



February 17, 2021 / Calendar No. 17

C 200252 ZMQ

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**IN THE MATTER OF** an application submitted by Marino Plaza 63-12 LLC pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 15c:

1. eliminating from within an existing R4 District a C1-3 District bounded by a line 80 feet northwesterly of Jericho Turnpike, 246th Street, Jericho Turnpike, and 245th Street; and
2. establishing within an existing R4 District a C2-3 District bounded by a line 80 feet northwesterly of Jericho Turnpike, 246th Street, Jericho Turnpike, and 245th Street;

Borough of Queens, Community District 13, as shown on a diagram (for illustrative purposes only) dated October 5, 2020.

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This application for a zoning map amendment (C 200252 ZMQ) was filed by Marino Plaza 63-12 LLC on February 5, 2020. The applicant seeks to replace the existing C1-3 commercial overlay with a C2-3 commercial overlay located within an R4 zoning district. This would permit additional uses and allow the applicant to file a special permit application at the New York City Board of Standards and Appeals (BSA) to legalize an existing physical culture establishment (PCE) on the development site at 245-01 Jamaica Avenue (Block 8659, Lot 1) in the Bellerose neighborhood of Queens Community District 13.

## **BACKGROUND**

The applicant, Marino Plaza 63-12 LLC, seeks a zoning map amendment to permit additional uses and facilitate the filing of a special permit application at the BSA in order to legalize an existing PCE within the development site. This application is not expected to result in new development or enlargements.

The project area (Block 8659, p/o Lot 1) fronts Jamaica Avenue (100 feet wide), a major vehicular roadway and commercial corridor, between 245<sup>th</sup> and 246<sup>th</sup> street, and encompasses an

approximately 15,069-square-foot portion of Lot 1 (development site). An approximately 444-square-foot portion of Lot 1 is outside the project area and would remain within an existing R2A district mapped to the north. The development site has approximately 199 feet of frontage along Jamaica Avenue, 70 feet of frontage along 245th Street, and 76 feet of frontage along 246th Street. The development site is owned by the applicant and is improved with a one-story commercial building constructed in 1932 and consists of approximately 14,656 zoning square feet, with a floor area ratio (FAR) of 0.97. The one-story building is divided into seven commercial units, including a recently-closed fitness center (PCE) and a small martial arts studio (PCE) located on the corner of Jamaica Avenue and 246<sup>th</sup> Street. A physical therapy center, beauty salon and three eating and drinking establishments occupy the remainder of the building.

The project area is located within an 80-foot deep R4/C1-3 district that was established in 2013 upon approval of the City-sponsored Bellerose/Floral Park/Glen Oaks Rezoning (C 130188 ZMQ). The rezoning, which changed the area's zoning from an R4/C2-2 district to an R4/C1-3 district, was intended to support existing retail and services, as well as additional commercial opportunities. Although PCEs are permitted within C2-3 commercial overlays, C1-3 districts do not permit PCEs. In 1994, the BSA granted a PCE special permit (12-94-BZ) to permit the fitness center in the development site. This special permit expired after 10 years. In November 2018, the BSA granted a variance (2016-4472-BZ) to legalize the PCE. The fitness center closed in the summer of 2020, subsequent to the filing of the current application. In 2015, the martial arts studio opened contrary to zoning use regulations and is ineligible to seek relief from the BSA. The martial arts studio currently occupies approximately 2,583 square feet on the ground floor and 2,587 square feet in the cellar.

The surrounding area is characterized by a mix of commercial and mixed-used buildings fronting Jamaica Avenue, and lower-density detached one- and two-family residences fronting on side streets north and south of Jamaica Avenue. Jamaica Avenue serves as the boundary between Queens and Nassau County, located south of the project area. The surrounding area has high auto-oriented commuting patterns. The area is also served by public transit, including New York City Transit (NYCT) and Nassau Inter-County Express Line (NICE) bus routes and Long

Island Rail Road (LIRR) service. The NYCT Q36 and NICE N24 bus lines traverse east to west along Jamaica Avenue, with a stop located directly in front of the project area. The LIRR Bellerose, Queens Village and Floral Park stations are located approximately one-half-mile south, one-mile east, and one-mile southeast, respectively, of the project area. The project area is located less than 500 feet from an entrance to the Cross Island Parkway, a major north-south limited access roadway that prohibits trucks and other commercial vehicles.

