



IN THE MATTER OF an application submitted by JMS Realty Corp. pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 13b:

1. changing from an M1-1 District to an R7D District property bounded by a line 100 feet northerly of Myrtle Avenue, Nostrand Avenue, Myrtle Avenue, and Walworth Street;
2. changing from an M1-2 District to an R6A District property bounded by Myrtle Avenue, Nostrand Avenue, a line 100 feet southerly of Myrtle Avenue, and Sandford Street;
3. establishing within the proposed R7D District a C2-4 District bounded by a line 100 feet northerly of Myrtle Avenue, Nostrand Avenue, Myrtle Avenue, and Walworth Street; and
4. establishing within the proposed R6A District a C2-4 District bounded by Myrtle Avenue, Nostrand Avenue, a line 100 feet southerly of Myrtle Avenue, and Sandford Street;

Borough of Brooklyn, Community District 3, as shown on a diagram (for illustrative purposes only) dated June 5, 2017, and subject to the conditions of CEQR Declaration E-433.

This application for a zoning map amendment was filed by JMS Realty Corp. (the applicant) on July 21, 2016, to change an M1-1 and M1-2 zoning district to an R7D/C2-4 and an R6A/C2-4 zoning district on portions of three blocks fronting on Myrtle Avenue, between Walworth Street and Nostrand Avenue. The proposed zoning change would facilitate the development of a new eight-story mixed-use building containing approximately 75 residential units, including 19 units of permanently affordable housing, in the Bedford-Stuyvesant neighborhood of Community District 3, Brooklyn.

RELATED ACTION

In addition to the zoning map amendment (C 170025 ZMK) that is the subject of this report, the proposed project also requires action by the City Planning Commission on the following application, which is being considered concurrently with this application:

N 170026 ZRK Zoning text amendment to designate a Mandatory Inclusionary Housing (MIH) area.

BACKGROUND

The applicant is proposing a zoning map amendment to change an M1-1 and M1-2 zoning district to an R7D/C2-4 and R6A/C2-4 zoning district on portions of three blocks fronting on Myrtle Avenue between Walworth Street and Nostrand Avenue. The proposed zoning change would facilitate the development of an eight-story mixed-use building containing approximately 75 residential units, including approximately 19 permanently affordable units under MIH Option 1, with retail and community facility space on the ground and second floors, respectively, and 68 accessory parking spaces in the cellar. The new building would be located at 723-733 Myrtle Avenue (Block 1736, Lots 35, 37, 137, 38, and 39) which is owned by the applicant and is currently occupied by a truck rental business.

The area to be rezoned (project area) encompasses portions of three tax blocks (Blocks 1736, 1737, and 1753) within 100 feet of Myrtle Avenue, generally bounded by Walworth Street on the west and Nostrand Avenue on the east. The project area contains a mix of uses with primarily mixed-use residential, commercial buildings and undeveloped land. Block 1736 contains a large parking lot used as a commercial vehicle storage area, a one-story warehouse, and two mixed use buildings. Block 1737 contains a one-story industrial building used as a wholesaler, a residential building, two mixed-use buildings and a vacant lot. Block 1753 contains nine mixed-use buildings fronting on Myrtle Avenue and two retail buildings fronting on Nostrand Avenue.

Previous rezonings in the area include the Bedford-Stuyvesant North Rezoning (C 120294 ZMK), initiated by the Department of City Planning at the request of Community Board 3 and local elected officials and approved in 2012. This action rezoned portions of the surrounding area, mapping an R7D/C2-4 district along Myrtle Avenue contiguous to the project area, directly to the east, and an R7A/C2-4 district along Myrtle Avenue two blocks west of the project area. This rezoning also mapped several R6A and R6B districts southwest and southeast of the project area. The City-sponsored Flushing/Bedford Rezoning (C 000109 ZMK), approved in 2001, rezoned portions of the surrounding area, mapping a mixed use M1-2/R6A district one block west of the project area, extending north to Flushing Avenue.

The surrounding area is currently characterized by a mix of land uses, including industrial, residential, retail, and institutional uses. Industrial uses are located in the immediate vicinity of

the project area, both to the north and south, and are primarily warehousing/distribution, manufacturing, and auto-oriented uses. Residential uses in the surrounding area include multi-family walkups and larger multi-family elevator apartment buildings in addition to some one- and two-family residential buildings. The New York City Housing Authority (“NYCHA”) Marcy Houses are located one block east of the project area and contain 27 six-story buildings within two large, consolidated blocks. Neighborhood retail uses are located primarily along Myrtle Avenue east and west of the project area. A major home improvement retail store is located two blocks south of the project area. The predominant institutional uses in the surrounding area are schools and houses of worship.

The area is well-served by transit. The MTA G-train stops at Myrtle-Willoughby Avenues, one block east of the project area. The B54 bus line runs along Myrtle Avenue, connecting the project area to downtown Brooklyn. The B44 SBS bus line runs along Nostrand Avenue, connecting the project area to neighborhoods to the south.

The project area is currently within an M1-1 zoning district north of Myrtle Avenue and within an M1-2 zoning district south of Myrtle Avenue. M1-1 and M1-2 districts permit a range of commercial uses, auto-oriented uses, and light manufacturing uses up to a maximum floor area ratio (FAR) of 1.0 in M1-1 and 2.0 in M1-2, and allow certain community facility uses up to a maximum FAR of 2.4 in M1-1 and 4.8 in M1-2. Residential uses are not permitted in M1-1 or M1-2 districts. Bulk regulations allow a maximum street wall height of 30 feet or two stories in M1-1 districts and 60 feet or four stories in M1-2 districts, after which height is limited by a sky exposure plane. Accessory off-street parking is required in M1-1 and M1-2 districts at the rate of one space per 1,000 square feet for manufacturing uses.

To facilitate the proposed development, the applicant requests a zoning map amendment to change the M1-1 and M1-2 districts to R7D/C2-4 and R6A/C2-4 districts and a zoning text amendment to designate the project area as an MIH area, mapping Options 1 and 2.

R6A districts are medium-density contextual districts that permit residential and community facility uses. R6A districts allow a maximum FAR of 3.0 for community facility uses and 3.6 for residential uses with inclusionary housing. Bulk regulations for these districts require a base height between 40 feet and 65 feet and have a maximum total height limit of 85 feet for

inclusionary housing buildings. R6A districts require one off-street parking space for 50 percent of dwelling units, but within the transit zone, income-restricted housing units do not require parking.

R7D districts are medium-density contextual districts that permit residential and community facility uses, and are generally mapped along important neighborhood corridors. R7D districts allow a maximum FAR of 4.2 for community facility uses and 5.6 for residential uses with inclusionary housing. Bulk regulations for these districts require a base height between 60 feet and 95 feet and have a maximum total height limit of 115 feet for inclusionary housing buildings. R7D districts require one off-street parking space for 50 percent of the dwelling units, but within the transit zone, income-restricted housing units do not require parking.

C2-4 commercial overlays allow local retail uses and commercial development up to 2.0 FAR when combined with R6A and R7D districts. These overlays allow Use Groups 5-9 and 14, which include a wide variety of local neighborhood retail and service uses. When combined with R7D districts, C2-4 overlays require non-residential ground floor uses, which can be commercial or community facility uses. For general commercial uses, one off-street parking space is required for every 1,000 square feet. Up to 40 spaces may be waived in C2-4 districts.

