



IN THE MATTER OF an application submitted by Stars and Stripes Holding Co. Inc. pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 22b, by establishing within an existing R5B District a C1-3 District bounded by line 100 feet northwesterly of 13th Avenue, a line midway between 81st Street and 82nd Street, 13th Avenue and 82nd Street, Borough of Brooklyn, Community District 10, as shown on a diagram (for illustrative purposes only) dated October 15, 2019.

This application for a zoning map amendment (C 190295 ZMK) was filed by Stars and Stripes Holding Co. Inc. on May 10, 2019, to establish a C1-3 District within an existing R5B District. The new commercial overlay would legalize a one-story office building, located at 8118 13th Avenue (Block 6291, Lot 43) in the Dyker Heights neighborhood of Brooklyn, Community District 10.

BACKGROUND

The applicant requests a zoning map amendment to establish a C1-3 commercial overlay within an existing R5B zoning district. The project area includes three tax lots (Block 6291, Lots 43, 45, and 47), totaling 10,000-square feet of lot area and is developed with residential and commercial uses. The project area is located on the west side of 13th Avenue between 81st and 82nd streets.

The project area was previously a part of the Dyker Heights/Ft. Hamilton Rezoning (C 070387 ZMK) approved by the City Council on July 25, 2007. It was formerly an R4 district, rezoned to R5B district to match the existing uses and the predominant building types and densities along the 13th Avenue corridor. Adjacent blocks on 13th Avenue were rezoned from R4/C1-2 to R5B/C1-3 reducing their overlay depths from 150 feet to 100 feet to match the existing built context and reduce commercial parking requirements.

The R5B district is a lower density, contextual residential district that permits detached and semi-detached buildings and typically results in three-story rowhouse developments. R5B districts allow a maximum floor area ratio (FAR) of 1.35 with a maximum street wall height of

30 feet, above which the building may slope or set back to a maximum height of 33 feet. Curb cuts are prohibited on zoning lot frontages less than 40 feet. Where off-street parking is required, on-site spaces must be provided for two-thirds of the dwelling units, although parking can be waived when only one space is required. R5B districts do now allow commercial uses.

The proposed development site received a variance from the Board of Standards and Appeals (BSA) for a political club in 1955 under BSA Cal. No. 497-55-BZ. While the original use of the building was a political club, it has been used since 1990 as a law office.

The applicant-owned site at 8118 13th Avenue (Block 6291, Lots 43) has a total lot area of 4,000 square feet. The lot, 40 feet wide and 100 feet deep, is currently developed with a one-story building comprising a law office with a total floor area of approximately 2,875-square-feet, and an FAR of 0.72.

The applicant proposes to extend the existing C1-3 commercial overlays, located immediately to the east and west of the project area along 13th Avenue, onto the project area to legalize the existing office use. The 13th Avenue corridor is characterized by two- to three-story mixed-use and residential buildings. The existing developments within the C1-3 commercial overlay include local retail uses comprised of restaurants, cleaners, nail salons, pharmacies, groceries, and medical offices. C1-3 districts allow commercial uses at a maximum of 1.0 FAR on the first floor of buildings within a R5B district. Under the proposed action, the maximum permitted FAR for the site would remain the same, and no new development would be expected as a result of this action.

The other two lots within the project area (Block 6291, Lots 45 and 47) are not owned by the applicant. 8120 13th Avenue (Lot 45) has a total lot area of 3,000 square feet and is developed with a two-story, three-unit residential building with 3,000 square feet (1.0 FAR) of total floor area. 8124 13th Avenue (Lot 47) has a total lot area of 3,000 square feet and is developed with a two-story, three-unit residential building with a total floor area of approximately 2,860 square feet (0.95 FAR). These two lots are expected to remain unaffected by the proposed zoning map amendment.

ENVIRONMENTAL REVIEW

This application (C 190295 ZMK), 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 18DCP069K.

After a study of the potential environmental impact of the proposed actions, a Negative Declaration was issued on October 15, 2019.

UNIFORM LAND USE REVIEW

This application (C 190295 ZMK) was certified as complete by the Department of City Planning on October 15, 2019 and was duly referred to Brooklyn Community Board 10 and the Brooklyn Borough President in accordance with Title 62 of the Rules of the City of New York, Section 2-02(b).