The surrounding area includes R4/C1-3, R4, R3-2, R3A and R2A zoning districts. R4 districts allow all types of housing at a maximum FAR of 0.75, with an attic allowance of up to 20 percent. R4 zoning districts are typically comprised of buildings with three stories instead of the two-story homes that are predominant in R3 districts. R4 districts allow community facility uses at a maximum FAR of 2.0. Mapped along streets that serve local retail needs, C1 commercial overlays are found extensively throughout the city's lower- and medium-density areas and occasionally in higher-density districts. Typical retail uses include neighborhood grocery stores, restaurants and beauty parlors. One parking space per dwelling unit is required for all the districts described above. When mapped within R1 through R5 districts, the maximum commercial FAR is 1.0. Off-street parking requirements for C1 and C2 districts vary by use and floor area.

The applicant seeks a zoning map amendment to replace a C1-3 commercial overlay within an R4 district with a C2-3 commercial overlay. This would permit additional uses and allow the applicant to file a special permit application at the BSA to legalize the existing martial arts studio. The existing 80-foot depth of the commercial overlay would remain unchanged. The proposed C2-3 overlay would permit a wider range of local service uses and home maintenance establishments, as well as local business and entertainment uses in Use Groups 7, 8, 9 and 14. Because the property is within 1,000 feet of the entrance to the Cross Island Parkway, the proposed C2-3 overlay district would permit a transient hotel. The maximum permitted commercial FAR within the C2-3 overlay district would remain at 1.0. Off-street parking requirements vary by use. For general retail, one space is required for every 400 square feet of floor area, but may be waived when fewer than 25 spaces are required.

## **ENVIRONMENTAL REVIEW**

This application (C 200252 ZMQ) was reviewed pursuant to the New York State Environmental Quality Review Act (SEQRA) and the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 et seq. and the City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The lead is the City Planning Commission. The designated CEQR number is 20DCP054Q.

After a study of the potential environmental impact of the proposed actions, a Negative Declaration was issued on October 2, 2020.

## **UNIFORM LAND USE REVIEW**

This application (C 200252 ZMQ) was certified as complete by the Department of City Planning on September 14, 2020, and duly referred to Queens Community Board 13 and the Queens Borough President in accordance with Title 62 of the rules of the City of New York, Section 2-02(b).

## **Community Board Public Hearing**

Queens Community Board 13 held a public hearing on this application (C 200252 ZMQ) on November 16, 2020, and on November 23, 2020, by a vote of 43 in favor, one opposed, and none abstaining, voted to recommend approval of the application with the following conditions:

“Declarant and successors and/or assigns shall not permit Premises to be used as a Use Group 5 Transient Hotel or homeless shelter, including “non-profit with sleeping accommodations;

Covenants as stated in the first bullet point shall “run with the land;

Covenant can be enforced by property owners/entities located within a 1000-foot radius of Premises.”

### **Borough President Recommendation**

The Queens Borough President held a public hearing on this application (C 200252 ZMQ) on December 3, 2020, and on December 23, 2020, issued a recommendation to approve the application with the following conditions:

“The applicant should execute and file the restrictive declaration including the modification extending to adjacent property owners and community organizations within a 1,000 feet radius of the rezoning site the right to sue if the current or a new owner proposes use of the site for a hotel or homeless shelter;

Use of union labor and or MWBE businesses during construction;

Workers should be paid prevailing wages for construction labor.”

### **City Planning Commission Public Hearing**

On January 6, 2021 (Calendar No. 13), the City Planning Commission scheduled January 20, 2021 for a public hearing on this application (C 200290 ZMQ). The hearing was duly held on January 20, 2021 (Calendar No. 36). Two speakers testified in favor and none in opposition.

