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**IN THE MATTER OF** an application submitted by AA Atlantic LLC pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 17a:

1. changing from an M1-1 District to an R6B District property bounded by a line midway between Herkimer Street and Atlantic Avenue, New York Avenue, a line 25 feet northerly of Atlantic Avenue, a line 80 feet westerly of New York Avenue, a line 50 feet northerly of Atlantic Avenue, a line 100 feet westerly of New York Avenue, a line 150 feet northerly of Atlantic Avenue, and a line 150 feet easterly of Nostrand Avenue; and
2. changing from an M1-1 District to a C4-5X District property bounded by a line 150 feet northerly of Atlantic Avenue, a line 100 feet westerly of New York Avenue, a line 50 feet northerly of Atlantic Avenue, a line 80 feet westerly of New York Avenue, a line 25 feet northerly of Atlantic Avenue, New York Avenue, the northerly boundary line of the Long Island Railroad right-of-way (Atlantic Division), and a line 150 feet easterly of Nostrand Avenue;

Borough of Brooklyn, Community District 3, as shown on a diagram (for illustrative purposes only) dated October 30, 2023, and subject to the conditions of CEQR Declaration E-732.

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This application for a zoning map amendment was filed by AA Atlantic LLC on April 24, 2020, to change an M1-1 zoning district to an R6B and a C4-5X zoning district. This application, in conjunction with the related application for a zoning text amendment (N 200293 ZRK), would facilitate the development of a new 14-story, 151,589 square-foot, mixed-use building with 112 dwelling units (approximately 34 of which would be income-restricted), 20,232 square-feet of ground-floor retail, and 16,324 square-feet of second-story community facility uses located at 1289 Atlantic Avenue in the Bedford-Stuyvesant neighborhood of Brooklyn, Community District 3.

#### **RELATED ACTION**

In addition to the zoning map amendment (C 200310 ZMK) that is the subject of this report, the proposed project also requires action by the City Planning Commission (CPC) on the following application, which is being considered concurrently with this application:

**N 200293 ZRK**      Zoning text amendment to designate a Mandatory Inclusionary Housing (MIH) area.

## **BACKGROUND**

The applicant, AA Atlantic LLC, requests a zoning map amendment to change an M1-1 zoning district to a C4-5X zoning district along the north side of Atlantic Avenue and its intersection with New York Avenue, and to an R6B zoning district along the west side of New York Avenue. The applicant also seeks a zoning text amendment to designate an MIH area coterminous with the project area. The actions would facilitate the development of a new 14-story, 151,589-square-foot mixed-use building with 114,621 square feet of residential floor area, 16,324 square feet of community facility space, and 20,232 square feet of ground-floor retail.

The project area is located in Bedford-Stuyvesant, in the southwest section of Community District 3 on the north side of Atlantic Avenue, adjacent to the elevated Nostrand Avenue Long Island Railroad (LIRR) station. The project area comprises the development site (Block 1867, Lots 62-66 and 68) and most of the remainder of Block 1867, with a total of area of approximately 92,000 square feet, with 550 feet of frontage on Atlantic Avenue and 147 feet of frontage on New York Avenue. Block 1867 is bounded by Herkimer Street, Nostrand Avenue, and New York Avenue, all of which are 70-foot-wide one-way streets. Atlantic Avenue, a 120-foot-wide two-way arterial that is designated as a Department of Transportation (DOT) through truck route, makes up the southern boundary of the block. The project area block is mapped with M1-1, R6B, and C4-5D districts.

The project area extends over most of Block 1867, including all 21 tax lots in the M1-1 district mapped to of the centerline of the block between Atlantic Avenue and Herkimer Street, New York and Nostrand avenues. Seven of these properties are irregular lots that extend into the adjacent C4-5D and/or R6B districts. However, only the portions of those lots that are zoned M1-1 are included in the project area.

The development site includes all or part of six applicant-owned properties (Lots 62-66 and 68) with a total area of 27,090 square feet. It extends for approximately 300 feet along Atlantic Avenue and 25 feet along New York Avenue. Lot 68 (1289 Atlantic Avenue) is improved with a two-story, 11,927 square-foot vacant building formerly used as a contractor's establishment. Lots 63-66 (1303-1305 Atlantic Avenue) are unimproved and used primarily as a single parking lot. Lot 62 (1313 Atlantic Avenue) is improved with a two-story, 2,189 square-foot hardware store. A stair structure on Atlantic Avenue and in front of Lot 62 provides access from the sidewalk to the elevated Nostrand

Avenue LIRR station.

The non-applicant owned lots in the project area, detailed below, are improved with partially occupied commercial/industrial buildings, as well as multiple non-conforming residential uses and non-complying buildings dating to 1900-1910. The project area also contains several unimproved lots used as accessory parking and open storage. While several lots are split among the various districts mapped on the subject block, only the M1-1 portions of those properties would be changed to C4-5X or R6B.

On the Atlantic Avenue side, there are six outparcels, including 1255 Atlantic Avenue, a 4,954 square-foot lot improved with a one-story, 4,952 square-foot vacant warehouse; 1259 Atlantic Avenue a 1,980 square-foot lot and improved with a one-story, 1,982 square-foot woodworking shop; 1261-1267 Atlantic Avenue a 7,927 square-foot lot improved with a non-complying, two-story, 15,853 square-foot building with a tire sales store.; 1269 Atlantic Avenue a 22,596 square-foot lot improved with one-story, 19,832 square-foot vacant warehouse; 1275 Atlantic Avenue a 1,982 square-foot unimproved parking lot; and 1281-1285 Atlantic Avenue a 34,681 square-foot containing three non-conforming (two to four story) residential buildings with a total of 36 units, and a one-story commercial building. An unimproved portion of the lot is used as commercial vehicle storage.

On the New York Avenue side, there are seven outparcels including 50 New York Avenue a 1,716 square foot lot with a non-conforming three-story, 3,549 square-foot residential building of three units and a house of worship; 48 New York Avenue, a 2,150 square-foot lot with a non-conforming, three-story, 3,225 square-foot residential building of three units; 46 New York Avenue, a 2,800 square-foot lot with a non-conforming four-story, 5,010 square-foot residential building of six units; 42 and 40 New York Avenue, both 2,500 square –foot lots occupied by non-conforming four-story, 3,520 square-foot residential buildings with a total of 11 units; 38 New York Avenue a 2,042 square-foot lot improved with a non-conforming two-story, 2,451 square-foot two-family home; and Lot 53, a 7,800 square-foot unimproved flag lot used as surface parking.

