



CITY PLANNING COMMISSION

March 16, 2011/Calendar No. 5

C 070579 ZMK

IN THE MATTER OF an application submitted by S&H Glazer Bros., Inc., pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 17b:

1. changing from an C8-2 District to an R6A District property bounded by Eastern Parkway Extension, Howard Avenue, and Pitkin Avenue; and
2. establishing within the proposed R6A District an C2-4 District bounded by Eastern Parkway Extension, Howard Avenue, and Pitkin Avenue;

Borough of Brooklyn, Community District 5, as shown on a diagram (for illustrative purposes only) dated November 15, 2010, and subject to the conditions of CEQR declaration E-260.

The application for an amendment of the Zoning Map was filed by S&H Glazer Bros., Inc., on June 28, 2007, to change a C8-2 zoning district to a R6A/C2-4 zoning district on a block bounded by Howard Avenue, Eastern Parkway Extension and Pitkin Avenue, to facilitate the development of a five-story mixed-use building with 7,267 square feet of ground-floor commercial space and 20 dwelling units in Ocean Hill, Community District 16, Brooklyn.

Background

The applicant is proposing an amendment of the Zoning Map to change the eastern portion of Block 1475 (Block 1475, Lots 33-78) from a C8-2 zoning district to a R6A/C2-4 zoning district, to facilitate the development of a five-story mixed-use building containing 20 dwelling units and ground-floor commercial space. The area to be rezoned is irregularly-shaped and is generally bounded by Pitkin Avenue to the south, Howard Avenue to the east, and Eastern Parkway Extension to the north. Block 1475 is bisected by the Eastern Parkway Extension Eastern Parkway Extension, which separates the block into eastern and western halves. The western half will remain zoned R6.

The applicant's site is located along Howard Avenue (Block 1475, Lots 55-62) and is developed with a one-story commercial building on Lot 62, and two-story buildings on the other lots. The commercial building and the ground floor of the mixed-use buildings are occupied by the

applicant's appliance business. The second stories of the existing two-story buildings are vacant, with the exception of the building on Lot 55, at the corner of Lincoln Place and Howard Avenue which is residentially occupied. The rezoning area also has city-owned vacant land (Block 1475, Lots 39 to 45), privately-owned vacant land (Block 1475, Lot 69), a gas station (Block 1475, Lot 33), a laundromat (Block 1475, Lot 64) and two- to four-story residential and mixed-use residential and commercial buildings (Block 1475, Lots 46, 47, 67, 68, 71, 72, 73, 74,75, 77, 78).

The area surrounding the proposed rezoning to the north, west and east is generally medium-density residential in character, being developed with low-rise apartment buildings and one- and two-family townhouses. It is generally zoned R6, with C1-3 commercial overlays on the south side of East New York and Pitkin Avenues between Tapscott and Grafton Streets. The block directly south of the rezoning area on Pitkin Avenue is zoned C8-2. A major retail corridor, zoned C4-3, is located on Pitkin Avenue, one block to the east of the proposed rezoning.

The existing C8-2 zoning district is a non-contextual medium-density heavy commercial district with a maximum Floor Area Ratio (FAR) of 2.0 for commercial uses and 4.8 for community facility uses, which does not allow for new residential development. C8-2 districts do not require streetwalls and the overall height of any building is governed by the sky exposure plane, which begins at a front wall height of four stories or 60 feet, whichever is less. The existing C8-2 district allows for certain community facility uses (Use Group 4), a broad range of commercial uses (Use Groups 5-16), including destination retail, office buildings, entertainment facilities, and heavy commercial and semi-industrial uses such as automotive uses (Use Group16).

The proposed zoning map amendment would change the existing C8-2 zoning district to a contextual R6A/C2-4 district. The proposed R6A/C2-4 district allows for a maximum FAR of 3.0 for residential and community facility uses, and 2.0 FAR for commercial uses, a maximum building height of 70 feet, and a minimum and maximum streetwall height of 40 feet and 60 feet, respectively. Above the maximum base height, a setback of at least 10 feet (on a wide street) or 15 feet (on a narrow street) would be required. Lot coverage is limited to 65% on interior or through lots and 80% on corner lots.

The proposed R6A/C2-4 zoning district would increase compliance from 78 percent to 91 percent of all developed lots within the rezoning area, and conformance from 49 percent to 90 percent in the rezoning area.

