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September 1, 2021 / Calendar No. 11

C 200306 ZMK

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**IN THE MATTER OF** an application submitted by 307 Kent Associates pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 12d:

1. changing from an M3-1 District to an M1-5 District property bounded by South 2<sup>nd</sup> Street, a line 300 feet northwesterly of Wythe Avenue, South 3<sup>rd</sup> Street, and Kent Avenue;
2. changing from an M3-1 District to an M1-4/R6A District property bounded by South 2<sup>nd</sup> Street, a line 210 feet northwesterly of Wythe Avenue, South 3<sup>rd</sup> Street, and a line 300 feet northwesterly of Wythe Avenue; and
3. establishing a Special Mixed Use District (MX-8) bounded by South 2<sup>nd</sup> Street, a line 210 feet northwesterly of Wythe Avenue, South 3<sup>rd</sup> Street, and a line 300 feet westerly of Wythe Avenue;

Borough of Brooklyn, Community District 1, as shown on a diagram (for illustrative purpose only) dated on April 5, 2021, and subject to the conditions of CEQR Declaration E-592.

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This application for a zoning map amendment was filed by 307 Kent Associates on April 8, 2020 to establish M1-5 and M1-4/R6A zoning districts within a Special Mixed Use District (MX-8) district on the eastern portion of Block 2415. Approval of this application, in conjunction with related action (N 200307 ZRK), would facilitate the development of a new nine-story 93,000-square-foot mixed-use building containing retail and commercial office uses at 307 Kent Avenue in the Williamsburg neighborhood of Brooklyn, Community District 1.

### **RELATED ACTIONS**

In addition to the zoning map amendment (C 200306 ZMK) that is the subject of this report, implementation of the proposed project also requires action by the City Planning Commission (CPC) on the following application, which is being considered concurrently with this application:

<b>N 200307 ZRK</b>	Zoning text amendment to designate a Mandatory Inclusionary Housing (MIH) area
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## **BACKGROUND**

The applicant requests a zoning map amendment that would facilitate the development of a new nine-story, approximately 93,000-square-foot mixed-use commercial and industrial building. The building would contain approximately 8,000 square feet of retail on the ground floor, and medical and commercial offices on floors two through nine.

The project area consists of the development site (Block 2415, Lot 1), as well as (Block 2415, Lots 6, 10, 7501, 7502 and part of 16 and 38) that are not owned by the applicant and not expected to result in development from the proposed actions. The project area comprises the western half of the block bounded by South 2<sup>nd</sup> Street to the north, Wythe Avenue to the east, South 3<sup>rd</sup> Street to the south and Kent Avenue to the west. In total, the project area comprises 52,500 square feet of lot area.

The development site is an irregularly shaped corner lot with frontage on Kent Avenue and South 3<sup>rd</sup> Street with a total lot area of 14,425 square feet. It is currently improved with a one-story warehouse building, and contains two loading berths and no accessory parking spaces. Lot 6, adjoining the development site to the north, contains approximately 11,330 square feet of lot area and is improved with a one-story warehouse building. Lot 10, further north of the development site at the corner of South 2<sup>nd</sup> Street and Kent Avenue, contains approximately 3,206 square feet of lot area and is improved with a vacant one-story building previously used as an eating and drinking establishment. Lots 7501 and 7502 have frontage on both South 2<sup>nd</sup> and South 3<sup>rd</sup> streets and contain a combined total of 19,574 square feet of lot area. These lots were developed in tandem with two four-story multi-family residential buildings containing 47 residential units with 29 open accessory parking spaces located between them. These residential buildings, located in an existing M3-1 zoning district, were constructed pursuant to a use variance granted by the Board of Standards and Appeals under Calendar No. 102-03-BZ. Lot 16 is a 5,000-square-foot lot containing a private parking lot for commercial vehicles. Lot 38, which contains 6,525 square feet of lot area, is improved with a four-story mixed-use building with eight dwelling units and ground floor retail.

The project area is located within an M3-1 zoning district. M3-1 zoning districts are low-density heavy industrial districts that allow for all industrial uses and certain commercial uses with a

maximum FAR of 2.0. Community facility and residential uses are not permitted in M3-1 zoning districts. The building height is regulated by a sky exposure plane envelope, limiting the base height to a maximum of 60 feet, or four stories, whichever is less before setting back from the streetline. M3-1 districts require between one parking space per 300 to 2,000 square foot of floor area, depending on the use.

The surrounding area is characterized by a mix of residential, community facility and commercial uses in a wide variety of building sizes ranging from one to 42 stories. Several eating and drinking establishments and a pre-school occupy the ground floors of surrounding buildings. On the two blocks to the north of the project area are a 147-foot-tall, eight-story former industrial building, converted to community facility and residential uses in 2002, at the southwest corner of South 1<sup>st</sup> Street and Wythe Avenue; a mix of three- and four-story residential buildings; and one-story industrial buildings. To the east of Wythe Avenue between South 1<sup>st</sup> and South 3<sup>rd</sup> streets is a residential area with small walk-up apartment buildings ranging from two- to four-stories, that also contains a few one-story industrial buildings. Recent construction in this area includes a 19-story apartment building located on Wythe Avenue across from the project area between South 2<sup>nd</sup> and South 3<sup>rd</sup> streets. Other uses include one- and two-story light industrial and commercial office buildings.

The five blocks along the East River waterfront to the west of the project area (Grand Street to South 5th Street), are the waterfront blocks of the Domino Sugar Large Scale General Development (C 1401032 ZSK, N 140131 ZRK, C 140133 ZSK, C 140134 ZSK, C 140135 ZSK, N 140136 ZAK). This area includes the Domino Sugar Factory, a landmark set to be enlarged and converted to approximately 355,000 square feet of commercial office space with a total height of approximately 200 feet. The two blocks to the north of the enlarged refinery will be developed with two mixed-use towers with total heights ranging from 435 and 530 feet. The 435-foot-tall tower located at the northern end at 266 Kent Avenue (Block 2414, Lot 2), is a 42-story building currently under construction that will contain commercial office use (approximately 125,000 square feet) with residential use above. The southernmost block will contain a 535-foot-tall residential tower with ground floor retail. In total, the Domino Sugar development will contain approximately 480,000 square feet of office space and 2,282 dwelling units. The western portion of the block to the south of the project area (across South 3<sup>rd</sup> Street),

which constitutes the upland portion of the Domino Sugar LSGD, contains a recently completed 15-story residential building with ground floor retail. The mixed character of the area is reflected in zoning districts that include M3-1, M1-4/R6A, C6-2, R8/C2-4, R6/C2-4, M1-2/R6B, M1-2/R6 and R6.

The surrounding area contains five acres of publicly accessible open space known as Domino Park, located between Kent Avenue and the East River, from Grand Street to South 5<sup>th</sup> Street. Two additional parks are located nearby, Grand Ferry Park located along the East River waterfront north of Grand Street, and Berry Playground located on the south side of South 3<sup>rd</sup> Street between Berry Street and Bedford Avenue.

The project area is located within the Transit Zone and is well served by public transportation. Stops for both the B32 and B59 bus lines, which provide connection to Queens (Long Island City and Elmhurst, respectively), are located directly in front of the project area on Kent Avenue. The Bedford Avenue stop on the L line and the Marcy Avenue stop on the J, M and Z lines are located 0.7 and 0.8 miles, respectively, east from the project area. There is a Citi Bike station located two blocks south from the project area near the intersection of South 4th Street and Wythe Avenue. The East River line of the NYC Ferry network stops six blocks to the south of the development site at Kent Avenue and South 9th Street, providing service to Wall Street (Pier 11), DUMBO, North Williamsburg, Greenpoint, Hunters Point South (Queens) and East 34th Street (Manhattan).

The existing building on the development site would be demolished to facilitate the development of a nine-story mixed-use building containing approximately 93,000 square feet of floor area. The building would be built to a floor area ratio (FAR) of 6.5, with approximately 8,000 square feet of ground floor retail use. The second story and a portion of the third story would contain approximately 21,500 square feet of medical office use. The remainder of the upper stories (a portion of the third floor and floors four through nine) would contain approximately 63,500 square feet of commercial offices use. The building would rise to five stories and 85 feet above containing the street line, with additional floors above setbacks of at least 20 feet from each street line. The maximum building height, dictated by a sky exposure plane, would be 151 feet (nine stories) tall. Floor to finished ceiling heights would range from approximately 13 to 17 feet

to accommodate modern commercial work spaces. Rooftop setbacks would be used for passive recreation space for the proposed office users. No accessory parking spaces are proposed. One loading berth would be accessed by a 13 foot, seven-inch-wide curb cut on South 3<sup>rd</sup> Street located approximately 77 feet from the intersection with Kent Avenue. While approximately 12 bicycle parking spaces would be required, 62 spaces are proposed on the cellar level. Although the development site is not located in a flood zone, due to its proximity to the waterfront, below-grade and at-grade mechanical equipment would be limited to the minimum amount necessary to serve utility points of entry; the remainder of the mechanical equipment would be located within a mechanical roof-top bulkhead.

