



IN THE MATTER OF an application submitted by 98 Third Avenue Realty LLC pursuant to Sections 197-c and 201 of the New York City Charter for the amendment of the Zoning Map, Section No. 16c:

1. changing from an M1-2 District to an R6B District property bounded by a line midway between Bergen Street and Wyckoff Street, a line 100 feet northwesterly of 3rd Avenue, Wyckoff Street, and a line 120 feet northwesterly of 3rd Avenue;
2. changing from an M1-2 District to an R7D District property bounded by Bergen Street, 3rd Avenue, Wyckoff Street, and a line 100 feet northwesterly of 3rd Avenue; and
3. establishing within the proposed R7D District a C2-4 District bounded by Bergen Street, 3rd Avenue, Wyckoff Street, and a line 100 feet northwesterly of 3rd Avenue;

Borough of Brooklyn, Community District 2, as shown on a diagram (for illustrative purposes only) dated December 13, 2021, and subject to the conditions of CEQR Declaration E-647.

This application for a zoning map amendment was filed by 98 Third Avenue Realty LLC, on May 19, 2020. This application, in conjunction with the related action (N 200336 ZRK), would facilitate the construction of a new mixed-use development containing approximately 24 dwelling units, approximately eight of which would be affordable under the Mandatory Inclusionary Housing (MIH) Program, as well as approximately 3,500 square feet of commercial floor area on the ground floor of the building, located at 98 Third Avenue (Block 388, Lot 31) in the Boerum Hill neighborhood of Community District 2, Brooklyn.

RELATED ACTION

In addition to the zoning map amendment (C 200335 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 200336 ZRK Zoning text amendment to designate a Mandatory Inclusionary Housing (MIH) area.

BACKGROUND

The applicant seeks a zoning map amendment to change an M1-2 district to an R7D/C2-4 zoning district and an R6B zoning district on 10 lots that comprise the project area, bounded by Bergen Street to the north, Wyckoff Street to the south, and Third Avenue to the east. The applicant also seeks a zoning text amendment to establish an MIH area coterminous with the project area. The project area is comprised of the development site (Block 388, Lot 31), as well as nine lots that are not owned by the applicant (Block 388, Lots 34, 35, 36, 37, 38, 41, 42 and p/o Lots 19 and 43).

The development site is located at 98 Third Avenue and consists of one corner lot tax lot. With approximately 50 feet of frontage along Bergen Street and approximately 100 feet of frontage along Third Avenue, the total lot area is approximately 4,985 square feet. Bergen Street is 60 feet wide, and Third Avenue is 70 feet wide and both streets are classified as narrow. The development site is improved with an existing gas station.

268 Bergen Street (Block 388, Lot 19) is an approximately 46,690-square-foot lot improved with a two-story industrial use.

110-114 Third Avenue and 289 Wyckoff Street are city-owned properties under the control of the New York City Department of Housing Preservation and Development (HPD). 110-114 Third Avenue (Block 388, Lots 34, 35, 36, and 37) consists of four 1,300-square-foot lots utilized as surface parking. 289 Wyckoff Street (Block 388, Lot 41) is a 2,000 -square-foot lot improved with a single-story building used as accessory office space by the neighboring industrial use located at 268 Bergen Street.

118 Third Avenue (Block 388, Lot 38) is an approximately 2,600-square-foot lot, improved with a two-story medical clinic.

287 Wyckoff Street (Block 388, Lot 42) is an approximately 2,000-square-foot lot, improved with a single-story commercial building.

285 Wyckoff Street (Block 388, Lot 43) is an approximately 2,000-square-foot lot, improved with a three-story walk-up apartment building with four dwelling units. Only a small portion of this property (two feet along the eastern lot line) would be affected by the proposed actions.

The project area is located within the southern edge of the Boerum Hill neighborhood between Downtown Brooklyn and Gowanus neighborhoods. The surrounding area is developed with a wide range of building typologies and mix of uses including two-to-three-story mixed-use and residential buildings, multifamily apartment buildings, institutional buildings, houses of worship, offices, and some lofts and warehouses.

