

Brooklyn Borough President Recommendation

CITY PLANNING COMMISSION

120 Broadway, 31st Floor, New York, NY 10271

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#: 273 AVENUE U REZONING – 180164 ZMK, 180165 ZRK

An application submitted by Ciarafour Realty LLC for the following land use actions: Pursuant to Sections 197-c and 201 of the New York City Charter requesting a zoning map amendment of the southern portion of a block fronting the north side of Avenue U, between Lake Street and McDonald Avenue, from R5B/C2-3 to R6A/C2-3, for a depth of 100 feet, and a zoning text amendment pursuant to establish the area proposed for change as a Mandatory Inclusionary Housing (MIH) area, to facilitate a mixed use development of nine dwelling units or approximately 11,900 square feet (sq. ft.) of residential floor area and approximately 5,000 sq. ft. of ground floor commercial floor area in the Gravesend section of Brooklyn Community District 11 (CD 11).

BROOKLYN COMMUNITY DISTRICT NO. 11

BOROUGH OF BROOKLYN

RECOMMENDATION

APPROVE
 APPROVE WITH
MODIFICATIONS/CONDITIONS

DISAPPROVE
 DISAPPROVE WITH
MODIFICATIONS/CONDITIONS

SEE ATTACHED

BROOKLYN BOROUGH PRESIDENT

May 17, 2019

DATE

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On May 1, 2019, Brooklyn Borough President Eric L. Adams held a public hearing on this disposition request. There were no speakers on the item.

In response to Borough President Adams' inquiry regarding what would be assuring the represented proposed height is what would be constructed, the representative stated that the project has been designed to be contextual to the height of its surroundings and that constructing to such height is more within the means of the developer to undertake. The property owner expressed a willingness to provide a guarantee.

In response to Borough President Adams' inquiry as to the consideration given to retaining the existing businesses, the representative stated that it would be complicated to construct the three additional floors with tenants in place and is likely less economical to construct while such spaces would be occupied. Tenant leases provide the owner the right to vacate the commercial space to facilitate construction. The owner is open to having tenants to return post construction.

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, New York City Department of Environmental (DEP) rain gardens, and/or solar panels, the representative stated that such building features would be considered to the extent that it makes financial sense given that the development is being viewed as a long-term investment. The developer would look to work with the City with regard to possible rain garden installation.

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 process of construction on this site, the representative expressed intent to source construction to local contractors and artisans through advertisement of the opportunity to provide bids to the extent that such inclusion would be a capable entity that would meet budgetary constraints.

Consideration

CB 11 approved this application on April 11, 2019, subject to the height being capped at four stories and no commercial use above the first floor. In addition, it called for the New York City Department of City Planning (DCP) to conduct a comprehensive review of the district to assess the need for additional core services needed by this community.

The proposed land use actions would affect several lots within 100 feet to the north of Avenue U. It is expected to result in the redevelopment a one-story commercial building occupied by five businesses, including the developer's iconic Joe's of Avenue U restaurant, located at the northeast corner of Avenue U and Lake Street. Its developer, Ciarafour Realty LLC, expressed intent to limit construction to four stories. No parking would be provided as it is not required for unregulated residential units where 10 or fewer are to be provided in this proposed zoning district. No affordable housing is proposed as the development would not trigger such requirement by being both fewer than ten units and 12,500 sq. ft. of residential floor area. The rezoning would bring into zoning floor area compliance adjacent buildings

that are non-compliant with the 2005 Bensonhurst Rezoning of this section of Gravesend. The property at 2266 McDonald Avenue would have the opportunity to bring its extent of commercial use into commercial zoning compliance. Other lots are not likely to result in change, though could accommodate modest enlargements that would likely be compliant with the height limit expressed by CB 11.

The surrounding context for the block end proposed for rezoning, is primarily low-density residential buildings with a concentration of commercial and industrial uses along Avenue U, McDonald Avenue, and Village Road North. A four-story elementary school is nearby.

Borough President Adams supports the development of underutilized land for productive uses in proximity to public transit. The site at the corner of Avenue U and Lake Street is on the same block as the Sixth Avenue Local F train as well as the B3 bus line running directly along Avenue U. The proposed rezoning is intended as an enlargement of the adjacent R6A contextual zoning district on the east side of McDonald Avenue that extends east to Coney Island Avenue but for a gap of a half block on both sides of Ocean Parkway. That district was established as an upzoning of an R4 zoning district in 1993 to promote residential six- to seven-story residential developments, consistent with the intent of the proposed rezoning.

While CB 11 has raised concerns for having second-floor commercial use, Borough President Adams believes that there is a nominal expectation that such use would be established beyond what exists at 2266 McDonald Avenue. Seeing as residential development appears to be of higher value, as the New York City Zoning Resolution (ZR) Section 32-421 does not permit commercial uses to be located above the level of the first floor ceiling when upper floors are occupied by community facility or residential use, it is reasonable that what CB 11 is seeking would be the intended result.

