



IN THE MATTER OF an application submitted by 6003 8 Ave LLC pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 22a:

1. eliminating from an existing R6 District a C1-3 District bounded by 60th Street, a line 150 feet southeasterly of Eighth Avenue, a line midway between 60th Street and 61st Street, and Eighth Avenue; and
2. changing from an R6 District to a C4-2 District property bounded by 60th Street, a line 150 feet southeasterly of Eighth Avenue, a line midway between 60th Street and 61st Street, and Eighth Avenue;

Borough of Brooklyn, Community District 12, as shown on a diagram (for illustrative purposes only), dated May 20, 2019.

This application for a zoning map amendment was filed by 6003 8 Avenue LLC on February 22, 2019. The applicant proposes to change an R6/C1-3 zoning district to a C4-2 zoning district on a portion of a block located at the northwestern corner of Eighth Avenue and 60th Street in the Sunset Park neighborhood of Brooklyn, Community District 12. Approval of this application would facilitate the legalization of a three-story, approximately 3,890-square-foot commercial building.

BACKGROUND

The project area is located at the northwestern corner of Eighth Avenue and 60th Street (Block 5714, Lots 6, 7, 8, 9, 10, 11, 13 and part of 14), in an R6 zoning district with a C1-3 overlay. R6 zoning districts permit a maximum floor area ratio (FAR) of 2.43 for residential uses and 4.8 for community facility uses. Non-contextual R6 zoning districts must comply with either the standard height factor regulations, which produce small multi-family buildings on small zoning lots and, on larger lots, tall buildings that are set back from the street, or the optional Quality Housing regulations, which produce

high lot coverage buildings within height limits. C1-3 zoning districts are commercial overlay districts mapped within residence districts along streets that serve local retail needs. When mapped in an R6 zoning district, the maximum commercial FAR is 2.0, and non-residential uses are limited to the first two stories.

The area surrounding the project site is developed with a mix of uses. Eighth Avenue is a commercial corridor primarily developed with three story mixed-use buildings with commercial, community facility, and residential uses. Midblock portions along side streets are predominantly developed with a mix of multiple dwellings and row houses. Immediately to the south, there is an M1-1 zoning district that contains a mix of parking, commercial, industrial and auto-oriented uses. The project area is well-served by transit, with the Eighth Avenue subway stop for the N subway line one block away at the corner of Eighth Avenue and 62nd Street. The B70 bus connecting Dyker Heights to Sunset Park runs north-south along Eighth Avenue. The B9 bus connecting Bay Ridge to Kings Plaza runs east-west along 60th Street, and the B16 bus connecting Bay Ridge to Lefferts Gardens runs along Fort Hamilton Parkway, which is located two blocks east of the project site.

The project area, comprised of eight tax lots, is predominately developed with medium-density mixed use buildings. The project site, Lot 9, is owned by the applicant and improved with a three-story commercial building. Lots 6, 7 and 10 are improved with three-story mixed-use buildings, occupied by stores on the first floor and residential units above. Lot 8 is improved with a three-story mixed-use building and is occupied by non-profit organization and residential uses. Lot 11 is improved with a seven-story commercial and community facility building. The building is occupied by a store on the first floor, a day care center on the second and third floors, a community center on the fourth floor, and an ambulatory diagnostics and treatment health care facility on the fifth through seventh floors. Lot 13 is improved with a six-story mixed-use building occupied by retail use on the first floor, a community facility on the second floor and dwelling units on the upper floors. A small portion of Lot 14 is located in the rezoning area and is improved with a two-story residential building with four residential units.

The project site is a 1,600 square-foot interior lot with approximately 20 feet of frontage on Eighth Avenue, a wide street. It is improved with a three-story, 3,890 square-foot commercial building (2.43 FAR), which exceeds the maximum permitted as-of-right floor area for commercial uses in R6 /C1-3 zoning districts by about 690 square feet. The current certificate of occupancy for the project site, issued in 2017, indicates a legal commercial use on the ground floor and one dwelling unit on each of the second and third floors. Furthermore, the zoning resolution limits commercial uses in C1-3 overlay districts to the first two stories of the building.

