

CITY COUNCIL
LAND USE DIVISION

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DEPARTMENT OF CITY PLANNING
CITY OF NEW YORK

OFFICE OF THE CHAIR

NYC COUNCIL

213 DEC 18 P 2:44

SPEAKER'S OFFICE

December 13, 2013

City Council
City Hall
New York, NY 10007

Re: ULURP No. C 140063 ZSK
Seaside Park
Community District 13
Borough of Brooklyn

Honorable Members of the Council:

In accordance with Section 197-d(d) of the New York City Charter, the City Planning Commission has reviewed the proposed modification to the above-referenced application to 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.

The Land Use Committee of the City Council recommended that the approval of the above-referenced application be conditioned upon modification of the list of approved drawings set forth in Paragraph 1 of the Resolution in CPC Report No. C140063 ZSK to remove drawings Z-604 and Z-605 from such list.

This modification raises no land use or environmental issue requiring further review. Attached is a CEQR Technical Memorandum which concludes that the modification would not result in any new or different impacts from those disclosed in the Final Environmental Impact Statement (FEIS). The Technical Memorandum also includes responses to written comments made by a member of the public before the City Planning Commission which, while provided to the Commission for purposes of its deliberations, were inadvertently omitted from the FEIS Response to Comments chapter.

This report and recommendation was adopted by a unanimous decision.

Sincerely,

A handwritten signature in black ink, appearing to read "Ken Knuckles", written over a circular stamp.

Ken Knuckles
Vice-Chair
City Planning Commission

Amanda M. Burden, FAICP, Chair
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THE CITY OF NEW YORK
OFFICE OF THE MAYOR
NEW YORK, NY 10007

**Technical Memorandum for the Seaside Park and Community
Arts Center FEIS**

**CEQR No. 13DME014K TM001
December 18, 2013**

A. INTRODUCTION

On November 21, 2013 the Office of the Deputy Mayor for Economic Development (ODMED), as Lead Agency, issued a Notice of Completion for the Seaside Park and Community Arts Center Final Environmental Impact Statement (FEIS). Following publication of the FEIS and issuance of the Notice of Completion, a modification to the Uniform Land Use Review Procedure (ULURP) application (the "Application" or the "proposed action") has been proposed by the New York City Council (City Council) during its review of the Application (the "Proposed City Council Modification"). The Proposed City Council Modification would eliminate two of the drawings in the Application from the list of approved drawings. In addition, the City Council noted that there appears to have been one comment letter ("the Comment Letter") received from the public during the review period that, while presented to the City Planning Commission during ULURP, was not incorporated in the FEIS response to comments.

This technical memorandum examines whether the Proposed City Council Modification would alter the proposed project analyzed in the FEIS or result in any new or different significant adverse environmental impacts not already identified in the FEIS. As set forth below, this technical memorandum concludes that the Proposed City Council Modification would not alter the proposed project or result in any new or different significant adverse impacts not already identified and examined in the FEIS. In addition, this technical memorandum includes a written response to the Comment Letter. As discussed herein, the Comment Letter suggests several 'alternatives' that would not meet the goals and objectives of the proposed action.

B. PROPOSED CITY COUNCIL MODIFICATIONS

The Proposed City Council Modification would delete Drawing Nos. Z-604 and Z-605 (detailed plans for the mezzanine and roof levels of the [Former] Childs Restaurant Building) from the approved drawings listed in the resolution of the City Planning Commission dated December 4, 2013 (Calendar No. 9) ("the Resolution") and submitted under Application No. C 140063 ZSK by Coney Island Holdings LLC and the New York City Economic Development Corporation for the grant of a special permit pursuant to Section 131-60 of the Zoning Resolution to allow the proposed open-air auditorium with a maximum seating capacity of 5,099 ("the Application"). The City Council's Land Use Committee proposes the modification

because certain of the details contained on these two plans are illustrative only and not germane to the land use approval, and the other content related to the findings for the proposed action is duplicative of information contained on other plans listed in the Resolution.

The elimination of Drawing Nos. Z-604 and Z-605 from the list of approved drawings set forth in the Resolution would not alter the proposed project analyzed in the FEIS. The Proposed City Council Modification does not in any respect change the design of the proposed project or any aspect of the project. The Proposed City Council Modification, which is limited to deleting the two drawings, only removes from the set of approved plans information that is not necessary in connection with the special permit findings required by Zoning Resolution Section 131-60. Moreover, any of the information that is contained on the two drawings that may be relevant to the special permit findings is depicted on other plans that remain part of the list of approved drawings. Accordingly, this modification would not result in any new or different environmental impacts other than those set forth in the FEIS.

