



## CITY PLANNING COMMISSION

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July 25, 2012 / Calendar No. 14

C 110390 ZMK

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**IN THE MATTER OF** an application submitted by 74 Wallabout LLC pursuant to Sections 197-c and 201 of the New York City Charter, for an amendment of the Zoning Map, Section No. 12d,

1. changing from an M1-2 District to an R7-1 District property bounded by Wallabout Street, Franklin Avenue, Flushing Avenue, and Kent Avenue; and
2. establishing within the proposed R7-1 District a C1-5 District bounded by Wallabout Street, Franklin Avenue, Flushing Avenue, and Kent Avenue; Borough of Brooklyn, Community District 1,

as shown in a diagram (for illustrative purposes only) dated March 26, 2012 and subject to the conditions of CEQR Declaration E-283.

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The application for a Zoning Map amendment was filed by 74 Wallabout LLC on June 23, 2011 to rezone one block from M1-2 to R7-1 with C1-5 overlay to facilitate the development of a seven-story mixed use building and a five-story community facility on the applicant's site, in Community District 1, Brooklyn.

### **BACKGROUND**

The applicant, 74 Wallabout LLC requests a zoning map amendment to rezone one block from M1-2 to R7-1 with a C1-5 overlay. The subject block is located in the South Williamsburg Section of Brooklyn, Community District 1.

The proposed rezoning would facilitate the development of a seven-story mixed use building and a five-story community facility on the applicant's site. The proposed residential building would contain 120 residential units, 28,439 square feet of ground floor retail and 60 accessory parking spaces in the cellar. The five-story community facility building would be attached to an existing private school at the corner of Franklin and Flushing avenues on an adjacent lot and would serve as an addition to the existing yeshiva.

The rezoning area consists of an entire city block (Block 2261), comprising three tax lots; 1, 9 and 17. The block is bounded by Wallabout Street to the north, Franklin Avenue to the east,

Flushing Avenue to the south and Kent Avenue to the west. The subject block is currently zoned M1-2 and is adjacent to an existing R7-1 district located to the north and east.

Tax lot 1, the applicant's site, comprises more than half of the block and has a lot area of 39,185 square feet. The site is occupied by a two- to three-story warehouse building with 44,700 square feet of floor area, at a floor area ratio of 1.14. There are two loading berths and several parking spaces on the site. The existing building is occupied by a distribution company which uses less than twenty five percent of the building and employs 15 people.

Tax lot 9 is located in the northeast portion of the block at the corner of Wallabout Street and Franklin Avenue and has a lot area of 12,755 square feet. The lot is occupied by the recently built Pointe Plaza Hotel which was developed by converting a five-story loft building which was formerly occupied by a knitting mill. The Pointe Plaza Hotel has 50,800 square feet of floor area, with an FAR of 3.98, comprising 71 guest rooms.

Tax lot 17 is located in the southeast portion of the block at the corner of Franklin and Flushing avenues, and has a lot area of 12,302 square feet. The lot is occupied by a four-story building with a small yard fronting on Flushing Avenue from which the building is set back 15 feet. The building has 38,720 square feet of floor area at 3.15 FAR. In 1979 the building was converted from an industrial use to a private school pursuant to a Special Permit (26-78 BZ), granted by BSA. Yeshiva Bnos Ahavas Israel, K-12 school has an enrollment of approximately 650 students and serves the South Williamsburg Hasidic community.

The proposed rezoning of Block 2261 from M1-2 to an R7-1 with C1-5 overlay would facilitate the development of a seven-story mixed-use building with ground floor retail uses. The remaining two lots on the block occupied by a hotel and a school would remain as they are.

The proposed seven-story, mixed use building on the applicant's site would contain 120 residential units with 60 accessory parking spaces in the cellar. The building would also have approximately 28,439 square feet (0.73 FAR) of ground-floor retail space with frontages on Wallabout Street, Kent and Flushing avenues. Outdoor recreation space for residents, totaling

7,300 square feet, would be provided on the roof of the first floor commercial space in the interior court. The residential lobby of the building would be mid-block on Kent Avenue separated by 42 feet from the entrance to the cellar garage. The total floor area of the mixed use building would be 162,842 square feet with a total FAR of 4.16.

In addition to this mixed-use building, the applicant proposes to use 5,000 square feet of their property, in the southeast corner of Lot 1 to build an extension to the existing school on the adjacent lot 17. The new five-story school building, with a total floor area of 17,640 square feet (0.45 FAR) would be connected to the adjacent school and would provide additional class room space to an already overcrowded school. The proposed total floor area of the residential, commercial, and community facility spaces, would be 180,482 square feet at a total FAR of 4.61.

The subject block is currently zoned M1-2 which allows up to 2.0 FAR of manufacturing and commercial uses including transient hotels but does not permit residential or community facility uses. The proposed R7-1 district would be an extension of an existing R7-1 district covering the blocks to the east and north of the subject block and would permit residential uses up to an FAR of 3.44 and community facility uses up to an FAR of 4.8. The proposed district would make the existing school a conforming use.

The building heights in an R7-1 district are governed by the sky exposure plane with open space ratios. However, the applicant has proposed a building of seven-stories or 70 feet in height, pursuant to Quality Housing regulations for their site which would be the same as other new residential development in the area. The proposed C1-5 overlay permits local retail and service uses up to an FAR of 2.0 and would allow the continued use of the transient hotel as a conforming use.

