



## **CITY PLANNING COMMISSION**

January 28, 2008/Calendar No.20

C 050236 ZMK

**IN THE MATTER OF** an application submitted by 886-894 Dahill Road, LLC pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 22d:

1. changing from an R5 District to a C4-5X District property bounded by 19<sup>th</sup> Avenue, a line 160 feet northeasterly of 50<sup>th</sup> Street, a line 100 feet southeasterly of 19<sup>th</sup> Avenue, and a line 100 feet northeasterly of 50<sup>th</sup> Street; and
2. changing from an M1-1 District to a C4-5X District property bounded by a line 260 feet northeasterly of 50<sup>th</sup> Street, Avenue I, Dahill Road, a line 100 feet northeasterly of 50<sup>th</sup> Street, and a line 100 feet southeasterly of 19<sup>th</sup> Avenue;

Borough of Brooklyn, Community District 12, as shown on a diagram (for illustrative purposes only) dated September 4, 2007 and subject to the conditions of CEQR declaration E-198.

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This application for an amendment of the Zoning Map was filed by 886-894 Dahill Road, LLC on December 23, 2004, and revised December 17, 2008, for a change from an R5 and M1-1 district to a C4-5X district to facilitate the development of a residential building with 179 dwelling units in the Mapleton neighborhood of Community District 12, Brooklyn.

### **RELATED ACTION**

In addition to the amendment of the Zoning Map, 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 application:

**C 050237 ZSK:** A special permit pursuant to Section 74-52 of the Zoning Resolution for the construction of a public parking garage.

### **BACKGROUND**

#### **Existing Conditions, Land Use and Zoning**

This is an application for a zoning map amendment from M1-1 and R5 to C4-5X for an

irregularly-shaped site (Block 5457, Lots 6 and 5) located at 886 Dahill Road in the Mapleton neighborhood of Community District 12, Brooklyn. The proposed rezoning would allow the construction of a 12-story residential building of 179 dwelling units, with 71,241 square feet of commercial space on two levels. In addition there would be a 259-space public parking garage which would require the approval of a Special Permit pursuant to Section 74-52.

The subject site consists of two lots, both owned by the applicant; lot 6 an irregularly-shaped interior lot, which comprises most of the site and is 64,251 square feet in area, the smaller lot which fronts on 19<sup>th</sup> Avenue and is 1,983 square feet in area. The entire site is bounded by Avenue I, Dahill Road and 19<sup>th</sup> Avenue and is located between a shopping center that contains a large supermarket and small retail stores and the Right-of-Way of the Long Island Rail Road (LIRR) to the north, two- to three-story row houses to the south and McDonald Avenue to the east. The site is currently occupied by one- and two-story vacant industrial buildings.

The site is split length wise between an M1-1 and an R5 zoning district; the M1-1 district is 49,469 square feet, while the R5 portion is approximately 18,000 square feet.

The area surrounding the site is zoned R5 and R3-1, reflective of the existing low-density, two- and three-story residential character. The McDonald Avenue corridor with the elevated 'F' train to the east of the site is zoned M1-1 for light manufacturing and commercial uses and contains buildings between one- to four-stories in height.

The existing M1-1 zoning district allows light industrial and commercial uses at a Floor Area Ratio (FAR) of up to 1.0 and community facility uses up to an FAR of 2.40 and does not allow new residential uses. In an R5 district residential uses are allowed at an FAR of up to 1.25 with a maximum height of 40 feet, and community facility uses at an FAR up to 2.0.

#### **Amendment of the Zoning Map - C 050236 ZMK**

The applicant is requesting a zoning map amendment from the existing M1-1 and R5 districts to C4-5X district. The proposed C4-5X district is a contextual commercial district and is mapped

in regional commercial centers located outside of the central business districts. C4-5X allows a variety of commercial uses including specialty and department stores and offices at a maximum FAR of 4.0 with no parking required. The maximum building height is 125 feet. Buildings in the C4-5X must have a base height between 60-85 feet before setting back. The C4-5X district is a R7X residential equivalent with a maximum FAR of 5.0, the Quality Housing regulations are mandatory and parking must be provided for a minimum of 50 percent of dwelling units.

### **Project Description**

The applicant intends to develop a mixed commercial/residential development with a two-level commercial base that would front on Dahill Road. The residential portion would include five town houses and a 10-story residential tower above the commercial base, with 179 dwelling units with a mix of two- three- and four-bedroom units. Parking for the residential and commercial uses would be provided at grade and in an underground public parking garage.

### **Special Permit - C 050237 ZSK**

The applicant is also requesting a Special Permit pursuant to Section 74-52 of the Zoning Resolution to allow a public parking garage with 259 spaces.