For the Herkimer Street parcels, only the interior portions would be affected by the proposed rezoning. These include 176 Herkimer Street, 3,896 square- oot lot improved with a three-story, 2,688 square-foot residential walk-up building of three units and 174 Herkimer Street a 2,875 square-foot lot improved with a four-story, 2,716 square-foot residential building of five units.

The surrounding area is characterized by a mix of commercial, industrial, and residential uses in predominantly pre-1961 buildings. Typical establishments along this stretch of Atlantic Avenue include auto-repair shops, contractor offices, and showrooms as well as recently constructed hotels. The predominant residential types are three- to four-story brownstones, townhouses, and six-story apartment buildings. The blocks surrounding the project area are developed at a variety of scales, consistent with the variety of zoning districts in the vicinity. Nostrand Avenue, which is mapped with C2-4 overlays south of Atlantic Avenue, is lined with smaller residential and mixed-use buildings, while commercial, community-facility, and residential properties with larger footprints are concentrated along Herkimer Street and New York Avenue.

The project area is mapped with M1-1, R6B, and C4-5D districts. It includes the western portion of an M1-1 district mapped along the north side of Atlantic Avenue between Nostrand and Brooklyn avenues and part of a small R6B district centered on Herkimer Street that abuts the M1-1 district up to New York Avenue. The project area is also partly within a C4-5D district that spans the Fulton Street corridor from Bedford to Brooklyn avenues and is centered on Nostrand Avenue.

Similar districts in the vicinity include an M1-1 district on the west side of Nostrand Avenue, mapped on both sides of Atlantic Avenue, and a small R6B district mapped along Herkimer Street also west of Nostrand Avenue. Additional C8-2, R6A/C2-4, R7D, R7D/C2-4, and M1-1 districts are mapped within 600 feet of the project area.

M1-1 is the lowest density manufacturing district. The maximum permitted FAR for commercial and industrial uses is 1.0, with an FAR of 2.4 FAR for certain community facilities. The maximum permitted street wall height for buildings in M1-1 districts is 30 feet or 2 stories, whichever is lower. Beyond that, building heights are governed by the sky exposure plane, which allows for increased height with no maximum based on the distance from the street. M1-1 districts require one space per 300 square feet for commercial uses, and one space per 1,000 square feet of industrial floor area.

R6B is a medium-density contextual district, where residential buildings are permitted at up to 2.2 FAR with inclusionary units and Quality Housing regulations are mandatory. The maximum height is 50 feet, or 55 feet with a qualifying ground floor. Accessory parking is required for 50 percent of the dwelling units (with a lower proportion for income-restricted units) and may be waived if five or fewer spaces are required.

R6A is a medium-density contextual district that permits up to 3.6 FAR for residential buildings with inclusionary housing. R6A districts have a required base height of 40 to 60 feet, and a maximum height of 70 feet or 75 with a qualifying ground floor. Similar to R6B districts, off-street parking is required for 50 percent of dwelling units but may be modified or waived under certain conditions.

C2-4 commercial overlays permit a range of commercial uses that serve local retail and service needs, such as grocery stores and hair salons. Where C2-4 overlays are mapped over certain residential districts, such as R6A or R7D districts, there is a maximum commercial FAR of 2.0. Ground floors are required to have non-residential uses when mapped over an R7D district, and street walls must be located on the street line and must extend along the entire street frontage of zoning lots on wide streets.

C4-5D contextual districts are commercial districts typically mapped in regional commercial centers located along transit corridors. They have an R7D residential equivalent with a residential FAR of 5.6 in MIH areas. The maximum street wall height in C4-5D districts is 95 feet, while the maximum building height is 110 feet (or 115 feet with a qualifying ground floor). Parking is mandated for 50 percent of dwelling units but may be modified for developments with income-restricted units or waived if 15 or fewer spaces are required.

C8-2 districts permit 2.0 FAR for commercial and industrial uses, and up to 6.5 FAR for community facility uses. Residential uses are not permitted, and pre-existing ones are considered legally non-conforming. C8 districts are typically mapped along arterial roadways such as Atlantic Avenue. Typical uses in C8-2 districts include warehouses, gas stations, and auto repair shops. C8-regulations stipulate a maximum street wall of 60 feet or four stories, with a required setback, and further height governed by the sky exposure plane. C8-2 districts require one parking space per 400 square feet of floor area.

The surrounding area is home to several educational institutions, including P.S. 93 on New York Avenue between Atlantic Avenue and Herkimer Street, P.S. 289 on St. Marks Avenue between Brooklyn and Kingston avenues; the College of New Rochelle, Brooklyn Campus, located on Fulton Street between New York and Brooklyn Avenues, which incorporates Restoration Plaza; and the Noel Pointer Foundation on Herkimer Street between Brooklyn and New York avenues, which provides music programs to public school children. Other notable community facilities include the

Brooklyn Public Library (BPL) Brower Park Branch on St. Marks Avenue between Nostrand and New York avenues, the Bedford-Atlantic Men's Shelter housed in the landmarked National Guard Bedford Armory building; and a USPS office at 1205 Atlantic Avenue.

City-owned open spaces in the vicinity include the 3.38-acre St. Andrew's Playground, located approximately .3 miles east of the project area, and the seven-acre Brower Park, which adjoins the Brooklyn Children's Museum. This park is located .6 miles southeast of the project area and contains play areas, a skate park, and two basketball courts. The Brooklyn Botanic Garden and Prospect Park are located just over one mile from the project area.

The project area, located within a Transit Zone, is well-served by public transit. Entrances to the Nostrand Avenue LIRR station are directly adjacent to the development site on Atlantic Avenue, with a stairway and elevator tower at the western end of the project area, and another stairway at the eastern end. The Nostrand Avenue A and C station, which provides service between Northern Manhattan and Eastern Brooklyn/Queens, is located two blocks north of the project area on Fulton Street. There are two north-south bus routes: the B43, which connects Greenpoint and Prospect-Lefferts Gardens along Brooklyn and Kingston avenues, and the B44 Select Bus Service, which connects Sheepshead Bay and Williamsburg along Nostrand and New York avenues. The B25 bus, which connects DUMBO to Broadway Junction, operates along Fulton Street. Bike lanes run north-south along Bedford and Franklin avenues and east-west along Bergen and Dean streets. The project area is well-served by Citibike with nearby stations at Herkimer Street, New York Avenue, and Fulton Street.

