

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 #: 50 OLD FULTON STREET REZONING – 190011 ZMK

An application submitted by Alwest Old Fulton, LLC, pursuant to Sections 197-c and 201 of the New York City Charter, for a zoning map amendment to change the eastern portion of a block bounded by Doughty Street, Elizabeth Place, Hicks Street, and Old Fulton Street, from M2-1 to M1-5. Such action would facilitate the development of an approximately 39,000 square foot (sq. ft.), five-story commercial building with retail stores occupying the cellar, ground, and second floors, as well as office space on the floors above in Brooklyn Community District 2 (CD 2).

COMMUNITY DISTRICT NO. 2

BOROUGH OF BROOKLYN

RECOMMENDATION

APPROVE
 APPROVE WITH
MODIFICATIONS/CONDITIONS

DISAPPROVE
 DISAPPROVE WITH
MODIFICATIONS/CONDITIONS

SEE ATTACHED

BROOKLYN BOROUGH PRESIDENT

January 23, 2020

DATE

RECOMMENDATION FOR: 50 OLD FULTON STREET REZONING – 190011 ZMK

Alwest Old Fulton, LLC, submitted an application pursuant to Sections 197-c and 201 of the New York City Charter, for a zoning map amendment to change the eastern portion of a block bounded by Doughty Street, Elizabeth Place, Hicks Street, and Old Fulton Street, from M2-1 to M1-5. Such action would facilitate the development of an approximately 39,000 square foot (sq. ft.), five-story commercial building with retail stores occupying the cellar, ground, and second floors, as well as office space on the floors above in Brooklyn Community District 2 (CD 2).

On December 10, 2019, Brooklyn Borough President Eric Adams held a public hearing on this rezoning application. There were two speakers on the item, both in opposition, including a member of a neighborhood coalition affected by the reconstruction of the Brooklyn-Queens Expressway (BQE), and a board member of the Fulton Ferry Landing Association (FFLA). The coalition representative referenced the forthcoming comprehensive plan for the expressway's reconstruction and called on the City to hold off approving any rezoning until the plan's full scope is known, including the status of off-ramps or other structures that may encroach upon the surround properties. The FFLA representative cited multiple new large- and small- scale developments slated for the area, and expressed the position that the application is premature, given the pending BQE study.

In response to Borough President Adams' inquiry as to what consideration has been given to providing affordable community facility or retail space for local arts and cultural organizations, the applicant's representative stated that such an arrangement had not previously been considered, but would be discussed with the developer.

In response to Borough President Adams' inquiry regarding the incorporation of sustainable features such as passive house design and/or New York City Department of Environmental Protection (DEP) rain gardens, the representative stated that the design would achieve some degree of onsite water retention. Moreover, while tree pits are not required in manufacturing zones, the applicant would be amenable to planting trees.

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 disclosed that the applicant may apply for a New York State Industrial and Commercial Abatement Program (ICAP) exemption, which requires rigorous outreach to MBWE firms.

Subsequent to the hearing, Borough President Adams received a letter from the applicant, dated January 9, 2020, stating intent to integrate green infrastructure at 50 Old Fulton Street, and meet MWBE hiring goals, as a condition of state funding for the project.

Subsequent to the hearing, Borough President Adams received a letter from FFLA detailing the following concerns: The developer's lack of outreach to FFLA prior to the start of the ULURP process; the proposed development's potential impact on the yet-to-be defined BQE renovation project; the site's proximity to the Fulton Ferry Historic District, combined with its exemption from the New York City Landmarks Preservation Commission (LPC) design regulations, as well as increasing density in the area stemming from the pending addition of 1,000 new residential units, and 20,000 sq. ft. of planned retail development, including multiple eating and drinking establishments on Old Fulton Street.

Consideration

Brooklyn Community Board 2 (CB 2) voted to disapprove this application on December 11, 2019.