The applicant proposes a zoning map amendment to change the project area from an R6/C1-3 zoning district to a C4-2 zoning district, to allow for the legalization of a three-story commercial building located at the project site. C4-2 zoning districts allow a maximum commercial FAR of 3.4, residential FAR of 2.43, and a community facility FAR of 4.8. Buildings may rise to a height of 60 feet or four stories before setting back within the first 20 feet along a narrow street or 15 feet along wide street. A sky exposure plane applies above a height of 60 feet. The proposed zoning map amendment would increase the as-of-right commercial FAR, but would not affect existing residential bulk regulations. The proposed zoning changes would allow the existing commercial and mixed-use buildings both on Eighth Avenue and 60th Street within the project area to remain as currently existing, with the potential for an additional commercial FAR of 1.4.

ENVIRONMENTAL REVIEW

This application (C 190305 ZMK) was reviewed pursuant to the New York State Environmental Quality Review Act (SEQRA) and the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 et seq. and the City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The lead is the City Planning Commission. The designated CEQR number is 19DCP087K.

After a study of the potential environmental impact of the proposed actions, a Negative Declaration

was issued on May 14, 2019.

UNIFORM LAND USE REVIEW

This application (C 190305 ZMK) was certified as complete by the Department of City Planning on May 20, 2019, and was duly referred to Community Board 12 and the Brooklyn Borough President in accordance with Title 62 of the Rules of the City of New York, Section 2-02(b).

Community Board Public Hearing

Brooklyn Community Board 12 held a public hearing on this application (C 190305 ZMK) on June 18, 2019. On June 18, 2019, by a vote of 33 in favor, none against, and one abstaining, the Community Board adopted a resolution recommending approval of the application.

Borough President Recommendation

The Brooklyn Borough President held a public hearing on this application (C 190305 ZMK) on July 2, 2019, and on August 29, 2019, issued a recommendation to approve the application.

City Planning Commission Public Hearing

On August 28, 2019 (Calendar No. 6), the City Planning Commission scheduled September 11, 2019 for a public hearing on this application (C 190305 ZMK). The hearing was duly held on September 11, 2019 (Calendar No. 31). There was one speaker in favor of the application, and one opposed.

The applicant's land use attorney spoke in favor of the application and provided an overview of the proposal. He stated that the proposed C4-2 zoning district would be in character with the existing R6/C1-3 zoning district, allowing an increase in commercial FAR to 3.4. He explained that while the current C1-3 commercial overlay would permit the existing uses on the ground floor, the commercial uses on upper floors exceed the maximum permitted FAR for an entirely commercial building. He

clarified that the applicant retained the configuration and layout of residential units on upper floors and attempted to find residential tenants before proceeding to seek commercial tenants, primarily small professional offices.

A Rockaways resident spoke in opposition to the application.

There were no other speakers and the hearing was closed.

CONSIDERATION

The Commission believes that this application for a zoning map amendment (C 190305 ZMK) is appropriate.

The proposed zoning map amendment would change the R6/C1-3 zoning district to a C4-2 zoning district in order to facilitate the legalization of the existing commercial uses in the building. The proposed change will bring approximately 700 square feet of commercial use into compliance that is not permitted as-of-right in an R6/C1-3 zoning district, and is not expected to result in any additional development. Due to the size of the project area and lack of change in the permitted residential FAR, the Commission notes that the rezoning will not result in substantial new residential development capacity.

In addition to facilitating the legalization of the project site, Lot 9, the proposed zoning change will allow for additional commercial FAR on Lots 6, 7, 8, 10, 11, 13 and part of 14 within the project area. The proposed C4-2 zoning district has an R6 residential equivalent, and therefore residential bulk regulations would remain unchanged for all lots within the project area. Furthermore, the proposed C4-2 zoning district would provide a smooth transition from surrounding areas.

The Commission notes that the applicant secured commercial tenants for the upper floors prior to seeking legalization through the proposed zoning changes, and is displeased with their process.

Though from a land use perspective these zoning changes are appropriate, commercial tenants should not have been sought by the building's owner prior to legalizing this use, in disregard of existing zoning and the building's certificate of occupancy.