C. EVALUATION OF ADDITIONAL COMMENT LETTER

A comment letter (“the Comment Letter”) received by the City prior to the close of the DEIS public comment period was inadvertently left out of the FEIS. The Comment Letter was signed by Carolyn McCrory and dated November 4, 2013, a copy of which is attached as Appendix A to this Technical Memorandum. Although a copy of the Comment Letter was not included in FEIS Appendix E, “Written Comments Received on the DEIS,” it should be noted that Ms. McCrory was listed as one of the commentators in FEIS Chapter 21, “Response to Comments Received on the DEIS,” as she gave oral testimony that was heard by the City Planning Commission at the DEIS public hearing held on October 23, 2013. In addition, the Comment Letter was provided to the City Planning Commission during its deliberations. The substance of many of the comments made in the Comment Letter were addressed in the FEIS, specifically in the responses to comments 3.4, 3.6, and 12.1 in Chapter 21.

The Comment Letter also listed a number of suggested “alternatives” that were not specifically addressed in the response to comments chapter of the FEIS. These suggested alternatives are discussed below.

- ***The amphitheater could be placed on the other side of the historic Child's building. iStar, the developer attached to the project, owns this entire block. It has been the site for the Seaside Summer Concert Series for the last two seasons.***

The site to which this suggested alternative refers is located on Tax Block 7072 (“the Proposed Alternative Site”), which is located at West 21st Street across the street from the (Former) Childs Restaurant Building. This site is in private ownership, but its owner is not iStar (sic) as suggested by the Comment Letter. Rather, the owner of the Proposed Alternative Site is a different private entity that is an affiliate of iStar Financial.

There are a variety of reasons why the Proposed Alternative Site was not considered a viable substitute location for the project. These reasons, which are detailed below, include the differences in location, lot area and the development potential of the respective sites, as well as the relation of the Proposed Alternative Site to residential development of the Coney West subdistrict.

The Proposed Alternative Site allows a significantly higher residential density than permitted for the portion of the project site that similarly could be improved with a mixed-use residential development as contemplated by the Comprehensive Coney Island Rezoning Plan (“the Coney Island Plan”). In this respect, Block 7072 was identified as projected development site 1 in the Coney Island Plan FEIS, and projected to permit as-of-right the development of a total of approximately 780 residential units and

107,096 sf of commercial floor area. This is substantially more than the 33,978 sf of commercial space (local retail uses along the north side of the boardwalk) and approximately 223 dwelling units projected for the eastern portion of the project site on Tax Lot 142, which is the only portion of the project site available for residential development under the Coney Island Plan (the balance of the project site is comprised of Lot 130, which is improved with the [Former] Childs Restaurant Building, a designated landmark building, and an assemblage of lots to the west that are designated on the Zoning Map as Highland View Park).

The proposed ten-year special permit to facilitate the development of the project is intended by the City Planning Commission to allow for a temporary use of the project site during the outdoor concert season as an amphitheater to enliven the western edge of the Special Coney Island District and serve as a catalyst for the mixed-use residential development in Coney West contemplated by the Coney Island Rezoning. The use of the Proposed Alternative Site for this purpose would significantly reduce by more than two thirds the contemplated residential development in Coney West, including a decrease in the number of affordable units that could be developed during the term of the special permit under the Inclusionary Housing Program as contemplated by the Coney Island Plan.

Moreover, the location of the project at the present project site and the integration of the (Former) Childs Restaurant Building as a component of the project will facilitate the restoration and adaptive reuse of the (Former) Childs Restaurant Building as a restaurant and catering space as well as an indoor entertainment venue. This opportunity for the restoration and adaptive reuse of the Childs Building will be lost if the project would be shifted to the Proposed Alternative Site. Similarly, the development of the project at its current location will accelerate the development of an expansive public open space with passive and active recreation on the property contemplated by the Coney Island Plan for the development of Highland View Park. This would not occur with the use of the Proposed Alternative Site.

Finally, it should be noted that placing the proposed amphitheater on the Proposed Alternative Site would make it impractical to establish the proposed Ocean Way, which would bisect Block 7072 when it is developed in accordance with the Coney Island Plan. The mapping of Ocean Way was approved as part of the Coney Island Plan, but has not yet taken effect. The establishment of Ocean Way was one of several mapping actions that were intended to facilitate the redevelopment of vacant and underutilized land through the creation of new block configurations, enhance the access to the Boardwalk and develop new connections between the residential community and the amusement area. As use of the Proposed Alternative Site would prevent the establishment of Ocean Way, it would not be consistent with the goals and objectives of the Coney Island Plan and further would impede the development contemplated for the Coney West subdistrict.

For all of the above reasons, this alternative would not meet the goals and objectives of the proposed action.

