



CITY PLANNING COMMISSION

March 2, 2011/Calendar No. 12

C 100232 ZMK

IN THE MATTER OF an application submitted by Kingswood Partners, LLC pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No 22d changing from an R5B District to a C4-4A District property bounded by a line 160 feet southerly of Avenue P, East 15th Street, a line 180 feet southerly of Avenue P, and East 14th Street, Borough of Brooklyn, Community District 15, as shown on a diagram (for illustrative purposes only) dated October 25, 2010.

The application for an amendment of the Zoning Map was filed by Kingswood Partners LLC on January 26, 2010, to bring an existing building into compliance with rear yard regulations at 1630 East 15th Street in the Kings Highway commercial corridor in Brooklyn Community District 15.

BACKGROUND

Kingswood Partners, LLC is seeking a Zoning Map Amendment to change an R5B District to a C4-4A District, to bring an existing 3-story commercial building located at 1630 East 15th Street into compliance with rear yard regulations. The building is located on the Kings Highway commercial corridor in Brooklyn Community District 15.

The application affects two tax lots, abutting at the rear yard, (Block 6777, Lots 15 and 17) on a block bounded by East 15th Street to the east, Avenue P to the north, Kings Highway to the south, and East 14th Street to the west. Lot 17, owned by the applicant, was the subject of a joint application (C 040128 PPK, C 040129 ZSK) with Kingswood Partners, LLC, and the Economic Development Corporation to dispose of city property in order to facilitate development of a

commercial building and a parking garage on the site of a municipal surface parking lot which was approved by the City Planning Commission on March 10, 2004. Lot 15 is improved with a 2,728 square foot, two-family residential building. Both lots are currently split between an R5B zoning district and a C4-4A district.

The rezoning area is located in the King Highway commercial corridor, an area characterized by ground-floor retail use, with second floor office use and some residential uses on upper floors. The surrounding area contains a mix of low-rise, residences, mid-rise apartment buildings, and community facilities including medical facilities and schools. The area is well served by mass transit with the B and Q trains stopping at 16th Street as well as several bus lines. The neighborhood was the subject of the area-wide Homecrest rezoning (060129 ZMK), approved by the City Planning Commission on January 11, 2006, that replaced R6 and C4-2 districts with contextual residential and commercial districts.

The subject Zoning Map Amendment is proposed in order to remedy an error that occurred at the time of development of Lot 17 and that was since identified by the Department of Buildings. The error resulted in the construction of a total of 240 square feet of floor area on the second and third floors of the commercial building where a 30-foot rear yard is required for commercial developments adjacent to a residential zoning district. However, only a 20-foot rear yard was provided, as would be required if the building were not adjacent to a residential district at the rear yard. The proposed action would change a portion of an R5B district to a C4-4A district so that the commercial building and the residential building abutting it at the rear yard would both be located wholly within a commercial zoning district, thus rendering the existing 20-foot rear yard compliant with the Zoning Resolution.

Lot 15 is currently split between R5B and C4-4A and is improved with a 2,728 square foot, two-

family residential building. As a result of the proposed rezoning, all of Lot 15 would be zoned C4-4A. This would increase the maximum FAR to 4.0, increasing the maximum potential floor area to 16,000 square feet, and allow for residential, commercial, or community facility use. Under the proposed zone, future development on Lot 15 would be required to provide an 8-foot side yard at curb level, and comply with R6B height and setback regulation for the portion of the lot within 25 feet of the adjacent R5B zoning district boundary. Pursuant to R6B regulations, a future development would be permitted to rise to a maximum height of 50 feet, after a setback from the streetwall at height of 40 feet, and would be required to provide an 8-foot side yard at the lot line adjacent to the R5B district.

ENVIRONMENTAL REVIEW

This application (C 100232 ZMK) was reviewed pursuant to the City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The lead agency is the Office of the Deputy Mayor for Economic Development. The designated CEQR number is 03DME004K.

