

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 #: 6003 EIGHTH AVENUE – 190305 ZMK

An application submitted by 6003 8 Avenue LLC pursuant to Sections 197-c and 201 of the New York City Charter for zoning map amendments affecting a property on the southeast corner of the intersection of Eighth Avenue and 60th Street. The proposed actions would eliminate C1-3 overlay within an R6 district, and establish a C4-2 in order to achieve conformance for a three-story commercial building of approximately 3,800 square feet (sq. ft.) in Brooklyn Community District 12 (CD 12).

BROOKLYN COMMUNITY DISTRICT NO. 12

BOROUGH OF BROOKLYN

RECOMMENDATION

APPROVE

APPROVE WITH

MODIFICATIONS/CONDITIONS

DISAPPROVE

DISAPPROVE WITH

MODIFICATIONS/CONDITION

SEE ATTACHED

BROOKLYN BOROUGH PRESIDENT

August 29, 2019

DATE

RECOMMENDATION FOR 6003 EIGHTH AVENUE – 190305 ZMK

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On July 2, 2019, Brooklyn Borough President Eric L. Adams held a public hearing on this zoning map amendment. There were no speakers on the item.

In response to Borough President Adams' inquiry regarding the rationale for the requested C4-2 district, as opposed to other zoning districts that permit two-story commercial development with residential uses on higher floors, the applicant's representative stated that the primary intent of this rezoning is to bring the existing development into compliance and conformance with the underlying zoning. The representative noted that commercial overlay districts permit a floor area ratio (FAR) of 2.0 but in buildings containing residential use, the zoning restricts commercial uses to the ground floor. Within the proposed rezoning area, there are multiple properties with commercial floor area that exceeds the permitted 2.0 FAR. In order for all the properties included in the rezoning to be compliant and conforming, a non-contextual C4 district would be necessary to legalize the existing commercial bulk.

In response to Borough President Adams' inquiry as to why the selected zoning district was deemed to provide the greatest public benefit, as opposed to districts that require absolute height limits and/or mandate the inclusion of affordable housing, the representative stated that according to New York City Department of City Planning (DCP) guidelines, it is legally permissible to introduce an MIH requirement only when a project presents a substantial increase in residential floor area (currently, approximately 40 percent). The applicant sees no need to introduce such bulk in order to bring the Eighth Avenue and 60th Street properties into compliance. The representative reiterated that C4 contextual districts do not match the 4.8 FAR community facility bonus permitted by the existing R6 district. The R6 equivalent of a contextual commercial district would limit the community facility FAR to 3.0, which would render the two recently-constructed buildings on 60th Street overbuilt, while reducing opportunities for new community facility floor area within the five properties proposed for rezoning on Eighth Avenue. A contextual district that would bring all of the buildings in the rezoning area into compliance would stipulate a residential bulk equivalent of R8A.

Subsequent to the hearing, Borough President Adams received a letter from the applicant's representative, dated July 23, 2019, detailing the existing non-conforming use and explaining the rationale for the proposed C4-2 district.

Consideration

Brooklyn Community Board 12 (CB 12) voted to approve this application on June 25, 2019.

The proposed rezoning would affect five lots fronting Eighth Avenue, south of 60th Street, as well as 812 and 818 60th Street (also known as 814 60th Street), and part of 820 60th Street. While the C1-3 zoning permits commercial FAR of 2.0 in R6 districts, such use is restricted to the ground floor when a building includes residential use.

The requested C4-2 district maintains the maximum residential FAR and maximum community facility FAR of 4.8 permitted in R6 districts. The C4-2 allows a maximum commercial FAR of 3.4, an increase from the 2.0 permitted in an R6 district when no residential use is provided, and enables greater commercial bulk when residential use is included. The rezoning would expand the range of permitted use groups (UG) from UG 6 to UGs 8, 9, 10, and 12. The parking requirements for

"general retail or service uses" would rise from one space per 400 sq. ft. of floor area to one space per 300 sq. ft. of floor area.

The applicant's property, 6003 Eighth Avenue, has a Certificate of Occupancy (C of O) for a three-story building with a commercial ground floor and one apartment on each floor above. However, in reality, the entire building is tenanted by commercial uses, in excess of the existing allowable commercial FAR of 2.0. The applicant is seeking to bring the upper floors into conforming to continue such use within legal parameters.

Within the rezoning area, there are four additional lots with frontage on Eighth Avenue. Adjoining the applicant site to the north is 6001 Eighth Avenue, a three-story building, regulated by a C of O citing stores on the ground floor, a medical office and two dwelling units on the second floor, and two additional dwelling units on the third floor. However, the building appears to be both non-complying and non-conforming as it is also occupied entirely by commercial uses, in excess of 2.0 FAR. Abutting the applicant's site to the south is 6005 Eighth Avenue, a compliant and conforming three-story building, which appears to be used entirely by a non-profit organization, the NY Tao Teh Benevolent Association of America. This property is adjoined by 6007 Eighth Avenue, a compliant and conforming three-story building, with a ground-floor store and two dwelling units on the floors above. Next, 6009 Eighth Avenue is a compliant and conforming three-story building, with a pharmacy on the ground floor, and two dwelling units above.

