



Email/Fax Transmittal

TO: Brooklyn Community District 6 (CD 6) Distribution	FROM: Brooklyn Borough President Eric L. Adams
DATE: January 14, 2019	CONTACT: Inna Guzenfeld – Land Use Coordinator Phone: (718) 802-3754 Email: iguzenfeld@brooklynbp.nyc.gov
ULURP Recommendation: 41 SUMMIT STREET REZONING – 180294 ZMK, 180295 ZRK	NO. Pages, Including Cover: 7

Attached is the recommendation report for ULURP application 180294 ZMK, 180295 ZRK. If you have any questions, please contact Inna Guzenfeld at (718) 802-3754.

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Brooklyn Borough President Recommendation

CITY PLANNING COMMISSION

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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

41 SUMMIT STREET REZONING – 180294 ZMK, 180295 ZRK

Applications submitted by 41 Summit Street, LLC pursuant to Sections 197-c and 201 of the New York City Charter for zoning map and text amendments to change from an M1-1 to an R7A district a portion of a block bounded by Carroll, Columbia, and Summit streets, and Hamilton Avenue, in Brooklyn Community District 6 (CD 6), establish a C2-4 commercial overlay within the R7A zone, and designate the project area a Mandatory Inclusionary Housing (MIH) area. Such actions would facilitate the development of a 10,000 square feet (sq. ft.) seven-story residential building with seven units. No accessory parking spaces would be provided as part of the development.

BROOKLYN COMMUNITY DISTRICT NO. 6

BOROUGH OF BROOKLYN

RECOMMENDATION

- APPROVE
 APPROVE WITH
MODIFICATIONS/CONDITIONS

- DISAPPROVE
 DISAPPROVE WITH
MODIFICATIONS/CONDITIONS

SEE ATTACHED

BROOKLYN BOROUGH PRESIDENT

January 14, 2019

DATE

RECOMMENDATION FOR: 41 SUMMIT STREET REZONING – 180294 ZMK, 180295 ZRK

41 Summit Street, LLC submitted applications pursuant to Sections 197-c and 201 of the New York City Charter for zoning map and text amendments to change from an M1-1 to an R7A district a portion of a block bounded by Carroll, Columbia, and Summit streets, and Hamilton Avenue, in Brooklyn Community District 6 (CD 6), establish a C2-4 commercial overlay within the R7A zone, and designate the project area a Mandatory Inclusionary Housing (MIH) area. Such actions would facilitate the development of a 10,000 square foot (sq. ft.) seven-story residential building with seven units. No accessory parking spaces would be provided as part of the development.

On November 27, 2018, Brooklyn Borough President Eric L. Adams held a public hearing on these zoning map and text amendments. There were twenty-one speakers in opposition to the item, representing neighborhood residents who expressed concerns about the following issues: the potential adverse impacts on the Backyard Community Garden and neighboring properties, the scale of the development with regard to prevailing density on the block, the lack of affordable housing in the proposal, and the compatibility of the rezoning with the adjacent R6B zoning district.

In response to Borough President Adams' inquiry as to how the applicant would respond to community residents concerned with the proposed height if the neighboring Chase Bank building property is redeveloped with the resulting impact on the Backyard Community Garden, the applicant's representative referenced the project's shadow study, which examined the potential shading impacts of buildings that would be constructed under the as-of-right and rezoning scenarios. The representative noted that under either scenario, the garden would not receive substantial shade in the afternoon and expressed a willingness to discuss compensatory mitigation measures, such as special lighting that would extend the garden's growing period.

In response to Borough President Adams' inquiry as to what consideration was given to participating in the City's affordable housing fund pursuant to obtaining the requested rezoning, the representative noted that other developers in the area have made such arrangements and expressed that the applicant would be open to such a discussion with Council Member Brad Lander.

In response to Borough President Adams' inquiry as to what consideration was given to extending the existing R6B district to the applicant's property rather than propose an R7A designation that necessitated the inclusion of the adjacent property, elevating community concerns, the applicant stated that the R7A zoning reflects the proposed development's location on the block in proximity to Hamilton Avenue, a street in which the proposed rezoning has substantial frontage, as well as the less residential context of manufacturing buildings and open space located across the street.

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, rain gardens, and/or solar panels, the representative expressed that the applicant would consider installing a green roof on the limited roof space, and discuss other measures with the architect.

In response to Borough President Adams' inquiry regarding the inclusion and participation of Minority- and Women-Owned Business Enterprises (MWBEs) and Locally-Owned Business Enterprises (LBEs) in the construction process, the representative stated that the applicant is a local developer and is open to participating in MWBE hiring.

