

**Brooklyn Borough President Recommendation**  
CITY PLANNING COMMISSION  
120 Broadway, 31<sup>st</sup> Floor, New York, NY 10271  
[CalendarOffice@planning.nyc.gov](mailto: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 #: 3513 ATLANTIC AVENUE REZONING – 190222 ZMK**

An application submitted by Leemilt's Petroleum, Inc. 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 Atlantic Avenue between Grant and Nichols avenues by establishing within an existing R5 District a C2-4 District for a depth of 115 feet along Grant Avenue to a point 100 feet from Nichols Avenue, and 55 feet along Nichols Avenue to a point 100 feet from Nichols Avenue.

COMMUNITY DISTRICT NO. 5

BOROUGH OF BROOKLYN

**RECOMMENDATION**

APPROVE  
 APPROVE  
WITH MODIFICATIONS/CONDITIONS

DISAPPROVE  
 DISAPPROVE WITH  
MODIFICATIONS/CONDITIONS

SEE ATTACHED

BROOKLYN BOROUGH PRESIDENT

June 19, 2019

DATE

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Leemilt's Petroleum, Inc. submitted an application 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 Atlantic Avenue between Grant and Nichols avenues by establishing within an existing R5 District a C2-4 District for a depth of 115 feet along Grant Avenue to a point 100 feet from Nichols Avenue, and 55 feet along Nichols Avenue to a point 100 feet from Nichols Avenue.

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

In response to Borough President Adams' inquiry regarding future development on the site, and what would assure that subsurface conditions would be remediated to residential development standards should the gas station be removed, the applicant's representative noted that as part of the Negative Declaration issued for this application's Environmental Assessment Statement (EAS), three environmental (E) designations were mapped to this site relating to air quality, hazardous materials, and noise. The presence of hazardous materials requires that site remediation be performed under the administration of the Mayor's Office of Environmental Remediation (OER) prior to pulling a permit from the New York City Department of Buildings (DOB). The representative noted that OER's standards for remediation of commercial properties and residential properties may differ.

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 the applicant has not made specific plans, but is open to ideas from the community board and the Office of the Brooklyn Borough President. The representative noted that four new street trees would be required as part of the redevelopment, which provides opportunities for DEP rain gardens.

In response to Borough President Adams' inquiry regarding the inclusion and participation of locally-owned business enterprises (LBEs) and women-owned business enterprises (MWBEs) in the construction process, the representative expressed willingness to work with the community board and the Office of the Brooklyn Borough President to promote LBE/MWBE hiring.

**Consideration**

Brooklyn Community Board 5 (CB 5) has not yet taken a position on this application.

The requested action would facilitate the development of a one-story, approximately 9,850 square foot (sq. ft.), commercial building, intended to be occupied by local retail and service establishments. The proposal also includes six accessory unenclosed parking spaces. The project site consists of an 18,760 sq. ft. corner lot with approximately 150 feet of frontage on Atlantic Avenue and 115 feet along Grant Avenue. It contains two one-story buildings used as a gas station, an automobile laundry, and a convenience store. As this portion of Atlantic Avenue lacks a commercial overlay, these uses are considered non-conforming, though authorized in accordance with a special permit granted by the New York City Board of Standards and Appeals (BSA).

The proposed rezoning area includes two additional, non-applicant lots. These include a corner lot at 3485 Atlantic Avenue at Nichols Avenue, consisting of 4,670 sq. ft. that functions as an automobile sales lot, and a vacant, unimproved interior lot of approximately 600 sq. ft. The proposed development would be built to a Floor Area Ratio (FAR) of 0.53 and is intended to be occupied by two retail stores with separate entrances on Atlantic and Grant avenues.

The surrounding area is defined by low-density residential uses with two-story row homes, detached and semi-detached houses, and mixed-use residential with commercial stores. The existing one-story building on the applicant's property was originally configured as an automobile repair shop. However, in 2006, this portion of the building was converted to a convenience store. Since then, the site has been used as a car wash, convenience store, and filling station.

Currently, diesel fuel and gasoline for the filling station are stored in three 4,000 gallon underground storage tanks on the south side of the property. According to the project's EAS, three E-designations related to air quality, hazardous materials, and noise will be assigned to the rezoning area. The hazardous materials E-Designation would require the developer to file a sampling protocol with OER. Upon approval of such protocol, OER would require a Phase II site investigation and review its results to determine whether environmental remediation is required. If contamination is found at the site, the developer would be required to submit for approval a remedial action plan as well as a construction health and safety plan. The remedial plan would contain a community protection statement summarizing air monitoring, dust, noise, notice of hours of operation, odor control, as well as other measures to be implemented at the site. At this time, it is not known whether the standard of remediation for the proposed commercial development will be equal to that for a residential project.

Borough President Adams generally supports efforts to facilitate the creation and/or growth of Brooklyn-based businesses. This includes zoning actions that are consistent with the predominant land use patterns and provide opportunities for job creation and street activation.