The Commission believes that the proposed zoning change is consistent with the character of Eighth Avenue, an active and thriving commercial corridor containing various local retail uses. The corridor is lined with businesses, grocery stores, restaurants and community organizations, and is often referred to as an extension of Chinatown in Manhattan. The Commission notes the presence of upper floor commercial uses on multiple buildings along the corridor, particularly north of 60th Street, consistent with the existing conditions on the project site. The proposed zoning change will allow the existing commercial and mixed-use buildings both on Eighth Avenue and 60th Street within the Project Area to remain as they currently exist, but with the potential for additional commercial FAR of 1.4. The proposed zoning change would also allow for a broader range of uses to be permitted as of right.

RESOLUTION

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

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

1. eliminating from an existing R6 District a C1-3 District bounded by 60th Street, a line 150 feet southeasterly of Eighth Avenue, a line midway between 60th Street and 61st Street, and Eighth Avenue; and

2. changing from an R6 District to a C4-2 District property bounded by 60th Street, a line 150 feet southeasterly of Eighth Avenue, a line midway between 60th Street and 61st Street, and Eighth Avenue;

Borough of Brooklyn, Community District 12, as shown on a diagram (for illustrative purposes only), dated May 20, 2019.

The above resolution (C 190305 ZMK), duly adopted by the City Planning Commission on October 16, 2019 (Calendar No. 6), is filed with the Office of the Speaker, City Council, and the Borough President, in accordance with the requirements of Section 197-d of the New York City Charter.

MARISA LAGO, *Chair*

KENNETH J. KNUCKES, ESQ., *Vice Chairman*

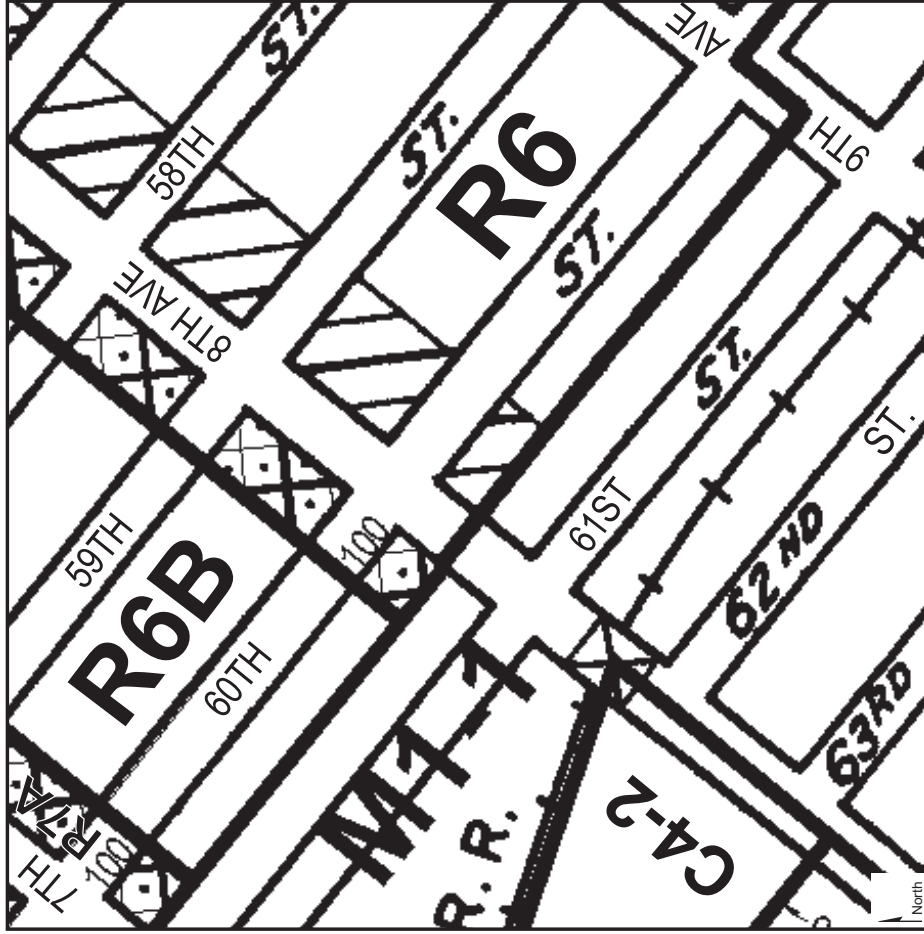
DAVID J. BURNEY, ALLEN P. CAPPELLI, Esq., ALFRED C. CERULLO, III,