The development site is located along Third Avenue, a two-way mixed-use corridor used as a local truck route that connects Downtown Brooklyn to Bay Ridge. Fourth Avenue, one of the major thoroughfares in Brooklyn, is located one block east of the project area. Uses along Fourth Avenue vary and include commercial and semi-industrial uses, and multifamily walk-up buildings as well as newer apartment buildings.

The project area is mapped with an M1-2 zoning district, which permits commercial and manufacturing uses up to a maximum Floor Area Ratio (FAR) of 2.0, and some community facility uses up to an FAR of 4.8. The M1-2 zoning district allows for a variety of light manufacturing uses, such as repair shops, wholesale service and storage facilities, as well as heavier industrial uses subject to stringent performance standards. Buildings in M1-2 zoning districts are governed by a sky exposure plane beginning at a height of 60 feet or four stories. Parking is required at a rate of one space per 300 square feet of floor area for many commercial uses, including general retail uses, and a rate of one space per 1,000 square feet of floor area for manufacturing and semi-industrial uses. Loading requirements vary by use.

There are several single- and multi-family walk-up buildings within the immediate vicinity of the project area. To the south is of the project area within an R6 zoning district is the New York City Housing Authority's Wyckoff Gardens community, a tower-in-the-park development which consists of buildings ranging from six to 21 stories. The block to the north of the project area is

characterized by one to four story buildings with a mix of residential, commercial office and community facility uses. An R6A zoning district is mapped on the majority of this block.

R6 districts are medium-density residence districts with either height factor or Quality Housing bulk regulations, where the maximum FAR for residential uses ranges from 0.78 to 2.43 depending on height factor, or 3.0 FAR within 100 feet of a wide street and 2.2 beyond 100 feet of a wide street for Quality Housing buildings. R6 zoning districts also allow a maximum FAR of 4.8 for community facility development. R6A districts are contextual residential districts that allow a maximum FAR of 3.0 for residential or community facility development. Quality Housing buildings in R6 and R6A districts can have a maximum height of 70 feet, or 75 feet on wide streets with provision of a qualifying ground floor; the maximum height of non-quality housing buildings, including community facility buildings, is governed by a sky exposure plane.

The areas immediately east of the project area, along Third Avenue, as well as further north of the project area, along portions of Atlantic Avenue, are characterized by older, five- to six-story full lot coverage apartment buildings, community facility buildings and loft-style industrial buildings. An R7A zoning district with a C2-4 commercial overlay is mapped along these corridors. R7A is a medium-density residential zoning district that allows residential buildings with a maximum FAR of 4.0 and a 90-foot height limit (95 feet if the building meets the qualifying ground floor condition). A C2-4 commercial overlay within an R7A district allows a maximum FAR of 2.0 for commercial floor uses limited to the ground floor in mixed-use buildings.

Along portions of the side streets, specifically Dean and Pacific streets and St. Marks Place, are characterized by lower scale three-story row houses and PS 38 and the Brooklyn High School for the Arts located to the north and northwest of the project area, located in R6B zoning districts.

Other side streets are characterized by four- to six-story apartment buildings and a large taxi lot on the north side of Bergen Street between Third and Fourth avenues and an accessory residential parking lot on the north side of Warren Street between Third and Fourth avenues. These midblocks to the east of the project area are mapped with R7B zoning districts. R7B

districts are contextual zoning districts that allow a maximum FAR of 3.0 for residential or community facility uses. Quality Housing buildings in R7B zoning districts can have a maximum height of 75 feet.

The Special Downtown Brooklyn District (DB) is located three blocks north of the project area. The DB seeks to encourage high-density development in Brooklyn's central business district while preserving historic architecture and creating transitions from the high-density downtown core to the surrounding lower-scale residential communities. Areas south and east of the project area are within the Special Gowanus Mixed-Use District (GSD), which aims to bring the area's zoning in line with the existing mixed-use character of the Gowanus neighborhood and promote the development of a robust mix of uses including housing, job-generating uses and public open space.

