



CITY PLANNING COMMISSION

June 7, 2011/Calendar No. 4

C 090347 ZMQ

IN THE MATTER OF an application submitted by J&H Management Corporation, pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 14c, establishing within an existing R3-2 District a C1-2 District bounded by a line 150 feet southerly of 69th Avenue, a line midway between 164th Street and 165th Street, a line 290 feet southerly of 69th Avenue, and 164th Street, Borough of Queens, Community District 8, as shown on a diagram (for illustrative purposes only) dated January 24, 2011.

The application for an amendment of the Zoning Map was filed by J&H Management Corporation on March 4, 2009 to establish a C1-2 district within an existing R3-2 district to facilitate the construction of a two-story commercial building in the Kew Gardens Hills neighborhood of Community District 8, Queens.

BACKGROUND

The applicant is seeking a Zoning Map amendment to establish a C1-2 district within an existing R3-2 district on property located on the east side of 164th Street between 69th and Jewel Avenues. The proposed rezoning will affect two tax lots fronting 164th Street. Lot 38 (69-15 164th Street) is owned by the applicant and contains a one-story automotive repair facility that operates under a variance by the Board of Standards and Appeals. The Board granted a ten-year extension of the term of this nonconforming use in March 2009. Lot 36 (69-27/29 164th Street) contains a nonconforming two-story commercial building.

The land in the vicinity of the rezoning area is developed with a mix of residential and commercial uses. The properties adjacent to the north of the rezoning area, located in an existing C1-2 overlay district, contain commercial uses. Immediately to the north is a one-story bank.

Further north, one-story commercial uses front both sides of 69th Avenue. To the east and south

of the rezoning area, land is predominantly developed with one- and two-family detached, semi-detached, and attached buildings. The rezoning area is located across 164th Street from Electchester, a multi-block cooperative apartment complex consisting of 38 six-story residential buildings.

The proposed rezoning will extend an existing C1-2 district 140 linear feet along 164th Street, facilitating the construction of a two-story commercial building on the applicant's property. The building would contain approximately 5,300 square feet of retail floor area in 5 stores on the ground floor and approximately 6,500 square feet of office floor area in 6 offices on the second floor. The applicant proposes to site the building along the street line of 164th Street. Each of the 11 units would be identified with a 2-foot by 8-foot sign on the 164th Street facade.

The development would include 40 accessory parking spaces, 9 of which would be located behind the building and 31 of which would be located in a one-level subterranean garage. These parking spaces would be accessed by a 20-foot-wide curb cut on 164th Street. A two-lane parking access roadway would pass through the first floor of the building. In addition, the proposed development would provide 6 street trees along the 164th Street frontage. The proposed C1-2 overlay would extend onto Lot 36 and allow the existing two-story commercial building to become a conforming use.

The existing R3-2 zoning permits all types of housing at a maximum floor area ratio (FAR) of 0.6, which includes an attic allowance of 0.1 FAR. Community facilities are allowed at a maximum FAR of 1.0. The proposed C1-2/R3-2 zoning district would permit commercial uses at a maximum FAR of 1.0 in addition to the residential and community facility uses allowed in the

existing R3-2 district. The FAR of the proposed commercial development would be approximately 0.9.

ENVIRONMENTAL REVIEW

This application (C 090347 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 09DCP060Q. The lead is the City Planning Commission.

After a study of the potential environmental impacts of the proposed action, a Negative Declaration was issued on January 24, 2011.

UNIFORM LAND USE REVIEW

This application (C 090347 ZMQ) was certified as complete by the Department of City Planning on January 24, 2011, and was duly referred to Queens Community Board 8 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

Community Board 8 held a public hearing on this application on March 8, 2011, and on March 16, 2011, by a vote of 15 to 19 with no abstentions, adopted a resolution recommending disapproval of the application. The community board felt that the applicant had not adequately addressed the potential for noise and light impacts, loss of neighbors' privacy, and the potential for use of the building's front windows for advertising signs.

Borough President Recommendation

This application (C 090347 ZMQ) was considered by the Queens Borough President who issued a recommendation on May 6, 2011 approving the application.