The applicant’s land use attorney described the requested zoning map amendment, stating that the applicant’s primary purpose for proposing the zoning map amendment was to legalize their tenant’s existing illegal nonconforming PCE. She acknowledged Queens Community Board 13’s concern about the potential for future hotel development and use as a homeless shelter, and explained that the applicant is committed to recording a deed restriction that prohibits such use.

The applicant spoke in support of their application.

There were no other speakers, and the hearing was closed.

## CONSIDERATION

The City Planning Commission believes that this application (C 200252 ZMQ) for an amendment to the zoning map is appropriate.

Though the Commission acknowledges that the applicant's PCE use is not permitted under existing zoning, it nevertheless believes the use is appropriate for the surrounding area.

The proposed C2-3 commercial overlay will facilitate the filing of a special permit application at the BSA to legalize an existing PCE within the development site.

The Commission notes that the project area is located on Jamaica Avenue, a major commercial corridor. The Commission also notes that a C2-3 commercial overlay is mapped four blocks east of the project area with frontage on Jamaica Avenue.

The Commission is pleased that the applicant has committed to prohibiting current and future owners from developing a hotel within the project area.

The Commission believes that the proposed C2-3 commercial overlay appropriately reflects the existing land uses within the project area, and will support existing retail and services as well as additional commercial opportunities. In addition, the establishment of the C2-3 commercial overlay will maintain the low-rise scale and uses consistent with the surrounding area.

## RESOLUTION

**RESOLVED**, that having considered the Environmental Assessment Statement, for which a Negative Declaration was issued on October 2, 2020 with respect to this application (CEQR No. 20DCP054Q), the City Planning Commission finds that the action described herein will have no significant impact on the environment; and be it further

**RESOLVED**, by the City Planning Commission, pursuant to Sections 197-c and 200 of the New York City Charter that based on the environmental determination and the consideration

described in this report, the Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended by changing the Zoning Map, Section No. 15c:

1. eliminating from within an existing R4 District a C1-3 District bounded by a line 80 feet northwesterly of Jericho Turnpike, 246th Street, Jericho Turnpike, and 245th Street; and
2. establishing within an existing R4 District a C2-3 District bounded by a line 80 feet northwesterly of Jericho Turnpike, 246th Street, Jericho Turnpike, and 245th Street;

Borough of Queens, Community District 13, as shown on a diagram (for illustrative purposes only) dated October 5, 2020.

The above resolution (C 200252 ZMQ), duly adopted by the City Planning Commission on February 17, 2021 (Calendar No. 17). is filed with the Office of the Speaker, City Council, and the Borough President, in accordance with the requirements of Section 197-d of the New York City Charter.

