

Brooklyn Borough President Recommendation

CITY PLANNING COMMISSION
22 Reade Street, New York, NY 10007
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 #: 140288 ZMK – 5402 Fort Hamilton Parkway

In the matter of an application submitted by Fort Hamilton, LLC pursuant to Sections 197-c and 201 of the New York City Charter for the amendment of the Zoning Map, Section Nos. 22a and 22c:

- 1) Changing from an R5 District to an R6 District property bounded by a line 100 feet northwesterly of Fort Hamilton Parkway, and a line 120 feet southwesterly of 54th Street; and
- 2) Establishing within the proposed R6 district a C1-3 District bounded by a line 100 feet northwesterly of Fort Hamilton Parkway, 54th Street, Fort Hamilton Parkway, and a line 120 feet southwesterly of 54th Street;

to facilitate the development of a new 6-story, healthcare center for women, including a "birthing center" for a midwifery facility, with ground floor retail, containing 50,669 square feet of floor area and 150 parking spaces accessible from 54th Street.

COMMUNITY DISTRICT NO.12

BOROUGH OF BROOKLYN

RECOMMENDATION

APPROVE
 APPROVE WITH
MODIFICATIONS/CONDITIONS

DISAPPROVE
 DISAPPROVE WITH
MODIFICATIONS/CONDITIONS

SEE ATTACHED

BOROUGH PRESIDENT

December 31, 2014

DATE

**RECOMMENDATION FOR THE PROPOSED 5402 FORT HAMILTON PARKWAY
REZONING 140288 ZMK**

The applicant, Fort Hamilton LLC., is seeking a zoning map boundary line change between existing R5 and R6 districts to include two block fronts along Fort Hamilton Parkway in the R6 district, where a C1-3 commercial overlay district would not change. The rezoning would facilitate the development at 5402 Fort Hamilton Parkway of a new six-story medical office building with 5,600 square feet (sf) of ground floor retail and 150 automated parking spaces within the Borough Park neighborhood of Community District 12 (CD 12).

On December 4, 2014, the Borough President held a public hearing on the proposed rezoning. The representative for the applicant noted that the requested rezoning would allow a medical facility that will be six stories with a height of 76 feet to the top of the bulkhead with 50,669 sf of zoning floor area, plus an additional 9,900 sf of medical use in the cellar and 160 automated parking spaces. The building will serve primarily as a women's birthing center, replacing an existing facility that would be relocating from Sheepshead Bay. The existing curb cuts would be eliminated and replaced with a single curb cut along 54th Street.

The requested zoning permits residential development that is several stories taller than proposed building. In response to the question by the representative of the Borough President as to whether there might be a mechanism that would guarantee that a medical building would be constructed, the applicant's representative responded that a restrictive declaration is something that the applicant can volunteer to enter into to affect the property.

Anticipating that the rezoning may result in traffic congestion that could be attributed to this medical facility, the representative noted that there is an ongoing dialogue with the Department of Transportation (DOT) to modify the signal timing at the intersection of Fort Hamilton Parkway and 54th Street, as well as a "no standing" signal/sign from 7 a.m. to 7 p.m. Monday through Friday that would permit ambulances and other authorized vehicles to pull up to the curb. There would also be "no standing" in immediate proximity of the 54th Street entrance to the accessory parking garage. These improvements would be achieved through a restrictive declaration.

The design is believed to be consistent with the Borough President's policy to promote the use of sustainable and renewable resources. Sustainable aspects of the design might include geothermal wells, as it is viewed as the most efficient and cost-effective clean energy source. The design includes heat recovery. The upper roof would have a storm water detention blue roof. Other sections of the roof would contain white pavers to repeal the sun's heat while facilitating storm water detention. A partial blue/green roof would be incorporated on the terrace. Bio-swailes are intended to be incorporated on both the Fort Hamilton Parkway and 54th Street frontages. The architect is designing for Silver LEED status and/or certification.

The developer has not yet selected a contractor, though most likely a Brooklyn firm would be retained and be willing to speak to the contractor to use best efforts to hire

local MWBE and LBE sub-contractors. As the focus of the building is a birthing center and women's health care services, it is generally expected that these offices would be staffed largely by female doctors and support staff.

CONSIDERATION

Community Board 12 (CB 12) approved the application.

The Borough President supports efforts that facilitate the creation or growth of Brooklyn-based businesses, including rezonings that promote redevelopment of a vacant automotive service station and a vacant, three-story, mixed residential-ground floor retail building.