Borough President Adams is generally supportive of the proposed development, though he has concerns regarding the potential for out-of-context development and for the duration of affordability of the remaining commercial floor area. Additionally, he seeks for advancing Vision Zero policies to improve pedestrian safety, incorporating resilient and sustainable energy and stormwater practices, and achieving a high level of local hiring for the project's construction.

Memorializing Appropriate Height

The applicant has expressed intention to construct a four-story building, a height that is acceptable to CB 11 and is respectful to the adjacent low-rise context extended along Avenue U west of McDonald Avenue, and Lake Street within the area that would remain in the R5B zoned area. The designation of a R6A/C2-4 zoning district provides no mechanism to ensure that the represented four-story building would be developed as illustrated. Borough President Adams acknowledges that a four-story building does represent a more efficient floor plan in proportion to living areas in relation to space required for elevator and stairs. However, given the extent of the surrounding area that is developed with low-rise buildings, a taller building would provide for extensive views and often such views realize a return in investment that can be more compelling than building the most efficient floor plan. Given that the development proposal has been generally well-received based on its represented height, it is important that such representation is generally what would be constructed. Borough President Adams believes that such representation should be memorialized by a legally-binding instrument.

Few buildings exceed two to three stories. One four-story building exists within the proposed rezoning area along Lake Street as non-compliant bulk. Along the south side of Avenue U at Village Road North exists the four-story PS 95 The Gravesend school. Though Avenue U was rezoned for seven stories east of McDonald Avenue, other than an existing mixed use building at the northwest corner of West Street, Avenue U is essentially one- to two-story buildings extending east to East First Street.

Borough President Adams appreciates the willingness of CB 11 to revise its position regarding density and height taken during its 2005 consideration of the Bensonhurst Rezoning as proposed by DCP, which

limited development to 33 feet in height. Since Ciarafour Realty LLC obtain CB 11's support for rezoning based on its representation that height would be restricted to four stories, as a height generally respectful of the built context, it would be appropriate for such representation to be binding.

Therefore, prior to considering the application, the City Council should obtain commitments in writing from the applicant, Ciarafour Realty LLC, that clarify how it would provide a binding commitment that building height would be restricted to four stories.

Commercial Space

As proposed, the existing retail space at 273 Avenue U would likely still contain approximately 5,000 sq. ft. of commercial floor area after modifications to provide for residential development above. It has been represented that the owner would resume restaurant operations in this commercial unit — in essence, subsidized by the additional income from market-rate residential units above. As for the four commercial tenants, economical reconstruction would likely result in their displacement, though the possibility of returning post construction remains a possibility. Borough President Adams believes that in order to provide such tenants optimal opportunity to return to the site, and to provide lasting public benefit for other local businesses at risk for displacement, such space should remain as a below market-rate resource as long as the residential floor area continues to be without income restrictions.

Therefore, prior to considering the application, the City Council should obtain commitments, in writing, from the developer, Ciarafour Realty LLC, clarifying how it would memorialize the extent that it would restrict the remaining commercial space for leasing at below-market lease terms.

Advancing Vision Zero Policies at the Intersection of Avenue U and Lake Street

Borough President Adams supports Vision Zero policies, including practices that extend sidewalks into the roadway as a means of shortening the path where pedestrians cross in front of traffic lanes. These sidewalk extensions, also known as bulbouts or neckdowns, make drivers more aware of pedestrian crossings and encourage them to slow down.

In 2015, Borough President Adams launched his own initiative, Connecting Residents on Safer Streets (CROSS) Brooklyn. This program supports the creation of bulbouts or curb extensions at dangerous intersections in Brooklyn. During the program's first year, \$1 million was allocated to fund five dangerous intersections in Brooklyn. By installing more curb extensions, seniors will benefit because more of their commutes will be spent on sidewalks, especially near dangerous intersections. At the same time, all users of the roadways will benefit from safer streets.

Avenue U is a major roads that carries traffic often associated with the commercial characterization of much of this corridor. Avenue U, between its origination at 86th Street and extending east of Flatbush Avenue, is a designated New York City local truck route. Given the mixed commercial, community facility, and residential character of this section of the surrounding blocks — inclusive of PS 95 The Gravesend School and its schoolyard, and the nearby Lady Moody Triangle, and as a direct pedestrian route to the Avenue U subway station — it is important to advance improvements that promote pedestrian safety at crossings along Avenue U.

Per his CROSS Brooklyn initiative, Borough President Adams believes there is an opportunity to implement a curb extension at the northeast corner of Avenue U and Lake Street. In that regard, Ciarafour Realty LLC should consult with DEP, the New York City Department of Transportation (DOT), and the New York City Department of Parks and Recreation (NYC Parks).

