



IN THE MATTER OF an application submitted by Silvershore Properties 97 LLC pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 16c:

1. changing from an R6B District to an R6A District property bounded by a line 100 feet westerly of Washington Avenue, Dean Street and Underhill Avenue; and
2. establishing within the proposed R6A District a C2-4 District bounded by a line 100 feet westerly of Washington Avenue, Dean Street and Underhill Avenue;

Borough of Brooklyn, Community District 8, as shown on a diagram (for illustrative purposes only) dated October 30, 2017.

This application for a zoning map amendment was filed by Silvershore Properties 97 LLC on September 22, 2017. The applicant proposes to change an R6B zoning district to an R6A/C2-4 zoning district on a triangular portion of a block located at the northeastern corner of Dean Street and Underhill Avenue in the Prospect Heights neighborhood of Brooklyn, Community District 8. The proposed action would facilitate the conversion of an existing building's ground floor from parking to commercial use.

BACKGROUND

The area to be rezoned (the "project area") consists of a triangular portion of a block located at the northeastern corner of Dean Street and Underhill Avenue (Block 1131, portions of Lots 1, 3, 9 and 1001-1040) and generally bounded by Underhill Avenue, Washington Avenue, Dean Street and Pacific Street. The project area is currently mapped with an R6B zoning district, a residential district that permits a maximum floor area ratio (FAR) of 2.0 for residential and community facility uses. R6B districts allow a maximum base height of 40 feet and maximum building height of 50 feet, which may be increased by five feet for buildings with a qualifying ground floor that is non-residential and meets streetscape requirements.

Lot 1 is improved with a four-story mixed residential and commercial building with a ground floor restaurant use. Lot 3 is improved with a four-story residential building. Lot 9 is used as an accessory outdoor dining area for an adjacent restaurant on a separate lot. Lots 1001-1040

comprise a single zoning lot with two residential condominium buildings, which represents the project site.

In 1994, the Prospect Heights Rezoning (C 930430 ZMK) rezoned the project area and numerous blocks within the surrounding area to protect the neighborhood's lower scale, row house-style character while allowing modest growth along Washington Avenue, a local commercial corridor. As part of the 1994 rezoning, Block 1131 was rezoned from an M1-1 district to an R6A/C2-4 district within 100 feet of Washington Avenue. The remaining portion of the block, comprising approximately 9,600 square feet, including the project area, was rezoned to R6B.

The project site is an approximately 16,800-square-foot, irregularly shaped through lot extending from Underhill Avenue to Washington Avenue. The site is split between the R6B and R6A/C2-4 zoning districts, of which approximately 3,600 square feet is within the R6B district. The buildings on the site were constructed in 2008 and contain 39 dwelling units; they have a combined FAR of 2.75. Along the ground floor frontage facing Washington Avenue, there is an accessory parking area that provides permitted—but not required—parking. A separate 20-space parking area located in the cellar serves as the building's required parking. Both parking areas are accessory to the residential uses and exempt from floor area calculations. Since the building was constructed, the ground floor parking area along Washington Avenue has been underutilized.

The applicant proposes to extend the R6A/C2-4 district over the remaining portion of the block in order to facilitate the conversion of a large portion of the ground floor parking area to a food market or other type of commercial use, occupying approximately 4,000 square feet. R6A is a residential district that allows residential and community facility uses up to a maximum FAR of 3.0. R6A districts allow a maximum base height of 60 feet and maximum building height of 70 feet, which may be increased by five feet with a qualifying ground floor. C2-4 is a commercial overlay that permits a maximum commercial FAR of 2.0 and a range of local retail and service uses with low parking requirements.

Converting the building's ground floor from parking to commercial use would generate new floor

area that cannot be accommodated on the project site under the current zoning. Extending the R6A/C2-4 district would increase the permitted FAR over a portion of the project site, which would subsequently generate additional floor area that could be allocated to a different ground floor use. In addition, two residential and mixed use buildings within the project area (Lots 1 and 3) have built FARs of 3.35 and 3.42, respectively; these buildings would be brought into greater compliance with zoning. The proposed C2-4 overlay would also bring the corner restaurant use into conformance with zoning.