In the last two decades, there have been several City-led actions around the project area. The 2007 Bedford Stuyvesant South Rezoning (C 070447 ZMK) changed all or portions of 206 blocks mapped as R5, R6, C4-3, and M1-1 to R5B, R6A, and R6B contextual districts, as well as established new R7D and C4-5D zoning districts that would later be mapped across Brooklyn. This rezoning also established an M1-1/R7D (MX-10) district and changed most pre-existing C1-2, C1-3, and C2-3 commercial overlays to C2-4. The 2013 Crown Heights West Rezoning (N 130212 ZRK and C 130213 ZMK) mapped R5B, R6B, R6A, R7A, and R7D districts over all or portions of 55 blocks southwest of the project area. These rezonings were intended to promote higher-density residential development and support commercial activity along key corridors in Community Districts 3 and 8.

Both actions also provided incentives for affordable housing through the mapping of Voluntary Inclusionary Housing (VIH) areas. Other land use actions nearby include the creation of the Crown Heights North and Bedford historic districts, designated in 2007 and 2015, respectively.

The project area is located immediately east of the Atlantic Avenue Mixed-Use Plan (AAMUP) study area, which spans 13 blocks between Vanderbilt and Nostrand avenues. AAMUP is an active neighborhood study where the Department of City Planning (DCP) is currently engaged with local Council Members, Community Boards, residents, businesses, and other stakeholders to re-envision the Atlantic Avenue corridor and neighboring industrially zoned blocks with a goal of fostering housing and job growth and supporting public realm and other improvements. The proposed actions would facilitate a 151,589 square foot, 14-story (5.6 FAR) mixed-use building with 112 units, of which approximately 34 would be affordable based on MIH Option 2. The building would rise to approximately 145 feet, as permitted by the requested C4-5X district.

Residential uses would be located on floors three through fourteen, with 16,324 square feet of community facility space on the second floor, and 20,232 square feet of ground-floor retail. The 39 required residential parking spaces would be located in the cellar. The development would include an approximately 3,800 square-foot private recreation area on the roof and a 2,500 square-foot landscaped seating area near the LIRR station entrance at the northwest corner of Atlantic and New York avenues.

To facilitate the proposed development, the applicant seeks a zoning map amendment to rezone the project area from M1-1 to C4-5X and R6B districts, and a zoning text amendment to ZR Appendix F: Inclusionary Housing Designated Areas and Mandatory Inclusionary Housing Areas to establish the proposed project area as an MIH area.

C4-5X is a commercial district with an R7X residential equivalent that is typically mapped in densely built areas with proximity to transit. Residential uses are permitted at up to 6.0 FAR with provision of MIH units. Developments in MIH areas are permitted a base height of 105 feet with a required 10-foot (wide street) or 15-foot (narrow street) setback, and a maximum height of 145 feet with a Qualifying Ground Floor. Multi-story commercial and community facility uses are permitted at 4.0 FAR, and 5.0 FAR, respectively. Off-street parking is required for 50 percent of dwelling units. The district has no commercial parking requirement.

Transition height regulations limit buildings to a height of 65 feet when located within 25 feet of an R6B district. As the C4-5X district would be mapped to a depth of 25 feet along the project area’s New York Avenue frontage, with the remaining 122 feet zoned R6B, the maximum height at the building’s southeast edge would be 65 feet.

R6B is a medium-density zoning district that allow residential uses up to 2.2 FAR for developments in MIH areas. R6B districts permit a base height of 30 to 40 feet, and a maximum height of 50 feet. Accessory parking is required for 50% of market rate units in both C4-5X and R6B districts and are waived for affordable units in a Transit Zone. Residential, and mixed-use buildings in R7X, R6B, and equivalent commercial districts are subject to Quality Housing Program requirements.

The proposed zoning text amendment to ZR Appendix F would designate the project area as an MIH area where options 1 and 2 would apply. MIH Option 1 requires that a minimum 25% of the residential floor area be made affordable to households earning on average, 60% AMI. Option 2 requires that a minimum 30% of the residential floor area be targeted to households earning on average, 80% AMI. The applicant has expressed intent to utilize Option 2, which would result in approximately 34 income-restricted units.

**ENVIRONMENTAL REVIEW**

This application (C 200310 ZMK), in conjunction with the related application for a zoning text amendment (N 200293 ZRK), 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 21DCP054K.

After a review of the potential environmental impacts of the proposed actions, a Negative Declaration was issued on October 30, 2023. The Negative Declaration includes an (E) designation (E-732) related to hazardous materials, air quality, and noise to avoid the potential for significant adverse impacts. The requirements of the (E) designation are described in the Environmental Assessment Statement and the Negative Declaration.

An analysis of historical and cultural resources in consultation with the New York City Landmarks



Preservation Commission (LPC) determined that development on the applicant site could result in potential impacts. Therefore, a Restrictive Declaration will be recorded in conjunction with any approvals for the proposed actions. The applicant would commit to carry out archaeological work as prescribed by an LPC-approved Phase 1B work plan, prior to commencing construction. In the event that the archaeological field testing uncovers significant archaeological resources, additional archaeology may be needed as per the Guidelines for Archaeological Work in New York City. The Restrictive Declaration would preclude potential for significant adverse impacts related to historic and cultural resources.

**UNIFORM LAND USE REVIEW**

This application (C 200310 ZMK) was certified as complete by the Department of City Planning on October 30, 2023, and was duly referred to Brooklyn Community Board 3 and the Brooklyn Borough President in accordance with Title 62 of the Rules of the City of New York, Section 2-02(b), along with the related application for a zoning text amendment (N 200293 ZRK), which was referred in accordance with the procedures for non-UULURP matters.

**Community Board Public Hearing**

Brooklyn Community Board 3 held a public hearing on this application (C 200310 ZMK) and the related action (N 200293) on January 3, 2024, and on that date, by a vote of 26 in favor, one opposed, and two abstaining, adopted a resolution recommending approval of the application. The board articulated the following conditions in its recommendation:

- a. There is to be a restrictive declaration requiring a 2,500 SF plaza at the corner of New York Avenue providing open space and convenient access to the LIRR stairs
- b. There is to be a restrictive declaration requiring the 16' widened sidewalk as indicated on the design drawings
- c. There is to be a developer’s fund of \$100,000 set aside for neighboring property owners for the purpose of resolving claims with respect to damages caused during and after construction of the proposed new building.

