



## **CITY PLANNING COMMISSION**

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March 24, 2010/Calendar No. 4

C 060550 ZMQ

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**IN THE MATTER OF** an application submitted by Kew Point Associates, LLC pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 14b:

1. changing from an R6 District to a C4-4D District property bounded by 78<sup>th</sup> Avenue, a line 100 feet southwesterly of Queens Boulevard, a line 100 feet northwesterly of Union Turnpike (northwesterly portion), and Kew Forest Lane;
2. changing from a C4-2 District to a C4-4D District property bounded by 78<sup>th</sup> Avenue, Queens Boulevard, a line 100 feet northwesterly of Union Turnpike (northwesterly portion), and a line 100 feet southwesterly of Queens Boulevard; and
3. changing from a C4-4 District to a C4-4D District property bounded by a line 100 feet northwesterly of Union Turnpike (northwesterly portion), Queens Boulevard, Interborough Parkway, and Kew Forest Lane;

Borough of Queens, Community District 6, as shown on a diagram (for illustrative purposes only) dated November 16, 2009 and subject to the conditions of CEQR Declaration E-242.

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The application for an amendment to the Zoning Map was filed by Kew Point Associates, LLC on June 16, 2006, to change existing C4-2, C4-4 and R6 districts to a C4-4D district on a block bounded by Queens Boulevard, 73<sup>rd</sup> Avenue, Kew Forest Lane, and Union Turnpike, in Forest Hills, Community District 6, Queens.

### **BACKGROUND**

The proposed rezoning would affect all of one entire block (Block 3347) by changing existing C4-2, C4-4, and R6 districts to a C4-4D district in order to facilitate the development of a 12-story residential building with ground floor retail on the applicant's property (Block 3347, Lot 24). The block consists of eight tax lots (Lots 24, 34, 35, 36, 37, 38, 54 and 7501).

The rezoning area is located in the Forest Hills neighborhood in Queens Community District 6 on the block bounded by Queens Boulevard, Union Turnpike, 78<sup>th</sup> Avenue, and Kew Forest Lane. Queens Boulevard and Union Turnpike are major streets developed with a mix of

commercial, community facility and residential uses. The Queens Boulevard blockfront within the rezoning area contains an entrance to the Kew Gardens-Union Turnpike subway station, which serves the E and F lines.

The applicant's property (Lot 24) is a 15,000 square foot corner lot located at the intersection of Queens Boulevard and 78th Avenue. It is zoned C4-2 and R6, and is currently developed with a 1-story commercial building. Other development within the rezoning area includes a 4-story residential building fronting along Kew Forest Lane (Lot 54, zoned R6 and C4-4), an 11-story mixed use building fronting along Union Turnpike known as Boulevard Condominium Towers that has residential, commercial and community facility uses (zoned C4-4), and several 2- and 3-story mixed use buildings fronting along Queens Boulevard adjacent to the applicant's property (Lots 34, 35, 36, 37, and 38, zoned C4-2 and C4-4).

The block northeast of the proposed rezoning area, across Queens Boulevard, is zoned C4-2 and R6, and is developed with two office buildings with heights of 6 and 16 stories and a 6-story residential building. A 12-story office building is located southwest of the rezoning area across Union Turnpike in a C4-4 district. Properties south and west are zoned R6 and R2, and developed with low rise residential and community facility uses. The area immediately northwest of the site, in a C4-2 district along Queens Boulevard, consists of 1- and 2- story commercial and mixed use buildings.

The rezoning area is currently split between three zoning districts: C4-2, C4-4 and R6. C4-2 districts permit a maximum residential floor area ratio (FAR) of 2.43 or 3.0, if developed pursuant to the Quality Housing Program regulations. The maximum commercial FAR in C4-2 districts is 3.4, and community facilities have a maximum FAR of 4.8. R6 districts allow the same residential and community facility maximums as C4-2 districts, however commercial uses are not allowed. C4-4 districts allow a maximum residential FAR of 3.44, a maximum commercial FAR of 3.4, and a maximum FAR of 6.5 for community facilities.