The proposed actions would affect three adjacent lots at the eastern end of a block in the Fulton Ferry Landing neighborhood. The proposed development site, located at 50 Old Fulton Street, is an interior through lot with frontage on Doughty and Old Fulton streets, which contains nearly 6,600 sq. ft., and is occupied entirely by a one-story automobile body shop. The use dates back to the 1960s. Approximately 6,475 sq. ft. of this property would be rezoned from M2-1 to M1-5. The rezoning area includes a 512 sq. ft. sliver of 46 Old Fulton Street, improved with a four-story, 16,000 sq. ft. warehouse, and 58 Old Fulton Street, a more than 4,700 sq. ft. property improved with a two-story, 3,708 sq. ft. body shop.

The current M2-1 zoning allows a floor area ratio (FAR) of 2.0 for commercial uses, whereas the requested M1-5 district would permit 5.0 FAR. The applicant's objective is to develop a fully commercial, five-story building with retail space in the cellar through second floors, and offices above. For the stores, the applicant is targeting Use Group (UG) 6 local retail uses, which include eating and drinking establishments. The office space is envisioned for design, marketing, and technology tenants.

It should be noted that the rezoning area extends into Brooklyn Heights and also includes a small triangular median at the intersection of Hicks and Old Fulton streets, and a portion of the BQE elevated ramp that borders two south-lying residential districts.

The existing M2-1 district extends from the Brooklyn Bridge to the western portion of Red Hook, encompassing Brooklyn Bridge Park and the Red Hook Container Terminal. Across Old Fulton Street, north of the rezoning area, is an R7-1 district that extends southeast to Cadman Plaza, and an adjacent R8 district. Further northeast are two MX districts, M1-2/R8 and M1-2/R8A, established through the 2009 DUMBO rezoning. Southwest of the site are two medium-density residential districts, R6 and R7-1, which extend over most of Brooklyn Heights.

The site is located just outside the FFHD, designated in 1977, which extends east from Furman Street and the waterfront to Plymouth Street, south from the Brooklyn Bridge to Water Street, and finally, Doughty Street. The district covers the western portion of the development block, a single 20,000 sq. ft. lot occupied by the nine-story Eagle Warehouse, at 28 Old Fulton Street. This building, formerly an office and storage facility, was converted to co-operative apartments in the 1980s.

The surrounding context is a dynamic mix of commercial uses, including offices, restaurants, and retail, contained primarily within historic waterfront buildings. There are several large residential properties, including converted warehouses such as 28 Fulton Street, and new condominiums within Brooklyn Bridge Park, which also includes a hotel. There has been a spate of new development in the vicinity spurred by the 2009 departure of the Watchtower organization and the subsequent sale and redevelopment of its holdings in the area. To date, the most significant project is the Brooklyn Panorama, an \$80 million conversion of a two-acre campus composed of five interconnected buildings (25, 30, 50, and 58 Columbia Heights as well as 55 Furman Street) for office and retail uses. Much of the demand for commercial space is driven by the recent influx of design and technology companies, which has transformed the adjacent DUMBO neighborhood into an innovation hub.

50 Old Fulton Street is located within a Transit Zone, and is served primarily by bus and ferry service. The B24 bus travels along Old Fulton Street and stops at the northern edge of the block. The East River Ferry Fulton Street stop is located two blocks west of the site, in Brooklyn Bridge Park. The closest subways — the Eighth Avenue Express A/Eighth Avenue Local C at High Street, and the Sixth Avenue Local F at York Street — are both approximately five blocks away from the site.

When considering such rezoning, it would be appropriate to seek the inclusion of cultural opportunities, integration of resilient and sustainable construction elements, and advancement of local employment.