The area surrounding the project site is developed with a mix of residential, commercial, industrial, and community facility uses. Washington Avenue is a commercial corridor primarily developed with three- to six-story mixed-use residential buildings with ground floor commercial uses including clothing stores, grocery stores, beauty salons and eating and drinking establishments. Underhill Avenue and Dean Street are predominantly residential with pockets of commercial use, and contain a mix of three- to five-story row house-style homes and apartment buildings. The project area is well-served by public transit, with a stop for the C subway line less than a quarter of a mile away and stops for multiple bus routes nearby.

ENVIRONMENTAL REVIEW

This application (C 180095 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 lead is the City Planning Commission. The designated CEQR number is 18DCP041K.

After a study of the potential environmental impact of the proposed actions, a Negative Declaration was issued on October 30, 2017. The City Planning Commission has determined that the Proposed Action will have no significant effect on the quality of the environment.

PUBLIC REVIEW

This application (C 180095 ZMK) was certified as complete by the Department of City Planning

on October 30, 2017, and was duly referred to Community Board 8 and the Brooklyn Borough President in accordance with Title 62 of the Rules of the City of New York, Section 2-02(b).

Community Board Public Hearing

Brooklyn Community Board 8 held a public hearing on this application (C 180095 ZMK) on November 2, 2017. On December 14, 2017, by a vote of 16 in favor, eight opposed, and with no abstentions, the Community Board adopted a recommendation to approve the application.

Borough President Recommendation

The Brooklyn Borough President held a public hearing on this application (C 180095 ZMK) on December 12, 2017, and issued a recommendation approve this application on January 17, 2018, subject to the following conditions:

1. “Demonstration, prior to City Council hearing of effort to:
 - a. Purchase additional development rights that would enable the entire conversion of the existing ground-floor accessory garage to commercial or community facility use in a space that fully qualifies as zoning floor area
 - b. Reach out to supermarket operators of smaller establishments that feature affordable healthy foods.”

City Planning Commission Public Hearing

On January 17, 2018 (Calendar No. 8), the City Planning Commission scheduled January 31, 2018 for a public hearing on this application (C 180095 ZMK). The hearing was duly held on January 31, 2018 (Calendar No. 20). There was one speaker at the hearing in favor of the application.

The applicant’s land use attorney spoke in favor of the application and provided an overview of the proposal. He explained that by rezoning the triangular portion of the block, floor area on the applicant’s property could be allocated to convert a portion of the ground floor from parking to commercial use. He indicated that the ground floor parking area has 15 permitted spaces located less than 23 feet above grade, and that this space does not count toward floor area. Although the proposed use is permitted with the existing commercial overlay, the ground floor space cannot be converted due to floor area limitations.

Regarding the Borough President's recommendations, the applicant's representative stated that the condo association has approval rights over the space's future use and is supportive of a food store that would serve local needs. He also noted that the rezoning would enable approximately 4,000 square feet of the 5,000-square-foot parking area to be converted to commercial use. While the rezoning would leave roughly 1,000 square feet of the ground floor remaining as parking, the attorney stated that the applicant seeks to convert the entire space through the purchase of development rights from adjacent owners. Lastly, he clarified that even if all of the ground floor space could be used for a grocery store, it would not be large enough to qualify as a FRESH food store per zoning.

There were no other speakers and the hearing was closed.

CONSIDERATION

The Commission believes that this application for a zoning map amendment (C 180095 ZMK) is appropriate.

The proposed zoning map amendment would extend an existing R6A/C2-4 district over a triangular portion of Block 1131 currently zoned R6B in order to facilitate the conversion of the ground floor of an existing building from parking to commercial use. Washington Avenue is an active commercial corridor with various types of local retail. The project site's ground floor parking area is underutilized and detracts from the vibrant, pedestrian-friendly activity that characterizes the corridor. Converting this space to commercial use would better serve the neighborhood and help activate the streetscape. The Commission notes that extending the R6A/C2-4 to the corner of Underhill Avenue and Dean Street would bring an existing restaurant use into conformance with zoning, while bringing two buildings into greater compliance. The Commission believes that allowing R6A/C2-4 to cover the entire block would be consistent with the neighborhood scale and the goals set forth in the Prospect Heights Rezoning.