The proposed C4-4D permits a maximum residential FAR of 6.02, which is greater than currently allowed. The proposed maximum commercial FAR of 3.4 and maximum community

facility FAR of 6.5 would remain the same as the existing C4-4 district. The maximum community facility FAR would increase on properties currently zoned C4-2 and R6. The C4-4D district allows a maximum building height of 120 feet and requires setbacks of between 60 and 85 feet.

The applicant proposes to develop a 12-story, 65-unit residential building with approximately 12,370 square feet of ground floor retail space. The proposed building would be built to the streetline, be setback at a height of approximately 60 feet, have an FAR of 5.99, and have a total height of approximately 119 feet. Forty-six attended, accessory parking spaces would be provided below grade and accessed by a ramp from 78th Avenue.

## **ENVIRONMENTAL REVIEW**

This application (C 060550 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 New York City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The designated CEQR number is 06DCP083Q. The lead agency is the City Planning Commission.

After a study of the potential environmental impact of the proposed action, a Conditional Negative Declaration was issued. The lead agency has determined that the proposed actions will have no significant effect on the quality of the environment, once it is modified as follows:

The applicant agrees via a restrictive declaration to submit a hazardous materials sampling protocol prepared by a qualified consultant and including a health and safety plan to the New York City Department of Environmental Protection (DEP) for their approval and sequentially conduct a Phase II Environmental Site Assessment (Phase II) in accordance with the approved sampling protocol.

The applicant further agrees to perform any necessary remediation of the subject property if hazardous materials are found as the result of the Phase II. The applicant would prepare a Remedial Action Plan, including a sampling protocol and a health and safety plan, for DEP for approval. Remediation measures would be undertaken pursuant to the approved remediation plan.

To avoid any potential significant adverse impacts, an (E) designation (E-242) would be mapped as part of the proposed action. Block 3347, Lot 24 would receive an (E) designation for air quality and noise. Block 3347, Lot 54 would receive an (E) designation for hazardous materials and air quality.

The text of the (E) designation for hazardous materials for Block 3347, Lot 54, is as follows:

#### **Task 1**

**The fee owner(s) of the lot(s) restricted by this (E) designation will be required to prepare a scope of work for any soil, gas, or groundwater sampling and testing needed to determine if contamination exists, the extent of the contamination, and to what extent remediation may be required. The scope of work will include all relevant supporting documentation, including site plans and sampling locations. This scope of work will be submitted to DEP for review and approval prior to implementation. It will be reviewed to ensure that an adequate number of samples will be collected and that appropriate parameters are selected for laboratory analysis.**

**No sampling program may begin until written approval of a work plan and sampling protocol is received from DEP. The number and location of sample sites should be selected to adequately characterize the type and extent of the contamination, and the condition of the remainder of the site. The characterization should be complete enough to determine what remediation strategy (if any) is necessary after review of the sampling data. Guidelines and criteria for choosing sampling sites and performing sampling will be provided by DEP upon request.**

#### **Task 2**

**A written report with findings and a summary of the data must be presented to DEP after completion of the testing phase and laboratory analysis for review and approval. After receiving such test results, a determination will be provided by DEP if the results indicate that remediation is necessary.**

**If DEP determines that no remediation is necessary, written notice shall be given by DEP.**

**If remediation is necessary according to test results, a proposed remediation plan must be submitted to DEP for review and approval. The fee owner(s) of the lot(s) restricted by this (E) designation must perform such remediation as determined necessary by DEP. After completing the remediation, the fee owner(s) of the lot restricted by this (E) designation should provide proof that the work has been satisfactorily completed.**

**A DEP-approved construction-related health and safety plan would be implemented during excavation and construction activities to protect workers and the community from potentially significant adverse impacts associated with contaminated soil and/or groundwater. This Plan would be submitted to DEP for review and approval prior to implementation.**

The (E) designation for air quality would preclude the potential for significant adverse air quality impacts related to heating and hot water systems (HVAC) emissions. The text of the (E) designation for air quality for the properties identified below is as follows:

**Block 3347, Lot 24**

**Any new residential and/or commercial development on the above-referenced property must use natural gas as the type of fuel for HVAC systems and ensure that the heating, ventilating and air conditioning stack(s) are located at least 30 feet from the lot lines facing Kew Forest Lane to avoid any potential significant adverse air quality impacts.**

**Block 3347, Lot 54**

**Any new residential and/or commercial development on the above-referenced property must ensure that the heating, ventilating and air conditioning stack(s) are located at least 65 feet, 65 feet, and 30 feet for fuel oil no. 4, fuel oil no.2 and natural gas respectively as the type of fuel from the lot lines facing Queens Boulevard; and, at least 65 feet from the existing stack on Lot 7501 to avoid any potential significant adverse air quality impacts.**

The (E) designation for noise would preclude the potential for significant adverse impacts related to high levels of ambient noise associated with traffic along Queens Boulevard. The text of the (E) designation for certain noise attenuation requirements for Block 3347, Lot 24, is as follows:

**In order to ensure an acceptable interior noise environment, future residential/commercial uses must provide a closed window condition with a minimum of 30 dBA window/wall attenuation in all facades 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 or air conditioning sleeves containing air conditioners or HUD-approved fans.**

With the implementation of the above referenced restrictive declaration and (E) designations, no significant adverse impacts related to hazardous materials, air quality or noise would occur.

The applicant signed the Conditional Negative Declaration on November 12, 2009. The Conditional Negative Declaration was published in the City Record on November 20, 2009 and in the New York State Environmental Notice Bulletin on November 25, 2009. Pursuant to the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 et seq., a 30-day comment period followed.

No comments were received and the Conditional Negative Declaration was issued on March 24, 2010.

### **UNIFORM LAND USE REVIEW**

This application (C 060550 ZMQ) was certified as complete by the Department of City Planning on November 16, 2009, and was duly referred to Community Board 6 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 6 held a public hearing on this application on January 13, 2010 and on that date, by a vote of 22 to 0 with no abstentions, adopted a resolution recommending approval of this application.

### **Borough President Recommendation**

This application was considered by the Borough President of Queens, who issued a recommendation on February 19, 2010 approving the application with the following conditions:

The dire shortage of middle income housing throughout New York City is widely recognized and generation of middle income housing has been identified by the Mayor as a priority policy goal to address the need. The applicant should use the increase in Floor Area Ratio resulting from this rezoning to help meet this need.

The height and design of the building should be sensitive to scale of the surrounding buildings. The height of the proposed building should step down towards the neighboring low rise buildings in the R2 district.

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

On February 10, 2010 (Calendar No. 1), the City Planning Commission scheduled February 24, 2010 for a public hearing on this application (C 060550 ZMQ). The hearing was duly held on February 24, 2010 (Calendar No. 14). There were two speakers in favor of this application.

The applicant's representative summarized the proposed rezoning and development on the applicant's property, stated that the Community Board submitted a favorable recommendation for the rezoning, and described the changes made to the proposed building in response to comments from the Borough President and the Commission. The building as proposed would have a 10-foot setback beginning above the sixth story on the Queens Boulevard façade, a 15-foot setback on the 78<sup>th</sup> Avenue facade, and a 24-foot setback beginning above the eighth story on the southern facade. She also testified that construction of the proposed development following rezoning would not occur immediately due to existing retail leases on the applicant's property and the current economic downturn.

The project architect described the changes made to the building design in response to the Commission's comments. He stated that the eastern side of the building, which currently shares a party wall with the adjacent two-story building, would be constructed using the same materials, namely the same brick and glass, with the same fenestration, and in the same style as the other three facades. He also stated that in order to allow fenestration on the eastern façade of the new development, the design would provide a sufficient gap between the new development and the nearest obstruction. The renderings showed arched glass windows and a stone façade on the ground story, and building materials of brick and glass on the remainder of the building.

There were no other speakers and the hearing was closed.

### **CONSIDERATION**

The Commission believes that this Zoning Map amendment (C 060550 ZMQ) is appropriate.

