



## **CITY PLANNING COMMISSION**

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February 24, 2016/Calendar No. 10

C 150343 ZSK

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**IN THE MATTER OF** an application submitted by STGG Realty, LLC pursuant to Sections 197-c and 201 of the New York City Charter, for the grant of a special permit pursuant Section 94-096 of the Zoning Resolution to modify the floor area requirements of Sections 94-092 (Maximum floor area ratio), to modify the location of use requirements of Section 32-421 (Limitation on floors occupied by commercial use), the height requirements of Section 33-43 (Maximum Height of Walls and Required Setbacks), and the accessory parking requirements of Section 36-21 (General Provisions) to facilitate the 1-story enlargement of an existing 2-story commercial building, on property located at 3133-3135 Emmons Avenue (Block 8804, Lot 75), in an R5/C2-2 District, within the Special Sheepshead Bay District, Borough of Brooklyn, Community District 15.

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This application for special permit was filed by STGG Realty, LLC on April 22, 2015 to facilitate the enlargement of an existing two-story building located at 3133-3135 Emmons Avenue (Block 8804, Lot 75). The building is occupied by Prime Home Health Services, a provider of certified home health aides in the Special Sheepshead Bay District, Area G.

### **RELATED ACTION**

In addition to the special permit, which is the subject of this report, implementation of the proposed development also requires action by the City Planning Commission on the following application which is being considered concurrently with this action:

**N 150342 ZRK** - An amendment of the Zoning Resolution of the City of New York, to modify the use, bulk and parking regulations of Article IX, Chapter 4 (Special Sheepshead Bay District),

### **BACKGROUND**

This application is for a special permit in the Special Sheepshead Bay District (SSBD) Area G, to facilitate the enlargement of an existing two-story building occupied by Prime Home Health Services, a provider of certified home health aides for senior citizen medical support and general care.

The site is an interior lot located at 3133-3135 Emmons Avenue (Block 8804, Lot 75) in an R5/C2-2 zoning district in Area G of the Special Sheepshead Bay District (SSBD). The SSBD

encompasses an approximate 20-block area, which extends along Emmons Avenue and the adjacent side streets from Sheepshead Bay Road on the west to Knapp Street on the east. The SSBD contains eight subareas (Areas A through H) with regulations governing development and permitted uses for each area.

Area G of the SSBD includes eight blocks having frontage on the north side of Emmons Avenue within an R5/C2-2 district. It is generally bounded by Shore Parkway to the north, Knapp Street to the east, Emmons Avenue to the south and Nostrand Avenue to the west. The SSBD limits residential and community facility uses to 1.25 FAR and a maximum height of 35 feet. Commercial uses are limited to a maximum 1.0 FAR with the underlying C2-2 district regulations governing the number of floors and height at maximum of 30 feet or two stories, whichever is less. The land uses within the Emmons Avenue Area G corridor are predominantly two to four-story residential buildings and mixed use residential buildings with ground floor retail, and six and seven-story apartment buildings on the eastern two blocks of the subarea.

The City Planning Commission approved a contextual rezoning in 2006 (C 060132 ZMK and N 060133 ZRK), to change the mid-blocks to the north of the site (outside of the SSBD) to an R4-1 zoning district. This area is predominately developed with a mix of one-story bungalows, two to three-story residences, as well as newer (pre-contextual rezoning) four to five-story townhouses. There are also some six and seven-story apartment buildings on the Coyle Street midblock, just north of the development site. With the exception of reducing the depths of commercial overlays to match existing commercial uses, the balance of the Area G and its remaining zoning designation (R5/C2-2) were unaffected by the 2006 rezoning changes. Across the 120 foot wide Emmons Avenue is the waterfront in SSBD Area H. Area H has a mix of 4-story multi-family developments a five-story senior residence, boat clubs, restaurants, retail and community facilities.

The site is irregularly shaped, 11,674 square foot lot with 140 feet of frontage along Emmons Avenue. It is wholly located in an R5/C2-2 district within the SSBD and is improved with a two-story building that contains 12,297 square feet of floor area. The building has approximately 90%

lot coverage at its first floor at a base height of 15'-0" and the partial second floor is set back from the streetwall at a height of 25'-0". There is an ADA compliant pedestrian ramp at the front of the building and accessory parking is located below grade within a garage space. The garage is accessible from an 11 foot curb cut located at the east end of the site's Emmons Avenue frontage.