Due to the small size of the project area and change in permitted FAR from 2.0 to 3.0, the

Commission notes that the rezoning would not result in substantial new residential development capacity that would trigger the Mandatory Inclusionary Housing (MIH) program. Accordingly, the Commission believes that an action to map an MIH area coincident with the rezoning area is not appropriate. Further, the Commission notes that the buildings on Lots 1 and 3 are built above the permitted and proposed FAR, and that the proposed action would not permit enlargements to occur on these lots.

While the rezoning would not allow the full parking area to be converted, at the public hearing the applicant's representative stated that the condo association intends to use the new commercial space as a grocery store and expressed a willingness to engage with adjacent property owners and seek development right agreements that would allow the applicant to complete the conversion of the remaining 1,000-square-foot portion of the ground floor. The Commission encourages these efforts.

RESOLUTION

RESOLVED, that the City Planning Commission finds that the action described herein will have no significant impact on the environment; and be it further

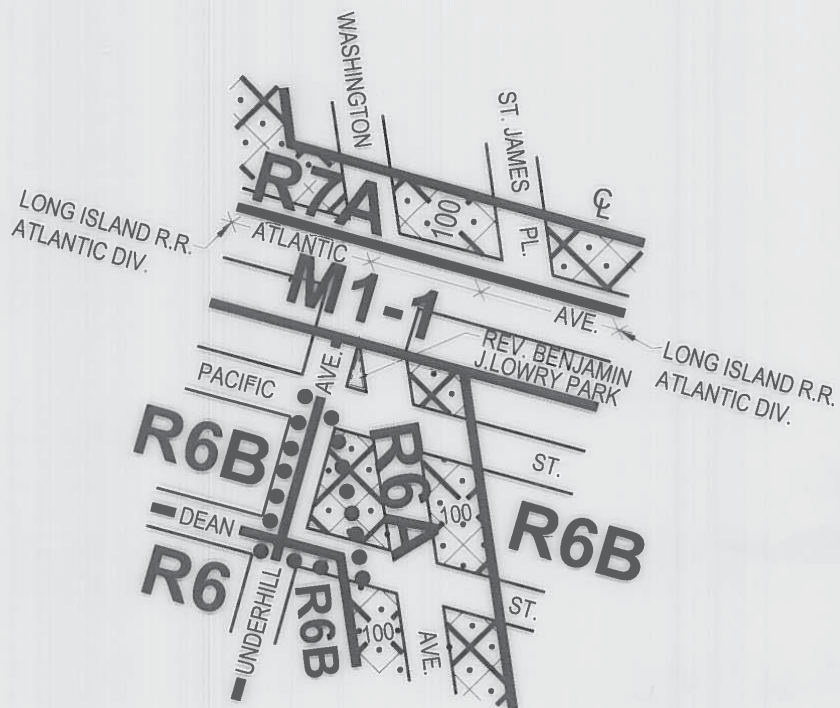
RESOLVED, by the City Planning Commission, pursuant to Sections 197-c and 200 of the New York City Charter that based on the environmental determination and consideration described in this report, the Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended by changing the Zoning Map, Section No.16c:

1. changing from an R6B District to an R6A District property bounded by a line 100 feet westerly of Washington Avenue, Dean Street and Underhill Avenue; and
2. establishing within the proposed R6A District a C2-4 District bounded a line 100 feet westerly of Washington Avenue, Dean Street and Underhill Avenue;

Borough of Brooklyn, Community District 8, as shown on a diagram (for illustrative purposes only) dated October 30, 2017.

The above resolution (C 180095 ZMK), duly adopted by the City Planning Commission on February 28, 2018 (Calendar No. 19), 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.

**RAYANN BESSER, ALFRED C. CERULLO, III, MICHELLE DE LA UZ,
JOSEPH DOUEK, RICHARD W. EADDY, CHERYL COHEN EFFRON,
HOPE KNIGHT, ANNA HAYES LEVIN, ORLANDO MARIN, LARISA ORTIZ,**
Commissioners



CITY PLANNING COMMISSION
CITY OF NEW YORK
DIAGRAM SHOWING PROPOSED
ZONING CHANGE
ON SECTIONAL MAP
16c

BOROUGH OF
BROOKLYN

New York, Certification Date
OCTOBER 30, 2017

SL
S. Lenard, Director
Technical Review Division

SCALE IN FEET



NOTE:

- Indicates Zoning District Boundary.
- • • • The area enclosed by the dotted line is proposed to be rezoned by changing an existing R6B District to an R6A District and by establishing a C2-4 District within the proposed R6A District.