A technical memorandum addressing the potential environmental impacts of the proposed action was issued by the Mayor's Office of Environmental Coordination on September 2, 2010.

UNIFORM LAND USE REVIEW

This application (C 100232 ZMK) was certified as complete by the Department of City Planning on October 25, 2010, and was duly referred to Brooklyn Community Board 15 and the Brooklyn Borough President, in accordance with Article 3 of the Uniform Land Use Review Procedure (ULURP) rules.

Community Board Public Hearing

Community Board 15 held a public hearing on this application on November 30, 2010, and, by a vote of 26 to 9 with 0 abstentions, adopted a resolution recommending disapproval of the application.

Borough President Recommendation

This application was considered by the Brooklyn Borough President who issued a recommendation approving the application January 3, 2010 with the following conditions:

The property owner of the retail and public parking garage facility record against the deed a stipulation that conveys a suitable assurance that hourly parking rates would be indexed to the City's Bay Ridge Garage municipal facility at 86th Street and Fifth Avenue in a manner that rates do not exceed rates at the city facility.

City Planning Commission Public Hearing

On January 5, 2011 (Calendar No. 9), the City Planning Commission scheduled January 26, 2011 for a public hearing on this application (C 100232 ZMK). The hearing was duly held on January 26, 2011 (Calendar No. 22). There were two speakers in favor of the application, and one in opposition.

The applicant and applicant's representative appeared in favor and stated that approval of the proposed zoning map amendment would bring the existing commercial building on the site into compliance, prevent the demolition of a small portion of the building, and allow the businesses occupying the building to operate without disruption.

An attorney representing the owner of a neighboring multi-family residential building in the R5B

district appeared in opposition to the proposed action and testified that the potential redevelopment of Lot 15, a portion of which is proposed to be rezoned from R5B to C4-4A, would affect the neighboring multi-family residential building due to the change in height and yard regulations and uses permitted under the proposed zoning. He stated that the action would constitute 'spot zoning,' and that a variance from the Board of Standards and Appeals would be a more appropriate option to bring the applicant's building into compliance without changing the zoning designation.

There were no other speakers and the hearing was closed.

CONSIDERATION

The City Planning Commission believes the application for a Zoning Map amendment changing from an R5B District to a C4-4A District on a portion of Block 6777 is appropriate.

The Commission notes that the proposed action would extend an existing C4-4A district boundary by 20 feet and bring an existing building into compliance with the rear yard regulations of the Zoning Resolution, preventing the demolition of a small portion of an already-constructed commercial building. In addition, where the existing zoning boundary currently divides Lots 15 and 17 between different districts, the proposed Zoning Map amendment would establish clear, rational regulations by drawing the zoning district boundary coincident with the zoning lot lines.

The Commission also notes that the proposed zoning map amendment would require that any new development within the proposed C4-4A district adjacent to the R5B zoning district boundary provide an 8-foot side yard at curb level and limit development to the height and setback regulations of an R6B district, whereas under the existing zoning, no side yard is required and a building could be built on the lot line.

The City Planning Commission believes that proposed Zoning Map amendment would be consistent with the Commission's prior approvals affecting the proposed rezoning area (C 040129 ZSK, C 040128 PPK). These approvals facilitated the construction of a commercial building and public parking garage that replaced a surface parking lot, enhancing the Kings Highway retail and commercial corridor with new retail, office, and public parking space.

The City Planning Commission acknowledges the comments of the Borough President relating to parking rates at the existing parking garage facility; however, the Commission notes that this application is for an amendment of the zoning map, and the business practices of the existing parking lot is outside its purview.