The two-level parking garage would be 99,586 square feet in size and would have 259 parking spaces of which 90 would be accessory to the residential units on the site. The public parking garage would have two separate access points on Avenue I and 19<sup>th</sup> Avenue; both 80 feet wide street; residents of the residential units would access the garage through a 24 feet wide curb cut on 19<sup>th</sup> Avenue, while all other vehicles would use an access ramp through a 27 feet wide curb cut on Avenue I adjacent to the shopping center. The parking garage would have the required 13 reservoir spaces.

### **ENVIRONMENTAL REVIEW**

This application (C 050236 ZMK) in conjunction with the application for the related action (C 050237 ZSK) 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 05DCP050K. The lead is the City Planning Commission.

This conditional negative declaration includes an (E) designation (E-198) for noise on Block 5457, Lots 5 and 6 (Zoning Map 22d). The text of the (E) designation is as follows:

In order to ensure an acceptable interior noise environment, future residential/commercial uses must provide a closed window condition with a minimum of 30 dB(A) window/wall attenuation 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 or HUD-approved fans.

With the implementation of the (E) designation, no significant adverse impacts related to noise would occur.

After a study of the potential environmental impacts of the proposed action (C 050236 ZMK), a Conditional Negative Declaration was issued. The lead agency determined that the proposed action will have no significant effect on the quality of the environment, once it is modified as follows:

1. The applicant agreed via restrictive declaration to prepare hazardous materials sampling protocols, including a 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 hazardous material remediation plans including health and safety plans to DEP for approval. If necessary, remediation measures would be undertaken pursuant to the remediation plans.
2. The applicant agrees to contact the New York City Department of Transportation (NYCDOT) within six months after the completion of this project and to inform them of the need to implement the following traffic mitigations:
  - At the intersection of McDonald Avenue and 18<sup>th</sup> Avenue, during the Sunday peak period, a 1-second shift in green time from the east/west phase to the north/south phase is required.

- At the intersection of McDonald Avenue and Avenue I, the intersection is being designed so that single unit trucks (SU) and city buses would be able to pass through the intersection. The eastbound and westbound approaches would be striped as a left turn lane and a through/right lane, and the north and southbound approaches would also be re-striped per the widths described in the EAS.

Additionally, the following improvements will be implemented:

- 1) Installation of warning and lane assignment signs on each approach in advance of the intersection;
- 2) Installation of a flashing delineator sign on the subway column facing 20<sup>th</sup> Avenue to warn the motorists traveling eastbound;
- 3) The stop bar on the northbound approach of McDonald Avenue would be shifted to a distance of 32-feet 6-inches from the intersection to allow for buses traveling eastbound on 20<sup>th</sup> Avenue and turning onto Avenue I. A “Stop Here on Red Signal” sign would be installed at the location of the shifted stop bar;
- 4) “No Standing Anytime” regulations along the westbound approach would be provided for the entire distance of the north curb from the bus stop to the intersection;
- 5) Curb side parking regulations along the northbound and southbound approaches would be converted to “No Standing Anytime”;
- 6) Peg-a-track markings would be provided.

During the weekday morning, midday, and evening peak periods as well as the Sunday peak period, movement in all directions (north, south, east and west) would become a separate left and a through/right movement.

During the weekday evening peak period, a 4-second shift in green time to the north/south phase, with 2 seconds shifted from the eastbound phase and 2 seconds from the westbound phase would be implemented.

During the Sunday peak period, a 3-second shift in green time to the north/south left-turn phase, with 2 seconds shifted from the eastbound phase and 1-second shifted from the westbound phase will be implemented.

- At the intersection of McDonald Avenue and Bay Parkway, during the weekday evening peak period, a 1-second shift in green time from the east/west phase to the north/south phase will be implemented.

- At the intersection of 18<sup>th</sup> Avenue and Ocean Parkway, during the evening peak period, a 3-second shift in green time from the north/south through/right phase to the east/west phase will occur. Additionally, during the Sunday peak period, a 3-second shift in green time from the north/south through/right phase to the east/west phase will be implemented.
- At the intersection of Avenue I at Ocean Parkway, during the weekday evening peak period a 2-second shift in green time from the north/south through/right phase to the east/west phase will be implemented. Additionally, during the Sunday peak period, a 2-second shift in green time from the north/south through/right phase to the east/west phase will occur.
- At the intersection of Avenue J at Ocean Parkway, during the Sunday peak period, a 4-second shift in green time from the north/south phase to the east/west phase will be implemented.

The applicant signed the revised conditional negative declaration on January 25, 2008. The conditional negative declaration was published in the City Record on September 19, 2007. 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 and the conditional negative declaration was published in the New York State Environmental Notice Bulletin on September 19, 2007.