Subsequent to the hearing, Borough President Adams met with local residents on December 6, 2018, regarding their concerns about the proposed development. The residents expressed the view that the rezoning undermines the existing R6B fabric of the area without providing public benefit to the neighborhood. They expressed that the R6B district should be extended to the area proposed to be

rezoned. On December 10, 2018, the residents provided Borough President Adams with a petition stating opposition to the project, with approximately 150 signatories from the community.

Consideration

Brooklyn Community Board 6 (CB 6) disapproved this application on November 14, 2018.

The proposed zoning map and text amendments would affect a 2,500 sq. ft. development lot at 41 Summit Street, and two non-applicant lots at 75 and 79 Hamilton Avenue, with a total area of 7,977 sq. ft. The indicated seven-story building would not be required to provide affordable housing pursuant to MIH. According to New York City Zoning Resolution (ZR) Section 23-154, developments of up to 10 dwelling units and 12,500 sq. ft. of residential floor area are exempt from MIH regulations. Such developments are also not required to participate in New York City Department of Housing Preservation and Development (HPD)'s affordable housing fund, which accepts contributions in-lieu of providing affordable housing, and earmarks such payments for use within the same community district.

The area proposed for rezoning is currently zoned M1-1, and does not permit new residential development. The developer's site, 41 Summit Street, is occupied by a two-story, 3,500 sq. ft. warehouse that has been vacant for several years. The additional properties to be rezoned include 75 and 79 Hamilton Avenue. 75 Hamilton Avenue is improved with a three-story, 2,400 sq. ft. mixed-use building with a commercial ground-floor and two non-conforming residential units above. 79 Hamilton Avenue contains a two-story, 4,300 sq. ft. bank building and an accessory parking lot. This site is owned by Chase Bank, and has been operated as such for several decades. While it has been represented that the 41 Summit Street development would not contain commercial use, the proposed rezoning includes a C2-4 overlay as a means to retain legal-conforming use status for the commercial ground floors at 75 and 79 Hamilton Avenue.

The intended rezoning area is located on the southern edge of the Columbia Street Waterfront District, delineated by Hamilton Avenue. The neighborhood is defined by a mix of residential and commercial uses, with some extant warehousing activity. In recent years, the area has transitioned from light manufacturing to residential use. The residential fabric is generally older row houses with some new contextual development, generally built to three stories. Such buildings share side and rear property boundaries with the area proposed to be rezoned. Higher-density buildings of five to seven stories have been built nearby along and east of Columbia Street, and further north, such taller buildings are along the Brooklyn-Queens Expressway, opposite Lower Van Voorhees Playground and Tiffany Place. There are a number of underutilized and vacant lots in the neighborhood, some of which are owned and designated for affordable housing development by HPD. The neighborhood has several community gardens, including the Backyard Community Garden, which abuts 75 Hamilton Avenue.

The proposed rezoning area borders the Carroll Gardens/Columbia Street rezoning, adopted in 2009, which mapped R6A and R6B contextual districts over 86 blocks of CD 6. The rezoning was intended to prevent out-of-scale development by limiting height and bulk in a predominantly low-rise neighborhood. The areas along Summit Street, including lots adjacent to 41 Summit Street, were subsequently rezoned as an enlargement of the R6B district established in 2009. The property adjacent to 41 Summit Street has been recently developed to four stories.

The proposed R7A MIH zoning district permits a maximum floor area ratio (FAR) of 4.6 and a height of up to 95 feet, provided that the height of the second floor is at least 13 feet above the sidewalk. However, as the 41 Summit Street property does not extend beyond 25 feet of the adjacent proposed R7A/R6B zoning district boundary line, development at 41 Summit Street would be restricted to a maximum building height of 65 feet, excluding its bulkhead.

