



## **CITY PLANNING COMMISSION**

February 6, 2013/Calendar No. 15

C 070352 ZMQ

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**IN THE MATTER OF** an application submitted by Avery Fowler Owners pursuant to Sections 197-c and 201 of the New York City Charter, for an amendment of the Zoning Map, Section No. 10b:

1. changing from an M1-1 District to a C2-6A District property bounded by Avery Avenue, College Point Boulevard, Fowler Avenue, and the southerly centerline prolongation of Haight Street; and
2. changing from an M1-2 District to a C2-6A District property bounded by Avery Avenue, the southerly centerline prolongation of Haight Street, Fowler Avenue, and 131<sup>st</sup> Street;

as shown on a diagram (for illustrative purposes only), dated October 15, 2012, and subject to the conditions of CEQR Declaration E-290, Borough of Queens, Community District 7.

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This application for a special permit was filed by Avery Fowler Owners on February 20, 2007 to facilitate new medium density mixed-use development on an entire block in Flushing, Queens Community District 7.

### **BACKGROUND**

The applicant, Avery Fowler Owners, is proposing a zoning map amendment to change the zoning on an entire block (Block 5076) from M1-1 and M1-2 to C2-6A to facilitate new mixed-use, residential and commercial development. The applicant is comprised of five property owners on the subject block who wish to develop their properties under the proposed C2-6A with five- and six- story market rate residential buildings containing local retail uses on the ground floor. The current zoning on the subject block restricts development to commercial, industrial and certain community facility uses.

The rezoning area (Block 5076) is located just east of the Van Wyck Expressway with frontages along College Point Boulevard, Avery Avenue, 131<sup>st</sup> Street and Fowler Avenue. It consists of 18 lots, 13 of which are owned or controlled by the applicant (Lots 9, 11, 14, 16, 18, 20, 31, 43, 61, 65, 69, 75, and 160). Properties owned and controlled by the applicant are grouped into five development parcels that are presently occupied by automotive, retail, office and manufacturing

uses. The remaining lots (1, 5, 7, 29 and 67) are owned by others, and consist of a mid-block non-conforming single family dwelling zoned M1-2, a gas station, and two live poultry establishments at the eastern end of the block in an M1-1 district.

The subject block is accessed by way of College Point Boulevard, a major auto and truck route extending from College Point, through Whitestone and Flushing, to its southern terminus at the Long Island Expressway. Avery Avenue, the block's northern boundary, is a one-way westbound street, and is an access route to Home Depot and Western Beef, large retail establishments located north of the subject block. 131<sup>st</sup> Street is a one-way southbound street providing alternate access into Flushing Meadows Corona Park. Fowler Avenue is a one-way eastbound street, which is also the access route for the Parks Recreation Center located directly south of the subject block.

The area west and south of the rezoning area is mapped as New York City parkland. The area to the north is zoned M1-2 and M1-1, reflecting the same zoning pattern as on the subject block, and contains 2 large retail establishments --- Home Depot and Western Beef. Manufacturing, commercial and pre-existing non-conforming residential uses are located further north within these manufacturing districts. One- and two-story commercial and mixed-use buildings can be found along the east side of College Point Boulevard within the R6 district. Further east within the R6 district, properties are developed with a mix of one- and two- family residences and multifamily apartments ranging in height from two- to six-stories.

The proposed zoning change from M1-1 and M1-2 to C2-6A would allow new medium density mixed-use development on an entire block and would change the allowable uses from manufacturing, commercial and certain community facilities to residential, commercial and a full range of community facilities.

The current M1-1 and M1-2 zoning districts permit low- to medium-density manufacturing and commercial uses at a maximum floor area ratio (FAR) of 1.0 and 2.0 respectively. Certain community facility uses are allowed in M1-1 districts at a maximum FAR of 2.4, and in M1-2 districts at a maximum FAR of 4.8. Building height and setbacks in M1 districts are controlled by the sky exposure plane which begins at 30 feet above the street line in M1-1 districts and 60 feet above the street line in M1-2 districts. Residential uses are not allowed.

The proposed C2-6A zoning district (R7A equivalent) would permit medium density residential and community facility development at an FAR of 4.0. On properties currently zoned M1-1 the proposed zoning change would increase the maximum allowable commercial FAR from 1.0 to 2.0. Commercial uses would continue to be permitted at an FAR of 2.0 on properties currently zoned M1-2. The proposed C2-6A district would allow a base wall height between 40 to 65 feet before the building would be required to set back before rising to a maximum allowable height of 80 feet. Parking would be required for 50% of the dwelling units. Quality Housing regulations would be mandated requiring amenities relating to interior space, recreation areas and landscaping.

