such actions would facilitate the development of a five- and 12-story commercial and residential building with 78 dwelling units in Brooklyn Community District 13 (CD 13). The project would provide approximately 20 units affordable to households at an average of 60 percent Area Median Income (AMI), pursuant to MIH Option 1.

BROOKLYN COMMUNITY DISTRICT NO. 13

BOROUGH OF BROOKLYN

RECOMMENDATION

APPROVE
 APPROVE WITH
MODIFICATIONS/CONDITIONS

DISAPPROVE
 DISAPPROVE WITH
MODIFICATIONS/CONDITIONS

SEE ATTACHED

BROOKLYN BOROUGH PRESIDENT

November 30, 2018

DATE

RECOMMENDATION FOR: WEST 22ND – WEST 23RD STREET REZONING – 170458 ZMK, 170459 ZRK

West 16-22 Properties LLC submitted two applications pursuant to Sections 197-c and 201 of the New York City Charter for zoning map and text amendments affecting 25 lots on a block bounded by West 22nd Street, West 23rd Street, Seaside Park, and Surf Avenue. The zoning map amendments would change portions of such property, currently zoned R5, to R6A and R7D districts, and establish C2-4 commercial overlays within those districts. The zoning text amendments would enlarge the Special Coney Island District (SCID) with a new parcel of the Coney Island West Subdistrict, comprised by the 25 lots in the project area, establish a Mandatory Inclusionary Housing (MIH) area coterminous with the project area, and extend the Transit Zone Map of Coney Island to cover the project area. Such actions would facilitate the development of a five- and 12-story commercial and residential building with 78 dwelling units in Brooklyn Community District 13 (CD 13). The project would provide approximately 20 units affordable to households at an average of 60 percent Area Median Income (AMI), pursuant to MIH Option 1.

On October 25, 2018, Brooklyn Borough President Eric L. Adams held a public hearing on the proposed zoning map and zoning text amendments. There was one speaker on the item, a representative of 32BJ Service Employees International Union (SEIU), who spoke in opposition, citing a lack of commitment to well-paying building service jobs at the proposed development.

In response to Borough President Adams' inquiry regarding more than 30 occupied rent-stabilized units located on the applicant's site and what actions the property owner would take to secure sound affordable housing for those who would be displaced to facilitate demolition, the applicant's representative confirmed that there are currently 32 apartments on the development site with both rent-regulated and non-regulated tenants. In accordance with existing New York State Division of Housing and Community Renewal (HCR) guidelines, rent-regulated tenants would be provided with notice and relocation options prior to demolition. Non-regulated tenants would be given at least 12 months' notice before construction and offered units in other applicant-owned buildings in the Coney Island community at their current rents. The applicant is prepared to make a commitment and a plan to effectuate relief for all tenants.

In response to Borough President Adams' inquiry as to whether one of the community's affordable housing administering agents would be used in the tenant selection process in order to ensure the highest level of participation from CD 13, and whether the applicant's marketing strategy would include a financial literacy campaign to assist local residents in becoming lottery-eligible, the representative stated that the applicant has not yet selected an administering agent, but has had preliminary discussions with several affordable housing nonprofits, and would welcome recommendations for organizations that might serve in such capacity in Coney Island.

In response to Borough President Adams' inquiry regarding the qualifying income range for prospective households based on household size, the anticipated rents based on the number of bedrooms, and the distribution of units by bedroom size, the applicant's representative stated that the applicant would select MIH Option 1, with 25 percent of floor area affordable to households at an average of 60 percent AMI. For units at 80 percent AMI, one and two-bedroom apartments would be offered at \$1,252 to \$1,504 dollars, in accordance with the 2018 maximum rent guidelines.

In response to Borough President Adams' inquiry regarding the incorporation of sustainable features such as blue, green, or white roof coverings, passive house design, permeable pavers, New York City Department of Environmental Protection (DEP) rain gardens, solar panels, and/or wind turbines, the representative noted that the architect is currently exploring sustainability measures, including a green roof, that may be integrated into the design.

In response to Borough President Adams' inquiry regarding the inclusion and participation of locally-owned business enterprises (LBEs) and minority- and women-owned business enterprises (MWBEs) in the construction process, the representative expressed intent to further discuss LBE and MWBE participation.