Borough President Adams believes that such enhancement of commercial development rights should yield commensurate public benefits, such as affordable space for arts and cultural organizations. 50 Old Fulton Street is situated in close proximity to Downtown Brooklyn and DUMBO, which are both hubs for arts, dance, and cultural activities. Unfortunately, many organizations that provide such programming cannot afford to lease space in these neighborhoods. Borough President Adams believes that the inclusion of arts and cultural use floor area at 50 Old Fulton Street would be consistent with the public benefit intent achieved through the residential development pursuant to the New York City Zoning Resolution (ZR)'s Mandatory Inclusionary Housing (MIH) program.

Other policies seek to advance sustainable energy and flood resiliency by promoting opportunities that utilize blue/green/white roofs, solar panels, and/or wind turbines, as well as passive house construction, introducing best practices to manage stormwater runoff such as incorporating permeable pavers and/or establishing rain gardens that advance DEP's green infrastructure strategy. Such modifications tend to increase energy efficiency and reduce a development's carbon footprint. In the fall of 2019, the City Council passed Local Laws 92 and 94, which require that newly constructed roofs, as well as existing roofs undergoing renovation (with some exceptions) incorporate a green roof and/or a solar installation. The laws further stipulate 100 percent roof coverage for such systems, and expand the City's highly reflective (white) roof mandate. 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. Blue/green roofs, permeable pavers, and rain gardens would help divert stormwater from the City's water pollution control plants.

It is also Borough President Adams' policy to promote economic development that creates more employment opportunities. Prioritizing local hiring would assist in addressing the current employment crisis across the borough. Additionally, promoting Brooklyn-based businesses, including those that qualify as locally-owned business enterprises (LBEs) and minority- and women-owned business enterprises (MWBES), is central to Borough President Adams' economic development agenda. The applicant reiterated intent to seek an ICAP property tax exemption for the proposed commercial office use at 50 Old Fulton Street. In order to qualify for such benefits, Alvest Old Fulton, LLC would be required to solicit a minimum of three bids from M/WBES for all major construction contracts and subcontracts in accordance with Local Law 67.

Borough President Adams generally supports the redevelopment of underutilized land for productive uses that maximize permanent job opportunities for Brooklyn residents. There are yet-to-be determined opportunities to realize additional public benefits through the proposed development, however, he is concerned about the sequencing of the request to rezone this property, given its proximity to the Fulton Ferry Historic District, that he does not believe would be remedied during the ULURP public review process. Furthermore, there are questions stemming from the need to address the useful life of the cantilever section of the BQE.

Appropriate Design Controls

Borough President Adams recognizes the limited supply of underutilized and vacant land in the Fulton Ferry neighborhood. Given current real estate trends, the area appears to be suited for retail and office development. 50 Old Fulton Street is just beyond the boundaries of the Fulton Ferry Historic District (FFHD), designated for its strong historical and architectural significance. Enabling a more than two-fold FAR increase for as-of-right development at 50 Old Fulton Street has the potential to

adversely affect the district's unique character. Without adequate design oversight, there would be no way to ensure architectural expression consistent with its contributing buildings.

Borough President Adams believes that an appropriate mechanism is needed to ensure that the proposed fully commercial development yields an appropriate design solution for the Fulton Ferry Historic District. He understands that it would be unviable to advance an expansion of the district while this application is under ULURP consideration. Nevertheless, he believes that in certain cases it is appropriate to defer a rezoning proposal in order to implement safeguards against potential adverse impacts. Within the northwest section of CD 2 are two examples where establishment of historic districts preceded rezoning. These include the designation of the Vinegar Hill Historic District by the LPC in 1997 and the DUMBO Historic District in 2007. Both areas were also subject to rezonings, which were only adopted by the City Council after significant sections were afforded landmarks protections.

Borough President Adams believes that the Fulton Ferry Historic District deserves similar consideration. Therefore, it would be best to defer the proposed rezoning of 50 Old Fulton Street, as in the case of the 1998 Vinegar Hill rezoning, and the 2009 rezoning of DUMBO. Such action would provide an opportunity for LPC to consider expanding the Fulton Ferry Historic District to Hicks Street, consistent with community concerns. Therefore, Borough President Adams believes that this application should not advance prior to appropriate LPC evaluation of the district's boundaries.