The area immediately east and north of the subject block is zoned R6 and R7-1 and is comprised of three- to seven-story residential buildings and community facility uses. The commercial uses in the area are primarily located along Bedford and Flushing avenues. Flushing Avenue serves as the boundary between Community Districts 1 and 3. The area south of Flushing Avenue is part of Bedford Stuyvesant industrial neighborhood, which is zoned M1-1 and M1-2 for light

manufacturing uses, several blocks along Bedford Avenue are zoned MX4:M1-2/R6A, a mixed use district which allows a broad range of commercial and residential uses and is developed with a mix of one- to three-story manufacturing and warehousing buildings interspersed with residential apartment buildings.

The land uses surrounding the rezoning block include three- to seven-story residential buildings across Wallabout Street; six- to seven-story residential buildings and a synagogue across Franklin Avenue; a five-story residential building, one- to two-story distribution company, a two-story catering hall, are across Flushing Avenue; and across Kent Avenue there is a three-story mini-storage warehouse and a seven-story residential building.

The Brooklyn Queens Expressway's Flushing Avenue exit is just one block west of the rezoning area. The nearest subway station is on G-Line and is located approximately one half mile east of the rezoning area on Flushing Avenue. The B62 and B56 bus lines connect the project block to Downtown Brooklyn and the B48 runs north to Greenpoint and south to Fulton Street in Bedford/Stuyvesant.

## **ENVIRONMENTAL REVIEW**

This application (C 110390 ZMK) was reviewed pursuant to the New York State Environmental Quality Review Act (SEQRA), and the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 *et seq.* and the City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The designated CEQR number is 11DCP150K. The lead agency is the Department of City Planning.

After a study of the potential environmental impact of the proposed action, a negative declaration was issued on March 26, 2012.

To avoid any potential impacts associated with hazardous materials, air quality (HVAC emissions), and noise an (E) designation (E-283) would be incorporated into the proposed zoning for Block 2261, Lot 1.

The text for the hazardous materials (E) designation 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 the NYC Office of Environmental Remediation (OER) 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 OER. 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 OER upon request.**

## **Task 2**

**A written report with findings and a summary of the data must be presented to OER after completion of the testing phase and laboratory analysis for review and approval. After receiving such test results, a determination will be provided by OER if the results indicate that remediation is necessary. If OER determines that no remediation is necessary, written notice shall be given by OER.**

**If remediation is necessary according to test results, a proposed remediation plan must be submitted to OER 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 OER. 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.**

**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 OER for review and approval prior to implementation.**

The text for the air quality (E) designation is as follows:

**Block 2261, Lot 1: Any new development on the above-referenced property must ensure that the heating, ventilating and air conditioning system (HVAC) systems will use exclusively natural gas as the type of fuel for space heating and hot water needs, to avoid any potential significant adverse air quality impacts.**

The text of the noise (E) designation 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 35 dBA window/wall attenuation in the Flushing Avenue facade and 31 dBA on all other facades in order to maintain an interior noise level of 45 dBA. In order to maintain a closed-window condition, an alternative means of ventilation must also be provided. Alternate means of ventilation includes, but is not limited to, central air conditioning.**

### **Uniform Land Use Review**

This application (C 110390 ZMK) was certified as complete by the Department of City Planning on March 26, 2012, and was duly referred to Community Board 1 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 1 held a public hearing on this application on April 17, 2012, and on May 8, 2012, by a vote of 35 in favor, 0 opposed and 0 abstaining, adopted a resolution recommending approval of the application with the following conditions:

1. The applicant provides a guarantee in writing that the building will comply with Quality Housing regulations of the Zoning Resolution.
2. The applicant provides a guarantee in writing that the residential units be sold as moderate income units (125% AMI) as defined under the City's Inclusionary Zoning Provisions.

3. The applicant provides a guarantee in writing that the 17,640 sf of Community Facility space will be sold to the adjacent Yeshiva.
  
4. The development includes sustainable building components where possible.

### **Borough President Recommendation**

This application was considered by the Borough President, who issued a recommendation approving the application on June 12, 2012 stating:

That the applicant fulfills the commitment outlined in the May 15, 2012 letter to the Borough President and establishes rents below 125 percent of Area Median Income to adequately accommodate a percentage of moderate income households without the need to pay rent in excess of 30 percent of household income.

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

On June 6, 2012 (Calendar No. 4), the City Planning Commission scheduled June 20, 2012 for a public hearing on this application (C 110390 ZMK). The hearing was duly held on June 20, 2012 (Calendar No. 25). There was one speaker in favor of the application.

The applicant's representative spoke about the appropriateness of the proposed zoning map change for the site. He stated that the proposed development is planned as a rental property and would be affordable to moderate income households. He further stated that the property would be developed pursuant to Quality Housing regulations and the developers would make every effort to develop a sustainable building.

### **CONSIDERATION**

The Commission believes that this application (C 110390 ZMK) for a zoning map amendment from an M1-2 district to an R7-1/C1-5 district is appropriate.

The Commission notes that the proposed zoning map change to an R7-1/C1-5 district would facilitate the development of a seven-story mixed used building with 120 residential units, 28,439 square feet of ground-floor commercial space and 60 accessory parking spaces in the cellar built pursuant to Quality Housing regulations. The rezoning would also allow the applicant to develop a five-story community facility on their property that would serve as an extension to the existing school to the east of the site and would relieve overcrowding at that school. The proposed R7-1 zoning district permits community facility uses as-of-right and would allow the existing school on Lot 17 to become a conforming use.

The Commission notes that the proposed R7-1 district would be an extension of an existing R7-1 district to the north and east of the rezoning area which has been developed with buildings similar in use and height to those proposed by the applicant. The Commission thus believes that the proposed rezoning would be consistent with nearby zoning districts and would permit development consistent with the character of the surrounding area. The C1-5 overlay proposed for the entire block would permit ground-floor retail space on the applicant's site and would allow the continued use of the transient hotel as a conforming use on Lot 9.