The proposed zoning changes would facilitate the development of an eight-story, mixed use building at 723-733 Myrtle Avenue (Block 1736, Lots 35, 37, 137, 38, and 39). It is anticipated that the building would contain approximately 75 residential units in addition to retail and community facility space on the lower floors. The building would have a total floor area of 81,951 square feet for a total FAR of 5.58, which nearly maximizes the allowable FAR of 5.6 in the proposed R7D district within an MIH area. The ground floor would be a commercial retail use, the second floor would be a community facility use, and the third through eighth floors would be residential use, totaling approximately 75 units, of which approximately 19 would be permanently affordable units at an average of 60 percent of Area Median Income (AMI), or approximately \$51,500 for a household of three persons, under MIH Option 1. The proposed development would provide 68 accessory parking spaces in the cellar.

The applicant is also proposing a zoning text amendment to amend Map 3 of Brooklyn Community District 3 Inclusionary Housing areas, to designate the project area as an MIH area

with Options 1 and 2. Option 1 requires that 25 percent of residential floor area must be reserved for housing units affordable for residents with household incomes averaging 60 percent of AMI. Within that 25 percent, at least 10 percent of the square footage must be used for units affordable for households at 40 percent AMI. Option 2 requires that 30 percent of residential floor area must be reserved for units affordable for households with incomes averaging 80 percent of AMI.

ENVIRONMENTAL REVIEW

This application (C 170025 ZMK), in conjunction with the application for the related action (N 170026 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 16DCP177K.

After a study of the potential environmental impact of the proposed actions, a Negative Declaration was issued on June 5, 2017. The Negative Declaration includes (E) designations to avoid the potential for significant adverse impacts related to hazardous materials, air quality, and noise (E-433), as described below:

The (E) designation requirements related to hazardous materials would apply to the following sites:

Block 1736, Lots 35, 37, 137, 38 and 39 (Projected Development Site 1)

Block 1737, Lot 35 (Projected Development Site 2)

Block 1737, Lot 41 (Projected Development Site 3)

Block 1737, Lot 42 (Projected Development Site 4)

Block 1753, Lots 21 and 22 (Potential Development Site 1)

Block 1753, Lots 28 and 30 (Potential Development Site 2)

The (E) designation text related to hazardous materials is as follows:

Task 1-Sampling Protocol

The applicant submits to OER, for review and approval, a Phase I of the site along with a soil, groundwater and soil vapor testing protocol, including a description of methods and a site map with all sampling locations clearly and precisely represented. If site sampling is necessary, no sampling should begin until written approval of a protocol is received from OER. The number and location of samples should be selected to adequately characterize the site, specific sources of suspected contamination (i.e., petroleum based contamination and non-petroleum based contamination), and the remainder of the site's condition. The characterization should be complete enough to determine what remediation strategy (if any) is necessary after review of sampling data. Guidelines and criteria for selecting sampling locations and collecting samples are provided by OER upon request.

Task 2-Remediation Determination and Protocol

A written report with findings and a summary of the data must be submitted to OER after completion of the testing phase and laboratory analysis for review and approval. After receiving such results, a determination is made by OER if the results indicate that remediation is necessary. If OER determines that no remediation is necessary, written notice shall be given by OER.

If remediation is indicated from test results, a proposed remediation plan must be submitted to OER for review and approval. The applicant must complete such remediation as determined necessary by OER. The applicant should then provide proper documentation that the work has been satisfactorily completed.

A construction-related health and safety plan should be submitted to OER and would be implemented during excavation and construction activities to protect workers and the community from potentially significant adverse impacts associated with contaminated soil, groundwater and/or soil vapor. This plan would be submitted to OER prior to implementation.

The (E) designation requirements related to air quality would apply to the following sites:

Block 1736, Lots 35, 37, 137, 38 and 39 (Projected Development Site 1)

Block 1737, Lot 35 (Projected Development Site 2)

Block 1737, Lot 41 (Projected Development Site 3)

Block 1737, Lot 42 (Projected Development Site 4)

Block 1753, Lots 21 and 22 (Potential Development Site 1)

Block 1753, Lots 28 and 30 (Potential Development Site 2)

The (E) designation text related to air quality is as follows:

Block 1736, Lots 35, 37, 137, 38 and 39 (Projected Development Site 1)

Any new commercial or residential development on the above referenced property must exclusively use natural gas as the type of fuel for heating, ventilating, air conditioning (HVAC) and hot water systems to avoid any potential significant adverse air quality impacts. Stack shall be located at a minimum of 128 feet above grade.

Block 1737, Lot 35 (Projected Development Site 2)

Any new commercial or residential development on the above referenced property must exclusively use natural gas as the type of fuel for heating, ventilating, air conditioning (HVAC) and hot water systems to avoid any potential significant adverse air quality impacts. Stack shall be located at a minimum of 128 feet above grade.

Block 1737, Lot 41 (Projected Development Site 3)

Any new commercial or residential development on the above referenced property must exclusively use natural gas as the type of fuel for heating, ventilating, air conditioning (HVAC) and hot water systems to avoid any potential significant adverse air quality impacts. Stack shall be located at a minimum of 128 feet above grade.

Block 1737, Lot 42 (Projected Development Site 4)

Any new commercial or residential development on the above referenced property must exclusively use natural gas as the type of fuel for heating, ventilating, air conditioning

(HVAC) and hot water systems to avoid any potential significant adverse air quality impacts. Stack shall be located at a minimum of 128 feet above grade.

Block 1753, Lots 21 and 22 (Potential Development Site 1)

Any new commercial or residential development on the above referenced property must exclusively use natural gas as the type of fuel for heating, ventilating, air conditioning (HVAC) and hot water systems to avoid any potential significant adverse air quality impacts. Stack shall be located at a minimum of 88 feet above grade.

Block 1753, Lots 28 and 30 (Potential Development Site 2)

Any new commercial or residential development on the above referenced property must exclusively use natural gas as the type of fuel for heating, ventilating, air conditioning (HVAC) and hot water systems to avoid any potential significant adverse air quality impacts. Stack shall be located at a minimum of 88 feet above grade.

The (E) designation requirements related to noise would apply to the following sites:

Block 1736, Lots 35, 37, 137, 38 and 39 (Projected Development Site 1)

Block 1737, Lot 35 (Projected Development Site 2)

Block 1737, Lot 41 (Projected Development Site 3)

Block 1737, Lot 42 (Projected Development Site 4)

Block 1753, Lots 21 and 22 (Potential Development Site 1)

Block 1753, Lots 28 and 30 (Potential Development Site 2)

The (E) designation text related to noise is as follows:

Block 1736, Lots 35, 37, 137, 38 and 39 (Projected Development Site 1)

In order to ensure an acceptable interior noise environment, future residential/commercial uses must provide a closed window condition with a minimum of 31 dBA window/wall attenuation on all façades in order to maintain an interior noise level of 45 dBA. In order to maintain a closed-window condition, an alternate means of ventilation must also be

provided. Alternate means of ventilation includes, but is not limited to, central air conditioning.

Block 1737, Lot 35 (Projected Development Site 2)

In order to ensure an acceptable interior noise environment, future residential/commercial uses must provide a closed window condition with a minimum of 33 dBA window/wall attenuation along the eastern façade and a minimum of 31 dBA on all other façades to maintain an interior noise level of 45 dBA. In order to maintain a closed-window condition, an alternate means of ventilation must also be provided.

Block 1737, Lot 41 (Projected Development Site 3)

In order to ensure an acceptable interior noise environment, future residential/commercial uses must provide a closed window condition with a minimum of 31 dBA window/wall attenuation on all façades in order to maintain an interior noise level of 45 dBA. In order to maintain a closed-window condition, an alternate means of ventilation must also be provided. Alternate means of ventilation includes, but is not limited to, central air conditioning.