Set Aside Portion of Commercial Space for Affordable Local Cultural Use

Borough President Adams believes that the proposed redevelopment presents an opportunity to provide affordable space for arts and cultural organizations. As proposed, 50 Old Fulton Street would provide nearly 33,000 sq. ft. of commercial space, with approximately 40 percent intended as retail floor area. In addition, the cellar, which is excluded from zoning FAR, would likely be reserved for such uses. Given such extensive floor area, a portion of the commercial space at 50 Old Fulton Street could be targeted to local arts and/or cultural groups at below-market rents. In addition to meeting Borough President Adams' policy goals, such inclusion would augment cultural programs in the area, including offerings at Brooklyn Bridge Park.

If and when this rezoning does advance, Borough President Adams calls on Alwest Old Fulton, LLC to set aside for such uses a portion of the space envisioned for retail stores within the proposed development.

Therefore, prior to considering a resubmission of this application, the City Council should obtain commitments in writing from the developer, Alwest Old Fulton, LLC, clarifying how it would memorialize setting aside a portion of the commercial space for local non-profit organizations such as arts and/or cultural entities at below-market lease terms, as warranted.

Advancing Resilient and Sustainable Energy and Stormwater Management Policies

The proposed development would provide opportunities to explore resiliency and sustainability measures such as incorporating blue/green/white roof finishes, passive house construction principles, solar panels, and wind turbines. In the fall of 2019, the City Council passed Local Laws 92 and 94, which require that newly constructed roofs, as well as existing roofs undergoing renovation (with some exceptions) incorporate a green roof and/or a solar installation. The laws further stipulate 100 percent roof coverage for such systems, and expand the City's highly reflective (white) roof mandate.

Additionally, the required Builders Pavement Plan for the proposed development would allow the developer to incorporate DEP rain gardens along the site's Doughty Street and/or Old Fulton Street frontages, though the planting of street trees is not required in manufacturing zones. The

implementation of rain gardens could help advance DEP green infrastructure strategies, and enhance the operation of the Red Hook Wastewater Treatment Plant during wet weather.

If and when this rezoning does advance, Borough President Adams believes that Alwest Old Fulton, 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), as well as CB 2 and local elected officials regarding the integration of a rain garden with new street trees, as part of a Builders Pavement Plan.

In the letter dated January 9, 2020, the applicant expressed intent to implement a green roof with wetland plantings at 50 Old Fulton Street, in addition to a stormwater detention tank, to facilitate on-site retention of all stormwater. The applicant has further retained a civil engineer to study the feasibility of installing rain gardens on the proposed development's Old Fulton Street sidewalk.

Therefore, prior to considering a resubmission of this application, the City Council should obtain commitments, in writing, from the applicant, Alwest Old Fulton, LLC clarifying how it would memorialize integrating resiliency and sustainability features. The City Council should further seek demonstration of Alwest Old Fulton, LLC's commitment to coordinate with DEP, DOT, and NYC Parks regarding the installation of DEP rain gardens as part of a Builders Pavement Plan, for development site intersections in consultation with CB 2 and local elected officials.

Jobs

Prioritizing local hiring and promoting Brooklyn-based businesses, including those qualify as LBE and MWBE is central to Borough President Adams' economic development agenda. This application would provide opportunities 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).

In the letter dated January 9, 2020, the applicant reiterated intent to seek an ICAP property tax exemption for the proposed commercial office use at 50 Old Fulton Street. In order to qualify for such benefits, Alwest Old Fulton, LLC would be required to solicit a minimum of three bids from M/WBEs for all major construction contracts and subcontracts in accordance with Local Law 67.

Borough President Adams believes that prior to considering a resubmission of this application, the City Council should obtain commitments in writing from the developer, Alwest Old Fulton, 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.

