



## **CITY PLANNING COMMISSION**

---

November 17, 2004/Calendar No. 28

C 020523 ZMQ

---

**IN THE MATTER OF** an application submitted by Marmon Enterprises, Inc., pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 10d, establishing within an existing R2 District a C2-2 District bounded by 45<sup>th</sup> Drive, Francis Lewis Boulevard, 47<sup>th</sup> Avenue, and a line 225 feet southwesterly of Francis Lewis Boulevard, Borough of Queens, Community District 11, as shown on a diagram (for illustrative purposes only) dated July 26, 2004.

---

The application for an amendment to the Zoning Map was filed by Marmon Enterprises, Inc on April 1, 2001 and revised on October 12, 2004, to establish a C2-2 district within an existing R2 district to facilitate development of a one-story commercial structure and bring existing commercial uses into conformance.

### **BACKGROUND**

The proposed Zoning Map amendment, to establish a C2-2 overlay district within an existing R2 district, is proposed to be mapped to a depth of 225 feet along three block fronts on the west side of Francis Lewis Boulevard between 45<sup>th</sup> Drive and 47<sup>th</sup> Avenue in the Bayside neighborhood of Community District 11, Queens.

The rezoning area consists of approximately 140,600 square feet and includes Block 5541, Lots 1,5, part of 12 and 53, Block 5554, Lots 1, 11 and part of 12 and Block 5555, Lots 1 and part of 13. Two mapped but unimproved segments of 46<sup>th</sup> Avenue and 46<sup>th</sup> Road traverse the subject property west of Francis Lewis Boulevard. Most of the rezoning area, including the unimproved streets, is owned by the applicant. A small portion of the proposed commercial overlay district (approximately 3,240 square feet) would extend into three abutting lots (Block 5541, Lots 12 and 53 and Block 5555, Lot 13) which are residentially developed and not owned by the applicant. The applicant's property extends west of the rezoning area and is occupied by an open garden center and landscaping business which is a non-conforming use that was established in the 1930s.

The rezoning area is zoned R2, but commercially developed. The block front between 45<sup>th</sup> Drive and unimproved 46<sup>th</sup> Avenue is used for open storage and parking for the existing garden center. The two

block fronts between 47<sup>th</sup> Avenue and unimproved 46<sup>th</sup> Avenue are occupied by a supermarket and a bank, pursuant to use variances by the Board of Standards and Appeals (311-61BZ, 550-71BZ, 125-02BZ and 975-65BZ).

Development in the surrounding area is predominantly residential. The R2 district extends north and west of the rezoning area and is developed with single-family homes. An R3-2 district lies east and south of the subject property and is developed primarily with detached, two-story, two-family structures. There are several non-conforming retail and office uses, established in 1941, as well as a gas station, at the intersection of Francis Lewis Boulevard and 47<sup>th</sup> Avenue south and east of the rezoning area. Regional commercial uses are located on Northern Boulevard four blocks to the north.

Under the proposed C2-2 overlay district, the applicant intends to retain the bank and supermarket uses. In addition, the garden center would be maintained as a retail-only facility and its size reduced. On the portion of the rezoning area bounded by 45<sup>th</sup> Drive, Francis Lewis Boulevard and 46<sup>th</sup> Avenue the applicant proposes to construct a one-story, 14,686 square foot commercial building for a Use Group 6 retail use with parking for 52 cars. The proposed C2-2 overlay district would permit this development as-of-right and bring the existing bank and supermarket uses into conformance.

## **ENVIRONMENTAL REVIEW**

This application (© 020523 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 designated CEQR number is 03DCP009Q. The lead is the City Planning Commission.

After a study of the potential environmental impact of the proposed action, a Negative Declaration was issued on July 26, 2004.

## **UNIFORM LAND USE REVIEW**

This application (© 020523 ZMQ) was certified as complete by the Department of City Planning on July 26, 2004, and was duly referred to Community Board 11 and the Borough President, in accordance

with Article 3 of the Uniform Land Use Review Procedure (ULURP) rules.

### **Community Board Public Hearing**

Community Board 11 held a public hearing on this application on September 7, 2004, and on that date, by a vote of 29 to 3 with no abstentions, adopted a resolution recommending disapproval of the application with the following comments:

The residents from the community present at the meeting stressed strong concerns regarding possible future over development of the site as a C2-2 district, existing traffic problems and congestion, noise from possibly a 24 hr. store at the site, large truck deliveries in the early morning hours, and the impact on the quality of life for the residents in the community.

The committee also noted that the proposed C2-2 overlay lines cut through some residential properties...

### **Borough President Recommendation**

This application was considered by the Borough President, who issued a recommendation approving the application with conditions on October 14, 2004.

