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**IN THE MATTER OF** an application submitted by 23rd Avenue Realty pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 9c:

1. establishing within the existing R5B District a C2-3 District bounded by 38th Street, a line 150 feet northeasterly of 23rd Avenue, a line midway between 38th Street and Steinway Street, and a line 100 feet northeasterly of 23rd Avenue; and
2. establishing within the existing R5D District a C2-3 District bounded by 38th Street, a line 100 feet northeasterly of 23rd Avenue, a line midway between 38th Street and Steinway Street, a line 150 feet northeasterly of 23rd Avenue, Steinway Street, and 23rd Avenue;

Borough of Queens, Community District 1, as shown on a diagram (for illustrative purposes only) dated February 11, 2019, and subject to the conditions of CEQR Declaration E-524.

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The applicant, 23rd Avenue Realty LLC, filed this application for a zoning map amendment on April 5, 2018. The proposed action would legalize commercial uses in an existing, four-story loft building located at 38-01 23<sup>rd</sup> Avenue (Block 805, Lot 1) in the Astoria neighborhood of Queens, Community District 1.

## **BACKGROUND**

The applicant is proposing to establish a C2-3 zoning district within existing R5B and R5D districts to legalize commercial uses in an existing building located at 38-01 23<sup>rd</sup> Avenue (Block 805, Lot 1). The site is developed with a four-story, 48,684-square-foot loft building located at the northeast corner of 38<sup>th</sup> Street and 23<sup>rd</sup> Avenue. The building was constructed in 1912 as part of a silk works factory. More than 20 commercial tenants currently occupy the building, including a yoga studio and gym that each require a special permit for use as a Physical Culture Establishment (PCE) by the Board of Standards and Appeals (BSA) pursuant to Zoning Resolution (ZR) Section 73-36.

The site is currently mapped with moderate-density R5B and R5D zoning districts that do not allow commercial uses. The applicant seeks a zoning map amendment to map a C2-3 commercial

overlay along the 23<sup>rd</sup> Avenue frontage of Block 805 to reflect this and other existing commercial uses. A C2 district is needed to be eligible for the PCE special permit, which the applicant plans to subsequently seek for its pertinent tenants. The proposed rezoning area includes the applicant's site (Lot 1) and three additional tax lots (Lots 61, 64, and 160).

The southern portion of Block 805 was mapped with an R5 residential district in 1961. In 2010, the Astoria Rezoning (C 100199 ZMQ), covering all or portions of 238 blocks generally bounded by 20th Avenue to the north, Steinway Street to the east, Broadway to the south, and Vernon Boulevard, 8th Street, 14th Street, and the East River to the west, was adopted. Its primary purpose was to more closely reflect existing building contexts along side streets and direct future housing opportunities to wide streets and locations close to transit. In this area the zoning was changed from R5 to R5D for the 23<sup>rd</sup> Avenue and Steinway Street frontages of Block 805, while its 38<sup>th</sup> Street frontage was changed from R5 to R5B. R5D districts allow residential and community facility uses at a maximum floor area ratio (FAR) of 2.0, and the maximum residential building height is 45 feet. R5B districts have a maximum residential FAR of 1.35 and maximum building height of 33 feet. The maximum community facility FAR is 2.0.

The surrounding area is a primarily residential neighborhood developed with two- and three-story row houses and semi-detached buildings. Steinway Street and portions of 23<sup>rd</sup> Avenue are characterized by three- and four-story mixed residential and commercial buildings with ground floor commercial spaces. C2-3 overlays are mapped along the western frontage of Steinway Street to the south, between 23<sup>rd</sup> Avenue and Astoria Boulevard North, and along Ditmars Boulevard one block north. Ditmars Playground, P.S. 84 Steinway, and Saint Irene Monastery are within walking distance from the project site. The Ditmars Boulevard N/W station is one half-mile from the site.

The development site is a 16,946-square-foot lot currently occupied by a four-story predominantly commercial loft building built in 1912. It has 75 feet of frontage on 23<sup>rd</sup> Avenue and 167 feet of frontage on 38<sup>th</sup> Street. The existing building predates zoning regulations and is built to a 2.87 FAR. A curb cut on 23<sup>rd</sup> Avenue provides access to a non-required loading area that slopes down to the cellar level, which is used primarily by patrons of a music recording studio. A second curb cut on 38<sup>th</sup> Street provides access to a loading dock at the level of the raised first floor that is

accessible by all ground floor tenants in the building, but used primarily by a sign storage tenant in the eastern single-story portion. Other commercial tenants include a tattoo artist, gym, yoga studio, art studio, medical office, professional offices, and warehouse.