### **Borough President Recommendation**

This application (C 200310 ZMK) was considered by the Brooklyn Borough President, who held a public hearing on January 16, 2024, and on February 7, 2024, issued a recommendation to approve the application with the following conditions:

- a. “Assess the feasibility of an in-scope modification to map a Special Mixed-Use District (MX) to encourage light manufacturing in the proposed development
- b. The applicant remove the proposed parking spaces at the cellar level
- c. The applicant agree to the conditions set forth by Community Board 3 to sign a restrictive declaration for a plaza at the LIRR entrance, a 16-foot sidewalk, and a fund set aside to address any damage caused by construction”

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

On February 7, 2024 (Calendar No. 3), the City Planning Commission scheduled a public hearing on this application (C 200310 ZMK) and the related application for a zoning text amendment (N 200293 ZRK). The hearing was duly held on February 21, 2024 (Calendar No. 20). There were two speakers in favor of the application and none in opposition.

The first speaker was the applicant’s representative, who summarized the proposed project and noted the revised affordability program, pursuant to the HPD Mix and Match financing program. The 112 units (a mix of one-, two-, and three-bedrooms) would be targeted to AMIs of 30 to 130%, with 15 units (primarily studios) set aside for formerly homeless residents. The 100% income-restricted development would comply with MIH Option 1 instead of Option 2.

The representative explained the Zoning for Accessibility (ZFA) clear path easement and the recorded agreement with the Metropolitan Transit Authority (MTA). The representative also clarified that the depicted corner plaza and the five-foot building setback would be provided voluntarily to enhance the sidewalk and streetscape conditions along the project site. As part of the environmental review process, several E-designations would be imposed on the site, including one for noise

stemming from its adjacency to the Nostrand Avenue LIRR station.

Regarding business displacement, the representative noted that Atlantic Avenue was no longer considered a manufacturing corridor, and therefore, the requested C4-5X district was appropriate for the site. Regarding the intended parking, it was expressed that the applicant would consider waiving the proposed 39 spaces if parking requirements are changed through the *City of Yes for Housing Opportunity* text amendment.

The second speaker, expressed support for the project as a member of Community Board 3 and as vice president of the 79<sup>th</sup> Precinct community council, noting that the development would improve the dark and isolated sidewalk condition under the LIRR tracks.

There were no other speakers, and the hearing was closed

## **CONSIDERATION**

The Commission believes that this application for a zoning map amendment (C 200310 ZMK), in conjunction with the related application for a zoning text amendment (N 200293 ZRK), is appropriate. Together, the proposed actions will facilitate the development of a new 14-story, 5.6 FAR mixed-use building with 112 residential units, 20,232 square feet of ground-floor retail, 16,324 square feet of second-story community facility, and a 2,500 square-foot public plaza. Of the 112 new units, 28-34 would be permanently income-restricted based on MIH Option 1 or 2. However, the applicant has proposed to exceed MIH requirements with a 100 percent income-restricted development pursuant to the Department of Housing Preservation and Development (HPD) Mix and Match program. All 112 units would be targeted to AMIs of 30 to 100 percent with over half set at 60 percent and below. Additionally, 15 units would be reserved for formerly homeless individuals.

The Commission believes that the requested zoning districts are appropriate and support a range of local and citywide policy objectives. The proposed C4-5X district complements the C4-5D district on the western side of the block and provides a flexible building envelope on an unusually deep site. C4-5X zoning permits a broader mix of uses, as well as multi-story non-residential development adjacent to an elevated rail line. Mapping the district at this location would promote much-needed density in an area where housing production has not kept pace with recent population growth.

Moreover, given the block's proximity to the LIRR station as well as buses and subways, this location is ideally suited for transit-oriented development.

The C4-5X district is also consistent with the proposed Atlantic Avenue Mixed-Use Plan (AAMUP), which seeks opportunities for high-density mixed-use development along the corridor. The AAMUP draft zoning framework, released in September 2023, proposed a C6-3A contextual district, which has an R9A residential equivalent. As 1289 Atlantic Avenue is located one block east of the AAMUP project area, the requested C4-5X district, with its R7X equivalent provides an appropriate stepdown in density, while advancing the principles of AAMUP. The complementary expansion of the R6B zoning district would bring six existing non-conforming and non-complying residential lots along New York Avenue into conformance and compliance by extending the existing adjacent R6B zoning district to the eastern side of the subject block.

The text amendment to map an MIH Area with Options 1 and 2 over the entire project area is appropriate. It will ensure that future residential construction on both the applicant property and the outparcels will be required to include much-needed permanent, income-restricted housing as part of future developments. The text amendment is wholly consistent with the City's goal of affirmatively furthering affordable housing, as outlined in *Housing Our Neighbors: A Blueprint for Housing and Homelessness (2022)*.

The Commission also acknowledges that the applicant has publicly presented a proposal for a 100 percent income-restricted development post-Certification and recognizes that the revised affordability program factored significantly into Community Board 3 and the Borough President's recommendations to approve this application. While the proposal for 100 percent affordable housing is outside the scope of this ULURP, the Commission supports the provision of income-restricted housing that serves low-, moderate-, and middle-income households, while helping to address housing insecurity and encourages the applicant to work closely with HPD to further align with existing term sheets and public subsidies.

The Commission acknowledges the applicant's efforts to provide publicly accessible open space and expand the four-foot-wide sidewalk adjacent to the LIRR stair. The applicant intends to provide a 2,500 square-foot open space at the northwest corner of Atlantic and New York avenues, as well as a voluntary five-foot ground floor setback for the proposed building to help reduce pedestrian pinch

points. These streetscape elements would substantially improve pedestrian conditions along the block, including access to the north LIRR platform and the recently constructed station elevator. Additionally, pursuant to ZR 66-21, the applicant will provide a 6 and ½' by X 71' ZFA "clear path" easement, as required by the Metropolitan Transit Authority (MTA). This ministerial certification will have to be approved before the Department of Buildings (DOB) can issue the development's Certificate of Occupancy.

The Commission acknowledges the Borough President's recommendations for an MX district to preserve industrial uses on non-applicant properties within the project area, which include a woodworking shop and a tire sales establishment (lots 84 and 80, respectively). It should be noted that the proposed C4-5X district would render these particular uses nonconforming on the block.

However, the Commission notes that the character of Atlantic Avenue has transitioned over time from a primarily industrial arterial to a mixed-use corridor with residential and commercial uses. The subject block's Atlantic Avenue frontage is also lined with non-conforming apartment buildings, and commercial vehicle parking. The pending AAMUP proposal attempts to address the area's changing needs through flexible, high-density zoning that promotes mixed-use development. Given the City's land use objectives in the area, the Commission believes that a commercial district is more appropriate at this site than an MX district.