The applicant proposes a zoning map amendment to map an M1-5 zoning district to a depth of 120 feet on the eastern side of Kent Avenue, between South 2<sup>nd</sup> and South 3<sup>rd</sup> streets. The proposed M1-5 district is a medium density zoning district that allows a wide range of light industrial and commercial uses at a maximum FAR of 5.0. Certain community facility uses are allowed at a maximum FAR of 6.5, and no residential uses are allowed. The building height is regulated by a sky exposure plane envelope, limiting the base height to a maximum of 85 feet or six stories, whichever is less. No parking is required.

The applicant also proposes a zoning map amendment to map an M1-4/R6A district and extend the boundary of the Special Mixed Use District (MX-8) 90 feet west to align with the district boundary of the proposed M1-5 district. The proposed M1-4/R6A (MX-8) district permits residential uses with a maximum FAR of 3.6, community facility uses with a maximum FAR of 3.0, and commercial and manufacturing uses with a maximum FAR of 2.0. For development or enlargements that do not contain residential use (or where residential use does not trigger MIH requirements), the maximum base height is 60 feet and the maximum building height is 70 feet. Where residential development triggers MIH requirements, height and setback regulations are modified to permit a maximum base height of 65 feet and a maximum building height of 85 feet.

The applicant also seeks a zoning text amendment to modify Appendix F to designate an MIH Area on a portion of Block 2415, coterminous with the proposed extension of the existing M1-4/R6-A (MX-8) district. The MIH Area would be mapped with Options 1 and 2.

## **ENVIRONMENTAL REVIEW**

The application (C 200306 ZMK), in conjunction with the application for the related action (N 200307 ZRK), 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 20DCP100K.

It was determined that this application, in conjunction with the applications for the related actions, may have a significant effect on the environment, and that an Environmental Impact Statement (EIS) would be required. A Positive Declaration was issued on January 10, 2020, and subsequently distributed, published, and filed. Together with the Positive Declaration, a Draft Scope of Work for the Draft Environmental Impact Statement (DEIS) was issued on January 10, 2020. A public scoping meeting was held on February 13, 2020 and the Final Scope of Work was issued on April 2, 2021.

A DEIS was prepared and a Notice of Completion for the DEIS was issued on April 2, 2021. Pursuant to SEQRA regulations and the CEQR procedure, a joint public hearing was held on July 14, 2021, in conjunction with the public hearing on the related Uniform Land Use Review Procedure items (C 200306 ZMK, N 200307 ZRK). A Final Environmental Impact Statement (FEIS) reflecting comments made during the public review process was completed, and a Notice of Completion for the FEIS was issued on August 20, 2021. Significant adverse impacts related to hazardous materials, noise, and air quality would be avoided through the placement of (E) designations (E-592) on the project sites as specified in Chapters 4, 6, and 7, respectively of the FEIS.

The application, as analyzed in the FEIS, contained Project Components Related to the Environment (PCREs), which are set forth in Chapter 5, "Transportation." To ensure the implementation of the PCREs, the applicant will enter into the Restrictive Declaration at the time of approval of land use-related actions and prior to issuance of any permits.

The proposed project as analyzed in the FEIS identified significant adverse impacts with respect to transportation (vehicular traffic, transit, pedestrian). The identified significant adverse impacts and proposed mitigation measures under the proposed actions are summarized in Chapter 11 “Mitigation” of the FEIS. To ensure the implementation of the mitigation measures identified in the FEIS, the mitigation measures are included in the Restrictive Declaration.

## **UNIFORM LAND USE REVIEW**

The application (C 200306 ZMK) was certified as completed by the Department of City Planning on April 5, 2021 and duly referred to Brooklyn Community Board 1 and the Brooklyn Borough President in accordance with Title 62 of the Rules of the City of New York, Section 2-02(b), along with the related application for a zoning text amendment (N 200307 ZRK), which was referred in accordance with the procedures for non-ULURP matters.

### **Community Board Public Hearing**

Brooklyn Community Board 1 held a public hearing on the application (C 200306 ZMK) on June 8, 2021, and, on that date, by a vote of 25 in favor, five opposed and one abstaining, adopted a resolution to approve the application.

### **Borough President Recommendation**

The Brooklyn Borough President held a public hearing on the application (C 200306 ZMK), on June 14, 2021, and, on July 9, 2021, issued a recommendation to approve with the following conditions:

“1. Prior to considering adoption of the M1-5 district, the City Council should obtain written commitments from 307 Kent Avenue clarifying how it would establish a legal mechanism, such as a deed restriction, contract with a non-profit entity, and/or government financing agreement that would limit Required Industrial Use (RIU) area to innovation and maker uses, monitor use floor area compliance, establish clear access to the street, and limit accessory retail floor area. Such mechanism would ensure that:

- a. Compliance and recordation shall be according to ZR 74-967(a)
- b. Periodic notification by the owner shall be according to ZR 74-967(b)
- c. Annual reporting by a qualified third party shall be according to ZR 74-967(c)

- d. Floor area managed by a non-profit entity shall remain part of the zoning lot and comply with annual reporting and periodic notification requirements
  - e. Innovation and maker uses shall be restricted to Use Groups (UGs) 9A, limited to blueprinting or photostating establishments, dental or medical laboratories, musical instrument repair shops, studios, trade schools for adults, 10A, limited to studios, 11A, 16A except for automobile showrooms, 16B, 16D except for truck terminals, warehouses, and wholesale establishments, 17B, 17C, limited to agriculture, and 18A
  - f. Innovation and/or maker uses shall be provided with clear access to common service corridors, freight elevators, and loading docks on streets 24 hours a day, seven days a week to ensure active industrial spaces
  - g. Accessory retail floor area that would otherwise meet the definition of UGs 6A, 6C, 7B, 7D, 8B, 8C, 10A, and 12, shall not exceed the greater of 100 square feet (sq. ft.) or 10 percent of an establishment's floor area (limited to 1,000 sq. ft.) in order to be deemed accessory
2. That the City Council obtain written commitments from 307 Kent Associates to:
- a. Memorialize the incorporation of resiliency and sustainability measures, such as blue and/or green roofs, grid-connected rooftop batteries, passive house design, solar panels and/or facades, and/or wind turbines
  - b. Coordinate with the New York City Department of Environmental Protection (DEP), New York City Department of Transportation (DOT), and the New York City Department of Parks and Recreation (NYC Parks) regarding the installation of DEP rain gardens as part of a Builders Pavement Plan in consultation with Brooklyn Community Board 1 (CB 1) and local elected officials
  - c. Pursue Connecting Residents on Safer Streets (CROSS) Brooklyn implementation with installation of a curb extension at the northeast corner of Kent Avenue and South Third Street either as part of a Builders Pavement Plan or as treated roadbed sidewalk extensions, with the understanding that DOT implementation would not proceed prior to consultation with CB 1 and local elected officials
  - d. Enter into a standard DOT maintenance agreement for the northeast corner of Kent Avenue and South Third Street



- e. Advance protected painted areas for the above intersection of Kent Avenue and South Third Street as part of a Builders Pavement Plan and/or as treated roadbed sidewalk extensions, with the understanding that DOT implementation would not proceed prior to consultation with CB 1 and local elected officials
- f. Retain Brooklyn-based contractors and subcontractors, especially those that are designated local business enterprises (LBEs) consistent with Section 6-108.1 of the City's Administrative Code, and minority- and women-owned business enterprises (MWBEs) as a means to meet or exceed standards per Local Law 1 (no less than 20 percent participation), as well as coordinate the oversight of such participation by an appropriate monitoring agency

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

On June 23, 2021 (Calendar No. 4), the City Planning Commission scheduled July 14, 2021 for a public hearing on this application (C 200306 ZMK). The hearing was duly held on July 14, 2021 (Calendar No. 39). There were three speakers in favor of the application and two in opposition.

Speakers in favor included three members of the applicant team. The team provided an overview of the project, surrounding context, and rationale for the proposed rezoning, highlighting the ongoing transition from heavy manufacturing use to residential uses within the surrounding area, close proximity to public transit, and height of nearby buildings. The applicant team expressed their intention to accommodate multiple tenants while providing high floor-to-ceiling heights to be flexible for multiples tenants and uses. They emphasized how the proposed project would ensure the growth of commercial spaces in the area, which is currently dominated by residential uses, as well as the retention of some light industrial uses allowed on the site. The applicant also stated that they are in the process of finalizing an agreement with Saint Nicks Alliance to provide training and job placement services for the construction and operation of the building, including services for the leasing of the commercial spaces within the building.

### **WATERFRONT REVITALIZATION PROGRAM**

This application (C 200306 ZMK) was reviewed by the Department of City Planning for consistency with the policies of the New York City Waterfront Revitalization (WRP), as

amended, approved by the New York City Council on October 30, 2012 and by the New York State Department of State on February 3, 2016 pursuant to the New York State Waterfront Revitalization and Coastal Resources Act of 1981, (New York State Executive Law, Section 910 et seq.). The designated WRP number is 16-156.