Block 1737, Lot 42 (Projected Development Site 4)

In order to ensure an acceptable interior noise environment, future residential/commercial uses must provide a closed window condition with a minimum of 31 dBA window/wall attenuation on all façades in order to maintain an interior noise level of 45 dBA. In order to maintain a closed-window condition, an alternate means of ventilation must also be provided. Alternate means of ventilation includes, but is not limited to, central air conditioning.

Block 1753, Lots 21 and 22 (Potential Development Site 1)

In order to ensure an acceptable interior noise environment, future residential/commercial uses must provide a closed window condition with a minimum of 31 dBA window/wall attenuation on all façades in order to maintain an interior noise level of 45 dBA. In order to maintain a closed-window condition, an alternate means of ventilation must also be

provided. Alternate means of ventilation includes, but is not limited to, central air conditioning.

Block 1753, Lots 28 and 30 (Potential Development Site 2)

In order to ensure an acceptable interior noise environment, future residential/commercial uses must provide a closed window condition with a minimum of 33 dBA window/wall attenuation along the eastern façade and a minimum of 31 dBA on all other façades to maintain an interior noise level of 45 dBA. In order to maintain a closed-window condition, an alternate means of ventilation must also be provided. Alternate means of ventilation includes, but is not limited to, central air conditioning.

The City Planning Commission has determined that the proposed action will have no significant effect on the environment.

UNIFORM LAND USE REVIEW

This application (C 170025 ZMK) was certified as complete by the Department of City Planning (DCP) on June 5, 2017, and was duly referred to Brooklyn Community Board 3 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 application for the related action (N 170026 ZRK), which was duly referred to Brooklyn Community Board 3 and the Brooklyn Borough President on June 5, 2017 in accordance with the procedures for non-ULURP matters.

Community Board Public Hearing

Brooklyn Community Board 3 held a public hearing on this application (C 170025 ZMK) on June 27, 2017, and on that date, by a vote of 23 in favor, five opposed, and with two abstentions, adopted a recommendation in favor of the application.

Borough President Recommendation

The Brooklyn Borough President held a public hearing on this application (C 170025 ZMK) on July 25, 2017, and on September 6, 2017, issued a recommendation to approve the application with the following conditions:

1. “Limit the requested R7D zoning to R7A MIH between Sandford and Walworth streets unless the developer files a legal mechanism that provides for a demonstration by the developer to pursue a zoning text amendment that would permit a voluntary affordable housing bonus permitting R7D bulk and FAR, provided that the additional 1.0 FAR (in excess of R7A MIH) contains affordable housing floor area at a rate of 40 percent, affordable at no less than 60 percent Area Median Income (AMI) average rent

Otherwise the City Planning Commission (CPC) and/or City Council should set forth that the requested R7D zoning district should be conditioned on a New York City Zoning Resolution (ZR) text change to create a special permit affordable housing bonus or other legal mechanism that commits an additional 3,670 sq. ft. of affordable housing at an average rent based on 60 percent AMI. If such condition is not met, the CPC or City Council should modify the proposed R7D to R7A MIH

2. Limit the proposed R7D zoning by adopting an R7A zoning district for the block front on the north side of Myrtle Avenue between Nostrand Avenue and Sandford Street, to better leverage MIH opportunities in the future
3. That prior to considering the application, the City Council obtain commitments in writing from the developer, JMS Realty Corp., that clarify how it would memorialize the extent that it would:
 - a. Provide for a greater percentage of affordable two- and three-bedroom units as compared to the market-rate apartment mix, as a means to accommodate a greater percentage of families with children, consistent with ZR 23-96(c)(ii)
 - b. Provide for the extent and duration of effort made in securing a Food Retail Expansion to Support Health (FRESH) supermarket tenant or an equivalent tenant in the ground floor commercial space based on reasonable lease terms
 - c. Continue to explore additional resiliency and sustainability measures such as incorporating blue/green/white roof treatment, Passive House construction principles, solar panels, and wind turbines in the development

- d. Retain Brooklyn-based contractors and subcontractors, especially those that are designated Local Business Enterprises (LBE) consistent with section 6-108.1 of the City's Administrative Code and Minority- and Women-Owned Business Enterprises (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

Be It Further Resolved:

1. That the New York City Department of Transportation (DOT) investigate the feasibility of adding one or more Citi Bike stations along the perimeter of the development block and review existing stations within or in greater proximity to businesses within the adjacent M1-1 and M1-2 zoning districts to serve employees of local industrial businesses, with implementation proceeding based on consultation with CB 3 and local elected officials
2. That the developer commit to recruiting a building service workforce from the local population and paying prevailing wages with appropriate benefits.”

City Planning Commission Public Hearing

On August 23, 2017 (Calendar No. 1), the Commission scheduled September 6, 2017 for a public hearing on this application (C 170025 ZMK), in conjunction with the related application (N 170026 ZRK). The hearing was duly held on September 6, 2017 (Calendar No. 34). There was one speaker in favor of the application and one in opposition.

The applicant's representative described the project and the actions requested, noting that the area to be rezoned is primarily residential in character and that the proposed rezoning is consistent with the context of the 2012 Bedford-Stuyvesant North Rezoning. The representative said that one of the goals of the Bedford-Stuyvesant North Rezoning was to activate Myrtle Avenue with residential and commercial development. In response to questions, the representative noted that the unit mix, primarily studios and one-bedroom units, was favored by the Community Board.

A representative of the 32 BJ property service workers union spoke in opposition, requesting that the applicant commit to providing high quality service jobs with a focus on high paying jobs with benefits.

There were no other speakers and the hearing was closed.

CONSIDERATION

The Commission believes that this application for a zoning map amendment (C 170025 ZMK), in conjunction with the related application for a zoning text amendment (N 170026 ZRK), is appropriate.

The proposed zoning text and map amendments would change the existing zoning in the project area from M1-1 and M1-2 districts to R7D/C2-4 and R6A/C2-4 districts and designate an MIH area coterminous with the rezoning area, requiring permanent affordability for a portion of the units in developments within the rezoning area. These actions would facilitate the development of a new mixed-use building with ground floor commercial space, second floor community facility space, and approximately 75 residential units on an undeveloped site currently used for parking. Approximately 19 of the residential units would be permanently affordable MIH units for households with incomes at or below 60 percent of AMI, or an income of approximately \$51,500 for a household of three persons. The proposed development would facilitate new affordable housing to help address the dire need for more housing in Brooklyn and in the City overall, consistent with City objectives for promoting housing production and affordability. In addition, it would help redevelop underutilized sites with excellent transit access, within two blocks of the Myrtle-Willoughby G train station and with access to the B54 bus line serving Downtown Brooklyn and the B44 SBS running along Nostrand Avenue.

The project area is currently predominantly developed with a mix of vacant and nonconforming residential uses not consistent with the existing zoning of M1-1 and M1-2. The proposed densities and uses would be more consistent with existing densities and uses along the Myrtle Avenue corridor and allowed by the R7D/C2-4 zoning district, mapped in 2012 as part of the Bedford-Stuyvesant rezoning that begins directly to the east of the project area. The proposed zoning districts would bring the residential uses into conformance, allowing improvements to these buildings and easing the ability of property owners to seek financing. Although the

proposed rezoning is not expected to induce redevelopment in the R6A portion of the rezoning area, the proposed rezoning would allow for the redevelopment of underutilized sites, particularly within the R7D portion of the rezoning area, with a requirement that 25 to 30 percent of the residential floor area be set aside for permanent affordable housing through the MIH program. Designation of this MIH area is consistent with City objectives promoting production of affordable housing and with City policy that MIH is mapped where there is a zoning change allowing for a significant increase in allowable residential floor area.