If rezoned to R7A/MIH, the two non-applicant sites on Hamilton Avenue could be redeveloped individually or combined into a single zoning lot. Under the first scenario, the 1,842 sq. ft. 75 Hamilton Avenue lot would produce a development of less than 10,000 sq. ft., which would be exempt from MIH regulations, while the 6,135 sq. ft. Hamilton Avenue lot would yield approximately 28,220 sq. ft., which would trigger MIH development on site comprising approximately eight to 10 units. Depending on the selection of MIH Option 1, which sets aside 25 percent of residential floor area for households at an average of 60 percent AMI, or MIH Option 2, which sets aside 30 percent of residential floor area for households at an average of 80 percent AMI) if the provided residential floor area were at least 25,000 sq. ft.; if more than 3,220 sq. ft. of the ground floor were utilized for commercial development then there would be an option of an in-lieu contribution to the affordable housing fund. Neither building would be expected to provide parking, as they would not result in enough market-rate units to trigger the parking requirement under R7A zoning. In the combined development scenario, the two lots would generate over 36,000 sq. ft. of floor area, which could be developed as fully residential, or inclusive of ground-floor commercial floor area. Under MIH Options 1 or 2, such a project could yield approximately 11 to 13 residential units, though these numbers would be slightly reduced to the extent that the ground floor would be designed to accommodate commercial use. A combined development would also likely waive the parking requirement by not exceeding 30 market-rate housing units.

Where residential development would be at least 12,500 sq. ft., though less than 25,000 sq. ft., according to the option to provide a direct payment in lieu of including permanent affordable housing floor area on site, HPD would have an opportunity to utilize this financial contribution to advance other affordable housing opportunities within CD 6 including on its portfolio of City-owned sites. While there is no timeline for the development of 75 and 79 Hamilton Avenue, there might be an opportunity to utilize such funds for the anticipated Columbia Street New Infill Homeownership Opportunities Program (NIHOP) scattered sites or as part of the pending New York City Housing Authority (NYCHA) NextGen Wyckoff Houses site. If development of the Hamilton properties would not occur in time for any realized contribution to the affordable housing fund, future alternatives for utilizing funds might be available as part of the awaited Gowanus Green/Public Place development or other NextGen sites that might be conceived at the other NYCHA developments within CD 6.

Borough President Adams supports the redevelopment of underutilized land and vacant properties for productive uses, including permanent affordable housing. However, he has concerns regarding the appropriateness of mapping the proposed R7A density and height at this location. In addition, he calls on the developer to implement resilient and sustainable measures at the site, and promote job creation through local and MWBE hiring, consistent with his policies.

Appropriate Zoning

Moving beyond the antiquated manufacturing district designation for this site includes considering the proposed rezoning as well as anticipating a subsequent zoning map change request north of Hamilton Avenue. The appropriateness of establishing an R7A zoning district designation should not merely be based on proximity to wide streets but also access to adequate transit options. The area is, in fact, not well-served by public transportation, which is a perennial quality of life concern in the community. The closest subway stop is at Smith-9th Street, which is served by the Sixth Avenue Local F and the Brooklyn-Queens Crosstown Local G trains. Local residents rely on the B61 bus, which runs along Columbia Street for connections to Downtown Brooklyn and other subway service options. In recent years, the area has gained new ferry service to Lower Manhattan, located at the Atlantic Basin, several blocks southwest of Summit Street. However, the community has been unsuccessful in reinstating the B77 bus, which was curtailed in 2010 due to budget cuts.

An additional public policy concern is the inadequacy of realized public benefit of the requested rezoning. As opposed to a more modest rezoning, such as changing an R6A (3.6 FAR) to R7A (4.6 FAR), upzoning from an M1-1 district with no residential FAR to an R7A/MIH district with its maximum 4.6 FAR results in a windfall of development rights beyond the standard public benefits attributed to MIH. Were R7A to be appropriate density, the ZR lacks leverage to induce a sufficient amount of affordable housing floor area as a corresponding public benefit, proportionate to the increase in floor area. As such, when compared to an upzoning that provides a smaller increase in development rights, the proposed rezoning would substantially enrich resulting development sites with market-rate floor area without the opportunity to derive an appropriate degree of public benefit (such as affordable housing) from the non-applicant properties. Moreover, given that these lots are not held in common ownership, there is no guarantee that any residential floor area that would result from the redevelopment of 75 Hamilton Avenue would advance affordable housing.

Borough President Adams shares the concern expressed by local residents regarding likely shading impacts on a portion of the Backyard Community Garden based on what would be the permitted height at 75 and 79 Hamilton Avenue, should the requested R7A zoning be approved. Additionally, he agrees that such development, even when regulated by the proximity to the R6B boundary, permits heights that are not in context with the intent of the 2009 rezoning and more recent enlargements of the R6B zoning district.

Given the issues expressed above, Borough President Adams believes the application before him does not, on its own, merit the requested upzoning to nine stories. Given that the surrounding area contains various lower-density contextual districts, he believes that in lieu of the proposed R7A/MIH residence district, including the C2-4 commercial overlay, the existing M1-1 manufacturing district should be rezoned to restrict development to five stories.