Indicates a C2-4 District.

Community/Borough Board Recommendation

Pursuant to the Uniform Land Use Review Procedure

Application # C 180095 ZMK	Project Name 35 Underhill Avenue
CEQR Number 18DCP041K	Borough(s) Brooklyn
	Community District Number(s) 08

Please use the above application number on all correspondence concerning this application

SUBMISSION INSTRUCTIONS

- Complete this form and return to the Department of City Planning by one of the following options:
 - EMAIL (recommended):** Send email to CalendarOffice@planning.nyc.gov and include the following subject line: (CB or BP) Recommendation + (6-digit application number), e.g., "CB Recommendation #C100000ZSQ"
 - MAIL:** Calendar Information Office, City Planning Commission, 120 Broadway, 31st Floor, New York, NY 10271
 - FAX:** to (212) 720-3488 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 Silvershore Properties 97 LLC pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 16c:

- changing from an R6B District to an R6A District property bounded by a line 100 feet westerly of Washington Avenue, Dean Street and Underhill Avenue; and
- establishing within the proposed R6A District a C2-4 District bounded a line 100 feet westerly of Washington Avenue, Dean Street and Underhill Avenue;

Borough of Brooklyn, Community District 8, as shown on a diagram (for illustrative purposes only) dated October 30, 2017.

Applicant(s): Silvershore Properties 97 LLC 38 East 29th Street, 8th Floor New York, NY 10016		Applicant's Representative: Richard Lobel Sheldon Lobel, P.C. 18 East 41st Street, 5th Floor New York, NY 10017	
Recommendation submitted by: Brooklyn Community Board 8			
Date of public hearing: 11/2/17		Location: CNR-727 Classon Ave, Bklyn 11238	
Was a quorum present? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>		A public hearing requires a quorum of 20% of the appointed members of the board, but in no event fewer than seven such members.	
Date of Vote: 12/14/17		Location: C12-151 Rochester Ave, Bklyn 11213	
RECOMMENDATION <input checked="" type="checkbox"/> Approve <input type="checkbox"/> Approve With Modifications/Conditions <input type="checkbox"/> Disapprove <input type="checkbox"/> Disapprove With Modifications/Conditions			
Please attach any further explanation of the recommendation on additional sheets, as necessary.			
Voting # In Favor: 16 # Against: 8 # Abstaining: 0 Total members appointed to the board: 48			
Name of CB/BB officer completing this form		Title	Date
Michelle George		District Manager	12/22/17

Brooklyn Borough President Recommendation
CITY PLANNING COMMISSION
120 Broadway, 31st Floor, New York, NY 10271
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

35 UNDERHILL AVENUE REZONING – 180095 ZMK

In the matter of the application submitted by Silvershore Properties 97 LLC, pursuant to Section 197-c of the New York City Charter, for a zoning map amendment to rezone from R6B the portion of the block on the east side of Underhill Avenue, north of Dean Street to R6A and establish a C2-4 district within the newly proposed R6A district in Brooklyn Community District 8 (CD 8). Such action would facilitate the conversion of a ground floor permitted parking area to commercial use at 35 Underhill Avenue.

BROOKLYN COMMUNITY DISTRICT NO. 8

BOROUGH OF BROOKLYN

RECOMMENDATION

☐ APPROVE

☒ APPROVE WITH
MODIFICATIONS/CONDITIONS

☐ DISAPPROVE

☐ DISAPPROVE WITH
MODIFICATIONS/CONDITIONS

SEE ATTACHED

BROOKLYN BOROUGH PRESIDENT

January 17, 2018

DATE

RECOMMENDATION FOR: 35 UNDERHILL AVENUE REZONING – 180095 ZMK

An application was submitted by Silvershore Properties 97 LLC, pursuant to Section 197-c of the New York City Charter, for a zoning map amendment to rezone from R6B the portion of the block on the east side of Underhill Avenue, north of Dean Street to R6A and establish a C2-4 district within the newly proposed R6A district in Brooklyn Community District 8 (CD 8). Such action would facilitate the conversion of a ground floor permitted parking area to commercial use for the corner of the 35 Underhill Avenue at the intersection of Dean Street and Washington Avenue.