Regarding the Borough President's recommendation that the Department of City Planning pursue a new zoning text amendment to modify the MIH regulations, the Commission notes that MIH is a recently-approved, citywide policy that requires affordable housing to be built as part of new residential developments. Modifying citywide requirements would require significant policy development and public review, and would be outside the scope of the proposed actions.

Regarding the Borough President's recommendation that the portion of the rezoning area north of Myrtle Avenue between Sandford Street and Nostrand Avenue be rezoned to an R7A district, rather than the proposed R7D district, the Commission notes that the proposed R7D district is consistent with the predominant zoning along Myrtle Avenue beginning directly east of the project area.

The Borough President has also included several recommendations that the City Council obtain certain commitments in writing from the applicant and the NYC Department of Transportation investigate the feasibility of locating Citi Bike stations near the proposed rezoning area. The Commission notes that this application seeks only changes to the zoning map and zoning text. Recommendations for City Council and DOT actions are outside the scope of review of these zoning actions.

RESOLUTION

RESOLVED, that having considered the Environmental Assessment Statement (EAS), for which a Negative Declaration was issued on June 5, 2017 with respect to this application (CEQR No. 16DCP177K), 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. 13b:

1. changing from an M1-1 District to an R7D District property bounded by a line 100 feet northerly of Myrtle Avenue, Nostrand Avenue, Myrtle Avenue, and Walworth Street;
2. changing from an M1-2 District to an R6A District property bounded by Myrtle Avenue, Nostrand Avenue, a line 100 feet southerly of Myrtle Avenue, and Sandford Street;
3. establishing within the proposed R7D District a C2-4 District bounded by a line 100 feet northerly of Myrtle Avenue, Nostrand Avenue, Myrtle Avenue, and Walworth Street; and
4. establishing within the proposed R6A District a C2-4 District bounded by Myrtle Avenue, Nostrand Avenue, a line 100 feet southerly of Myrtle Avenue, and Sandford Street;

Borough of Brooklyn, Community District 3, as shown on a diagram (for illustrative purposes only) dated June 5, 2017, and subject to the conditions of CEQR Declaration E-433.

The above resolution (C 170025 ZMK), duly adopted by the City Planning Commission on October 4, 2017 (Calendar No. 4), is filed with the Office of the Speaker, City Council, and the Borough President, in accordance with the requirements of Section 197-d of the New York City Charter.

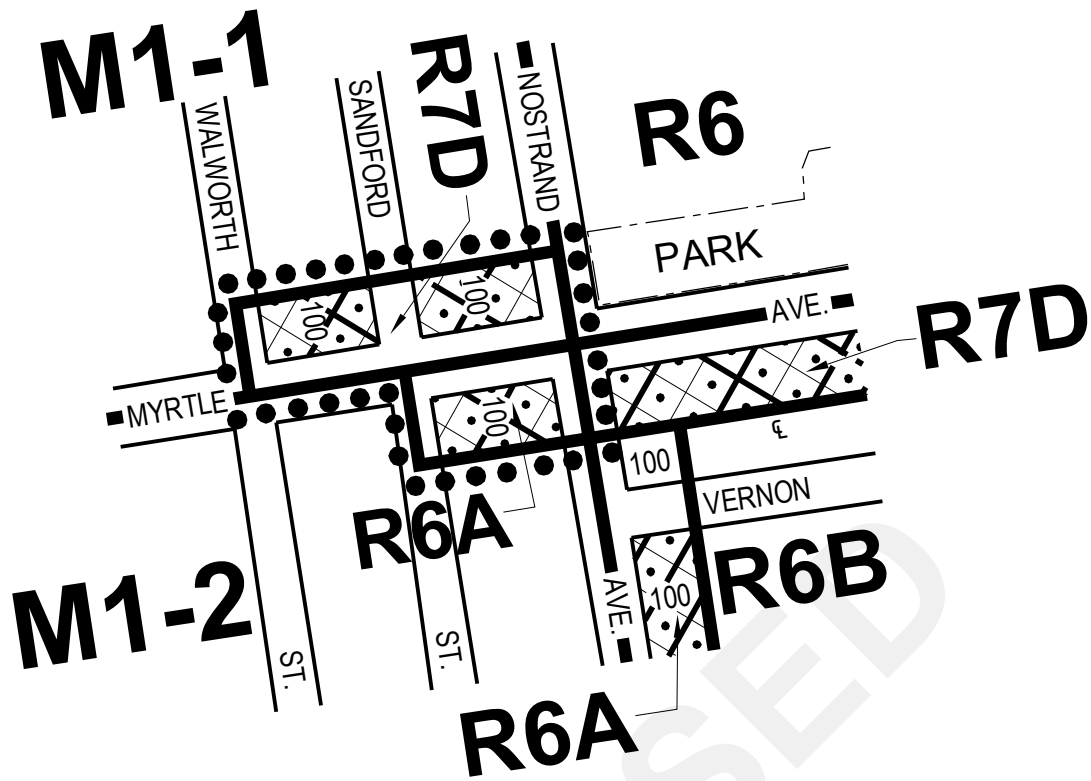
MARISA LAGO, *Chair*

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

RAYANN BESSER, ALFRED C. CERULLO, III, MICHELLE R. DE LA UZ,

RICHARD W. EADDY, CHERYL COHEN EFFRON, HOPE KNIGHT,

ANNA HAYES LEVIN, ORLANDO MARIN, LARISA ORTIZ *Commissioners*

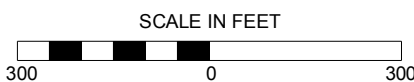


CITY PLANNING COMMISSION
 CITY OF NEW YORK
 DIAGRAM SHOWING PROPOSED
ZONING CHANGE
 ON SECTIONAL MAP
13b



BOROUGH OF
BROOKLYN

New York, Certification Date
 JUNE 05, 2017

S. Lenard, Director
 Technical Review Division



NOTE:

-  Indicates Zoning District Boundary.
-  The area enclosed by the dotted line is proposed to be rezoned by changing an M1-1 District to an R7D District by changing an M1-2 District to an R6A District and by establishing a C2-4 District within the proposed R6A and R7D Districts.



Indicates a C2-4 District.

Application #: **C 170025 ZMK**

Project Name: **723-733 Myrtle Avenue Rezoning**

CEQR Number: 16DCP177K

Borough(s): Brooklyn

Community District Number(s): 03

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

SUBMISSION INSTRUCTIONS

- Complete this form and return to the Department of City Planning by one of the following options:
 - EMAIL (recommended):** Send email to CalendarOffice@planning.nyc.gov and include the following subject line: (CB or BP) Recommendation + (6-digit application number), e.g., "CB Recommendation #C100000ZSQ"
 - MAIL:** Calendar Information Office, City Planning Commission, 120 Broadway, 31st Floor, New York, NY 10271
 - FAX:** to (212) 720-3488 and note "Attention of the Calendar Office"
- Send one copy of the completed form with any attachments to the applicant's representative at the address listed below, one copy to the Borough President, and one copy to the Borough Board, when applicable.