The other lots in the rezoning area include Lot 64, at the corner of 23rd Avenue and Steinway Street, which is occupied by a three-story, mixed residential and commercial building with a non-conforming café on the ground floor. Lot 61 wraps around Lot 64, with frontages on 23rd Avenue and Steinway Street, and it is occupied by a two-story non-conforming commercial and industrial building with professional offices and light industrial tenants. Lot 160, with frontage on Steinway Street, is occupied by a three-story multi-family walk-up building with three residential units. The proposed rezoning would bring the non-conforming commercial uses on these properties into conformance.

The proposed C2-3 overlay would be mapped to a depth of 150 feet from the northern side of 23rd Avenue between the east side of 38th Street and the west side of Steinway Street. The proposed C2-3 overlay is consistent with nearby C2-3 overlays established by the 2010 Astoria Rezoning on Steinway Street to the south and Ditmars Boulevard to the north. A C2-3 overlay allows for use groups one through nine, including the existing PCE uses in the subject building. The proposed C2-3 overlay would allow a maximum 1.0 FAR for commercial uses in the R5B portion of the rezoning area and a maximum 2.0 FAR in the R5D portion of the rezoning area. No new developments or enlargements of existing buildings are proposed.

## **ENVIRONMENTAL REVIEW**

This application (C 180315 ZMQ) was reviewed pursuant to the New York State Environmental Quality Review Act (SEQRA) and the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 et seq. and the City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The lead is the City Planning Commission. The designated CEQR number is 18DCP137Q.

After a study of the environmental impacts of the proposed action, a Negative Declaration was issued on February 11, 2019. To support the Negative Declaration, an (E) designation (E-524)

related to air quality would be established in connection with the proposed action. The requirements of the (E) designation are described in the Environmental Assessment Statement and Negative Declaration.

### **UNIFORM LAND USE REVIEW**

This application (C 180315 ZMQ) was certified as complete by the Department of City Planning on February 11, 2019, and duly referred to Queens Community Board 1 and the Queens Borough President in accordance with Title 62 of the rules of the City of New York, Section 2-02(b).

### **Community Board Public Hearing**

Queens Community Board 1 held a public hearing on this application (C 180315 ZMQ) on May 23, 2019, and on that date, by a unanimous vote of 31 in favor, voted to recommend approval of the application with the condition that the depth of the commercial overlay be reduced to 100 feet to prevent commercial uses from encroaching into the residential midblock.

### **Borough President Recommendation**

The Queens Borough President held a public hearing on this application (C 180315 ZMQ) on April 11, 2019, and on April 16, 2019, issued a recommendation to approve the application with the condition that the depth of the commercial overlay be reduced to protect the residential portion of the block.

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

On April 24, 2019, (Calendar No. 3), the City Planning Commission scheduled May 8, 2019, for a public hearing on this application (C 180315 ZMQ). The hearing was duly held on May 8, 2019 (Calendar No. 15). A team consisting of two speakers testified in favor of the application.

The applicant and their land use attorney provided a summary of the requested action. The applicant's representative stated that the applicant has owned the building since 1980 and has worked with the Department of Buildings (DOB) to resolve multiple use-based violations since the 1990s. However, the applicant is unable to resolve DOB violations related to the yoga studio and gym without obtaining BSA special permits for the PCEs.

There were no other speakers, and the hearing was closed.

## **CONSIDERATION**

The City Planning Commission believes that this application (C 180315 ZMQ) for an amendment to the Zoning Map, as modified herein, is appropriate.

The C2-3 overlay zone will reflect the predominantly commercial character of the century-old four-story loft building at 38-01 23<sup>rd</sup> Avenue, reinforce land use patterns on the remainder of the 23<sup>rd</sup> Avenue blockfront, and connect it to an established neighborhood-serving retail corridor to the south along Steinway Street.

The proposed zoning change will also bring several existing commercial uses on 23<sup>rd</sup> Avenue into conformance and allow the applicant to seek a special permit to legalize the existing yoga studio and gym in the building. The range of uses allowed in C2 districts includes uses that are complementary with surrounding land use patterns and will be consistent with use patterns in other C2 districts mapped nearby on Steinway Street and Ditmars Boulevard.

The Commission acknowledges requests by Community Board 1 and the Borough President to prevent the encroachment of commercial uses into the residential midblock. The proposed rezoning area includes a three-story multi-family walk-up building at 22-70 Steinway Street (Block 805, Lot 160) that does not have any commercial uses. The Commission herein modifies this application to remove the portion of the C2-3 overlay beyond 100 feet north of 23<sup>rd</sup> Avenue and within 75 feet of Steinway Street. This modification will remove the residential building from the rezoning area while still providing the applicant with full C2-3 coverage of its zoning lot.