The City Planning Commission also acknowledges the testimony at the public hearing and subsequent correspondence from the owner of the neighboring building that the proposed zoning map amendment would affect the adjacent multi-family residential building. The City Planning Commission believes that while it would increase the allowable FAR and range of permitted uses, the proposed zoning designation, which would also impose building height limits within 25 feet of the adjacent residential zoning district boundary and require eight-foot side yards, would result in development that is compatible with the neighborhood and existing buildings. The Commission further believes that the proposed extension of the existing C4-4A commercial district is appropriate and would result in a clear, rational zoning designation that is consistent with the Commission's previous approvals and the existing development.

RESOLUTION

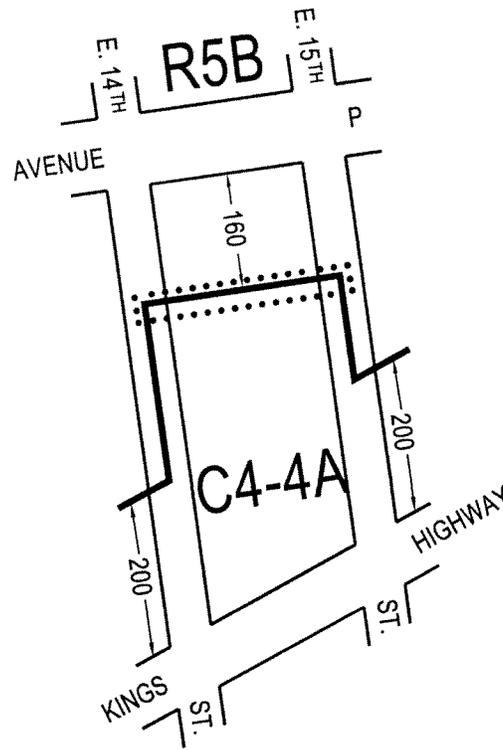
RESOLVED, that the City Planning Commission finds that the action described herein will have no significant impact on the environment; and be it further

RESOLVED by the City Planning Commission, pursuant to Sections 197-c and 200 of the New

York City Charter, that based on the environmental determination and the consideration described in this report, the Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended by changing the Zoning Map, Section No. 22d, changing from an R5B District to a C4-4A District property bounded by a line 160 feet southerly of Avenue P, East 15th Street, a line 180 feet southerly of Avenue P, and East 14th Street, Borough of Brooklyn, Community District 15, as shown on a diagram (for illustrative purposes only) dated October 25, 2010.

The above resolution (C 100232 ZMK), duly adopted by the City Planning Commission on March 2, 2011 (Calendar No. 12), is filed with the Office of the Speaker, City Council, and the Borough President in accordance with the requirements of Section 197-d of the New York City Charter.

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

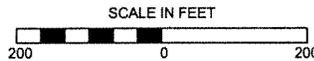


New York, Certification Date

CITY PLANNING COMMISSION
 CITY OF NEW YORK
 DIAGRAM SHOWING PROPOSED
ZONING CHANGE
 ON SECTIONAL MAP
22d

BOROUGH OF
BROOKLYN

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



- NOTE:**
- Indicates Zoning District Boundary.
 - The area enclosed by the dotted line is proposed to be rezoned by changing from an R5B District to a C4-4A District.

THIS DIAGRAM IS FOR ILLUSTRATIVE PURPOSES ONLY.

Community/Borough Board Recommendation

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

Application # C 100232 ZMK
CEQR # 03DME004K
Community District No. 15 Borough: Brooklyn
Community District No. ___ Borough: ___
Project Name: Kingswood Office & Retail Center

INSTRUCTIONS

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

2. Send one copy of the completed form with any attachments to the applicant's representative at the address listed below, one copy to the Borough President, and one copy to the Borough Board, when applicable.

Docket Description:

IN THE MATTER OF an application submitted by Kingswood Partners, LLC pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No 22d changing from an R5B District to a C4-4A District property bounded by a line 160 feet southerly of Avenue P, East 15th Street, a line 180 feet southerly of Avenue P, and East 14th Street, Borough of Brooklyn, Community District 15, as shown on a diagram (for illustrative purposes only) dated October 25, 2010.