Docket Description:

IN THE MATTER OF an application submitted by JMS Realty Corp. pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 13b:

- changing from an M1-1 District to an R7D District property bounded by a line 100 feet northerly of Myrtle Avenue, Nostrand Avenue, Myrtle Avenue, and Walworth Street;
- changing from an M1-2 District to an R6A District property bounded by Myrtle Avenue, Nostrand Avenue, a line 100 feet southerly of Myrtle Avenue, and Sandford Street;
- establishing within the proposed R7D District a C2-4 District bounded by a line 100 feet northerly of Myrtle Avenue, Nostrand Avenue, Myrtle Avenue, and Walworth Street; and
- establishing within the proposed R6A District a C2-4 District bounded by Myrtle Avenue, Nostrand Avenue, a line 100 feet southerly of Myrtle Avenue, and Sandford Street;

as shown on a diagram (for illustrative purposes only), dated June 5, 2017 and subject to the conditions of the CEOR Declaration E-43

Applicant(s): JMS Realty Corp. 426 Willoughby Avenue Brooklyn, NY 11205	Applicant's Representative: Richard Lobel Sheldon Lobel, P.C 18 East 41st Street, 5th Floor New York, NY 10017
--	--

Recommendation submitted by:
Brooklyn Community Board 3

Date of public hearing: June 27, 2017 Location: 1368 PULTON STREET, BKLYN, NY 11216

Was a quorum present? YES NO A public hearing requires a quorum of 20% of the appointed members of the board, but in no event fewer than seven such members.

Date of Vote: June 27, 2017 Location: 1368 PULTON STREET, BKLYN, NY 11216

RECOMMENDATION

Approve Approve With Modifications/Conditions
 Disapprove Disapprove With Modifications/Conditions

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

Voting
In Favor: 23 # Against: 5 # Abstaining: 2 Total members appointed to the board:

Name of CB/BB officer completing this form	Title	Date
<u>BERYL NYACK</u>	<u>ASST. DIST. MGR</u>	<u>8/4/17</u>

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 #: 723-733 MYRTLE AVENUE REZONING – 170025 ZMK, 170026 ZRK

Applications submitted by JMS Realty Corp., pursuant to Sections 197-c and 201 of the New York City Charter, for an amendment of the Zoning Map, changing from an M1-1 District to an R7D District property bounded by a line 100 feet northerly of Myrtle Avenue, Nostrand Avenue, Myrtle Avenue, and Walworth Street; changing from an M1-2 District to an R6A District property bounded by Myrtle Avenue, Nostrand Avenue, a line 100 feet southerly of Myrtle Avenue, and Sandford Street; establishing within the proposed R7D and R6A districts a C2-4 District. The zoning text amendment would designate the project area a Mandatory Inclusionary Housing (MIH) area.

COMMUNITY DISTRICT NO. 3

BOROUGH OF BROOKLYN

RECOMMENDATION

APPROVE
 APPROVE WITH
MODIFICATIONS/CONDITIONS

DISAPPROVE
 DISAPPROVE WITH
MODIFICATIONS/CONDITIONS

SEE ATTACHED

BROOKLYN BOROUGH PRESIDENT

September 6, 2017

DATE

RECOMMENDATION FOR: 723-733 MYRTLE AVENUE REZONING – 170025 ZMK, 170026 ZRK

Applications submitted by JMS Realty Corp., pursuant to Sections 197-c and 201 of the New York City Charter, for an amendment of the Zoning Map from an M1-1 District to an R7D District property bounded by a line 100 feet northerly of Myrtle Avenue, Nostrand Avenue, Myrtle Avenue, and Walworth Street; changing from an M1-2 District to an R6A District property bounded by Myrtle Avenue, Nostrand Avenue, a line 100 feet southerly of Myrtle Avenue, and Sandford Street; establishing within the proposed R7D and R6A districts a C2-4 District. The zoning text amendment would designate the project area a Mandatory Inclusionary Housing (MIH) area.

On July 25, 2017, Brooklyn Borough President Eric L. Adams held a public hearing on the application. There was one speaker on the item – a representative from 32BJ Service Employees International Union (SEIU), who spoke in opposition. The representative encouraged the applicant to hire unionized building service workers, and pay the prevailing wage.

In response to Deputy Brooklyn Borough President Diana Reyna's inquiry regarding the absence of two-bedroom apartments from the proposal, the applicant's representative noted that the unit mix has not been finalized and that the developer is still working with the architect to configure the floor plates at this time.

In response to Deputy Borough President Reyna's inquiry as to whether any consideration was made to prioritizing low-income senior housing given the high percentage of studio and one-bedroom units, the representative clarified that it was not the applicant's intention but the developer is looking into reducing the number of studio units and one-bedroom units. The representative noted that the proposed development has double-loaded corridors on all five floors, which means there is space to alter the bedroom mix.

In response to Deputy Borough President Reyna's inquiry regarding the extent to which the applicant will provide permanently affordable housing to low-income residents, the representative stated that 19 percent of the units would be permanently affordable and explained that there will be seven studio units, 11 one-bedroom units, and one two- or three-bedroom unit. Moreover, the representative stated that the developer has contracted an affordable housing consultant, Forsyth Street Advisors.

In response to Deputy Borough President Reyna's inquiry as to the marketing strategies that will be used in the tenant selection process in order to ensure the highest participation of Brooklyn Community District 3 (CD 3) residents, the representative stated that the applicant has contracted with the Pratt Area Community Council (doing business as IMPACCT Brooklyn), an affordable housing non-profit that would administer the affordable housing lottery and market units to local residents. Deputy Borough President Reyna followed up by asking whether IMPACCT Brooklyn would also provide technical assistance to prospective applicants in order to address barriers to eligibility prior to the marketing process.

In response to Deputy Borough President Reyna's inquiry as to whether the applicant is promoting the market rate units to local residents who may be eligible, the representative stated that the applicant will look into the matter.

In response to Deputy Borough President Reyna's inquiry as to what consideration has been given to utilizing the Food Retail Expansion to Support Health (FRESH) program and incorporating a supermarket in the proposed development's 14,000 square foot (sq. ft.) commercial ground floor, the representative expressed that the applicant is not seeking a supermarket or FRESH program

tax incentives at this time, but intends to do so later in the development process. Deputy Borough President Reyna requested that the applicant market commercial space to Minority- and Women-Owned Enterprise (MWBE) tenants and recommended that the applicant reach out to the National Supermarket Association, which has a large network of MWBEs.

In response to Deputy Borough President Reyna's inquiry as to whether the developer would receive a floor area bonus for the second-floor commercial facility, the representative stated that the applicant would receive no such bonus. When asked why the applicant has chosen to include a second-floor medical facility instead of additional residential floor area, the representative disclosed that the developer currently leases space to the Bedford-Stuyvesant Alcoholism Treatment Center at 722 Myrtle Avenue, and to several dialysis centers located in Crown Heights and the Bronx. The developer has heard from several local medical offices that are seeking additional space in the area.

In response to Deputy Borough President Reyna's question as to what consideration has been given to incorporating sustainability measures, the representative stated that the developer has started discussions with two energy consultants, and will retain one to help integrate sustainability measures at 723-33 Myrtle Avenue that go beyond the 2014 Construction Code.

Consideration

On June 27, 2017, Brooklyn Community Board (CB 3) approved this application without conditions, and requested that the developer comply with Option One of the MIH program.

The area proposed to be rezoned is located in the northwestern section of Bedford-Stuyvesant in CD 3. It comprises 22 tax lots and portions of tax lots with three block frontages along the north and south sides of Myrtle Avenue, between Nostrand Avenue, Sandford Street, and Walworth Street. Properties north of Myrtle Avenue are located in an M1-1 district, and those south of Myrtle Avenue are in an M1-2 district. Nearby, along Myrtle Avenue, is an M1-2/R6A district between Franklin Avenue and Spencer Street, an R6 district (on the north side), an R7D district (on the south side) extending east of Nostrand Avenue, and an R7A district extending west of Bedford Avenue. The R7A and R7D districts were established in 2012, as part of the Bedford-Stuyvesant North Rezoning, and initiated at the request of CB 3. This rezoning established Inclusionary Housing Areas, which provide incentives to create and preserve affordable housing in conjunction with new development.

