163-01 CROSS BAY BOULEVARD REZONING
HOWARD BEACH, QUEENS, NEW YORK
NOVEMBER 7, 2023

LR ITEM 3 DESCRIPTION OF PROPOSAL

1. INTRODUCTION

Russo's on the Bay (the "Applicant"), the owner of Block 14201, Lot 63 and an unincorporated portion of the demapped streetbed of 163rd Avenue known as Block 14195, Lot 8900 ("Development Site 1") and Block 14066, Lots 1, 3, 4, 32, 41, 45, 47, and 49 ("Development Site 2") in the Howard Beach neighborhood of Queens Community District 10, requests approval of the following actions (the "Proposed Actions") from the New York City Planning Commission (the "CPC"):

1. A zoning map amendment to rezone all or portions of Queens Blocks 14195, 14201, and 14066 (the "Project Area") from R2 and R3-1/C2-2 to R6B/C2-2 and R6B/C2-5;
2. A zoning text amendment to Appendix F of the Zoning Resolution to establish a Mandatory Inclusionary Housing ("MIH") Area coterminous with the Project Area;
3. A certification pursuant to ZR Section 62-811 (Waterfront Public Access and Visual Corridors);
4. An authorization pursuant to ZR Section 62-822 to waive several waterfront public access area ("WPAA") and visual corridor requirements, including:
    a. ZR Section 62-511(c) to allow the visual corridor to be located perpendicular to the shoreline coincident with a City easement;
    b. ZR Section 62-512 to allow a reduction in the minimum width of the visual corridor to 50 feet;
    c. ZR Sections 62-561(a)(1) and 62-64(a)(1) to allow an upland connection with a minimum width of less than 12 feet;
    d. ZR Section 62-62(c)(1) to allow less than 35 percent of the area of the shore public walkway and supplemental public access area to be planted;
    e. ZR Sections 62-62(c)(2)(i), 62-62(c)(2)(ii) and 62-655(a)(7) to allow no screening buffer or a screening buffer width of less than four feet;
    f. ZR Section 62-64(b)(1) to allow more than 65 percent of the entry area to be paved;
    g. ZR Section 62-64(c)(1) to allow less than 40 percent of the area of the upland connection to be planted;
    h. ZR Section 62-64(c)(1)(iii) to allow a waiver of tree planting requirements within the upland connection; and
    i. ZR Section 62-652(d) to allow seating with less than 22 inches of clearance from a circulation path.
5. A special permit pursuant to ZR Section 74-802 to allow a transient hotel (Use Group 5) within the proposed R6B/C2-5 zoning district.

The Proposed Actions would facilitate the redevelopment of the Development Sites with a new hotel, housing, and open space (the "Proposed Development"). Development Site 1 would be developed with a new hotel, open space, and parking uses. Development Site 2 would be developed with new residential uses, including permanently affordable housing, and parking.

2. BACKGROUND

In 1993, several changes to the City Map were approved (C 930470 MMQ) in the vicinity of the Project Area, including the elimination, discontinuance, and closing of 163rd Avenue between Cross Bay Boulevard and the easterly side of Shellbank Basin. Located adjacent to Development Site 1, 163rd Avenue was an unimproved paper street mapped to a width of 80 feet. As a condition for demapping, the City of New York required a 40-foot-wide easement for visual, water main, sewer, and utility purposes. No permanent structures may be built within the easement. The easement is centered on 163rd Avenue and extends from Cross Bay Boulevard to Shellbank Basin. The remainder of the demapped streetbed may be developed in accordance with applicable zoning regulations.

In 1994, the CPC approved an authorization (N 940436 ZAQ) and waterfront zoning certification (N 950020 ZCQ) to facilitate the enlargement of the Applicant's catering and event space at 162-31 Cross Bay Boulevard (Block 14195, Lots 13 and 14) to the north of Development Site 1. Pursuant to ZR Section 62-722, the authorization allowed the modification of the requirements of ZR Section 62-40 (Requirements for Waterfront Public Access and Visual Corridors) to waive the waterfront public access and ZR Section 62-342 (Rear Yards and Waterfront Yards) to modify the waterfront yard. Pursuant to ZR Section 62-711 (Waterfront Public Access and Visual Corridors), the certification determined that a visual corridor is not required.