The Commission believes that, over the last two decades there has been substantial growth in the residential population in this area, resulting in an increased demand for new housing. The presence of underutilized land in the proposed rezoning area combined with the demand for housing presents an opportunity for new residential development. The proposed zoning amendment would result in the development of 120 new rental units, which would help alleviate the great need for housing in this area.

Regarding the Community Board's condition that the new mixed-use development comply with contextual Quality Housing regulations, the Commission is pleased to note that the applicant has stated their intention to develop their site pursuant to the contextual Quality Housing regulations. Regarding the Community Board's and Borough President's recommendation for affordable housing, the Commission is also pleased to note that the applicant, in a letter to the Community Board and to Borough President's Office dated May 15, 2012, and in testimony at the

Commission's public hearing, has stated their intent to keep the rents affordable to moderate income households.

## **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. 12d,

1. changing from an M1-2 District to an R7-1 District property bounded by Wallabout Street, Franklin Avenue, Flushing Avenue, and Kent Avenue; and
2. establishing within an the proposed R7-1 District a C1-5 District bounded by Wallabout Street, Franklin Avenue, Flushing Avenue, and Kent Avenue; Borough of Brooklyn, Community District 1,

as shown in a diagram (for illustrative purposes only) dated March 26, 2011<sup>2</sup> and subject to the conditions of CEQR Declaration E-283.

The above resolution (C 110390 ZMK), duly adopted by the City Planning Commission on July 25, 2012 (Calendar No. 14), 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**

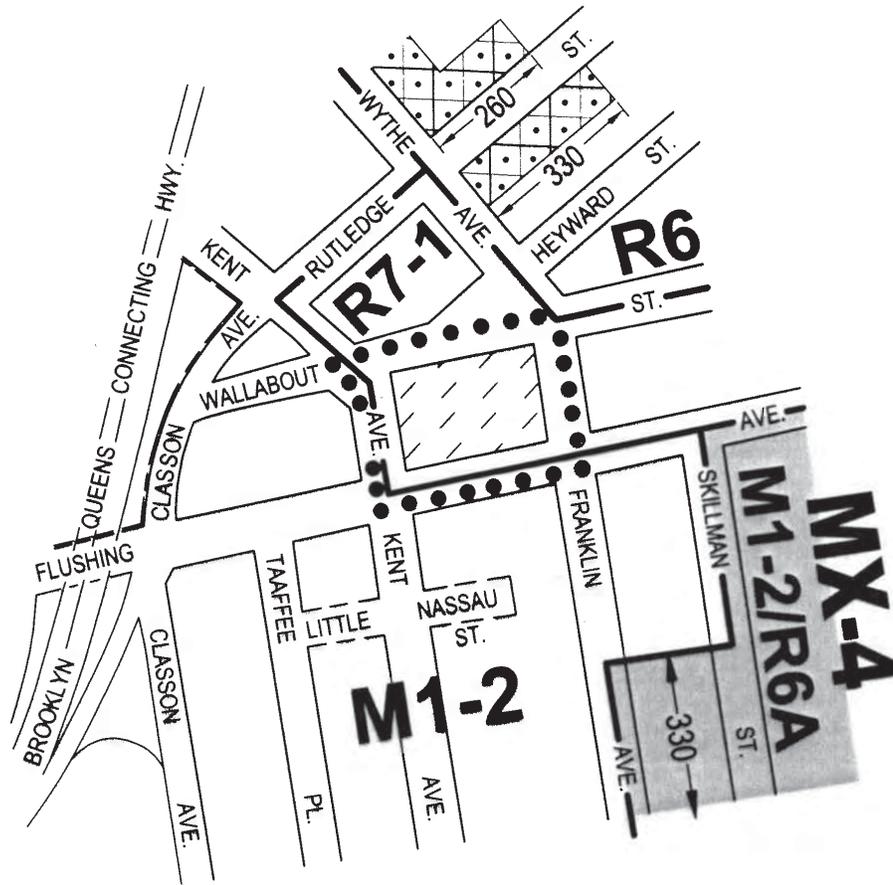
**KENNETH J. KNUCKLES, *ESQ.*, Vice Chairman**

**ANGELA M. BATTAGLIA, RAYANN BESSER, IRWIN G. CANTOR, P.E.,**

**ALFRED C. CERULLO, *III*, BETTY Y. CHEN, MICHELLE R. DE LA UZ,**

**MARIA M. DEL TORO, RICHARD W. EADDY, ANNA HAYES LEVIN,**

**ORLANDO MARIN, SHIRLEY A. MCRAE,**

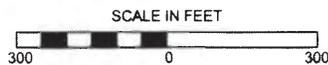


CITY PLANNING COMMISSION  
 CITY OF NEW YORK  
 DIAGRAM SHOWING PROPOSED  
**ZONING CHANGE**  
 ON SECTIONAL MAP  
**12d**

BOROUGH OF  
**BROOKLYN**

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

New York, Certification Date  
 MARCH 26, 2012



NOTE:

- Indicates Zoning District Boundary.
- The area enclosed by the dotted line is proposed to be rezoned by changing an M1-2 District to an R7-1 District, and by establishing a C1-5 District within a proposed R7-1 District.
-  Indicates a C1-5 District.
-  Indicates a C2-4 District.
-  Indicates a Special Mixed Use District (**MX-4**).

