

Brooklyn Borough President Recommendation

CITY PLANNING COMMISSION

22 Reade Street, New York, NY 10007

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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 #: 100202 ZMK

Empire Boulevard Rezoning

In the matter of an application submitted by 529 Empire Realty Corporation, pursuant to Sections 197-c and 201 of the New York City Charter, for amendment of the Zoning Map, Section 17b:

1. Eliminating from an existing R5 District a C1-3 District bounded by a line midway between Montgomery Street and Empire Boulevard, Lamont Court and its northerly centerline prolongation, a line 100 feet southerly of Empire Boulevard, Brooklyn Avenue, a line midway between Empire Boulevard and Sterling Street, a line 100 feet westerly of Brooklyn Avenue, Empire Boulevard and Brooklyn Avenue;
2. Eliminating from within an existing R7-1 District a C1-3 District bounded by:
 - a. Empire Boulevard, a line 100 feet westerly of Brooklyn Avenue, a line midway between Empire Boulevard and Sterling Street, and a line 150 feet westerly of Brooklyn Avenue; and
 - b. A line 100 feet southerly of Empire Boulevard, Lamont Court, a line 150 feet southerly of Empire Boulevard and Brooklyn Avenue;
3. Changing from an R5D District to an R7A District property bounded by a line midway between Montgomery Street and Empire Boulevard, Lamont Court and its northerly centerline prolongation, a line 100 feet southerly of Empire Boulevard, Brooklyn Avenue, Empire Boulevard, a line midway between Empire Boulevard and Sterling Street, a line 100 feet westerly of Brooklyn Avenue, Empire Boulevard, and Brooklyn Avenue; and
4. Establishing within a proposed R7A District a C2-4 District bounded by a line midway between Montgomery Street and Empire Boulevard, Lamont Court and its northerly centerline prolongation, a line 100 feet southerly of Empire Boulevard, Brooklyn Avenue, a line midway between Empire Boulevard and Sterling Street, a line 100 feet westerly of Brooklyn Avenue, Empire Boulevard, and Brooklyn Avenue;

To facilitate the development of a 7-floor mixed use building with 68 dwelling units, with more than 24,000 square feet for retail approximately 21,600 sf for community facility space and 66 enclosed parking spaces at 529 Empire Boulevard.

COMMUNITY DISTRICT NO. 9

BOROUGH OF BROOKLYN

RECOMMENDATION – 100202 ZMK

APPROVE

APPROVE WITH

MODIFICATIONS/CONDITIONS

DISAPPROVE

DISAPPROVE WITH

MODIFICATIONS/CONDITIONS

BOROUGH PRESIDENT

March 28, 2014

DATE

RECOMMENDATION FOR THE PROPOSED EMPIRE BOULEVARD REZONING 100202 ZMK

The applicant seeks to construct a seven-story (114,600 square feet) mixed-use residential, commercial (approximately 24,000 square feet) and community facility (approximately 21,500 sf) building with approximately 68 dwelling units and 66 below-grade parking spaces.

On March 19, 2014, the Borough President held a public hearing on the proposed rezoning. The representative for the applicant noted that the requested rezoning would provide additional floor area, broaden the range of retail/commercial uses, decrease the degree of non-compliance for several buildings and remove commercial zoning from properties not containing commercial use and where the introduction of such uses would conflict with established residential character. The expectation is that the existing supermarket tenant would reestablish the supermarket in the new building and that the applicant would pursue certification from the Department of City Planning according to the FRESH zoning regulations. The environment assessment for the rezoning studied this possibility. In response to the Deputy Borough President's questioning regarding consideration by the applicant of the interest of Community Board 9 to provide affordable housing when developing the property, the representative expressed a willingness to look at funding assistance programs and was willing to memorialize in a letter. The Deputy Borough President expressed that the development should be a model that best fits the needs of the community as a true partnership.

Finally, the Deputy Borough President noted the Borough President's policy to maximize job opportunities for Brooklynites on local construction projects and was seeking for the applicant to incorporate Brooklyn based contractors, including participation by MWBEs and Brooklyn material supply firms in the construction process. The representative noted that the owners are local community members and are committed to these same interests.