The surrounding area is located within the Transit Zone. Public transportation options include the 2, 3, 4, 5, B, D, N, Q and R subway lines at the Atlantic Avenue Barclays Center subway station located a quarter mile north of the development site and the B37, B103 bus lines with stops along Third and Fourth avenues, respectively. There is a Citi Bike dock located just south of the project area, at the southwest corner of Wyckoff Street and Third Avenue.

The development site is located within an M1-2 district, a light industrial zoning district that was mapped in January 1973 (CP 21667) in conjunction with the Bergen Street Urban Renewal Area (URA), approved by the CPC in July of 1971 (CP 21649). The URA designated Block 388 for industrial uses, with the goals of promoting the sound growth and economic development by returning vacant and underutilized land to productive and high-performance used, increasing the employment opportunities for the residents of surrounding neighborhoods, insuring the controlled growth and expansion of a highly desirable manufacturing firm, assuring the long-term compatibility of industry with housing located with a mixed-use area, and terminating the building deterioration and insanitary vacant land use. The URA expired in 2011.

The proposed development would be a new eight-story plus cellar residential and commercial building with approximately 27,000 square feet of floor area with a FAR of 5.6. The building would rise to a maximum height of approximately 85 feet, after a street wall of 65 feet and a 15-foot setback. The proposed building would contain approximately 24,400 square feet of residential floor area with 24 dwelling units, eight of which would be permanently affordable pursuant to the MIH program to be developed pursuant to Quality Housing regulations. The proposed building would also contain approximately 3,500 square feet of commercial floor area on the ground floor of the Third Avenue frontage. No off-street accessory parking spaces are required for the proposed development, and none are provided.

In order to facilitate the proposed development, the applicant seeks a zoning map amendment from the existing M1-2 zoning district to an R7D zoning district with a C2-4 overlay and a R6B district. R7D districts are medium-density contextual zoning districts permitting residential, community facility, and commercial uses. A non-residential use is required on the ground floor when mapped in conjunction with a C2-4 overlay. The maximum residential FAR is 4.0, or 5.6 with inclusionary housing. The maximum commercial FAR is 3.4, and the maximum community facility FAR is 4.2. Buildings have a maximum base height of 95 feet, with a 10-foot setback on wide streets and 15-foot setback on narrow streets, and a maximum building height of 115 feet. Residential uses require parking for 50 percent of dwelling units, and no parking spaces are required for income-restricted housing units in the Transit Zone. General retail and service uses require one parking space per 1,000 square feet of floor area.

R6B districts are medium-density contextual residential zoning districts in which Quality Housing regulations are mandatory. Basic housing buildings have a maximum FAR of 2.0, and inclusionary housing buildings have a maximum FAR of 2.2. Both have maximum building heights of 50 feet, or 55 with a qualifying ground floor. Off-street parking is generally required for 50 percent of a building's dwelling units; parking requirements are lower for income-restricted housing units. Parking can be waived if five or fewer spaces are required.

The applicant also seeks a zoning text amendment to modify Appendix F to designate an MIH area, mapped with both Options 1 and 2, coterminous with the project area. Option 1 requires

that at least 25 percent of the residential floor area be provided as housing permanently affordable to households with incomes at an average of 60 percent of the area median income (AMI). Within that 25 percent, at least 10 percent of the square footage must be used for units affordable to residents with household incomes at an average of 40 percent of the AMI, with no units targeted to households with incomes exceeding 130 percent of the AMI. Option 2 requires that at least 30 percent of the residential floor area be provided as housing permanently affordable to households with incomes at an average of 80 percent of the AMI.

ENVIRONMENTAL REVIEW

This application (C 200335 ZMK), in conjunction with the related action (N 200336 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 21DCP096K.