|                                                                                           |                                                         |                                                                                                    |  |
|-------------------------------------------------------------------------------------------|---------------------------------------------------------|----------------------------------------------------------------------------------------------------|--|
|          |                                                         | <b>Community/Borough Board Recommendation</b><br>Pursuant to the Uniform Land Use Review Procedure |  |
| Application #: <b>C 110390 ZMK</b>                                                        | Project Name: <b>74 Wallabout Street Rezoning</b>       |                                                                                                    |  |
| CEQR Number: 11DCP150K                                                                    | Borough(s): Brooklyn<br>Community District Number(s): 1 |                                                                                                    |  |
| Please use the above application number on all correspondence concerning this application |                                                         |                                                                                                    |  |

### SUBMISSION INSTRUCTIONS

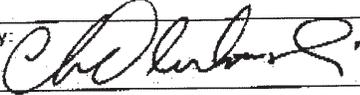
- Complete this form and return to the Department of City Planning by one of the following options:
  - EMAIL (recommended):** Send email to [CalendarOffice@planning.nyc.gov](mailto:CalendarOffice@planning.nyc.gov) and include the following subject line: (CB or BP) Recommendation + (6-digit application 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 the Department of City Planning pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 12d:

- changing from an M1-2 District to an R7-1 District property bounded by Wallabout Street, Franklin Avenue, Flushing Avenue, and Kent Avenue; and
- establishing within a proposed R7-1 District a C1-5 District bounded by Wallabout Street, Franklin Avenue, Flushing Avenue; and Kent Avenue;

as shown in a diagram (for illustrative purposes only) dated March 26, 2012 and subject to the conditions of CEQR Declaration E-283.

|                                                                                                                  |                                                                                                                                 |                                                                                                                             |                                          |
|------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------|------------------------------------------|
| Applicant(s):<br>74 Wallabout LLC<br>c/o The Rabsky Group<br>39 Heyward Street<br>Brooklyn, NY 11211             |                                                                                                                                 | Applicant's Representative:<br>Raymond Levin<br>Wachtel & Masyr, LLP<br>885 Second Avenue, 47th Floor<br>New York, NY 10017 |                                          |
| Recommendation submitted by:  |                                                                                                                                 | Brooklyn CB #1<br>Chairman                                                                                                  |                                          |
| Date of public hearing: 4/17/12                                                                                  | Location: 211 Ainslie Street<br>Brooklyn, NY 11211                                                                              |                                                                                                                             |                                          |
| Was a quorum present? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>                        | A public hearing requires a quorum of 20% of the appointed members of the board, but in no event fewer than seven such members. |                                                                                                                             |                                          |
| Date of Vote: 5/8/12                                                                                             | Location: 211 Ainslie Street<br>Brooklyn, NY 11211                                                                              |                                                                                                                             |                                          |
| <b>RECOMMENDATION</b>                                                                                            |                                                                                                                                 |                                                                                                                             |                                          |
| <input type="checkbox"/> Approve                                                                                 | <input type="checkbox"/> Approve With Modifications/Conditions                                                                  |                                                                                                                             |                                          |
| <input type="checkbox"/> Disapprove                                                                              | <input type="checkbox"/> Disapprove With Modifications/Conditions                                                               |                                                                                                                             |                                          |
| Please attach any further explanation of the recommendation on additional sheets, as necessary.                  |                                                                                                                                 |                                                                                                                             |                                          |
| <b>Voting</b>                                                                                                    |                                                                                                                                 |                                                                                                                             |                                          |
| # In Favor: 35                                                                                                   | # Against: 0                                                                                                                    | # Abstaining: 0                                                                                                             | Total members appointed to the board: 46 |
| Name of CB/BB officer completing this form                                                                       | Title                                                                                                                           | Date                                                                                                                        |                                          |
| Christopher H. Olechowski                                                                                        | Chairman                                                                                                                        | 5/9/12                                                                                                                      |                                          |

*The  
City of  
New York*



# COMMUNITY BOARD No. 1

435 GRAHAM AVENUE - BROOKLYN, N.Y. 11211-2429

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HON. MARTY MARKOWITZ  
BROOKLYN BOROUGH PRESIDENT



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DISTRICT MANAGER

HON. STEPHEN T. LEVIN  
COUNCILMEMBER, 33rd CD

HON. DIANA REYNA  
COUNCILMEMBER, 34th CD

May 8, 2012

## Land Use, ULURP and Landmarks Committee Report

Meeting date: Tuesday, April 24th, 2012

TO: Chairman Christopher H. Olechowski  
CB #1 Board Members

FROM: Heather Roslund, Committee Chair

### 1. CITY PLANNING APPLICATION #C110390: 74 WALLABOUT STREET

An application submitted to DCP pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section 12d:

1. Changing from an M1-2 District to an R7-1 District, the property bounded by Wallabout Street, Franklin Avenue, Flushing Avenue and Kent Avenue;
2. Establishing within the proposed R7-1 District a C1-5 District bounded by Wallabout Street, Franklin Avenue, Flushing Avenue and Kent Avenue.

Mr. Ray Levin of Wachtel & Masyr, LLP presented an overview of the proposed project. The site is a full block currently occupied by 5 story Yeshiva at the corner of Franklin Avenue and Flushing Avenue, a hotel, a synagogue and several low rise manufacturing buildings. The Yeshiva has been at this location since 1977. The manufacturing uses are a former distribution company and a knitting mill. The proposed building is to be 7 stories, 6 floors of residential units over retail ground floor units and parking in the cellar. The development is 134,403 sf in total yielding approximately 120 residential units and 60 parking spaces. The proposed FAR is 4.61.

