



CITY PLANNING COMMISSION

February 24, 2016/Calendar No. 9

N 150342 ZRK

IN THE MATTER OF an application submitted by STGG Realty, LLC pursuant to Section 201 of the New York City Charter for an amendment of the Zoning Resolution of the City of New York, concerning use, bulk and parking regulations in Article IX, Chapter 4 (Special Sheepshead Bay District), Borough of Brooklyn, Community District 15.

This application for an amendment to the Zoning Resolution was filed by STGG Realty, LLC on April 22, 2015 to facilitate the enlargement of an existing two-story building located at 3133-3135 Emmons Avenue (Block 8804, Lot 75) in the Special Sheepshead Bay District, Area G. The building is occupied by Prime Home Health Services, a provider of certified home health aides for senior citizen medical support.

RELATED ACTIONS

In addition to the zoning text amendment which is the subject of this report, implementation of the proposed project also requires action by the City Planning Commission on the following application, which is being considered concurrently with this application:

C 150343 ZSK A special permit pursuant Section 94-096 of the Zoning Resolution to modify the floor area requirements, the location of use requirements, the height requirements, and the accessory parking requirements, within the Special Sheepshead Bay District.

BACKGROUND

A full background discussion and description of this application appears in the related report for a special permit application (C 150343 ZSK).

ENVIRONMENTAL REVIEW

This application (N 150342 ZRK) in conjunction with the applications for the related action (C 150343 ZSK) 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 15DCP156K. The lead is the City Planning Commission.

A summary of the environment review and the Negative Declaration for this application appears in the related report for a special permit application (C 150343 ZSK).

UNIFORM LAND USE REVIEW

This application (N 150342 ZRK) was referred to Community Board 15 and the Brooklyn Borough President by the Department of City Planning for information and review in accordance with the procedure for referring non-ULURP matters, along with the related ULURP action (C 150343 ZSK), which was certified as complete by the Department of City Planning on October 5, 2015 and was duly referred to Community Board 15 and the Brooklyn 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 15 held a public hearing on this application (N 150342 ZRK) on November 17, 2015 and continued the hearing to December 15, 2015. On December 15, 2015, by a vote of 22 in favor, 13 opposed and 1 abstaining, Community Board 15 adopted a resolution recommending approval of the applications with a condition that stated, "No sale of air rights."

Borough President Recommendation

This application (N 150342 ZRK) and the related action (C 150343 ZSK), were considered by the Brooklyn Borough President, who issued a recommendation on January 12, 2016, approving the application.

City Planning Commission Public Hearing

On January 6, 2016 (Calendar No. 2) the City Planning Commission scheduled January 20, 2016 for a public hearing on this application (N 150342 ZRK). The hearing was duly held on January 20, 2016 (Calendar No. 2) in conjunction with the public hearings on the application for the related action (C 150343 ZSK).

There was a single speaker in support of the application, as described in the related report for a special permit (C 150343 ZSK) and the hearing was closed.

WATERFRONT REVITALIZATION PROGRAM CONSISTENCY REVIEW

This application (N 150342 ZRK) was reviewed by the City Coastal Commission for consistency with the policies of the New York City Waterfront Revitalization Program (WRP), as amended, approved by the New York City Council on October 13, 1999 and by the New York State Department of State on May 28, 2002, pursuant to the New York State Waterfront Revitalization and Coastal Resources Act of 1981, (New York State Executive Law, Section 910 *et seq.*) The designated WRP number is 13-024.

This action was determined to be consistent with the policies of the New York City Waterfront Revitalization Program.

CONSIDERATION

The Commission believes that this application for a zoning text amendment (N 150342 ZRK) is appropriate.

A full consideration and analysis of the issues, and the reasons for approving this application, appear in the report on the related application for a special permit (C 150343 ZSK).