CITY PLANNING COMMISSION
2010 DEC -3 PM 2:41
DEPT OF CITY PLANNING

Applicant(s):

Kingswood Partners, LLC
One Executive Boulevard
Yonkers, NY 10701

Applicant's Representative:

Vincent L. Petraro, Esq.
Vincent L. Petraro, PLLC
350 7th Avenue
New York, NY 10001

Community Board No. 15 Borough: Brooklyn

Borough Board

Date of public hearing: 11/30/10

Location: KINGSBOROUGH COMMUNITY COLLEGE

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: KINGSBOROUGH COMMUNITY COLLEGE

RECOMMENDATION

Approve

Approve With Modifications/Conditions

Disapprove

Disapprove With Modifications/Conditions

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

Please see attached

Voting

0

9/

0

11A



The City of New York
Brooklyn Community Board 15



MARTY MARKOWITZ
BOROUGH PRESIDENT

MICHAEL R. BLOOMBERG
MAYOR

THERESA SCAVO
CHAIRPERSON

December 1st, 2010

PEARL BURG
DISTRICT MANAGER

OFFICERS

DR. ALAN DITCHEK
FIRST VICE-CHAIRPERSON
RITA NAPOLITANO
SECOND VICE-CHAIRPERSON
JACK ERDOS, ESQ
TREASURER
HON. ANNE M. DIETRICH
SECRETARY

Calendar Information Office
City Planning Commission
22 Reade Street, Room 2E
New York, N.Y. 10007

To Whom it May Concern,

EXECUTIVE COMMITTEE

JOYCE ARBERMAN
ROBERT GEVERTZMAN
MORRIS HARARY, ESQ
SUSAN JACOBS
DR. OLIVER KLAPPER
HON. EILEEN M. O'BRIEN
ALLEN POPPER, ESQ
HELEN SARUBBI
RONALD TAWIL
IRA TEPER

In December 2003, with a vote of 22 yes and 19 no, the Kings Highway Municipal Parking Lot Development proposal narrowly passed at Community Board 15.

During a lengthy debate, certain stipulations were reiterated namely the fees to be charged at the parking garage. Enclosed please find the minutes of the December 2003 General Board Meeting of Community Board 15 as well as an email from the Economic Development Corporation, the Brooklyn Borough President's Recommendation and a letter from the representative, Vincent Petraro to the Land Use Committee of the City Council. There is a stipulation in each, that the developer will price the parking within the development to be competitive with the municipal parking lot in Bay Ridge on the corner of 5th Avenue and 86th Street, in Brooklyn.

As of today, the Kings Highway lots are \$4.00 for the first hour while the Bay Ridge lot is \$2.50.

Community Board 15 believes the developer has not fulfilled the requirement set forth by all involved parties in the original application.

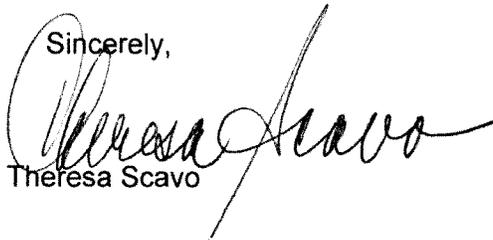
At our General Board Meeting on November 30th, 2010, the Kingswood Partners appeared before the Board for a Public Hearing on ULURP Application # C 100232ZMK, Community Board rejected application with a vote of 9 yes and 26 no.

The City of New York
Brooklyn Community Board 15

Many Board Members questioned the ramifications of such a Zoning change on the property owners to the North on East 15th Street as well as the validity of the representative's statements with reference to no further construction. Our stipulations in the original application of 2003, were unheeded and we believe many of the statements made on this present application are questionable.

Community Board 15, due to prior dealings with this developer, questioned the entire application and believe many of their statements were misleading. Therefore, we are asking the Borough President to also reject this proposal.