CONSIDERATION

Community Board 9 approved the application with a condition seeking the inclusion of affordable housing.

The primary building to be demolished to facilitate the intended development has 12,000 square feet of retail space that is occupied by a supermarket and 6,000 sf of vacant space that had been occupied by Kingsbrook Jewish Medical Center on the ground floor as well as 17,000 sf of storage space and approximately 6,800 sf used for accessory parking for retail uses.

As the development site is in Community District 9, the project is eligible to be developed according to the Zoning Resolution's FRESH supermarket provision – which permits up to 20,000 square feet of additional residential development for each square foot of supermarket use floor area when certain conditions are met. If the development were to proceed according to the FRESH initiative, the number of anticipated residential would increase from the 68 stated to 80 or more units.

The goal of developing FRESH food stores is to promote healthy lifestyles by developing food stores that sell a healthy selection of food products in locations that are easily accessible to nearby residents. A FRESH store is required to have at least 50 percent (minimum of 3,000 sf) of the store area utilized for the sale of a general line of food products intended for home preparation,

consumption, and utilization. Also, at least thirty percent (minimum of 2,000 sf) of space for the sale of perishable goods, such as dairy, fresh produce (at least 500 sf), frozen foods and fresh meats.

For the applicant's site, the proposed zoning requires the planting of ten street trees and onsite landscaping and recreational space that would be on the lower and upper roof sections. A portion of the retail space is being considered for the supermarket that currently resides on site. The envisioned retail and community facility spaces are projected to employ approximately 85 persons per each use, a significant increase over the number of jobs that are now being provided.

It is the Borough President's policy to support land use actions that are compatible with surrounding land uses and would benefit the neighborhood while providing a supermarket, community facility services and a substantial number of new employment opportunities.

The proposed rezoning would create opportunities for new residential uses on underutilized sites in an area where there is demand for affordable and market-rate housing. The proposed development would complement existing residential and commercial uses in the neighborhood. This would reinforce and enhance the emerging character of the area. The zoning restricts development to maximum heights that is in scale with many existing buildings in the area, particularly those fronting the south side of Empire Boulevard. It would bring a number of properties that exceed the allowable floor area ratio of the existing R5 zoning district to be closer to or into compliance of the R7A district, particularly 440 and 441 Brooklyn Avenue and 7 Balfour Place. The removal of the commercial overlay from properties that are solely residential would better reflect the use of these lots and thus protect the neighbors from commercial intrusion into the residential portions of these blocks. There are five properties along Brooklyn Avenue at Empire Boulevard and five properties fronting Empire Boulevard at Lamont Court that would gain development rights that one day might lead to such properties to be redeveloped individually or assembled in time as a result of this rezoning. Such redevelopment would be appropriate as it would be in context to the existing apartment buildings and the applicant's proposal.

The Borough President is generally supportive of the developer's intent to dedicate approximately 40 percent of the zoning floor area to community facility and supermarket uses that do not maximize the potential for profit. He believes that these are important uses that would greatly benefit the community.

Though the Borough President is generally supportive of the rezoning, he has concerns regarding the lack of guarantees that supermarket and community medical space would be part of the actual development on the applicant's properties. In addition, he believes that the applicant should develop the up to 20,000 sf of floor area for supermarket use according to the FRESH zoning incentive, as this, in concert with 421-a benefits and standard government financing programs, would allow the overall development to provide additional public benefits in the form of affordable housing.

Supermarket

The Borough President is concerned with the limited access to affordable fresh food stores in many neighborhoods. It is a top priority of the Borough President to create and/or maintain access to healthy food options. In order for all of Brooklyn to flourish, it is imperative that the Borough's residents have an adequate supply of supermarkets and grocery stores in their neighborhoods to

access fresh and affordable foods. He understands that supermarkets receive no incentives to open and that rental prices continue to hamper their existence. In light of this, the Borough President has been seeking to establish more supermarkets throughout Brooklyn as well as to ensure that existing locations are afforded the opportunities to remain in operation.