MICHELLE R. DE LA UZ, JOSEPH DOUEK, RICHARD W. EADDY,

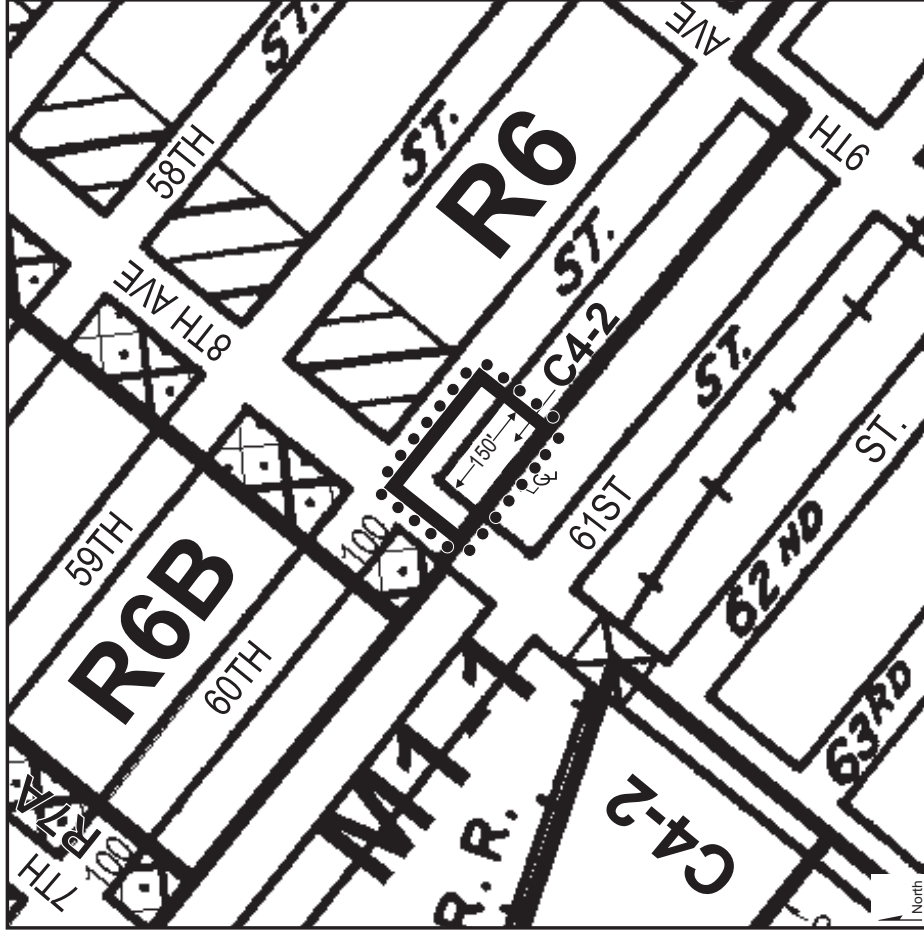
HOPE KNIGHT, ANNA HAYES LEVIN, ORLANDO MARIN,

LARISA ORTIZ, RAJ RAMPERSHAD, *Commissioners*

Zoning Change Map



Current Zoning Map (22a)



Proposed Zoning Map (22a) - Area being rezoned is outlined with dotted lines
 Rezoning from R6/C1-3 to C4-2

- C1-1 [diagonal lines /] C1-2 [diagonal lines \] C1-3 [diagonal lines /] C1-4 [diagonal lines \] C1-5 [diagonal lines /] C2-1 [diagonal lines \] C2-2 [diagonal lines /] C2-3 [diagonal lines \] C2-4 [diagonal lines /] C2-5 [diagonal lines \]

NOTE: Where no dimensions for zoning district boundaries appear on the zoning maps, such dimensions are determined in Article VII, Chapter 6 (Location of District Boundaries) of the Zoning Resolution.