The proposed rezoning could facilitate the redevelopment of five parcels and, as discussed below, could generate up to 378 residential units and 148,100 square feet of commercial floor area. The owners of these parcels intend to develop their properties under the proposed C2-6A zoning with five- to six-story residential buildings containing ground-floor retail uses. Approximately 268 underground parking spaces would be provided.

**Site 1 (Lots 5, 7, 9, 11, 14, 16, 67 and 160)** has an area of 32,340 square feet with frontage on both Avery and Fowler Avenues. The proposed building would have 6 stories (70') along both the Avery and Fowler Avenue frontages with a 15 foot setback at 60 feet. Development is projected to have 88,020 square feet of residential floor area (88 dwelling units), 32,100 square feet of commercial floor area and 65 subsurface parking spaces.

**Site 2 (Lots 18, 20, and 29)** has an area of 45,470 square feet and has frontages along Avery and Fowler Avenues. The proposed development would produce a building of 5 stories (60' height) on Avery Avenue, and 6 stories (70' height) with a 15-foot setback at 60 feet on the Fowler Avenue frontage. The projected development would have 127,880 square feet of residential floor area (128 dwelling units), 54,000 square feet of commercial floor area, and 91 subsurface parking spaces.

**Site 3 (Lot 31)** is a 23,000 square foot lot with frontage along Fowler Avenue. The proposed building is projected to have 6 stories (70' height) with a 15 foot setback at 60 feet. The projected development would have 67,400 square feet of residential floor area (67 dwelling units), 23,000 square feet of commercial floor area, and 46 subsurface parking spaces.

**Site 4 (Lot 43)** is a 12,150 square foot corner lot with frontage along Fowler Avenue and 131<sup>st</sup> Street. On this site projected development would have 5 stories (60' height). The projected development would have 36,578 square feet of residential floor area (36 dwelling units), 12,000 square feet of commercial floor area and 23 subsurface parking spaces.

**Site 5 (Lots 61, 65, 69 and 75)** has an area of 21,640 square feet with frontage on both Avery Avenue and 131<sup>st</sup> Street. The parcel is currently developed with four 1-story buildings. It is anticipated that each of the existing buildings would be enlarged to add four residential floors, resulting in 5-story buildings (60' height) for an anticipated total of 59,560 square feet of residential floor area (59 dwelling units), 27,000 square feet of commercial floor area, and 43 subsurface parking spaces.

## **ENVIRONMENTAL REVIEW**

This application (C 070352 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 07DCP050Q. 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 conduct archaeological identification, investigation and mitigation in accordance with the CEQR Technical Manual and New York City Landmarks Preservation Commission (LPC) Guidelines for Archaeological Work in New York City. The restrictive declaration also restricts the applicant from submitting any permit applications to the DOB that would allow for soil disturbance on the subject property until such time that LPC provides the necessary written notice to DOB.**

To avoid any potential significant adverse impacts, the applicant has entered into a Restrictive Declaration for archaeology for their property at Block 5076, Lots 9, 11, 14 and 16. An (E) designation, (E-290), for air quality, noise and hazardous materials, would also apply to the applicants properties on the following blocks and lots.

The (E) designation requirements related to hazardous materials would apply to the following block and lots:

**Projected Development Sites 1-5**

Block 5076 Lot(s) 5, 7, 9, 11, 14, 16, 67 and 160

Block 5076 Lot(s) 18, 20 and 29

Block 5076 Lot 31

Block 5076 Lot 43

Block 5076 Lot(s) 61, 65, 69 and 75

**Potential Development Site 1**

Block 5076 Lot 1

The text of the (E) designation for hazardous materials is as follows:

**Task 1 – Sampling Protocol**

**The applicant must submit to the Mayor’s Office of Environmental Remediation (OER) for review and approval, a Phase 1 of the site.**

**If site sampling is necessary, a soil and groundwater testing protocol including a description of methods and a site map with all sampling locations clearly and precisely represented must be submitted to OER. No sampling program should begin until written approval of a protocol is received from the OER. The number and location of sample sites should be selected to adequately characterize the site, the specific source of suspected contamination (i.e., petroleum based contamination or 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 the OER upon request.**