On December 12, 2017, Brooklyn Borough President Eric L. Adams held a public hearing on the proposed zoning map amendment. There was one speaker in support of the item, representing the condominium board of 35 Underhill Avenue. The speaker reiterated the board's support for a food store in the commercial condominium space, and stated that any approvals for an eating or drinking establishment would come with conditions.

In response to then-Deputy Brooklyn Borough President Diana Reyna's inquiry regarding the possibility of purchasing approximately 1,000 square feet (sq. ft.) of additional air rights or executing a zoning lot merger with one or more adjacent properties to enable the full conversion of the permitted parking garage into a space occupied by a commercial use, the representative expressed that the applicant had unsuccessfully sought to purchase unused development rights on the block as a means to change the full garage area to commercial use. The representative clarified that if this rezoning were approved, the developer would reach out anew to adjacent property owners and attempt to secure the remaining 1,000 sq. ft. of development rights.

In response to then-Deputy Borough President Reyna's inquiry as to what mechanism would guarantee that the commercial condominium space is leased to a supermarket tenant, what time commitment would be reserved to secure a supermarket, and what duration of lease the applicant would be willing to offer such tenant, the applicant's representative referred to an agreement between the condominium board and the developer that grants the board discretion to approve the final tenant of the commercial space. The representative stated that the condo owners had expressed preference for a food store over other commercial uses. The representative further confirmed that the maximum commercial space falls below the threshold for a Food Retail Expansion to Support Health (FRESH) food store, and expressed the applicant's intent to work with a commercial brokerage to identify a supermarket tenant for a 5,000 sq. ft. commercial ground floor.

In response to then-Deputy Borough President Reyna's inquiry as to what consideration has been given to securing a supermarket with affordable pricing in order to provide a benefit to the greater community, the representative stated that the applicant's goal is to find a tenant who will provide goods that the neighborhood needs and wants. The applicant is interested in accessing City incentives that will make the commercial space affordable to the larger community.

In response to then-Deputy Borough President Reyna's inquiry regarding the expected frequency of truck deliveries, the anticipated loading location on Dean Street or Washington Avenue, and what steps would be taken to secure curbside loading signage, the representative expressed the applicant's preference for Dean Street based on discussions with the condominium board. Washington Street was deemed less suitable due to greater traffic and the presence of a bus stop outside the building. The representative confirmed that no loading dock is required for a food store of such limited size, and that the proposed store will rely on street loading. The developer understands that an application can be made to the New York City Department of Transportation (DOT) to reserve space for deliveries and loading. The applicant will also work with the selected tenant on an operational plan to minimize disruptions to residents of 35 Underhill Avenue.

In response to then-Deputy Borough President Reyna's inquiry as to what extent the selected use requires approval from the building's condominium board and if such use were to be a bar or restaurant, whether such establishment would require approval from the board to apply for a sidewalk café permit, the representative explained that as part of an agreement with the condominium board, the applicant must bring a prospective tenant to the board for approval before entering into a lease. The representative expressed that expansion of an eating or drinking establishment into the sidewalk would likely be subject to approval as well.

Consideration

Brooklyn Community Board 8 (CB 8) voted to approve this application on December 14, 2017.

The project site is situated on a block bound by Dean and Pacific streets, and Underhill and Washington avenues. The eastern portion of the block is zoned R6A with a C2-4 overlay mapped for six blocks along Washington Avenue. The western portion of the block, which includes part of Dean Street and Underhill Avenue, is zoned R6B.