The applicant proposes to demolish the existing structures on his site (Block 1475, Lots 55-62) and replace them with a five-story mixed-use building with 7,659 square feet of retail space on the ground floor for the applicant's business and a total of 20 dwelling units on floors 2 through 5.

The residences would be accessed by an entrance on Howard Avenue and a second entrance on Lincoln Place and eleven accessory parking spaces would be provided in the cellar and accessed from a curb cut on Howard Avenue.

ENVIRONMENTAL REVIEW

The subject application (C 070579 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 designated CEQR number is 08DCP017K. The lead is the City Planning Commission.

The conditional negative declaration included an (E) designation (E-260) that would eliminate the potential for significant adverse impacts related air quality, noise and hazardous materials, and would ensure that appropriate testing, remediation and corrective action, if needed, would be undertaken.

To preclude the potential for significant adverse hazardous materials impacts, an (E) designation would be established on the Brooklyn lots listed below.

Potential Development Sites A-F (Block 1475, Lots 35, 49, 50, 64, 69, & 76)

The text for the (E) designation is as follows:

Task 1-Sampling Protocol

A. Petroleum

A soil, soil gas, and groundwater testing protocol (including a description of methods), and a site map with all sampling location represented clearly and precisely, must be submitted to the NYCDEP by the fee owner(s) of the lot which is restricted by this (E) designation, for review and approval.

A site map with the sampling locations clearly identified and a testing protocol with a description of methods, for soil, soil gas, and groundwater, must be submitted by the fee owner(s), of the lot which is restricted by the (E) designation, to the NYCDEP for review and approval.

B. Non-Petroleum

The fee owner(s) of the lot restricted by this (E) designation will be required to prepare a scope of work for any sampling and testing needed to determine if contamination exists and to what extent remediation may be required. The scope of work will include all relevant supporting documentation, including site plans and sampling locations. This scope of work will be submitted to NYCDEP for review and approval prior to implementation. It will be reviewed to ensure that an adequate number of samples will be collected and that appropriate parameters are selected for laboratory analysis. For all non-petroleum (E) designated sites, the three generic NYCDEP soil and ground-water sampling protocols should be followed.

A scope of work for any sampling and testing to be completed, which will determine the extent of on-site contamination and the required remediation, must be prepared by the fee owner(s) of the lot restricted by this (E) designation. The scope of work will include the following: site plans, sampling locations, and all other relevant supporting documentation. The scope of work must be submitted to the NYCDEP for review and confirmation that an adequate testing protocol (i.e., number of samples collected, appropriate parameters for laboratory analysis) has been prepared. The NYCDEP must approve the scope of work before it can be implemented.

For non-petroleum (E) designated sites, one of the three generic soil and groundwater sampling protocols prepared by the NYCDEP should be followed.

The protocols are based on three types of releases to soil and groundwater sampling protocols prepared by the NYCDEP should be followed.

The protocols are based on three types of releases to soil and groundwater, including: the release of a solid hazardous material to ground surface; the release of a liquid hazardous material to the ground surface; and the release of a hazardous material to the subsurface (i.e., storage tank or piping). The type of release defines the areas of soil to be sampled from surface, near-surface, to subsurface. Additionally, it determines the need for groundwater sampling.

A written approval of the sampling protocol must be received from the NYCDEP before commencement of sampling activities. Sample site quantity and location should be

determined so as to adequately characterize the site, the source of contamination, and the condition of the remainder of the site. After review of the sampling data, the characterization should have been complete enough to adequately determine what remediation strategy (if any) is necessary. Upon request, NYCDEP will provide guidelines and criteria for choosing sampling sites and performing sampling.

Finally, a Health and Safety Plan must be devised and approved by the NYCDEP before the commencement on any on-site activities.

Task 2-Remediation Determination and Protocol

After sample collection and laboratory analysis have been completed on the soil and/or groundwater samples collected in Task 1, a summary of the data and findings in the form of a written report must be presented to the NYCDEP for review and approval. The NYCDEP will provide a determination as to whether remediation is necessary.

If it is determined that no remediation activities are necessary, a written notice will be released to that effect. However, if it is the NYCDEP's determination that remediation is necessary the fee owner(s) of the lot restricted by the (E) designation must submit a proposed remediation plan to the NYCDEP for review and approval. Once approval has been obtained, and the work completed, the fee owner(s) of the lot restricted by the (E) designation must provide proof to the NYCDEP that the work has been completed satisfactorily.