The Borough President supports expanding medical services throughout Brooklyn, as not all neighborhoods have adequate access to health care services. Among his priorities is to have accessible, affordable and state-of-the-art medical services available in all neighborhoods of Brooklyn. The resulting rezoning would increase the maximum permitted floor area ratio (FAR) for community facility use from 2.0 FAR to 4.8 FAR. The resulting healthcare center is intended to provide a broad spectrum of medical services to women, including a "birthing center" for a midwifery facility, though it would not have beds for inpatient services. Midwife delivery is a trend that is growing. In addition to increased demand for midwifery births at hospitals, those seeking non-hospital settings will be denied the opportunities for delivery in those settings. This facility would triple the capacity of the existing center now located in Sheepshead Bay. The birthing center would feed into nearby Maimonides Medical Center (MMC) for those cases that could not be handled on an outpatient basis. The healthcare center would serve medical practices that would benefit from the sharing of resources, technology and medical equipment. In addition to MMC, which is spread across five blocks between 47th and 49th Streets along Fort Hamilton Parkway, the neighborhood includes other community facility uses.

This healthcare facility becomes feasible through the increased floor area pursuant to the rezoning and is consistent with the Borough President's policy to promote access to health care. This includes facilities that provide a multitude of healthcare services for women in a single building readily accessible to a major medical center. The Borough President believes that this consolidated model of medical services represents the future under the Affordable Healthcare Act.

The rezoning request is consistent with the Borough President's Faith-Based Property Development Initiative as 24,000 sf. of additional residential air-rights would result for the adjacent monastery.

The Borough President believes that the proposed commercial space provides an additional opportunity to activate the Fort Hamilton Parkway streetscape while offering an opportunity to contain a use complimentary to healthcare services, such as a pharmacy. Development of the healthcare center would replace an existing eye-sore by eliminating a gap in the streetscape while resolving environmental concerns that historically arise in connection with former gas station sites.

As presented, the proposed development is generally consistent with the Borough President's policy to promote the use of sustainable and renewable energy resources.

The Borough President understands the concerns that have been shared with regard to this rezoning at the CB 12 hearing, particularly regarding limitations on parking spaces, school buses being double parked and resulting traffic matters. In addition, the Borough President has concern that the proposed rezoning does not guarantee the presented use and building height. Furthermore, he seeks accountability that the construction would promote MWBE and/or LBE participation and that the developer would indeed include the described sustainable aspects as described.

Guarantee of Height and Use

The Borough President is an advocate for contextual development. The building would have four-story street walls along both Fort Hamilton Parkway and 54th Street, with a required setback on each frontage to a total height of six-stories. Should development proceed as depicted by the applicant, development would be covering much of the lot and the floor area would be utilized in a height contextual to the Yeshiva and apartment buildings on the opposite side of Fort Hamilton Parkway and the monastery on the same side of Fort Hamilton Parkway as the proposed medical building. The height is also consistent with two nearby low-income housing developments for the elderly, the six-story David Minkin Residence and the six-story Msgr. Joseph F. Stedman residence.

According to the requested R6 Residence District, although the property can be developed for or with residential use and with a much smaller building footprint as compared to the proposed ambulatory medical office building, development can already achieve 12 or more stories. The Borough President is concerned that the requested zoning does not in itself guarantee that such a residential tower would not be constructed in lieu of the presented ambulatory medical building.

In addition, when considering residential zoning requests, the Borough President is committed to providing opportunities for Brooklyn's working families to have access to affordable housing. It is the Borough President's policy for new residential developments, subject to ULURP, to provide a minimum of 20 percent affordable units. Because this project is being presented as a medical building, the applicant is not presenting any obligation regarding affordable housing.

As the requested rezoning allows as-of-right development opportunities that conflict with the Borough President's policies regarding contextual development and providing for affordable housing, he believes approval of the proposed rezoning should be pursuant to the establishment of a legally enforceable mechanism that guarantees non-residential development with height not to exceed six-stories.

In a letter sent to the Borough President dated December 22, 2014 (attached), the applicant has expressed a commitment to memorialize through the submitted letter for the proposed building's massing to be in substantial conformance with the plans submitted with the application.

Prior to the vote by the City Council, the applicant should demonstrate that it has established a legally-enforceable mechanism subject to the adoption of the proposed rezoning.

Providing Access of the Parking Facility to the Neighborhood

The medical office would include an automated accessory parking garage to meet its parking requirement pursuant to the Zoning Resolution. According to Section ZR 36-46, use is primarily for the occupants, employees, customers, and visitors; though, it appears that these spaces may be rented to non-users of the building's uses.

According to the environment assessment statement, there are hours where it is not likely to find curbside parking. In addition, at the hearing of CB 12, several people noted that there are times that it is difficult for area residents to secure on-street parking. The nearby yeshiva and banquet establishment bring cars at various times to the neighborhood as well that likely increase the competition for on-street parking. It is possible that those seeking parking in association with the uses in the medical facility might at times utilize open street spaces rather than wait to have their car taken by an attendant to be parked by the automated system – which is capable of handling one car every three minutes.