Email/ Fax transmittal

TO: Brooklyn Community District 12 (CD 12) Distribution	FROM: Borough President Eric L. Adams
DATE: August 29, 2019	CONTACT: Inna Guzenfeld – Land Use Coordinator Phone: (718) 802-3754 Email: iguzenfeld@brooklynbp.nyc.gov
ULURP Recommendation: 6003 EIGHTH AVENUE – 190305 ZMK	NO. of Pages, Including Cover: 5

Attached is the recommendation report for ULURP application 190305 ZMK. If you have any questions, please contact Inna Guzenfeld at (718) 802-3754.

Distribution

NAME	TITLE	OFFICE	E-MAIL
Marisa Lago	Chair, City Planning Commission	(212) 720-3356	ygruel@planning.nyc.gov
Corey Johnson	Speaker, City Council	(212) 564-7557	speakerjohnson@council.nyc.gov
Winston Von Engel	Director Brooklyn, DCP	(718) 780-8280	wvoneng@planning.nyc.gov
Alex Sommer	Deputy Director Brooklyn, DCP	(718) 780-8271	asommer@planning.nyc.gov
James Merani	Director of Land Use Review, DCP	(212) 720-3356	jmerani@planning.nyc.gov
Raju Mann	Director of Land Use Division, City Council	(212) 788-7207	rmann@council.nyc.gov
Amy Levitan	Land Use Division, City Council	(212) 788-7207	alevitan@council.nyc.gov
Carlos Menchaca	Council Member, District 38	(718) 439-9012	info38@council.nyc.gov
Yidel Perelstein	Chair, Community Board 12 (CB 12)	(718) 851-0800	bk12@cb.nyc.gov
Barry Spitzer	District Manager, CB 12	(718) 851-0800	bk12@cb.nyc.gov
David Rosenberg	Applicant's Representative, Sheldon Lobel PC	(212) 725-2727	drosenberg@sheldonlobelpc.com
Richard Bearak	Director of Land Use, BBPO	(718) 802-4057	rbearak@brooklynbp.nyc.gov

Brooklyn Borough President Recommendation

CITY PLANNING COMMISSION

120 Broadway, 31st Floor, New York, NY 10271

CalendarOffice@planning.nyc.gov



INSTRUCTIONS

1. Return this completed form with any attachments to the Calendar Information Office, City Planning Commission, Room 2E at the above address.
2. Send one copy with any attachments to the applicant's representatives as indicated on the Notice of Certification.

APPLICATION #: 6003 EIGHTH AVENUE – 190305 ZMK

An application submitted by 6003 8 Avenue LLC pursuant to Sections 197-c and 201 of the New York City Charter for zoning map amendments affecting a property on the southeast corner of the intersection of Eighth Avenue and 60th Street. The proposed actions would eliminate C1-3 overlay within an R6 district, and establish a C4-2 in order to achieve conformance for a three-story commercial building of approximately 3,800 square feet (sq. ft.) in Brooklyn Community District 12 (CD 12).

BROOKLYN COMMUNITY DISTRICT NO. 12

BOROUGH OF BROOKLYN

RECOMMENDATION

APPROVE

APPROVE WITH

MODIFICATIONS/CONDITIONS

DISAPPROVE

DISAPPROVE WITH

MODIFICATIONS/CONDITION

SEE ATTACHED

BROOKLYN BOROUGH PRESIDENT

August 29, 2019

DATE

RECOMMENDATION FOR 6003 EIGHTH AVENUE – 190305 ZMK

An application was submitted by 6003 Eighth Avenue LLC pursuant to Sections 197-c and 201 of the New York City Charter for zoning map amendments affecting a property on the southeast corner of the intersection of Eighth Avenue and 60th Street. The proposed actions would eliminate a C1-3 overlay within an R6 district, and establish a C4-2 in order to achieve conformance for a three-story commercial building of approximately 3,800 square feet (sq. ft.) in Brooklyn Community District 12 (CD 12).

On July 2, 2019, Brooklyn Borough President Eric L. Adams held a public hearing on this zoning map amendment. There were no speakers on the item.