To preclude the potential for significant adverse air quality impacts related to HVAC emissions, an (E) designation would be incorporated into the proposal. The text for the (E) designation is as follows:

Projected Development Site 1 (Block 1475, Lots 55, 56, 57, 58, 59, 60, 61, and 62)

Any new residential/commercial development on the above-referenced properties must use natural gas as the type of fuel for HVAC systems.

To preclude the potential for significant adverse impacts related to noise, an (E) designation would be incorporated into the proposal. The text for the (E) designation is as follows:

Potential Development Sites A through F (Block 1475, Lots 35, 49, 50, 64, 69, & 76)

In order to ensure an acceptable interior noise environment, future residential/commercial uses must provide a closed window condition with a minimum of 35 dB(A) window/wall attenuation on the eastern façade and 30 dB(A) window/wall attenuation on the northern, southern, and western facades in order to maintain an interior noise level of 45 dB(A). In order to maintain a closed-window condition, an alternate means of ventilation must also be provided. Alternate means of ventilation includes, but is not limited to, central air conditioning or air conditioning sleeves containing air conditioners.

With the placement of the above (E) designation (E-260), no significant adverse impacts related to air quality, noise and hazardous materials would occur.

After a study of the potential environmental impact of the proposed action, a Conditional Negative Declaration (CND) was issued. The lead agency has determined that the proposed action will have no significant effect on the quality of the environment, once it is modified as follows:

The applicant, S & H Glazer Bros, Inc., agrees via a restrictive declaration to prepare a hazardous materials sampling protocol including a health and safety plan, which would be submitted to the Department of Environmental Protection (DEP) for approval. The applicant agrees to test and identify any potential hazardous material impact pursuant to the approved sampling protocol and, if any such impact is found, submit a hazardous material remediation plan including a health and safety plan to DEP for approval. If necessary, remediation measures would be undertaken pursuant to the remediation plan.

It is fully agreed and understood that if the foregoing conditions, modification, and alterations are not fully incorporated into the proposed action, this Conditional Negative Declaration shall become null and void. In such event, the applicant shall be required to prepare a Draft Environmental Impact Statement before proceeding further with said proposal.

The applicant signed the conditional negative declaration on November 10, 2010. The conditional negative declaration was published in the City Record on November 15, 2010 and in the New York State Environmental Notice Bulletin on November 15, 2010. Pursuant to the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 et seq., a 30-day comment period followed. No comments were received.

UNIFORM LAND USE REVIEW

This application (C 070579 ZMK) was certified as complete by the Department of City Planning on November 15, 2010, and was duly referred to Community Board 16 and to the Borough President in accordance with Article 3 of the Uniform Land Use Review Procedure (ULURP) rules.

Community Board Public Hearing

Community Board 16 held a public hearing on this application (C 070579 ZMK) on January 5, 2011 and on that date, by a vote of 31 in favor, none opposed and none abstaining adopted a resolution in favor of the application.

Borough President Recommendation

This application (C 070579 ZMK) was considered by the Borough President, who issued a recommendation to approve the application on February 4, 2011.

City Planning Commission Public Hearing

On January 26, 2011, (Calendar No. 4), the City Planning Commission scheduled February 16, 2011, for a public hearing on this application (C 070579 ZMK). The hearing was duly held on February 16, 2011 (Calendar No. 26). There were two speakers in favor of the application and none in opposition.

The applicant's counsel spoke in favor of the application, describing the project and explaining that the applicant's business would operate from a nearby warehouse while the project was built. The applicant's architect also appeared in favor of the application.

There were no other speakers and the hearing was closed.

CONSIDERATION

The Commission believes that the application for the zoning map amendment (C 070579 ZMK) is appropriate.

The Commission notes that the proposed R6A/C2-4 district would establish mandatory quality housing regulations and would allow for residential, neighborhood commercial and service uses. The proposed district would be adjacent to an existing R6 district and would establish a building height limit of 70 feet, which the Commission believes would be consistent with the surrounding building heights and character. The proposed rezoning would allow for the development of a mixed-use residential building with ground-floor retail space along Howard Avenue, as well as

on the vacant land within the rezoning area, which the commission believes would reinforce the mixed residential and commercial retail character of the surrounding area and the Pitkin Avenue regional commercial retail corridor. The Commission also believes that the change to a residential zone would allow the reactivation of any vacant former residential buildings with residential use. Furthermore, the Commission believes that the new ground-floor retail that could result from this action would allow for more local stores and services to serve area residents, activating the streetscape and adding to the security of the area.