## **RESOLUTION**

**RESOLVED**, that having considered the Environmental Assessment Statement, for which a Negative Declaration was issued on November 9, 2018 with respect to this application (CEQR No. 19DCP003Q), the City Planning Commission finds that the action described herein will have no significant impact on the environment; and be it further

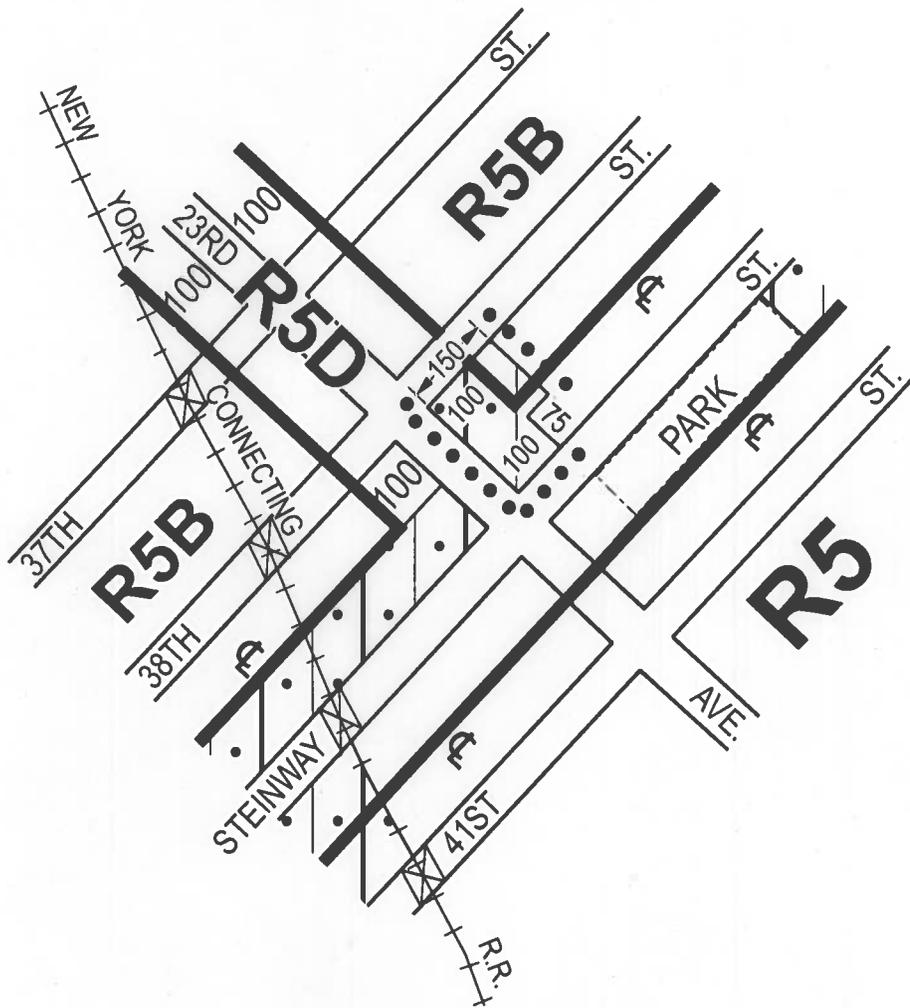
**RESOLVED**, by the City Planning Commission, pursuant to Sections 197-c and 200 of the New York City Charter that based on the environmental determination and the consideration described in this report, the Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended by changing the Zoning Map, Section No. 9c:

1. establishing within the existing R5B District a C2-3 District bounded by 38th Street, a line 150 feet northeasterly of 23rd Avenue, a line midway between 38th Street and Steinway Street, and a line 100 feet northeasterly of 23rd Avenue; and
2. establishing within the existing R5D District a C2-3 District bounded by 38th Street, a line 100 feet northeasterly of 23rd Avenue, a line midway between 38th Street and Steinway Street, a line 150 feet northeasterly of 23rd Avenue, a line 75 feet northwesterly of Steinway Street, a line 100 feet northeasterly of 23rd Avenue, Steinway Street, and 23rd Avenue;

Borough of Queens, Community District 1, as shown on a diagram (for illustrative purposes only) dated February 11, 2019, modified by the City Planning Commission on June 3, 2019, and subject to the conditions of CEQR Declaration E-524.