After a study of the potential environmental impact of the proposed actions, a Negative Declaration was issued on December 13, 2021. The Negative Declaration includes an (E) Designation (E-647) on the development site to avoid the potential for significant adverse impacts related to hazardous materials, air quality, and noise impacts.

UNIFORM LAND USE REVIEW

This application (C 200335 ZMK) was certified as complete by the Department of City Planning (DCP) on December 13, 2021 and was duly referred to Brooklyn Community Board 2 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 action (N 200336 ZRK), which was duly referred in accordance with the procedures for non-ULURP matters.

Community Board Public Hearing

Brooklyn Community Board 2 held a public hearing on the application (C 200335 ZMK), and the related action (N 200336 ZRK), on January 19, 2022, and, on February 9, 2022, by a vote of

38 in favor of approval, one opposed, and one abstaining, adopted a recommendation to approve the application.

Borough President Recommendation

The Brooklyn Borough President held a public hearing on the application (C 200335 ZMK), and the related action (N 200336 ZRK), on February 17, 2022, and on March 24, 2022, issued a recommendation of approval of the application with the following conditions:

“1. That the CPC:

- a. take a hard look at the environmental review for this rezoning application and ensure this rezoning would not be ripe for litigation under SEQR law.

2. That the CPC and/or the City Council:

- a. map only MIH Option 1 over the rezoning area

3. That prior to consideration by City Council, 98 Third Avenue Realty LLC commit to:

- a. Modify the bedroom mix with provision of studio units, while reserving at least one affordable two-bedroom unit at 40% AMI, in consultation with the local Council Member
- b. Retain a non-profit administering agent to conduct marketing (including financial literacy training) for the 98 Third Avenue lottery
- c. Incorporate resiliency and sustainability measures, such as blue roofs, passive house design, and/or onsite energy generation
- d. Coordinate with DEP, DPR, and DOT to install rain gardens along Third Avenue and/or Bergen Street as part of a BPP in consultation with CB 2 and local Council Member

- e. Work with DEP and DOT to construct a curb extension as part of a BPP or protected painted sidewalk extension at the northwest corner of Third Avenue and Bergen Street in consultation with CB 2 and the local Council Member
- f. Reach out to Gowanus businesses at risk of displacement, including innovation and maker uses to tenant the proposed commercial space
- g. Retain Brooklyn-based contractors/suppliers, and provide employment opportunities to area residents

Be it further resolved:

- 4. That HPD initiate a public outreach and RFP process to develop a mixed-use 100% affordable housing building on the HPD-owned sites within the rezoning area.”

City Planning Commission Public Hearing

On March 30, 2022 (Calendar No. 3), the City Planning Commission scheduled April 13, 2022, for a public hearing on this application (C 200335 ZMK), and the related action (N 200336 ZRK). The hearing was duly held on April 13, 2022 (Calendar No. 25). Three speakers appeared in favor of the application and none in opposition.

An applicant team consisting of three members spoke in favor of the application. They discussed the existing zoning and built conditions, the proposed development, building floor plans, and renderings of the proposed building as well as their outreach efforts. The applicant team identified existing buildings around the project area and Third Avenue corridor that are of similar or larger scale than the proposed building. The applicant team also described their considerations regarding the proposed MIH options and dwelling unit sizes. The applicant team noted that the proposed development would be modified to comply with MIH Option 1 and would include additional 1-bedroom and studio units in response to the Borough President’s recommendations. The applicant team also described sustainability and energy-efficient design features anticipated to be incorporated in the proposed development.

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

CONSIDERATION

The Commission believes that this application (C 200335 ZMK) for a zoning map amendment, in conjunction with the related action 200336 for a zoning text amendment (N 200336 ZRK), are appropriate. Together, these actions will facilitate a new eight-story, mixed-use building with 24 new residential units, up to eight of which would be permanently affordable pursuant to MIH, as well as approximately 3,500 square feet of commercial space on the ground floor.