The Commission also notes that the proposed building would comply with and conform to the proposed zoning and that the proposed zoning district would increase the rate of compliance and conformance for the existing uses within the area to be rezoned

RESOLUTION

RESOLVED, that the City Planning Commission finds that the action described herein will have no significant impact on the environment subject to the following condition:

The applicant agrees via a restrictive declaration to prepare a Phase II Environmental Assessment Statement (ESA), hazardous materials sampling protocol and health and safety plans, which would be submitted to the Department of Environmental Protection (DEP) for approval. The applicant agrees to test and identify any potential hazardous material impact pursuant to the approved sampling protocols and, if any such impact is found, submit a hazardous material remediation plan including a health and safety plan to DEP for approval. If necessary, remediation measures would be undertaken pursuant to the remediation plans.

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. 17b:

1. changing from an C8-2 District to an R6A District property bounded by Eastern Parkway Extension, Howard Avenue, and Pitkin Avenue; and

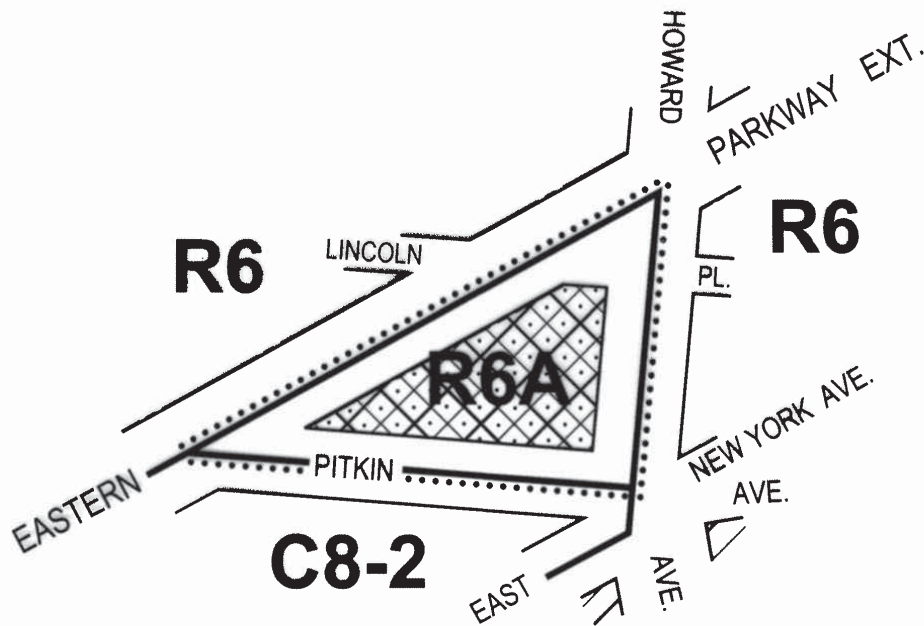
2. establishing within the proposed R6A District an C2-4 District bounded by Eastern Parkway Extension, Howard Avenue, and Pitkin Avenue;

Borough of Brooklyn, Community District 5, as shown on a diagram (for illustrative purposes only) dated November 15, 2010, and subject to the conditions of CEQR declaration E-260.

The above resolution (C 070579 ZMK), duly adopted by the City Planning Commission on March 16, 2011 (Calendar No. 5), 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, *FAICP, Chair*
KENNETH J. KNUCKLES, *Esq., Vice Chairman*

ANGELA M. BATTAGLIA, 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. MCRAE, KAREN A. PHILLIPS, *Commissioners*



CITY PLANNING COMMISSION
 CITY OF NEW YORK
 DIAGRAM SHOWING PROPOSED
ZONING CHANGE
 ON SECTIONAL MAP
17b
 BOROUGH OF
BROOKLYN

New York, Certification Date
 NOVEMBER 15, 2010

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 changing from a C8-2 District to an R6A District and by establishing a C2-4 District within the proposed R6A District.
 - Indicates a C1-3 District.
 - Indicates a C2-4 District.

Community/Borough Board Recommendation

CITY PLANNING COMMISSION
22 Reade Street, New York, NY 10007
FAX # (212) 720-3356

Application # C 070579 ZMK
CEQR # 08DCP017K
Community District No. 16 Borough: Brooklyn
Community District No. ___ Borough: ___
Project Name: **Howard Avenue Rezoning**

INSTRUCTIONS

1. Complete this form and return one copy to the Calendar Information Office, City Planning Commission, Room 2E, at the above address.