The Zoning map indicates M1-2 districts to the west and to the south and R7-1 Districts to the north and east. The rezoning of this site will connect the adjacent R7-1 Districts

The purpose of requesting an R7-1 designation instead of an R7A contextual district is to allow the applicant to utilize the "community Facility bonus" which amounts to an additional 17,640 sf of development. The developer will then sell all 17,640 sf to the adjacent Yeshiva, which is currently at capacity, in order to expand along Flushing Avenue.

The remaining floor area will be developed under Quality Housing regulations and the resulting building will be roughly equivalent to an R7A development. There is no inclusionary Zoning overlay included in

the application, but the developer states they intend to sell the units at moderate income level, with applicant income up to 125% AMI. The unit distribution will be 30% 4 bedrooms, 20% 3 bedrooms, 30% 2 bedrooms and 20% 1 bedrooms.

**Whereas**, the adjacent zoning districts to the north and east are R7-1, and

**Whereas**, the proposed building would match the height/size of residential buildings in the immediate area, and

**Whereas**, the proposal both legalizes the Yeshiva and allows it to expand, and

**Whereas**, the committee generally agreed that the development does not hinder industrial development in the M1-1 districts to the west and south,

the committee therefore **APPROVES** the application with the following stipulations:

1. The applicant provides a guarantee in writing that the building will comply with Quality Housing regulations of the Zoning Resolution.
2. The applicant provides a guarantee in writing that the residential units be sold as moderate income units (125% AMI) as defined under the City's Inclusionary Zoning Provisions.
3. The applicant provides a guarantee in writing that the 17,640 sf of Community Facility space will be sold to the adjacent Yeshiva.
4. The development include sustainable building components where possible.

**11 in favor, 0 against, 0 abstentions.**

**2. CITY PLANNING APPLICATION #C100041: 59 WALTON STREET**

An application submitted to DCP pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section 13b:

1. Changing from an M1-2 District to an R6A District, the property bounded by Middleton Street, Union Avenue, Lorimer Street and Marcy Avenue;
2. Changing from an M3-1 District to an R7A District, the property bounded by Lorimer Street, Union Avenue, Wallabout Street and Marcy Avenue;
3. Establishing within the proposed R7A District a C2-4 District bounded by Lorimer Street, a line 250 feet northeasterly of Marcy Avenue, Walton Street and Marcy Avenue.

Mr. Eldad Goheif of Herrick, Feinstein LLP presented an overview of the proposed project. The site consists of three blocks within the streets described above. The block to the north is currently occupied by residential buildings approved under previous variance applications. The applicant's lot is the eastern portion of the middle block (proposed R7A) with the remainder of the block occupied by a grocery store. The rezoning includes Inclusionary Zoning (IZ).

The Zoning map indicates an R6 district to the north, and R6A district to the northeast, and R7A district to the southeast and R7-1 district to the west. The zoning district immediately to the south is M3-1, the former Pfizer site.

The proposed development is 2 residential buildings, each 7 stories in height, with no commercial use and no parking. The development will yield approximately 36 units in one building and 37 in the other. The R7A district with IZ allows a base FAR of 3.45, and a maximum FAR, utilizing the IZ, of 4.6. The proposed FAR for the applicant's site is 4.6 and both buildings will include Affordable Housing, will be developed under Quality Housing regulations and will contain a mix of 1, 2, 3 and 4 bedroom units.

The committee's main concern regarding this rezoning is the lack of commercial overlay along Union Avenue. Currently, the entire east side of Union Avenue is mapped with a C2-4 overlay between Broadway and Flushing with the exception of the Pfizer site which remains an M3-1 district but allows commercial uses. The blocks to the north of the applicant's site on the west side of Union Avenue are mapped C8-2 along Broadway and various portions of Flushing Avenue are mapped with commercial overlays. In order to ensure continuity in the future, the committee strongly recommends that this rezoning also include a C2-4 overlay along Union Avenue, matching the commercial overlay across the street.

**Whereas**, the site is generally bounded by residential development, and

**Whereas**, the committee generally agreed that the site was inappropriate for an industrial development,

**Whereas**, the proposed zoning districts match the surrounding R6, R6A, R7-1 and R7A zoning districts to the north, east and west, and

**Whereas**, the proposed rezoning allows for the development of affordable housing, and

**Whereas**, the proposed unit mix satisfies multiple residential needs,

the committee therefore **APPROVES** the application with the following stipulations:

1. The applicant provides a guarantee in writing that the project will be developed under the City's Inclusionary Zoning Provisions.
2. The applicant includes a mapped commercial overlay at all three blocks along Union Avenue.
3. The development include sustainable building components where possible.

**10 in favor, 0 against, 0 abstentions.**

**3. NYC BOARD OF STANDARDS AND APPEALS – SPECIAL PERMIT – APPLICATION #55-12-BZ: 762 WYTHE AVENUE (BLOCK 2216 LOT 19)**

**An application to legalize the existing Use Group 3 religious based not for profit school located in an M1-2 Zoning District which is contrary to ZR Section 42-00 and therefore requires a Special Permit. Applicant – Eric Palatnik PC**

The applicant was not present, but the committee reviewed the proposed project as presented at the Brooklyn Community Board #1 meeting of April 17, 2012.

The Yeshiva opened at this location September 2008 and serves approximately 3,000 students. It occupies a formerly industrial building located within an M1-2 Zoning District and across the street from an R7-1 District. The building is 119,997 sf with an FAR of 4.8.