**Task 2 – Remediation Determination and Protocol**

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

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

**If based on the test results, the OER concludes that remediation is required; a remediation plan must be prepared and submitted to the OER for review and approval. The applicant must complete such remediation when and as determined necessary by the OER. The applicant should then provide proper documentation, including an engineering certification, that the work has been satisfactorily completed.**

**An OER-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 the OER with the remediation plan 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 following blocks and lots require both natural gas and setbacks for the HVAC systems in order to avoid the potential for significant adverse impacts related to air quality:

**Projected Development Sites 1-5**

Block 5076 Lot(s) 5,7,9,11,14,16,67 and 160

Block 5076 Lot(s) 18,20 and 29

Block 5076 Lot 31

Block 5076 Lot 43

Block 5076 Lot(s) 61,65,69 and 75

The text for the (E) designations for air quality for the above properties as follows:

**Block 5076, Lots 5,7,9,11,14,16,67 and 160 (Projected Development Site 1): Any new residential and/or commercial development on the above-referenced properties must use natural gas as the type of fuel for space heating and hot water (HVAC) systems and ensure that the HVAC stack(s) are located on a 6-story roof at least 25 feet from the lot line facing 131<sup>st</sup> Street to avoid any potential significant adverse air quality impacts.**

**Block 5076, Lots 18, 20 and 29 (Projected Site 2): any new residential and/or commercial development on the above-referenced properties must use natural gas**

as the type of fuel for space heating and hot water (HVAC) systems and ensure that the HVAC stack(s) are located on the 6-story rooftop at least 25 feet from the lot lines facing 131<sup>st</sup> Street and College Point Boulevard to avoid any potential significant adverse air quality impacts.

**Block 5076, Lot 31 (Projected Development Site 3):** any new residential and/or commercial development on the above-referenced properties must use natural gas as the type of fuel for space heating and hot water (HVAC) systems and ensure that the HVAC stack(s) are located on the 6-story rooftop at least 20 feet from the lot line facing College Point Boulevard to avoid any potential significant adverse air quality impacts.

**Block 5076, Lot 43 (Projected Development Site 4):** any new residential and/or commercial development on the above-referenced properties must use natural gas as the type of fuel for space heating and hot water (HVAC) systems and ensure that the HVAC stack(s) are located on the 5-story roof top at least 25 feet from the lot lines facing College Point Boulevard to avoid any potential significant adverse air quality impacts.

**Block 5076, Lots 61, 65, 69, and 75 (Projected Development Site 5):** Any new residential and/or commercial development on the above referenced properties must use natural gas as the type of fuel for space heating and hot water (HVAC) systems and ensure that the HVAC stack(s) are located on the 5-story rooftop at least 20 feet from the lot lines facing Fowler Avenue and College Point Boulevard to avoid any potential significant adverse air quality impacts.

There are two levels of required noise attenuation. Depending on the ambient noise levels they would require 31 and 33 dBA of window/wall attenuation. The (E) designation for noise would preclude the potential for significant adverse impacts related to high levels of ambient noise. The text of the (E) designation for certain noise attenuation requirements for the properties identified follows below.

The following properties require 31 dBA of noise attenuation in order to avoid the potential for significant adverse impacts related to noise:

**Projected Development Sites 2 and 3**

Block 5076 Lot(s) 18, 20 and 29

Block 5076 Lot 31

The text for the (E) designation for noise for the above properties 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 31 dB(A) window/wall attenuation on all facades in order to maintain an interior noise level of 45 dB(A). 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.**

The following properties require 33 dBA of noise attenuation in order to avoid the potential for significant adverse impacts related to noise:

**Projected Development Sites 1, 4 and 5**

Block 5076 Lot(s) 5, 7, 9, 11, 14, 16, 67 and 160

Block 5076 Lot 43

Block 5076 Lot(s) 61, 65, 69 and 75

The text of the (E) designation for noise for the above properties 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 33 dB(A) window/wall attenuation on all facades in order to maintain an interior noise level of 45 dB(A). 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.**

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

The applicant signed the Conditional Negative Declaration on October 10, 2012. The Conditional Negative Declaration was published in the City Record on November 20, 2012 and in the New York State Environmental Notice Bulletin on November 21, 2012. 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 February 6, 2013.

## ***UNIFORM LAND USE REVIEW***

This application (C 070352 ZMQ) was certified as complete by the Department of City Planning on October 15, 2012, and was duly referred to Community Board 7 and the Queens 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 7 held a public hearing on this application on November 26, 2012, and on that date by a vote of 0 to 30 with 0 abstentions, adopted a resolution recommending disapproval of the application.