**MARISA LAGO, *Chair***

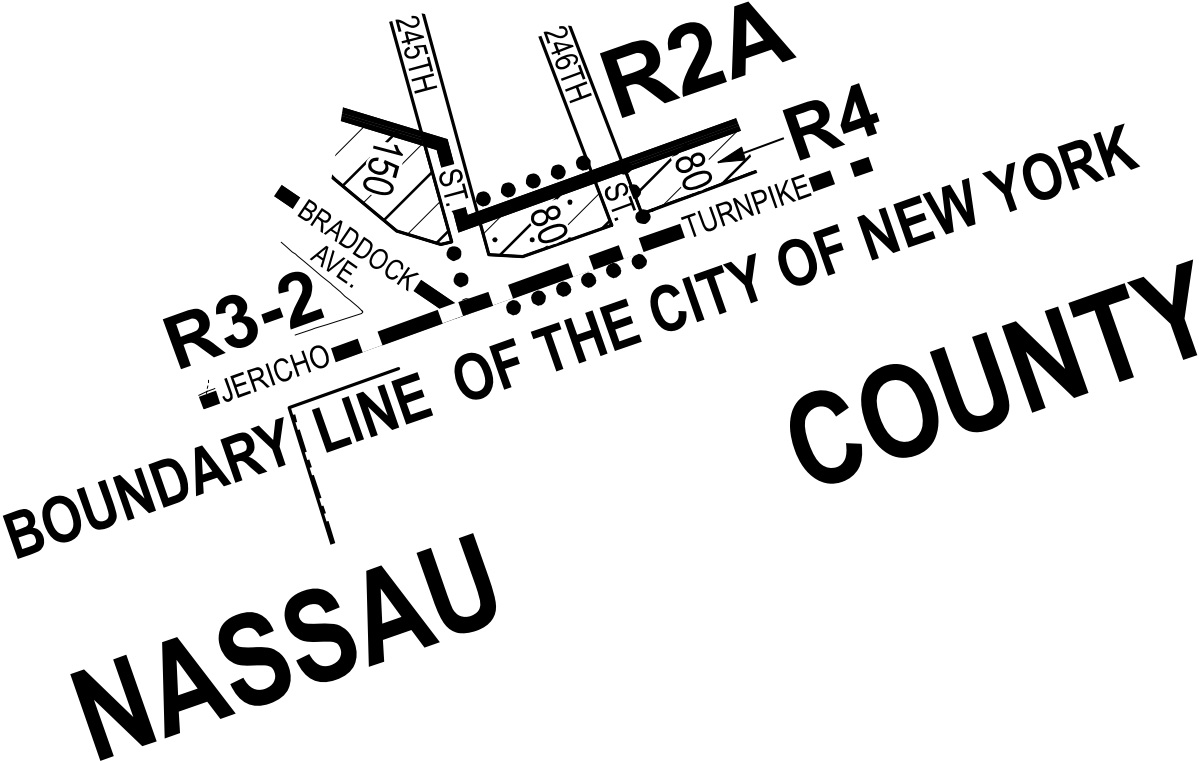
**KENNETH J. KNUCKLES, Esq., *Vice-Chairman***

**DAVID J. BURNEY, ALLEN P. CAPPELLI, Esq., ALFRED C. CERULLO, III,**

**JOSEPH I. DOUEK, RICHARD W. EADDY, HOPE KNIGHT,**

**ANNA HAYES LEVIN, ORLANDO MARIN, LARISA ORTIZ,**

**RAJ RAMPERSHAD *Commissioners***

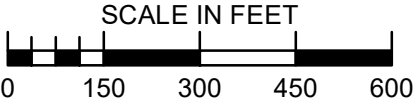


CITY PLANNING COMMISSION  
CITY OF NEW YORK  
DIAGRAM SHOWING PROPOSED  
**ZONING CHANGE**  
ON SECTIONAL MAP  
**15c**  
BOROUGH OF  
**QUEENS**



New York, Certification Date:  
October 05, 2020

S. Lenard, Director  
Technical Review Division



NOTE:

- Indicates Zoning District Boundary
- The area enclosed by the dotted line is rezoned by changing from an existing C1-3 District to a C2-3 District.
- Indicates a C1-3 District
- Indicates a C2-3 District





Community/Borough Board Recommendation  
Pursuant to the Uniform Land Use Review Procedure

Application #:	C 200252 ZMQ	Project Name:	245-01 Jamaica Ave Rezoning
CEQR Number:	20DCP054Q	Borough(s):	Queens
		Community District Number(s):	13

Please use the above application number on all correspondence concerning this application

SUBMISSION INSTRUCTIONS

1. Complete this form and return to the Department of City Planning by one of the following options:
  - EMAIL (recommended):** Send email to [CalendarOffice@planning.nyc.gov](mailto:CalendarOffice@planning.nyc.gov) and include the following subject line: (CB or BP) Recommendation + (6-digit application number), e.g., "CB Recommendation #C100000ZSQ" ~~XXXXXXXXXX~~
  - MAIL:** Calendar Information Office, City Planning Commission, 120 Broadway, 31<sup>st</sup> Floor, New York, NY 10271
  - FAX:** to (212) 720-3488 and note "Attention of the Calendar Office"
2. Send one copy of the completed form with any attachments to the applicant's representative at the address listed below, one copy to the Borough President, and one copy to the Borough Board, when applicable.