Because the neighborhood already has moments where securing conveniently-located parking is a challenge, the Borough President believes that it would be beneficial to community residents to have access to the parking facility at affordable rates. In addition, the garage operator should coordinate with the yeshiva and banquet facility to have surplus fee-based parking made available to those facilities.

Jobs

The Borough President is concerned that too many residents of Brooklyn are unemployed or underemployed. It is his policy to promote economic development as a means of creating more employment opportunities as well as promoting Brooklyn-based businesses, including those that qualify as MWBE and Locally-Based Enterprises (LBE). As new construction, this development provides an opportunity for the developer to retain Brooklyn-based contractors and subcontractors, especially those that are designated LBEs, consistent with section 6-108.1 of the City's Administrative Code, and MWBE establishments, as a means to meet or exceed standards per Local Law 1 (not less than 20 percent participation). With the intended development, the Borough President believes that the developer should keep his office aware with quarterly reports. Therefore, prior to the vote of the City Council, the applicant should provide a stipulation of such commitment prior to granting its approval.

In a letter sent to the Borough President dated December 22, 2014 (attached), the applicant has expressed a commitment to ask its contractor to use commercially reasonable efforts to pursue the hiring of Brooklyn residents and prioritizing retaining Brooklyn-based subcontractors, especially those that are designated MWBE. Furthermore, the applicant will update the BBPO with quarterly updates.

Advancing Sustainable Energy and Storm Water Management Policies

The Borough President seeks opportunities to utilize solar panels and/or blue/green roofs. In addition to aligning with the Borough President's sustainable energy policy, such modification would reduce the facility's carbon footprint and reduce energy costs annually. In addition, blue/green roofs and bio-swales would defer storm water from entering the City's water pollution control plants. Considering the relative low height of surrounding structures that support this location's exposure to direct sunlight, incorporating roof top renewable energy features would be an advantageous usage of often unused roof surfaces.

While the developer is not considering solar installation, the Borough President considers the combination of white paving blocks applied to the sections of the roof that facilitate rain water detention and the intended geo-thermal and heat recovery systems to be consistent with his policies. The Borough President seeks assurances that the actual construction would incorporate such features.

In a letter sent to the Borough President dated December 22, 2014 (attached), the applicant has expressed intent to develop and operate the building in a sustainable manner and has proposed various methods of treatments pertaining to energy use and storm water control.

Traffic

In connection with the environmental review, DOT identified certain transportation improvements that would be needed to mitigate impacts identified in the analysis. These pertain to parking restrictions along a section of Fort Hamilton Parkway and 54th Street and traffic control timing adjustments. The intent is to have these mitigation measures achieved through the filing of a restrictive declaration recorded against the property at least eight days prior to the City Planning Commission's ULURP hearing or else the application would be terminated.

It should be noted that traffic studies developed as part of the required environmental assessment are more theoretical than exact. Environmental assessments serve as predictive tools, whereas actual conditions will demonstrate a more valid view on the impacts that development have on a community. The Borough President is concerned that initial mitigation might not address actual established use of the medical building. Even with the recommended mitigation, congestion still might result at the intersection of 54th Street due to double parking along Fort Hamilton Parkway.

In order to best maximize the area's capacity to handle traffic, especially in light of the expected increase of traffic with more commercial development, the Borough President believes that in addition to the implementation of the proposed mitigation, a post-opening traffic analysis study should be conducted as the only way to determine whether the initial mitigation is satisfactory or whether further mitigation is necessary and what additional mitigation should be

implemented by DOT based on analysis of actual travel patterns.

Therefore, the Borough President calls upon DOT and DCP to include in the restrictive declaration executed with the developer retaining a consultant to perform a traffic analysis, with the intent to facilitate adequate movement from 54th Street and along Fort Hamilton Parkway to determine whether additional modifications, such as modifying the signal timing and/or curbside daylighting (including the Fort Hamilton Parkway curb length of "No Standing 7 a.m. through 7 p.m. Monday through Friday Ambulances and Other Authorized Vehicles" signage) are warranted, in conjunction with DOT, CB 12 and its local elected officials to determine the actual impacts on the Borough Park community within one year after the opening of the primary tenant. If the study reveals that this project contributes to additional traffic, the restrictive declaration should obligate the applicant to provide funds for any additional traffic improvements deemed necessary to provide for adjustments to the traffic control equipment and any installation and/or reprogramming of signage and lane demarcation that are directly attributed to improving access to and from the medical office building.

In the attached letter dated December 22, 2014, the applicant provided a commitment to implement a traffic study after the building has been operating for one year and would provide the results to DOT.

