



CITY PLANNING COMMISSION

December 15, 2010 / Calendar No. 9

C 080293 ZMQ

IN THE MATTER of an application submitted by LRHC Bayside N.Y. Inc. pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 11a:

1. eliminating from within an existing R6B District a C1-2 District bounded by Bell Boulevard, the southerly boundary line of the Long Island Railroad right-of-way (Northside Division), a line 100 feet easterly of Bell Boulevard, and 42nd Avenue; and
2. establishing within an existing R6B District a C2-2 District bounded by Bell Boulevard, the southerly boundary line of the Long Island Railroad right-of-way (Northside Division), a line 100 feet easterly of Bell Boulevard, and 42nd Avenue;

Borough of Queens, Community District 11, as shown on a diagram (for illustrative purposes only) dated July 26, 2010.

The application for an amendment of the Zoning Map was filed by Lucille Robert's Health Club Bayside New York Incorporated on February 15, 2008 to rezone a portion of one block along Bell Boulevard, between 42nd Avenue and the Long Island Railroad right-of-way, from a C1-2 to a C2-2 commercial district, within an existing R6B District, in the Bayside neighborhood of Queens, Community District 11.

BACKGROUND

Lucille Robert's Health Club Bayside New York Incorporated is seeking to amend the Zoning Map on a portion of one block located on Bell Boulevard, between 42nd Avenue and the Long Island Railroad right-of-way, (Block 6290, Lots 1, 3, 4, 5 and 6), to change from a C1-2 to a C2-2 district, within an existing R6B district. The proposed zoning change would allow an existing

physical culture establishment to seek a special permit from the Board of Standards and Appeals that would legalize the existing use.

The rezoning area is approximately 14,000 square feet in area and is developed with commercial buildings which vary between one and three floors in height. The ground floor commercial uses include a fast food restaurant, a hardware store, a paint store, a health club and a spa salon with massage services. The upper floor commercial uses include a yoga studio and a driving school. One residential unit is located on third floor of Lot 4. The applicant is the owner of the health club (Lucille Roberts Health Club) and the sole tenant of a single-story building located on Lot 5. No new development or enlargement to any of the existing structures are expected as a result of the proposed zoning change.

The rezoning area is located along the Bell Boulevard commercial corridor which primarily serves the surrounding Bayside neighborhood. C1 and C2 commercial overlays are mapped within an existing R6B district along both sides of Bell Boulevard from 38th Avenue to Northern Boulevard. The area is characterized by one- to three-story buildings with commercial and residential uses. The rezoning area is bounded to north by the Northside Division of the Long Island Rail Road (LIRR) and the LIRR's Bayside station is located on the west side of Bell Boulevard, across from the rezoning area

A maximum commercial floor area ratio (FAR) of 2.0 is allowed in both C1 and C2 districts when mapped within R6B districts. The maximum base height allowed is between 30 and 40 feet, with a maximum building height of 50 feet. The C2 district allows a wider range of uses

such as funeral homes, home maintenance and repair services like plumbing and electrical shops, upholstery and appliance repair shops, printers, caterers, gymnasiums and amusement establishments. Physical culture establishments are allowed in C2 districts with a special permit granted by the Board of Standards and Appeals.

An C8-1 district, currently developed with a car wash establishment, automotive repair shops and the Bayside Municipal Parking Field, is located immediately east of the proposed rezoning area and extends eastward along the Long Island Railroad right of way from 42nd Avenue to 216th Street. C8-1 districts allow all commercial uses including automotive and other heavy commercial services that require large amounts of land. The maximum FAR is 1.0.

An R4 district is located to the southeast of the rezoning area and west of Bell Boulevard. These locations are primarily developed with two- and three-story, detached and attached residences. In R4 districts, residential development is permitted at a maximum FAR of .9 (including attic allowance) and community facility development is permitted at a maximum FAR of 2.0.

ENVIRONMENTAL REVIEW

This application (C 080293 ZMQ) was reviewed pursuant to the New York State Environmental Quality Review Act (SEQRA), and the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 et seq. and the City Environmental Quality Review (CEQR) Rules of Procedure and of 1991 and Executive Order No. 91 of 1977. The designated CEQR number is 08DCP044Q. The lead is the New York City Planning Commission.

After a study of the potential environmental impact of the proposed action, a negative declaration was issued on July 26, 2010.

UNIFORM LAND USE REVIEW

This application (C 080293 ZMQ) was certified as complete by the Department of City Planning on July 26, 2009, and was duly referred to Community Board 11 and the Borough President, in accordance with Title 62 of the rules of the City of New York, Section 2-02(b).