In response to Borough President Adams' inquiry regarding the rationale for the requested C4-2 district, as opposed to other zoning districts that permit two-story commercial development with residential uses on higher floors, the applicant's representative stated that the primary intent of this rezoning is to bring the existing development into compliance and conformance with the underlying zoning. The representative noted that commercial overlay districts permit a floor area ratio (FAR) of 2.0 but in buildings containing residential use, the zoning restricts commercial uses to the ground floor. Within the proposed rezoning area, there are multiple properties with commercial floor area that exceeds the permitted 2.0 FAR. In order for all the properties included in the rezoning to be compliant and conforming, a non-contextual C4 district would be necessary to legalize the existing commercial bulk.

In response to Borough President Adams' inquiry as to why the selected zoning district was deemed to provide the greatest public benefit, as opposed to districts that require absolute height limits and/or mandate the inclusion of affordable housing, the representative stated that according to New York City Department of City Planning (DCP) guidelines, it is legally permissible to introduce an MIH requirement only when a project presents a substantial increase in residential floor area (currently, approximately 40 percent). The applicant sees no need to introduce such bulk in order to bring the Eighth Avenue and 60th Street properties into compliance. The representative reiterated that C4 contextual districts do not match the 4.8 FAR community facility bonus permitted by the existing R6 district. The R6 equivalent of a contextual commercial district would limit the community facility FAR to 3.0, which would render the two recently-constructed buildings on 60th Street overbuilt, while reducing opportunities for new community facility floor area within the five properties proposed for rezoning on Eighth Avenue. A contextual district that would bring all of the buildings in the rezoning area into compliance would stipulate a residential bulk equivalent of R8A.

Subsequent to the hearing, Borough President Adams received a letter from the applicant's representative, dated July 23, 2019, detailing the existing non-conforming use and explaining the rationale for the proposed C4-2 district.

Consideration

Brooklyn Community Board 12 (CB 12) voted to approve this application on June 25, 2019.

The proposed rezoning would affect five lots fronting Eighth Avenue, south of 60th Street, as well as 812 and 818 60th Street (also known as 814 60th Street), and part of 820 60th Street. While the C1-3 zoning permits commercial FAR of 2.0 in R6 districts, such use is restricted to the ground floor when a building includes residential use.

The requested C4-2 district maintains the maximum residential FAR and maximum community facility FAR of 4.8 permitted in R6 districts. The C4-2 allows a maximum commercial FAR of 3.4, an increase from the 2.0 permitted in an R6 district when no residential use is provided, and enables greater commercial bulk when residential use is included. The rezoning would expand the range of permitted use groups (UG) from UG 6 to UGs 8, 9, 10, and 12. The parking requirements for

"general retail or service uses" would rise from one space per 400 sq. ft. of floor area to one space per 300 sq. ft. of floor area.

The applicant's property, 6003 Eighth Avenue, has a Certificate of Occupancy (C of O) for a three-story building with a commercial ground floor and one apartment on each floor above. However, in reality, the entire building is tenanted by commercial uses, in excess of the existing allowable commercial FAR of 2.0. The applicant is seeking to bring the upper floors into conforming to continue such use within legal parameters.

Within the rezoning area, there are four additional lots with frontage on Eighth Avenue. Adjoining the applicant site to the north is 6001 Eighth Avenue, a three-story building, regulated by a C of O citing stores on the ground floor, a medical office and two dwelling units on the second floor, and two additional dwelling units on the third floor. However, the building appears to be both non-complying and non-conforming as it is also occupied entirely by commercial uses, in excess of 2.0 FAR. Abutting the applicant's site to the south is 6005 Eighth Avenue, a compliant and conforming three-story building, which appears to be used entirely by a non-profit organization, the NY Tao Teh Benevolent Association of America. This property is adjoined by 6007 Eighth Avenue, a compliant and conforming three-story building, with a ground-floor store and two dwelling units on the floors above. Next, 6009 Eighth Avenue is a compliant and conforming three-story building, with a pharmacy on the ground floor, and two dwelling units above.