## **UNIFORM LAND USE REVIEW**

This application (C 050236 ZMK), in conjunction with the application for the related action (C 050237 ZSK), was certified as complete by the Department of City Planning on September 4, 2007, and was duly referred to Community Board 12 and the 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 12 held a public hearing on this application (C 050236 ZMK) in conjunction with the related action (C 050237 ZSK) on October 22, 2007, and on October 23, 2007, by a vote of 31 in favor, 0 opposed and 0 abstaining, adopted a resolution recommending disapproval of

the applications with the following recommendation:

The Community Board and the community at large does not want retail entities at this location. Residential housing is desperately needed as more and more families are moving into the district.

Also the height of this building is entirely out of character for this location and would not enhance the area. Community board would like this application changed to residential only with height restrictions.

### **Borough President Recommendation**

This application (C 050236 ZMK) in conjunction with the related action (C 050237 ZSK) was considered by the Borough President, who issued a recommendation on November 30, 2007, approving the applications with the following conditions:

1. Approve the height of the building as no more than six floors plus penthouse above grade, with the ground floor above grade incorporating basement living space;
2. Approve a commercial zoning designation more reflective of the reduced retail component most recently proposed by the applicant.

Be it further resolved that the borough president calls on:

1. The applicant to work with the community, Community Board 12, affected local elected officials and the Department of City Planning based on the applicant's November 26, 2007 expression of commitment and the November 29, 2007 oral commitment, to modify the development plans before the City Planning Commission and City Council including:
  - a) overall site and building design;
  - b) changes that might address traffic congestion such as incorporating a pull-over bus lane; increasing parking to at least equal the number of apartments; and, reducing the retail component from what is contained in the certified application; and,
  - c) increasing the number of bedrooms per apartments, including some five bedroom units.
2. The Fire Department to review the applicant's site plan in regard to providing site access for fire fighting and emergency apparatus.

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

On December 5<sup>th</sup>, 2007 (Calendar No. 1), the City Planning Commission scheduled December

19, 2007, for a public hearing on this application (C 050236 ZMK). The hearing was duly held on December 19, 2007, (Calendar No. 40) in conjunction with the hearing on related action (C 050237 ZSK).

There were 29 speakers in favor of the application and 11 speakers in opposition. The speakers in favor included representatives of the applicant and residents of the area, the Assembly Member from the 48<sup>th</sup> District and the City Council Member from the 44<sup>th</sup> district. The speakers in opposition were local residents and representatives of nearby religious schools.

The representatives of the applicant testified that, in response to the concerns raised by the Community Board, the Borough President and the surrounding residents, that the project had been revised to eliminate most of the proposed retail uses, and the overall height of the building was lowered. The newly-proposed site plan included a 30-foot deep landscaped esplanade buffer between the proposed residential building and the existing two- and three-story homes to the south. Additionally, the property owner testified that he had changed the project to be responsive to the concerns raised by the Community Board and Borough President.

The Assembly Member from the 48<sup>th</sup> district spoke conditionally in favor of the project, stating that the proposed residential development would fulfill the dire need for new housing in the area. The city Council Member from the 44<sup>th</sup> district also testified in favor of the project and stated that the vacant industrial site a blight on the area and that the revised project would fulfill the desperately-needed housing demand in this neighborhood. The other speakers in favor of the project noted a shortage of housing in the area and cited that the proposed residential units would help alleviate that shortage.

There were several local residents who spoke in opposition of the project. They testified that they were concerned about increased traffic from the project, pedestrian safety and the proposed height of the building. They further stated that the proposed development would have adverse impacts on the quality of life in the area, including fire safety and the availability of on-street parking in the vicinity of the development.



There were no other speakers and the hearing was closed.

## **CONSIDERATION**

The Commission believes that the application for a zoning map amendment (C 050236 ZMK) in conjunction with the related application for a special permit (C 050237 ZSK) is appropriate.

The Commission notes that the regulations governing the C4-5X district limit the maximum building height to 125 feet and that the mandatory Quality Housing requirements would require street tree plantings that would enhance and improve the area. The site is located adjacent to light industrial uses, retail shops and other small commercial establishments as well as two- and three-family homes and apartment buildings ranging from four- and five-stories in height. The existing M1-1 district only permits light manufacturing and limited commercial uses and would not allow new residential uses. The proposed C4 district would allow for residential and commercial retail uses and thus would be more compatible with surrounding residential and commercial uses. Mid-density, mixed-use development within the proposed rezoning area would be compatible with the nearby residential and commercial uses and within a block of the Avenue I station of the elevated 'F' train on McDonald Avenue.