COMMUNITY BOARD PUBLIC HEARING

Community Board 11 held a public hearing on this application on October 4, 2010, and on that date, by a vote of 21 to 11 with 0 abstentions, adopted a resolution recommending disapproval of the application (C 080293 ZMQ) stating that:

The Community Board believes that this is spot zoning, object to “upzoning” and are concerned with additional use groups allowed with a C2-2 zone.

BOROUGH PRESIDENT RECOMMENDATION

This application (C 080293 ZMQ) was considered by the Borough President, who issued a conditional approval of the application on November 15, 2010 with the following condition:

The applicant should file the restrictive declaration excluding the noxious uses cited at the CB 11 hearing and encourage adjoining property owners to do the same as discussed at the Queens Borough President's Land Use Public Hearing.

CITY PLANNING COMMISSION PUBLIC HEARING

On October 27, 2010 (Calendar No. 2), the City Planning Commission scheduled November 17, 2010 for a public hearing on this application (C 080293 ZMQ). The hearing was duly held on November 17, 2010 (Calendar No. 11). There were three speakers in favor and one in opposition to the application.

The applicant's representative summarized the proposal, noting that it would be consistent with the existing commercial development pattern found on Bell Boulevard. The applicant's representative stated that the proposal is meant to facilitate the legalization of an existing physical culture establishment on Lot 5 and that no future development is proposed. The applicant's representative stated that the proposal would not change the amount of bulk currently allowed under the current zoning. However, the applicant's representative noted that the proposal would allow a wider range of uses, but believed that such uses would be unlikely to occur in the area.

The applicant's attorney reviewed the history of the health club's presence on the site, including previous attempts by the applicant to legalize the use. The attorney explained that the current rezoning would allow the health club to apply for a special permit from the Board of Standards and Appeals. An employee of the Lucille Roberts Health Club spoke in favor of the proposal and stated that about 250 women occupy the health club on a given day.

A member of the Auburndale Improvement Association objected to the rezoning as an upzoning and was concerned with some of the uses allowed with the proposed C2-2, such as motels and tire installation shops.

There were no other speakers and the hearing was closed.

CONSIDERATION

The Commission believes that this application (C 080293 ZMQ) for an amendment of the Zoning Map is appropriate.

The Commission notes that Bell Boulevard is an active commercial corridor that provides professional services and convenient retail shopping options in an attractive ‘Main Street’ setting to the Bayside community. The Commission notes that existing C2-2 commercial overlays can be found along Bell Boulevard starting three blocks north of the proposed rezoning area. The Commission also notes that the eastern boundary of the rezoning area adjoins a C8-1 district which allows a wider range of commercial use, including automotive related services, than are allowed in the proposed C2-2. The Commission therefore believes that the proposed zoning change is consistent with the land uses in the area.

The Commission acknowledges the concerns of Community Board 11 regarding spot zoning, upzoning, and the additional use groups allowed by the proposed C2-2 zone. The Commission notes that existing C2-2 districts already exist just three blocks north and south of the proposed

rezoning. The Commission also notes that the bulk regulations are the same for the existing C1-2 district and the proposed C2-2 district. Furthermore, the Commission believes that uses allowed under the proposed C2-2 district are consistent with other land uses in the area around the proposed zoning change.

The Commission also acknowledges the recommendation of the Queens Borough President that the applicant file a restrictive declaration to exclude some of the land uses permitted under the proposed C2-2 district. As stated above, the Commission notes that other C2-2 districts already exist in the vicinity of the proposed rezoning and believes that the uses permitted by the proposed C2-2 district are consistent with other uses in the vicinity of the applicant's site. The Commission notes that, as a policy matter, use of a restrictive declaration to limit the range of uses that would be permitted under a proposed zoning designation should be restricted to the rare situation where the record clearly shows that there are unique conditions in the rezoning area which suggest that allowing particular uses would result in a nuisance and be incompatible with the surrounding community. Absent such special situations, the 'tailoring' of a rezoning to fashion a special set of permitted use or bulk regulations for the rezoning area only is inappropriate. Accordingly, the Commission does not believe that a restrictive declaration to limit the uses on the site is appropriate.

RESOLUTION

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

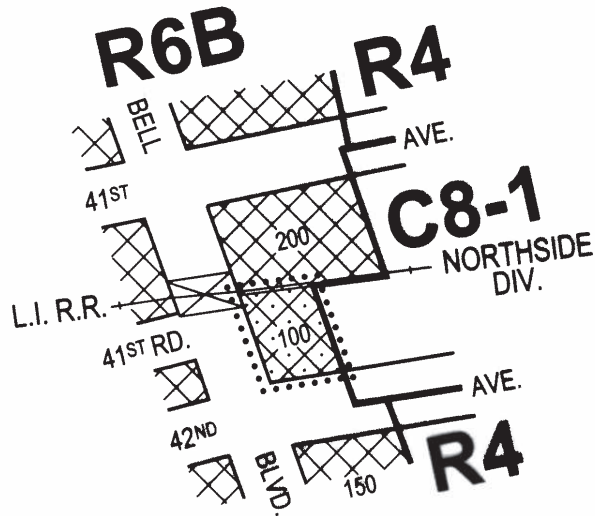
RESOLVED, by the City Planning Commission, pursuant to Section 197-c and 200 of the New York City Charter, that based on the environmental determination and consideration described in this report, the Zoning Resolution of the City of New York, effective as of December 15, 1961, is further amended by changing the Zoning Map, Section No. 11a:

1. eliminating from within an existing R6B District a C1-2 District bounded by Bell Boulevard, the southerly boundary line of the Long Island Railroad right-of-way (Northside Division), a line 100 feet easterly of Bell Boulevard, and 42nd Avenue; and
2. establishing within an existing R6B District a C2-2 District bounded by Bell Boulevard, the southerly boundary line of the Long Island Railroad right-of-way (Northside Division), a line 100 feet easterly of Bell Boulevard, and 42nd Avenue;

Borough of Queens, Community District 11, as shown on a diagram (for illustrative purposes only) dated July 26, 2010.

The above resolution (C 080293 ZMQ), duly adopted by the City Planning Commission on December 15, 2010 (Calendar No. 9), is filed with the Office of the Speaker, City Council, and the Borough President in accordance with the requirements of Section 197-d of the New York City Charter.

AMANDA M. BURDEN, FAICP, Chair
KENNETH J. KNUCKLES, Esq., Vice Chairman
ANGELA M. BATTAGLIA, RAYANN BESSER, IRWIN G. CANTOR, P.E.,
ALFRED C. CERULLO, III, BETTY Y. CHEN, MARIA M. DEL TORO,
RICHARD W. EADDY, NATHAN LEVENTHAL, ANNA HAYES LEVIN,
KAREN A. PHILLIPS, Commissioners



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

11a
 BOROUGH OF
QUEENS

Suzanne Fadloff

for S. Voyages, R.A. Director
 Technical Review Division

New York, Certification Date
 JULY 26, 2010



- NOTE:**
- Indicates Zoning District Boundary.
 - The area enclosed by the dotted line is proposed to be rezoned by eliminating a C1-2 District from an existing R6B District and establishing within an existing R6B District a C2-2 District.
 - Indicates a C1-2 District.
 - Indicates a C2-2 District.

THIS DIAGRAM IS FOR ILLUSTRATIVE PURPOSES ONLY.

Community/Borough Board Recommendation

CITY PLANNING COMMISSION
22 Reade Street, New York, NY 10007
FAX # (212) 720-3356

Application # C 080293 ZMQ
CEQR # 08DCP044Q
Community District No. 11 Borough: Queens
Community District No. ___ Borough: ___
Project Name: **Bell Boulevard Rezoning**

INSTRUCTIONS

1. Complete this form and return one copy to the Calendar Information Office, City Planning Commission, Room 2E, at the above address.

2. 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 LRHC Bayside N.Y. Inc. pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 11a:

- eliminating from within an existing R6B District a C1-2 District bounded by Bell Boulevard, the southerly boundary line of the Long Island Railroad right-of-way (Northside Division), a line 100 feet easterly of Bell Boulevard, and 42nd Avenue; and
- establishing within an existing R6B District a C2-2 District bounded by Bell Boulevard, the southerly boundary line of the Long Island Railroad right-of-way (Northside Division), a line 100 feet easterly of Bell Boulevard, and 42nd Avenue;

Borough of Queens, Community District 11, as shown on a diagram (for illustrative purposes only) dated July 26, 2010.

Applicant(s):

LRHC Bayside N.Y. Inc.
4 East 80th Street
New York, NY 10075

Applicant's Representative:

Jeffrey A. Chester, Esq.
Einbinder & Dunn, LLP
104 W. 40th Street, 20th Floor
New York, NY 10018

Phone: (212) 391-9500 Fax (212) 391-9025

Community Board No. 11 Borough: **Queens**

Borough Board

Date of public hearing: October 4, 2010

Location: MS 158Q, 46-35 Oceania St.
Bayside, NY

Was a quorum present? YES NO

A public hearing shall require a quorum of 20% of the appointed members of the board, but in no event fewer than seven such members.

Vote adopting recommendation taken: 10/4/10

Location: _____

RECOMMENDATION

Approve

Approve With Modifications/Conditions

Disapprove

Disapprove With Modifications/Conditions

Explanation of Recommendation-Modification/Conditions (Attach additional sheets if necessary)

The Community Board believes that this is spot zoning, object to "upzoning" and are concerned with additional use groups allowed with a C2-2 zone.