- ***A partnership is created with MCU stadium. Using some of the \$51 million budget, adaptations are made to make the stadium more suitable for regular concerts and community events.***

The adaptations that would be necessary to make MCU stadium suitable for regular concerts and community events would pose significant operational conflicts. Given the overlapping seasonal nature of both uses – with the baseball games taking place during June, July, August, and September and the proposed amphitheater operating between May and October – this alternative would impede the programming objectives for the regular concerts and community events envisioned for the proposed amphitheater during the peak summer season.

In addition, in order for MCU stadium to accommodate the concerts and community events envisioned for the proposed Seaside project, there would have to be significant investment in setting up and taking down the necessary equipment and facilities for each event. This would include the need to resurface the field prior to each concert event, which would be both impractical and time consuming, particularly given the schedule of the home games for the Brooklyn Cyclones.

Finally, it should be noted that seating for events at MCU stadium would be uncovered, and would therefore not be consistent with a key design objective of the proposed Seaside venue. Moreover, the uncovered seating at MCU stadium would not protect event goers from inclement weather, and would make cancellations of concert events due to inclement weather more likely, which would further hamper programming objectives and result in additional scheduling conflicts.

For all of the above reasons, this alternative would not meet the goals and objectives of the proposed action.

- ***The Boardwalk Garden is included in the plan and recognized as a permanent garden.***

The site of the decommissioned community garden (Lot 142) is integral to the proposed project, as it encompasses the area to be occupied by the paved plaza that would accommodate the majority of the seats during events at the proposed amphitheater, as well as a portion of the stage house. Therefore, allowing the decommissioned community garden to remain on Lot 142 would make the proposed project infeasible.

Moreover, the remainder of the project site is proposed to be occupied by a publicly accessible open space, which has been designed in consultation with the NYC Department of Parks and Recreation (DPR) to maximize benefits to the public. As a result, the proposed project would result in the development of a high-quality recreational facility that would feature plantings, landscaping, play equipment, a lawn area offering a community-oriented recreational space with elevated views to Coney Island Beach, benches as well as picnic tables for the public's use, and restrooms, in addition to a performance venue for concerts and community-oriented events such as farmers' markets, school graduations, and festivals. As such, there is no available space within the remainder of the project site that could feasibly accommodate this community garden without drastically diminishing the goals and benefits of the proposed project.

For the above reasons, including the Boardwalk Garden as part of the proposed project would not be feasible, as it would prevent the realization of key components of the proposed project. As such, this alternative would not meet the goals and objectives of the proposed action.

- ***The Child's Building is used as a true community arts center as well as a restaurant, banquet hall, and performance venue. Local non-profits and leaders are included in this planning and in a board overseeing the project, as well as individuals representing the interests of the city and the developer.***

The proposed Seaside Park and Community Arts Center project would serve as the venue for a variety of concerts, community events, and public gatherings, providing the Coney Island community with a year-round public space that can be used for festivals, cultural events, public gatherings, outdoor recreational activities, farmers' markets, school graduations, and festivals. As discussed below, this community arts center use, which is an important component of the proposed project, would not be feasible within the (Former) Childs Restaurant Building.

As noted in the FEIS, the proposed project includes the restoration and adaptive reuse of the landmarked (Former) Childs Restaurant Building, which would accommodate approximately 440 restaurant patrons and additional seating capacity for seasonal rooftop dining, as well as catered events and indoor entertainment. The restaurant and catering programming in the (Former) Childs Restaurant Building would operate year round, and the building would also function in the off-season months as an indoor entertainment venue.

In order for the restaurant/catering facility to be financially viable, it must have the ability to operate regularly, on a year-round basis, and to accommodate special catering and other entertainment events in the off-season. Combining the proposed restaurant, catering and entertainment activities with a community arts center would not be feasible due to the lack of space within the existing structures. As such, this suggested alternative would not meet the goals and objectives of the proposed action.

The second half of the above comment relates to the inclusion of members of the community in a board overseeing the project, and is technically outside the scope of the proposed project's environmental review. A response to similar comments was already provided in the FEIS (refer to response to comments 1.7 and 1.8 in Chapter 21), which noted that the applicant has made a commitment to create a community advisory committee which will provide guidance regarding programming the publicly accessible open space and, on days when there are no concert events scheduled, the proposed amphitheater.

- ***Community non-profits, leaders, and members are invited to brainstorm other possible adjustments and invited to work out a detailed Community Benefits Agreement. This would include creating a transparent process whereby a percentage of the profits go directly into community initiatives.***

Although this bullet was listed under the "Some Alternatives" heading of the Comment Letter, it relates to inviting community members to brainstorm other possible adjustments and working out a detailed Community Benefits Agreement. A response to similar comments was already provided in the FEIS (refer to response to comments 1.7 and 1.8 in Chapter 21). Specifically, the comment regarding a community benefits agreement is noted as it was made in connection with the public comments solicited regarding the DEIS, but it is technically outside the scope of the proposed project's environmental review.