BQE Reconstruction

The need for a complex reconstruction of a 1.5-mile section of the BQE presents many unknowns. A community coalition has raised the possibility that the project, which is pending a comprehensive study, would require temporary or permanent use of the 50 Old Fulton Street site. The concern is if the property is fully redeveloped at the time for the reconstruction, it would be unavailable for taking by DOT, which might constrain the agency's design for this very complex project.

Borough President Adams understands the community's desire to achieve an optimal solution for the reconstruction of the BQE. He believes that it would be appropriate for DOT, prior to City Council review of this application, to comment on the proposed rezoning as regards roadway design considerations for the BQE reconstruction. He therefore calls on DOT to provide a written

determination as to whether it would be appropriate for the development to proceed, given the need to re-engineer the cantilever section of the BQE.

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 disapprove this application with the following conditions:

1. That a rezoning application not advance prior to a determination by the New York City Landmarks Preservation Commission (LPC) to enlarge the Fulton Ferry Historic District.

Be It Further Resolved:

1. That at such time when the proposed development is ready to proceed, Alwest Old Fulton, LLC provide written commitments clarifying how it would:
 - a. Set aside a portion of the commercial space for one or more local non-profit organizations such as arts and/or cultural entities at below-market lease terms, as warranted
 - b. Explore the incorporation of additional resiliency and sustainability measures such as passive house design and rain gardens
 - c. 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
2. That the New York City Department of Transportation (DOT) provide written comment to the City Council regarding the advancement of rezoning 50 and 58 Old Fulton Street with regard to the need to reconstruct the cantilever section of the Brooklyn-Queens Expressway (BQE).

ALWEST OLD FULTON, LLC
c/o Tryad Group LLC
120 W. 45th Street, Suite 1010
New York, New York 10036

January 9, 2020

Honorable Eric Adams
Brooklyn Borough President
209 Joralemon Street
Brooklyn, New York 11201

Re: 50 Old Fulton Rezoning
ULURP No. 190011ZMK

Dear Borough President Adams:

We are the applicant with respect to the above-referenced application seeking a rezoning from the New York City Planning Commission for the property located at 50 Old Fulton Street in the Fulton Ferry Landing neighborhood of Brooklyn (Block 202, Lot 14), which was the subject of your public hearing on December 10, 2019. This letter responds to certain questions that arose at the hearing:

- *What is the applicant's commitment with regard to M/WBE participation?*

We intend to seek an ICAP property tax abatement for the commercial office use proposed on the site. To be eligible for these benefits, we will be required to comply with Local Law 67, which, among other things, requires that we reach out to and solicit a minimum three bids from Minority and Women-Owned Business Enterprises (M/WBEs) for all major construction contracts and subcontracts.

- *How will the applicant incorporate sustainability measures, such as green/blue/white roofs, into its proposed development?*

We intend to install a green roof with wetland planting on the roof of our proposed building. This, along with a storm water retention tank, will allow for on-site retention of all storm water.

- *Has the applicant explored the possibility of providing sidewalk rain gardens at the site?*

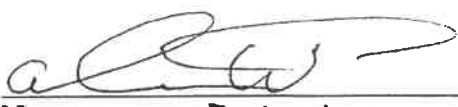
Thank you for bringing DEP's sidewalk rain garden initiative to our attention. We were not previously aware of this program, but are have retained a civil engineer and will continue to study the feasibility of rain gardens on the Old Fulton Street sidewalk adjacent to our site while keeping in mind pedestrian circulation and locations of utility vaults, fire hydrants, light poles and other sidewalk conditions.

Hon. Eric Adams
January 9, 2020
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Sincerely,

ALWEST OLD FULTON, LLC

By:


Name: ADAM WESTREICH
Title: Authorized Signatory

cc: Richard Bearak
Ina Guzenfeld
Tonya L. Cantlo, Esq.
Nick Hockens, Esq.