Subsequent to the hearing, Borough President Adams received a letter from the applicant, dated November 16, 2018, that clarified the number of rent-regulated and unregulated units on the applicant-owned sites, and outlined a relocation plan for all tenants.

Consideration

CB 13 disapproved the application on October 24, 2018.

The proposed land use actions would affect 25 tax lots on a block located immediately outside the western boundary of the SCID. Together, the lots, which include both applicant-owned and non-applicant owned properties, comprise approximately 88,370 sq. ft. and are currently zoned R5. The requested rezoning would change 19 of the lots, including the development site to R7D. Six additional lots, all fronting West 23rd Street, and nearest to Seaside Park, are proposed to be rezoned to R6A.

The project site consists of five applicant-controlled lots, including one vacant lot and four lots improved with multi-family residential buildings: 3016 West 22nd Street, 3022 West 22nd Street, 3017 West 23rd Street, and 3023 West 23rd Street. According to additional information provided by the applicant, the buildings contain a total of 37 units, of which 15 are rent-regulated and 22 are unregulated. The majority of tenants assumed occupancy in the last five years. Regulated rents range from \$808 to \$1,091 per unit, while unregulated rents range from \$850 to \$1,500 per unit, though 19 of these units are rented for less than the highest rent for a regulated unit.

The requested zoning text amendment would extend the Coney Island West Subdistrict to the portion of the block covered by the rezoning area, to be mapped as Parcel H of the Special Coney Island District SCID. On this new parcel, the maximum height of a building within the R6A zone would be 85 feet, while the maximum height of a building within the R7D zone would be 150 feet, inclusive of MIH affordable housing. Such regulations would promote the development of up to eight (R6A) and 15-story (R7D) buildings on the block. Such height caps are intended to create a transition from the maximum permitted height on the east side of West 22nd Street, which is 220 feet.

The proposed project would be built to an FAR of 5.76, of which 4.91 would be residential floor area, and 0.85 would be commercial floor area. In all, the development will contain 100,583 sq. ft. including 85,680 sq. ft. of residential use and 14,903 sq. ft. of retail use. The five-story portion would rise to a height of 61 feet, and the 12-story portion would rise to just above 131 feet.

The surrounding context is defined by the SCID to the east, and residential areas to the north and west. Surf Avenue, which lacks a commercial overlay west of the amusement zone, is lined with a mix of residential and community facility uses. There are a number of high-rise apartment towers that provide affordable housing according to New York State programs such as Mitchell-Lama. The area also contains several New York City Housing Authority (NYCHA) complexes.

The amusement zone has seen significant investment in recent years, stemming from the 2009 Coney Island Comprehensive Rezoning Plan. The new Ford Amphitheater at Coney Island Boardwalk and Seaside Park, completed in 2016, occupy the southern portion of the development block. A number of new residential buildings, some 100 percent affordable, are planned for the surrounding blocks, including a 135-unit affordable and supportive housing development on the corner of Surf Avenue and West 21st Street.

With regard to the applicant's proposed 78-unit development, according to MIH Option 1, the development rights generated from the R7D section of the site would result in approximately 20 permanently affordable housing units comprising 25 percent of the total floor area. Development adhering to the MIH program is generally consistent with Borough President Adams' objectives, because it results in permanently affordable housing, and allows a wide range of households to qualify for income-restricted units through the City's affordable housing lottery.

The November 16, 2018 letter to Borough President Adams expressed intent to take the following strategies, as part of a tenant relocation plan for the 37 applicant-controlled units: tenant notification 12 months prior to any demolition, payment of moving expenses for tenants who relocate within Brooklyn, a first right of refusal, based on length of tenancy, for those wishing to reside in the proposed development, relocation to comparable units in other applicant-owned buildings within Coney Island under current rents for the terms of their lease, and the provision of a final Tenant Relocation Report summarizing the outcome of such efforts to Borough President Adams and CB 13.

It should be noted that a tenant relocation plan presented is not legally binding, and provides no guarantees that the displaced tenants would be able to remain in the area, or secure affordable housing elsewhere, and is absent of assurances that rent-regulated tenants would be secured in rent-stabilized apartments based on relocation. As for the unregulated tenants, the fact that many pay rents on par with the regulated tenants in this apartment building raises an additional concern regarding the expressed strategies, as it would merely retain rent for the duration of the lease. Should the offered relocation building command higher rent, it would be likely that a relocated tenant would have limited ability to pay a market-rate rent when the lease expires. Moreover, such guiding principles have not been developed in consultation with the existing tenants.