In 1995, as part of the disposition process for 163rd Avenue, the City of New York allowed the adjacent property owners to the north (Block 14195, Lot 13) and south (Block 14201, Lot 63) the opportunity to acquire half of the demapped streetbed. The previous owner of the property to the south acquired and apportioned the southern half of the demapped streetbed to Lot 63. The northern half of the demapped streetbed was never formally incorporated into Lot 13. This unincorporated portion of the demapped streetbed is known as Block 14195, Lot 8900.

In 2009, the CPC approved a zoning certification (N 080368 ZCQ) to facilitate construction of a second catering establishment on Applicant-owned property at 164-49 Cross Bay Boulevard (Block 14207, Lot 105) to the south of the Project Area. As per the approved DOB plans, the building's accessory parking was to be located on a portion of Development Site 1 (Block 14201, Lot 63). That same year, the Applicant filed an application (N 100022 ZCQ) for zoning certification and site plan approval to facilitate the construction of a 36 space accessory parking lot. The application never received final approval and new accessory parking was never constructed.

In 2021, the CPC approved the Resilient Neighborhoods: Old Howard Beach Rezoning (C 210133 ZMQ) to bolster resiliency across a 48 block, flood-prone area located to the east of Shellbank Basin by limiting future development to detached and semi-detached buildings, which

are easier to retrofit than larger, attached buildings and would remain consistent with the predominant built context of the neighborhood. The rezoning sought to respond to the recommendations of the Resilient Neighborhoods initiative led by DCP and would be the next step in improving resiliency along the Queens coastline.

3. DESCRIPTION OF THE SURROUNDING AREA

Land Use

The area within a 600-foot radius (the "Surrounding Area") is located within the Howard Beach neighborhood of Queens Community District 10. The area is generally characterized by low-density residential and commercial uses. Residential uses are predominantly one- and two-family homes ranging from one to two stories in height. Residential uses are located west of Cross Bay Boulevard and to the east of Shellbank Basin. Retail and other commercial uses in the Surrounding Area are concentrated along Cross Bay Boulevard to the north and south and include local retail uses (salons, grocery stores, hardware stores, banks, restaurants) as well store-front office space, yacht clubs, and marinas. Many commercial buildings along Cross Bay Boulevard are set at or near the street line and parking is provided to the side or rear of the building. As a result, the eastern frontage of 92nd Street between 162nd and 164th Streets is predominantly surface level parking. The area is well served by local MTA bus service including the Q21, Q41, Q52 Select Bus Service (SBS), and Q53 SBS.

Zoning

The primary zoning districts mapped within the Surrounding Area include R3X, R3-1/C2-2, and R2. R3X zoning is mapped to the east of the Project Area between Shellbank Basin and 95th Street. R3-1/C2-2 zoning is generally mapped to a depth of 100 feet along Cross Bay Boulevard to the north and south. R2 zoning is mapped to the west of the R3-1/C2-2 district along Cross Bay Boulevard, as well as to the east of 95th Street. A description of zoning regulations within each of these districts is provided below.

R2

R2 is a low-density non-contextual residential zoning district that permits exclusively single-family detached houses (Use Group 1) and community facility uses (Use Groups 3 and 4). Industrial and manufacturing uses are not permitted. R2 districts allow a maximum FAR of 0.50. Building height and setback are governed by a sky exposure plane, which begins 25 feet above the street line. In R2 districts, lots have a minimum width of 40 feet. The front yard must be at least 15 feet deep. Two side yards that total 13 feet must be provided for each residence. One off-street parking space is required for each dwelling unit and parking must be provided within the side or rear yard or in a garage.