This proposal provides the opportunity for supermarket use to be reestablished and increased in size as part of the redevelopment of this site. While the Borough President appreciates the developer's intent to provide space for a supermarket, such commitment is lacking a guarantee. This building's construction should proceed only according to the filing of a legal instrument that assures that a specific minimum amount of the floor area would be set aside for supermarket use and that such use be consistent with the Zoning Resolution's FRESH requirements for the type and proportion of food products made available, whether or not the building plans are filed according to the floor area incentive applicable to FRESH qualifying food stores. Furthermore, given that the intended supermarket spaces would be nearly double the size of the existing store, he encourages the developer to coordinate with the supermarket operator to carry product lines that significantly expand upon the more limited kosher offers of the existing operation.

It is the Borough President's policy to obtain a written commitment or explanation that conveys a suitable assurance that the represented community benefits are actually produced. In a letter sent to the Borough President dated March 26, 2014 (attached), the applicant has expressed a commitment to provide a supermarket use to this site.

Community Medical Use

The Borough President is concerned that not all Brooklyn neighborhoods have adequate access to health care services. Among his priorities is to have accessible, affordable and state-of-the-art medical services available in all neighborhoods of Brooklyn. In the proposed R7A zoning district, there is no additional floor area for community facility use above and beyond what is available for residential development. Thus, provision of community facility space is subject to the willingness of individual developers to forgo more lucrative residential development. The Borough President seeks certainty that such community-oriented medical space is actually part of the development.

In a letter sent to the Borough President dated March 26, 2014 (attached), the applicant has expressed a commitment to provide for community facility uses on the second floor which may include a medical facility and/or other community facility uses.

Affordable Housing

The Borough President is committed to providing opportunities for Brooklyn's working families to have access to affordable housing. When applicable, it is the Borough President's policy for new residential developments, subject to ULURP, to provide a minimum of 20 percent affordable units. Though, if the project is developed as represented, the developer would be providing substantial public benefit with approximately 40 percent of the intended zoning floor area, the Borough President believes that there is room to expand on this public benefit if the project were developed pursuant to the Zoning Resolution's FRESH floor area provision. This would allow for an additional up to 20,000 sf that can be used for housing development, increasing the potential for residential development from, approximately 70,000 sf to approximately 90,000 sf. Under this scenario, the Borough President believes it to be reasonable for the development to provide at least twenty percent of the residential floor area consistent with not exceeding the income limits for Area Median Income according to the City's 421-a real estate tax abatement program or Inclusionary

Housing Program, where such affordable units would be subject to at least a 50 percent Community District 9 preference for income-eligible households.

In a letter sent to the Borough President dated March 26, 2014 (attached), the applicant has expressed a commitment to provide affordable housing within the residential portion of the new building.

Jobs

The Borough President is concerned that too many residents of Brooklyn are unemployed or underemployed. It is his policy to promote economic development as a means of creating more employment opportunities as well as promoting Brooklyn-based businesses, including those that qualify as MWBE. As new construction, this development provides an opportunity for the developer to retain Brooklyn-based contractors and subcontractors, especially those that are designated MWBE establishments as a means to meet or exceed standards per Local Law 1 (not less than 20 percent participation). With the intended supermarket and community medical space, there is expected to be approximately 170 jobs created (though the number of net jobs is less due to the closure of the existing supermarket and other existing tenants. The Borough President believes that the developer should coordinate with the eventual commercial and community facility tenants to pursue the hiring of Crown Heights, Prospect-Lefferts Garden and Wingate residents as well as prioritizing staffing outreach to returning military veterans and coordinates with an appropriate monitoring agency.

In a letter sent to the Borough President dated March 26, 2014 (attached), the applicant has expressed a commitment to use MWBE providers and local work force in the build out of the new building and would hope to use a minimum of 20 percent MWBEs. The applicant welcomes guidance in the monitoring of such efforts.