The applicant is therefore seeking to extend the Bedford-Stuyvesant North Rezoning to the three block frontages by mapping R6A, R7D, and C2-4 zoning districts, and Inclusionary Housing Area designations. These actions are intended to align with policy goals articulated in the rezoning, which sought to increase opportunities for affordable housing and strengthen the commercial character of Myrtle Avenue, as well as promote mixed-use development pursuant to the bulk regulations approved in 2012.

The surrounding context is a mix of distribution/warehousing, commercial, and community facilities, with accessory parking lots. There are several buildings containing conforming and non-conforming residential uses. The commercial and residential properties surrounding the project site are low- to mid-rise buildings that are largely contextual to the neighborhood. Marcy Houses, a large New York City Housing Authority (NYCHA) development, is located to the east of Nostrand Avenue, and the project area. Myrtle Avenue forms the area's east-west commercial spine, with secondary north-south corridors along Bedford and Nostrand avenues.

In order to construct 723-733 Myrtle Avenue, the developer intends to merge five tax lots, thus creating a 14,670 sq. ft. zoning lot. The proposed building will contain eight stories, with approximately 82,000 sq. ft. of floor area. The building would contain approximately 13,670 sq. ft. of commercial floor area, 14,670 sq. ft. of community facility floor area, and 53,611 sq. ft. of residential floor area. The development would include an underground parking garage with 68 spaces and a curb cut on Myrtle Avenue.

The developer has represented that the bedroom mix would consist of approximately 27 studio units and 45 one-bedroom units, with three units configured as two- and/or three-bedroom units. The developer believes that this unit mix is responsive to community needs, and would provide affordable housing pursuant to MIH regulations. Under MIH Option One, approximately 19 of the units would be set aside as permanently affordable, with 50 percent reserved for residents of CD 3.

Borough President Adams supports the development of underutilized land and vacant properties for productive uses that address the City's need for additional affordable housing. The redevelopment of the applicant's property into a 75-unit residential building with 19 proposed MIH units would provide additional opportunities for households seeking affordable housing, while bringing job-generating medical space and retail opportunities to a neighborhood commercial corridor.

Borough President Adams supports appropriate density in proximity to public transit. The block fronts along Myrtle Avenue proposed to be rezoned are served by multiple buses and subways. The B54 bus runs east/west along Myrtle Avenue while the B44 bus at Flushing and Nostrand avenues provides additional north/south service. The Myrtle-Willoughby Avenues subway station, served by the Brooklyn-Queens Crosstown Local G train, is located one block east, at the intersection of Marcy and Myrtle avenues.

The proposed rezoning would result in a reduction of land zoned for manufacturing in Bedford-Stuyvesant. However, unlike other rezonings of manufacturing areas, this action would bring non-conforming residential buildings into zoning conformance and connect these block fronts to recently upzoned sections of Myrtle Avenue where housing development, including affordable housing, has been encouraged at higher densities. This is especially appropriate at Myrtle Avenue, which is a major bus route and transit zone. In addition, the applicant's intent to utilize floor area for medical use would provide needed employment opportunities for varied skill sets. Such employment opportunities sufficiently compensate for the reduction of manufacturing zoned land, as the health care and health care support sectors provide a significant number of jobs for Brooklyn residents, and are projected to grow in the coming years.

Brooklyn is one of the fastest growing communities in the New York metropolitan area and the ongoing Brooklyn renaissance has ushered in extraordinary changes that were virtually unimaginable even a decade ago. Unfortunately, Brooklyn's success has led to the displacement of longtime residents who can no longer afford to live in their neighborhoods. Borough President Adams is committed to addressing the borough's affordable housing crisis through the creation and preservation of needed affordable housing units for very low- to middle-income Brooklynites.

Borough President Adams, therefore, supports developments that provide housing opportunities to a diverse range of household incomes, allowing a wide range of households to qualify for affordable housing through the City's affordable housing lottery.

It is also Borough President Adams' policy to support the development of affordable housing and seek for such housing to remain "affordable forever," wherever feasible. According to MIH, the

development of the applicant's property would result in 25 percent permanently affordable housing floor area. Development adhering to the MIH program is consistent with Borough President Adams' policy for affordable housing development to remain permanently affordable.

The New York City Zoning Resolution (ZR) requires the affordable housing units to be overseen by a non-profit administering agent, unaffiliated with the for-profit developing entity, except when otherwise approved by the New York City Department of Housing Preservation and Development (HPD). Such administering non-profit becomes responsible for ensuring that the affordable housing remains in accordance with its regulatory agreement, which governs the development's affordable housing plan. These tasks include verifying a prospective tenant household's qualifying income, and approving the rents of such affordable housing units. The administering non-profit is responsible for submitting an affidavit to HPD attesting that the initial lease-up of the affordable housing units is consistent with the income requirements, and for following up with annual affidavits to ensure conformity.

In this community, there are several non-profits with a proven track record of successfully marketing affordable housing units and promoting affordable housing lottery readiness through educational initiatives.

It is Borough President Adams' policy to advocate for affordable housing non-profits to play a contributing role toward the success of community participation in accessing neighborhood affordable housing opportunities, including serving as non-profit administering agents for new developments involving affordable housing. Borough President Adams recognizes that CD 3 has multiple non-profit entities that are entrenched in the community they serve, and whose core missions include being providers and strong advocates of affordable housing. One such organization, IMPACCT Brooklyn, has been active in the community in promoting affordable housing lottery readiness. In July 2017, JMS Realty Corp., submitted documentation indicating that IMPACCT Brooklyn is expected to act as the administering agent on this project. In this capacity, IMPACCT Brooklyn would market the affordable housing lottery and secure qualified renters, including residents of CD 3, for the 19 MIH units at 723-733 Myrtle Avenue.

Borough President Adams is generally supportive of the proposed development. However, he is concerned that the requested rezoning may lead to the displacement of businesses and residents on Myrtle Avenue, where such development would not be obligated to provide affordable housing, does not offer a greater amount of affordable housing floor area in exchange for a significant upzoning, and does not offer a more family-oriented bedroom mix. He also believes that there are opportunities to improve the proposal while furthering his policies. Such opportunities include providing access to fresh food and local jobs, advancing resilient energy and sustainable and stormwater management policies, as well as improving transportation options.

Greater Affordability

In order to have MIH withstand constitutional challenges, it must have consistency for advancing a public purpose. However, in doing so, the proposed MIH rezoning falls well short of recapturing the added value of such a drastic proposed increase in floor area because it creates more development opportunity through more than quadrupling the market-rate floor area when compared to more modest upzonings, such as the R6A district that is proposed to the south of the site and R7A district further to the west. Thus, any zoning district in excess of R7A lacks leverage to induce more affordable housing as a public benefit pursuant to MIH. As such, the proposed

rezoning would substantially enrich the development site with market-rate floor area without the public benefit of extra affordable housing, compared to a lesser upzoning.

Borough President Adams believes that significant upzonings should yield more affordable housing and, where appropriate, at deeper levels of affordability than upzonings that do not provide as much of an increase in density. As rectifying this inequity cannot be achieved directly through MIH, he believes that equity can be advanced in a manner that blends the voluntary inclusionary designated area's affordable housing bonus to achieve the maximum permitted floor area. Borough President Adams believes that maximizing the number of affordable units while lowering the levels of household affordability can be achieved by blending what is required, according to the proposed MIH, with a voluntary special bulk permit.