The building is fully occupied by Prime Home Health Services which provides home health aides and medical therapy. Their offices are classified as a Use Group 6 medical office, and the applicant is seeking to expand in Sheepshead Bay. However, the building cannot be enlarged under the current zoning.

The applicant is proposing to enlarge the building by constructing a full second floor and partial third floor. The building would be elevated by 10 feet with the base height increasing from 15'-0" to 25'-0", and the building height increasing from 25'-0" to 34'-8" feet. The proposed enlargement would increase the floor area of the building by 11,051 square feet, adding 9,850 square feet on the first floor and 2,447 square feet on the second floor. The total floor area of the enlarged building would be 23,348 square feet increasing, the Floor Area Ratio (FAR) from an existing 1.05 to 2.0 FAR. The existing parking garage would be re-configured to provide for 32 attended parking spaces.

The enlargement is expected to nearly double the capacity of the business, allowing the company to hire an additional 150 workers, for a total of 350 employees. The added floor area would consist of new office and circulation space in support of administrative functions and would accommodate occasional training sessions. For the most part, the new employees would not work on-site, but would travel directly to patient's homes. The proposed enlargement is expected to result in 11 new on-site employees. According to the applicant, there is no anticipated increase in the average number of daily visitors who are not employees.

The area is well-served by mass transit, with three bus routes running along Emmons Avenue in front of the development site: the B4, which connects the site to the B and Q subway trains at Sheepshead Bay, as well as several neighborhoods to the west; the B44, which connects the site to

the 2 and 5 subway trains at Flatbush Avenue/Brooklyn College, as well as several neighborhoods to the north; and the BM3 express bus, which connects the site to the Midtown and Lower Manhattan central business districts.

To facilitate the proposed enlargement, this application seeks two actions:

- (1) A zoning text amendment, modifying ZR Sections 94-064, 94-092, and 94-114, and creating ZR Section 94-096, of the Zoning Resolution; and
- (2) A zoning special permit, pursuant to the newly created ZR Section 94-096.

### **Amendment of the Zoning Resolution, N 150342 ZRK**

An amendment is proposed to the Supplementary Use regulations of ZR Section 94-064 to reiterate that (with the exception of Physical Culture or Health Establishments) relief afforded through Board of Standards and Appeals special permits are not applicable in the Special Sheepshead Bay District.

The maximum floor area regulations of ZR Section 94-092 are proposed to be amended to permit an increase in floor area by special permit pursuant to ZR Section 94-096 (Special permit for floor area, location within buildings, building height and related parking modifications within Area G).

An amendment is proposed to the special parking provisions of ZR Section 94-11 (Exceptions to Application of Waiver Provisions) to reiterate that relief afforded through Board of Standards and Appeals Special permits are not applicable in the Special Sheepshead Bay District.

A new ZR Section 94-096, special permit for floor area, location within buildings, building height and related parking modifications within Area (G) was added to facilitate enlargements to buildings in Area G, on zoning lots with a lot area of at least 10,000 square feet and existing on the effective date of amendment.

### **Special Permit, C 150343 ZSK**

Pursuant to the newly created ZR Section 94-096, special permits are needed for waivers to floor area, location within buildings, building height and related parking modifications within Area G. The special permit allows for enlargements to buildings in Area G, on zoning lots with a lot area of at least 10,000 square feet and existing on the effective date of amendment.

Under new ZR Section 94-096, the City Planning Commission may increase the permitted floor area ratio for commercial use enlargements to 2.0 FAR. It allows the Commission to modify the height maximum of a commercial building from 30 feet, or two stories (whichever is less), provided that the building shall not exceed a maximum height of 35 feet or three stories (whichever is less). Furthermore, it waives or reduces the number of accessory off-street parking spaces required for such use.

Under the proposed special permit, the applicant would construct a 2.0 FAR three-story building at a height of 34 feet, 8 inches and a reduction in parking to 32 attended parking spaces. There are three distinct requests for relief under the Special Permit and their related findings are as follows:

#### *Increase in FAR:*

As per ZR Section 94-096 (a), modifying the permitted FAR from 1.0 to 2.0, the applicant must show that the proposed enlargement is: (1) designed so as not to impair the character of the surrounding area or its future development; and (2) that the proposed enlargement will not cause undue congestion on local streets or impair pedestrian circulation.

Without the proposed zoning special permit authorized by ZR Section 94-096, the proposed project would require a maximum 1.0 FAR pursuant to ZR Section 94-092. The proposed zoning special permit will allow the City Planning Commission to waive the maximum permitted FAR for a commercial use to the proposed 2.0 FAR.