With regard to the intersection of Avenue U and Lake Street, Borough President Adams recognizes that the costs associated with the construction of sidewalk extensions can be exacerbated by the need to modify infrastructure and/or utilities. Therefore, where such consideration might compromise feasibility, Borough President Adams would urge DOT to explore the implementation of either protected painted

sidewalk extensions defined by a roadbed surface treatment or sidewalk extensions as part of a Builders Pavement Plan. If the implementation meets DOT's criteria, the agency should enable Ciarafour Realty LLC to undertake such improvements after consultation with CB 11, as well as local elected officials, as part of its Builders Pavement Plan. The implementation of a sidewalk extension through roadbed treatment requires a maintenance agreement that indemnifies the City from liability, contains a requirement for insurance, and details the responsibilities of the maintenance partner. Borough President Adams would expect Ciarafour Realty LLC.

Borough President Adams believes that prior to considering the application, the City Council should obtain commitments in writing from Ciarafour Realty LLC that it would advance coordination of such CROSS Brooklyn implementation with DEP, DOT, and NYC Parks for the installation of curb extensions at the northeast corner at Avenue U and Lake Street either as part of a Builders Pavement Plan or as treated roadbed sidewalk extensions. The City Council should further seek demonstration of Ciarafour Realty LLC's commitment to enter into a standard DOT maintenance agreement for that intersection. Furthermore, DOT should confirm that implementation of both improvements would not proceed prior to consultation with CB 11 and local elected officials.

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, 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. Development at 273 Avenue U offers opportunities to explore resiliency and sustainability measures such as incorporating blue/green/white roof finishes, passive house construction principles, and solar panels in the development.

Furthermore, as part of his flood resiliency policy, Borough President Adams also encourages developers to introduce best practices to manage stormwater runoff such as incorporating permeable pavers and/or establishing rain gardens that advance New York City Department of Environmental Protection (DEP) green infrastructure strategy. Borough President Adams believes that sidewalks with nominal landscaping and/or adjacent roadway surfaces are potential resources that could be transformed through the incorporation of rain gardens, which provide tangible environmental benefits through rainwater collection, improved air quality, and streetscape beautification. Tree plantings can be consolidated with rain gardens as part of a more comprehensive green infrastructure strategy. In addition, blue/green roofs, permeable pavers, and rain gardens would divert stormwater from the City's water pollution control plants.

According to the "NYC Green Infrastructure 2017 Annual Report," green infrastructure plays a role in addressing water quality challenges and provides numerous economic, environmental, and social benefits. The required Builders Pavement Plan provides an opportunity to incorporate rain gardens with tree plantings along Lake Street as well as enhanced tree pits along Avenue U. Such installation could help advance DEP green water/stormwater strategies, enhancing the operation of the Owl's Head Wastewater Treatment Plant during wet weather. In addition to compensating for the loss of a large permeable surface, the installation of a rain garden would provide a significant streetscape improvement on Lake Street.

Borough President Adams believes it is appropriate for the Ciarafour Realty LLC 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 further coordination on this matter.

Borough President Adams believes that Ciarafour Realty LLC should consult with DEP, DOT, and NYC Parks for consideration regarding the inclusion of a rain garden with integration of street trees and enhanced tree pits as part of a Builders Pavement Plan. Where the agencies have interest in implementing an enhancement, consultation should be initiated with CB 11 and local elected officials prior to agreeing to take action.

Therefore, prior to considering the application, the City Council should obtain in writing from the applicant, Ciarafour Realty LLC, commitments that clarify how it would memorialize integrating resiliency and sustainability features. The City Council should further seek demonstration of Ciarafour Realty LLC's commitment to coordinate with DEP, DOT, and NYC Parks regarding the installation of DEP rain gardens and enhanced tree pits, and/or the provision of sidewalk extensions, as part of a Builders Pavement Plan for development site intersections in consultation with CB 11 and local elected officials.

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 LBEs and MWBEs 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 that 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 developer, Ciarafour Realty LLC, that clarify its intent to memorialize retention of Brooklyn-based contractors and subcontractors, especially those who are designated LBE consistent with Section 6-108.1 of the City's Administrative Code and 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 (CPC) and City Council approve this application.

1. That prior to considering the application, the City Council obtain commitments in writing from the applicant, Ciarafour Realty LLC, that clarify how it would:
 - a. Provide a binding commitment that building height would be restricted to four stories
 - b. Restrict the remaining commercial space for leasing at below-market lease terms
 - c. Commit to Connecting Residents on Safer Streets (CROSS) Brooklyn coordination with the New York City Department of Transportation (DOT) and the New York City Department of Environmental Protection (DEP) to implement a curb extension as part of a Builders Pavement Plan or as treated roadbed sidewalk extension, with a developer commitment to enter into a

standard DOT maintenance agreement for the intersection of Avenue U and Lake Street with the understanding that DOT implementation would not proceed prior to consultation with Brooklyn Community Board 11 (CB 11) and local elected officials

- d. If applicable, enter into a standard DOT maintenance agreement for the northeast corner intersection at Avenue U and Lake Street
- e. Explore additional resiliency and sustainability measures such as incorporating blue/green/white roof treatment, enhanced tree pits, rain gardens, and/or solar panels
- f. Retain Brooklyn-based contractors and subcontractors, especially those who are designated local business enterprises (LBEs), consistent with Section 6-108.1 of the City's Administrative Code, and minority- and women-owned business enterprises (MWBES) 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