City Planning Commission Public Hearing

On April 27, 2011 (Calendar No. 2), the City Planning Commission scheduled May 11, 2011 for a public hearing on this application (C 090347 ZMQ). The hearing was duly held on May 11, 2011 (Calendar No. 24). There was one speaker in favor of the application and no speakers opposed.

The applicant described the proposed project and noted that he had failed to respond in writing to Community Board 8's concerns before the vote on March 16, 2011. The applicant further noted that, as he was not able to speak at the community board's vote, he sent a letter addressing these concerns to Community Board 8 on March 17, 2011. A copy of this letter was provided to the Commission.

In response to two concerns raised by Community Board 8 during its review, the applicant stated the parking area of the proposed building would be illuminated with downward-facing lights mounted to the rear of the building, that the output of light from the proposed development would be less than the output that is currently generated by the existing automobile service station, and that the lighting would shut off automatically between 11:00 PM and 12:00 AM. The applicant also stated that the windows at the rear of the building would be placed so as not to provide a clear line of sight from within the proposed building to neighboring buildings. Furthermore, the applicant noted that the main source of sunlight in the proposed building would be through the front windows.

There were no other speakers and the hearing was closed.

CONSIDERATION

The Commission believes that this application (C 090347 ZMQ) for an amendment of the Zoning Map is appropriate.

The Commission notes that the rezoning area is contiguous to an existing C1-2 district developed with a one-story bank building and two-story office building. The Commission notes that the proposed C1-2 commercial overlay district will facilitate the construction of a two-story retail and office building at 69-15 164th Street. The Commission believes that the proposed development is consistent in scale and land use with the neighboring commercial developments and other commercial developments located along 164th Street. The Commission also notes that the building located at 69-27/29 164th Street, which currently contains a nonconforming use, will be brought into conformance by the proposed C1-2 overlay.

The Commission acknowledges the Community Board's comments with regard to the design of the proposed building. While the Commission recognizes that the application is for a zoning map amendment, and not for review of a specific building or site plan, the Commission is pleased nevertheless that the applicant submitted a letter, dated March 17, 2011, that was sent to Community Board 8 to address its concerns. With regard to the illumination of the parking area, the applicant stated at the Commission's public hearing, and in the March 17th letter, that the proposed lighting configuration will reduce the amount of light reaching other properties compared to the current configuration of lighting for existing the automotive repair station. The Commission notes that the zoning lot is currently illuminated with bright flood lights mounted

above the height of the building, while according to the applicant, the parking area of the proposed development would be illuminated with less powerful lights mounted lower to the ground and shielded so as not to illuminate areas beyond the property. With regard to the adjoining property owners' privacy, the Commission notes that the windows at the rear of the proposed building, as described by the applicant, would be placed above the line of sight from within the upstairs offices to neighboring buildings.

Two further concerns are noted briefly in Community Board 8's recommendation. Responses are provided in the applicant's March 17th letter. First, with regard to potentially disruptive deliveries made at the rear of the building, the applicant stated a willingness to restrict delivery times to reasonable hours. The final concern noted in is that the windows at the front of the proposed building would be used for illegal signs. The applicant stated in the March 17th letter that window signs would not be allowed in the proposed building.

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, that 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, is further amended by changing the Zoning Map, Section 14c, establishing within an existing R3-2 District a C1-2 District bounded by a line 150 feet southerly of 69th Avenue, a line midway between 164th Street and 165th Street, a line 290 feet southerly of 69th

Avenue, and 164th Street, Borough of Queens, Community District 8, as shown on a diagram (for illustrative purposes only) dated January 24, 2011.

The above resolution (C 090347 ZMQ), duly adopted by the City Planning Commission on June 7, 2011 (Calendar No. 4), is filed with the Office of the Speaker, City Council, and the Queens Borough President in accordance with the requirements of Section 197-d of the New York City Charter.