### **Borough President Recommendation**

The application was considered by the Borough President, who issued a recommendation on January 7, 2012, approving the application.

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

On December 19, 2012 (Calendar No. 1), the City Planning Commission scheduled January 9, 2013 for a public hearing on this application (C 070352 ZMQ). The hearing was duly held on January 9, 2013 (Calendar No. 10). There were 4 speakers in favor of this application and 2 speakers opposed.

Speakers in support of the application included the Chief of Staff for the Councilmember of the 20<sup>th</sup> Council District, the applicant's representative and two property owners. Speakers opposed to the application included Community Board 7's Chairman and Vice-Chairman.

The Chief of Staff for the Councilmember of the 20<sup>th</sup> Council District read an excerpt from the Councilmember's letter to the Chair of City Planning, dated January 4, 2013, in support of the application. The applicant's representative noted that the anticipated number of dwelling units

could total up to 378 and approximately 148,000 square feet of commercial floor area would be generated. He described the current conditions of the subject block as underdeveloped and underutilized and he stated that the intent of the proposed zoning was to transform the block into a place where people work and live. He also noted that two of the block's property owners recently constructed buildings under the current M1 zone that would be converted to residential use under the proposed C2-6A zoning district. He described the buildings as being currently three stories in height, but constructed with double height floors that could be converted to five and six stories.

The applicant's representative also recognized the Community Board's willingness to meet with the applicant and understood their concerns. He also assured the Commission that the owners would continue to engage the Community Board as the proposed developments occur. He explained that the owners of the five development parcels were committed to developing their properties but new development would have to wait for existing leases to run their course. He described the redevelopment backgrounds of the property owners. He also clarified that while five property owners chose not to participate as applicants, that they were aware of the proposed action.

A property owner noted that her family had owned Lots 18 and 20 for ten years and they had their own management company. She also noted that Lot 18 was developed a few years ago under the current zoning and intended for conversion to residential under the proposed zoning. She described the existing building as three stories with double ceilings and sixty feet in height. She described the location as ideal for residential and commercial uses and said that new development could transform this unique block into a safer destination for shoppers, as well as a passageway for pedestrians to the park.

A second property owner stated that he had owned his properties for the past forty four years and that he hopes to retain the current tenants on his properties as he moves forward with his development plans. He said that he wanted to maximize and develop the block to its fullest potential for the City of New York to provide housing, jobs and an urban environment that would be good for people.

The Vice Chair of Community Board 7 was opposed to the application, noting that the Community Board had concerns with guarantees and benefits for the community, particularly with parking. He explained that under the proposed C2-6A no parking would be required for commercial developments and that residential developments would require parking for 50% of the dwelling units. He added that the potential existed for virtually no parking for buildings that could be developed at an FAR of 4. He was concerned about certain properties on the block that were poorly maintained. He was also concerned that there were no controls or assurances that any residential development would be constructed under the proposed zoning and that the proposed increase in FAR represented a dramatic impact on the neighborhood.

The Chair of Community Board 7 said that, while he liked the renderings that were shown during the public review, there is no certainty of what would eventually be built on the development properties. He objected to the area being described as desolate and pointed out the area's improvements, specifically the Parks Recreation Center and large retail immediately north of the site. He also voiced his concern about certain poorly maintained properties on the subject block and questioned whether the applicant's outreach to all property owners on the block was adequate. He noted that Community Board 7 had reached out to all the block's property owners prior to the Community Board public hearing.

There were no other speakers and the hearing was closed.

## **CONSIDERATION**

The Commission believes that this application for an amendment of the Zoning Map is appropriate.

The Commission notes that the proposed zoning change to C2-6A will provide opportunities for new mixed-use, residential and commercial development on a block where zoning currently restricts development to low density manufacturing, commercial and certain community facility uses. The Commission further notes that the subject block is adjacent to a major NYC Parks recreation facility to the south, major regional retail to the north and a mix of low to medium density residential developments to the east. The Commission believes that the proposed C2-6A

would encourage a mix of residential and commercial uses that would better complement the surrounding area.

The Commission notes that the proposed C2-6A district will provide a predictable building envelope for future development, more closely matching existing development east of College Point Boulevard, which consists of residential buildings ranging in height from two to ten stories. The Commission understands that the proposed developments are anticipated to be five and six stories in height and that the proposed C2-6A would impose a height limit of eighty feet.