The Commission notes the Borough President's recommendations that the applicant remove the proposed 39 parking spaces from the proposal and agree to Community Board 3's request for two restrictive declarations and a fund to offset potential damage to nearby properties are beyond the scope of the requested actions. However, the Commission supports eliminating parking from developments proposed in Transit Zones, particularly on sites adjacent to mass transit.

## **RESOLUTION**

**RESOLVED**, that having considered the Environmental Assessment Statement (EAS), for which a Negative Declaration was issued on October 30, 2023 with respect to this application (CEQR No. 21DCP054K), 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. 17a:

1. changing from an M1-1 District to an R6B District property bounded by a line midway between Herkimer Street and Atlantic Avenue, New York Avenue, a line 25 feet northerly of Atlantic Avenue, a line 80 feet westerly of New York Avenue, a line 50 feet northerly of Atlantic Avenue, a line 100 feet westerly of New York Avenue, a line 150 feet northerly of Atlantic Avenue, and a line 150 feet easterly of Nostrand Avenue; and
2. changing from an M1-1 District to a C4-5X District property bounded by a line 150 feet northerly of Atlantic Avenue, a line 100 feet westerly of New York Avenue, a line 50 feet northerly of Atlantic Avenue, a line 80 feet westerly of New York Avenue, a line 25 feet northerly of Atlantic Avenue, New York Avenue, the northerly boundary line of the Long Island Railroad right-of-way ((Atlantic Division), and a line 150 feet easterly of Nostrand Avenue;

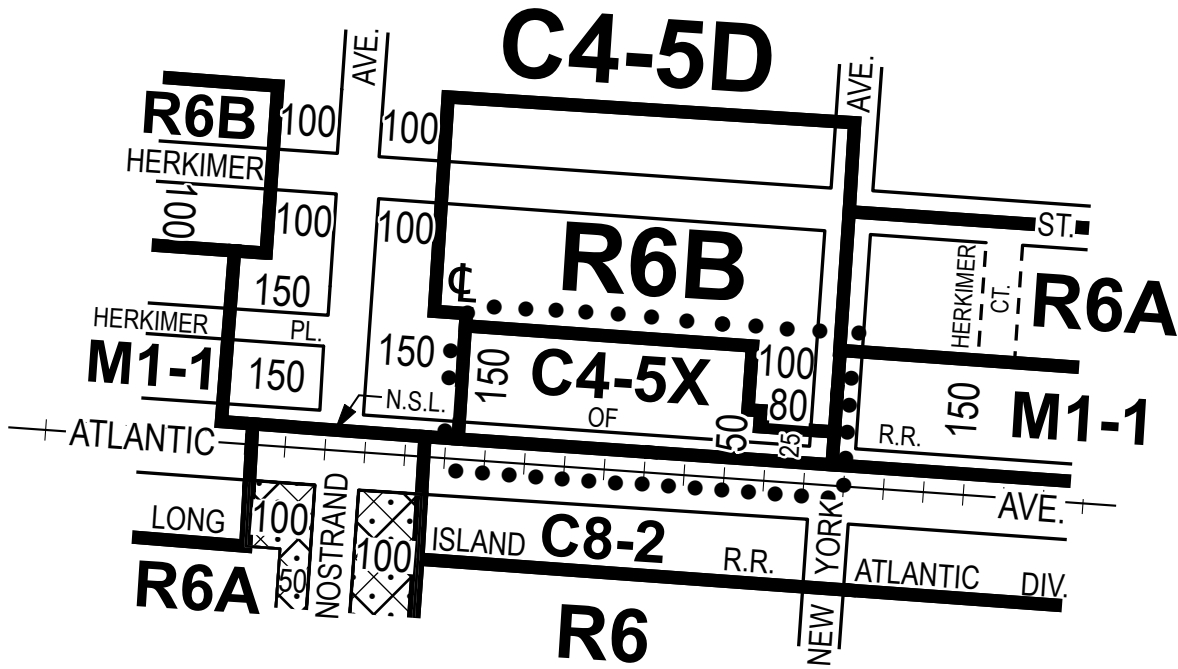
Borough of Brooklyn, Community District 3, as shown on a diagram (for illustrative purposes only) dated October 30, 2023, and subject to the conditions of CEQR Declaration E-732.

The above resolution (C 200310 ZMK), duly adopted by the City Planning Commission on March 20, 2024, (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.

**DANIEL R. GARODNICK, Esq.,** *Chair*  
**KENNETH J. KNUCKLES Esq.,** *Vice-Chairman*  
**GAIL BENJAMIN, ALFRED C. CERULLO, III,**  
**ANTHONY CROWELL, Esq., JOSEPH I. DOUEK, DAVID GOLD, Esq.,**  
**RASMIA KIRMANI-FRYE, ORLANDO MARÍN,** *Commissioners*

**JUAN CAMILO OSORIO,**  
**LEAH GOODRIDGE, Esq.,** *Commissioners Voting NO*

**RAJ RAMPERSHAD,** *Commissioner Recused*



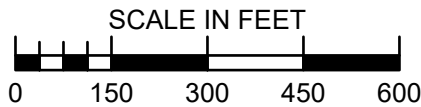
CITY PLANNING COMMISSION  
 CITY OF NEW YORK  
 DIAGRAM SHOWING PROPOSED  
**ZONING CHANGE**  
 ON SECTIONAL MAP

**17a**  
 BOROUGH OF  
**BROOKLYN**

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



New York, Certification  
 Date: October 30, 2023



**NOTE:**

- Indicates Zoning District Boundary
- The area enclosed by the dotted line is proposed to be rezoned by changing from an M1-1 District to R6B and C4-5X Districts.
- Indicates a C2-4 District



# COMMUNITY/BOROUGH BOARD RECOMMENDATION

<b>Project Name:</b> 1289 Atlantic Avenue Rezoning	
<b>Applicant:</b> Joseph Atarien	<b>Applicant's Primary Contact:</b> Steven Sinacori
<b>Application #</b> 200310ZMK	<b>Borough:</b> Brooklyn
<b>CEQR Number:</b> 21DCP054K	<b>Validated Community Districts:</b> K03