R3X

R3X is a low-density contextual residential zoning district that permits only one- and two-family detached houses (Use Groups 1 and 2) and community facility uses (Use Groups 3 and 4). Industrial and manufacturing uses are not permitted. R3X districts allow a maximum FAR of 0.5 for residential uses. The perimeter wall may rise to 21 feet before sloping or being set back to a maximum building height of 35 feet. The front yard must be at least 10 feet deep. Two side yards that total 10 feet must be provided for a detached residence. One off-street parking space is required for each dwelling unit.

R3-1

R3-1 is a low-density contextual residential zoning district that permits only one- and two-family detached and semi-detached houses (Use Groups 1 and 2) and community facility uses (Use Groups 3 and 4). Industrial and manufacturing uses are not permitted. R3-1 districts allow a maximum FAR of 0.5 for residential uses. The perimeter wall may rise to 21 feet before sloping or being set back to a maximum building height of 35 feet. The front yard must be at least 15 feet deep. Two side yards that total 13 feet must be provided for a detached residence and one eight foot side yard must be provided for each semi-detached residence. One off-street parking space is required for each dwelling unit and parking must be provided within the side or rear yard or in a garage.

C2-2 Overlay

C2-2 districts are commercial overlay districts mapped within residence districts along streets that serve local retail needs. Typical retail uses include neighborhood grocery stores, restaurants, and beauty parlors. C2 districts permit a slightly wider range of uses (Use Groups 5-9) such as funeral homes and repair services. In mixed buildings, commercial uses are limited to one or two floors and must always be located below the residential use. When commercial overlays are mapped in R1 through R5 districts, the maximum commercial FAR is 1.0; when mapped in R6 through R10 districts, the maximum commercial FAR is 2.0.

4. DESCRIPTION OF THE PROPOSED PROJECT AREA

The Project Area is comprised of three Applicant-owned properties and three non-Applicant-owned properties. Applicant-owned properties include Development Sites 1 and 2, described further below in Section 5, "Description of the Proposed Development Sites", and Block 14195, Lot 13. Lot 13 is located adjacent to Development Site 1 and has approximately 430 feet of frontage along Cross Bay Boulevard to the west and Shellbank Basin to the east. The site has a lot area of approximately 36,300 square feet and is improved with a 2-story approximately 96,068 square foot catering and event space. A driveway on Lot 8900 to the south provides access to an above-grade parking level. The site is mapped with an R3-1/C2-2 zoning district, which allows low-density residential uses and local serving retail uses.

The three privately-owned properties (Block 14066, Lots 5, 13, and 23) are located adjacent to Development Site 2 and have frontage along Cross Bay Boulevard, 163rd Avenue, and 162nd Avenue. The sites have a total lot area of approximately 52,140 square feet. Lot 5 is an approximately 16,150 square foot lot improved with a one-story bank with drive-through and accessory parking. Lot 13 is an approximately 13,300 square foot lot improved with a one-story building containing local retail uses, including a nail salon, hair salon, restaurant, barber shop, and a children's fitness and play center. Lot 23 is an approximately 22,690 square foot lot improved with a one-story local retail building with rooftop parking. Local retail uses include a beauty salon, bank, hardware store, restaurant, automobile leasing office, and other office space. The rooftop parking lot is accessible from the building's 163rd Avenue frontage. The sites are mapped with an R3-1/C2-2 zoning district, which allows low-density residential uses and local-serving retail uses.

5. DESCRIPTION OF THE PROPOSED DEVELOPMENT SITES

Development Site 1 is comprised of Block 14201, Lot 63, and an unincorporated portion of the demapped streetbed of 163rd Avenue known as Block 14195, Lot 8900. The site has approximately 190 feet of frontage along both Cross Bay Boulevard and Shellbank Basin and has a total lot area of approximately 16,029 square feet. Lot 63 is an approximately 12,654 square foot landscaped garden used in connection with the adjacent catering and event space. Lot 8900 is an unincorporated approximately 3,375 square foot area located north of Lot 63. The area is landscaped and provides driveway access to an above-ground parking level within the commercial building to the north. The site is mapped with an R3-1/C2-2 zoning district, which allows low-density residential uses and local-serving retail uses. Additionally, the site is located within the waterfront area along Shellbank Basin and is subject to the waterfront zoning regulations set forth in Article VI, Chapter 2. Furthermore, the site is located in a tidal wetland adjacent area and is subject to New York State Department of Environmental Conservation ("NYSDEC") regulations.