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, that the City Planning Commission, in its capacity as the City Coastal Commission, has reviewed the waterfront aspects of this application and finds that the proposed action is consistent with WRP policies; 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 as follows:

Matter in underline is new, to be added;
Matter in ~~strikeout~~ is old, to be deleted;
Matter in # # is defined in Section 12-10;

* * * indicate where unchanged text appears in the Zoning Resolution

ARTICLE IX – Special Purpose Districts

Chapter 4 – Special Sheepshead Bay District

* * *

**94-064
Supplementary use regulations**

The provisions of Article VII, Chapter 3 (Special Permits by the Board of Standards and Appeals), Sections 73-10 through 73-52, relating to modifications of #use#, shall not apply in the Special District, except that Section 73-36 (Physical Culture or Health Establishments) shall be applicable.

* * *

**94-09
Special Bulk Regulations**

* * *

**94-092
Maximum floor area ratio**

The permitted basic #floor area ratio# for #residential# or #community facility use# is 1.25 and for #commercial use# is 1.00. The permitted basic #floor area ratio# may be increased on any #zoning lot# by the amount set forth in Section 94-08 (Special Floor Area Bonus Provisions), or through transfer provisions pursuant to Section 94-094 (Authorization provisions for transfer of development rights to receiving lots) or by special permit pursuant to Section 94-096 (Special permit for floor area, location within buildings, building height and related parking modifications within Area G).

* * *

**94-096
Special permit for floor area, location within buildings, building height and related parking**

modifications within Area G

For #enlargements# to #buildings# in Area G, on #zoning lots# with a #lot area# of at least 10,000 square feet and existing on (effective date of amendment), the City Planning Commission may:

- (a) modify the provisions of Section 94-092 (Maximum floor area ratio) to increase the permitted #floor area ratio# for #commercial use# to 2.0 provided that such #enlargement#:
 - (1) is designed so as not to impair the character of the surrounding area or its future development; and
 - (2) will not cause undue congestion on local #streets# or impair pedestrian circulation;
- (b) modify the height provisions of paragraph (a) of Section 33-431 (In C1 or C2 Districts with bulk governed by surrounding Residence District) relating to the requirements in Section 32-42 for location of #uses# within #buildings#, to allow a #commercial building# or portion thereof to exceed 30 feet in height or two #stories#, provided that such #building# shall not exceed a maximum height of 35 feet or three #stories#, whichever is less; and provided that the distribution of the #bulk# permits adequate access of light and air to surrounding #streets# and properties, and does not impair the view of the Bay; and
- (c) wave or reduce the number of #accessory# off-street parking spaces required by Section 36-21 (General Provisions) for such #use#, provided that the applicant has demonstrated that the number of #accessory# off-street parking spaces supplied is sufficient to meet the parking needs of such #use#.

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

* * *

94-11 Special Parking Provisions

* * *

94-114 Exceptions to application of waiver provisions and applicability of special permits related to parking

In areas A, B, C, D, E and F, the provisions of Section 36-23 (Waiver of Requirements for Spaces below Minimum Number) do not apply.

The provisions relating to modifications of #parking# requirements of Article VII, Chapter 3 (Special Permits by the Board of Standards and Appeals) in Sections 73-10 through 73-52, shall not apply in the Special District.

The above resolution (N 150342 ZRK), duly adopted by the City Planning Commission on February 24, 2016 (Calendar No. 9), 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.

CARL WEISBROD, Chairman
KENNETH J. KNUCKLES, ESQ., Vice Chairman
RAYANN BESSER, IRWIN G. CANTOR, P.E., ALFRED A. CERULLO, III,
MICHELLE R. DE LA UZ, JOSEPH I. DOUEK, RICHARD W. EADDY,
CHERYL COHEN EFFRON, HOPE KNIGHT, ANNA HAYES LEVIN,
ORLANDO MARIN, LARISA ORTIZ, Commissioners



Community/Borough Board Recommendation
Pursuant to the Uniform Land Use Review Procedure

Application #: C 150343 ZSK	Project Name: 3133-3135 Emmons Avenue
CEQR Number: 15DCP156K	Borough(s): Brooklyn Community District Number(s): 15

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 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 STGG Realty, LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant Section 94-096* of the Zoning Resolution to modify the floor area requirements of Sections 94-092* (Maximum floor area ratio), to modify the location of use requirements of Section 32-421 (Limitation on floors occupied by commercial use), the height requirements of Section 33-43 (Maximum Height of Walls and Required Setbacks), and the accessory parking requirements of Section 36-21 (General Provisions) to facilitate the 1-story enlargement of an existing 2-story commercial building, on property located at 3133-3135 Emmons Avenue (Block 8804, Lot 75), in an R5/C2-2 District, within the Special Sheepshead Bay District, Borough of Brooklyn, Community District 15.