D. CONCLUSIONS

As described above, the Proposed City Council Modification would not result in any new or different significant adverse environmental impacts that were not already identified in the FEIS. Also as discussed above, the suggested alternatives in the Comment Letter are either infeasible or outside the scope of the environmental review for the proposed project, or would not meet the goals and objectives of the proposed action.



Wesley O'Brien
Assistant to the Mayor
On behalf of the Deputy Mayor
For Economic Development

12/18/13

Date

APPENDIX A

November 4, 2013

Dearest members of the City Planning Commission,

I am writing because I am deeply concerned about the proposed plans for the Seaside Community Arts Center and Park.

I understand and respect the fact that a great deal of work went into making the proposal, that it is considered to be a legacy project of Marty Markowitz, and that some feel the plan must be approved as is or possibly lose funding for the project.

I noticed in the Final Scope of work for an Environment Impact Statement that there is a category called Alternatives. It is unfortunate that that none so far have been documented. There is still time!

Some Alternatives:

- The amphitheater could be placed on the other side of the historic Child's building. iStar, the developer attached to the project, owns this entire block. It has been the site for the Seaside Summer Concert Series for the last two seasons.

- A partnership is created with MCU stadium. Using some of the \$51 million budget, adaptations are made to make the stadium more suitable for regular concerts and community events.

- The Boardwalk Garden is included in the plan and recognized as a permanent garden.

- The Child's Building is used as a true community arts center as well as a restaurant, banquet hall, and performance venue. Local non-profits and leaders are included in this planning and in a board overseeing the project, as well as individuals representing the interests of the city and the developer.

- Community non-profits, leaders, and members are invited to brainstorm other possible adjustments and invited to work out a detailed Community Benefits Agreement. This would include creating a transparent process whereby a percentage of the profits go directly into community initiatives.

Concerning block 7071 lot 142 and the Boardwalk Garden:

- Elderly people and others live directly across the street. We feel this is a concern since this is the proposed site of the amphitheater. As well there is a nursing home on W.23rd which appears to be less than 500 feet away. I believe there is a stipulation about this regarding amplified sound.

-Approximately 50 gardeners are currently at the Boardwalk Garden growing thousands of pounds of produce a year for their communities.

-There have been different gardening programs on that lot since the late 1970s.

-It became The Boardwalk Garden in 1998. Because it was Parks Department land, it was considered a PERMANENT garden. Of the other Coney Island community gardens only one other garden has this designation.

-It was a relocation site for at least two out of the twelve known Coney Island gardens destroyed around that time. It is believed more than twelve have been destroyed- this is currently being researched.

-In 2004 the Boardwalk gardeners were moved prematurely to an inadequate site. Objects rained down on the gardeners and their tools were stolen. They promptly returned to their original site as the proposed project did not happen. However because the EDC was still interested in the land, Greenthumb was instructed not to reissue their license.

-While there is documentation of a Garden Review packet from that time, there is a possibility that protocol was not precisely followed.

-Superstorm Sandy destroyed the garden, burying it under many feet of sand and debris. The gardeners, with some help from volunteer groups, dug out and replanted the majority of the garden for this season

-The garden currently works with many greening groups including the Green Guerillas, Just Food, Brooklyn Botanic Garden's Greenbridge Alliance, Bronx Green-up, New York City Community Garden Coalition, and Grownyc.

-The location on the boardwalk is extremely important because it allows for visitors from all over the world, city, and neighborhood to see urban agriculture in action.

-The potential of a community garden as a tool for personal and community transformation is enormous. The Boardwalk Garden is a testament to that and deserves a permanent spot on the boardwalk to inspire generations to come.

Concerning the proposed garden relocation site:

Gardeners appreciate that resources are being contributed to the proposed relocation site by the developer. However:

-It is on HPD, not Parks Department land. This makes the site far easier to develop, and there has been a history of talk about a school someday being built there.

-It is much smaller than the current site, there is far less sun, it is not on the boardwalk, it is directly next to a housing project.

-Boardwalk gardeners have been told they will not be allowed to garden there in the winter months- many plant year-round. Gardeners have also been told children are not allowed on that site. Facilitation appears to be necessary to help plan the future of this site and for this garden to accommodate new gardeners.

-We kindly request that the gardeners are only relocated after further discussions regarding the plan, and only if all necessary approvals for the project are granted. We are hoping that the garden will continue to grow!

Thank you for taking these thoughts into consideration.

I believe it is essential that we all work together in envisioning and creating the future of Coney Island.

Please feel free to contact me at 617 834-3491.

Sincerely with best wishes,

A handwritten signature in black ink, appearing to read 'CMC' or 'Carolyn McCrory', written in a cursive style.

Carolyn McCrory