

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

8118 13TH AVENUE REZONING – 190295 ZMK

An application submitted by Stars and Stripes Holding Company, pursuant to Sections 197-c and 201 of the New York City Charter, for a zoning map amendment to establish a C1-3 commercial overlay within an existing R5B district on the western side of 13th Avenue, at the southwest corner of the intersection at 82nd Street, extending halfway to 81st Street. Such action would legalize an existing, non-conforming Use Group (UG) 6 law office at 8118 13th Avenue in Brooklyn Community District 10 (CD 10).

BROOKLYN COMMUNITY DISTRICT NO. 10

BOROUGH OF BROOKLYN

RECOMMENDATION

APPROVE
 APPROVE WITH
MODIFICATIONS/CONDITIONS

DISAPPROVE
 DISAPPROVE WITH
MODIFICATIONS/CONDITIONS

SEE ATTACHED

BROOKLYN BOROUGH PRESIDENT

December 18, 2019

DATE

RECOMMENDATION FOR: 8118 13TH AVENUE REZONING – 190295 ZMK

Stars and Stripes Holding Company submitted an application pursuant to Sections 197-c and 201 of the New York City Charter for a zoning map amendment to establish a C1-3 commercial overlay within an existing R5B district on the western side of 13th Avenue, at the southwest corner of the intersection at 82nd Street, extending halfway to 81st Street. Such action would legalize an existing, non-conforming Use Group (UG) 6 law office at 8118 13th Avenue in Brooklyn Community District 10 (CD 10).

On November 13, 2019, Brooklyn Borough President Eric Adams held a public hearing on this zoning map amendment. There were no speakers on this item.

In response to Borough President Adams' inquiry as to what additional uses would be allowed according to the proposed rezoning, the applicant's representative stated that the C1-3 district would permit UG 6 local retail and personal service establishments.

In response to Borough President Adams' inquiry as to what extent unenclosed commercial use is allowed in the front and rear yards of the affected properties, the representative stated that only eating and drinking establishments would be permitted to occupy front and rear yards — other commercial uses would have to be enclosed within the building.

Consideration

Brooklyn Community Board 10 (CB 10) voted to approve this application on November 18, 2019.

The proposed land use actions would affect three lots at the southwest intersection of 13th Avenue and 82nd Street in Dyker Heights. 8118 13th Avenue, which is owned by the applicant, is a 4,000 square foot (sq. ft.) lot improved with a one-story, 2,875 sq. ft. law office, a non-conforming use. The other parcels proposed for rezoning, 8120 and 8124 13th Avenue, are both 3,000 sq. ft. lots, occupied by two-story, semi-detached homes. The properties are located within an R5B district, zoned exclusively for community facility and residential development that extends along 13th Avenue between Bay Parkway and 86th Street. For much of 13th Avenue, this district is paired with a C1-3 overlay on both sides of the street. However, on blocks omitted from the C1-3 overlay, including the block containing the applicant's property, commercial uses are prohibited.

The proposed C1-3 district permits a commercial floor area ratio (FAR) of 1.0 in fully commercial or mixed-use buildings. C1-3 districts are paired with residential zoning districts and typically established along corridors defined by local retail and personal service establishments. According to the New York City Zoning Resolution (ZR), the existing law office at 8118 13th Avenue is classified as a UG 6 professional office. Establishing a C1-3 overlay on this portion of 13th Avenue would remedy the applicant's nonconformance and allow the applicant to obtain a Certificate of Occupancy (C of O) that lists the office as the permitted use.

According to the application, 8118 13th Avenue was previously used as a political club, per a variance granted by the New York City Board of Standards and Appeals (BSA) in 1955. The enactment of the 1961 Zoning Resolution did not alter the club's status as a permitted use. The property was subsequently included in the 2007 Dyker Heights/Fort Hamilton rezoning, which changed the underlying residential district from R4 to R5B, while maintaining community facilities and/or residential use as permitted uses.

R5B zoning permits community facility development of up to 2.0 FAR and 1.35 FAR for residential use. If used in compliance with the current zoning, the applicant's property could be re-occupied as a community facility of up to 8,000 sq. ft. The applicant would not be required to provide on-site parking. Community facilities include ambulatory and diagnostic health treatment facilities, as

well as houses of worship — uses that tend to generate traffic and demand for street parking, which would substantially impact the adjacent streets. Mapping the requested C1-3 overlay on the block provides a path to retain the existing law office, a low-traffic generating use.

It should be noted that establishing a C1-3 overlay would allow the law office to be redeveloped as a small retail establishment such as a neighborhood convenience store. The property could be occupied by a range of UG 6 uses, including an eating and drinking establishment. However, existing demand and foot traffic along the retail corridor would better support an office use. The owners of 8120 and 8124 13th Avenue would also gain the right to have eating and drinking establishments with outdoor seating in their front and/or rear yard areas. However, the buildings' ground floors are presently unsuited for commercial use and might be cost-prohibitive to modify to regulatory requirements. Moreover, there are no sidewalk cafés along 13th Avenue, and such establishments are not common in Dyker Heights. Therefore, the extension of a C1-3 overlay to encompass these properties would not be expected to result in any changes to their use. 8118 13th Avenue would be expected to remain a professional office, while 8120 and 8124 13th Avenue would be maintained as two-family homes.

Borough President Adams generally supports appropriate land use actions that legalize non-complying and non-conforming uses. If approved, the proposed rezoning would bring the applicant's property into zoning conformance and eliminate the need for future BSA variances. Therefore, he believes the requested land use actions should be granted.

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.