To the east of 6001 Eighth Avenue is 812 60th Street, a recently-constructed, seven-story building containing approximately 15,254 zoning sq. ft. This property was developed to 4.77 FAR, with 0.8 FAR of commercial use and 3.97 FAR of community facility use, using the R6 district 4.8 community facility bonus. According to its Schedule A, the building houses a variety of commercial and community facility uses, including ground-floor retail, a child care facility, a community center, ambulatory diagnostics, and a health care facility. However, the building's directory suggests that the tenants are primarily commercial businesses. 818 60th Street is a recently-constructed, six-story, mixed-use building of approximately 12,060 sq. ft. developed to a FAR of 4.47. According to its Schedule A, the building contains ground-floor retail, a community facility on the second floor, and eight dwelling units on the upper floors. 820 60th Street is a two-story, multifamily, residential building with four dwelling units.

The surrounding context is strongly mixed-use, with low- to mid-rise residential and small commercial uses concentrated north of 60th Street, and large commercial, community facility, and industrial buildings more typical south of 61st Street. One reason for this transition is the presence of the combined railroad right-of-way that combines the Bay Ridge Branch, a freight line, and the New York City Transit (NYCT) Broadway Express N line, both of which run in a ravine between 61st and 62nd streets. There are also multiple zoning districts in the area, including an R6B residence district mapped mid-block across Eighth Avenue from the applicant's site and an M1-1 manufacturing district centered on 60th Street that spans Fifth Avenue to 17th Avenue. Diagonally to the southeast and bordering the ravine is a C4-2 district established in 2007, according to a special permit.

In the July 23, 2019 letter to Borough President Adams, the applicant's representative clarified how various contextual commercial districts would not accomplish the purpose of the rezoning. Specifically, a C2-6A district would only partially improve commercial compliance and its maximum FAR of 4.0, achieved with the inclusion of community facility use, would result in non-compliance for the 812 and 814 60th Street buildings. A C4-2A district, which permits up to 3.0 commercial FAR, or a C4-4A district, which permits up to 4.0 commercial FAR, would address commercial compliance for all the lots. However, the 3.0 community facility FAR of C4-2A and 4.0 community facility FAR of C4-4A would also result in non-compliance for 812 and 814 60th Street. Moreover, a

C4-4A district has an R7A equivalent, which would introduce new residential density that is not desired by the applicant. The lowest density contextual commercial district that would result in commercial and community facility floor area compliance is a C4-5X district. However, this option would render 812 and 814 60th Street non-compliant due to minimum street wall requirements, and introduce unwanted residential bulk at an R7X zoning equivalent. The representative therefore concluded that the C4-2 district was the most appropriate zoning option to achieve full compliance and conformance. Additionally, as several lots in the proposed rezoning area feature mixed-use buildings that have multi-story commercial use, in contradiction to R6/C1-3 zoning regulations, this might be attributed to the significant increase in the population of the surrounding census tracts in recent years. Such growth may have resulted in greater need for office and retail services in this area where Borough Park, Dyker Heights, and Sunset Park converge.

Borough President Adams supports efforts to bring properties into zoning compliance and conformance. He also supports increasing commercial density in areas well-served by public transportation. The affected properties are located in close proximity to public transportation, including the Broadway Express N train at the Eighth Avenue station, two blocks south of the site, and the B9 and B70 buses, which travel along 60th Street and Eighth Avenue, respectively.

While certain buildings within the rezoning area have been tenanted in contradiction to zoning compliance and conformance, Borough President Adams acknowledges recent growth in proximity to the junction of the Borough Park, Dyker Heights, and Sunset Park neighborhoods. He believes that the occupants of these buildings reflect growing demand for commercial goods and services in the community. This demand for commercial floor area has also been demonstrated by the intended developers of the large site, known as the 6208 Eighth Avenue or the Dyker Heights Mixed-Use Development, in the nearby C4-2 zoning district adjoining the south side of the railroad right-of-way between Seventh and Eighth avenues. That parcel is the subject of a major redevelopment proposal pending certification to enter the Uniform Land Use Review Procedure (ULURP). This project would result in a mixed-use complex of three towers, commercial hotel, 85,589 sq. ft. of office, and 342,092 sq. ft. of retail use as well as a mix of community facility uses, and residences.

Borough President Adams believes that rezoning to support the advanced concentration of commercial activity in proximity to Eighth Avenue at 60th Street in proximity to rapid transit should be granted.

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 and City Council approve this application.