The Borough President's recommendation included the following conditions:

The proposed C2-2 overlay should be limited to the (applicant's) commercial property only and not overlap onto the adjacent residential properties. The lots are irregular. The boundary of the proposed commercial overlay should be restricted to the applicant's commercially developed property. The overlay should be mapped to a depth of 215 feet instead of 225 feet;

A traffic circulation plan should be prepared for the site for both cars and pedestrians. The applicant should provide adequate signage on the site to promote traffic safety for cars and pedestrians;

All truck deliveries should be limited to daytime hours only. Limiting deliveries to these hours would reduce potential impacts on the surrounding residential community;

The entire site should be landscaped to screen the commercial uses as much as possible from the adjoining residential areas.;

The applicant should follow (sic) through on the effort with the Department of Transportation to have a traffic signal installed as agreed to.

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

On October 6, 2004 (Calendar No. 8), the City Planning Commission scheduled October 20, 2004, for a public hearing on this application © 020666 ZMQ). The hearing was duly held on October 20, 2004 (Calendar No. 15). There were three speakers in favor of the application and none in opposition.

The applicant's attorney related the site's history of commercial development, the nature of the owner's business and described the proposed retail development. He also advised the Commission that the original application was revised to reduce the size of the overlay district on two block fronts and this modification was made in response to community concerns about the proposed C2-2 overlay district overlapping into residentially-developed lots. The representative described the modifications and responded to questions from the Commission about community opposition to the proposed rezoning, traffic circulation and signage, hours of operation and landscaping. The applicant's architect was available to explain the proposed site plan and the owner spoke about his commitment to making improvements to on-site traffic circulation.

There were no other speakers and the hearing was closed.

## **CONSIDERATION**

The Commission believes that this amendment of the Zoning Map, as modified herein, is appropriate.

On October 12, 2004 the applicant filed a revision of the certified application for an amendment of the Zoning Map pertaining to the depth of the proposed C2-2 overlay district. The revision was submitted to respond to community board and Borough President comments made during the public review process and reduces the rezoning area to property owned solely by the applicant.

The proposed rezoning action would establish a C2-2 overlay district in order to permit development of

a one-story retail building. The rezoning area is located on the west side of Francis Lewis Boulevard between 45<sup>th</sup> Avenue and 47<sup>th</sup> Avenue. Francis Lewis Boulevard, itself, is a 106-foot-wide, north/south roadway. The Commission understands that under the existing R2 zoning, development on the subject block fronts would be limited to single-family, detached homes. The Commission notes that the rezoning site is part of an area that has historically been used for commercial purposes. The adjacent garden center was established in the 1930s and the supermarket and bank that currently occupy the rezoning site under variances issued by the Board of Standards and Appeals, were established in the 1960s and the commercial uses southeast of the proposed rezoning site were established in the 1940s. The Commission also notes that these are all active and viable commercial uses.

The Commission acknowledges that the site's location on a major roadway and the existing commercial development on site and in the surrounding area makes it an appropriate area in which to establish a C2-2 commercial overlay district. The proposed C1-2 overlay would permit development of a one-story retail building, similar in character to the adjacent commercial use and would bring the existing bank and supermarket into conformance.

The Commission considered the issues of additional traffic congestion, noise and the impact on the residential community raised by Community Board 11. The Commission notes that the Environmental Assessment Statement prepared for this application concluded that the proposed rezoning action would not have any potentially significant traffic or noise impacts.

The Commission further notes that the applicant revised the proposed rezoning to reduce the size of the proposed C2-2 overlay district to exclude all portions of the adjacent residential lots from the rezoning area and limit the C2-2 overlay district to the applicant's property.

The Commission believes that establishing a C2-2 overlay on the west side of Francis Lewis Boulevard between 45<sup>th</sup> Drive and 47<sup>th</sup> Avenue within the applicant's property lines would be consistent with existing land uses in the area and with the character of the neighborhood.

## **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 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. 10d, by establishing within an existing R2 District a C2-2 District bounded by 45<sup>th</sup> Drive, Francis Lewis Boulevard, 47<sup>th</sup> Avenue, a line 215 feet southwesterly of Francis Lewis Boulevard, 46<sup>th</sup> Road, a line 225 feet southwesterly of Francis Lewis Boulevard, 46<sup>th</sup> Avenue, and a line perpendicular to the northwesterly street line of 46<sup>th</sup> Avenue distant 225 feet (as measured along the street line) from the intersection of the northwesterly street line of 46<sup>th</sup> Avenue and the southwesterly street line of Francis Lewis Boulevard, Borough of Queens, Community District 11, as shown on a diagram (for illustrative purposes only) dated July 26, 2004 and revised October 12, 2004.

The above resolution ( C 020523 ZMQ), duly adopted by the City Planning Commission on November 17, 2004 (Calendar No. 28), 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 G. CANTOR, P.E., ANGELA R. CAVALUZZI, R.A.,  
ALFRED C. CERULLO, III, JANE GOL, CHRISTOPHER KUI, JOHN MEROLO, KAREN  
A. PHILLIPS, DOLLY WILLIAMS, Commissioners**