To the east of 6001 Eighth Avenue is 812 60th Street, a recently-constructed, seven-story building containing approximately 15,254 zoning sq. ft. This property was developed to 4.77 FAR, with 0.8 FAR of commercial use and 3.97 FAR of community facility use, using the R6 district 4.8 community facility bonus. According to its Schedule A, the building houses a variety of commercial and community facility uses, including ground-floor retail, a child care facility, a community center, ambulatory diagnostics, and a health care facility. However, the building's directory suggests that the tenants are primarily commercial businesses. 818 60th Street is a recently-constructed, six-story, mixed-use building of approximately 12,060 sq. ft. developed to a FAR of 4.47. According to its Schedule A, the building contains ground-floor retail, a community facility on the second floor, and eight dwelling units on the upper floors. 820 60th Street is a two-story, multifamily, residential building with four dwelling units.

The surrounding context is strongly mixed-use, with low- to mid-rise residential and small commercial uses concentrated north of 60th Street, and large commercial, community facility, and industrial buildings more typical south of 61st Street. One reason for this transition is the presence of the combined railroad right-of-way that combines the Bay Ridge Branch, a freight line, and the New York City Transit (NYCT) Broadway Express N line, both of which run in a ravine between 61st and 62nd streets. There are also multiple zoning districts in the area, including an R6B residence district mapped mid-block across Eighth Avenue from the applicant's site and an M1-1 manufacturing district centered on 60th Street that spans Fifth Avenue to 17th Avenue. Diagonally to the southeast and bordering the ravine is a C4-2 district established in 2007, according to a special permit.

In the July 23, 2019 letter to Borough President Adams, the applicant's representative clarified how various contextual commercial districts would not accomplish the purpose of the rezoning. Specifically, a C2-6A district would only partially improve commercial compliance and its maximum FAR of 4.0, achieved with the inclusion of community facility use, would result in non-compliance for the 812 and 814 60th Street buildings. A C4-2A district, which permits up to 3.0 commercial FAR, or a C4-4A district, which permits up to 4.0 commercial FAR, would address commercial compliance for all the lots. However, the 3.0 community facility FAR of C4-2A and 4.0 community facility FAR of C4-4A would also result in non-compliance for 812 and 814 60th Street. Moreover, a

C4-4A district has an R7A equivalent, which would introduce new residential density that is not desired by the applicant. The lowest density contextual commercial district that would result in commercial and community facility floor area compliance is a C4-5X district. However, this option would render 812 and 814 60th Street non-compliant due to minimum street wall requirements, and introduce unwanted residential bulk at an R7X zoning equivalent. The representative therefore concluded that the C4-2 district was the most appropriate zoning option to achieve full compliance and conformance. Additionally, as several lots in the proposed rezoning area feature mixed-use buildings that have multi-story commercial use, in contradiction to R6/C1-3 zoning regulations, this might be attributed to the significant increase in the population of the surrounding census tracts in recent years. Such growth may have resulted in greater need for office and retail services in this area where Borough Park, Dyker Heights, and Sunset Park converge.

Borough President Adams supports efforts to bring properties into zoning compliance and conformance. He also supports increasing commercial density in areas well-served by public transportation. The affected properties are located in close proximity to public transportation, including the Broadway Express N train at the Eighth Avenue station, two blocks south of the site, and the B9 and B70 buses, which travel along 60th Street and Eighth Avenue, respectively.

While certain buildings within the rezoning area have been tenanted in contradiction to zoning compliance and conformance, Borough President Adams acknowledges recent growth in proximity to the junction of the Borough Park, Dyker Heights, and Sunset Park neighborhoods. He believes that the occupants of these buildings reflect growing demand for commercial goods and services in the community. This demand for commercial floor area has also been demonstrated by the intended developers of the large site, known as the 6208 Eighth Avenue or the Dyker Heights Mixed-Use Development, in the nearby C4-2 zoning district adjoining the south side of the railroad right-of-way between Seventh and Eighth avenues. That parcel is the subject of a major redevelopment proposal pending certification to enter the Uniform Land Use Review Procedure (ULURP). This project would result in a mixed-use complex of three towers, commercial hotel, 85,589 sq. ft. of office, and 342,092 sq. ft. of retail use as well as a mix of community facility uses, and residences.

Borough President Adams believes that rezoning to support the advanced concentration of commercial activity in proximity to Eighth Avenue at 60th Street in proximity to rapid transit should be granted.

Recommendation

Be it resolved that the Brooklyn borough president, pursuant to Section 197-c of the New York City Charter, recommends that the City Planning Commission and City Council approve this application.