Voting

In Favor: 11

Against: 21

Abstaining:

Total members appointed to the board: 49


Community/Borough Board Officer

District Manager
Title

Date

10/5/10

v.012006w

Queens Borough President Recommendation

APPLICATION: ULURP #080293 ZMQ

COMMUNITY BOARD: Q11

DOCKET DESCRIPTION

IN THE MATTER OF an application submitted Jeffrey Chester on behalf of the LRHC Bayside NY Inc., pursuant to Sections 197-c and 201 of the New York City Charter, for an amendment of the Zoning Map, Section 11a, **eliminating from within an R6B district a C1-2 District bounded by Bell Boulevard, the southerly boundary line of the LIRR right-of-way, a line 100 feet easterly of Bell Boulevard, and 42nd Avenue and establishing within an existing the R6B district, a C2-2 district bounded by Bell Boulevard, the southerly boundary line of the LIRR right-of-way, a line 100 feet easterly of Bell Boulevard, and 42nd Avenue**, Block 6290, Lots 1,3,4, p/o 5 and 6, Zoning Map 11a, Bayside, Borough of Queens.

PUBLIC HEARING

A Public Hearing was held in the Borough President's Conference Room at 120-55 Queens Boulevard on Thursday, October 28, 2010, at 10:30 A.M. pursuant to Section 82(5) of the New York City Charter and was duly advertised in the manner specified in Section 197-c (i) of the New York City Charter. The applicant made a presentation. There were three (3) speakers in favor with one (1) against. The hearing was closed.

CONSIDERATION

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

- The applicant (LHRC Bayside NY Inc.) is proposing a map amendment changing an existing C1-2 overlay to a C2-2 overlay in an R6B district on Block 6290 Lots 1,3,4, p/o 5 and 6 on the east side of Bell Boulevard between 41st & 42nd Avenues;
- The proposed rezoning would allow the applicant to file for the required special permit (NYC Zoning Resolution Section 74-that would allow the continued operation of the existing physical culture establishment, (Lucille Roberts), at 41-10 Bell Boulevard. Lucille Roberts has been in operation in a one-story 6898 sf building with an 4700 sf cellar at that location for over seventeen (17) years. The requested overlay would allow legalization of the physical culture establishment that serves approximately 250 members per day. No physical changes or alterations to the building are proposed. In addition to the applicant's property, the proposed change in overlay would also rationalize other existing uses on the block.;
- Since taking possession of the property, zoned C4-2 at the time, LHRC Bayside NY Inc. has attempted to obtain the required approvals to operate a physical culture establishment on the site. An application for the required special permit was filed with the Board of Standards and Appeals. Subsequently, the zoning of the property was changed to C1-2, which has no provision for a special permit to operate a physical culture establishment. That application (BSA #132-93BZ) was withdrawn. Another BSA application (BSA# 393-04BZ), requesting a variance that was approved by Community Board 11 was filed and subsequently withdrawn.;
- The zoning map amendment would affect an area of Bell Boulevard which is a major thoroughfare developed with a mix of local commercial/retail uses. The immediate area where the C2-2 commercial overlay would be mapped is directly across the street from the Bayside Long Island Rail Road Station. The mapped commercial overlays along this section of Bell Boulevard are C1-2 and C2-2. There is an C8-1 district directly adjoining the rezoning area east of Bell Boulevard. There is a mix of medium and low density districts mapped on and around the Bell Boulevard corridor.;
- Community Board 11 (CB 11) disapproved this application by a vote of 21 (twenty-one) against and 11 (eleven) in favor at a public hearing held on Monday, October 4, 2010. Issues raised at the CB 11 public hearing included concern that this was "spot" zoning and that the change in overlay would allow undesirable uses onto the Bell Boulevard commercial district.
- At the Borough President's public hearing, the applicant's representative stated that they would be willing to file a restrictive declaration excluding objectionable uses on their property. It was further stated that the applicant would be willing to work with neighboring property owners to file similar restrictive declarations excluding objectionable uses on their respective properties.

RECOMMENDATION

Bell Boulevard is a local commercial/retail corridor that offer a variety of goods and services. There are already C2-2 overlays mapped along the boulevard between 38th & 39th Avenues. The uses within those areas do not include the uses that concerns were raised about at CB 11. The area of the proposed C2-2 overlay is already developed. It is not expected that the applicants request will trigger any new development with the noxious uses that concerns have been about.

Based on the above consideration, I hereby recommend approval of this application with the following condition:

- The applicant should file the restrictive declaration excluding the noxious uses cited at the CB 11 hearing and encourage adjoining property owners to do the same as discussed at the Queens Borough President's Land Use Public Hearing.



PRESIDENT, BOROUGH OF QUEENS



DATE