



**IN THE MATTER OF** an application submitted by Lawrence Avroch pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 11b, establishing within an existing R2 District a C1-2 District bounded by Francis Lewis Boulevard, a line 220 feet northerly of the Horace Harding Expressway, a line 100 feet westerly of 201<sup>st</sup> Street, and a line 150 feet northerly of the Horace Harding Expressway, Borough of Queens, Community District 11, as shown on a diagram (for illustrative purposes only) dated April 11, 2005.

The application for an amendment to the Zoning Map was filed by Lawrence Avroch on November 9, 2004, to establish a C1-2 commercial overlay district within an existing R2 district.

### **BACKGROUND**

The site proposed to be rezoned measures approximately 7,000 square feet (70 feet by 97 feet) and is located on the east side of Francis Lewis Boulevard, approximately 150 feet north of the service road for the Horace Harding Expressway (Long Island Expressway). The rezoning site encompasses two vacant lots owned by the applicant (Block 7451, Lots 45 and 46) which are zoned R2. The rezoning area also includes ten feet of adjacent Lot 29 to the south that is developed with a two-story medical office building. Lot 29 is zoned R2 with a C1-2 commercial overlay district covering most of the lot. Lot 48, which abuts the rezoning area to the north, is zoned R2 and occupied by a legal, non-conforming real estate office with approximately 750 square feet of floor area and is also owned by the applicant. Two lots that abut the rezoning site to the east (Lots 25 and 27) are zoned R2 and residentially developed.

The areas generally west and south of the subject site are zoned R3-2 with C1-2 overlay districts mapped along Francis Lewis Boulevard, Hollis Court Boulevard and the Horace Harding Expressway service road. These blocks are commercially developed with a supermarket and shopping center with accessory parking lot, a drive-thru restaurant, professional offices, gas station and a two-story medical office building. The area generally north and east of the rezoning site in the R2 district is developed

with single-family, detached homes.

The streets in the vicinity of the rezoning site are major arterials. Francis Lewis Boulevard is a 106-foot-wide north/south roadway that intersects with Hollis Court Boulevard, another 100-foot-wide road, in front of the subject site. The Horace Harding Expressway (Long Island Expressway) is just 150 feet south of the site.

Commercial uses in C1-2 districts are limited to Use Group 6, local retail, office and personal service uses. When mapped within an R2 district, the maximum building height is 2 stories and commercial Floor Area Ratio (FAR) is 1.0. Required parking depends on the use and parking category, which can range between one space per 200 square feet of commercial floor area, and one space per 600 square feet of floor area. The applicant proposes to construct a two-story, 6,264 square-foot office building with ten accessory parking spaces and intends to retain the real estate office as a non-conforming use.

On May 26, 2004, the City Planning Commission approved with modifications an application to establish a 10,000 square-foot C1-2 commercial overlay district (100 feet by 100 feet) which included the subject site (C 020666 ZMQ). The Commission reduced the size of the overlay district to 90 feet by 97 feet so that all portions of adjacent residentially-developed lots were excluded from the commercial overlay. The application was subsequently withdrawn prior to City Council action.

## **ENVIRONMENTAL REVIEW**

This application (C 050171 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 designated CEQR number is 05DCP033Q. The lead is the City Planning Commission.

After a study of the potential environmental impact of the proposed action, a Negative Declaration was issued on April 11, 2005.

### **UNIFORM LAND USE REVIEW**

This application (C 050171 ZMQ) was certified as complete by the Department of City Planning on April 11, 2005, and was duly referred to Community Board 11 and the Borough President, in accordance with Article 3 of the Uniform Land Use Review Procedure (ULURP) rules.

### **Community Board Public Hearing**

Community Board 11 held a public hearing on this application on June 6, 2005, and on that date, by a vote of 32 to 8 with 1 abstention, adopted a resolution recommending approval subject to the condition that the applicant:

...sign a corrected restrictive covenant, at the request of the Auburndale Improvement Association, regarding restrictions as to the type of businesses permitted...The Board was persuaded in favor of the application based on the restrictive covenant and that the area was more conducive to commercial establishments than residential use.

However, the community board's recommendation was received after its review period expired and was, therefore, non-complying.

### **Borough President Recommendation**

This application was considered by the Borough President, who issued a recommendation approving the application on June 29, 2005 with the following comments:

...I hereby recommend approval of the application because the applicant has modified the

initial application and limited the C1-2 overlay on his property and not on the residential lots. Additionally, the applicant has worked, in good faith, with the community, community board and local elected officials in preparing and signing a Restrictive Declaration and Covenant.

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

On July 13, 2005 (Calendar No. 7), the City Planning Commission scheduled July 27, 2005 for a public hearing on this application (C 050171 ZMQ). The hearing was duly held on July 27, 2005 (Calendar No. 31). There were three speakers in favor of the application.

The owner of the property reviewed the history of the rezoning applications for the site and described the elements of the restrictive covenant that he signed. The applicant's engineer was also present in support of the application. A representative of the New York State Senator from the 14<sup>th</sup> District, which does not include the proposed rezoning area, spoke about the Senator's general interest in the Commission's proceedings, especially as they relate to rezoning actions in his district.

There were no other speakers and the hearing was closed.

### **CONSIDERATION**

The Commission believes that this amendment of the Zoning Map is appropriate.

The proposed rezoning action would expand an existing C1-2 overlay district in order to permit development of a two-story office building. The Commission notes that there are existing C1-2 overlay districts mapped along the major thoroughfares in the vicinity of the rezoning area and that the predominant development in the area includes active and viable commercial uses. The Commission also notes that the rezoning site is immediately adjacent to commercial uses that include a two-story

medical office building, a gas station and a real estate office. The Commission recognizes that the adjacent streets are wide arterials and not conducive to development of single-family, detached homes that are permitted under the existing R2 zoning.

The Commission acknowledges that the site's location on a major roadway near the expressway and the surrounding commercial development makes it an appropriate area into which the existing C1-2 overlay district could expand. The Commission believes that establishing a C1-2 overlay as proposed would be consistent with existing land uses in the area and with the character of the neighborhood.

The Commission notes that the favorable community board recommendation was based on the applicant's agreement to enter into a covenant for the benefit of a civic association that restricts uses under the C1 commercial overlay designation. The Commission believes that a community board determination whether to recommend in favor of a zoning map change should be based on the appropriateness of the zoning and not on private agreements. The Commission also notes that the private agreement in question is not and cannot be made a condition of this rezoning approval.

## **RESOLUTION**

**RESOLVED**, that 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. 11b,

establishing within an existing R2 District a C1-2 District bounded by Francis Lewis Boulevard, a line 220 feet northerly of the Horace Harding Expressway, a line 100 feet westerly of 201<sup>st</sup> Street, and a line 150 feet northerly of the Horace Harding Expressway, Borough of Queens, Community District 11, as shown on a diagram (for illustrative purposes only) dated April 11, 2005.

The above resolution (C 050171 ZMQ), duly adopted by the City Planning Commission on August 24, 2005, Calendar No. 18), 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.

**AMANDA M. BURDEN, AICP, Chair**

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

**ANGELA M. BATTAGLIA, IRWIN G. CANTOR, P.E., ALFRED C. CERULLO, III,  
RICHARD W. EADDY, JANE D. GOL, LISA A. GOMEZ, CHRISTOPHER KUI, JOHN  
MEROLO, KAREN A. PHILLIPS, DOLLY WILLIAMS, Commissioners**