This action was determined to be consistent with the policies of the WRP.

## **CONSIDERATION**

The Commission believes that this application for a zoning map amendment (C 200306 ZMK), in conjunction with the related application for a zoning text amendment (N 200307 ZRK), is appropriate.

Together, these actions will facilitate the development of a nine-story mixed-use building with retail uses on the ground floor, medical facilities on the second and third floors, and commercial uses on the remainder of the upper floors, with a portion of a third floor intended to be tenanted with medical offices. The project area is situated at the corner of a major corridor of the area and it is served by a wide array of public transit options. The project area represents an opportune location for the proposed development, helping to bring jobs closer to residential areas, while activating the corner of Wythe Avenue and South 3<sup>rd</sup> Street.

The Commission believes that the proposed M1-5 zoning district is appropriate given the surrounding context, built forms, and land use trends. The existing M3-1 zoning district is a heavy industrial district originally mapped in 1961 and is no longer appropriate for this location. The M3-1 zoning district allows up to 2.0 FAR for industrial uses and some limited commercial uses, allows a maximum base height of 65 feet or four stories, whichever is less, has relatively low performance standards for noxious uses, and requires a significant number of off-street parking spaces, which are conditions not ideal in proximity to residential areas. As the number and type of jobs in the Greenpoint-Williamsburg Industrial Business Zone continue to grow, modernize, and densify, the M3-1 zoning district's suburban-style development regulations are no longer relevant and hinder the expansion of tertiary job clusters in walk-to-work neighborhoods like Greenpoint and Williamsburg.

The Commission notes that the density and height allowed under the M1-5 zoning district is appropriate due to the project area's proximity to transit and a growing residential population, existing and planned open spaces, and location within a strong neighborhood jobs hub. The immediate area is mix of residential buildings of between one- to 40- stories in height, 20-story commercial buildings, and two-story industrial buildings. The area also acts as a transition area from medium density residential buildings in the upland portion of the neighborhood west of Kent Avenue to the 30- and 40-story residential towers and open spaces on the west side of Kent Avenue.

The Commission also believes that the greater variety of uses allowed, and the reduced off-street parking and loading required, in the M1-5 zoning district are appropriate due to the existing and future uses within the surrounding area. The area historically evolved as a mixed-residential, commercial, and industrial neighborhood, with workers often living within walking distance of the piers, warehouses, shops, and factories. Though changes in shipping and global trade have reduced the scale and nature of many industrial business since the mid-20<sup>th</sup> century, the citywide demand for food and retail uses, coupled with advances in the information and media industries, have transformed the area. In part, due to the continued growth of the local population, there is an opportunity to further increase job densities and allow for a greater variety of uses, fostering a walk-to-work neighborhood. The M1-5 zoning district will remove the onerous off-street parking requirements that can prevent new job spaces from being developed and that unhelpfully encourage people to drive to the area from outside of the neighborhood. The M1-5 zoning district will also allow for more commercial and industrial uses at greater densities, which will provide an alternative to what often occurs in more restrictive districts, where retail and commercial uses may only be allowed to conversion of an existing industrial building or redevelopment of three or four stories, limiting the potential number of jobs.

The Commission believes that the zoning map amendment to extent the boundary of the M1-4/R64 zoning district within a Special Mixed-Use District (MX-8) district is appropriate based on the surrounding context, built forms, and current land use on this portion of the lot. Extending M1-4/R6-A district 90-feet west towards Kent Avenue constitutes a rational land use plan supporting the existing two four-story residential buildings that will come into conformance.

The Commission believes that the zoning text amendment (N 200307 ZRK) to Appendix F to create a new MIH Area is appropriate. The new MIH Area, which would cover the extension of the M1-4/R6A district due to the change of use and substantial increase in residential capacity being proposed as part of the project area. The MIH Area will be mapped with MIH Options 1 and 2 for which permanently affordable housing must be provided to a range of 25 and 30 percent of the residential floor area. The MIH text amendment is also aligned with citywide objectives outlined in *Housing New York* to locate affordable housing near transit.

Regarding the Borough President's recommendation for the applicant to request an Industrial Business Incentive Area special permit, on streetscape, resiliency, and hiring practices, the Commission notes that these topics are outside the scope of the proposed actions.

## **RESOLUTION**

**RESOLVED**, that having considered the Final Environmental Impact Statement (FEIS), for which a Notice of Completion was issued on August 20, 2021 with respect to this application (CEQR No. 20DCP100K), the City Planning Commission finds that the New York State Environmental Quality Review Act and Regulations have been met and that:

1. Consistent with social, economic and other essential considerations, from among the reasonable alternatives thereto, the action is one which minimizes or avoids adverse environmental impacts to the maximum extent practicable; and
2. The adverse environmental impacts disclosed in the FEIS will be minimized or avoided to the maximum extent practicable by incorporating, as conditions to the approval, report for C 200306 ZMK, those project components related to environment and mitigation measures that were identified as practicable.

The report of the City Planning Commission, together with the FEIS constitutes the written statement of facts, and of social, economic and other factors and standards, that form the basis of the decision, pursuant to Section 617.11(d) of the SEQRA regulations, and be it further

**RESOLVED**, by the City Planning Commission, pursuant to Sections 197-c and 200 of the New York City Charter, that submitted based on the environmental determination, and the consideration and findings described in this report, the application by 307 Kent Associates

pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 12d:

1. Changing from an M3-1 District to an M1-5 District property bounded by South 2<sup>nd</sup> Street, a line 300 feet northwesterly of Wythe Avenue, South 3<sup>rd</sup> Street, and Kent Avenue;
2. Changing from an M3-1 District to an M1-4/R6A District property bounded by South 2<sup>nd</sup> Street, a line 210 feet northwesterly of Wythe Avenue, South 3<sup>rd</sup> Street, and a line 300 feet northwesterly of Wythe Avenue; and
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Borough of Brooklyn, Community District 1, as shown on a diagram (for illustrative purpose only) dated on April 5, 2021, and subject to the conditions of CEQR Declaration E-592.

The above resolution (C 200306 ZMK), duly adopted by the City Planning Commission on September 1, 2021 (Calendar No. 11), is filed with the Office of the Speaker, City Council and the Borough President, together with a copy of the plans of the development, in accordance with the requirements of Section 197-d of the New York City Charter.

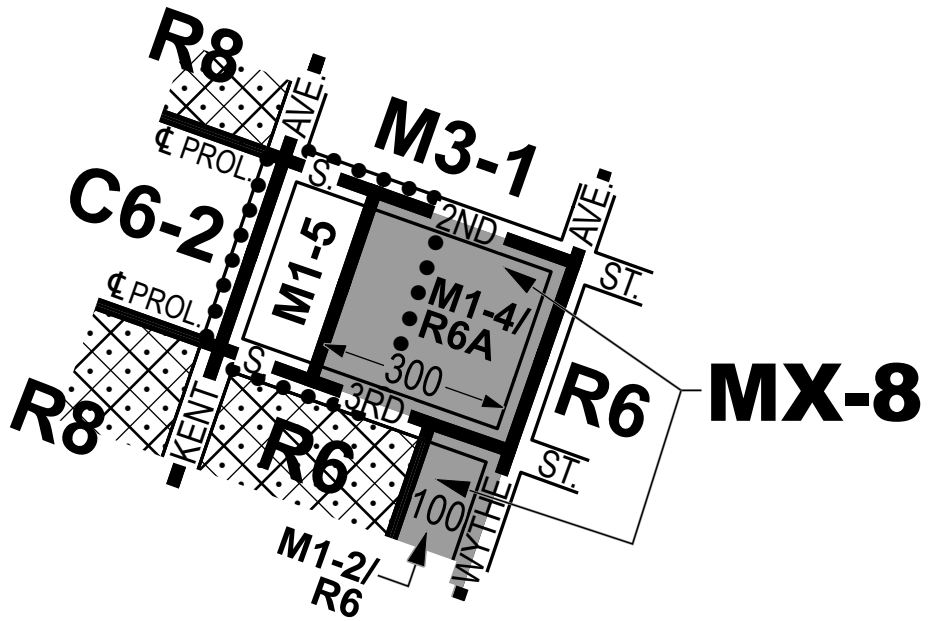
**MARISA LAGO**, *Chair*

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

**DAVID J. BURNEY, ALFRED C. CERULLO, III,**

**JOSEPH I. DOUEK, RICHARD W. EADDY, HOPE KNIGHT, ANNA HAYES LEVIN,**

**ORLANDO MARIN, LARISA ORTIZ, RAJ RAMPERSHAD**, *Commissioners*



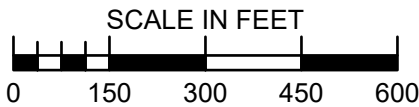
CITY PLANNING COMMISSION  
 CITY OF NEW YORK  
 DIAGRAM SHOWING PROPOSED  
**ZONING CHANGE**  
 ON SECTIONAL MAP

**12d**  
 BOROUGH OF  
**BROOKLYN**



*S. Lenard*  
 S. Lenard, Director  
 Technical Review Division




New York, Certification Date:  
 April 5, 2021



**NOTE:**

-  Indicates Zoning District Boundary
-  The area enclosed by the dotted line is proposed to be rezoned by changing from an M3-1 District to M1-5 and M1-4/R6A Districts, and by establishing a Special Mixed Used District (MX-8).