Community Board Public Hearing

Brooklyn Community Board 10 held a public hearing on this application (C 190295 ZMK) on November 18, 2019, and by a vote of 37 in favor, none opposed, and one abstaining, adopted a resolution recommending approval of the application.

Borough President Recommendation

On November 13, 2019 the Brooklyn Borough President held a public hearing on this application (C 190295 ZMK), and on December 18, 2019 issued a recommendation approving the application.

City Planning Commission Public Hearing

On December 18 (Calendar No. 7), the City Planning Commission scheduled January 8, 2020 for a public hearing on this application (C 190295 ZMK). The hearing was duly held on January 8 (Calendar No. 33). One speaker testified in favor of the application and none in opposition.

An applicant representative gave an overview of the zoning history for this site and the change of uses over time, stating that the site has been operating as a law office for approximately 30 years. The representative stated that this rezoning would allow commercial uses, including the existing law office use, and described the commercial character of 13th Avenue.

There were no other speakers and the hearing was closed.

CONSIDERATION

The Commission believes that this application for a zoning map amendment (C 190295 ZMK) is appropriate.

The proposed action will map a C1-3 commercial overlay along the western side of 13th Avenue between 81st and 82nd streets. The existing use on the applicant-owned site is a non-conforming office use with a total floor area of approximately 2,875 square feet, which will be legalized by the proposed action. The zoning change will not increase the maximum permitted FAR for the site or change the residential bulk regulations as they currently exist, therefore no new construction is expected as a result of the change. The proposed zoning map change will facilitate the legalization of a long-standing non-conforming use that the Commission believes is appropriate for the location.

The Commission notes that C1-3 districts are mapped on blocks adjacent to the project area on both sides of 13th Avenue between 81st Street and Bay Ridge Avenue, and on the western side of 13th Avenue between 82st and 85th streets. The developments within the C1-3 commercial overlay comprise of a variety of local retail uses on the ground floors of residential buildings. The Commission believes that the proposed zoning change is a natural extension of the existing C1-3 districts already established on either side of the project area, and will be consistent with the existing land use pattern along the 13th Avenue.

RESOLUTION

RESOLVED, that having considered the Environmental Assessment Statement, for which Negative Declaration was issued on October 15, 2019 with respect to this application (CEQR

No. 18DCP069K), the City Planning Commission finds that the actions described herein will have no significant impact on the environment; and be it further

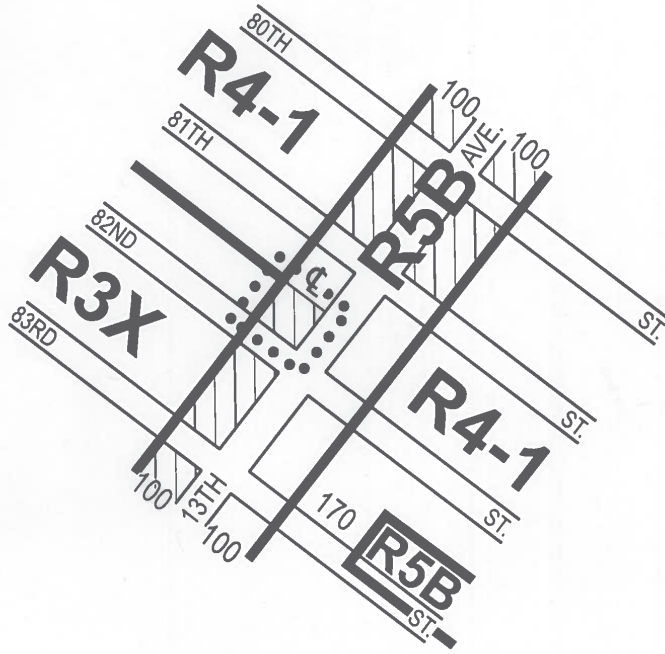
RESOLVED, by the City Planning Commission, pursuant to Sections 197-c and 200 of the New York City Charter, that based on the environmental determination and consideration described in this report, the Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended by changing the Zoning Map, Section No. 22b, by establishing within an existing R5B District a C1-3 District bounded by a line 100 feet northwesterly of 13th Avenue, a line midway between 81st Street and 82nd Street, 13th Avenue and 82nd Street, Borough of Brooklyn, Community District 10, as shown on a diagram (for illustrative purposes only) dated October 15, 2019.