The Commission understands Community Board 7's concerns with regard to adequate parking supply for future commercial developments since the proposed C2-6A would not require parking for commercial or community facility uses. The Commission notes that a letter dated January 17, 2013 was received from the applicant's representative responding to this concern, stating that the current on-street supply of parking spaces includes approximately 64 parking spaces along Fowler Avenue, 79 parking spaces on Avery Avenue and 280 unregulated parking spaces immediately west of the block beneath the Van Wyck Expressway. The Commission is especially pleased to learn that one of the property owners did reach out to the NYC Department of Transportation (DOT) requesting metered parking. While the Commission understands DOT's determination that installation of parking meters could not be recommended because of low utilization rates on both Avery and Fowler Avenues, the Commission believes that future consideration by DOT may be warranted. The Commission further notes that while no parking spaces would be required for commercial or community facility uses under the proposed zone that there is nothing that precludes the provision of parking for future commercial or community facility developments.

The Commission is also aware of Community Board 7's concern for a future as-of-right condition under the proposed C2-6A that may not produce buildings consistent with the renderings shown during the public review. While the Commission understands that future development would not be tied to a specific site plan, the Commission believes that future development under the proposed zoning would provide a predictable development pattern for the block and allow a range of land uses that would provide a better nexus with the surrounding business and residential communities and with nearby parks and recreation facilities.

The Commission understands from the applicant's testimony that all of the property owners on the subject block were aware of the proposed action, but the Commission was pleased to learn of Community Board 7's efforts to reach out to all of the subject block's property owners prior to the Community Board public hearing. While the Commission notes that Community Board 7 raised concerns questioning why five of the property owners chose not to participate as applicants, the Commission also notes that there has been no testimony indicating opposition from any property owner on the subject block.

The Commission notes that part of Community Board 7's opposition was based on the presence of certain poorly maintained properties on the subject block, a perceived lack of redevelopment experience on the part of the applicant and an objection that "no fundamental economic or social harmony" existed among the owners to ensure the "desirable commercial and residential use allowed in the C2 district."

The Commission believes it is more probable that blighted properties will be redeveloped under the proposed C2-6A. With respect to a perceived lack of the applicant's redevelopment experience, testimony was given at the public hearing indicated that the applicant has an extensive background in the development of commercial and residential properties. The Commission also notes that future redevelopment on the subject block will be determined by the zoning that is in place and not by ownership.

The Commission concurs with the Queens Borough President and with the Councilmember of the 20<sup>th</sup> Council District that this is an opportunity to complement and transform an entire block into a place where people live and work and that the activity generated from the new development will provide a benefit to residents, businesses and visitors to the area.

## **RESOLUTION**

**RESOLVED**, that the City Planning Commission finds that the action described herein will have no significant impact on the environment subject to the applicant executing a conditional negative declaration with the following condition:

The applicant has entered into a restrictive declaration (Block 5076, Lots 9, 11, 14 and 16) to ensure that the appropriate archaeological identification, investigation and mitigation will occur prior to construction on the premises (Block 5076, Lots 9, 11, 14 and 16). The restrictive declaration would ensure that appropriate archaeological testing be conducted and that any necessary mitigation measures be undertaken prior to any site disturbance.

;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 amended, is hereby amended by changing the Zoning Map, Section No. 10b:

1. changing from an M1-1 District to a C2-6A District property bounded by Avery Avenue, College Point Boulevard, Fowler Avenue, and the southerly centerline prolongation of Haight Street; and
2. changing from an M1-2 District to a C2-6A District property bounded by Avery Avenue, the southerly centerline prolongation of Haight Street, Fowler Avenue, and 131<sup>st</sup> Street;

as shown on a diagram (for illustrative purposes only), dated October 15, 2012, and subject to the conditions of CEQR Declaration E-290.

The above resolution (C 070352 ZMQ), duly adopted by the City Planning Commission on February 6, 2013 (Calendar No. 15), is filed with the Office of the Speaker, City Council, and the

Queens Borough President in accordance with the requirements of Section 197-d of the New York City Charter.