Development Site 2 (Block 14066, Lots 1, 3, 4, 32, 41, 45, 47, and 49) has approximately 519 feet of frontage along 92nd Street, 76 feet along 163rd Avenue, and 80 feet along 162nd Avenue. The site has a total lot area of approximately 40,612 square feet and is comprised entirely of accessory parking for the commercial uses along Cross Bay Boulevard. The site is mapped with an R2 zoning district, which allows low-density residential uses.

6. DESCRIPTION OF THE PROPOSED DEVELOPMENT

The Proposed Development would provide a new hotel, housing, and open space. At Development Site 1, the proposed building on Lot 63 would be set at the street line and rise without setback to a final height of approximately 52'-3" (four stories). The proposed building would contain approximately 24,987 square feet (1.47 FAR) of hotel (Use Group 5) uses including 33 hotel rooms and an approximately 4,260 square foot spa. The main entrance to the hotel would be located on the Cross Bay Boulevard frontage. An underground attended parking garage with approximately 30 parking spaces would be accessible from Cross Bay Boulevard

and would serve as off-site parking for the Applicant's second catering establishment at 164-49 Cross Bay Boulevard (Block 14207, Lot 105) to the south of the Project Area. Pursuant to the requirements of ZR Sections 62-50 and 62-60, the development would provide a WPAA along the building's Shellbank Basin frontage that would be accessible from the intersection of Cross Bay Boulevard and 163rd Avenue. In total, the WPAA would provide approximately 4,541 square feet (0.10 acres) of publicly accessible open space.

At Development Site 2, the proposed building would be set at the street line of 92nd Street and rise to a height of 43 feet. Above 43 feet, the building would set back approximately 18'-6" before rising to a final height of 53 feet (five stories). The proposed building would contain approximately 89,346 square feet of floor area (2.2 FAR), including 74 market-rate dwelling units and 32 affordable housing units (89,346 square feet). The main entrance to the building would be located on the 92nd Street frontage. A parking facility with approximately 99 spaces would be located on the ground-floor and would be accessible from 162nd and 163rd Avenues.

7. DESCRIPTION OF THE PROPOSED ACTIONS

In order to facilitate the Proposed Development, the Applicant requests approval of the following actions:

1. A zoning map amendment from R2 and R3-1/C2-2 to R6B/C2-2 and R6B/C2-5: The proposed zoning map amendment to sectional map 18b, would replace R2 and R3-1 districts with an R6B zoning district. The proposed R6B district would generally be bounded by the centerline of 92nd Street to the west, the centerline of 162nd Avenue to the north, the centerline of Cross Bay Boulevard to a depth of 120 feet from the prolongation of the southern sidewalk line of 162nd Avenue, Shellbank Basin to a depth of 735 feet from the prolongation of the southern sidewalk line of 162nd Avenue, the centerline of Cross Bay Boulevard, and the centerline of 163rd Avenue to the south. The existing C2-2 commercial overlay mapped along the eastern frontage of Cross Bay Boulevard on Blocks 14195 and 14201 would be replaced with a C2-5 commercial overlay. The existing C2-2 commercial overlay mapped along the western frontage of Cross Bay Boulevard on Block 14066 would be extended to cover the entire block.