**Docket Description:**  
 IN THE MATTER OF an application submitted by AA Atlantic LLC pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 17a: 1. changing from an M1-1 District to an R6B District property bounded by a line midway between Herkimer Street and Atlantic Avenue, New York Avenue, a line 25 feet northerly of Atlantic Avenue, a line 80 feet westerly of New York Avenue, a line 50 feet northerly of Atlantic Avenue, a line 100 feet westerly of New York Avenue, a line 150 feet northerly of Atlantic Avenue, and a line 150 feet easterly of Nostrand Avenue; and 2. changing from an M1-1 District to a C4-5X District property bounded by a line 150 feet northerly of Atlantic Avenue, a line 100 feet westerly of New York Avenue, a line 50 feet northerly of Atlantic Avenue, a line 80 feet westerly of New York Avenue, a line 25 feet northerly of Atlantic Avenue, New York Avenue, the northerly boundary line of the Long Island Railroad right-of-way (Atlantic Division), and a line 150 feet easterly of Nostrand Avenue; as shown on a diagram (for illustrative purposes only) dated October 30, 2023, and subject to the conditions of CEQR Declaration E-732.

*Please use the above application number on all correspondence concerning this application*

<b>RECOMMENDATION: Favorable</b>			
<b># In Favor:</b> 26	<b># Against:</b> 1	<b># Abstaining:</b> 2	<b>Total members appointed to the board:</b> 29
<b>Date of Vote:</b> 1/3/2024 12:00 AM		<b>Vote Location:</b> 1360 Fulton Street, 5th Floor	

*Please attach any further explanation of the recommendation on additional sheets as necessary*

<b>Date of Public Hearing:</b> 1/3/2024 7:00 PM	
<b>Was a quorum present?</b> Yes	<i>A public hearing requires a quorum of 20% of the appointed members of the board but in no event fewer than seven such members</i>
<b>Public Hearing Location:</b>	1360 Fulton Street, 5th Floor Community Room

<b>CONSIDERATION:</b>		
Recommendation submitted by	BK CB3	Date: 1/8/2024 4:21 PM





# COMMUNITY/BOROUGH BOARD RECOMMENDATION

<b>Project Name:</b> 1289 Atlantic Avenue Rezoning	
<b>Applicant:</b> Joseph Atarien	<b>Applicant's Primary Contact:</b> Steven Sinacori
<b>Application #</b> N200293ZRK	<b>Borough:</b> Brooklyn
<b>CEQR Number:</b> 21DCP054K	<b>Validated Community Districts:</b> K03

**Docket Description:**

*Please use the above application number on all correspondence concerning this application*

<b>RECOMMENDATION: Favorable</b>			
<b># In Favor:</b> 26	<b># Against:</b> 1	<b># Abstaining:</b> 2	<b>Total members appointed to the board:</b> 29
<b>Date of Vote:</b> 1/3/2024 12:00 AM		<b>Vote Location:</b> 1360 Fulton Street, 5th Floor	

*Please attach any further explanation of the recommendation on additional sheets as necessary*

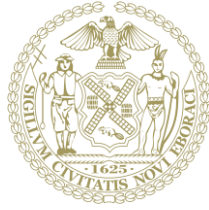
<b>Date of Public Hearing:</b> 1/3/2024 7:00 PM	
<b>Was a quorum present?</b> Yes	<i>A public hearing requires a quorum of 20% of the appointed members of the board but in no event fewer than seven such members</i>
<b>Public Hearing Location:</b>	1360 Fulton Street, 5th Floor Community Room

**CONSIDERATION:**

Recommendation submitted by	BK CB3	Date: 1/8/2024 4:21 PM
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ANTHONY BUISSERETH  
CHAIR

IVY GAMBLE COBB, FIRST VICE CHAIR  
MICHAEL CATLYN, SECOND VICE CHAIR



C. DORIS PINN, TREASURER  
MONIQUE ANTOINE, EXECUTIVE SECRETARY

THE CITY OF NEW YORK  
BROOKLYN COMMUNITY BOARD No. 3  
1360 FULTON STREET, 2ND FLOOR  
BROOKLYN, NEW YORK 11216

January 5, 2024

Daniel Garodnick, Chair  
Department of City Planning  
120 Broadway, 31st fl.  
New York, NY 10271

## RESOLUTION

### **Approving with Conditions the 1289 Atlantic Avenue Rezoning ULURP Application (C200310ZMK)**

**Committee of Origin: Housing & Land Use Committee**

**Re: Application submitted by AA Atlantic LLC pursuant to Sections 197-c and 201 of the New York City Charter for an amendment to the Zoning Map, Section No.17a:**

- A. changing from an M-1 District to an R6B District property (C200310ZMK) bounded by a line midway between Herkimer Street and Atlantic Avenue, New York Avenue, a line 25 feet northerly of Atlantic Avenue, a line 80 feet westerly of New York Avenue, a line 50 feet northerly of Atlantic Avenue, a line 100 feet westerly of New York Avenue, a line 150 feet northerly of Atlantic Avenue, and a line 150 feet easterly of Nostrand Avenue; and;**
- B. changing from an M-1-1 District to a C4-5X District property bounded by a line 150 feet northerly of Atlantic Avenue, a line 100 feet westerly of New York Avenue, a line 50 feet northerly of Atlantic Avenue, a line 80 feet westerly of New York Avenue, a line 25 feet northerly of Atlantic Avenue, New York Avenue, the northerly boundary line of the Long Island Railroad right-of-way (Atlantic Division), and a line 150 feet easterly of Nostrand Avenue.**

**to create a new Mandatory Inclusionary Housing Area (N200293ZRK) to facilitate a new 14-story mixed-use building, including 112 dwelling units, at 1289 Atlantic Avenue in Bedford Stuyvesant, Community District 3, Brooklyn.**

The proposed project was presented for a public hearing at a regularly scheduled, in-person Brooklyn Community 3 Full Board meeting on January 3, 2024. It was presented by Lisa Orrantia of Akerman LLP, the Applicant's land use counsel, and Nelly Hennessy of Gerald J. Caliendo Architects, the project's architect.

The presentation included a site plan, neighborhood images, and proposed design drawings including unit counts and proposed affordability levels. Committee members in attendance caucused after the hearing to finalize its recommendation to the Full Board.

### **Committee Observations**

The proposed zoning change was previously presented to the Committee in 2020 and an updated proposal was presented at its December 13, 2023 meeting. The proposal is to create housing affordability under the HPD's Mixed-Income Program: Mix & Match to include a new 14-story building, with setbacks, (151,589 SF) in a proposed change-of-zone and MIH area.