*Note: A zoning text amendment is proposed to create a new Section 94-096 and to modify Section 94-092 under a concurrent related application N 150342 ZRK.

Plans for this proposal are on file with the City Planning Commission and may be seen in Room 3N, 22 Reade Street, New York, N.Y. 10007.

Applicant(s): STGG Realty, LLC 227 East 58th Street New York, N.Y. 10022	Applicant's Representative: Eric Palatnik, Esq Eric Palatnik, P.C. 32 Broadway, Suite 114 New York, N.Y. 10004
Recommendation submitted by: Brooklyn Community Board 15	
Date of public hearing: 11/17/15 & 12/15/15 Location: Kingsborough Community College 2001 ORIENTAL BLVD. BKLYN. NY 11235	
Was a quorum present? 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>	
Date of Vote: 12/15/15 Location: KINGSBOROUGH COMMUNITY COLLEGE 2001 ORIENTAL BLVD. BKLYN. NY 11235	
RECOMMENDATION <input type="checkbox"/> Approve <input checked="" 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. Voting NO SALE OF AIR RIGHTS # In Favor: 22 # Against: 13 # Abstaining: 1 Total members appointed to the board: 49	
Name of CB/BB officer completing this form THERESA SCAVO	Title CHAIRPERSON
Date 12/16/15	

Brooklyn Borough President Recommendation
CITY PLANNING COMMISSION
22 Reade Street, New York, NY 10007
CalendarOffice@planning.nyc.gov



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 #: 3133-3135 EMMONS AVENUE

In the matter of the applications, submitted by STGG Realty, LLC for the grant of a special permit to modify the floor area requirements, the location of use requirements, the height requirement, and the parking requirements for a privately owned property located at 3133-3135 Emmons Avenue, within the Special Sheepshead Bay District, Community District 15. Approval will facilitate a one-story enlargement, consisting of 11,051 square feet, of an existing two-story commercial building.

COMMUNITY DISTRICT NO. 15

BOROUGH OF BROOKLYN

RECOMMENDATION

APPROVE
 APPROVE WITH
MODIFICATIONS/CONDITIONS

DISAPPROVE
 DISAPPROVE WITH
MODIFICATIONS/CONDITIONS

SEE ATTACHED

BOROUGH PRESIDENT

January 12, 2016

DATE

RECOMMENDATION FOR 3133-3135 EMMONS AVENUE – 150343 ZSK/ 150342 ZRK

STGG Realty, LLC (STGG), pursuant to Sections 197-c and 201 of the New York City Charter seeks the grant of a special permit pursuant to Section 94-096 of the Zoning Resolution to modify the floor area requirements of Sections 94-092 (Maximum floor area ratio (FAR)), to modify the location of use requirements of Section 32-421 (Limitation on floors occupied by commercial use) and, the modify the height requirements of Section 36-21 (General Provisions). Such actions would facilitate a one-story enlargement, consisting of 11,050 square feet, of an existing two-story commercial building, on the property located at 3133-3135 Emmons Avenue, within the Special Sheepshead Bay District (SSBD) in Community District 15.

On December 22, 2015, the Borough President held a public hearing on the special permit request. There were no speakers on this item.

The representative of STGG stated that the special permit that will be created in order to achieve the height increase, the floor area increase, and the parking reduction would be applicable only to buildings on zoning lots at least 10,000 square feet, within Section G of the SSBD. Addressing concerns raised by the Sheepshead Bay - Plumb Beach Civic Association that the proposed special permit might apply to too broad a section of the SSBD about which the Borough President also inquired, the representative provided a map demonstrating that the minimum lot size requirement would apply to only four other properties. These four properties would not be able to accommodate any enlargements as the three residential buildings are fully built out and the one commercial building already contains more floor area than permitted by the proposed special permit.