Allow for a three-story building in the R5/C2-2 zoning district:

As per ZR Section 94-096 (b), an increase in height to the proposed 34'-8" and a commercial third story, the applicant must show that the enlargement and the distribution of bulk permits adequate light and air to the surrounding streets and properties, and does not impair the view of the Bay.

Without the proposed zoning special permit authorized by ZR Section 94-096, the proposed project would require a maximum of two stories or 30 feet (whichever is less), pursuant to ZR Section 33-431 (a). The proposed zoning special permit will allow the City Planning Commission to waive the maximum number of stories and permitted height for a commercial building, allowing a third story at a height of 34' 8".

Waiver/Reduction of the parking spaces

As per ZR Section 94-096 (c), the proposed reconfiguration of the cellar-level attended parking garage for 32 cars, the applicant must demonstrate that the number of accessory off-street parking spaces is sufficient to meet the parking needs of such use.

The premises currently has a Certificate of Occupancy which permits 44 off-street parking spaces, however, only 5 are currently used by Prime Home Health Services. Without the proposed zoning special permit authorized by ZR Section 94-096, the proposed project would require 78 spaces pursuant to ZR Section 36-21. The proposed zoning special permit will allow the City Planning Commission to waive required spaces by special permit and reducing the required parking from 78 to 32 spaces.

**ENVIRONMENTAL REVIEW**

This application (C 150343 ZSK) in conjunction with the related action (N 150342 ZRK) 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, ZR 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 15DCP156K. 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 October 5, 2015. The Negative Declaration included an (E) designation (E-367) to avoid the potential for significant adverse impacts related to air quality:

The (E) designation requirement related to air quality is as follows:

**Block 8804, Lot 75**

**Any new commercial development on the above-referenced property must ensure that the heating, ventilating, and air conditioning stack(s) are located at least 40 feet from the lot line facing Coyle Street and Shore Parkway and the building must use natural gas as the type of fuel for space heating and hot water (HVAC) systems, to avoid any potential significant adverse air quality impacts.**

With the implementation of the above (E) designation (E-367), no significant adverse impacts related to air quality would occur.

**UNIFORM LAND USE REVIEW**

This application (C 150343 ZSK) in conjunction with the related action (N 150342 ZRK) was certified as complete by the Department of City Planning on October 5, 2015 and was duly referred to Community Board 15 and the Borough President, in accordance with Title 62 of the Rules of the City of New York, ZR Section 2-02(b), in conjunction with the related action, (N 150342 ZRK) in accordance with the procedure for referring non-ULURP matters.

**Community Board Public Hearing**

Community Board 15 held a public hearing on this application (C 150343 ZSK) on November 17, 2015 and continued the hearing to December 15, 2015. On December 15, 2015, by a vote of 22 in favor, 13 opposed and 1 abstaining, Community Board 15 adopted a resolution recommending

approval of the applications with a condition that stated, “No sale of air rights.”

### **Borough President Recommendation**

This application (C 150343 ZSK) was considered by the Borough President, who issued a recommendation approving the applications on January 12, 2016.

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

On January 6, 2016 (Calendar No. 3), the City Planning Commission scheduled January 20, 2016 for a public hearing on this application (C 150343 ZSK). The hearing was duly held on January 20, 2016 (Calendar No. 3) in conjunction with the hearing for the related action (N 150342 ZRK). There was one speaker in favor and none opposed.

A representative of the applicant spoke in favor of the application, describing Prime Home Health Care’s business and how both the text amendment and special permit were necessary for enlarging the building in order to allow them to expand and remain in the community. The applicant representative discussed the recent on-street parking study and tenant survey, as requested by the Community Board, which concluded that there was a low utilization rate both within the building’s garage and on-street during peak business hours. He reiterated that, though the enlargement would allow the business to expand from 200 to 350 employees, most of the new workers are home health aides who report directly to client’s homes.

There were no other speakers and the hearing was closed.

### **WATERFRONT REVITALIZATION PROGRAM CONSISTENCY REVIEW**

This application (C 150343 ZSK) was reviewed by the City Coastal Commission for consistency with the policies of the New York City Waterfront Revitalization Program (WRP), as amended, approved by the New York City Council on October 13, 1999 and by the New York State Department of State on May 28, 2002, pursuant to the New York State Waterfront Revitalization and Coastal Resources Act of 1981, (New York State Executive Law, ZR Section 910 *et seq.*) The designated WRP number is 13-024.



This action was determined to be consistent with the policies of the New York City Waterfront Revitalization Program.