 Indicates a C2-4 District

 Indicates a Special Mixed Use District (MX-8)



# COMMUNITY/BOROUGH BOARD RECOMMENDATION

<b>Project Name:</b> 307 Kent Avenue Rezoning	
<b>Applicant:</b> 307 Kent Associates	<b>Applicant's Primary Contact:</b> Judith (Judy) Gallent
<b>Application #</b> 200306ZMK	<b>Borough:</b>
<b>CEQR Number:</b> 20DCP100K	<b>Validated Community Districts:</b> K01

**Docket Description:**

IN THE MATTER OF an application submitted by 307 Kent Associates pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 12d:

1. changing from an M3-1 District to an M1-5 District property bounded by South 2nd Street, a line 300 feet northwesterly of Wythe Avenue, South 3rd Street, and Kent Avenue;
2. changing from an M3-1 District to an M1-4/R6A District property bounded by South 2nd Street, a line 210 feet northwesterly of Wythe Avenue, South 3rd Street, and a line 300 feet northwesterly of Wythe Street; and
3. establishing a Special Mixed Use District (MX-8) bounded by South 2nd Street, a line 210 feet northwesterly of Wythe Avenue, South 3rd Street, and a line 300 feet northwesterly of Wythe Street;

Borough of Brooklyn, Community District 1, as shown on a diagram (for illustrative purposes only) dated April 5, 2021, and subject to the conditions of CEQR Declaration E-592.

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

<b>RECOMMENDATION: Favorable</b>			
<b># In Favor:</b> 25	<b># Against:</b> 5	<b># Abstaining:</b> 1	<b>Total members appointed to the board:</b> 31
<b>Date of Vote:</b> 6/8/2021 12:00 AM		<b>Vote Location:</b> WEBEX	

*Please attach any further explanation of the recommendation on additional sheets as necessary*

<b>Date of Public Hearing:</b>	
<b>Was a quorum present?</b> Yes	<i>A public hearing requires a quorum of 20% of the appointed members of the board but in no event fewer than seven such members</i>
<b>Public Hearing Location:</b>	

**CONSIDERATION:** (see attached report)

Recommendation submitted by	BK CB1	Date: 6/9/2021 2:04 PM
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# COMMUNITY BOARD No. 1

435 GRAHAM AVENUE - BROOKLYN, NY 11211- 8813

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HON. ERIC L. ADAMS  
BROOKLYN BOROUGH PRESIDENT



SIMON WEISER  
FIRST VICE-CHAIRMAN

DEALICE FULLER  
CHAIRPERSON

HON. STEPHEN T. LEVIN  
COUNCILMEMBER, 33rd CD

DEL TEAGUE  
SECOND VICE-CHAIRPERSON

GERALD A. ESPOSITO  
DISTRICT MANAGER

HON. ANTONIO REYNOSO  
COUNCILMEMBER, 34th CD

GINA BARROS  
THIRD VICE-CHAIRPERSON

MARIA VIERA  
FINANCIAL SECRETARY

SONIA IGLESIAS  
RECORDING SECRETARY

PHILIP A. CAPONEGRO  
MEMBER-AT-LARGE

Revised  
June 8, 2021

## LAND USE, ULURP & LANDMARKS (subcommittee) COMMITTEE REPORT JUNE 8, 2021

TO: CB#1 Chairperson Dealice Fuller  
and CB#1 Board Members

FROM: Ms. Del Teague, Committee Chair  
Land Use, ULURP & Landmarks (subcommittee) Committee

RE: Committee Report for meeting held on June 1, 2021

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CB #1 Land Use, ULURP & Landmarks (subcommittee) Committee met on Tuesday, June 1, 2021 at 6:30 P.M. Via Webex.

**ATTENDANCE:**

Members Present: Teague (chair); Chesler; Drinkwater; Kaminski; Rabbi Niederman; Solano; Weidberg; Vega; Andrews\*; Berger\*; Kantin\*; Kawochka\*; Naplatarski\*; Stone\*; [(\*) non-board member].

Members Absent: Indig; Lebovits; Miceli; Sofer.  
(14 members were present and a quorum was achieved.)

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**Land Use Committee Report for the 6/1/2021 meeting:**

(1.) **307 Kent Avenue Rezoning ULURP No. 200306 ZMK** – Requesting a zoning map change from M3-1 to M1-5, to extend the existing M1-4/R6A (MX-8) and Zoning Text Amendment to add an MIH Area, to facilitate the development of a new nine-story commercial building located at 307 Kent Avenue, Williamsburg. Presented by Judith Gallent, Bryan Cave Leighton Paisner LLP.

Ms. Gallent pointed out that this site is surrounded by the Domino buildings and other buildings that are greater in height than the proposed development. She stated that the area has been transformed from a heavy manufacturing district to a mixed-use district. The developer stated he



intends to focus on the current need for smaller office and Industrial spaces. He also stated that his plan for community space is for a medical facility. The space he has designated will accommodate a variety of types of medically related facilities. He stated, however, if it does not appear that there is a strong likelihood that he will get a renter for the community space, he will not build it and will build with the smaller FAR, because in a development this small it would not be cost effective to build and leave 1.5 FAR vacant.

The committee considered conditioning approval on a restrictive declaration to require some amount of industrial space, but opted not to do so, because the development is on the whole conforming; and the proposed plan will address the post-shut down need for smaller offices and light industrial uses.

**Recommendation:** The committee voted to **approve the application.**

14 – Yes

0 – No

**(2.) BSA: (Cal. No. 2017-131-BZIII) 77-79 Gerry Street (Block 2266, Lot 49)** - This application is filed pursuant to section 72-01 and 72-22 of the Zoning Resolution of the City of New York, as amended (referred to herein as the “Zoning Resolution” or “ZR”) to request an amendment of previously granted variance under BSA Cal. No 2017-131-BZ to amend the proposal for a house of worship at the Premises by changing the dimensions of the zoning lot, and by making minor changes to the interior layout of the cellar and lower three floor. Presented by David Rosenberg, Sheldon Lobel P.C.

The variance previously granted in 2017 sought to build a seven-story building (three-story house of worship and four-story residence). The initial plan was based on the anticipated purchase of excess floor area rights from three adjacent lots. Under that plan the building would have had 65% lot coverage. The business deal fell through, so the applicant now seeks to build a smaller five-story building. It will have the same footprint as the seven-story building but will now have 100% lot coverage.

**Recommendation:** The committee voted to **approve the application.**

11 – Yes

0 – No

**(3.) Elevate Transit: Zoning for Accessibility (ZFA) Non-ULURP (N210270 ZRY)** -The MTA and DCP are proposing a citywide zoning text amendment that will allow the MTA to work more efficiently with private developers to help achieve systemwide accessibility. The proposal includes a system-wide transit easement certification and an authorization for transit improvement bonuses in high density areas to facilitate the implementation of ADA access at stations throughout the city more quickly and efficiently. Presented by Alexandra Paty-Diaz, NYC Department of City Planning, and Andrew Inglesby, MTA.

Ms. Paty-Diaz explained that many opportunities to provide more accessibility to our subway system have been lost because of the lack of ownership by the city of adjacent property. This amendment will provide a city-wide framework for easement requirements in R5 or above districts and in manufacturing districts for all lots of at least 5,000 sf within 50' of a station. The requirements will apply where there will be new development or additions to a pre-existing building. In those cases, the owner is required to consult with the MTA regarding the need for a transit easement. In return the owners will be offered certain relief depending on the specific development or expansion planned by the owners. The categories of relief include increased floor area and height allowances, and relaxed requirements for open space, setbacks, and parking. Density bonuses only apply in R9 and R10 districts, neither of which occur in CB1. We must submit our letter of comments by June 14, 2021 to the City Planning Commission.

**Recommendation:** The committee voted to approve the application and to ask the full board to submit a letter of approval to the City Planning Commission by June 14, 2021.

11 – Yes

0 – No

**(4.) 101 Varick Avenue DCP Cal# 210329 PCK**

In the matter of an application submitted by the New York City Department of Transportation and the Department of Citywide Administrative Services, pursuant to Section 197-c of the New York City Charter, for the site selection and acquisition of a property located at 101 Varick Avenue (Block 2974, Lot 113) for use as a DOT operations and warehouse facility, Borough of Brooklyn, Community District 1. Presented by Dorrit Blakeslee, Project Manager, Department of Transportation.