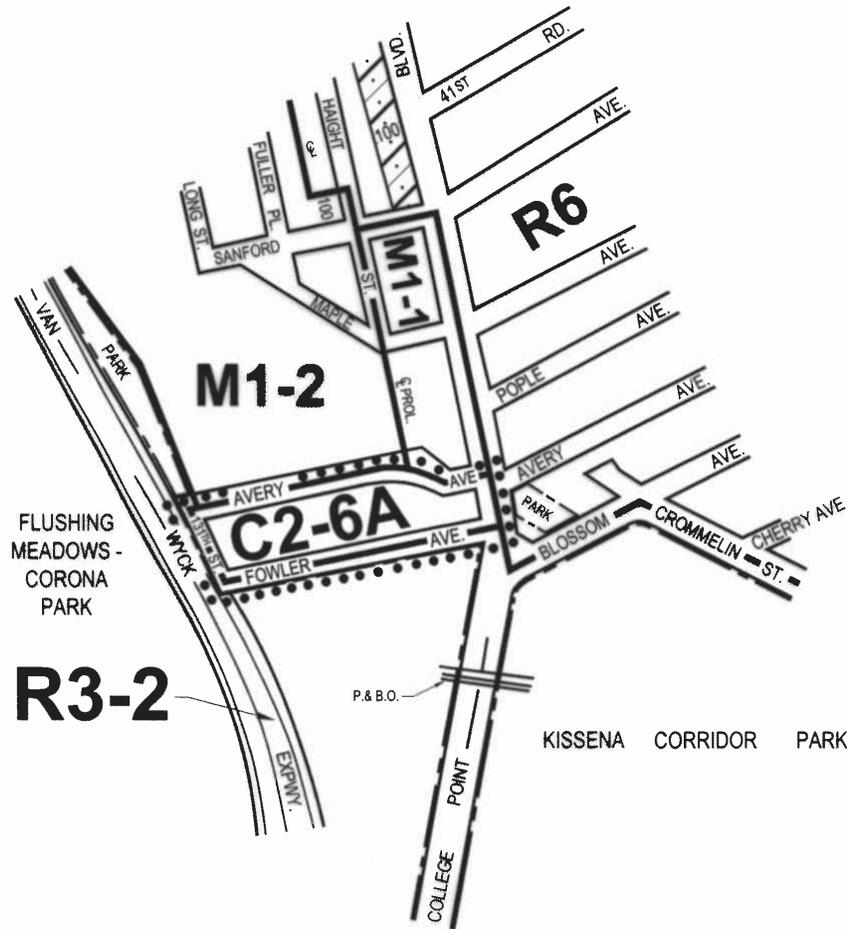
**AMANDA M. BURDEN, FAICP, Chair**

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

**ANGELA M. BATTAGLIA, IRWIN G. CANTOR, P.E., ALFRED C. CERULLO, III,**

**BETTY Y. CHEN, MICHELLE R. DE LA UZ, JOSEPH I. DOUEK,**

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



CITY PLANNING COMMISSION  
 CITY OF NEW YORK  
 DIAGRAM SHOWING PROPOSED  
**ZONING CHANGE**  
 ON SECTIONAL MAP  
**10b**  
 BOROUGH OF  
**QUEENS**

New York, Certification Date  
**OCTOBER 15, 2012**

*J. Miraglia*  
 J. Miraglia, Director  
 Technical Review Division



- NOTE:**
- Indicates Zoning District Boundary.
  - The area enclosed by the dotted line is proposed to be rezoned by changing from M1-1 and M1-2 Districts to a C2-6A District.
  - Indicates a C2-3 District.

# Queens Borough President Recommendation

APPLICATION: ULURP #C070352 ZMQ

COMMUNITY BOARD: Q07

## DOCKET DESCRIPTION

IN THE MATTER of an application submitted by Patrick W. Jones, Esq. on behalf of Avery Fowler Owners, pursuant to Sections 197-c and 201 of the New York City Charter, for an amendment of the Zoning Map, Section No. 10b:

1. Changing from an M1-1 district to a C2-6A district property bounded by Avery Avenue, College Point Boulevard, Fowler Avenue and the southerly centerline prolongation of Haight Street; and
2. Changing from an M1-2 district to a C2-6A district property bounded by Avery Avenue, the southerly centerline prolongation of Haight Street, Fowler Avenue and 131<sup>st</sup> Street;

Block 5076 and Lots 1, 5, 7, 9, 11, 14, 16, 18, 20, 29, 31, 43, 61, 65, 67, 69, 75, and 160, Flushing, Borough of Queens.

