

CITY PLANNING COMMISSION

May 26, 2004/Calendar No. 28

C 030294 ZMK

IN THE MATTER OF an application submitted by Artopolis and CPC Resources, Inc. pursuant to Sections 197-c and 201 of the New York City Charter for **an amendment of the Zoning Map, Section Nos. 16c and 17a;**

1. changing from an M1-1 District to an R6 District property bounded by a line 150 feet westerly of Franklin Avenue, Dean Street, Franklin Avenue, and Bergen Street;
2. establishing within the proposed R6 District a C2-3 district bounded by a line 150 feet westerly of Franklin Avenue, Dean Street, Franklin Avenue, and Bergen Street;

as shown on a diagram (for illustrative purposes only) dated January 5, 2004 and subject to the conditions of CEQR Declaration E-128, Community District 8, Borough of Brooklyn.

The application for an amendment of the Zoning Map was filed by Artopolis and CPC Resources Inc. on January 27, 2003.

BACKGROUND

The proposed rezoning of a portion of one block on the west side of Franklin Avenue between Dean and Bergen streets from M1-1 to R6 with a C2-3 overlay would facilitate the conversion of nine vacant buildings to an 83 unit housing complex. The site is located in Community District 8, Crown Heights, Brooklyn.

The site proposed to be rezoned is on the southern edge of the Atlantic Avenue industrial corridor - a narrow manufacturing district running parallel to Atlantic Avenue which has weakened and now contains mainly auto related uses. The rezoning area consists of the entire block face on the west side of Franklin Avenue between Dean and Bergen streets. It is occupied by nine unused structures (seven industrial lofts and two residential buildings), and owned by the applicant, which fill the site to the property lines and range in height from one to six stories. Although the

buildings were constructed at different times, previous users of the site have created openings between the structures linking them into one interconnected complex.

Immediately to the west of the site are two, three- and four-story loft buildings (one, three story and one, four story) which have received BSA variances to allow conversion to residential use. Continuing to the west is the Franklin Avenue Shuttle, a short elevated subway line connecting the A and C lines on Fulton Street to the Prospect Park station on the Q line. To the west of the shuttle are loft buildings- most of which are either vacant or used for warehousing. The buildings along Classon Avenue to the east are residential and mixed commercial residential.

The area to the east across Franklin Avenue, zoned R6, is residential and is characterized by three- and four- story rowhouses with commercial uses on the ground floor. Immediately to the north of the site, also zoned R6, on the west side of Franklin Avenue, are rowhouses. Further west on that block are auto-related uses and loft buildings, in an M1-1 zoning district, - some with residential uses. The block south of the site, which is zoned R6, contains a mix of residential and institutional uses and vacant land. Further to the south is Interfaith Hospital - which has been sold to a housing developer and is currently being converted to residential use.

The area proposed for rezoning is currently zoned M1-1, a light manufacturing district with an FAR of 1.0, which permits limited commercial uses in addition to manufacturing uses, but does not permit new residential uses. The proposed R6 zoning district is a residential district with a

maximum FAR of 2.43 for residential uses (3.00 for Quality Housing) and 4.8 for certain community facility uses. The proposed rezoning would extend the R6, that is mapped to the south and east of the site, as well as on the Franklin Avenue frontage to the north, over the site. The C2-3 zoning district allows for a wide range of essential local retail and service establishments. The maximum FAR is 2.00 but commercial uses are limited to the first floor if there are to be residential uses above. The proposed extension of the C2-3 would continue the C2-3 both from the south and from across Franklin Avenue.

Upon approval of the rezoning, the applicants propose to develop 83 residential units by rehabilitating most of the existing building, demolishing a portion of the existing buildings to allow for an interior courtyard, and adding 30, 000 square feet of new construction up to an FAR of 2.43.

ENVIRONMENTAL REVIEW

This application (C 030294 ZMK) was reviewed pursuant to the New York State Environmental Quality Review Act (SEQRA), and the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 et seq. and the City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The designated CEQR number is 03DCP036K. The lead is the City Planning Commission.