DOT needs to expand its Sidewalk Inspection Unit and to re-locate its Street Lighting warehouse operations. The Street Lighting warehouse operations is already at the site. The site is in the North Brooklyn IBZ, and the propose use conforms to the current M3-1 zoning.

Ms. Blakeslee stated the DOT operations would bring more employment to the area and pointed out that the EIS found there were no adverse traffic of parking impacts expected. There would be 21 trucks in total at the site, comprised of pick-ups, vans, and dump trucks. No concrete materials would be stored or prepared at the site. Ms. Blakeslee stated they are looking to install solar panels on the roof. The hours of operation would be 7:30 am to 3:30 pm.

The committee pointed out that there are several large entertainment venues nearby, at least one of which has daytime events that will lead to large crowds coming and leaving during the DOT hours of operation. The committee strongly recommended that DOT develop a plan to deal with safety measures that take into consideration the proximity of the venues and the large numbers of

people that will be in the streets entering and exiting the events. Ms. Blakeslee assured us that she will include such a plan in her remaining presentations.

**Recommendation:** The committee voted to approve the application with suggestions that DOT include in its future presentations a plan to take into consideration the proximity of the night-life venues, and that it works with the owner of the property to install solar panels and a green roof.

13 – Yes

0 – No



# BOROUGH PRESIDENT RECOMMENDATION

<b>Project Name:</b> 307 Kent Avenue Rezoning	
<b>Applicant:</b> 307 Kent Associates	<b>Applicant's Administrator:</b> Judith (Judy) Gallent
<b>Application #</b> 200306ZMK	<b>Borough:</b> Brooklyn
<b>CEQR Number:</b> 20DCP100K	<b>Validated Community Districts:</b> K01

**Docket Description:**

IN THE MATTER OF an application submitted by 307 Kent Associates pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 12d:

1. changing from an M3-1 District to an M1-5 District property bounded by South 2nd Street, a line 300 feet northwesterly of Wythe Avenue, South 3rd Street, and Kent Avenue;
2. changing from an M3-1 District to an M1-4/R6A District property bounded by South 2nd Street, a line 210 feet northwesterly of Wythe Avenue, South 3rd Street, and a line 300 feet northwesterly of Wythe Street; and
3. establishing a Special Mixed Use District (MX-8) bounded by South 2nd Street, a line 210 feet northwesterly of Wythe Avenue, South 3rd Street, and a line 300 feet northwesterly of Wythe Street;

Borough of Brooklyn, Community District 1, as shown on a diagram (for illustrative purposes only) dated April 5, 2021, and subject to the conditions of CEQR Declaration E-592.

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

**RECOMMENDATION:** Conditional Favorable

*Please attach any further explanation of the recommendation on additional sheets as necessary*

**CONSIDERATION:**

Recommendation submitted by	BK BP	Date: 7/12/2021 11:38 AM
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## Brooklyn Borough President Recommendation

CITY PLANNING COMMISSION  
120 Broadway, 31<sup>st</sup> Floor, New York, NY 10271  
[CalendarOffice@planning.nyc.gov](mailto: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

307 KENT AVENUE REZONING – 200306 ZMK, 200307 ZRK

An application submitted by 307 Kent Associates, pursuant to Sections 197-c and 201 of the New York City Charter, for land use actions affecting the western half of a block bounded by Kent and Wythe avenues, and South Second and Third streets, presently zoned M3-1. The proposed zoning map amendment would establish an M1-5 district to a depth of 120 feet from Kent Avenue, and extend an existing M1-4/R6A district on the eastern half of the block to 300 feet from Wythe Avenue. A concurrent zoning text amendment would establish the additional M1-4/R6A section as a Mandatory Inclusionary Housing (MIH) area. Such actions would facilitate a nine-story, approximately 93,000 sq. ft., primarily commercial office building at the northeast corner of South Third Street and Kent Avenue in Brooklyn Community District 1 (CD 1).

BROOKLYN COMMUNITY DISTRICT NO. 1

BOROUGH OF BROOKLYN

### RECOMMENDATION

APPROVE

APPROVE WITH  
MODIFICATIONS/CONDITIONS

DISAPPROVE

DISAPPROVE WITH  
MODIFICATIONS/CONDITIONS

SEE ATTACHED

*Eric L. Adams*

\_\_\_\_\_  
BROOKLYN BOROUGH PRESIDENT

July 9, 2021

\_\_\_\_\_  
DATE

**RECOMMENDATION FOR: 307 KENT AVENUE REZONING – 200306 ZMK, 200307 ZRK**

307 Kent Associates submitted applications pursuant to Sections 197-c and 201 of the New York City Charter, for land use actions affecting the western half of a block bounded by Kent and Wythe avenues, and South Second and Third streets, presently zoned M3-1. The proposed zoning map amendment would establish an M1-5 district to a depth of 120 feet from Kent Avenue, and extend an existing M1-4/R6A district on the eastern half of the block to 300 feet from Wythe Avenue. A concurrent zoning text amendment would establish the additional M1-4/R6A section as a Mandatory Inclusionary Housing (MIH) area. Such actions would facilitate a nine-story, approximately 93,000 square feet (sq. ft.), primarily commercial office building at the northeast corner of South Third Street and Kent Avenue in Brooklyn Community District (CD 1).

On June 14, 2021, Brooklyn Borough President Eric Adams held a remote public hearing on these zoning map and text amendments. There were no speakers on the item.

In response to Borough President Adams' inquiry regarding the concerns expressed by neighboring residents, including the proposed expansion of the adjacent residential permitting district, the representative stated that the proposed MX district would legalize two non-conforming condominiums on the block, while eliminating an M3 zone adjacent to a residential district.

In response to Borough President Adams' inquiry as to why the applicant proposed mapping M1-5 in lieu of M1-4 with the same floor area ratio (FAR) according to the Industrial Business Incentive Area (IBIA) special permit, the representative noted that Special Permit did not exist when the proposal was initially contemplated. Compared to an M1-4 district, the M1-5 would permit more commercial and manufacturing FAR while reducing burdensome loading requirements. The requested district was deemed more appropriate to the needs of the building's intended small businesses.

In response to Borough President Adams' inquiry regarding any commitment to provide below market-rate space for industrial and/or maker businesses, as well as arts and cultural uses, and how such commitment would be recorded, the representative stated that the project's limited size, as well as current economic uncertainty preclude commitment to particular uses. It was noted that without the additional community facility floor area, the building would be approximately 70,000 sq. ft., and that Brooklyn Community Board 1 (CB 1) did not condition its approval on such commitment to allow market flexibility.

In response to Borough President Adams' inquiry regarding the incorporation of sustainable features such as passive house design, blue/green/white roof covering, solar roof and/or façade panels, New York City Department of Environmental Protection (DEP) rain gardens, and wind turbines, the representative expressed intent to incorporate in high efficiency window systems and green roof technology. However, the development's limited roof area and the heights of surrounding buildings would limit the potential of solar energy generation. The representative noted that the enhanced sidewalks would accommodate rain gardens and other landscape features.

In response to Borough President Adams' inquiry regarding the inclusion and participation of locally owned business enterprises (LBEs) and minority- and women-owned business enterprises (MWBEs) in the construction process, the representative noted that the developer is collaborating with St. Nick's Alliance (SNA), and has committed a portion of the project jobs to trainees in its workforce program. The representative also stated intent to incorporate MWBE businesses in the development.

Prior to the hearing, Borough President Adams received written testimony in support of 307 Kent Avenue from the New York City & Vicinity District Council of Carpenters.

Subsequently, Borough President Adams received written testimony from two local residents in support of the application, and seven against. Those opposed questioned the need for more commercial space in the area as well as the building's height and scale. The residents also cited potential quality-of-life impacts including noise, pollution, and traffic.

### **Consideration**

CB 1 voted to approve this application on June 8, 2021.

The proposed actions would affect a 14,425 sq. ft. irregular corner lot extending 125 feet on Kent Avenue and 120 feet along South Third Street. The development site contains a one-story, warehouse, with a FAR of 1.3, constructed in 1970, with two loading berths and no accessory parking. The building's most current use has been a Use Group (UG) 13 banquet hall. The underlying high-intensity M3-1 district permits UGs 6 through 18 (excluding UG 15), with a maximum FAR of 2.0 for commercial and industrial uses. There is no community facility FAR, as such uses are not permitted in M3 districts. Commercial uses typically have a parking requirement of one space per 300 sq. ft. The applicant is seeking a rezoning to M1-5 to eliminate this obligation, and increase the allowable floor area, while allowing specific community facility uses such as ambulatory medical.

As represented, 307 Kent Avenue would contain nine stories, with 8,000 sq. ft. of UG 6 ground-floor retail, and 21,000 sq. ft. of UG 4 medical offices on the second and third floors. The remainder of the building would likely be occupied by UG 6B commercial uses and might include small manufacturers. The development would rise to a maximum height of 151 feet with 20-foot setbacks on Kent Avenue and South Third Street above 85 feet. While no parking is intended, a single loading berth, accessed via a curb on South Third Street, would be provided. Additionally, 62 bicycle parking spaces, 50 more than required by zoning, are proposed for the cellar.