A Special Permit to allow the Yeshiva to be located in an M1-2 Zoning District may be granted by the Board of Standards and Appeals per section 73-19 of the zoning Resolution as follows:

**73-00 (from the Zoning Resolution of the City of New York)**

**SPECIAL PERMIT USES AND MODIFICATIONS**

**73-19 SCHOOLS**

In C8 or M1 Districts, the Board of Standards and Appeals may permit #schools# which have no #residential# accommodations except #accessory# accommodations for a caretaker, provided that the following findings are made:

- (a) that within the neighborhood to be served by the proposed #school# there is no practical possibility of obtaining a site of adequate size located in a district wherein it is permitted as of right, because appropriate sites in such districts are occupied by substantial improvements;
- (b) that such #school# is located not more than 400 feet from the boundary of a district wherein such #school# is permitted as-of-right;
- (c) that an adequate separation from noise, traffic and other adverse effects of the surrounding non-#Residential Districts# is achieved through the use of sound-attenuating exterior wall and window construction or by the provision of adequate open areas along #lot lines# of the #zoning lot#, and
- (d) that the movement of traffic through the #street# on which the #school# is located can be controlled so as to protect children going to and from the #school#. The Board shall refer the application to the Department of Traffic for its report with respect to vehicular hazards to the safety of children within the block and in the immediate vicinity of the proposed site.

The Board may prescribe additional appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area.

**Whereas**, the applicant meets the findings as described above, and

**Whereas**, the Yeshiva has operated at this location for 6 years without any issues or problems, and

**Whereas**, the need for educational facilities in this area is expanding and spaces of this size are scarce,

the committee therefore **APPROVES** the application.

**7 in favor, 0 against, 0 abstentions.**

**4. NYC BOARD OF STANDARDS AND APPEALS - VARIANCE -- APPLICATION #69-12-BZ: 1  
MASPETH AVENUE (BLOCK 2892 LOT 1)**

An application to permit the proposed five story mixed-use development, including cellar and first floor ambulatory diagnostic health care treatment facility (Use Group 4), local retail (Use Group 6) at the remainder of the first floor and residential use (Use Group 2) at floors 2-5. The proposed Uses are contrary to ZR Section 32-00 which does not permit the proposed uses in the underlying C8-2 zoning district. Applicant – Eric Palatnik PC.

The applicant was not present, but the committee reviewed the proposed project as presented at the Brooklyn Community Board #1 meeting of April 17, 2012.

The site is located at the intersection of Maspeth Avenue, Bushwick Avenue and Metropolitan Avenues. It is an irregularly shaped lot located within a C8-2 Zoning District. The proposed development is a five story mixed-use development, including cellar and first floor ambulatory diagnostic health care treatment facility, some local retail at the remainder of the first floor and residential use at floors 2-5.

The committee briefly discussed the comments made by board members at the full board meeting and agreed that the project is inappropriate at this location. The committee finds the project to be far too dense for an area which is already congested, and is further concerned by the lack of ground floor retail uses, lack of parking and lack of affordable housing.

A use variance may be granted by the Board of Standards and Appeals per Section 72-21 of the Zoning Resolution as follows:

**72-21 (from the Zoning Resolution of the City of New York)**

**Findings Required for Variances**

When in the course of enforcement of this Resolution, any officer from whom an appeal may be taken under the provisions of Section 72-11 (General Provisions) has applied or interpreted a provision of this Resolution, and there are practical difficulties or unnecessary hardship in the way of carrying out the strict

letter of such provision, the Board of Standards and Appeals may, in accordance with the requirements set forth in this Section, vary or modify the provision so that the spirit of the law shall be observed, public safety secured and substantial justice done. Where it is alleged that there are practical difficulties or unnecessary hardship, the Board may grant a variance in the application of the provisions of this Resolution in the specific case, provided that as a condition to the grant of any such variance, the Board shall make each and every one of the following findings:

- (a) that there are unique physical conditions, including irregularity, narrowness or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to and inherent in the particular #zoning lot#; and that, as a result of such unique physical conditions, practical difficulties or unnecessary hardship arise in complying strictly with the #use# or #bulk# provisions of the Resolution; and that the alleged practical difficulties or unnecessary hardship are not due to circumstances created generally by the strict application of such provisions in the neighborhood or district in which the #zoning lot# is located;
- (b) that because of such physical conditions there is no reasonable possibility that a #development#, #enlargement#, extension, alteration or change of #use# on the #zoning lot# in strict conformity with the provisions of this Resolution will bring a reasonable return, and that the grant of a variance is therefore necessary to enable the owner to realize a reasonable return from such #zoning lot#; this finding shall not be required for the granting of a variance to a non-profit organization;
- (c) that the variance, if granted, will not alter the essential character of the neighborhood or district in which the #zoning lot# is located; will not substantially impair the appropriate use or development of adjacent property; and will not be detrimental to the public welfare;
- (d) that the practical difficulties or unnecessary hardship claimed as a ground for a variance have not been created by the owner or by a predecessor in title; however, where all other required findings are made, the purchase of a #zoning lot# subject to the restrictions sought to be varied shall not itself constitute a self-created hardship; and
- (e) (e) that within the intent and purposes of this Resolution, the variance, if granted, is the minimum variance necessary to afford relief; and to this end, the Board may permit a lesser variance than that applied for.

It shall be a further requirement that the decision or determination of the Board shall set forth each required finding in each specific grant of a variance, and in each denial thereof which of the required findings have not been satisfied. In any such case, each finding shall be supported by substantial evidence or other data considered by the Board in reaching its decision, including the personal knowledge of, or inspection by, the members of the Board. Reports of other City agencies made as a result of inquiry by the Board shall not be considered hearsay, but may be considered by the Board as if the data therein contained were secured by personal inspection.