The above resolution (C 180315 ZMQ), duly adopted by the City Planning Commission on June 5, 2019 (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.

**MARISA LAGO**, *Chair*  
**KENNETH J. KNUCKLES**, *Esq.*, *Vice-Chairman*  
**ALLEN P. CAPPELLI**, *Esq.*, **ALFRED C. CERULLO, III**,  
**MICHELLE R. de la UZ**, **JOSEPH I. DOUEK**, **RICHARD W. EADDY**,  
**HOPE KNIGHT**, **ORLANDO MARIN**,  
**LARISA ORTIZ**, **RAJ RAMPERSHAD**,  
*Commissioners*



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

9c

BOROUGH OF  
**QUEENS**



New York, Certification Date  
 MAY 22, 2019  
 Modified by CPC  
 JUNE 03, 2019

*S. Lenard*  
 S. Lenard, Director  
 Technical Review Division



**NOTE:**

-  Indicates Zoning District Boundary
-  The area enclosed by the dotted line is proposed to be rezoned by establishing a C2-3 District within existing R5B and R5D Districts.
-  Indicates a C2-3 District

NOTE: THIS DIAGRAM IS FOR ILLUSTRATIVE PURPOSES ONLY.



# City of New York Community Board #1, Queens

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Vicky Morales  
*Director, Community Boards*  
Marie Torniali  
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Florence Koulouris  
*District Manager*

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March 26, 2019

Honorable Marisa Lago  
Chair  
NYC The City Planning Commission  
120 Broadway, 31<sup>st</sup> Floor  
New York, New York 10271

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Ann Bruno  
Antonio Meloni  
*Transportation*  
Robert Piazza  
Jose Batista

RE: C180315 ZMQ 38-01 23rd Avenue (Block 805, Lots 1, 61, 64 and p/o 160)  
Application to map a C2-3 commercial overlay district to a depth of 150 feet along the north side of 23rd Avenue between 38th and Steinway streets.

Dear Chair Lago,

Community Board 1 Queens (CB1Q) held a duly advertised public hearing for the referenced application on March 19, 2019. Following the public's testimony and a report from the Land Use and Zoning Committee, CB1Q voted 31 in favor, 0 opposed and 0 abstentions to conditionally approve the proposed Zoning Map amendment (C180315 ZMQ) with the stipulation that the depth of the commercial overlay is reduced from 150 feet to 100 feet.

### Proposed Action

The C2-3 overlay would be mapped over four lots that are zoned R5D and R5B and occupied by legal, non-conforming commercial uses, most of them located in a four-story, 50-foot high, 48,684 square foot loft building on Lot 1 (the former Astoria Silk Works building constructed in 1912). The proposed commercial overlay will permit uses listed in UG 1 through 9 and 14. The loft building currently has four residential uses (Use Group 2) and approximately 32 legal, non-conforming commercial uses in Use Groups 4 (medical or health-related), 6 (offices), 9 (catering, service or light manufacturing uses) and 17 (sign storage). An auto body shop, metal and glass fabricator and a two-story pre-war industrial/office building occupy Lot 61. A garage and a three-story mixed-use building with ground floor commercial and two residential stories above are located on Lot 64. The proposed overlay also extends partially across Lot 160 that is developed with a three-story residential building. The applicant does not propose to change the residential zoning or provide additional on-site accessory parking for uses that might generate a need for parking.

Community Board and Land Use Committee Comments

The Board is aware that the action will bring most of the existing commercial uses into conformance and allow the Applicant to seek BSA special permits in the near future to legalize the operation of two existing Physical Culture Establishment uses in the building. The rezoning will also allow existing commercial uses to evolve or change over time as permitted uses without raising zoning or DOB permit issues. The applicant responded to a concern about insufficient on-site parking for existing and future uses by stating there were municipal parking lots and the N/W train terminus within a short walk.

The Board's condition to reduce the depth of the commercial overlay to 100 feet will prevent commercial uses from encroaching into the midblock where Steinway Street is residentially developed.