Borough President Adams supports land use actions that broaden economic opportunity by providing employment for varied skill sets. The proposed rezoning would facilitate new commercial development, though it does not align with the City's workforce goals, which include the creation and/or retention of quality jobs for those without college degrees. Borough President Adams believes in preserving and expanding manufacturing floor area to sustain and grow the City's industrial sector. He advocates well-configured commercial office and retail development that provides neighborhood amenities in areas with thriving innovation economies.

One quirk of manufacturing district regulations is that office and retail uses have been allowed to proliferate to such an extent that the many properties have transitioned to be primarily commercial in character. This phenomenon appears contrary to the expectations of the 1961 New York City Zoning Resolution (ZR). As commercial uses tend to be higher value than industrial ones, without regulation, the private market would not provide manufacturing space. Moreover, onerous parking requirements imposed by the ZR discourage the development of new buildings in many M-zoned areas. The requested rezoning would increase the permitted FAR from 2.0 to 6.5 (based on the provision of 1.5 FAR in community facility uses), while eliminating automobile parking requirements. Though, there would be no requirement for artisan and other maker uses.

Commercial development applications requiring discretionary approvals provide an opportunity to leverage certainty for maker and other beneficial uses while applying use restrictions within the new floor area. Establishing a legal mechanism to ensure provision of maker space and uses would help maximize the project's public purpose.

As for the proposed zoning for the mid-block, Borough President Adams supports land use actions that bring existing properties into zoning conformance, which, in this instance, would be achieved by mapping

an MX district over an M3-1 zoned portion of the block that contains residential development. Moreover, if approved, the proposal would result in surplus development rights that would be governed by MIH, guaranteeing that future housing construction of at least 12,500 sq. ft., would include affordable units.

Borough President Adams believes that it is appropriate to map commercial zoning districts without parking requirements in proximity to public transportation. The development site is accessible via several transit modes. The B32 and Q59 buses travel along Kent Avenue, stopping between South Second and South Third streets. The Brooklyn-Queens Greenway runs north and south along Kent Avenue, and while the nearest subway stop, Bedford Avenue, is located 10 blocks northeast of the site, the surrounding area is well-served by Citi Bike, as well as bicycle parking facilities.

Borough President Adams generally supports the rezoning to facilitate the represented FAR and bulk for commercial development at 307 Kent Avenue. He believes that the elimination of parking required under the current zoning is justified to achieve locally-based space for employment and if it results in preserving industrial jobs in the area, a priority for both the City and the community. However, he seeks assurances of dedicated commercial space for maker businesses, a mechanism to guarantee user compliance, restrictions on permitted use groups, limitations on accessory retail floor area, integration of resilient and sustainable features including rain gardens, Vision Zero pedestrian safety enhancements, and a high level of local and MWBE hiring for the project.

#### **Ensuring Adequate Provision of Space for Innovation and Maker Jobs**

According to the applicant, none of the proposed floor area would be reserved for artisan and/or maker space. While adding 93,000 sq. ft. of new commercial space at this location could enhance opportunity for makers seeking to locate in Williamsburg, the developer is not obligated to lease space to such uses. Borough President Adams believes that it is important to have mechanisms in place to ensure a segment of the building obligates maker use tenancing. One successful example is the IBIA Special Permit pursuant to ZR 74-96. This was established in 2016, prompted by a ULURP application for 25 Kent Avenue, and was initially applicable for a one block area within the Greenpoint-Williamsburg IBZ. Subsequently, the IBZ location requirement was amended with the designation of IBIA 2 in Long Island City, Queens.

The IBIA Special Permit was intended to promote commercial development on M1-2 zoned blocks in the Greenpoint-Williamsburg IBZ, while guaranteeing the provision of manufacturing floor area otherwise not required by zoning. The IBIA Special Permit establishes two categories of use beyond permitted use. More recently, the IBIA Special Permit was made applicable to M1-4 districts. In M1-2 districts, ZR Section 74-963 allows a change of use from the as-of-right 4.8 community facility FAR to 4.8 FAR for certain commercial space, with the requirement that 0.8 FAR (a minimum 17 percent) of such floor area be reserved for Required Industrial Uses (RIU). The ZR defines this term as “a use that helps achieve a desirable mix of commercial and manufacturing uses in an IBIA and that generates additional floor area pursuant to provisions set forth in Section 74-963.” In M1-4 districts, it’s possible to convert 6.5 community facility FAR to 6.5 commercial FAR, provided that 1.3 FAR (20 percent minimum) is reserved for RIU. The first category (Permitted Uses) covers uses permitted as-of-right in M1-2 and M1-4 zoning districts, at a maximum FAR of 2.0.

While recent development in the Greenpoint-Williamsburg IBZ has tended toward entertainment and nightlife uses, new construction also appears to reflect a growing need for commercial office space. Demand from creative, media, and technology sectors has led to a reduced inventory of available commercial space in Downtown Brooklyn, DUMBO, and Williamsburg. These neighborhoods offer companies the opportunity to occupy converted loft spaces and operate in proximity to the communities where their employees reside.



According to a 2018 New York City Department of City Planning (DCP) report, manufacturing districts outside Manhattan — particularly those near transit — are relatively under-developed and, as such, have allowed the City to absorb recent job growth. The Mayor's 2017 plan, *New York Works*, identified growing employment in transit-accessible areas outside Manhattan as an important step in supporting New York City's 21<sup>st</sup> century economy. The plan estimated that, by 2025, demand for office space would grow by more than 60 million sq. ft. with nearly half prompted by demand outside Manhattan. Supporting office development in the outer boroughs would bring jobs closer to workers, thereby relieving strain on transit infrastructure.

Borough President Adams believes that this growth must be balanced with the need to retain space for industrial businesses that provide a diverse array of jobs and support essential City services. It is, therefore, important to consider industrial mixed-use development as a potential solution.

The Incentive Use category consists of uses permitted in the underlying M1-2 and M1-4 zoning districts, except moving and storage facilities, and certain other uses (RIU). Permitted uses remain unchanged for the extent that the commercial floor area exists at the time before permit approval. According to the special permit, in M1-2 districts, developers may construct an additional 2.0 FAR of such Incentive Uses only if the building provides 0.8 (or greater) FAR for RIUs and in M1-4 districts, additional 3.2 FAR of such Incentive Uses would be developed if the building provides 1.3 (or greater FAR) of the RIUs. Buildings utilizing the special permit are capped at a maximum 4.8 FAR in M1-2 and 6.5 FAR in M1-4 districts.

The IBIA Special Permit has the dual benefit of increasing overall employment opportunities while preserving a manufacturing base vulnerable to displacement. Developers can utilize revenues generated by the added commercial/office FAR to provide manufacturing floor space at rents that are within reach of manufacturing firms seeking to locate in the IBZ. Currently, only properties mapped as an IBIA with 5,000 or more sq. ft. of contiguous horizontal floor area for RIU are eligible for the Special Permit.

Under ZR Section 74-966, prior to granting the IBIA Special Permit, the City Planning Commission (CPC) must find that the requested increase in the maximum permitted FAR will result in "a beneficial mix of RIU and Incentive Uses...superior site planning, harmonious urban design relationships and a safe and enjoyable streetscape...a building that has a better design relationship with surrounding streets and adjacent open areas...a development or enlargement that will not have an adverse effect on the surrounding neighborhood" and for applicants seeking an additional height bonus through the provision of a public plaza, "a public plaza of equivalent or greater value as a public amenity."

The intended development has not been represented as providing dedicated space that would assure occupancy by light industrial establishments in a manufacturing zoning district. Without such assurances, there would be no way to guarantee public benefit through creation of dedicated space for the City's manufacturing sector or advance the City's industrial retention objectives.

Borough President Adams supports the preservation of manufacturing zoned properties for the creation of jobs that serve as pathway to the middle class. With low barriers to entry and real career pathways, industrial and manufacturing jobs — average wages of which are twice that of the retail sector — have long provided economic opportunities for immigrant populations, people of color, and low-income communities.

Borough President Adams also supports development of manufacturing space through incentivization of office and retail uses. Successful projects of this nature achieve a mix of commercial and light

industrial floor area in proximity to their workforce. Such spaces are likely to return to being in high demand across the city, especially in neighborhoods with good infrastructure and services. The choice is not whether or not such creative, innovation, and/or maker office space belongs in traditional office or M-zoned districts; the choice is whether growth can be accommodated where the industries want to locate in New York City as opposed to other regions.

Borough President Adams understands that the applicant could have achieved an identical bulk outcome by proposing an M1-4 district in tandem with seeking to establish an IBIA, while securing RIU. He believes it is unfortunate that the applicant elected to pursue establishing an M1-5 district without a known means to realize public benefit in the form of maker space. Borough President Adams believes that it would have been more appropriate to seek an M1-4 district, filed with an application to map an IBIA and special permit to advance commensurate public benefit.