The applicant signed a conditional negative declaration on January 2, 2004. The conditional negative declaration was published in the City Record on January 14, 2004 and in the New York State Environmental Notice Bulletin on January 14, 2004. Pursuant to the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 et seq., a 30-day comment period followed. No comments were received and the conditional negative declaration was issued on April 26, 2004.

The conditional negative declaration included an (E) designation. The placement of the (E) designation (E-128) on the zoning map would eliminate the potential for significant adverse impact on those sites and would ensure that appropriate testing, remediation and corrective action, if needed, would be undertaken.

To avoid any potential impacts associated with noise, the proposed action will place an (E) designation for noise on the following properties:

<u>Block</u>	<u>Lots</u>
<u>1142</u>	<u>44, 48</u>

The text of the (E) designation is as follows:

In order to ensure an acceptable interior noise environment, future residential uses must provide a closed window condition with a minimum of 30 dB(A) window/wall attenuation in order to maintain an interior noise level of 45 dB(A). In order to maintain a closed-window condition, an alternate means of ventilation must also be provided. Alternate means of ventilation includes, but is not limited to, central air conditioning or air conditioning sleeves containing air conditioners or HUD-approved fans.

With the implementation of the above (E) designation, no significant adverse impacts related to noise would occur.

After a study of the potential environmental impact of the proposed action, the lead agency has determined that the proposed action will have no significant effect on the quality of the environment, once it is modified as follows:

1. A Phase I Environmental Site Assessment (ESA), available in the proposal's CEQR file, was prepared on March 2001 for the properties under the control of the applicant located at (Block 1142, Lots 44, 48) . The restrictive declaration covers the applicant's properties only. The Phase I ESA was reviewed by the Department of Environmental Protection's (DEP) Office of Environmental Planning and Assessment, and a restrictive declaration was recommended, as stated in a memo by DEP, on September 10, 2003, due to the potential presence of hazardous materials on the site as a result of past and present land uses at, adjacent to, and surrounding the applicant's sites. A restrictive declaration was prepared by the applicant and filed against properties under the control of the applicant located at (Block 1142, Lots 44, 48). The declaration requires that Phase II testing for hazardous materials would occur under the direction of DEP and is binding upon the property's successors and assigns. The declaration serves as a mechanism to assure the potential for hazardous material contamination that may exist in the sub-surface soils and

groundwater on the applicant's sites would be characterized prior to any site disturbance (i.e., site grading, excavation, demolition, or building construction).

UNIFORM LAND USE REVIEW

This application (C 030294 ZMK) was certified as complete by the Department of City Planning on January 5, 2004, and was duly referred to Community Board 8 and the Borough President, in accordance with Article 3 of the Uniform Land Use Review Procedure (ULURP) rules.

Community Board Public Hearing

Community Board 8 held a public hearing on this application on March 11, 2004, and on that date 2004, by a vote of 25 to three with two abstentions, adopted a resolution recommending approval of the application, subject to the following conditions:

The board's recommendation included the following comments:

1. The contractor company selected to complete the project use minority contractors from the Board 8 area so that qualified sub-contractors in our community share in the work
2. A minimum of 5% of the units be set aside for artists who currently reside within the confines of Board 8. Board members and community residents will compile a list of such artists to facilitate this effort.
3. The application criteria should be extended to include residents who reside in zip codes 11213, 11216, and 11238. We understand that any such purchasers would be restricted to selling only to artists.
4. That Crown Heights real estate brokers be included in the listing of real

estate agents.

5. In addition to major newspapers, the sale of these units will include advertisements in local community newspapers.

6. Monitoring of these conditions will be done by the Housing/ULURP committee and the Crow Hill Community Association.

Borough President Recommendation

This application was considered by the Borough President, who issued a recommendation approving the application on April 15, 2004.