KENNETH J. KNUCKLES, Esq., Vice-Chairman
RAYANN BESSER, IRWIN G. CANTOR, P.E., ALFRED C. CERULLO, III,
BETTY Y. CHEN, MARIA M. DEL TORO, RICHARD W. EADDY,
NATHAN LEVENTHAL, ANNA HAYES LEVIN, SHIRLEY A. MACRAE,
KAREN A. PHILLIPS, Commissioners

Application #: C 090347 ZMQ	DEPARTMENT OF CITY PLANNING MAR 23 2011 QUEENS OFFICE	Project Name: 164th Street Rezoning
CEQR Number: 09DCP060Q		Borough(s): Queens Community District Number(s) 8
Please use the above application number on all correspondence concerning this application		

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, Room 2E, 22 Reade Street, New York, NY 10007
 - FAX:** (212) 720-3356 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 J & H Management Corp. pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 14c, establishing within an existing R3-2 District a C1-2 District bounded by a line 150 feet southerly of 69th Avenue, a line midway between 164th Street and 165th Street, a line 190 feet southerly of 69th Avenue, and 164th Street, Borough of Queens, Community District 8, as shown on a diagram (for illustrative purposes only) dated January 24, 2011.

Applicant(s): J & H Management Corp. 69-15 164th Street Flushing, N.Y. 11365	Applicant's Representative: Joel Fisher J & H Management Corp. 720 Hillside Avenue New Hyde Park, N.Y. 11040
Recommendation submitted by: Queens Community Board 8	
Date of public hearing: March 8, 2011	Location: 158-40 76th Road, Flushing, NY 11355
Was a quorum present? 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>
Date of Vote: March 16, 2011	Location: Hillcrest Jewish Center 183-02 Union Turnpike, Flushing 11355
RECOMMENDATION	
<input type="checkbox"/> Approve	<input type="checkbox"/> Approve With Modifications/Conditions
<input checked="" type="checkbox"/> Disapprove	<input type="checkbox"/> Disapprove With Modifications/Conditions
Please attach any further explanation of the recommendation on additional sheets, as necessary.	
Please see attached minutes of Public Hearing and Board Meeting.	
Voting	
# In Favor: 15	# Against: 19
# Abstaining: 0	Total members appointed to the board: 48
Name <i>Alvin Warshavick</i>	Title <i>Chairperson</i>
Date <i>March 22, 2011</i>	

Board Members who voted unanimously in favor: Dilafroz Ahmed, Richard Amron, Jagir Singh Bains, Carolyn Baker-Brown, Dr. Allen J. Bennett, Maurice Braithwaite, Susan D. Cleary, Kenneth Cohen II, Maria DeInnocentiis, Bernard Diamond, Patricia Dolan, Allen Eisenstein, Kevin Forrestal, James Gallagher, Jr., Marc A. Haken, Michael Hannibal, Robert Harris, Steven Konigsberg, Mark J. Lefkof, Tammy Oshero, Frances Peterson, Charlton Rhee, Steven Sadofsky, Annie Salvatore, Anna Sawchuk, Seymour Schwartz, Michael F. Sidell, Harbachan Singh, Norma Stegmaier, Robert Van Pelt, Alvin Warshaviak, Jacob Weinberg, Stanley Weinblatt and Albert Willingham.

ULURP Application No. C090347 ZMQ – Rezoning of 164th Street (South of 69th Avenue) to facilitate construction of a two story retail office building. Steve Konigsberg – Zoning Chair

- A public hearing was held on March 8, 2011. Eight Board Members were present.
- Presently this site is being used as an auto repair shop. The owner of the premises is asking for a change in the zoning to facilitate construction of a two-story retail and office building and to bring an existing retail/office building into conformance.
- Many questions at the public hearing were raised including how he was going to be a good neighbor to the community in regard to privacy issues, garbage disposal, truck deliveries and advertising signage.
- At the conclusion of the meeting, the vote was six (6) in favor, two (2) opposed.
- Several of the Board Members asked for a commitment from the owner communicated to the CB8 office to show sensitivity to the neighbors regarding illuminating, advertising lighting and restrictions on deliveries in the back between certain hours.

Motion:

Marc A. Haken made a motion to accept ULURP Application No. C090347 ZMQ, seconded by Michael Sidell.