Sincerely,



Marie Torniali  
Chairperson



Elizabeth Erion, Co-Chair



Gerald Caliendo, Co-Chair

Land Use and Zoning Committee

cc: Honorable Michael Gianaris  
Honorable Jessica Ramos  
Honorable Aravella Simotas  
Honorable Catherine Nolan  
Honorable Brian Barnwell  
Honorable Costa Constantinides  
Honorable Jimmy Van Bramer  
Mr. Irving Poy, Director, Land Use, BPQ  
Mr. John Young, Director, Queens Office DCP  
Mr. Blake Montieth, City Planner and Urban Designer, DCP  
NYC - City Planning, Calendar Office  
Ms. Deirdre A. Carson, Greenberg Traurig LLP  
Ms. Rachel Scall, Greenberg Traurig LLP  
23<sup>rd</sup> Avenue Realty, Applicant

# Queens Borough President Recommendation

APPLICATION: ULURP #180315 ZMQ

COMMUNITY BOARD: Q01

## DOCKET DESCRIPTION

IN THE MATTER OF an application submitted by Greenberg Traurig LLP on behalf of 23<sup>rd</sup> Avenue Realty, pursuant to Sections 197-c and 201 of the NYC Charter, for an amendment of the Zoning Map, Section No. 9c:

1. establishing within the existing R5B district a C2-3 District bounded by 38<sup>th</sup> Street, a line 150 northeasterly of 23<sup>rd</sup> Avenue, a line midway between 38<sup>th</sup> Street and Steinway Street, and a line 100 feet northeasterly of 23<sup>rd</sup> Avenue; and
2. establishing within the existing R5D district a C2-3 District bounded by 38<sup>th</sup> Street, a line northeasterly of 23<sup>rd</sup> Avenue, a line midway between 38<sup>th</sup> Street and Steinway Street, a line 150 feet northeasterly of 23<sup>rd</sup> Avenue, Steinway Street, and 23<sup>rd</sup> Avenue;

Borough of Queens, Community District 1, as shown on a diagram (for illustrative purposes only) dated February 11, 2019, and subject to the conditions of CEQR Declaration E-524.

## PUBLIC HEARING

A Public Hearing was held in the Borough President's Conference Room at 120-55 Queens Boulevard on Thursday, April 11, 2019 at 10:30 A.M. pursuant to Section 82(5) of the New York City Charter and was duly advertised in the manner specified in Section 197-c (i) of the New York City Charter. The applicant made a presentation. There were no other speakers. The hearing was closed.

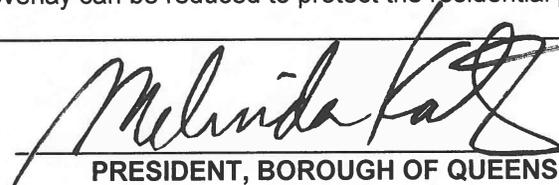
## CONSIDERATION

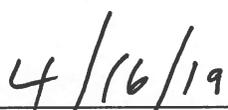
Subsequent to a review of the application and consideration of testimony received at the public hearing, the following issues and impacts have been identified:

- The applicant is proposing to map an C2-3 commercial overlay to a depth of 150 feet on the northern blockfront of 23<sup>rd</sup> Avenue between 38<sup>th</sup> Street and Steinway Street (Block 805, Lots 1, 61, 64 and part of 160) onto existing R5B and R5D Districts;
- The applicant owns Block 805, Lot 1 which is an "L" shaped parcel developed with a loft factory building built in 1912. There is no proposed expansion or enlargement of the existing four-story 48,684 sf building that is occupied by a variety of non-conforming uses in the R5B and R5D Districts. The proposed C2-3 commercial overlay would make some of the existing uses conforming, provide a means to conformity for some of the other existing uses, and make the Board and Standards of Appeals Special Permit (ZR Sec. 73-36) available to legalize two physical culture establishments currently in operation on the site;
- The other lots on Block 805 are developed with a mix of commercial, residential and light industrial uses. This area was studied as a part of the 2010 Astoria Rezoning when it was rezoned from R5 to R5B and R5D. The Department of City Planning (DCP) 2010 Astoria Rezoning was a contextual rezoning intended to protect the neighborhood from out of character development on the midblocks while allowing modest growth on the wide streets;
- Community Board 1 (CB 1) conditionally approved this application by vote of thirty-one (31) in favor with none (0) against or abstaining at a public hearing held on March 19, 2019. The CB 1 condition of approval was that the depth of the commercial overlay should be reduced as filed at 150 feet to 100 feet instead to protect the residential character of the side streets;
- The applicant stated that DCP would be willing to limit the mapping of the commercial overlay at a depth of 150 feet to the applicant's property and 100 feet on the other parcels. The applicant further stated that limiting the overlay to 100 feet on the applicant's property would negate the ability of the some of the existing uses to come into conformity as intended by the application.

## RECOMMENDATION

Based on the above consideration, I hereby recommend approval of this application if the depth of commercial overlay can be reduced to protect the residential portion of the block.

  
PRESIDENT, BOROUGH OF QUEENS

  
DATE