Sincerely,



Theresa Scavo

Brooklyn Borough President Recommendation

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

INSTRUCTIONS

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2. Send one copy with any attachments to the applicant's representatives as indicated on the Notice of Certification.

APPLICATION #: 100232 ZMK

Kingswood Office & Retail Center

In the matter of an application submitted by Kingswood Partners LLC pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map changing from an R5B District to a C4-4A District property bounded by a line 160 feet southerly of Avenue P, East 15th Street, a line 180 feet southerly of Avenue P, and East 14th Street.

COMMUNITY DISTRICT NO.

15

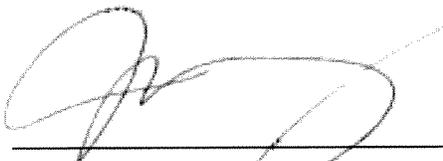
BOROUGH OF BROOKLYN

RECOMMENDATION

APPROVE
 APPROVE WITH
MODIFICATIONS/CONDITIONS

DISAPPROVE
 DISAPPROVE WITH
MODIFICATIONS/CONDITIONS

Recommendation report on following pages



BOROUGH PRESIDENT

January 3, 2011

DATE

RECOMMENDATION FOR THE PROPOSED ZONING MAP AMENDMENT 100232 ZMK

Public Hearing

On December 1, 2010 the borough president held a public hearing for the Kingswood Office & Retail Center zoning map amendment proposal. At the hearing, a representative for the application explained the technical error that created a need for this rezoning proposal to correct.

A representative for the owner of property (Lot 12) adjacent to the area proposed for rezoning spoke in opposition to this application. The major concern was the potential impact the rezoning would have on the adjacent four story apartment building should the existing detached home be redeveloped according to the zoning regulations of the proposal. The representative cited that pursuant to the proposed zoning regulations, a structure of up to 50 feet can be constructed on the site.

CONSIDERATION

Community Board 15 voted to disapprove because of a misrepresentation of stipulations agreed upon concerning the public parking garage on the applicants' site. A recent hourly price increase was deemed by the Board to be inconsistent with commitments made by the applicant as part of the process that resulted in the disposition of what had formerly been a municipal lot. In addition, the Board cited concern with regards to the property owner directly adjacent to the proposed rezoning. Therefore, the Board pursued a rejection of the application.

According to the letter submitted on behalf of the owner of Lot 12, permitting this rezoning will have a negative effect on the neighboring properties and surrounding community. The potential for redevelopment of the site would increase based on the additional permitted floor area as such additional development rights would make it more likely that the present two story residential property would be replaced with a five story residential, commercial or community facility building. The letter further states that rezoning the area is insufficient justification as a solution to correct past errors this seeks a disapproval of the land use application.

In response to concerns raised by the property owner of Lot 12, the borough president's office requested for the applicant to prepare diagrams of development possibilities according to varied use based on the existing and proposed zoning. Under the existing zoning, lot line development is permitted for exclusively residential development. Under all other scenarios according to existing or proposed zoning, a side yard would be required. Under the proposed zoning an entirely non-residential or an exclusively residential development, the side façade could be taller than the building on Lot 12, though not so if the building had ground floor non-residential use. Only after a setback of 25 feet from the property line might residential upper floor development provide a few more floors. However, practical widths might limit the number of penthouse like floors due to challenges of providing vertical circulation for an elevator and stairs. This is the case under the existing split zoning lot status of Lot 15 and under the proposed rezoning. Given that it is difficult to predict how the property would be utilized if ever redeveloped, it is premature to state that proposed rezoning would result in a configuration that would be a significant burden for Lot 12 at some point in the future.

As part of the borough president's 2004 recommendation regarding the development at the time when the City was intending to dispose of the site, he called for the fees for parking in the new facilities to be comparable to current parking fees in the municipal lots and others across the borough. Recently, rates