## **CONSIDERATION**

The Commission believes that the application for a special permit (C 150343 ZSK) in conjunction with the related application for an amendment of the Zoning Resolution (N 150342 ZRK), is appropriate.

The proposed actions would facilitate the enlargement of the building and the expansion of the existing home health care business from 150 to 350 employees, which would allow the business to remain in the area, and continue to provide health care services to Sheepshead Bay and surrounding neighborhoods.

The proposed text amendment and special permit would allow a commercial use enlargement to a maximum of 2.0 FAR, applying to lots 10,000 square feet and greater for the eight blocks in Area G within the SSBD. However, while there are four other zoning lots meeting the minimum 10,000 square foot requirement, two are developed with overbuilt residential buildings, at respectively, 3.22 and 4.2 FAR; the third is a commercial use already overbuilt to 3.42 FAR and the fourth is an existing 43-unit residential condominium that is only 60% within Area G. Therefore, the actions are anticipated to only facilitate development on the project site.

The proposed development would utilize all of the development rights generated by the site under the special permit, therefore, there are no remaining development rights, or “air-rights” as the Community Board suggests, to transfer. Furthermore, since the special permit approval is specific to the approved FAR, building height, envelope, parking and use, any change beyond the scope of this current special permit approval would require either a major modification or new application.

The Commission believes the increase in Floor Area Ratio (FAR) to 2.0 does not impair the

character of the surrounding area, or its future development in Area G, as the bulk and scale of the enlarged building would be consistent with many of the buildings already fronting and adjacent to Emmons Avenue, some of which reach heights of 60 feet. The Commission also believes the increase in FAR will not cause undue congestion on local streets or impair pedestrian circulation, as the enlarged building will predominantly serve the administrative functions associated with an increase in off-site home health care workers. It was noted that only 11 of the new 150 new employees will be located on the site on a daily basis with the exception of occasional training sessions. Modal trips by both on-site workers and the occasional off-site health aides are predominantly by mass transportation and walking, therefore not resulting in a significant increase to local street or pedestrian circulation. In addition, the re-design of the garage and its revised operation and layout would allow for cars to enter and exit with more efficiency, reducing vehicular and pedestrian conflicts and lessening the potential to impair pedestrian circulation.

The Commission believes the distribution of the bulk allows adequate access of light and air to surrounding streets and properties, as the increase in building height to 34'8" is consistent with the scale and context of both residential and mixed use residential/community facility buildings which are permitted to a maximum height of 35' and are the predominant development in the area. In addition, the Commission believes that views of the bay from buildings adjacent to and on either side of subject site are not further impaired by the proposed development because those views are already substantially blocked by the existing three to five- story residential and mixed use development on the blocks south of Emmons Avenue in Area H. The lack of through streets and visual corridors in Area H further limits any likelihood of views being further impaired by the development.

The Commission believes it is appropriate to waive the accessory parking spaces required by the enlargement (34) and reduce the overall number of required accessory off-street parking spaces (78) to 32, as the applicant has demonstrated that the proposed parking is sufficient to meet the parking needs of the predominantly off-site home health care use. Data provided by the applicant with respect to the operations of the building's sole tenant (Prime Home Health Services) indicates that of the existing 100 employees who work on-site each day, 87 (or, 87%) travel to and from the

site using public transportation. There is a bus stop in front of the premises and it is served by three bus routes along Emmons Avenue (B4, B44, and BM3) which connect the site to the B, Q, 2, and 5 subway trains.

At the request of Community Board 15, the applicant re-conducted a Parking Accumulation Study and a new Tenant Survey. This analysis further supports the conclusion that existing Prime Home Health Services workers predominantly use mass transportation or travel by foot to work, and that there is underutilization of the existing parking garage and adequate on-street parking availability during peak business hours.

## **FINDINGS**

The City Planning Commission hereby makes the findings pursuant to ZR Section 94-096 of the Zoning Resolution:

- (a) Increase the permitted floor area ratio for commercial use to 2.0 provided that such enlargement:
  - (1) is designed so as not to impair the character of the surrounding area or its future development; and
  - (2) will not cause undue congestion on local streets or impair pedestrian circulation;
  
- (b) Modify the height provisions relating to the location of uses within buildings, to allow a commercial building or portion thereof to exceed 30 feet in height or two stories, provided that such building shall not exceed a maximum height of 35 feet or three stories, whichever is less; and provided that the distribution of the bulk permits adequate access of light and air to surrounding streets and properties, and does not impair the view of the Bay; and
  
- (c) Waive or reduce the number of accessory off-street parking spaces required by for

such use, provided that the applicant has demonstrated that the number of accessory off-street parking spaces supplied is sufficient to meet the parking needs of such use.