The aspects under consideration include:

- Creation of 112 permanently affordable housing units, 15 of which are for formerly homeless residents. 28 units are to be MIH Option 1. The balance of the will be permanently affordable under the HPD Mix and Match program. The range of income levels is from 40% AMI to 130% AMI.
- Creation of 41 permanent residential parking spaces. The curb cut is to be on Atlantic Avenue.
- Creation of 60 bicycle parking spaces.
- Creation of 20,232 SF of market rate commercial space and 16,735 SF of market rate Community Facility space.
- Creation of a 2,500 square foot plaza at the entrance to LIRR stairs. Widening of an existing narrow sidewalk along Atlantic Avenue.

The Applicant has demonstrated willingness to provide a fund for potential economic damages to neighboring property owners or residents.

### **Committee Comments**

Affordable housing is a critical issue in Community District 3. Studies show that affordability impacts housing stability for adults and children and helps them address challenges and pursue goals. Household with affordable rents generally have improved outcomes in employment, health, and education. According to the most recent data from the NYU Furman Center, 54.9% of renters in Bedford-Stuyvesant are rent burdened – paying more than 30% of the income toward rent. 27.5% are “severely rent burdened” which means they allocate at least 50% of their income to rent.

Rent burdened tenants are the most housing insecure and at high risk of homelessness if they experience job loss. With the median asking rent \$2,500 per month for two-bedroom apartment,

housing costs are becoming less affordable for both low- and middle-income residents. Most families would need a minimum annual income of \$100,000 qualify to rent apartments at the median asking rent. The median income for renters in Bedford-Stuyvesant was \$46,600; an affordable rent rate would be \$1,165.

Community District 3 is experiencing steady population growth at the rate of 14.4% between 2010 and 2020., outpacing NYC’s overall growth rate of 7.7% in that same period. While the majority (62.5%) of the population is of Black/African American and/or Hispanic origin, there has been a 22.4% decline among Black/African American residents.

**The proposed Zoning Change and MIH area expansion appears to be responsive to the CD3’s Needs Assessment’s “Most Pressing Issue” of Affordable Housing.**

Therefore, with due consideration to Committee Comments, Brooklyn Community Board 3 resolves to APPROVE the proposed Zoning Map Amendment and Zoning Text Amendment described above with the following stipulations:

1. There is to be a restrictive declaration requiring a 2,500 SF plaza at the corner of New York Avenue providing open space and convenient access to the LIRR stairs.
2. There is to be a restrictive declaration requiring the 16’ widened sidewalk as is indicated on the design drawings.
3. There is to be a developer’s fund of \$100,000 set aside for neighboring property owners for the purpose of resolving claims with respect to damages caused during and after construction of the proposed new building.

**Committee Vote: 7 – In Favor; 1 – Against; 0 – Abstention**

**Full Board Vote: 26 – In Favor; 1 – Against; 2– Abstention**



Anthony Buissereth, Chair  
Brooklyn Community Board 3

*C. Doris Pinn*

C. Doris Pinn, Chair  
Brooklyn Community Board 3 Housing and Land Use Committee



**Brooklyn Borough President Antonio Reynoso**

Brooklyn Borough Hall  
209 Joralemon Street, Brooklyn, NY 11231

City Planning Commission  
120 Broadway, 31<sup>st</sup> Floor, New York, NY 10271  
[calendaroffice@planning.nyc.gov](mailto:calendaroffice@planning.nyc.gov)

**Uniform Land Use Review Procedure (ULURP) Application**

1289 ATLANTIC AVE REZONING– C200310ZMK, N200293ZRK

IN THE MATTER OF a private application by AA Atlantic LLC requesting a zoning map amendment from M1-1 to C4-5X and R6B and a zoning text amendment to designate a new Mandatory Inclusionary Housing (MIH) area to facilitate a new 14-story, approximately 162,494 sf mixed-use building with 112 dwelling units at 1289 Atlantic Avenue in the Bedford-Stuyvesant neighborhood of Community District 3.

BROOKLYN COMMUNITY DISTRICT 3

**RECOMMENDATION**

APPROVE

APPROVE WITH

MODIFICATIONS/CONDITIONS

DISAPPROVE

DISAPPROVE WITH

MODIFICATIONS/CONDITIONS

**RECOMMENDATION FOR: 1289 ATLANTIC AVE REZONING – C200310ZMK, N200293ZRK**

The Project Area is located at the border of the Bedford Stuyvesant and Crown Heights neighborhoods along Atlantic Avenue (a 120-foot wide arterial) and New York Avenue (a 70-foot street). The elevated railway of the Long Island Railroad (LIRR) runs along Atlantic Avenue facing the Project Area and stops in front of the Development Site at the Nostrand Avenue station. The site is just south of Fulton Street, with the Nostrand Avenue station on the A and C lines two blocks to the north. The site is also served by several bus lines, including the B44 and B44-SBS.

The Project Area consists of all or part of 21 lots on a single block of Atlantic Avenue zoned as M1-1, comprising approximately 92,000 square feet. The applicant owns six lots, comprising 20,000 square feet, with primary frontage on Atlantic Avenue. The Surrounding Area is characterized by commercial, manufacturing, and mixed uses, with typical commercial establishments of automotive businesses, contractor offices, showrooms, and recently built hotels. Residential areas to the north and south, mapped as R6A and R6B, consist of three- to four-story townhouses, brownstones, and pre-1961 six-story apartment buildings.

The neighborhood has undergone three contextual rezonings since 2007 that promoted residential and commercial development along key corridors. Since 2016, several developer-initiated rezonings have mapped a cluster of Mandatory Inclusionary Housing (MIH) areas west of the Project Area.

Most recently, the Atlantic Avenue Mixed-Use Plan (AAMUP) is planning for potential zoning changes to promote new housing, living wage jobs, and safety improvements along 13 blocks north and south of Atlantic Avenue between Vanderbilt and Nostrand Avenues. At the time of this recommendation, the draft zoning proposal for AAMUP includes no requirement for manufacturing uses. The Development Site is directly east of this potential neighborhood plan.

Along its Atlantic Avenue frontage, the Development Site contains an active storage use, a vacant two-story building, and surface parking. Along New York Avenue, a narrow four-foot sidewalk separates the site from the entrance to the Nostrand Avenue LIRR station. The Project Area outside of the Development Site consists of light manufacturing and automotive businesses on Atlantic Avenue as well as a non-conforming, 36-unit residential building. There are also non-conforming three-story walk-ups in the M-1 zone along New York Avenue.