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, approve the land use action requested according to the following conditions:

A. That the applicant:

1. Establishes a legally enforceable mechanism that guarantees non-residential development with height not to exceed six stories.
2. Provides for affordable parking rates to neighborhood residents, and that access to the parking garage is extended to area facilities such as the banquet facility and yeshiva.
3. Retains Brooklyn-based contractors and subcontractors, especially those that are designated LBEs consistent with section 6-108.1 of the City's Administrative Code, and MWBE establishments, as a means to meet or exceed standards per Local Law 1 (not less than 20 percent participation), as well as to apprise the Borough President with quarterly reports of such participation.
4. Notes, prior to the vote by the City Council, the extent of commitment to incorporating blue/green roof installations, geothermal and heat recovery systems and well, as paving sections of the roof surface with white pavers and to incorporate bio-swales for both the Fort Hamilton Parkway and 54th street frontages.

- B. That the City Council has such stipulations incorporated into such agreements prior to granting its approval.
- C. That the Department of City Planning and Department of Transportation include the following in its restrictive declaration executed with the applicant:
1. That the applicant will retain a consultant to conduct a post-opening traffic study within one-year in consultation with the Department of Transportation, Community Board 12, and local elected officials with the intent to facilitate adequate movement from 54th Street and along Fort Hamilton Parkway to determine whether additional modifications are warranted to the following:
 - a) traffic control at Fort Hamilton Parkway and 54th Street and/or curbside daylighting; and
 - b) Fort Hamilton Parkway curb length of "No Standing 7 a.m. through 7 p.m. Monday through Friday Ambulances and Other Authorized Vehicles" signage.
 2. That funding be appropriated, if warranted, to provide for adjustments to the traffic control equipment and any installation and/or reprogramming of signage and lane demarcation that are directly attributed to improving access to and from the medical office building.

FORT HAMILTON, LLC
PO BOX 467
CEDARHURST, NEW YORK 11516

December 22, 2014

Hon. Eric L. Adams, Brooklyn Borough President
Borough Hall
209 Joralemon Street
Brooklyn, NY 11201

Re: 5402 Fort Hamilton Parkway (Brooklyn Block 5673, Lots 42 & 50) (the "Property")
Zoning Map Amendment
Application No. 140288ZMK (the "Application")

Dear Borough President Adams:

This letter responds to requests and questions presented by Richard Bearak, Director of Land Use, at the public hearing on the Application held on December 4, 2014.

Fort Hamilton LLC, the owner of the Property (the "Owner"), has applied for a zoning map amendment to rezone portions of two blocks, including the Property, in an existing R5/C1-3 district along Fort Hamilton Parkway to an R6/C1-3 district, in Community District 12, to facilitate the development of a new 6-story, community facility building with ground floor retail and 50,669 square feet of floor area (which equals a floor area ratio of 4.54) (the "Proposed Building"), which would serve as a medical facility with a focus on women's healthcare. The facility would include a birthing center.

The Owner is providing this letter to memorialize its commitment that the Proposed Building's massing will be in substantial conformance with the plans submitted with the Application.

The Owner has also agreed to implement certain traffic mitigation measures (the "Measures") identified in the Environmental Assessment Statement dated October 17, 2014 and designated CEQR No. 14DCP135K submitted in connection with the Application and devised in consultation with the Department of Transportation ("DOT") within six (6) months of completion of the Proposed Building pursuant to a restrictive declaration to be effective upon the City Planning Commission's ("CPC") approval of the Application (the "Traffic Declaration"). A copy of the draft declaration is enclosed. The Owner will undertake a traffic study after the Proposed Building has been in operation for one (1) year to ascertain whether the Measures are having the desired effect and will provide the results to DOT.

It is the Owner's intention that the Proposed Building be developed and operated in an environmentally sustainable manner. Methods being proposed include utilizing geothermal wells with heat pumps for both heating in the winter and cooling in the summer, implementing a "blue roof" and a "green roof," automatic occupancy sensors to reduce electricity use, and a

Borough President Eric Adams
December 22, 2014

pervious sidewalk paving treatment and bioswale, which would both have a positive effect on storm water runoff.

Finally, during the construction process, the Owner will ask its contractor to use commercially reasonable efforts to pursue the hiring of Brooklyn residents and prioritizing retaining Brooklyn-based subcontractors, especially those that are designated "MWBE" establishments to meet or exceed standards per Local Law 1 (not less than twenty percent participation). We will update your office quarterly as construction proceeds concerning such hiring efforts.

With this statement of the Owner's plans regarding development of the Proposed Building, we respectfully request a favorable recommendation on our Application to CPC. Thank you for your attention and consideration.

Sincerely,

FORT HAMILTON, LLC

By: 

Name:

Title:

cc: Richard Bearak (via e-mail)
Deirdre A. Carson, Esq. (via e-mail)