Additionally, even with local preference for CD 13 and MIH Option 1, it is unlikely that the 20 envisioned MIH units in the proposed development would be a realistic relocation resource for the current tenants. Furthermore, the extent of the proposed rezoning would lead to a substantial risk of displacement on properties beyond the applicant's influence, specifically 3008 and 3046 West 22nd Street. Borough President Adams does not believe that potential displacement on non-applicant lots would be abated by any zoning in excess of possibly R6A/MIH and certainly R6B/MIH.

While not all of the non-applicant owned residential buildings are at risk of demolition, a number of these properties are substantially underbuilt. Of particular concern are two residential buildings, located at 3008 and 3046 West 22nd Street, with a total of 33 rent-regulated units. While the project's Environmental Assessment Statement (EAS) identified seven projected development sites, in addition to the applicant's assemblage, the analysis did not deem that the requested rezoning would place these two sites at risk of demolition — the rationale being that the rent-regulated tenants would be protected by HCR regulations. In his past responses to draft scopes for preparing environmental impact statements, Borough President Adams noted situations where rent-stabilized buildings subject to rent protection had been demolished after the property had benefitted from an upzoning, despite not being classified as a probable or potential development site. In his scope comments, he has consistently expressed concern that such analysis neglects the realistic probability that, despite rent-stabilized status, significantly upzoned properties might be deemed attractive as development sites based on the extent of zoning floor area built in comparison to zoning floor area permitted. The failure to disclose 3008 and 3046 West 22nd Street as development sites with resulting residential displacement is a result of questionable methodology.

At present, both 3008 and 3046 West 22nd Street are built over the maximum allowable R5 residential floor area ratio (FAR) of 1.25. However, rezoning to R7D/MIH would unlock an FAR of 5.6, which would allow the development of buildings of up to 150 feet tall on the block. As for 3008 West 22nd Street, it is developed with a FAR of 1.47, well below half of the 4.2 market-rate floor area ratio that would result

from the proposed rezoning. If rezoned, its 18 tenant households would be at risk for displacement. With regard to 3046 West 22nd Street, as it is held in common ownership with the adjacent vacant lot, it should be assumed as an assemblage with combined post-rezoning R7D development rights of 36,640 sq. ft. As a merged zoning lot, it is constructed to 1.38 FAR, thus well below half of the 4.2 market-rate floor area ratio that would result from the proposed rezoning. If rezoned, its 15 tenant households would be at risk for displacement.

Contrary to the assumptions of the applicant's EAS, rent-regulated status does not preclude tenant displacement, as rent stabilization is not a legal deterrent to lawful demolition. According to Section 9 NYCRR 2524.5 of the Rent Stabilization Code, a property owner of a rent stabilized building is allowed to not renew the lease of a rent-stabilized tenant on the grounds that the property owner intends to demolish the building. HCR permission is subject to approved plans for future development as well as proof of financial ability to complete the project with agreement to pay the tenants' relocation expenses and provide a stipend according to established formulas.

While Borough President Adams is generally supportive of rezonings that result in the creation of permanently affordable housing, pursuant to MIH, he does not support a change to the zoning map. In this case, Borough President Adams is concerned that the resulting displacement of 37 rent-regulated and unregulated units on the applicant's site, absent of a satisfactory legally-binding relocation plan, would far exceed the public benefit derived from development according to MIH. In addition, Borough President Adams is concerned about the undisclosed risk of residential displacement associated with the non-applicant controlled sites.

Given the number of units that would be directly and indirectly displaced by the proposed development and in absence of a legally-binding satisfactory tenant relocation plan, Borough President Adams believes that the requested zoning results in too much displacement and uncertainty relative to the public benefit of affordable housing achieved through MIH and therefore, the application should be denied.

Recommendation

Be it resolved that the Brooklyn borough president, pursuant to sections 197-c and 201 of the New York City Charter, recommends that the City Planning Commission and City Council disapprove this application.