2. Send one copy of the completed form with any attachments to the applicant's representative at the address listed below, one copy to the Borough President, and one copy to the Borough Board, when applicable.

Docket Description:

IN THE MATTER OF an application submitted by S & H Glazer Bros., Inc. pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 17b:

- changing from a C8-2 District to an R6A District property bounded by Eastern Parkway, Howard Avenue, and Pitkin Avenue; and
- establishing within the proposed R6A District a C2-4 District bounded by Eastern Parkway, Howard Avenue, and Pitkin Avenue;

Borough of Brooklyn, Community District 16, as shown on a diagram (for illustrative purposes only) dated November 15, 2010, and subject to the conditions of CEQR Declaration E-260.

RECEIVED
CITY PLANNING COMMISSION
JAN - 6 PM 1:43
DEPT. OF CITY PLANNING

Applicant(s):

S & H Glazer Bros., Inc.
546 Howard Avenue
Brooklyn, New York 11213
Phone: (718) 774-1666 Fax: (718) 221-0909

Applicant's Representative:

Richard Lobel, Attorney
Sheldon Lobel P.C.
9 East 40th Street, 14th Floor
New York, New York 10016
Phone: (212) 725-2727 Fax: (212) 725-3910

Community Board No. 16 Borough: **Brooklyn**

Borough Board

Date of public hearing: January 5, 2010

Location: _____

Was a quorum present? YES NO

A public hearing shall require a quorum of 20% of the appointed members of the board, but in no event fewer than seven such members.

Vote adopting recommendation taken: yes

Location: 444 Thomas S. Boyland Street
Brooklyn, NY

RECOMMENDATION

Approve

Approve With Modifications/Conditions

Disapprove

Disapprove With Modifications/Conditions

Explanation of Recommendation-Modification/Conditions (Attach additional sheets if necessary)

Community Board supports the rezoning application which will encourage development of vacant properties and facilitate the redevelopment of S&H Glazer Brother's property with a new 5-story mixed-use building having ground floor commercial use and residential use above.

Voting

In Favor: 31 Against: 0 Abstaining: 0 Total members appointed to the board: 50

Hazel A. Younger

Chairperson

Community/Borough Board Officer

Title

January 5, 2011

v.012006w

Date

* Indicates application was certified by the CPC pursuant to Section 197-C(c) of the City Charter.

Brooklyn Borough President Recommendation

CITY PLANNING COMMISSION
22 Reade Street, New York, NY 10007
FAX # (212) 720-3356

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 #: 070579 ZMK

Howard Avenue Rezoning

In the matter of an application submitted by S&H Glazer Bros., Inc. pursuant to Sections 197-c and 201 of the New York City Charter for an amendment to the Zoning Map changing from a C8-2 District property bounded by Eastern Parkway, Howard Avenue, and Pitkin Avenue; and, establishing within the proposed R6A District a C2-4 District bounded by Eastern Parkway, Howard Avenue, and Pitkin Avenue.

COMMUNITY DISTRICT NO. 16

BOROUGH OF BROOKLYN

RECOMMENDATION

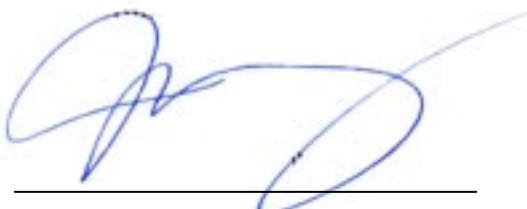
APPROVE
 APPROVE WITH
MODIFICATIONS/CONDITIONS

DISAPPROVE
 DISAPPROVE WITH
MODIFICATIONS/CONDITIONS

The borough president supports efforts that facilitate the retention of Brooklyn-based businesses and supports land use changes consistent with the context of the area. Approval of this action will allow for the continuance of a long-standing commercial use while facilitating residential development.

The borough president applauds S&H Glazer for its commitment to keeping its business open throughout the redevelopment process by temporarily relocating it through utilizing various nearby vacant spaces. The use of these spaces will last until the business can be relocated to the ground floor of the anticipated mixed-use development. He also commends the applicant for setting aside units within the residential development for its employees at a reduced monthly rent, which would result in decent affordable housing above the workplace.

Be it resolved that the Brooklyn Borough President, pursuant to section 197-c of the New York City Charter, recommends the approval of this Zoning Map application by the City Planning Commission and City Council.



BOROUGH PRESIDENT

February 4, 2011

DATE