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**IN THE MATTER OF** an application submitted by Empire MG Properties, LLC, pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, modifying Appendix F for the purpose of establishing a Mandatory Inclusionary Housing area, Borough of Queens, Community District 1.

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The applicant, Empire MG Properties, LLC filed this application on October 4, 2017 for a zoning text amendment to modify Appendix F (Inclusionary Housing Designated Areas and Mandatory Inclusionary Housing Areas) to establish a Mandatory Inclusionary Housing (MIH) area. This application, in conjunction with the related action (C 180036 ZMQ), would facilitate the construction of a seven-story mixed use building located on the west side of 38<sup>th</sup> Street in Astoria, Queens Community District 1.

## **RELATED ACTION**

In addition to the zoning text amendment (N 180037 ZRQ) that is the subject of this report, the proposed project also requires action by the City Planning Commission on the following application, which is being considered concurrently with this application:

**C 180036 ZMQ**      Zoning map amendment to change an M1-1 District to an R6A/C1-3 District.

## **BACKGROUND**

A full background discussion and description of this application appears in the report for the related zoning map amendment (C 180036 ZMQ).

## **ENVIRONMENTAL REVIEW**

This application (N 180037 ZRQ), in conjunction with the related application for the zoning map amendment (C 180036 ZMQ), was reviewed pursuant to the New York State Environmental Quality Review Act (SEQRA) and the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 *et seq.* and the City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The lead is the City Planning Commission. The designated CEQR number is 08DCP045Q.

A summary of the environmental review appears in the report for the related zoning map amendment (C 180036 ZMQ).

## **UNIFORM LAND USE REVIEW**

This application (N 180037 ZRQ) was referred for review and comment to Community Board 1 and the Queens Borough President on April 22, 2019 in accordance with the procedures for non-ULURP matters, along with the application for the related action (C 180036 ZMQ), which was certified as complete by the Department of City Planning and duly referred in accordance with Title 62 of the rules of the City of New York, Section 2-02(b).

### **Community Board Public Hearing**

On May 23, 2019, Queens Community Board 1 held a public hearing on this application (N 180037 ZRQ) and the related application (C 180036 ZMQ) for a zoning map amendment, and on that date, voted 21 in favor, 4 opposed, and 1 abstention, to adopt a resolution recommending approval of the application.

### **Borough President Recommendation**

The Queens Borough President held a public hearing on this application (N 180037 ZRQ) on June 13, 2019, and on July 19, 2019, issued a recommendation to approve the application.

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

On July 31, 2019 (Calendar No. 9), the City Planning Commission scheduled August 14, 2019 for a public hearing on this application (N 180037 ZRQ) and the application for the related action (C 180036 ZMQ). The hearing was duly held on August 14, 2019 (Calendar No. 60). One speaker testified in favor of the application, as described in the report for the related zoning map amendment (C 180036 ZMQ), and the hearing was closed.

## CONSIDERATION

The Commission believes that the proposed zoning text amendment (N 180037 ZRQ) is appropriate. A full consideration and analysis of the issues and the reasons for approving this application appear in the report for the related zoning map amendment (C 180036 ZMQ).

## 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 Section 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 as follows:

Matter underlined is new, to be added;

Matter ~~struck out~~ is to be deleted;

Matter within # # is defined in Section 12-10;

\* \* \* indicates where unchanged text appears in the Zoning Resolution

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## APPENDIX F

### Inclusionary Housing Designated Areas and Mandatory Inclusionary Housing Areas

\* \* \*

## QUEENS

\* \* \*

### Queens Community District 1

\* \* \*

Map 6 - [date of adoption]



Mandatory Inclusionary Housing Area (see Section 23-154(d)(3))

Area 6 — [date of adoption] — MIH Program Option 2

The above resolution (N 180037 ZRQ), duly adopted by the City Planning Commission on September 11, 2019 (Calendar No. 9), 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.