In response to the Borough President's concern about this building's location within the flood zone, the representative stated that the entire ground floor consists of the parking garage and that the building was undamaged during Hurricane Sandy. The developer also stated that as part of this application the mechanical equipment will be raised higher within the building, therefore, the developer anticipates no damage in floods.

Responding to the Borough President's efforts to advance sustainable and renewable energy resources, the representative stated that STGG intend to provide a white roof to reflect some of the heat from the sun. The developer also stated that in order to increase energy efficiency, all the lighting within the building will be replaced with LED lighting, a new boiler will be installed, and the new second floor will feature refractive, double-paned windows. The representative committed to looking into incorporating some additional sustainable and resilient elements. The representative expressed the intention to accommodate bioswales that would be incorporated with the street trees. The representative was amenable to possibly providing sustainable measures and practices for stormwater runoff above and beyond the standard.

In response to the Borough President's policy of maximizing job opportunities for Brooklyn residents, the representative stated that its tenant, Prime Home Health Services, currently employs a large workforce of local residents and would reach out to the community to share future employment opportunities. The representative stated the intention to ensure the participation of Minority and Women-Owned Business Enterprises and Local Business Enterprises in the process of construction at this development site. The developer would be more than willing to work with any non-for-profit training programs that may provide skilled workers for the business at this location.

Following the public hearing, the applicant's representative submitted the attached letter dated January 12, 2016 outlining their commitment to incorporate sustainable design elements, to consider retaining Brooklyn-based subcontractors, and to source materials from local suppliers, and implement dry flood proofing measures.

Considerations

Community Board 15 (CB 15) voted to approve this application with a condition that there would not be a sale of the remaining air rights.

Prime Home Health Services, a business providing home health aides and medical therapy, is the tenant in a two-story 25 feet high building, covering 100 percent of an approximately 11,670 square foot lot. The building contains approximately 12,300 square feet of floor area, including a 44-car garage. The building is wholly located within an R5/C2-2 district within SSBD, on the north side of Emmons Avenue between Coyle and Ford streets.

Although the area in which the site is located has a growing need for the type of health care services provide by Prime Home Health Services, the building cannot be expanded under the current zoning because an expansion would exceed the permitted floor area ratio (FAR) and height limit for commercial uses. The expansion would necessitate providing fewer parking spaces than would be required for such additional floor area. In response, the landlord proposes a zoning text amendment that would create a special permit to allow for enlargement of the building, adding a full second and a partial third floor, increasing the height to nearly 35 feet, increasing the floor area to approximately 23,350 square feet, and reducing the number of parking spaces to 32.

The proposed text amendment will modify the Zoning Resolution (ZR) Sections 94-064, 94-092 and 94-114, and create Section 94-096, all within the SSBD. The newly created ZR Section will make a special permit available to lots that are at least 10,000 square feet, in Area G of the SSBD. The special permit would allow such lots to be enlarged with commercial uses of up to 2.0 FAR, provided that such use would be located above two stories or 30 feet in height. The special permit would also allow for the reduction or waiver of the parking requirements associated with such enlargements.

The Borough President generally supports land use actions that allow for the expansion of local businesses and creation of local employment. Granting of the proposed special permit would allow Prime Home Health Services, a long standing local business, to expand its operations to nearly double the existing capacity through added floor area consisting of new office and circulation space, allowing the business to support additional home care aides. The company would hire an additional 150 workers, for a total of 350 employees, approximately 111 of whom would work on site daily, compared with 100 daily employees currently on site. In addition, this business serves an important role in the local community by providing the frail-elderly and the disabled with the ability to remain at home, as opposed to being reliant on nursing home care. Home health care services are a growing need in Brooklyn, considering the aging of the Borough's population, and provide a more affordable solution to manage the financial demands on Medicaid.

The Borough President supports the proposed special permit. He is encouraged by the applicant's letter committing to explore the participation of locally-based enterprises and local hiring, in the construction of the building enlargement.