The applicant proposes a zoning map amendment from M1-1 to C4-5X and R6B and a zoning text amendment to designate a new MIH area. These actions would facilitate a new 14-story mixed-use building with residential, commercial, community facilities, and 39 accessory parking spaces. The proposed C4-5X allows for location of community facility and commercial uses along the first and second floors. The applicant is seeking permission for second story non-residential uses to avoid placing residential units near the LIRR elevated railway.

The applicant is proposing to map MIH Options 1 and 2 over the Project Area, but the applicant has committed to all units (including 28 units under MIH Option 1) to be rented to households earning a range of affordability tiers under the NYC Department of Housing Preservation and Development (HPD) Mixed-Income Program (Mix & Match). Fifteen of the units would be designated for formerly homeless, 29 units would be for households making 40% of the Area Median Income (AMI), 18 units at 60% AMI, 18 units ranging from 90%-110% AMI, and 31 units ranging from 110%-130% AMI. The apartments would consist of 11 studios, 41 one-bedrooms, 48 two-bedrooms, and 12 three-bedrooms units.

The ground floor is proposed to contain retail stores, a residential lobby, and a community facility lobby. The second floor is planned for community facility space. Additionally, the development is proposed to include accessory parking spaces on the basement floor. Regarding sustainable features, the development would include functional rooftops, porous pavement, energy efficient materials, appliances, and equipment, and 60 bicycle parking spaces. The application also intends to widen the sidewalk and create a plaza at the corner of Atlantic and New York Avenues, near the entrance to the Nostrand Avenue station (LIRR).

Borough President Reynoso held a public hearing on this application on January 16, 2024. Two members of the public testified in favor of this item.

### **Community Board Position**

Community Board 3 voted to approve the application (26 in favor, 1 against) on January 2, 2024, with the following conditions:

1. A restrictive declaration for the pedestrian plaza near the LIRR entrance on New York Avenue,
2. A restrictive declaration for the 16-foot widened sidewalk, and
3. A \$100,000 fund set aside to cover potential construction damage to neighboring buildings on New York Avenue and Herkimer Street.

## **Approval Rationale**

Given the demand for new, income-restricted housing in Community District 3 (CD 3) and the 120-foot width of Atlantic Avenue, Borough President Reynoso believes the applicant's proposed height and bulk along Atlantic Avenue is appropriate.

The proposed development is in alignment with the Housing Growth & Parking Demand Management Framework of the Comprehensive Plan for Brooklyn. Specifically, it adds more and deeper affordability than required by MIH (Rec. 2.1.2) and maximizes residential FAR near transit (Rec. 2.2.4). While the project is proposed to be 100% affordable, the Borough President requests that the project be capped at 110% AMI, as units above this band have historically been more difficult to rent and offer rents similar to market-rate unregulated units. This application also aligns with the Healthy Streets & Environment Framework, and aspects of Goal 4: Active Living and Transit, by creating a 2,500 sq ft plaza near the LIRR entrance (Rec. 4.2.1) and providing enclosed parking for 60 bicycles (4.1.1). By including 39 unrequired parking spaces, this application is in conflict with Objective 2.2 in the Plan encouraging transit-oriented development without residential parking, and the Borough President encourages the applicant to remove this off-street parking.

However, while the Borough President supports increasing opportunities for affordable housing and public space, he remains concerned about the erosion of our borough's manufacturing land. This stretch of Atlantic Avenue has seen an incremental reduction of land zoned for light manufacturing, and the proposed AAMUP rezoning poses a greater loss. Preserving space for manufacturing jobs is a priority in the Comprehensive Plan, as these jobs have a lower education barrier to entry and higher wages. While the Project Area is not within an Industrial Business Zone, it presents an opportunity for maintaining and adding manufacturing jobs in a central, transit rich part of the borough. As such, the proposed development is not in alignment with the Plan's Resilient Jobs & Infrastructure framework, and specific recommendations related to preserving manufacturing land (Rec 6.1.1). And while the Borough President agrees with the applicant's decision to develop non-residential first and second floors along the elevated rail, he is skeptical that the current retail and office space market will allow for successful lease-up of these spaces.

To that end, the Borough President recommends a zoning map amendment for an MX district to allow for a mix of residential, community facility, and light industry at 1289 Atlantic Avenue. Moreover, the Borough President would like to reference a recent ULURP application for the 962 Pacific Street Rezoning. There, the applicant proposed an MX district and signed a community benefits agreement (CBA) requiring 19,355 gross square feet of light industrial uses on the cellar floor of the development. The Borough President applauds this commitment to providing manufacturing jobs.

This application creates a more fundamental question about the Atlantic Avenue corridor. By excluding these lots from AAMUP, the Department of City Planning renders the scarce light manufacturing land susceptible for further commercial rezonings. While the Borough President sees some land use rationale for mixed-use development and public space improvements at the foot of the LIRR station, such rationale does not warrant eliminating light manufacturing in the midblock portion of Atlantic Avenue where several businesses are already operating. Without a larger plan to preserve land and expand development potential for manufacturing jobs, the Borough President must continue to evaluate each application on a piecemeal basis. The Borough President believes it is imperative for the City to create a comprehensive manufacturing strategy. Further, the approval of this application should not be treated as a precedent to rezone further manufacturing land along the Atlantic Avenue corridor.

Approval of this application is an acknowledgement of the severe need for affordable housing and transit-oriented development in the borough. However, the Borough President remains displeased with the Department of City Planning's inconsistent and casual approach to mapping and protecting light manufacturing uses in mixed-use contexts, both along this corridor and as seen in other ULURP

applications throughout the borough. When economic development and housing are not planned rationally and in conjunction, it is a long-term detriment to the city.

**Recommendation**

Be it resolved that the Brooklyn Borough President, pursuant to Sections 197-c and 201 of the New York City Charter, recommends that the City Planning Commission and City Council approve this application with the following conditions:

1. Assess the feasibility of an in-scope modification to map a Special Mixed Use District (MX) to encourage light manufacturing in the proposed development
2. The applicant remove the proposed parking spaces at the cellar level
3. The applicant agree to the conditions set for by Community Board 3 to sign a restrictive declaration for a plaza at the LIRR entrance, a 16-foot sidewalk, and a fund set aside to address any damage caused by construction



February 7, 2024

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BROOKLYN BOROUGH PRESIDENT

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DATE