Comments:

- Steve Konigsberg asked if any supplemental information was submitted by the applicant to the CB8 office. Answer: District Manager Marie Adam-Ovide stated no.
- Kevin Forrestal pointed out that the applicant was asked to cooperate and submit information on the concerns expressed at the public hearing. The applicant is not only asking for himself but also for his neighbor to be able to expand beyond the zoning requirements. The lack of cooperation is a very negative feeling. We should vote this down. The applicant could have another option and apply for a variance, where he would have a term renewal.
- Pat Dolan agreed with Kevin Forrestal. This is happening more and more in Queens. Her real concern here is that once the applicant has a zoning change, then his or her adherence to the zoning resolution is at the mercy of the Buildings Department. If it were a variance, then the variance would have a term as Mr. Forrestal mentioned. After that term is over with, the applicant or owner has to come back to the Board and prove to us that he has been a good neighbor. This applicant has not demonstrated any commitment to being a good neighbor to the people living around his property. Those people would simply be at the mercy of calling 311 to complain. The owner should go back and reapply for a variance.
- Chairman Alvin Warshaviak commented that although he was not at the public hearing he did read the minutes of the meeting. In this day and age, we are trying to foster small and big businesses. The auto repair shop is an eyesore and now the owner wants to build an office type building. The answers the owner gave were to the satisfaction of the community. Reading the minutes, the applicant really went out of his way trying to push that he would be a good neighbor. Mr. Warshaviak's recommendation is that we do approve it.

- Kenneth Cohen was not able to attend the meeting either; however, he wants to urge everyone on the Board that 164th Street is a reoccurring problem. It seems like these things are going to continue to happen. Businesses are going to request these changes in our communities. Although it may be good for their business, it is not always good for our community.
- Mark Lefkof asked if Ian Hegarty can clarify to the Board.
- Ian Hegarty clarified the following:

The applicant is requesting an extension of the existing commercial overlay into an area that currently has no commercial overlay. This commercial overlay will facilitate development of the proposed two-story commercial building. When the applicant came to the Dept. of City Planning asking for the commercial overlay on his property, it was suggested to extend the commercial overlay over the adjoining building. The reason for this is a) we don't want to encourage the practice of zoning a single property and b) the neighbor is already a commercial building in a residential district that has been there since before the establishment of the current zoning code. It is grandfathered in. Ian Hegarty clarified that City Planning is not recommending anything. However, it does make sense.
- Maria DeInnocentiis asked if he puts a medical facility on the site, does that give the applicant extra FAR or extra space. Answer: He is not locked in to any one tenant as of this time. It is supposed to be a commercial use.
- Steve Konigsberg stated that this application is going for a standard FAR, correct? Answer: Correct. It should also be noted that community facility uses are permitted as of right on the property now.
- Maurice Braithwaite was at the meeting. Nothing jumped out at him that gave him concern and tells him that he should vote this application down. He supported it and will continue to support the application.
- James Gallagher also agrees that it will be an improvement to the community, since it is currently a car repair station. He is not going to three-stories and he is providing parking for 30 cars.
- Tammy Osheroov will be voting in favor. She felt her questions were answered at the public hearing.
- Pat Dolan stated that we can't put any conditions on a zoning change. We can put conditions on variances. We can have some control on variances.
- Mark Lefkof feels we should not go to an extreme. They can't put a cabaret there because they would need a cabaret license.

VOTE: 15 in favor 19 opposed 0 abstained

Board Members who voted in favor: Dilaroz Ahmed, Jagir Singh Bains, Carolyn Baker-Brown, Dr. Allen J. Bennett, Maurice Braithwaite, Allen Eisenstein, James Gallagher, Mark J. Lefkof, Tammy Osheroov, Steven Sadofsky, Michael Sidell, Robert Van Pelt, Alvin Warshaviak, Jacob Weinberg and Stanley Weinblatt.

Board Members who were opposed: Richard Amron, Susan D. Cleary, Kenneth Cohen II, Maria DeInnocentiis, Bernard Diamond, Patricia Dolan, Kevin Forrestal, Marc A. Haken, Michael Hannibal, Robert Harris, Steven Konigsberg, Frances Peterson, Charlton Rhee, Annie Salvatore, Anna Sawchuk, Seymour Schwartz, Harbachan Singh, Norma Stegmaier and Albert Willingham.

Queens Borough President Recommendation

APPLICATION: ULURP #090347 ZMQ

COMMUNITY BOARD: Q08

DOCKET DESCRIPTION

IN THE MATTER OF an application submitted by J&H Management Corp., pursuant to Sections 197-c & 201 of the New York City Charter, for an amendment of the Zoning map, Section 14c, establishing within an existing R3-2 district a C1-2 overlay bounded by a line 150 feet southerly of 69th Avenue, a line midway between 164th Street and 165th Street, a line 290 feet southerly of 69th Avenue, and 164th Street as shown on a diagram (for illustrative purposes only) dated January 24, 2011, Borough of Queens.