   Compared to existing zoning, the proposed R6B/C2-2 and R6B/C2-5 districts would permit an increase in permitted residential and commercial floor area. R6B is a medium-density contextual district that allows a maximum FAR of 2.0 for residential uses (up to 2.2 FAR within an MIH Area) and a maximum FAR of 2.0 for commercial uses located within C2-2 and C2-5 overlays. In R6B districts, the maximum street wall height is 40 feet before set back to the maximum building height of 50 feet. Accessory parking is required for 50 percent of dwelling units within R6B districts. C2-2 districts require one parking space per 300 square feet of floor area for general retail or service uses. There are no minimum parking requirements in C2-5 districts.

   The proposed R6B/C2-2 and R6B/C2-5 zoning districts would be compatible with the existing land use and zoning character of the area while allowing an appropriate increase

in density and in the variety of permitted uses in the area. The proposed R6B district would be appropriate along Cross Bay Boulevard, a wide street that is equipped to handle an increase in density, and is already a well-established local destination for dining and shopping. R6B would also be appropriate along the surrounding local streets such as 92nd Street, ensuring that bulk and height are contextual with the surrounding neighborhood, while introducing new opportunities for affordable housing.

The proposed extension of the existing C2-2 district and mapping of a C2-5 district would strengthen the commercial identity of Cross Bay Boulevard and encourage new uses compatible with existing uses in the surrounding area. Extending the C2-2 district along 92nd Street would introduce commercial uses to the narrow street that is not uncommon to neighboring blocks in the surrounding area. The C2-5 district would introduce new commercial uses that are compatible with the uses in the surrounding area and would not require parking. Since Cross Bay Boulevard is served by public transportation, access to this commercial corridor will continue and any parking not provided in the C2-5 district can be satisfied by available on-street and off-street parking options within the surrounding area.

The additional bulk and density allowed by the proposed zoning map amendment would provide the flexibility needed to redevelop several underutilized parcels with a hotel, affordable housing, and new market-rate housing. The proposed hotel use will complement the adjacent catering and event space, creating a new destination in Southern Queens and strengthening the commercial character of the area. The proposed zoning map amendment would also facilitate the construction of much needed new housing, including permanently affordable housing units, which will provide opportunities for members of the neighborhood to stay in the neighborhood. The new activities and users introduced to these historically underutilized parcels would enliven the area and result in a more vibrant streetscape.

2. A zoning text amendment to Appendix F to establish an MIH Area: The Applicant is requesting a zoning text amendment to Appendix F to designate the Development Site as an MIHA. According to the U.S. Census Bureau, approximately 50 percent of area households in Queens Community District 10 are rent burdened and there is a strong need for affordable housing that reaches a broad range of incomes.[1]

   The MIH program requires that permanently affordable housing be provided within new residential developments, enlargements, and conversions from non-residential to residential use within the mapped MIHAs. Within the MIHA, all housing developments, enlargements and conversions that meet the criteria set forth in the MIH program must comply with the requirements of either Option 1 or Option 2 described below.

[1] Based on American Community Survey 2014-2018 5-Year Estimates for PUMA 4113, which is an approximation of Queens Community District 10 available at: https://communityprofiles.planning.nyc.gov/queens/10.

- Option 1: 25 percent of the residential floor area shall be provided as housing affordable to households at an average of 60 percent of the Income Index (AMI), with no unit targeted at a level exceeding 130 percent of AMI.
- Option 2: 30 percent of the residential floor area shall be provided as housing affordable to households at an average of 80 percent of the Income Index (AMI), with no unit targeted at a level exceeding 130 percent of AMI.

In addition to one or both of the options above, the City Council and the City Planning Commission could decide to apply one or both of the following options:

- Deep Affordability Option: 20 percent of the total residential floor area must be for housing units for residents with incomes averaging 40 percent of AMI and no direct subsidies could be used for these units except where needed to support more affordable housing.
- Workforce Option: 30 percent of the total residential floor area must be for housing units for residents with incomes averaging 115 percent of AMI; no units could go to residents with incomes above 135 percent AMI; no direct subsidies could be used for these affordable housing units; and this could not apply to Manhattan Community Districts 1-8.