35 Underhill Avenue occupies an irregularly shaped tax lot extending through the block with a total area of approximately 16,800 sq. ft. About 13,160 sq. ft. of the lot is located in the R6A/C2-4 district, while the remaining 3,635 sq. ft. falls within the R6B district. The development was constructed in 2008 as two buildings connected by a cellar with a shared courtyard. The building is built to the maximum floor area ratio (FAR) with a height of four stories on Underhill Avenue, and a height of six stories on Washington Avenue. 35 Underhill Avenue contains 39 dwelling units with a combined residential floor area of approximately 46,280 sq. ft. The building has two parking garages, a cellar area with 20 required spaces accessible via Underhill Avenue, and a ground-floor area with 15 spaces (based on a calculation of 300 sq. ft. per parking space), accessible from Dean Street.

When plans were initially filed with the New York City Department of Buildings (DOB), the ground floor on Washington Avenue and Dean Street was represented as commercial space. However, the space was subsequently reclassified as permitted parking to ensure that the building would not exceed the allowable zoning on the site, and would be able to secure a Certificate of Occupancy (C of O). This was made possible by a provision of the New York City Zoning Resolution (ZR), which stipulates that floor space used for accessory off-street parking only counts toward floor area if it is located more than 23 feet above curb level. The ground floor at 35 Underhill Avenue is less than 23 feet above the curb level at Dean Street and Washington Avenue.

The ground-floor parking space has been historically underutilized and was sold to the applicant as commercial condominium space. As part of the sale terms, the board also retains the right to approve any tenant proposed by the commercial condominium owner.

The requested zoning change would extend the R6A/C2-4 overlay on the eastern side of the block to the corner of Dean Street and Underhill Avenue as a means to increase the permitted floor area of 35 Underhill Avenue by approximately 3,635 sq. ft. According to the applicant, this additional floor area, in combination with available unused zoning rights, would facilitate the establishment of a food store within the commercial condominium space. The C2-4 zoning district permits a wide range of commercial, community facility, and retail uses; the commercial condominium space could be occupied by a variety of Use Group 3, 4, 6, 7, 8, and 9 uses, including eating and drinking establishments with sidewalk cafés.

The ground-floor garage area occupies approximately 5,110 sq. ft. However, the requested rezoning would not yield sufficient floor area to permit the conversion of the entire ground-floor garage to commercial or community facility use. As a result, an approximately 1,000 sq. ft. portion would remain as accessory parking, unless additional development rights could be purchased from other property owners on the block. At present, the intention is to retain the accessory parking lot section in the center of the Dean Street façade. This would require the construction of a new parking garage entrance/exit and the relocation of the existing Dean Street curb cut further west to the property line.

Beyond the described ground-floor conversion, the proposed rezoning would yield a nominal floor area increase for the corner property at Pacific Street and Underhill Avenue and decrease the degree on zoning non-compliance for 41 and 43 Underhill Avenue, though these properties would remain overbuilt according to the 1994 Prospect Heights rezoning. Furthermore, the extension of the commercial overlay district would bring the ground-floor eating establishment at 43 Underhill Avenue into zoning conformance, while permitting a wider range of subsequent commercial occupancy according to Use Groups 6-9, and consideration for establishing a sidewalk café along the Dean Street and Underhill Avenue frontages.

Borough President Adams generally supports efforts to facilitate the creation and/or growth of Brooklyn-based businesses. This includes zoning actions that are consistent with the predominant land use patterns to provide opportunities for job creation and street activation. He believes that rezoning to facilitate the conversion of zoning-exempt floor area to qualifying zoning floor area is appropriate to facilitate the redevelopment of an underutilized property for commercial use.

Borough President Adams is generally supportive of the proposed development. However, he believes there are opportunities to improve the proposal by purchasing additional development rights to maximize the commercial floor area for a food store, and securing an affordable supermarket operator as a community amenity.

Purchasing Additional Development Rights to Enable the Entire Conversion of the Existing Ground-Floor Garage

The accessory garage contains 5,109 sq. ft. of floor area exempt from zoning. As currently proposed, the food store would occupy the 4,085 sq. ft. portion, with a retail area and storage space. The remaining 1,024 sq. ft. of the current ground floor would be retained as permitted parking on Dean Street. Such parking would be limited to approximately two vehicles but would require the construction of a new entry to the garage as the existing entrance would become part of the new commercial space. Moreover, as the present curb cut on Dean Street would not align with the location of the required new entrance to the section of the garage to remain, a new curb cut would be required. However, proper alignment would require the removal of an existing street tree in order to facilitate access and maneuverability. Such removal requires approval by the New York City Department of Parks and Recreation (NYC Parks). The agency typically does not want to facilitate removal of street trees.