Docket Description:

IN THE MATTER OF an application submitted by

Marino Plaza 63-12 LLC pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 15c:

1. eliminating from within an existing R4 District a C1-3 District bounded by a line 80 feet northwesterly of Jericho Turnpike, 246th Street, Jericho Turnpike, and 245th Street; and

2. establishing within an existing R4 District a C2-3 District bounded by a line 80 feet northwesterly of Jericho Turnpike, 246th Street, Jericho Turnpike, and 245th Street;

as shown on a diagram (for illustrative purposes only) dated October 5, 2020.

<b>Applicant(s):</b>  Marino Plaza 63-12 LLC 70-01 Ditmars Boulevard East Elmhurst, New York 11370	<b>Applicant's Representative:</b>  Richard Lobel Sheldon Lobel, P.C. 18 East 41st Street, 5th Floor New York, NY 10017	
<b>Recommendation submitted by:</b> Queens                      Community Board 13		
<b>Date of public hearing:</b> November 16, 2020 <b>Location:</b> Zoom		
<b>Was a quorum present?</b> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> <i>A public hearing requires a quorum of 20% of the appointed members of the board, but in no event fewer than seven such members.</i>		
<b>Date of Vote:</b> November 23, 2020 <b>Location:</b> Zoom		
<b>RECOMMENDATION</b> <div><input type="checkbox"/> Approve                      <input checked="" type="checkbox"/> Approve With Modifications/Conditions <input type="checkbox"/> Disapprove                      <input type="checkbox"/> Disapprove With Modifications/Conditions</div> <p><b><u>Please attach any further explanation of the recommendation on additional sheets, as necessary.</u></b></p> <p><b>Voting</b> # In Favor:    41    # Against:    1    # Abstaining:                      Total members appointed to the board:    50</p>		
<b>Name of CB/BB officer completing this form</b> Mark McMillan	<b>Title</b> District Manager	<b>Date</b> 1/14/2021

**Application #: C 200252 ZMQ**

**CEQR Number: 20DCP054Q**

**Project Name: 245-01 Jamaica Avenue Rezoning**

**Borough: Queens**

**Community District Number: 13**

QCB13 voted in favor of this rezoning request 41 yes, 1, no, 0 abstaining. There were conditions attached to this yes vote as follows:

- Declarant and successors and/or assigns shall not permit Premises to be used as a Use Group 5 Transient Hotel or homeless shelter, including "non-profit with sleeping accommodations".
- Covenants as stated in the first bullet point shall "run with the land".
- Covenant can be enforced by property owners/entities located within a 1000-foot radius of Premises.

# Queens Borough President Recommendation

**APPLICATION: ULURP # 200252 ZMQ**

**COMMUNITY BOARD: Q13**

**DOCKET DESCRIPTION**

IN THE MATTER OF an application submitted by an application submitted by Marino Plaza 63-12 LLC pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 15c:

1. eliminating from within an existing R4 District a C1-3 District bounded by a line 80 feet northwesterly of Jericho Turnpike, 246th Street, Jericho Turnpike, and 245th Street; and
2. establishing within an existing R4 District a C2-3 District bounded by a line 80 feet northwesterly of Jericho Turnpike, 246th Street, Jericho Turnpike, and 245th Street;

as shown on a diagram (for illustrative purposes only) dated October 5, 2020, on Block 8659, Lot 1, Borough of Queens.

**PUBLIC HEARING**

A Public Hearing was held by the Queens Borough President via Zoom webinar and livestreamed on [www.queensbp.org](http://www.queensbp.org) on Thursday, December 3, 2020 at 10:30 A.M. pursuant to Section 82(5) of the New York City Charter and was duly advertised in the manner specified in Section 197-c (i) of the New York City Charter. The applicant made a presentation. There were no other speakers. The hearing was closed.