**Whereas**, the applicant meets some but not all of the finding as described above, and

**Whereas**, residential use is completely inappropriate for this location, and

**Whereas**, the proposed residential use provides no affordable housing, and

**Whereas**, the proposed development at an FAR of 4.8 is too dense, and

**Whereas**, the adjacent intersection is currently extremely congested, and

**Whereas**, the proposed development does not provide ground floor retail desired for continuity along Metropolitan Avenue and Maspeth Avenue, and

**Whereas**, the proposed development provides no parking, and

**Whereas**, the site is appropriate for a complying use,

the committee therefore **DISAPPROVES** the application.

**7 in favor, 0 against, 0 abstentions.**

**5. REVIEW OF HPD'S RESPONSE REGARDING THE LPC WAREHOUSE RFP**

On February 2, 2012, Brooklyn Community Board #1 sent a letter to NYC Department of Housing Preservation and Development Commissioner Mathew Wambua regarding a Request For Proposals the agency intends to issue for development of the city owned property at Block 2443 Lots 6, 37 and 41 (337-339 Berry Street and 101 South 5<sup>th</sup> Street). The letter outlines CB#1's recommendations for the RFP as requested by HPD at CB#1's January Board meeting.

On April 4, 2012, HPD responded with a letter stating their intent to include all but three of the recommendations submitted by CB#1.

While we are pleased that HPD came to us prior to the issuance of the RFP and has indeed responded favorably to our concerns, the committee feels it prudent to address the lack of inclusion of the remaining three recommendations, which are as follows (taken from CB#1's letter of February 2, 2012):

2. The RFP be presented to Brooklyn Community Board #1 in its entirety for review prior to its release.
3. A representative from Brooklyn Community Board #1 be seated on the panel selected to review the proposals.
4. A presentation of the proposals received is made by HPD to Brooklyn Community Board #1 for review and comment.

The committee therefore **RECOMMENDS** that Brooklyn Community Board #1 respond to HPD with another letter containing the following points:

1. Brooklyn Community Board #1 thanks HPD for addressing our concerns in the writing of the RFP and for providing an open and transparent process thus far.
2. The three recommendations not adopted by HPD, all regarding CB#1's role in the review and selection of the developer, are equally important to maintaining an open and transparent process and we respectfully request their inclusion.

**7 in favor, 0 against, 0 abstentions.**

**6. PRESENTATION – NEW YORK CITY DEPARTMENT OF CITY PLANNING – THE WATERFRONT REVITALIZATION PROGRAM 2012 REVISIONS  
By Jessica Fain, Waterfront & Open Space/City Planning.**

The Waterfront Revitalization Program (WRP) is a regulatory tool requiring all projects within New York City's Coastal Zone which require a federal, state or city discretionary action to also be subject to WRP review. The Department of City Planning has submitted proposed revisions to the New York City WRP for consideration under the rules for the processing of plans pursuant to Charter Section 197-a.

As the presentation is quite involved and rather lengthy, the committee requests that DCP returns to present to the full board. This will likely occur at the June meeting. If anyone is interested in reviewing the program or the proposed revisions before then, information can be found on the DCP website.

7. **PRESENTATION – NEW YORK CITY ENVIRONMENTAL JUSTICE ALLIANCE – THE WATERFRONT REVITALIZATION PROGRAM 2012 REVISIONS**

The NYC Environmental Justice Alliance has analyzed the WRP and provided recommendations to DCP. Of specific concern is a lack of key protections for communities designated as Significant Maritime & Industrial Areas, which includes large portions of Greenpoint and Williamsburg. They presented these same findings to the committee, but due to the late hour, attendance had dwindled and we invited them to return to present to the full board at the June meeting.



## Brooklyn Borough President Recommendation

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

### INSTRUCTIONS

1. Return this completed form with any attachments to the Calendar Information Office, City Planning Commission, Room 2E at the above address.

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

APPLICATION #: 110390 ZMK

74 Wallabout Street Rezoning

In the matter of an application submitted by 74 Wallabout LLC pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 12d, changing from an M1-2 District to an R7-1 District and establishing within the proposed R7-1 District a C1-5 District property bounded by Wallabout Street, Franklin Avenue, Flushing Avenue, and Kent Avenue. This action would facilitate the development of 120 housing units, 28,439 square feet ground floor retail, 17,640 square feet for a school expansion and 60 accessory parking spaces.

COMMUNITY DISTRICT NO.

1

BOROUGH OF BROOKLYN

### RECOMMENDATION

APPROVE

APPROVE WITH

MODIFICATIONS/CONDITIONS

DISAPPROVE

DISAPPROVE WITH

MODIFICATIONS/CONDITIONS

  
BOROUGH PRESIDENT

June 12, 2012

DATE

# **RECOMMENDATION FOR THE PROPOSED AMENDMENT OF THE ZONING MAP 110390 ZMK**

## **Public Hearing**

On May 21, 2012 Brooklyn Borough President Marty Markowitz held a public hearing on an application by 74 Wallabout LLC for an amendment to the Zoning Map. Approval of this action is being sought in order to facilitate residential development with a total of 120 units, ground floor retail and the expansion for a school.

## **CONSIDERATION**

Community Board 1 (CB 1) voted to approve this application with conditions that included a written guarantee that development will comply with Quality Housing regulations; a guarantee in writing that the units be affordable to moderate income households (up to 125% AMI); a written guarantee that space will be sold to the adjacent Yeshiva; and, sustainable building components are included where possible.

The rezoning encompasses one block zoned for industrial use in an area of Brooklyn that is experiencing a transition from a manufacturing base to residential. If approvals are granted to the applicant, part of the project will include the sale of part of the property to an adjacent Yeshiva to facilitate its expansion.