Therefore, The City Council and/or City Planning Commission should approve a change of the M1-1 to R6B/C2-4.

Advancing Resilient and Sustainable Energy and Stormwater Management Policies

It is Borough President Adams' sustainable energy policy to promote opportunities that utilize blue/green/white roofs, solar panels, and/or wind turbines, as well as passive house construction. He encourages developers to coordinate with the New York City Mayor's Office of Sustainability (Mayor's Office of Sustainability), the New York State Energy Research and Development Authority (NYSERDA), and/or the New York Power Authority (NYPA) at each project site. Such modifications tend to increase energy efficiency and reduce a development's carbon footprint. Furthermore, as part of his flood resiliency policy, Borough President Adams also encourages developers to incorporate permeable pavers and/or establish bioswales that advance the New York City Department of Environmental Protection's (DEP) green infrastructure strategy. Blue/green roofs, permeable pavers, and rain gardens would deflect stormwater from the City's water pollution control plants. According to the "New York City Green Infrastructure 2017 Annual Report," green infrastructure plays a critical role in addressing water quality challenges and provides numerous economic, environmental, and social co-benefits.

Borough President Adams believes it is appropriate for the developer to engage government agencies such as the Mayor's Office of Sustainability, NYSERDA, and/or NYPA, to give consideration to government grants and programs that might offset costs associated with enhancing the resiliency and sustainability of this development site. One such program is the City's Green Roof Tax Abatement (GRTA), which provides a reduction of City property taxes by \$4.50 per square foot of green roof, up to \$100,000. The DEP Office of Green Infrastructure advises property owners and their design professionals through the GRTA application process. Borough President Adams encourages the developer to reach out to his office for any help in opening dialogue with the aforementioned agencies and to further coordinate on this matter.

41 Summit Street offers opportunities to explore resiliency and sustainability measures such as incorporating blue/green/white roof finishes, passive house construction principles, rain gardens, and solar panels in the development.

Borough President Adams believes that prior to considering the application, the City Council should obtain commitments, in writing, from 41 Summit Street, LLC to memorialize exploration of additional resiliency and sustainability measures such as incorporating blue/green/white roof treatment, passive house construction principles, rain gardens, and solar panels in the development.

Jobs

Borough President Adams is concerned that too many Brooklyn residents are currently unemployed or underemployed. It is his policy to promote economic development that creates more employment opportunities. According to the Furman Center's "State of New York City's Housing and Neighborhoods in 2015," double-digit unemployment remains a pervasive reality for several of Brooklyn's neighborhoods, with more than half of the borough's community districts experiencing poverty rates of nearly 25 percent or greater. Prioritizing local hiring would assist in addressing this employment crisis. Additionally, promoting Brooklyn-based businesses including those that qualify as LBE and MWBE is central to Borough President Adams' economic development agenda. This site provides opportunities for the developer to retain a Brooklyn-based contractor and subcontractor, especially those who are designated LBEs consistent with section 6-108.1 of the City's Administrative Code, and MWBEs who meet or exceed standards per Local Law 1 (no less than 20 percent participation).

Borough President Adams believes that prior to considering the application, the City Council should obtain commitments in writing from the applicant, 41 Summit Street, LLC to memorialize retention of Brooklyn-based contractors and subcontractors, especially those that are designated Locally-Owned Business Enterprises (LBE) consistent with section 6-108.1 of the City's Administrative Code and Minority- and Women-Owned Business Enterprises (MWBE) as a means to meet or exceed standards per Local Law 1 (no less than 20 percent participation), as well as coordinate the oversight of such participation by an appropriate monitoring agency.

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 this application with the following conditions:

1. That in lieu of the proposed R7A/MIH residence district, the replacement of the existing M1-1 manufacturing district, including the proposed C2-4 commercial overlay, shall be a R6B residence district.
2. That prior to considering the application, the City Council obtain commitments in writing from the developer, 41 Summit Street, LLC, that clarify how it would memorialize the extent that it would:
 - a. Explore additional resiliency and sustainability measures such as incorporating bioswales, blue/green/white roof treatment, passive house construction principles, and solar panels in the development
 - b. Retain Brooklyn-based contractors and subcontractors, especially those that are designated Local Business Enterprises (LBE) consistent with section 6-108.1 of the City's Administrative Code and Minority- and Women-Owned Business Enterprises (MWBE) as a means to meet or exceed standards per Local Law 1 (no less than 20

percent participation), as well as coordinate the oversight of such participation by an appropriate monitoring agency