Atlantic Avenue is a major retail corridor. This portion of Atlantic Avenue has a significant concentration of automotive uses, including the applicant's property. A C2-4 commercial overlay is mapped along Atlantic Avenue west of the site, from Euclid to Lincoln avenues.

Borough President Adams believes that the addition of a commercial overlay would provide local residents enhanced access to goods and services. He also believes that the requested zoning is appropriate based on the presence of existing commercial uses, and the opportunity to create new floor area for local retail purposes.

Borough President Adams is generally supportive of the proposed development. He calls on the applicant to advance Vision Zero policies to improve pedestrian safety; incorporate resilient and sustainable energy and stormwater practices, as well as achieve a high level of local hiring for the project's construction.

### **Advancing Vision Zero Policies**

Borough President Adams is a supporter of Vision Zero policies, which include extending 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 also 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.

Atlantic Avenue is a designated New York City through truck route with multiple intersections lacking traffic controls such as stop signs or traffic lights. Given the mixed commercial and residential

character of Atlantic Avenue, and anticipated foot traffic associated with development pursuant to the 2015 rezoning of the nearby section of Atlantic Avenue as part of the East New York Community Plan, it is important to promote pedestrian safety improvements along Atlantic Avenue.

Atlantic Avenue is one of the arterial streets designated for City funds as part of the New York City Department of Transportation (DOT) Vision Zero Capital Program. The proposed rezoning area is located along Vision Zero's Atlantic Avenue Phase II: Great Streets. Planned design improvements to Atlantic Avenue include reconstruction of the center median with plantings, extension of pedestrian refuge space in crosswalks, installation of raised median-side bicycle lanes and the addition of left turn bays/left turn signals to reduce pedestrian/traffic conflicts.

Per his CROSS Brooklyn initiative, Borough President Adams believes there is an opportunity to implement a curb extension at the northwest intersection of Atlantic and Grant avenues. In that regard, Leemilt's Petroleum, Inc. should consult with DEP and DOT.

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 Leemilt's Petroleum, Inc. to undertake such improvements after consultation with CB 5, 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 Leemilt's Petroleum, Inc. to commit to such maintenance as an ongoing obligation.

Therefore, prior to considering any rezoning, the City Council should seek a demonstration from Leemilt's Petroleum, Inc. of their implementation of CROSS Brooklyn in coordination with the DEP and DOT to install curb extensions either as part of a Builders Pavement Plan or as treated roadbed sidewalk extensions. The City Council should further seek demonstration of the developer's commitment to enter into a standard DOT maintenance agreement for the intersection of Atlantic and Grant avenues. Furthermore, DOT should confirm that implementation will not proceed prior to consultation with CB 5 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.

Furthermore, as part of his flood resiliency policy, Borough President Adams also encourages developers to incorporate permeable pavers and/or establish rain gardens that advance the 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 applicant to engage government agencies, such as the Mayor's Office of Sustainability, NYPA, and/or NYSERDA 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.

The proposed development offers opportunities to explore resiliency and sustainability measures in the development such as incorporating blue/green/white roof finishes, passive house construction principles, and solar panels. The required Builders Pavement Plan provides an opportunity to incorporate a DEP rain garden along the development's Atlantic Avenue or Grant Avenue frontage. Such efforts could help advance DEP green water/stormwater strategies, enhancing the operation of the 26<sup>th</sup> Street Ward Waste Water Treatment Plant (WWTP) 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 Atlantic Avenue.

As noted by the applicant's representative, the proposed development would require the planting of new street trees along Atlantic Avenue. Borough President Adams believes that Leemilt's Petroleum, Inc. should consult with DEP, DOT, and the New York City Department of Parks and Recreation (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 5 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, Leemilt's Petroleum, Inc., commitments that clarify how it would memorialize integrating resiliency and sustainability features. The City Council should further seek demonstration of the applicant's commitment to coordinate with DEP, DOT, and NYC Parks regarding the installation of DEP rain gardens and/or enhanced tree pits as part of a Builders Pavement Plan in consultation with CB 5 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 applicant, Leemilt's Petroleum, Inc., 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 Section 201 of the New York City Charter, recommends that the City Planning Commission (CPC) and City Council approve this application with the following conditions:

1. That prior to considering the application, the City Council obtain commitments in writing from the applicant, Leemilt's Petroleum, Inc, that clarify how it would:
  - a. 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 Atlantic and Grant avenues with the understanding that DOT implementation would not proceed prior to consultation with Brooklyn Community Board 5 (CB 5) and local elected officials
  - b. If applicable, enter into a standard DOT maintenance agreement for the northwest corner intersection of Atlantic and Grant avenues
  - c. Explore additional resiliency and sustainability measures such as incorporating blue/green/white roof treatment, enhanced tree pits, rain gardens, and/or solar panels
  - d. Coordinate with DEP, DOT, and New York City Department of Parks and Recreation (NYC Parks) regarding the installation of DEP rain gardens and enhanced tree pits, as part of a Builders Pavement Plan in consultation with CB 5 and local elected officials
  - e. 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