The Borough President supports land use applications that create additional affordable housing opportunities within Brooklyn communities. It is the policy of the Borough President to provide opportunities for more affordable housing through the process of rezoning privately-owned land for residential development. The borough president is concerned that too many of the borough's residents leave because they can no longer afford to live in Brooklyn.

Pursuant to the proposed rezoning, there would be no obligation to provide any affordable housing. With the increasing demand by Brooklyn residents for affordable housing, the Borough President believes every reasonable attempt should be made to provide such housing. It is the Borough President's policy for new residential developments, subject to ULURP, to provide a minimum of 20 percent affordable units. Where developers seek to accommodate affordable housing for middle-income families, it is the Borough President's policy to seek for the entire development to then be affordable to such households. This would go a long way towards helping households to obtain quality-affordable apartments while raising families.

The Borough President is committed to providing opportunities for Brooklyn's working families. He believes it is also appropriate for development to target the affordability of the units to middle-income families whose income does not exceed 165 percent of Area Median Income (AMI). Where possible, the Borough President seeks to obtain a written commitment or explanation that conveys a suitable assurance that these affordable units will be built.

Prior to the Borough President's public hearing, the applicant submitted a letter (attached) dated May 15, 2012 that addressed concerns expressed by the community

board. This letter provided a commitment to develop a Quality Housing building with rents affordable to those families of a moderate income as defined by the City's Inclusionary Housing Program moderate income cap of 125% of AMI. Additionally, a guarantee was made to provide the adjacent Yeshiva with space needed for its expansion. Lastly, where possible, the applicant intends develop a sustainable building.

As a project that does not rely on any public subsidies, there would be no prohibition on families' earnings for eligibility. Rents permitted under the City's affordable housing program serving families earning 125% AMI are as follows: one bedroom units (2 person household) would be approximately \$2,080; two bedroom units (3 to 4 person household) would range from about \$2,330 to \$2,600; three bedroom units (4 to 6 person) would range from \$2,600 to \$3,000; and, four bedroom (5 to 8 person household) would range from \$2,850 to \$3,400. The Borough President believes that the majority of anticipated tenants who will benefit from these units will be those of a middle-income as they will have the means to comfortably afford those units. In order for those of a moderate income to have a chance to compete with those of a middle income, the rent threshold will need to be set somewhat lower than the moderate income cap. If not, such households would need to pay more than 30 percent of household income towards monthly rent. Therefore, the Borough President urges the developer to seek out the appropriate measures that will allow this development to reasonably accommodate a number of moderate income households along with middle income households.

#### **RECOMMENDATION**

Be it resolved that the Borough President of Brooklyn, pursuant to section 197-c of the New York City Charter, recommends that the City Planning Commission and City Council approve the requested Zoning Map change subject to the following condition:

- That the applicant fulfills the commitment outlined in the May 15, 2012 letter to the Borough President and establishes rents below 125 percent of Area Median Income to adequately accommodate a percentage of moderate income households without the need to pay rent in excess of 30 percent of household income.

**74 WALLABOUT STREET LLC**  
505 FLUSHING AVENUE  
BROOKLYN, NEW YORK 11211  
718-246-4762

May 15, 2012

Honorable Marty Markowitz  
Brooklyn Borough President  
Brooklyn Borough Hall  
209 Joralemon Street  
Brooklyn, New York 11201

Re: 74 Wallabout Street  
ULURP Application #C1110390  
Zoning Map Amendment  
M1-2 to R7-1/C1-5

Dear Borough President Markowitz:

We write in anticipation of your hearing scheduled for May 21, 2012 on the referenced application. As you are aware, this application was unanimously approved at both Community Board 1's Land Use, ULURP and Landmarks Committee and by the full Community Board. Those approvals contained four stipulations and this letter addresses them.

- 1. The applicant provides a guarantee in writing that the building will comply with Quality Housing regulations of the Zoning Resolution.*

We have from the commencement of this undertaking proposed to develop our property with a Quality Housing building and have never wavered from that commitment. We assure you that this our intent and will provide whatever further assurances you may deem appropriate.

- 2. The applicant provides a guarantee in writing that the residential units be sold as moderate income units (125% AMI) as defined under the City's Inclusionary Zoning Provisions.*

The units in the proposed development will be for rent not sales. We intend the apartments to be affordable to moderate income households as defined in the Zoning Resolution of the City of New York. Even though this project is not seeking any governmental assistance, either in the form of floor area bonuses, low interest mortgages or direct financing, we are committed to providing affordable housing consistent with current inclusionary definitions and market conditions.

3. *The applicant provides a guarantee in writing that the 17,640sf of Community Facility space will be sold to the adjacent Yeshiva.*

We are long term members of the South Williamsburg community and we see this project as benefiting and supporting our community, not only by providing affordable housing but by providing needed expansion space for the neighboring Yeshiva. We have had extensive discussions with the Yeshiva's directors and are committed to build, at no cost to the Yeshiva on our own property, space that will accommodate approximately 100 additional students.

4. *The development include sustainable building components where possible.*

We will make every economically feasible effort to develop a sustainable building.

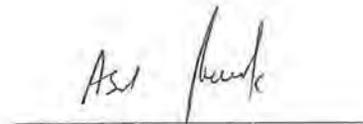
We trust that this letter provides the assurances that the Community Board sought. These commitments were not difficult to offer since we are part of the community and share the Community Board's goals for seeing a contextual building supportive of a diverse neighborhood.

Sincerely Yours,

Simon Dushinsky, Member

A handwritten signature in black ink, appearing to read 'Simon Dushinsky', written over a horizontal line.

Asher Pollack, Member

A handwritten signature in black ink, appearing to read 'Asher Pollack', written over a horizontal line.