**CONSIDERATION**

Subsequent to a review of the application and consideration of testimony received at the public hearing, the following issues and impacts have been identified:

- This application is proposing to rezone from an existing R4/C1-3 District to an R4/C2-3 District on the north block front of Jamaica Avenue between 245<sup>th</sup> and 246<sup>th</sup> Streets. The proposed C2-3 commercial overlay would retain the 80 feet depth of the existing C1-3 overlay. The proposed rezoning would make the applicant's property eligible for the Zoning Resolution (Section 73-36) Special Permit allowing Physical Cultural Establishments (PCE);
- The applicant's property (Block 8659, Lot 1) is an approximately 15,069 SF (144' x 76') irregularly-shaped lot. The majority of the lot is within the R4/C1-3 District to be rezoned. However, a triangular portion along the north lot line is in the existing R2 District and would not be developable. The site is improved with a 1-story, 14,656-GSF (0.97 FAR) commercial building subdivided into seven leasable units on the ground-floor with cellars below. There are no new development plans resulting from the proposed rezoning;
- There are currently two PCEs on the site, a martial arts studio (Team US Tae Kwan Do) and a vacant fitness center formerly operated by Body by Fitness. The applicant proposes to file for the PCE Special Permit to legalize the martial arts studio not currently available within the currently mapped C1-3 commercial overlay. The other PCE space in the commercial building is currently allowed by a Board of Standards and Appeal variance granted in 2018. In 1994, that space was allowed by the PCE Special Permit because at the time the site was mapped with a C2-2 overlay. In 2013, the C2-2 overlay was replaced by the current C1-2 overlay in the Bellerose/Floral Park/Glen Oaks rezoning. That rezoning forced an application for a variance to continue operations because the special permit was no longer available when it expired in 2014;
- The surrounding area within a 600 feet radius of the development site is zoned R4/C1-3, R4, R3A and R2A. The property is on the north side of Jamaica Avenue which also is the county line between Queens and Nassau County. The areas north of Jamaica Avenue (Queens County) and the south side of the street known as Jericho Turnpike (Nassau County) are predominately developed with one- and two-family homes, with commercial and mixed-use buildings on the main thoroughfares. The Cross Island Parkway is located approximately 425 feet west of the project site. The area is served by the Q36 and N24 bus lines along Jamaica Avenue/Jericho Turnpike. There are two Long Island Rail Road stations are located within an ½ mile and 1 mile of the rezoning site;
- The applicant met with the Community Board 13 (CB 13) Land Use Committee (LUC) three times over the year before the full community board hearing. During those meetings concerns were raised about the zoning change to a C2-2 overlay in proximity to the Cross Island Parkway that would leave open a potential to develop a hotel on the site in the future. The applicant reassured the LUC they had no intention of selling the site or building for use as a hotel;

- On November 23, 2020, prior to the meeting of the full community board, the CB 13 LUC unanimously voted to recommend conditional approval of the application if the applicant were to draft and execute a restrictive declaration prohibiting future development of a hotel on the site. The LUC asked the applicant’s representative to amend the restrictive declaration specifying the right of adjacent property owners and community entities (such as a civic association) within a 1,000 feet radius of the site the right to sue if the current or a new owner tries to build a hotel or shelter;
- Community Board 13 conditionally approved this application by a vote of forty-one (41) in favor with one (1) against and zero (0) abstaining at a public hearing held on November 23, 2020. The condition of approval was an addition to a proposed restrictive declaration extending the right to sue to adjacent property owners or community entities within 1000 feet of the rezoning area;
- At the Borough President’s Land Use Public Hearing on December 3, 2020, the applicant stated that the restrictive declaration as requested by CB 13 would be filed and executed as the public review goes forward.

RECOMMENDATION

Based on the above consideration, I hereby recommend approval of this application with the following conditions:

- The applicant should execute and file the restrictive declaration including the modification extending to adjacent property owners and community organizations within a 1,000 feet radius of the rezoning site the right to sue if the current or a new owner proposes use of the site for an hotel or homeless shelter;
- Use of union labor and or MWBE businesses during construction;
- Workers should be paid prevailing wages for construction labor.



PRESIDENT, BOROUGH OF QUEENS

December 23, 2020

DATE