Specifically, under this request, Borough President Adams believes that if developers do not choose to exceed the MIH requirements, the site should be developed according to the R7A MIH regulations, which stipulate a Floor Area Ratio (FAR) of 4.6. As proposed to be mapped, the R7D zoning represents 14,670 sq. ft. of lot area with 46,944 sq. ft. of additional development rights. Of such rights, approximately 33,500 sq. ft. would be used for market-rate floor area on top of the existing 35,208 sq. ft. of market-rate floor area. These rights are 14,670 sq. ft. in excess of what is permitted in the R7A MIH district. Borough President Adams believes that some portion of these rights might reasonably be considered to further public benefit. For the JMS Realty Corp. to seek the additional 1.0 FAR, there should be a requirement that 40 percent of the additional floor area be affordable based on rents averaging 60 percent of Area Median Income (AMI). Linking a substantial amount of market-rate floor area in excess of the 4.6 FAR, at an increased percent of the affordability requirement between 4.6 FAR and 5.6 FAR, or 25 percent to 40 percent, would produce approximately 3,670 sq. ft. of additional floor area for affordable housing. Moreover, linking a substantial amount of market-rate floor area (1.0 FAR) to the zoning bonus provides a much greater incentive for a developer to use the bonus, thus generating the publicly desired affordable housing.

Therefore, unless there is an adequate demonstration by the developer of a commitment to pursue a zoning text amendment for a voluntary affordable housing bonus permitting the R7D bulk and FAR (provided that of the additional 1.0 FAR, 40 percent is affordable to no less than 60 percent AMI average rent), it would not be appropriate for the north side of this site to exceed R7A zoning in order to provide affordable housing to more households. The City Planning Commission (CPC) and/or City Council should set forth that the requested R7D zoning district be conditioned on such a text change to create a special permit affordable housing bonus or other legal mechanism that commits an additional 3,670 sq. ft. of affordable housing at an average rent based on 60 percent AMI. Otherwise, the CPC or City Council should modify the proposed R7D district between Sanford and Walworth streets to an R7A MIH district.

Limit Rezoning to Better Leverage Affordable Housing in the Future

In addition to the block front containing applicant's site, the requested zoning change from M1-1 to R7D includes the north side of Myrtle Avenue between Nostrand Avenue and Sandford Street. This block includes a large 15,775 sq. ft. lot with a one-story enclosed building materials wholesale facility, a 2,155 sq. ft. lot with a three-story mixed use building with four dwelling units and ground-floor commercial use, a 3,233 sq. ft. vacant lot, a 4,375 sq. ft. lot with a two-story building with one dwelling unit and ground-floor commercial use, and a 1,000 sq. ft. lot with a two-story, two-unit residential building.

Several of these lots are substantially underbuilt, while others contain non-conforming residential use. Subsequent to the rezoning, such lots may be considered desirable soft sites for market-rate

development. Though the developer's Environmental Assessment Statement (EAS) development scenarios are projected for three lots on the adjacent Sandford Street block that would result in three buildings with a maximum height of 115 feet, and a total of 23 affordable units pursuant to

MIH, it would be contrary to Borough President Adams' policy to seek greater participation of affordable housing for significant upzonings.

While some of the smaller parcels were not evaluated in the project's Environmental Assessment Statement (EAS), there appears to be a reasonable possibility that those sites could be developed for residential use without the inclusion of floor area pursuant to the MIH program. According to ZR Section 23-154(d)(4), a single development of no more than 10 residential units or less than 12,500 square feet of residential floor area, on a zoning lot that existed on the effective date of the proposed rezoning need not comply with the MIH affordability requirements. Therefore, such a development would not result in affordable housing units or even payment made into the City's affordable housing fund. Instead, it would displace occupants of existing dwelling units through demolition and new construction.

Borough President Adams is concerned that rezoning to the extent requested would not achieve enough affordable housing units that are consistent with his policies, and to otherwise offset any resulting residential and industrial displacement to facilitate new development. In order to minimize displacement resulting from building demolition, Borough President Adams believes it is appropriate to change the proposed R7D district to an R7A district until such time that a developer comes forward with the appropriate assemblage of these lots. Such rezoning would reduce the development incentive for the displacement of businesses and residents until adequate property assemblage would provide for an enhancement of the affordable housing opportunities pursuant to the MIH program.

In order to retain these lots as opportunities to provide a greater amount of affordable housing, Borough President Adams believes that it is appropriate for CPC or the City Council to modify the proposed R7D zoning by adopting an R7A district designation for the block front on the north side of Myrtle Avenue between Nostrand Avenue and Sandford Street.

Achieving a Family-Sized Affordable Housing Unit Mix

A recent report identified that rent-burdened households, which typically represent those households applying to the City's affordable housing lotteries, are more likely to require family-sized apartments. Therefore, Borough President Adams is concerned that the proposed mix of affordable housing units would not reflect the unique needs of CD 3's low- to middle-income rent-burdened families, who are not seeking senior housing units.

Borough President Adams believes that using the affordable housing floor area for right-sizing the bedroom distribution is more important than maximizing the number of affordable housing units. Though pursuant to MIH in and of itself, there is not sufficient leverage to provide for a greater number of bedrooms for the affordable units as part of this development.

Borough President Adams believes that discretionary land use actions are appropriate opportunities to advance policies that constrain what would otherwise be permitted as-of-right. He believes that 723-733 Myrtle Avenue presents an opportunity to achieve family-sized units for the non-elderly. Borough President Adams seeks to require a minimum threshold for non-independent residences for senior housing to accommodate family-sized apartments. Borough President Adams ideally supports having at least 50 percent of the bedroom mix configured as two- or three-bedroom affordable housing units, and at least 75 percent configured as one- or more bedroom

affordable housing units, consistent with the zoning text for Inclusionary Housing floor area, pursuant to ZR Section 23-96(c)(1)(ii).

Borough President Adams believes that the 723-733 Myrtle Avenue residential floor area should be designed to provide more two- and three-bedroom dwelling units to accommodate a greater percentage of families with children, with rents targeting households qualifying at AMIs of 40 percent and greater and averaging 60 percent AMI. In addition, he believes that such floor area should have a greater number of studio and one-bedroom units with rents at 40 percent AMI to accommodate a greater percentage of senior households.

Prior to considering the application, the City Council should obtain commitments in writing from the developer, JMS Realty Corp., that clarify how it would realize a greater percentage of affordable two- and three-bedroom units, as compared to the market-rate apartment mix, in order to accommodate a greater percentage of families with children, consistent with ZR 23-96(c)(ii).

Enhancing Access to Fresh Food

It is one of Borough President Adams' policies to review all land use applications to determine whether it is appropriate to include a supermarket within the plans. He is concerned about limited access to affordable fresh food stores in many Brooklyn neighborhoods. In order for all of Brooklyn to flourish, it is imperative that the borough's residents have an adequate supply of grocery stores and supermarkets in their neighborhoods that provide affordable and fresh foods. Access to healthy food options, whether achieved by creating more options and/or maintaining access to healthy food options, is a top priority for Borough President Adams.

Bedford-Stuyvesant, a designated food desert, is significantly underserved by access to fresh, quality food options. In response, the ZR recently established FRESH program incentives and the City makes financing available through its FRESH initiative. The location of this site makes it eligible for these financing and zoning initiatives, and the proposed retail footprint is an opportunity to establish a supermarket in the development.

An affordable supermarket at 936 Myrtle Avenue was recently demolished to make way for a high-rise residential development. There is one supermarket in the vicinity, and another FRESH supermarket has been approved as part of the development at 859 Myrtle Avenue. Given that a large proportion of the area's residents live in public housing, with more than 4,000 tenants in Marcy Houses alone, the area may benefit from an additional affordable supermarket at 723-733 Myrtle Avenue that would serve a range of incomes, while meeting additional demand for fresh and quality food options.