## **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, in its capacity as the City Coastal Commission, has reviewed the waterfront aspects of this application and finds that the proposed action is consistent with WRP policies; and be it further

**RESOLVED**, by the City Planning Commission, pursuant to Sections 197-c and 200 of the New York Charter that based on the environmental determination and the consideration and findings described in this report, the application submitted by STGG Realty, LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 94-096 of the Zoning Resolution to modify the floor area requirements of Section 94-092 (Maximum floor area ratio), to modify the location of use requirements of Section 32-421 (Limitation on floors occupied by commercial uses), the height requirements of Section 33-43 (Maximum Height of Walls and Required Setbacks), and the accessory parking requirements of Section 36-21 (General Provisions) to facilitate the 1-story enlargement of an existing 2-story commercial building, on property located at 3133-3135 Emmons Avenue (Block 8804, Lot 75), in an R5/C2-2 District, within the Special Sheepshead Bay District, Borough of Brooklyn, Community District 15 is approved, subject to the following conditions:

1. The property that is the subject of this application (C 150343 ZSK) shall be developed in size and arrangement substantially in accordance with the dimensions, specifications and zoning computations indicated on the following plans, prepared by Corporate Design America P.C., filed with this application and incorporated in this resolution:

<u>Drawing Number</u>	<u>Title</u>	<u>Last Date Revised</u>
A001.00	Zoning Analysis	4/24/14
A002.00	Proposed Site Plan	4/24/14
A003.00	Cellar Plan and Parking Layout	4/24/14
A006.00	Proposed 2 <sup>nd</sup> Floor Plan	4/24/14
A007.00	Proposed 3 <sup>rd</sup> Floor Plan	4/24/14
A009.00	Building ZR Section	4/24/14
A010.00	Building ZR Section	4/24/14

2. Such development shall conform to all applicable provisions of the Zoning Resolution, except for the modifications specifically granted in this resolution and shown on the plan listed above which has been filed with this application. All zoning computations are subject to verification and approval by the New York City Department of Buildings.
  
3. Such development shall conform to all applicable laws and regulations relating to its construction, operation, and maintenance.
  
4. All leases, subleases, or other agreements for use or occupancy of space at the subject property shall give actual notice of this special permit to the lessee, sublessee, or occupant.
  
5. Upon the failure of any party having any right, title or interest in the property that is subject of this application, or the failure of any heir, successor, assign, or legal representative of such party, to observe any of the covenants, restrictions agreements, and terms or conditions of this resolution, the City Planning Commission may, without the consent of any other party, revoke any portion of or all of said special permit. Such power of revocation shall be in addition to and not limited to any powers of the City Planning Commission, or of any agency of government, or any private person or entity. Any such failure as stated above, or any alteration in the development that is the subject of this application that departs from any of the conditions listed above, is grounds for the City Planning Commission or the City Council, as applicable, to disapprove any application for modification, cancellation or amendment of the special permit hereby granted.

6. Neither the City of New York nor its employees or agents shall have any liability for money damages by reason of the City's or such employee's or agent's failure to act in accordance with the provisions of this special permit.

The above resolution (C 150343 ZSK), duly adopted by the City Planning Commission on February 24, 2016 (Calendar No. 10), is filed with the Office of the Speaker, City Council, and the Borough President in accordance with the requirements of ZR Section 197-d of the New York City Charter.

**CARL WEISBROD, Chairman**  
**KENNETH J. KNUCKLES, ESQ., Vice Chairman**  
**RAYANN BESSER, IRWIN G. CANTOR, P.E., ALFRED A. CERULLO, III,**  
**MICHELLE R. DE LA UZ, JOSEPH I. DOUEK, RICHARD W. EADDY,**  
**CHERYL COHEN EFFRON, HOPE KNIGHT, ANNA HAYES LEVIN,**  
**ORLANDO MARIN, LARISA ORTIZ, Commissioners**



### Community/Borough Board Recommendation

Pursuant to the Uniform Land Use Review Procedure

Application #: **C 150343 ZSK**

Project Name: **3133-3135 Emmons Avenue**

CEQR Number: 15DCP156K

Borough(s): Brooklyn  
Community District Number(s): 15

*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](mailto: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 STGG Realty, LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant Section 94-096\* of the Zoning Resolution to modify the floor area requirements of Sections 94-092\* (Maximum floor area ratio), to modify the location of use requirements of Section 32-421 (Limitation on floors occupied by commercial use), the height requirements of Section 33-43 (Maximum Height of Walls and Required Setbacks), and the accessory parking requirements of Section 36-21 (General Provisions) to facilitate the 1-story enlargement of an existing 2-story commercial building, on property located at 3133-3135 Emmons Avenue (Block 8804, Lot 75), in an R5/C2-2 District, within the Special Sheepshead Bay District, Borough of Brooklyn, Community District 15.