PUBLIC HEARING

A Public Hearing was held in the Borough President's Conference Room at 120-55 Queens Boulevard on Thursday, April 7, 2011, 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:

- The applicant is proposing to extend an existing C1-2 overlay onto midblock properties that are developed with commercial uses in a residential district on 164th Street between 69th Avenue and Jewel Avenue.;
- The applicant is proposing to build a 2-story building with ground floor retail and office uses on the second floor.;
- The uses on the lots that would be rezoned are developed with an automotive repair shop in a one-story building and two 2-story buildings that are occupied by office uses. The lots directly to the north of the subject site are developed with a bank and a pizza shop. The remainder of the block going south is developed with residences. However, one of the homes also has a community facility use operating in it.;
- Community Board 8 disapproved a motion to approve this application by a vote of nineteen (19) against, ten (15) in favor at a public hearing held on March 16, 2011. Some of the concerns raised at the public hearing included: proximity to nearby houses and privacy, ability to find tenants for these buildings, uncertainty about the types of potential retail uses, restrictions on deliveries and delivery times, possible use of illuminated signs.

RECOMMENDATION

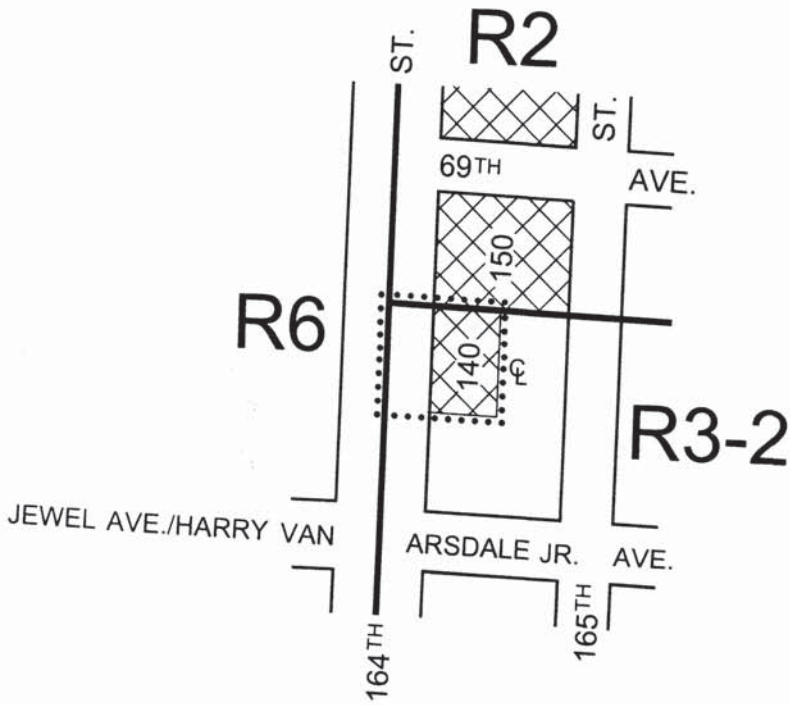
Based on the above consideration, I hereby recommend approval of this application.

The proposed rezoning area is a mixed use area developed with an apartment house complex, commercial and retail uses along with low density homes on a major thoroughfare already developed with a number of commercial and retail uses. The proposed commercial overlay would bring more local goods and services into the neighborhood.


PRESIDENT, BOROUGH OF QUEENS


DATE

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CITY PLANNING COMMISSION
 CITY OF NEW YORK
 DIAGRAM SHOWING PROPOSED
ZONING CHANGE
 ON SECTIONAL MAP




14c

BOROUGH OF
QUEENS

New York, Certification Date
JANUARY 24, 2011

S. Voyages
 S. Voyages, R.A. Director
 Technical Review Division



- NOTE:
-  Indicates Zoning District Boundary.
 -  The area enclosed by the dotted line is proposed to be rezoned by establishing a C1-2 District within an existing R3-2 District.
 -  Indicates a C1-2 District.

THIS DIAGRAM IS FOR ILLUSTRATIVE PURPOSES ONLY.