RECOMMENDATION

Be it resolved that the Borough President of Brooklyn, pursuant to sections 197-c and 201 of the New York City Charter, recommends that the City Planning Commission and City Council approve the land use action requested according to the following conditions:

1. That prior to City Council review, the applicant provides its intended stipulation to the Council indicating that the development would be pursued according to:
 - a) establishing a mechanism to provide that the property would be redeveloped with retail space where not less than 12,000 sf and preferable 20,000 sf be reserved for FRESH supermarket use and at least 20,000 sf be set-aside for community facility use such as medical use; and,
 - b) developing according to the FRESH zoning floor area regulations and providing not less than twenty percent of the housing units set aside to AMI household incomes consistent with the filing for 421-a benefits or the City's Inclusionary Housing Program,

and that the City Council have such stipulations implemented prior to granting its approval.

2. That the applicant:

- a) coordinates with supermarket operator that would carry product lines that significantly expand upon the more focused offering of the existing operation; and,
- b) retains Brooklyn-based contractors and subcontractors, especially those that are designated MWBE establishments as a means to meet or exceed standards per Local Law 1 (not less than 20 percent participation) and coordinates with commercial and community facility tenants to pursue the hiring of Crown Heights, Prospect-Lefferts Garden and Wingate residents as well as prioritizing staffing outreach to returning military veterans and coordinates with an appropriate monitoring agency.



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March 26, 2014

By Hand

Honorable Eric Adams
President of the Borough of Brooklyn
209 Joralemon Street
Brooklyn, NY 11201

Re: ULURP No. 100202 ZMK
Empire Boulevard Zoning Map Amendment

Honorable Borough President Adams,

Thank you and Deputy Borough President Reyna and your staff for providing me the opportunity to discuss the Empire Boulevard Rezoning application. The application will facilitate the development of a new mixed-use building that will benefit the surrounding community and enhance the local economy. Community Board No. 9 voted overwhelmingly in favor of the application with the condition that the applicant, 529 Empire Realty Corporation, provide affordable housing when developing the property.

As currently planned, the development will include a supermarket and other commercial uses on the first floor, community facility uses on the second floor and residential uses above. As you know, there is currently a supermarket on site with an existing lease who the applicant is currently in negotiations with as a tenant in the new building. While this is still a work in progress, the application before you did study the possibility of locating a supermarket on site that could avail itself to the FRESH program as described in the New York City Zoning Resolution. Therefore, should this proceed favorably, the applicant is committed to bringing a supermarket use to the site and can readily apply to the

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Department of City Planning for the certification under the FRESH program to provide up to a 20,000 square foot supermarket. In addition to the retail on the first floor the applicant is proposing and committed to providing for community facility uses on the second floor which may include a medical facility and/or other community facility uses.

The proposed new building will contain residential uses above the ground and second floors. As the Deputy Borough President so aptly explained during the hearing, the Borough President's office is looking for an affordable model that could fit both the applicant and community needs and we strongly support such a model. While the rezoning application before you seeks no bonus for affordable housing, the applicant will commit to provide affordable housing within the residential portion of the new building through programs available at the time the project moves forward similar to the inclusionary models and 421-a programs which provide for 20% affordable units. In addition, there may be additional programs that become available when the development begins, and the applicant will explore the possibility of such additional affordable programs.

Finally, the Deputy Borough President highlighted the importance of opportunities to maximize local employment in Brooklyn and job opportunities for MWBEs. The applicant strongly endorses such opportunities and agrees that the creation of these opportunities provides a positive ripple effect in the local economy. The applicant will endeavor to use MWBE providers and local work force in the build out of the new building and would hope to use at a minimum 20% MWBEs. The applicant further would welcome the guidance and participation of the Borough President's office in the monitoring of such efforts and to learn more about the programs and opportunities that are available.

In closing, I thank you for the time you and your staff have taken in reviewing this rezoning application and look forward to working together to make this a model development for the community and Brooklyn.

Yours truly,

Jerald Johnson
Director
New York Zoning & Land Use