Approval of this and the related application would facilitate the construction of a mixed use development with 179 residential units and commercial space. That development would also include a 259 space public parking garage which requires a special permit (C 050236 ZSK) pursuant to Section 74-52 of the Zoning Resolution. On December 17, 2007, the applicant filed revised plans for the proposed parking garage to accommodate the development program for the modified proposed residential building presented to the Commission at its public hearing. The changes to the public parking garage were minimal, the number of parking spaces, location of entrance and exit ramps and the width of curb cuts have not changed. However, the inside lay out of parking spaces have slightly changed due to an additional elevator shaft.

The Commission believes that the streets providing access to the proposed development would

be adequate to handle the traffic generated. The project fronts on two 80 foot wide streets, with separate entrances on Avenue I and 19<sup>th</sup> Avenue, allowing the dispersal of project-induced traffic. Furthermore, the environmental analysis conducted for this project identified mitigation measures that would change traffic signal timing at the intersection of McDonald and 18<sup>th</sup> Avenues, re-stripe traffic lanes, install warning and lane assignment signs on approach lanes in advance of the intersection, and modify on-street parking and standing regulations. These measure are intended to mitigate any traffic significant impacts by the proposed development.

In response to concerns raised at the Commission’s public hearing, the applicant issued a letter, dated January 9, 2008, stating that:

I am writing to reiterate my commitment to develop the site in accordance with certain modifications intended to be responsive to concerns expressed at the public hearing and during the public review process.

We are committing that the buildings will not exceed 96 feet in height. We are further committing to limit the commercial floor area to a maximum of 3,500 S.F. The total project F.A.R. will be 4.74. There is to be a maximum of 179 dwelling units broken down as follows:

Units (by Bedroom)	Percentage of Units	Average Unit Size
5-bedroom	13%	2,532 s.f.
4-bedroom	34%	1,592 s.f.
3-bedroom	23%	1,350 s.f.
2-bedroom	21%	1,226 s.f.
1-bedroom	8%	800 s.f.

We are committing to provide a lay-by lane, subject to DOT approval, to accommodate buses.

A companion application to this zoning map amendment is for a public parking garage. We are committing to offer space in the garage for purchase/lease to all residents of the proposed building.

The modifications to our project outlined above respond to a number of concerns expressed during the public review process regarding the development of the site. Furthermore, the development will allow the acute needs for both younger Borough Park families and its senior populace to remain in their community.

## **RESOLUTION**

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

1. The applicant agrees via a restrictive declaration to prepare a Remedial Action Plan, including a sampling protocol and a health and safety plan for the Department of Environmental Protection (DEP) for approval. Remediation measure would be undertaken pursuant to the remediation plan.
2. The applicant agrees to contact the New York City Department of Transportation (NYCDOT) within six months after the completion of this project and to inform them of the need to implement the appropriate traffic mitigations.

and be it further

**RESOLVED**, by the City Planning Commission, pursuant to Sections 197-c and 200 of the New York City Charter, that based on the environmental determination and the consideration described in this report, the Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended by changing the Zoning Map, Section No. 22d:

1. changing from an R5 District to a C4-5X District property bounded by 19<sup>th</sup> Avenue, a line 160 feet northeasterly of 50<sup>th</sup> Street, a line 100 feet southeasterly of 19<sup>th</sup> Avenue, and a line 100 feet northeasterly of 50<sup>th</sup> Street; and
2. changing from an M1-1 District to a C4-5X District property bounded by a line 260 feet northeasterly of 50<sup>th</sup> Street, Avenue I, Dahill Road, a line 100 feet northeasterly of 50<sup>th</sup> Street, and a line 100 feet southeasterly of 19<sup>th</sup> Avenue;

Borough of Brooklyn, Community District 12, as shown on a diagram (for illustrative purposes only) dated September 4, 2007, and which includes CEQR designation E-198.

The above resolution (C 050236 ZMK), duly adopted by the City Planning Commission on January 28, 2008 (Calendar No. 20), is filed with the Office of the Speaker, City Council, and the Borough President in accordance with the requirements of Section 197-d of the New York City Charter.

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

**KENNETH J. KNUCKLES, Esq., Vice Chairman**

**ANGELA M. BATTAGLIA, IRWIN CANTOR, P.E., ANGELA R. CAVALUZZI, R.A.,  
ALFRED CERULLO, III, BETTY Y. CHEN, MARIA M. DEL TORO, RICHARD W.  
EADDY, NATHAN LEVENTHAL, , JOHN MEROLO, KAREN A. PHILIPS,  
Commissioners**

**SHIRLEY A. MCRAE, Commissioner, ABSTAINING**