Borough President Adams understands that the CPC and City Council will consider the proposed zoning despite its lack of public interest requirements. In this case, he recommends seeking a mechanism to ensure adequate public benefit via reservation of sufficient floor area for RIU. Such mechanism should be based on established compliance and recordation standards, as per ZR Section 74-967, which requires periodic notification by the property owner and annual reporting by a qualified third party. Under the Special Permit rules, the owner must file a Notice of Restrictions to receive a building permit from the New York City Department of Buildings (DOB). ZR Section 74-967(a) also states that "no temporary certificate of occupancy for any portion of the building to be occupied by incentive uses shall be issued until a temporary certificate of occupancy for the core and shell is issued for all portions of the building required to be occupied by required industrial uses." Such regulation is designed to ensure that Incentive Use area as well as core and shell occupancy are permitted only after the provision of the RIU area.

Pursuant to ZR 74-967(b), each new lease executed for any part of the RIU space requires public notification, via electronic resource, of certain information about each new tenant and use, including the total floor area of RIUs in the development, a digital copy of approved Special Permit drawings pursuant to ZR Section 74-962 (a)(1) through (a)(4), and the names of all businesses occupying RIU floor area. Additionally, for each establishment, public notification must specify the amount of such floor area, the UG, the subgroup, and the specific use as listed in the ZR.

The property owner is also required to retain a qualified third party approved by the New York City Department of Small Business Services (SBS) to produce an annual report and conduct an inspection to ensure that the RIU area is compliant with ZR Section 74-96. This report must include a description of each establishment with the North American Industry Classification System (NAICS) code and number of employees, the total amount of vacant RIU floor area, as applicable; the average annual rent for all portions of the building intended for occupancy by RIU, and the number of new leases executed during the calendar year (categorized by duration) in five-year increments. Such a report must be submitted to DCP, the Brooklyn borough president, the City Council member, and the community board. The report must be prepared by an organization under contract with the City to provide inspection services, an SBS-certified firm that provides such inspection services, or an entity deemed qualified to produce such report by the SBS commissioner, provided that the selected third party retains a professional engineer or registered architect licensed in New York State to certify the report.

Borough President Adams believes that, in lieu of the IBIA Special Permit, the standards established in ZR 74-963 and 74-967 should be incorporated into a legal mechanism, to ensure the desired FAR of uses and floor area compliance. Moreover, an area industrial non-profit such as Evergreen and/or the Greenpoint Manufacturing and Design (GMDC) would warrant consideration as an administering agent for 307 Kent Avenue. Finally, any floor area sublet and/or managed by such entity should comply with periodic notification and annual reporting requirements.

Therefore, prior to considering the proposed M1-5 district, the City Council should obtain written commitments from 307 Kent Associates, clarifying how it would establish a legal mechanism, such as a deed restriction, contract with a non-profit entity, and/or government financing agreement to ensure adequate provision of RIU floor area consistent with ZR Section 74-963 and ongoing use floor area compliance monitoring per ZR Section 74-967.

### **Use Group Compliance with Innovation and Maker Jobs**

Should the CPC and/or City Council agree that the commercial floor area at 307 Kent Avenue be occupied by maker and light industrial uses, Borough President Adams believes that such managed manufacturing space should reflect any combination of agricultural, heavy service, manufacturing establishments, as well as studios for art, dancing, motion picture production, music, photography, radio/television, or theatrical, semi-industrial facilities, and trade schools for adults. It should also include service use categories from UG 9A such as blueprinting or photostating establishments, dental or medical laboratories, musical instrument repair shops, studios, and trade schools for adults, which he deems consistent with maker uses. Studios are also included in Use Group 10A.

Borough President Adams believes that certain uses, such as depositories and automobile showrooms, as well as truck terminals, warehouses, and wholesale establishments, should be exempt from the range of otherwise considered innovation and maker uses.

Borough President Adams recognizes that the effectiveness of innovation and maker uses are dependent on having clear access 24 hours a day, seven days a week, to common service corridors, freight elevators, and loading docks on streets to ensure active industrial spaces. He believes this should be a requirement of meeting maker floor area as defined above by certain UG 9, 10, 11, 16, 17, and 18 uses noted above.

Borough President Adams believes that prior to considering the application, should the CPC and/or City Council seek to consider the proposed M1-5 zoning district, the City Council should obtain written commitments from the applicant, 307 Kent Associates, clarifying how it would establish a legally enforceable mechanism, such as a deed restriction, a contract with a non-profit business service provider, and/or a government financing agreement to ensure that a segment of ongoing building occupancy would be restricted to innovation and maker uses with clear access to the street.

### **Restricting Accessory Retail Floor Area**

The developer has stated intent to include retail at 307 Kent Avenue, though it is unclear whether such uses would occupy space above the ground floor. If the CPC and City Council agree that the building should be tenanted with maker and innovation firms, Borough President Adams believes it would be necessary to restrict accessory retail to ensure such occupancy. While permitted by zoning, industrial floor area utilization for retail can undermine and even negate the provision of dedicated space for manufacturing.

There has been a trend for certain uses listed in UGs 11A, 16, 17, and 18 — specifically alcoholic beverages or breweries — to set aside a small accessory section for retail and/or eating and drinking establishments. For example, a development might have an interior street where one can purchase baked goods from a small retail section off the main production area. Certain breweries across the city also contain secondary beer halls and/or restaurants. For artisanal food and beverage operations, an accessory retail component often provides added synergy and viability, which means that such uses are more likely to pay higher rents than manufacturers who do not benefit from auxiliary sales space. Accessory retail and/or eating and drinking establishments of excessive size would diminish the public purpose of industrial floor area. The ZR is silent on the restriction of such accessory operations.

As noted in his 2016 recommendations for 25 Kent Avenue, and his subsequent recommendations for Acme Smoked Fish, 12 Franklin Street, 103 North 13<sup>th</sup> Street, Industry City, Suydam Street, and 300 Huntington Street, Borough President Adams believes that the public benefit of 307 Kent Avenue would be diminished if auxiliary retail and/or eating and drinking establishments were permitted to occupy more than a nominal amount of floor area.

As has been Borough President Adams' recommendation for those prior ULURP applications, he seeks to define the extent of the floor area that would be allotted for accessory retail as well as eating and drinking operations at 307 Kent Avenue. He believes that it is appropriate to limit accessory retail operations, specifically for UGs 6A, 6C, 7B, 7D, 8B, 8C, 10A, and 12, by permitting up to 100 sq. ft. without regard to the size of the industrial/maker establishment, though not more than 1,000 sq. ft. or not exceeding 10 percent of floor area per establishment. Such restrictions help maintain the integrity of floor area reserved for maker businesses, and by extension, the public purpose of such commercial developments.

Borough President Adams believes that prior to considering the application, should the CPC and/or City Council seek to consider the proposed M1-5 zoning district, the City Council should obtain written commitments from the applicant, 307 Kent Avenue, clarifying how it would establish a legally enforceable mechanism, such as a deed restriction, a contract with a non-profit business service provider, and/or a government financing agreement to limit accessory retail floor area within any portion meeting the percentage of floor area restricted to maker use occupancy.

### **Advancing Resilient and Sustainable Energy and Stormwater Management Policies**

It is Borough President Adams' policy to advocate for promoting environmentally sustainable development that integrates blue/green/white roofs, solar panels, and/or wind turbines, as well as passive house construction. Such measures tend to increase energy efficiency and reduce a building's carbon footprint.

In the fall of 2019, the City Council passed Local Laws 92 and 94, which require that newly constructed roofs, as well as those undergoing renovation (with some exceptions), incorporate a green roof and/or a solar installation. The laws further stipulate 100 percent roof coverage for such systems and expand the City's white roof mandate. Borough President Adams believes that developers should seek to exceed this mandate by integrating blue roofs with green roof systems. Regarding solar panels, there are now options beyond traditional roof installation. Multiple companies are manufacturing solar cladding from tempered glass that resembles traditional building materials, with energy output approximating that of mass-market photovoltaic systems. For taller buildings, and those in proximity to the waterfront, micro wind turbines can provide effective sustainable energy generation. Finally, passive house construction achieves energy efficiency while promoting locally based construction and procurement.

In Borough President Adams' letter to President Joseph R. Biden Jr., dated January 21, 2021, he outlined an urban agenda based on funding policies that will rebuild America as a more equitable and just society, including initiatives consistent with the Green New Deal. Specifically, Borough President Adams advocated for renewable energy and battery storage to move beyond reliance upon natural gas and dirty "peaker plants," disproportionately sited in communities of color. He believes that grid-connected rooftop batteries should be a standard consideration for commercial buildings. Between existing flat roof upgrades and newly developed projects, there should be sufficient demand to manufacture such units locally and create industrial jobs.