The Commission notes that the rezoning would change Block 3347, which is currently split into three different zoning districts (C4-2, C4-4 and R6), into one (C4-4D) zoning district. The

Commission recognizes that the rezoning area fronts on Queens Boulevard, which is a major street with commercial and residential uses in existing multi-story buildings comparable to the height of the proposed development. The Commission further notes that the rezoning area contains existing apartment buildings of 4 and 11 stories, respectively. The Commission believes that the proposed rezoning would facilitate new mixed commercial and residential construction that would be consistent with the scale, density and character of existing adjacent development.

The Commission notes that in response to comments from the Borough President and the Commission, the applicant changed the proposed building massing and design to incorporate a setback above the sixth floor on the northern and western facades and a setback above the eighth floor on the southern facade. The Commission further notes that in a letter to the Commission dated March 4, 2010, the applicant stated that the future residential development would be sensitive to the surrounding built condition and that an 8-story setback would be incorporated into the south-facing portion. In this regard, the Commission further encourages the applicant to use the same materials and fenestration on all facades of the building as stated in testimony given at the public hearing. The Commission also encourages the applicant to work with the Borough President's office in order to address concerns about the need for middle income housing.

## **RESOLUTION**

**RESOLVED**, that the City Planning Commission finds that the action described herein will have no significant impact on the environment subject to the following conditions:

The applicant has entered into a restrictive declaration (Block 3347, Lot 24) to ensure that the appropriate hazardous materials sampling protocols, including health and safety plans, will occur prior to construction on the premises (Block 3347, Lot 24). The restrictive declaration would ensure that appropriate remediation measures for on-site hazardous materials, if necessary, would occur.

And be it further

**RESOLVED**, that 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

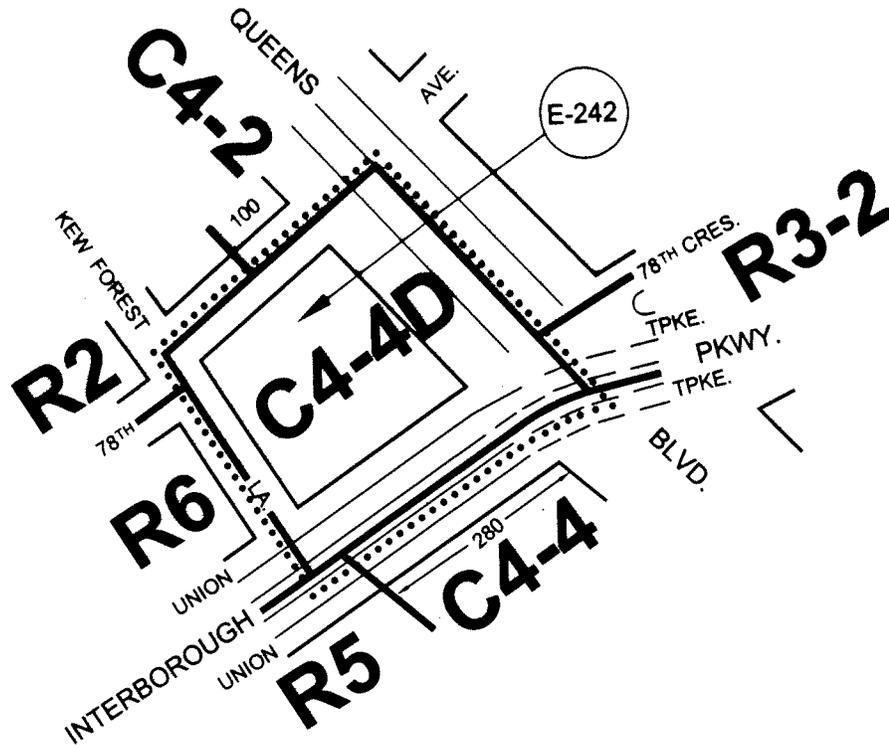
December 15, 1961, and as subsequently modified, is further amended by changing the Zoning Map, Section No. 14b:

1. changing from an R6 District to a C4-4D District property bounded by 78<sup>th</sup> Avenue, a line 100 feet southwesterly of Queens Boulevard, a line 100 feet northwesterly of Union Turnpike (northwesterly portion), and Kew Forest Lane;
2. changing from a C4-2 District to a C4-4D District property bounded by 78<sup>th</sup> Avenue, Queens Boulevard, a line 100 feet northwesterly of Union Turnpike (northwesterly portion), and a line 100 feet southwesterly of Queens Boulevard; and
3. changing from a C4-4 District to a C4-4D District property bounded by a line 100 feet northwesterly of Union Turnpike (northwesterly portion), Queens Boulevard, Interborough Parkway, and Kew Forest Lane;

Borough of Queens, Community District 6, as shown on a diagram (for illustrative purposes only) dated November 16, 2009 and subject to the conditions of CEQR Declaration E-242.

The above resolution (C 060550 ZMQ), duly adopted by the City Planning Commission on March 24, 2010 (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.

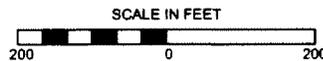
**AMANDA M. BURDEN, FAICP, Chair**  
**RAYANN BESSER, IRWIN G. CANTOR, P.E.,**  
**ALFRED C. CERULLO, III, BETTY Y. CHEN, MARIA M. DEL TORO,**  
**RICHARD W. EADDY, NATHAN LEVENTHAL, ANNA HAYES LEVIN,**  
**SHIRLEY A. MCRAE, KAREN A. PHILLIPS, Commissioners**



CITY PLANNING COMMISSION  
 CITY OF NEW YORK  
 DIAGRAM SHOWING PROPOSED  
**ZONING CHANGE**  
 ON SECTIONAL MAP  
**14b**  
 BOROUGH OF  
**QUEENS**

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

New York, Certification Date  
 NOVEMBER 16, 2009



- NOTE:**
- Indicates Zoning District Boundary.
  - .....** The area enclosed by the dotted line is proposed to be rezoned by changing C4-2, C4-4 and R6 Districts to a C4-4D District.
  - (E)** Indicates a City Environmental Quality Review Declaration, refer to C.E.Q.R. sheet.

SV/SO/JH/JM  
Q

# Community/Borough Board Recommendation

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

DEPARTMENT OF CITY PLANNING

JAN 25 2010

Application # C 060550 ZMQ  
CEQR # 06DCP083Q

Community District No. 06 Borough: Queens  
Community District No. 6 Borough: Queens  
Project Name: 118-02 Queens Boulevard

QUEENS OFFICE

### INSTRUCTIONS

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

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 Kew Point Associates LLC pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 14b:

- 7. changing from an R6 District to a C4-4D District property bounded by 78<sup>th</sup> Avenue, a line 100 feet southwesterly of Queens Boulevard, a line 100 feet northwesterly of Union Turnpike (northwesterly portion), and Kew Forest Lane;
- 8. changing from a C4-2 District to a C4-4D District property bounded by 78<sup>th</sup> Avenue, Queens Boulevard, a line 100 feet northwesterly of Union Turnpike (northwesterly portion), and a line 100 feet southwesterly of Queens Boulevard; and
- 9. changing from a C4-4 District to a C4-4D District property bounded by a line 100 feet northwesterly of Union Turnpike (northwesterly portion), Queens Boulevard, Interborough Parkway, and Kew Forest Lane;

Borough of Queens, Community District 6, as shown on a diagram (for illustrative purposes only) dated November 16, 2009 and subject to the conditions of CEQR Declaration E-242.