## PUBLIC HEARING

A Public Hearing was held in the Borough President's Conference Room at 120-55 Queens Boulevard on December 13, 2012 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 four (4) speakers in favor and one (1) speaker against the application. 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 proposing a change of the zoning map from M1-1 and M1-2 districts to a C2-6A district to facilitate mixed-use residential and commercial development in the subject area;
- The proposed zoning change will enable new commercial, residential and community facility development. Manufacturing uses are not allowed in the C2-6A district. The C2-6A district is a contextual zone and that allows a maximum commercial 2.0 FAR and a maximum 4.0 FAR for residential and community facility development. The allowed maximum building height is 80 feet with minimum and maximum wall heights of 40 feet and 65 feet respectively. The quality housing program is required which encourages development consistent with the character of the neighborhood and also requires amenities relating to interior space, recreation areas and landscaping. The parking requirements in this district are 50% of the dwelling units, none required for commercial uses. Community facility requirements are variable dependent on the specific use.;
- The applicant is a group of five out of the nine landowners who control 85% of the proposed rezoning area. The development proposed by the applicants would be 5-6 stories mixed use buildings for commercial, community facility and residential uses that are consistent with the proposed zoning district. The proposed development would be approximately 128,000 sf of ground floor commercial and 378 dwelling units. Accessory parking would be located on the cellar level. The applicant noted that they would be able to provide 502 attended parking spaces using stackers (133% of dwelling units) or 268 unattended spaces (70% of dwelling units);
- The proposed rezoning area is most of a block bounded by Avery and Fowler Avenues respectively to the north and south, College Point Boulevard to the east and the Van Wyck Expressway viaduct and Flushing Meadows Corona Park to the west. There are eighteen lots within the proposed rezoning area. Existing uses in the area include a gasoline service station, open accessory parking lots, a detached single family house, building supply stores, live poultry places, office, retail, manufacturing and wholesale uses. Most of the existing buildings are under 2 stories. Two new buildings were recently built in anticipation of the proposed rezoning. The owners plan to change the use of these buildings to residential if the proposed rezoning is approved.;
- The area to the north contains large retail uses such as Western Beef and Home Depot and other home improvement related uses. College Point Boulevard is developed with many residential buildings ranging from 2-11 stories. The Van Wyck Expressway passes through to the west of the site and the Aquatic Center and World Ice Arena skating rink in the Flushing Meadows Corona Park is located further to the west. There are Department of Transportation parking spaces located under the expressway. The Al Oerter Recreation Center operated by the Department of Parks and Recreation is located directly to the south of the site and Queens Botanical Garden is to the southeast of the site.

Continued...

- Community Board 7 (CB 7) approved a motion to disapprove this application by a vote of thirty (30) in favor with none (0) opposed or abstaining at a public hearing held on November 26, 2012. CB 7 gave the following reasons for their disapproval: except for one of the property owners most of applicants do not have prior experience as developers in New York City; current conditions at the site such as building materials stored in the open on the street and lack of maintenance do no indicate that the property owners are responsible neighbors committed to the area; the parking requirement of the C2-6A district is not sufficient for the development that could be developed if approved; there is no unified development plan between the owners.;
- The affected Councilmember has submitted a letter indicating support for the proposed rezoning on the basis that it would enable new development that would transform and revitalize the area. The Councilmember states that the areas near the park and its facilities are currently desolate. New mixed use development would bring activity to the area making it more of a 24-hour community.

RECOMMENDATION

In recent years, there have been tremendous changes along neighboring sections of College Point Boulevard. Many middle density residential buildings with ground floor retail uses have been built to the north and east of the site in the R6 district on College Point Boulevard. This new development has transformed the former mostly auto-related/industrial character of the neighborhood into a residential and retail oriented community. The area to be rezoned is currently underutilized and includes some noxious uses and the streets are dark and desolate at night. The existing M1-1 and M1-2 zoning districts preclude potential investment and development opportunities contrary to the changing character of the area.

The proposed C2-6A zone is a contextual zone which will have finite streetwall and overall building heights, better setbacks from streets, required amenities for residential development and allow new development consistent with recent development activity nearby. The proposed rezoning area is also surrounded by city parks and recreational facilities that will benefit from the presence of residents and shoppers attracted to the new mixed-use commercial and residential development. The proposed rezoning will help to spur new investment and facilitate mixed-use development that will bring more goods and services to the area. The activity generated by the new development will be positive for residents, businesses, and visitors to the greater Flushing neighborhood.

Based on the above consideration I recommend approval of this application.