Borough President Adams believes it is appropriate for 307 Kent Associates to engage the Mayor's Office of Sustainability, the New York State Energy Research and Development Authority (NYSERDA), and/or the New York Power Authority (NYPA), to give consideration to government grants and programs that might offset costs associated with enhancing the resiliency and sustainability of this development site. One such program is the City's Green Roof Tax Abatement (GRTA), which provides a reduction of City property taxes by \$4.50 per sq. ft. of green roof, up to \$100,000. The DEP Office of Green Infrastructure

advises property owners and their design professionals through the GRTA application process. Borough President Adams encourages the developer to reach out to his office for any help in opening dialogue with these agencies and further coordination on this matter.

As part of his flood resiliency policy, Borough President Adams encourages developers to introduce best practices to manage stormwater runoff, such as incorporating permeable pavers and/or establishing rain gardens that advance DEP's green infrastructure strategy. He believes that sidewalks with nominal landscaping and/or adjacent roadway surfaces could be transformed through the incorporation of rain gardens, which provide tangible environmental benefits through rainwater collection, improved air quality, and streetscape beautification. Tree plantings can be consolidated with rain gardens as part of a comprehensive green infrastructure strategy. Where it is not advisable to remove street trees, there are opportunities to integrate stormwater retention measures into tree pits, with additional plantings, to increase filtration and beautify the site. Blue/green roofs, permeable pavers, and rain gardens (including street tree pit enhancements) would also help divert stormwater from the Newtown Creek Wastewater Treatment Plant.

The required Builders Pavement Plan provides an opportunity to install DEP rain gardens along the development site's Kent Avenue and South Third Street frontages. A rain garden would require a maintenance commitment and attention from the landlord. Standard maintenance involves cleaning out debris and litter, regular inspection to prevent soil erosion, watering during dry and hot periods, and weeding to ensure proper water absorption.

Borough President Adams believes that 307 Kent Associates should consult with DEP, the New York City Department of Transportation (DOT), and the New York City Department of Parks and Recreation (NYC Parks) about integrating rain gardens with street trees as part of the development's Builders Pavement Plan. Where the agencies have interest in implementing such enhancements, consultation should be initiated in advance with CB 1 and local elected officials.

Therefore, prior to considering the application, the City Council should obtain written commitments from 307 Kent Associates clarifying how it would integrate resiliency and sustainability features in the proposed development.

### **Advancing Vision Zero Policies**

Borough President Adams supports Vision Zero policies, including practices that extend sidewalks into the roadway to shorten the path where people cross in front of traffic lanes. By promoting driver awareness and pedestrian safety, sidewalk extensions (also known as bulbouts or neckdowns) also facilitate traffic calming and advance the Mayor's Vision Zero policies.

In 2015, Borough President Adams launched his initiative, Connecting Residents on Safer Streets (CROSS) Brooklyn. This program supports installing curb extensions at dangerous intersections. During the program's first year, \$1 million was allocated to fund safety enhancements at five such crossings.

Per his CROSS Brooklyn initiative, Borough President Adams believes there is an opportunity to implement a curb extension at the northeast corner of Kent Avenue and South Third Street. Kent Avenue is a designated local truck route with multiple intersections lacking traffic controls such as stop signs or traffic lights. Nearby is Domino Park and Grand Ferry Park. Given the area's mixed-use character, numerous high-traffic intersections, and volume of projected development, it is important to advance pedestrian safety improvements along Kent Avenue.

Borough President Adams recognizes that the costs associated with the construction of sidewalk extensions can be exacerbated by the need to modify infrastructure and/or utilities. Therefore, where such consideration might compromise feasibility, Borough President Adams would urge DOT to explore protected painted sidewalk extensions or standard sidewalk extensions as part of a Builders Pavement Plan. If implementation meets DOT criteria, the agency should enable the applicant to undertake such improvements after consultation with CB 1 and local elected officials. The implementation of a sidewalk extension through roadbed treatment requires a maintenance agreement that indemnifies the City from liability, contains a requirement for insurance, and details the responsibilities of the maintenance partner. Borough President Adams would expect 307 Kent Associates to commit to such maintenance as an ongoing obligation.

Therefore, prior to considering the application, the City Council should obtain written commitments from 307 Kent Associates to pursue CROSS Brooklyn implementation with installation of a curb extension at the northeast corner of Kent Avenue and South Third Street either as part of a Builders Pavement Plan or as treated roadbed sidewalk extension.

The City Council should further seek demonstration of 307 Kent Associates commitment to enter into a standard DOT maintenance agreement for this intersection, with the understanding that DOT implementation would require advance consultation with CB 1 and local elected officials.

### **Jobs**

Borough President Adams is concerned that too many Brooklyn residents are currently unemployed or underemployed. It is his policy to promote economic development that creates more employment opportunities. According to the Furman Center's "State of New York City's Housing and Neighborhoods in 2017," double-digit unemployment remains a pervasive reality for several of Brooklyn's neighborhoods, with more than half of the borough's community districts experiencing poverty rates of nearly 20 percent or greater. The COVID-19 pandemic only exacerbated widespread job insecurity. Prioritizing local hiring would assist in addressing this employment crisis.

Additionally, promoting Brooklyn-based businesses, including those that qualify as LBEs and MWBEs, is central to Borough President Adams' economic development agenda. This site provides opportunities for the developer to retain a Brooklyn-based contractor and subcontractor, especially those that are designated LBEs consistent with Section 6-108.1 of the City's Administrative Code, and MWBEs that meet or exceed standards per Local Law 1 (no less than 20 percent participation).

Borough President Adams believes that prior to considering the application, the City Council should obtain written commitments from 307 Kent Associates to memorialize retention of Brooklyn-based contractors and subcontractors, especially those that are designated LBEs, for both the pending and subsequent development sites, consistent with Section 6-108.1 of the City's Administrative Code and MWBE as a means to meet or exceed standards per Local Law 1 (no less than 20 percent participation), as well as coordinate the oversight of such participation by an appropriate monitoring agency.

### **Recommendation**

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

1. Prior to considering adoption of the M1-5 district, the City Council should obtain written commitments from 307 Kent Avenue clarifying how it would establish a legal mechanism, such as a deed restriction, contract with a non-profit entity, and/or government financing agreement that would limit Required Industrial Use (RIU) area to innovation and maker uses, monitor use floor

area compliance, establish clear access to the street, and limit accessory retail floor area. Such mechanism would ensure that:

- a. Compliance and recordation shall be according to ZR 74-967(a)
  - b. Periodic notification by the owner shall be according to ZR 74-967(b)
  - c. Annual reporting by a qualified third party shall be according to ZR 74-967(c)
  - d. Floor area managed by a non-profit entity shall remain part of the zoning lot and comply with annual reporting and periodic notification requirements
  - e. Innovation and maker uses shall be restricted to Use Groups (UGs) 9A, limited to blueprinting or photostating establishments, dental or medical laboratories, musical instrument repair shops, studios, trade schools for adults, 10A, limited to studios, 11A, 16A except for automobile showrooms, 16B, 16D except for truck terminals, warehouses, and wholesale establishments, 17B, 17C, limited to agriculture, and 18A
  - f. Innovation and/or maker uses shall be provided with clear access to common service corridors, freight elevators, and loading docks on streets 24 hours a day, seven days a week to ensure active industrial spaces
  - g. Accessory retail floor area that would otherwise meet the definition of UGs 6A, 6C, 7B, 7D, 8B, 8C, 10A, and 12, shall not exceed the greater of 100 square feet (sq. ft.) or 10 percent of an establishment's floor area (limited to 1,000 sq. ft.) in order to be deemed accessory
2. That the City Council obtain written commitments from 307 Kent Associates to:
- a. Memorialize the incorporation of resiliency and sustainability measures, such as blue and/or green roofs, grid-connected rooftop batteries, passive house design, solar panels and/or facades, and/or wind turbines
  - b. Coordinate with the New York City Department of Environmental Protection (DEP), New York City Department of Transportation (DOT), and the New York City Department of Parks and Recreation (NYC Parks) regarding the installation of DEP rain gardens as part of a Builders Pavement Plan in consultation with Brooklyn Community Board 1 (CB 1) and local elected officials
  - c. Pursue Connecting Residents on Safer Streets (CROSS) Brooklyn implementation with installation of a curb extension at the northeast corner of Kent Avenue and South Third Street either as part of a Builders Pavement Plan or as treated roadbed sidewalk extensions, with the understanding that DOT implementation would not proceed prior to consultation with CB 1 and local elected officials
  - d. Enter into a standard DOT maintenance agreement for the northeast corner of Kent Avenue and South Third Street
  - e. Advance protected painted areas for the above intersection of Kent Avenue and South Third Street as part of a Builders Pavement Plan and/or as treated roadbed

sidewalk extensions, with the understanding that DOT implementation would not proceed prior to consultation with CB 1 and local elected officials

- f. Retain Brooklyn-based contractors and subcontractors, especially those that are designated local business enterprises (LBEs) consistent with Section 6-108.1 of the City's Administrative Code, and minority- and women-owned business enterprises (MWBEs) as a means to meet or exceed standards per Local Law 1 (no less than 20 percent participation), as well as coordinate the oversight of such participation by an appropriate monitoring agency