**MARISA LAGO**, *Chair*

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

**DAVID J. BURNEY, ALLEN P. CAPPELLI, Esq., ALFRED C. CERULLO, III,**

**MICHELLE de la UZ, JOSEPH I. DOUEK, RICHARD W. EADDY,**

**HOPE KNIGHT, ANNA HAYES LEVIN, ORLANDO MARIN,**

**LARISA ORTIZ, RAJ RAMPERSHAD** *Commissioners*



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June 10, 2019

Office of the Chairperson

JUN 18 2019

Honorable Marisa Lago, Chair  
City Planning Commission  
120 Broadway, 31<sup>st</sup> Floor  
New York, New York 10271

RE: **38<sup>th</sup> Street Rezoning**  
**C180036 ZMQ** Request to rezone from M1-1 to R6A/C1-3 and from M1-1 to R6A a portion of Block 645, bounded by 34<sup>th</sup> and 35<sup>th</sup> avenues, 37<sup>th</sup> and 38<sup>th</sup> streets and

**N180037 ZRQ** Amendment to Appendix F of the Zoning Resolution to designate rezoning area as an Inclusionary Housing Designated Area and Mandatory Inclusionary Housing Area under Option 2.

Dear Chair Lago,

Community Board 1 Queens (CB1Q) held its duly advertised public hearing for the referenced applications on May 23, 2019. Following the public hearing and, after a report from the Board's Land Use and Zoning Committee, the Board voted to approve the applications with 21 in favor, 4 opposed and 1 not voting for cause. A quorum was present.

### Proposed Action

The proposed rezoning action encompasses 27 tax lots on one block bounded by 34<sup>th</sup> and 35<sup>th</sup> avenues, 37<sup>th</sup> and 38<sup>th</sup> streets. The proposed R6A and C1-3 zoning districts will facilitate construction of a seven-story mixed-use building with approximately 62 total dwelling units (56,139 SF @ 3.6 FAR) including 19 MIH units under Option 2, cellar and sub-cellar parking for 80 cars and ground floor retail space (2,645 SF at 0.17FAR). A landscaped rooftop sitting area and pool would be provided for the tenants.

### Community Review and Comments

The rezoning applications were reviewed and discussed in the Board's Land Use and Zoning Committee on five occasions over the course of two years beginning in February 2017. The original proposal proposed to rezone the entire block with C4-4D on the southern half and R6A to

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**No # 31880**  
**cc**  
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**Alexis Wheeler**  
**Blake Montieth**  
**Laurance Fauconnet**  
**Alana Murphy (Intern)**

the north. After very strong opposition to the idea of introducing a zone with an R8 equivalent into a neighborhood surrounded by R5 development, the application was modified to eliminate the C4-4D component from the actions.

Three subsequent presentations and discussions with the applicant on April 4, 2018, February 6, 2019 and April 3, 2019 related to levels of affordability and the proposed commercial overlay. The modified application was certified on April 22, 2019.

### **Summary of Comments**

Among the issues raised during project review were:

- Rentals and income tiers for eligibility should be closer to the economic profiles of the surrounding area by using income tiers from both Option 1 and Option 2 and
- The apartment mix should not be predominantly studios and one-bedroom apartments, but instead offer more two- and three-bedroom units for families.

After certification, the Applicant revised the number of units and rentals under Option 1 for income bands at 40%, 60% and 80% AMI (15 units) and under Option 2 at 60%, 80% and 100% AMI (18 units). The number of three-bedroom apartments was increased and, as a result, the total number of units was reduced from 62 to 57 units with the following a unit breakdown: 10 Studios (17%), 25 one-bedroom (44%), 17 two-bedroom (30%) and five three-bedroom (9%).

### **CB Public Hearing**

The Applicant's representatives gave an overview of the zoning actions and the proposed development at the Board's public hearing. They described the modifications made to the MIH income bands and rents and addressed issues from Board related to lack of affordability to area residents, gentrification, the area's need for bicycle parking and more rentals and a description of the rent rules that will govern the units in the development.

There were two area residents who testified in support of the project stating that new families in the area will shop locally on Steinway and help its revitalization and that the added parking spaces in the building will give some relief to residents who deal with limited availability of parking in the area.

The Board noted that most of the area to be rezoned are residentially developed but are non-conforming uses under the existing M1-1 zoning. The proposed R6A rezoning is appropriate and will allow existing residential owners to refinance or make improvements.

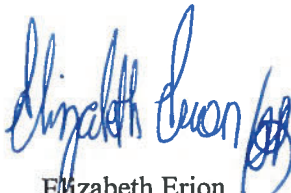
No position was taken on extending the commercial overlay into the midblock along 38<sup>th</sup> Street. Given the nature of the block and the existing mix of uses on both sides of 38<sup>th</sup> Street, there wasn't a strong argument that could influence either support or limitation of the overlay. It was noted, however, that the proposed C1-3 overlay will limit commercial occupancy to local convenience uses that would be appropriate in a residential area.