City Planning Commission Public Hearing

On April 14, 2004 (Calendar No. 2), the City Planning Commission scheduled April 28, 2004, for a public hearing on this application (C 030294 ZMK). The hearing was duly held on April 28, 2004 (Calendar No. 10). There were 2 speakers in favor of the application and no speakers in opposition.

The speakers in favor of the application were representatives of the applicant, who described the proposed rezoning and the project it would facilitate. There were no other speakers and the hearing was closed.

CONSIDERATION

The Commission believes that this amendment of the Zoning Map is appropriate.

The Commission notes that to the south and east of the site proposed for rezoning are residential neighborhoods zoned R6 and that immediately to the north are residential uses. The Commission also notes that the two loft buildings immediately to the west have been converted to residential use by BSA variances. Further the Commission notes that on the block of the rezoning there are no manufacturing uses.

The buildings proposed for conversion are vacant and given their construction, size, condition and absence of off-street loading are unlikely to be used for manufacturing purposes in the future.

Upon approval of the rezoning the applicants propose to develop 83 residential units by rehabilitating most of the existing building, demolishing a portion of the existing buildings to allow for an interior courtyard and adding 30, 000 square feet of new construction for a total of approximately 81,000 square feet.

The Commission notes that the applicant has stated that to the extent possible, the recommendations of the Community Board would be met. Further, the applicant has stated that despite the absence of subsidies, every attempt would be made to keep the units affordable.

RESOLUTION

RESOLVED, that the City Planning Commission finds that the action described herein will have no significant impact on the environment subject to the following conditions:

1. For the properties located at 937-949 Bergen Street, 608-620 Franklin Avenue and 1034-1048 Dean Street (Block 1142, Lots 44, and 48) the applicant agrees via a restrictive declaration to prepare a hazardous materials sampling protocol including a health and safety plan, which would be submitted to the Department of Environmental Protection (DEP) for approval. The applicant agrees to test and identify any potential hazardous material impact pursuant to the approved sampling protocol and, if any such impact is found, submit a hazardous material remediation plan including a health and safety plan to DEP for approval. If necessary, remediation measures would be undertaken pursuant to the remediation plan.

The restrictive declaration also restricts the manner in which the property may be developed or redeveloped, by requiring the sampling protocol and remediation measures to serve as a condition precedent to any change of use in any such development or redevelopment of the property.

; and be it further

RESOLVED, by the City Planning Commission, pursuant to Sections 197-c and 200 of the New York City Charter, that based on the environmental determination and the consideration described in this report, the Zoning Resolution of the City of New York, effective as of December 15, 1961,

and as subsequently amended, is further amended by changing the Zoning Map, Section Nos. 16c, 17a ,

1. changing from an M1-1 District to an R6 District property bounded by a line 150 feet westerly of Franklin Avenue, Dean Street, Franklin Avenue, and Bergen Street;
2. establishing within the proposed R6 District a C2-3 district bounded by a line 150 feet westerly of Franklin Avenue, Dean Street, Franklin Avenue, and Bergen Street;

Borough of Brooklyn, Community District 8, as shown on a diagram(for illustrative purposes only) dated January 5, 2004 (C 030294 ZMK) and which includes the environmental designation E-128.

The above resolution (C 030294 ZMK), duly adopted by the City Planning Commission on May 26, 2004 (Calendar No. 10), is filed with the Office of the Speaker, City Council, and the Borough President in accordance with the requirements of Section 197-d of the New York City Charter.

AMANDA M. BURDEN, *AICP*, Chair

KENNETH KNUCKLES, *Esq*, Vice-Chairman

**ANGELA M. BATTAGLIA, IRWIN G. CANTOR, P.E., ANGELA R. CAVALUZZI, R.A.,
ALEXANDER GARVIN, CHRISTOPHER KUI, JOHN MEROLO, KAREN A. PHILLIPS,
DOLLY WILLIAMS, Commissioners**

RICHARD W. EADDY, Commissioner, Recused.