The proposed development provides 13,670 sq. ft. of commercial area and the developer has indicated intent to explore FRESH financing incentives at a future date. Borough President Adams believes it is appropriate to request a written commitment from the developer to seek a supermarket operation in a manner consistent with the FRESH program.

Therefore, prior to the City Council vote, JMS Realty Corp. should memorialize how it would retain a FRESH supermarket or its equivalent based on reasonable lease terms on the ground floor, for example, by marketing the commercial floor area to affordable supermarket operators prior to targeting other uses for occupancy.

Advancing Resilient and Sustainable Energy and Stormwater Management Policies

It is Borough President Adams' sustainable energy policy to promote opportunities that utilize blue/green/white roofs, solar panels, and/or wind turbines, as well as Passive House construction.

He encourages developers to coordinate with the New York City Mayor's Office of Sustainability (Mayor's Office of Sustainability), the New York State Energy Research and Development Authority (NYSERDA), and/or the New York Power Authority (NYPA) at each project site. Such modifications

tend to increase energy efficiency and reduce a development's carbon footprint. Furthermore, as part of his flood resiliency policy, Borough President Adams also encourages developers to incorporate permeable pavers and/or establish bioswales that advance the New York City Department of Environmental Protection (DEP) green infrastructure strategy. Bioswales, blue/green roofs, and permeable pavers would deflect stormwater from the City's water pollution control plants. According to the "New York City Green Infrastructure 2016 Annual Report," green infrastructure plays a critical role in addressing water quality challenges and provides numerous economic, environmental, and social co-benefits.

Borough President Adams believes it is appropriate for the developer to engage government agencies such as the Mayor's Office of Sustainability, NYSERDA, and/or 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 square-foot 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 the aforementioned agencies and to further coordinate on this matter.

The proposed development offers opportunities to explore resiliency and sustainability measures such as incorporating blue/green/white roof finishes, Passive House construction principles, solar panels, and wind turbines in the development.

Therefore, prior to considering the application, the City Council should obtain commitments in writing from the developer, JMS Realty Corp., that clarify how it would memorialize integrating these resiliency and sustainability features at 723-733 Myrtle Avenue.

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 2015," 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 25 percent or greater. Prioritizing local hiring would assist in addressing this employment crisis. Additionally, promoting Brooklyn-based businesses including those that qualify as Locally-Owned Business Enterprises (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).

Therefore, prior to considering the application, the City Council should obtain commitments in writing from the developer, JMS Realty Corp., that clarify how it would memorialize the extent to which it would retain Brooklyn-based contractors and subcontractors, especially those that are designated LBEs consistent with section 6-108.1 of the City's Administrative Code, and MWBEs. This would be undertaken to meet or exceed standards per Local Law 1 (no less than 20 percent participation), as well as comply with the requirements of HPD's Build Up program.

Citi Bike Station Expansion

In the last few years, Citi Bike has become increasingly popular as it provides a cheap and environmentally-friendly way to get around New York City. Currently, Citi Bike is in the midst of a rapid expansion, with the promise of 700 stations and 12,000 bikes by 2017.

Borough President Adams believes that it is appropriate for the New York City Department of Transportation (DOT) to take new destinations into account while considering how to best serve Citi Bike members, as well as to encourage membership growth.

The blocks proposed for rezoning in this application are situated in a larger manufacturing zone bounded by Flushing and Myrtle avenues and Classon and Nostrand avenues/Steuben Street. In reviewing this zoning request, it became apparent that the northern portion of this area is largely lacking in Citi Bike docks, which are located exclusively on its periphery at Myrtle Avenue. Moreover, the area is poorly served by public transportation and contains a significant concentration of industrial businesses. Citi Bike has the capacity to provide efficient commutes when its docking stations are located in areas with unmet demand for transportation. Borough President Adams recognizes that industrial zones are less convenient to public transportation than other employment centers. He believes that Citi Bike infrastructure can ease and improve commutes for industrial workers by establishing transit connections and encouraging commuting to work entirely through Citi Bike use.

Therefore, Borough President Adams calls on DOT to investigate the feasibility of adding one or more Citi Bike stations north of Myrtle Avenue in the M1-1 and M1-2 zoning districts, in order to better serve employees of local industrial businesses. Implementation should proceed based on consultation with CB 3, industrial businesses, and local elected officials.

Prevailing Wages and Local Hiring for Building Service Workers

Jobs within the building service sector have long served as a pathway to middle-class living for lower-income individuals, including immigrants and people of color. With low barriers to entry and real career prospects, building service jobs, when compensated at prevailing wage standards, provide average wages at twice that of the retail sector and are often filled through local hiring.

Borough President Adams believes that it is appropriate to advocate for economic opportunities that allow families to remain in their neighborhoods, by providing sufficient income to alleviate their rent burdens. He further believes that building service positions often result in locally-based employment. Therefore, Borough President Adams strongly encourages the developer, JMS Realty Corp., to commit to hiring locally for building service jobs and paying prevailing wages with benefits to their workforce.

Recommendation

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

1. Limit the requested R7D zoning to R7A MIH between Sandford and Walworth streets unless the developer files a legal mechanism that provides for a demonstration by the developer to pursue a zoning text amendment that would permit a voluntary affordable housing bonus permitting R7D bulk and FAR, provided that the additional 1.0 FAR (in excess of R7A MIH) contains affordable housing floor area at a rate of 40 percent, affordable at no less than 60 percent Area Median Income (AMI) average rent

Otherwise, the City Planning Commission (CPC) and/or City Council should set forth that the requested R7D zoning district should be conditioned on a New York City Zoning Resolution (ZR) text change to create a special permit affordable housing bonus or other legal mechanism that commits an additional 3,670 sq. ft. of affordable housing at an average rent based on 60 percent AMI. If such a condition is not met, the CPC or City Council should modify the proposed R7D to R7A MIH

2. Limit the proposed R7D zoning by adopting an R7A zoning district for the block front on the north side of Myrtle Avenue between Nostrand Avenue and Sandford Street, to better leverage MIH opportunities in the future
3. That prior to considering the application, the City Council obtain commitments in writing from the developer, JMS Realty Corp., that clarify how it would memorialize the extent that it would:
 - a. Provide for a greater percentage of affordable two- and three-bedroom units as compared to the market-rate apartment mix, as a means to accommodate a greater percentage of families with children, consistent with ZR 23-96(c)(ii)
 - b. Provide for the extent and duration of effort made in securing a Food Retail Expansion to Support Health (FRESH) supermarket tenant or an equivalent tenant in the ground-floor commercial space based on reasonable lease terms
 - c. Continue to explore additional resiliency and sustainability measures such as incorporating blue/green/white roof treatment, Passive House construction principles, solar panels, and wind turbines in the development
 - d. Retain Brooklyn-based contractors and subcontractors, especially those that are designated Local Business Enterprises (LBE) consistent with section 6-108.1 of the City's Administrative Code and Minority- and Women-Owned Business Enterprises (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

Be It Further Resolved:

1. That the New York City Department of Transportation (DOT) investigate the feasibility of adding one or more Citi Bike stations along the perimeter of the development block and review existing stations within or in greater proximity to businesses within the adjacent M1-1 and M1-2 zoning districts to serve employees of local industrial businesses, with implementation proceeding based on consultation with CB 3 and local elected officials
2. That the developer commit to recruiting a building service workforce from the local population and paying prevailing wages with appropriate benefits