\*Note: A zoning text amendment is proposed to create a new Section 94-096 and to modify Section 94-092 under a concurrent related application N 150342 ZRK.

Plans for this proposal are on file with the City Planning Commission and may be seen in Room 3N, 22 Reade Street, New York, N.Y. 10007.

<b>Applicant(s):</b> STGG Realty, LLC 227 East 58th Street New York, N.Y. 10022	<b>Applicant's Representative:</b> Eric Palatnik, Esq Eric Palatnik, P.C. 32 Broadway, Suite 114 New York, N.Y. 10004
<b>Recommendation submitted by:</b> Brooklyn      Community Board 15	
<b>Date of public hearing:</b> 11/17/15 & 12/15/15 <b>Location:</b> Kingsborough Community College 2001 ORIENTAL BLVD. BKLYN. NY 11235	
<b>Was a quorum present?</b> 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>	
<b>Date of Vote:</b> 12/15/15 <b>Location:</b> KINGSBOROUGH COMMUNITY COLLEGE 2001 ORIENTAL BLVD. BKLYN. NY 11235	
<b>RECOMMENDATION</b> <input type="checkbox"/> Approve <input checked="" type="checkbox"/> Approve With Modifications/Conditions <input type="checkbox"/> Disapprove <input type="checkbox"/> Disapprove With Modifications/Conditions	
<b>Please attach any further explanation of the recommendation on additional sheets, as necessary.</b> <b>Voting</b> NO SALE OF AIR RIGHTS # In Favor: 22    # Against: 13    # Abstaining: 1      Total members appointed to the board: 49	
<b>Name of CB/BB officer completing this form</b> THERESA SCAVO	<b>Title</b> CHAIRPERSON
<b>Date</b> 12/16/15	

**Brooklyn Borough President Recommendation**  
CITY PLANNING COMMISSION  
22 Reade Street, New York, NY 10007  
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 #:** 3133-3135 EMMONS AVENUE

In the matter of the applications, submitted by STGG Realty, LLC for the grant of a special permit to modify the floor area requirements, the location of use requirements, the height requirement, and the parking requirements for a privately owned property located at 3133-3135 Emmons Avenue, within the Special Sheepshead Bay District, Community District 15. Approval will facilitate a one-story enlargement, consisting of 11,051 square feet, of an existing two-story commercial building.

COMMUNITY DISTRICT NO. 15

BOROUGH OF BROOKLYN

**RECOMMENDATION**

APPROVE  
 APPROVE WITH  
MODIFICATIONS/CONDITIONS

DISAPPROVE  
 DISAPPROVE WITH  
MODIFICATIONS/CONDITIONS

SEE ATTACHED

BOROUGH PRESIDENT

January 12, 2016

DATE



## **RECOMMENDATION FOR 3133-3135 EMMONS AVENUE – 150343 ZSK/ 150342 ZRK**

STGG Realty, LLC (STGG), pursuant to Sections 197-c and 201 of the New York City Charter seeks the grant of a special permit pursuant to Section 94-096 of the Zoning Resolution to modify the floor area requirements of Sections 94-092 (Maximum floor area ratio (FAR)), to modify the location of use requirements of Section 32-421 (Limitation on floors occupied by commercial use) and, the modify the height requirements of Section 36-21 (General Provisions). Such actions would facilitate a one-story enlargement, consisting of 11,050 square feet, of an existing two-story commercial building, on the property located at 3133-3135 Emmons Avenue, within the Special Sheepshead Bay District (SSBD) in Community District 15.

On December 22, 2015, the Borough President held a public hearing on the special permit request. There were no speakers on this item.