Borough President Adams believes that a development scenario based on retaining a portion of the garage is undesirable. He is aware that this problem could be resolved through the purchase of 1,024 sq. ft. of unused development rights from one or more abutting zoning lots, and that there are several thousand sq. ft. of remaining unused zoning rights on these properties. It was noted that the commercial condominium owner initially planned to convert the zoning-exempt floor area to zoning floor area by attempting to purchase approximately 4,000 sq. ft. of development rights from neighboring properties. However, this objective was not accomplished through the applicant's outreach efforts, and the applicant subsequently chose to pursue the requested rezoning, which does not achieve full conversion of the accessory parking garage.

In order to fully convert the zoning-exempt floor area to zoning floor area thereby eliminating the need to retain a nominal parking portion while maximizing the commercial floor area for a supermarket, or other permitted community facility or retail use, the applicant would have to purchase 1,024 sq. ft. of development rights from surrounding properties, in excess of the 4,085 sq. ft. that would result from the combination of the proposed rezoning and remaining unused development rights.

Borough President Adams strongly believes that taking this course of action to secure such rights is an important consideration for approving the requested rezoning. Finally securing the full garage area for conversion would be beneficial for the future operator of the commercial condominium space and perhaps make it easier to secure a supermarket tenant.

Therefore, Borough President Adams believes that prior to the City Council hearing, the applicant, Silvershore Properties 97 LLC, should make a demonstrated effort to purchase additional development rights that would enable the entire conversion of the existing ground-floor accessory garage to commercial or community facility use in a space that fully qualifies as zoning floor area.

Preference for an Affordable Supermarket Operator

The condominium board of 35 Underhill Avenue and the commercial condominium owner have both expressed interest in securing a food store for the intended commercial space. Borough President Adams is concerned about limited access to affordable fresh food stores in many Brooklyn neighborhoods. He supports efforts to establish a food store at 35 Underhill Avenue but believes that the store would best serve the community if it were both affordable and stocked with healthy food. In order for all of Brooklyn to flourish, it is imperative that the borough's residents have an adequate supply of grocery stores and supermarkets in their neighborhoods that provide affordable and fresh foods. Access to healthy food options, whether achieved by creating more options and/or maintaining access to healthy food options, is a top priority for Borough President Adams.

Prospect Heights, a designated food desert, is significantly underserved by access to fresh, quality food options. In response, the ZR recently created the Food Retail Expansion to Support Health (FRESH) program, which provides financing and incentives to establish neighborhood grocery stores. While the location of this site makes it eligible for financing and zoning initiatives, a commercial ground floor at 35 Underhill would not qualify for the FRESH program, which mandates a 6,000 sq. ft. minimum threshold for retail space. As such, 35 Underhill Avenue could not accommodate a supermarket though the space would be suitable for a smaller food store.

Borough President Adams is aware that there are small supermarket operators that occupy spaces under 6,000 sq. ft. while providing locally affordable goods and services. Such operators have a significant presence in areas of Brooklyn typically underserved by larger supermarkets. Therefore, Borough President Adams believes that prior to the City Council hearing, the commercial condominium owner should make a demonstrated effort to reach out to supermarket operators of smaller establishments that feature affordable, healthy food so as to better serve the greater Prospect Heights community. His office is available to facilitate contact with such operators and support organizations in order to establish an affordable food store at 35 Underhill Avenue.

Recommendation

Be it resolved that the Brooklyn borough president, pursuant to sections 197-c of the New York City Charter, recommends that the City Planning Commission (CPC) and the City Council approve this application with the following conditions:

1. Demonstration, prior to City Council hearing of effort to:

- a. Purchase additional development rights that would enable the entire conversion of the existing ground-floor accessory garage to commercial or community facility use in a space that fully qualifies as zoning floor area
- b. Reach out to supermarket operators of smaller establishments that feature affordable healthy foods