  
PRESIDENT, BOROUGH OF QUEENS

  
DATE

Application #: <b>C 070352 ZMQ</b>	Project Name: <b>FLUSHING MEADOWS EAST</b>
CEQR Number: <b>07DCP050Q</b>	Borough(s): <b>QUEENS</b> Community District Number(s): <b>07</b>

*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](mailto: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, Room 2E, 22 Reade Street, New York, NY 10007
  - FAX:** (212) 720-3356 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 Avery Fowler Owners pursuant to Sections 197-c and 201 of the New York City Charter, for an amendment of the Zoning Map, Section No. 10b:

- changing from an M1-1 District to a C2-6A District property bounded by Avery Avenue, College Point Boulevard, Fowler Avenue and the southerly centerline prolongation of Haight Street; and
- changing from an M1-2 District to a C2-6A District property bounded by Avery Avenue, the southerly centerline prolongation of Haight Street, Fowler Avenue and 131st Street;

Borough of Queens, Community District 7, as shown on a diagram (for illustrative purposes only), dated October 15, 2012, and subject to the conditions of CEQR Declaration E-290.

<b>Applicant(s):</b> Avery Fowler Owners c/o Patrick W. Jones, PC 420 Great Neck Road Great Neck, NY 11021 pjoneslaw@gmail.com	<b>Applicant's Representative:</b> Patrick W. Jones, PC 420 Great Neck Road Great Neck, NY 11021 Phone: (917) 214-2719 Fax: (917) 591-2948
<b>Recommendation submitted by:</b> Queens Community Board 7	
<b>Date of public hearing:</b> 11-26-2012	<b>Location:</b> Union Plaza Care Center 33-23 Union Street, Flushing
<b>Was a quorum present?</b> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	<small>A public hearing requires a quorum of 20% of the appointed members of the board, but in no event fewer than seven such members.</small>
<b>Date of Vote:</b> 11-26-2012	<b>Location:</b> Union Plaza Care Center 33-23 Union Street, Flushing, NY
<b>RECOMMENDATION</b>	
<input type="checkbox"/> Approve	<input type="checkbox"/> Approve With Modifications/Conditions
<input checked="" type="checkbox"/> Disapprove	<input type="checkbox"/> Disapprove With Modifications/Conditions
<b>Please attach any further explanation of the recommendation on additional sheets, as necessary.</b>	
<b>Voting</b>	
# In Favor: 0 # Against: 30 # Abstaining: 0 Total members appointed to the board: 48	
<b>Name of CB/BB officer completing this form</b> EUGENE T. KELTY 	<b>Title</b> CHAIRPERSON
	<b>Date</b> 11-28-12

TO: Gene Kelty – Chair CB#7  
FROM: Chuck Apelian – Land Use Chair CB#7  
RE: “Flushing Meadows East” - ULURP #070352ZMQ - Flushing NY  
DATE: November 26, 2012

The Land Use Committee met on November 13th and 20<sup>nd</sup> to discuss the request to rezone the entire block in Flushing bounded by Avery Avenue to the North, College Point Boulevard to the East, Fowler Avenue to the South and the Van Wyck Expressway Service Road to the West.

The current zoning is predominately M1-2 with the exception of the eastern portion of the block, which is zoned M1-1. The concept of this application dates back over five (5) years, and our Board has had many pre-certification meetings with the applicant and numerous objections have been continuously raised.

There are approximately (10) Land owners on this block and (5) of them have united to file this application. It has been very unclear why the others have opted out, especially the large BP at the eastern end of the block.

None of these owners have any prior experience as a NYC Developer, although one owner has some redevelopment experience in Colorado. The committee has great concern these properties will not be built as per their renderings and elevations. The landowners have vastly different needs and agendas, and it was obvious to the committee some will flip their property if rezoned.

Current conditions do not present examples of good neighbors, as unannounced site visits revealed numerous building code violations and filthy conditions. (See attached photos).

In this proposed District, there is no parking requirement for commercial use, only a 50% parking requirement for residential use, and varying requirements for Community Facility based on specific use. The potential exists that a mixed-use building could be built with only commercial and Community Facility use that would require *virtually no parking*.

We asked for some guarantees of what would be built - - along the conceptual lines of what a Large Scale Development Plan provides; we also asked for the possibility of Deed Restrictions; and finally we asked for a lower zoning District (remaining within the scope of the current application), *but none of these alternatives were provided*.

There is no fundamental economic or social harmony to these owners, other than their combined opportunity to windfall a *double or quadruple* (in the M1-1 District) *FAR*, and to obtain the more desirable commercial and residential use allowed in the C2 district.

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