Jobs

The Borough President is concerned that too many residents of Brooklyn are currently unemployed or underemployed. It is his policy to promote economic development to create more employment opportunities. Double-digit unemployment remains a pervasive reality in many of Brooklyn's neighborhoods, and more than half of our community districts have experienced poverty rates of 25 percent or greater, according to averaged data from 2008 to 2012. Prioritizing local hiring will address this employment crisis. In addition, promoting Brooklyn-based businesses including those that qualify as MWBE and LBE is central to the Borough President's economic development agenda. As an enlargement of an existing building, this site provides opportunities for the developer to retain Brooklyn-based contractors and subcontractors, especially those that are designated LBEs, consistent with section 6-108.1 of the City's Administrative Code, and MWBE establishments, as a means to meet or exceed standards per Local Law 1 (no less than 20 percent participation). The Borough President looks forward to additional opportunities that he could support to bring jobs and careers to borough residents.

The Borough President encourages responsible development and good practices by contractors and subcontractors. He believes that workers should be able to work in a non-threatening environment while promoting his agenda for achieving employment for Brooklynites through discretionary land use actions.

The Borough President believes that where development in Brooklyn would provide significant opportunity to add permanent jobs, tenants should be encourage to maximize the employment of borough residents. As Prime Home Health Services anticipates growing its staff to potentially 150 additional employees in some combination with home-health aide and office support staff, the Borough President believes it is appropriate for the tenant to establish relationships with community-based development organizations that offer candidate placements as well as job-training for such skilled labor. In additional, it should promote awareness in the surrounding community, including the nearby public housing complexes, of such qualified training programs.

In a letter to the Borough President, dated January 12, 2016 (attached), the owner will ask its contractor to use commercially reasonable efforts to pursue the hiring of Brooklyn residents and prioritize the retaining of Brooklyn-based subcontractors, especially those designated "MWBE" to meet or exceed Local Law 1, and to update the Borough President periodically in the event that such contractors are used. In addition, the owner shall use reasonable efforts to source materials from local suppliers.

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 land use actions requested.

ERIC PALATNIK, P.C.

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January 12, 2016

Hon. Eric L. Adams
Brooklyn Borough President
209 Joralemon Street
Brooklyn, New York 11201

***Re: Sustainable and Resilient Energy and Storm Water Management Efforts
Proposed Zoning Text Amendment and Zoning Special Permit
ULURP No. 150342ZRK & 150343ZSK
Block 8804, Lot 75
3133-3135 Emmons Avenue New York (the "Premises")***

Dear Borough President Adams;

Our office represents STGG Realty LLC, the owner of the above-referenced Premises. The owner has filed applications at the Department of City Planning which seek to allow for the enlargement of the two-story building on the subject Premises, occupied by Prime Home Health Services. The application requests two actions: (1) a zoning text amendment, which would create a new zoning special permit which would allow the modification of the height and parking requirements of the Sheepshead Bay Special District Area G; and (2) an application for the new special permit. If approved, the existing building will be enlarged with a full second floor and partial third floor mezzanine. In addition, the parking will be reduced from the 48 existing parking spaces to the proposed 32 parking spaces.

The project architect intends to design the proposed building to advance sustainable and resilient energy and storm water management policies where possible. The owners have considered installing a white roof design, as a renewable energy feature and will use LED lighting throughout.

In constructing the proposed development, the owner will request that its contractor use commercially reasonable efforts to pursue the hiring of Brooklyn residents and prioritize the retaining of Brooklyn-based subcontractors, especially those designated "MWBE" to meet or exceed Local Law 1 and would update the Borough President periodically in the event such contractors are used. In addition, the owner shall use reasonable efforts to source materials from local suppliers.

ERIC PALATNIK

The owner will also undertake dry flood proofing measures on the lower level to ensure compliance with the zoning text and building code resiliency standards. The owner will locate all mechanicals and electrical equipment on the first floor and upper floors, *which will be* designed to prevent flooding or water damage. Other measures to dry flood proof the Premises on the cellar level include a proposed aluminum panel flood resiliency compliant gate at the garage level that will resist water from entering through the garage door. In the event of a storm, flood resistant aluminum panels will be placed in front of the two exit doors at the cellar level.

Further, the owner will incorporate all nine (9) zoning required trees along the zoning lot at the Premises. There are two (2) existing trees, which will be preserved, and seven (7) new trees that will be planted.

We thank you for taking the time to review this matter. Please do not hesitate to contact our office should you have any questions or concerns.

Sincerely

Eric Palatnik, Esq.