The representative of STGG stated that the special permit that will be created in order to achieve the height increase, the floor area increase, and the parking reduction would be applicable only to buildings on zoning lots at least 10,000 square feet, within Section G of the SSBD. Addressing concerns raised by the Sheepshead Bay - Plumb Beach Civic Association that the proposed special permit might apply to too broad a section of the SSBD about which the Borough President also inquired, the representative provided a map demonstrating that the minimum lot size requirement would apply to only four other properties. These four properties would not be able to accommodate any enlargements as the three residential buildings are fully built out and the one commercial building already contains more floor area than permitted by the proposed special permit.

In response to the Borough President's concern about this building's location within the flood zone, the representative stated that the entire ground floor consists of the parking garage and that the building was undamaged during Hurricane Sandy. The developer also stated that as part of this application the mechanical equipment will be raised higher within the building, therefore, the developer anticipates no damage in floods.

Responding to the Borough President's efforts to advance sustainable and renewable energy resources, the representative stated that STGG intend to provide a white roof to reflect some of the heat from the sun. The developer also stated that in order to increase energy efficiency, all the lighting within the building will be replaced with LED lighting, a new boiler will be installed, and the new second floor will feature refractive, double-paned windows. The representative committed to looking into incorporating some additional sustainable and resilient elements. The representative expressed the intention to accommodate bioswales that would be incorporated with the street trees. The representative was amenable to possibly providing sustainable measures and practices for stormwater runoff above and beyond the standard.

In response to the Borough President's policy of maximizing job opportunities for Brooklyn residents, the representative stated that its tenant, Prime Home Health Services, currently employs a large workforce of local residents and would reach out to the community to share future employment opportunities. The representative stated the intention to ensure the participation of Minority and Women-Owned Business Enterprises and Local Business Enterprises in the process of construction at this development site. The developer would be more than willing to work with any non-for-profit training programs that may provide skilled workers for the business at this location.

Following the public hearing, the applicant's representative submitted the attached letter dated January 12, 2016 outlining their commitment to incorporate sustainable design elements, to consider retaining Brooklyn-based subcontractors, and to source materials from local suppliers, and implement dry flood proofing measures.

### **Considerations**

Community Board 15 (CB 15) voted to approve this application with a condition that there would not be a sale of the remaining air rights.

Prime Home Health Services, a business providing home health aides and medical therapy, is the tenant in a two-story 25 feet high building, covering 100 percent of an approximately 11,670 square foot lot. The building contains approximately 12,300 square feet of floor area, including a 44-car garage. The building is wholly located within an R5/C2-2 district within SSBD, on the north side of Emmons Avenue between Coyle and Ford streets.

Although the area in which the site is located has a growing need for the type of health care services provide by Prime Home Health Services, the building cannot be expanded under the current zoning because an expansion would exceed the permitted floor area ratio (FAR) and height limit for commercial uses. The expansion would necessitate providing fewer parking spaces than would be required for such additional floor area. In response, the landlord proposes a zoning text amendment that would create a special permit to allow for enlargement of the building, adding a full second and a partial third floor, increasing the height to nearly 35 feet, increasing the floor area to approximately 23,350 square feet, and reducing the number of parking spaces to 32.

The proposed text amendment will modify the Zoning Resolution (ZR) Sections 94-064, 94-092 and 94-114, and create Section 94-096, all within the SSBD. The newly created ZR Section will make a special permit available to lots that are at least 10,000 square feet, in Area G of the SSBD. The special permit would allow such lots to be enlarged with commercial uses of up to 2.0 FAR, provided that such use would be located above two stories or 30 feet in height. The special permit would also allow for the reduction or waiver of the parking requirements associated with such enlargements.

The Borough President generally supports land use actions that allow for the expansion of local businesses and creation of local employment. Granting of the proposed special permit would allow Prime Home Health Services, a long standing local business, to expand its operations to nearly double the existing capacity through added floor area consisting of new office and circulation space, allowing the business to support additional home care aides. The company would hire an additional 150 workers, for a total of 350 employees, approximately 111 of whom would work on site daily, compared with 100 daily employees currently on site. In addition, this business serves an important role in the local community by providing the frail-elderly and the disabled with the ability to remain at home, as opposed to being reliant on nursing home care. Home health care services are a growing need in Brooklyn, considering the aging of the Borough's population, and provide a more affordable solution to manage the financial demands on Medicaid.

The Borough President supports the proposed special permit. He is encouraged by the applicant's letter committing to explore the participation of locally-based enterprises and local hiring, in the construction of the building enlargement.