The above resolution (C 190295 ZMK), duly adopted by the City Planning Commission on February 5, 2020 (Calendar No. 13), 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,
MICHELLE DE LA UZ, 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

22b

BOROUGH OF
BROOKLYN






S. Lenard, Director
 Technical Review Division



New York, Certification Date:
October 15, 2019



NOTE:

-  Indicates Zoning District Boundary
-  The area enclosed by the dotted line is proposed to be rezoned by establishing a C1-3 District within an existing R5B District.
-  Indicates a C1-3 District



Email/Fax Transmittal

TO: Community District 10 Distribution	FROM: Brooklyn Borough President Eric L. Adams
DATE: December 18, 2019	CONTACT: Inna Guzenfeld – Land Use Coordinator Phone: (718) 802-3754 Email: inna.guzenfeld@brooklynbp.nyc.gov
ULURP Recommendation: 8118 13 TH AVENUE REZONING – 190295 ZMK	NO. Pages, Including Cover: 4

Attached is the recommendation report for ULURP application 190295 ZMK. If you have any questions, please contact Inna Guzenfeld at (718) 802-3754.

Distribution

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Richard Bearak	Director, Land Use, BBPO	(718) 802-4057	rbearak@brooklynbp.nyc.gov

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

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.



Community/Borough Board Recommendation

Pursuant to the Uniform Land Use Review Procedure

Application #: C 190295 ZMK	Project Name: 8118 13th Avenue Rezoning
CEQR Number: 18DCP069K	Borough(s): Brooklyn Community District Number(s): 10
<i>Please use the above application number on all correspondence concerning this application</i>	

SUBMISSION INSTRUCTIONS

- 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 and include the following subject line: (CB or BP) Recommendation + (6-digit application number), e.g., "CB Recommendation #C100000ZSQ"
 - MAIL:** Calendar Information Office, City Planning Commission, 120 Broadway, 31st Floor, New York, NY 10271
 - FAX:** to (212) 720-3488 and note "Attention of the Calendar Office"
- 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 Stars and Stripes Holding Co. Inc. pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 22b, by establishing within an existing R5B District a C1-3 District bounded by a line 100 feet northwesterly of 13th Avenue, a line midway between 81st Street and 82nd Street, 13th Avenue and 82nd Street, Borough of Brooklyn, Community District 10, as shown on a diagram (for illustrative purposes only) dated October 15, 2019.

Applicant(s): Stars and Stripes Holding Co. Inc. 8118 13th Avenue Brooklyn, New York 11228	Applicant's Representative: Richard Lobel Sheldon Lobel, P.C. 18 East 41st Street, 5th Floor New York, NY 10017
Recommendation submitted by: Brooklyn Community Board 10	
Date of public hearing: 11/18/19	Location: Ft. Hamilton Senior Center 9941 Ft. Hamilton Pkwy, Brooklyn
Was a quorum present? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	<small>A public hearing requires a quorum of 20% of the appointed members of the board, but in no event fewer than seven such members.</small>
Date of Vote: 11/18/19	Location: Ft. Hamilton Senior Center 9941 Ft. Hamilton Pkwy, Brooklyn
RECOMMENDATION <input checked="" type="checkbox"/> Approve <input type="checkbox"/> Approve With Modifications/Conditions <input type="checkbox"/> Disapprove <input type="checkbox"/> Disapprove With Modifications/Conditions	
Please attach any further explanation of the recommendation on additional sheets, as necessary. <i>see attached ZALUC Report</i>	
Voting # In Favor: 37 # Against: 0 # Abstaining: 1 <small>recusing</small> Total members appointed to the board: 50	
Name of CB/BB officer completing this form Josephine Declaman District Manager	Title: District Manager Date: 11/19/19

Community Board Ten
8119 5th Avenue
Brooklyn, NY 11209