Applicant(s):

Kew Point Associates LLC  
71-25 Austin Street  
Forest Hills, NY 11375

Applicant's Representative:

Mark A. Levine, Esq.  
Herrick, Feinstein LLP  
2 Park Avenue  
New York, NY 10016

2010 JAN 25 PM 3:01  
COMMUNITY DISTRICT 6

Community Board No. 6 Borough: Queens

Borough Board

Date of public hearing: 01/13/10

Location: \_\_\_\_\_

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: \_\_\_\_\_

Location: \_\_\_\_\_

### RECOMMENDATION

Approve

Approve With Modifications/Conditions

Disapprove

Disapprove With Modifications/Conditions

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

### Voting

In Favor: 22

Against: 0

Abstaining: 0

Total members appointed to the board: 37

Frank P. Fullerton  
Community/Borough Board Officer

\_\_\_\_\_  
District Manager  
Title

01/15/10  
Date

v.012006w

# Queens Borough President Recommendation

APPLICATION: ULURP #C060550 ZMQ

COMMUNITY BOARD: Q06

## DOCKET DESCRIPTION

IN THE MATTER of an application submitted by Herrick, Feinstein LLP on behalf of Kew Point Associates, pursuant to sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map No. 14b, changing from an R6 district to a C4-4D district **property bounded by 78<sup>th</sup> Avenue, a line 100 feet southwesterly of Queens Boulevard, a line 100 feet northwesterly of Union Turnpike and Kew Forest Lane**; changing from a C4-2 district to a C4-4D district **property bounded by 78<sup>th</sup> Avenue, Queens Boulevard, a line 100 feet northwesterly of Union Turnpike and a line 100 feet southwesterly of Queens Boulevard**; and changing from a C4-4 district to a C4-4D district **property bounded by a line 100 feet northwesterly of Union Turnpike, Queens Boulevard, Jackie Robinson Parkway and Kew Forest Lane, Forest Hills, Borough of Queens.**

## PUBLIC HEARING

A Public Hearing was held in the Borough Presidents Conference Room at 120-55 Queens Boulevard on Thursday, January 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 no other speakers. The hearing was closed.

## CONSIDERATION

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

- The applicant is requesting an amendment of New York City Zoning Map No. 14b changing an existing block mapped with C4-2, C4-4 and R6 districts to a C4-4D district;
- The proposed C4-4D district would increase the maximum FAR for residential use to 6.02 from 2.43 in R6 and C4-2 districts and 3.44 in a C4-4 district. The maximum FAR for the commercial use will remain 3.4 as in the existing mapped districts. Buildings in the proposed C4-4D district would be allowed a 120 feet maximum height while the existing districts are only limited by the sky exposure plane. The residential parking requirement would be 50% of the number of residential units. The proposed action would have the potential to create a net total of approximately 147 dwelling units within the rezoning area. Following approval of this proposed rezoning, the applicant plans to build an approximately 90,000 sf 12-story residential building with 65 dwelling units, with ground floor commercial space and a below grade parking area with 46 attended parking spaces;
- The zoning on the subject block is currently split with C4-2, C4-4 and R6 districts. The applicant's property is located at the corner of Queens Boulevard and 78<sup>th</sup> Avenue and currently developed with an one-story commercial building. The remainder of the block is developed with small 2- and 3-story residential buildings, a 4-story residential building and an 11-story mixed-use building with ground floor retail space.;
- The area surrounding the site is a mixed-use neighborhood. The block is located at the intersection of two major thoroughfares Queens Boulevard and Union Turnpike. There are two 15-story office buildings at this intersection and other buildings that are a mix of two- to six-story office and residential buildings. However, there are lower density residential buildings immediately to the south and west of the block in an R2 district. The Kew Forest School is located directly southwest of the rezoning area.;
- Community Board 6 (CB6) approved this application by a vote of twenty-two (22) in favor with none (0) against and none (0) abstaining at a public hearing held on January 13, 2010.;
- The applicant filed a letter with the Borough President agreeing to lower the building height for the portion of the building facing the lower density areas and to explore the feasibility to provide some middle income housing in their project.

## RECOMMENDATION

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

- The dire shortage of middle income housing throughout New York City is widely recognized and generation of middle income housing has been identified by the Mayor as a priority policy goal to address the need. The applicant should use the increase in Floor Area Ratio resulting from this rezoning to help meet this need.;
- The height and design of the building should be sensitive to scale of the surrounding buildings. The height of the proposed building should step down towards the neighboring low rise buildings in the R2 district.

  
PRESIDENT, BOROUGH OF QUEENS

2-17-10  
DATE