The Applicant proposes to map the Project Area with both MIH Options 1 and 2, and intends to develop the Development Sites pursuant to Option 2. As such, 30 percent of residential floor area (approximately 32 units at Development Site 2) would be provided at an average of 80 percent of AMI with no unit at a level exceeding 130 percent of AMI. The MIH requirement ensures that these dwelling units, and a percentage of floor area in any future residential development within the MIHA, are permanently affordable.

3. Waterfront certification pursuant to ZR Section 62-811: Development Site 1 is located on a waterfront block. As a result, obtaining a waterfront certification pursuant to ZR Section 62-811 is a condition to the issuance of a building permit for Development Site 1. The certification confirms that a site plan has been submitted showing compliance with the waterfront public access and visual corridor requirements under ZR Sections 62-50 and 62-60. As documented in the plans and findings included with this application, Development Site 1 complies with the applicable waterfront public access and visual corridor requirements, except as outlined in the authorizations section below. The Applicant therefore requests the certification to allow for the construction of Development Site 1.

4. An authorization pursuant to ZR Section 62-822: In order to provide the flexibility needed to redevelop a small site, comply with City of New York requirements for development within an easement, and satisfy NYSDEC requirements for development within a tidal wetland adjacent area, design of the visual corridor and WPAA will require authorizations pursuant to ZR Section 62-822 to modify the requirements of ZR Sections 62-50 and 62-60. The requested modifications include the following:

a. ZR Section 62-511(c) to allow the visual corridor to be located perpendicular to the shoreline coincident with a City easement;
b. ZR Section 62-512 to allow a reduction in the minimum width of the visual corridor to 50 feet;
c. ZR Sections 62-561(a)(1) and 62-64(a)(1) to allow an upland connection with a minimum width of less than 12 feet;
d. ZR Section 62-62(c)(1) to allow less than 35 percent of the area of the shore public walkway and supplemental public access area to be planted;
e. ZR Sections 62-62(c)(2)(i), 62-62(c)(2)(ii) and 62-655(a)(7) to allow no screening buffer or a screening buffer width of less than four feet;
f. ZR Section 62-64(b)(1) to allow more than 65 percent of the entry area to be paved;
g. ZR Section 62-64(c)(1) to allow less than 40 percent of the area of the upland connection to be planted;
h. ZR Section 62-64(c)(1)(iii) to allow a waiver of tree planting requirements within the upland connection; and
i. ZR Section 62-652(d) to allow seating with less than 22 inches of clearance from a circulation path.

These modifications will result in a WPAA design that is functionally equivalent or superior to the design prescribed by strict adherence to the applicable provisions. As discussed in greater detail in the Statement of Findings, the proposed modifications to visual corridor width and location, pathway widths, the clearance distance between seating and the circulation path, and the proposed modifications of paved/planted area requirements would be to the minimum extent necessary in order to still allow for the provision of other required amenities within the WPAA such as landscaping, benches, trash receptacles, and bicycle parking. The proposed modification of the screening buffer width would allow for the provision of ADA companion seating.

5. A special permit pursuant to ZR Section 74-802: The proposed transient hotel use (Use Group 5) is not permitted within the proposed R6B/C2-5 zoning district and a special permit will be required pursuant to ZR Section 74-802. As discussed in more detail in the Statement of Findings, the proposed transient hotel will not conflict with any adjacent uses, will not cause undue vehicular or pedestrian congestion on local streets or unduly inhibit vehicular or pedestrian movement or loading operations, and will not impair the future use or development of the surrounding area.

8. CONCLUSION

The Applicant is requesting approval of several actions to facilitate the Proposed Development, including zoning map and text amendments, an authorization, a certification, and a special permit. The Proposed Actions would facilitate the construction of much needed housing, including approximately 32 units of permanently affordable housing, as well as a hotel and new public waterfront access along the Cross Bay Boulevard commercial corridor in close proximity to the area's dining and shopping. The Proposed Development would provide much needed

services and amenities to the existing and future residents of the area, enlivening the Cross Bay Boulevard commercial corridor and creating a more vibrant streetscape.