The Board strongly urges the Applicant to include in the Applicant's agreement and restrictive declaration with HPD those revisions that were presented to the Board: to use both Option 1 and Option 2 income bands for wider eligibility and lower rents, and the revised breakdown of apartment sizes that increases the number of larger apartments to accommodate families.

Sincerely,



Marie Torniali  
Chairperson



Elizabeth Erion  
Co-Chair, Land Use and Zoning Committee

# Queens Borough President Recommendation

APPLICATION: ULURP #180037 ZRQ

COMMUNITY BOARD: Q01

## DOCKET DESCRIPTION

IN THE MATTER OF an application submitted by Eric Palatnik, PC on behalf of Empire MG Properties, LLC pursuant to Sections 197-c and 201 of the New York City Charter for a zoning text amendment to designate the Project Area as a Mandatory Inclusionary Housing ("MIH") area, Borough of Queens, Community District 1, as shown on a diagram (for illustrative purposes only) dated April 22, 2109, and subject to the conditions of CEQR Declaration E-533. (Related ULURP #188036 ZMQ)

## PUBLIC HEARING

A Public Hearing was held in the Borough President's Conference Room at 120-55 Queens Boulevard on Thursday, June 13, 2019, at 10:30 A.M. pursuant to Section 82(5) of the New York City Charter and was duly advertised in the manner specified in Section 197-c (i) of the New York City Charter. The applicant made a presentation. There were no other speakers. The hearing was closed.

## CONSIDERATION

Subsequent to a review of the application and consideration of testimony received at the public hearing, the following issues and impacts have been identified:

- The applicant is proposing to amend Appendix F of the NYC Zoning Resolution to establish and designate the proposed rezoning area as an Mandatory Inclusionary Housing Area;
- An application was filed concurrently with this application to rezone the northern portion (27 tax lots) of the block bounded by 34<sup>th</sup> Avenue between 37<sup>th</sup> & 38<sup>th</sup> Streets from an M1-1 District to R6A and R6A/C1-3 District. The C1-3 District would be limited to the eastern portion of the block;
- The applicant owns 5 properties that would be rezoned to R6A/C1-3 and redeveloped with a proposed seven-story, 56,139 sf mixed use building with 2,645 sf of ground floor retail space with a total of 62 units of housing above it. There would be 19 units of affordable housing using Mandatory Inclusionary Housing (MIH) Option 2 (30% of units @ 80% AMI). Accessory offstreet parking for 80 cars with access from 38<sup>th</sup> Street are also included in this proposal. Redevelopment proposals for the other affected properties, already improved with residential buildings, have not been identified;
- The area south of 38<sup>th</sup> Avenue is developed with a mix of industrial/commercial uses. The rezoning area is mostly developed with residential uses. The areas north of 38<sup>th</sup> Avenue are predominantly developed with residential uses. Steinway Street which is the main commercial strip (C4-2A District) in this area is one-block east of the rezoning area;
- The applicant had met with the Community Board 1 (CB1) land use committee (LUC) three times prior to certification of this application. During those meetings the LUC discussed and voiced concerns that the proposed AMI bands for the affordable units were higher than the income levels of the residents immediately around the development site. Another concern was raised in regards to the need for family sized apartments with more bedrooms instead studios and one-bedroom units. The LUC also requested that a C4-4D District, to be mapped on the southern portion of the block, that had originally part of the rezoning application be removed from the application. After certification, the applicant informed CB 3 that Option 1 (25% of units @ 60% AMI) would be applied to some of the proposed affordable housing, and that there would be an increased number of 3-bedroom units provided that would result in a reduced number of overall total number of apartments in the building;
- Community Board 1 (CB1) approved this application by a vote of twenty-one (21) in favor with four (4) against and one (1) abstaining at a public hearing held on May 23, 2019. CB 1 noted the applicant's willingness to modify the proposal to address concerns raised and did not have a condition of approval in their recommendation. However, they did strongly urge the applicant to memorialize the project modifications, use of Options 1 and 2 for the affordable units and inclusion of more family sized units as presented to CB 1, in a restrictive declaration with HPD.

## RECOMMENDATION

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

  
PRESIDENT, BOROUGH OF QUEENS

7/19/2019  
DATE