## **Jobs**

The Borough President is concerned that too many residents of Brooklyn are currently unemployed or underemployed. It is his policy to promote economic development to create more employment opportunities. Double-digit unemployment remains a pervasive reality in many of Brooklyn's neighborhoods, and more than half of our community districts have experienced poverty rates of 25 percent or greater, according to averaged data from 2008 to 2012. Prioritizing local hiring will address this employment crisis. In addition, promoting Brooklyn-based businesses including those that qualify as MWBE and LBE is central to the Borough President's economic development agenda. As an enlargement of an existing building, this site provides opportunities for the developer to retain Brooklyn-based contractors and subcontractors, especially those that are designated LBEs, consistent with section 6-108.1 of the City's Administrative Code, and MWBE establishments, as a means to meet or exceed standards per Local Law 1 (no less than 20 percent participation). The Borough President looks forward to additional opportunities that he could support to bring jobs and careers to borough residents.

The Borough President encourages responsible development and good practices by contractors and subcontractors. He believes that workers should be able to work in a non-threatening environment while promoting his agenda for achieving employment for Brooklynites through discretionary land use actions.

The Borough President believes that where development in Brooklyn would provide significant opportunity to add permanent jobs, tenants should be encourage to maximize the employment of borough residents. As Prime Home Health Services anticipates growing its staff to potentially 150 additional employees in some combination with home-health aide and office support staff, the Borough President believes it is appropriate for the tenant to establish relationships with community-based development organizations that offer candidate placements as well as job-training for such skilled labor. In additional, it should promote awareness in the surrounding community, including the nearby public housing complexes, of such qualified training programs.

In a letter to the Borough President, dated January 12, 2016 (attached), the owner will ask its contractor to use commercially reasonable efforts to pursue the hiring of Brooklyn residents and prioritize the retaining of Brooklyn-based subcontractors, especially those designated "MWBE" to meet or exceed Local Law 1, and to update the Borough President periodically in the event that such contractors are used. In addition, the owner shall use reasonable efforts to source materials from local suppliers.

## **Recommendation**

Be it resolved that the Borough President of Brooklyn, pursuant to section 197-c of the New York City Charter, recommends that the City Planning Commission and City Council approve the land use actions requested.

**ERIC PALATNIK, P.C.**

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January 12, 2016

Hon. Eric L. Adams  
Brooklyn Borough President  
209 Joralemon Street  
Brooklyn, New York 11201

***Re: Sustainable and Resilient Energy and Storm Water Management Efforts  
Proposed Zoning Text Amendment and Zoning Special Permit  
ULURP No. 150342ZRK & 150343ZSK  
Block 8804, Lot 75  
3133-3135 Emmons Avenue New York (the "Premises")***

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Dear Borough President Adams;

Our office represents STGG Realty LLC, the owner of the above-referenced Premises. The owner has filed applications at the Department of City Planning which seek to allow for the enlargement of the two-story building on the subject Premises, occupied by Prime Home Health Services. The application requests two actions: (1) a zoning text amendment, which would create a new zoning special permit which would allow the modification of the height and parking requirements of the Sheepshead Bay Special District Area G; and (2) an application for the new special permit. If approved, the existing building will be enlarged with a full second floor and partial third floor mezzanine. In addition, the parking will be reduced from the 48 existing parking spaces to the proposed 32 parking spaces.

The project architect intends to design the proposed building to advance sustainable and resilient energy and storm water management policies where possible. The owners have considered installing a white roof design, as a renewable energy feature and will use LED lighting throughout.

In constructing the proposed development, the owner will request that its contractor use commercially reasonable efforts to pursue the hiring of Brooklyn residents and prioritize the retaining of Brooklyn-based subcontractors, especially those designated "MWBE" to meet or exceed Local Law 1 and would update the Borough President periodically in the event such contractors are used. In addition, the owner shall use reasonable efforts to source materials from local suppliers.

**ERIC PALATNIK**

The owner will also undertake dry flood proofing measures on the lower level to ensure compliance with the zoning text and building code resiliency standards. The owner will locate all mechanicals and electrical equipment on the first floor and upper floors, *which will be* designed to prevent flooding or water damage. Other measures to dry flood proof the Premises on the cellar level include a proposed aluminum panel flood resiliency compliant gate at the garage level that will resist water from entering through the garage door. In the event of a storm, flood resistant aluminum panels will be placed in front of the two exit doors at the cellar level.

Further, the owner will incorporate all nine (9) zoning required trees along the zoning lot at the Premises. There are two (2) existing trees, which will be preserved, and seven (7) new trees that will be planted.

We thank you for taking the time to review this matter. Please do not hesitate to contact our office should you have any questions or concerns.

Sincerely

Eric Palatnik, Esq.