The Commission believes the proposed R7D zoning district with a C2-4 overlay will add appropriate density and bulk and permit a mix of neighborhood commercial retail uses along the Third Avenue corridor. The medium-density district is in context with surrounding mid-rise buildings and located along a major thoroughfare connecting the high-density, transit-rich, Downtown Brooklyn Central Business District and Atlantic Terminal regional transit hub to the north, and the growing Gowanus neighborhood to the south which was the subject of a recently adopted city-led rezoning (C 210177 ZMK et. al.). The Commission notes that the proposed zoning is aligned with the medium-density MX districts mapped along Third Avenue within the GSD and believes that the proposed increase in density is aligned with citywide goals to locate affordable housing proximate to jobs, services, and within the Transit Zone, as outlined in *Housing New York*.

The proposed R7D zoning district with a C2-4 overlay requires a non-residential use on the ground floor. This requirement supports the creation of an active pedestrian experience along Third Avenue and strengthens the commercial and non-residential ground floor continuity that already exists along the corridor, which is an important north-south connector between Downtown Brooklyn and the Gowanus neighborhood. Given the mixed-use nature of the area and the surrounding commercial and mixed-use character, the C2-4 commercial overlay is appropriate.

The Commission believes the amendment from M1-2 to the proposed R6B zoning district beyond 100 feet of Third Avenue is appropriate, as it provides a clear land use rationale for

zoning boundaries within Block 388 that supports a coherent and well-considered plan for the broader geography. The proposed R6B zoning district would align the zoning with the existing built character in the mid-block portions that predominantly consists of three- to four-story walk-up buildings.

The proposed zoning text amendment (N 200336 ZRK) is also appropriate. The action will establish a new MIH area, coterminous with the rezoning area, facilitating MIH Option 1 and Option 2. Approximately eight new, permanently affordable housing units would be provided, supporting the citywide need to construct more affordable housing, as outlined in the objectives of *Housing New York*.

Regarding the Borough President's request that the environmental review for the project consider a redevelopment proposal on the same block known as the 280 Bergen Street Rezoning (220188 ZMK) seeking a rezoning of portions of the subject Block 388, it would be premature to do so at this time. The Commission notes that the present application, 98 Third Avenue, is a standalone proposal that is not related to the proposed 280 Bergen Street Rezoning and that the 280 Bergen Street Rezoning has not yet been certified. Should the 280 Bergen Street Rezoning proposal go forward, their environmental review will have to analyze the potential cumulative impacts from the present application, 98 Third Avenue, and the additional proposed rezoning. As a result, the potential impacts from the combined projects will be fully analyzed.

Conditions relating to MIH and affordable housing were included in the Borough President's recommendations. The Commission believes that mapping both Options 1 and 2 is appropriate at this location, as it allows greater flexibility for this application, and for future projects in the entire project area. Conditions included in the recommendations from the Borough President, regarding working with a non-profit to market the MIH lottery, are beyond the scope of this application. However, the Commission encourages the applicant to work with the Community Board, local elected officials, and local organizations to provide affordable dwelling units that meet community needs.

The Commission recognizes that the project area is adjacent to a major thoroughfare which is well-used by the community. Though beyond the scope of this application, the Commission supports any effort by the applicant to coordinate with the Department of Parks and Recreation, Department of Transportation and/or the Department of Environmental Protection as they advance the project on implementing streetscape and green infrastructure improvements.

Though the Borough President's recommendations regarding building design and sustainability features, including stormwater management, energy sourcing and/or generation, and greenery, are outside the scope of this application, the Commission supports improvements to design and sustainability.

The Borough President's conditions included requests concerning tenanting of the proposed commercial space and the hiring of Brooklyn-based contractors and local residents. The Commission notes that these conditions are beyond the scope of this application.

RESOLUTION

RESOLVED, that having considered the Environmental Assessment Statement (EAS), for which a Negative Declaration was issued on December 13, 2021, with respect to this application (CEQR No. 21DCP096K), 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 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. 16c,

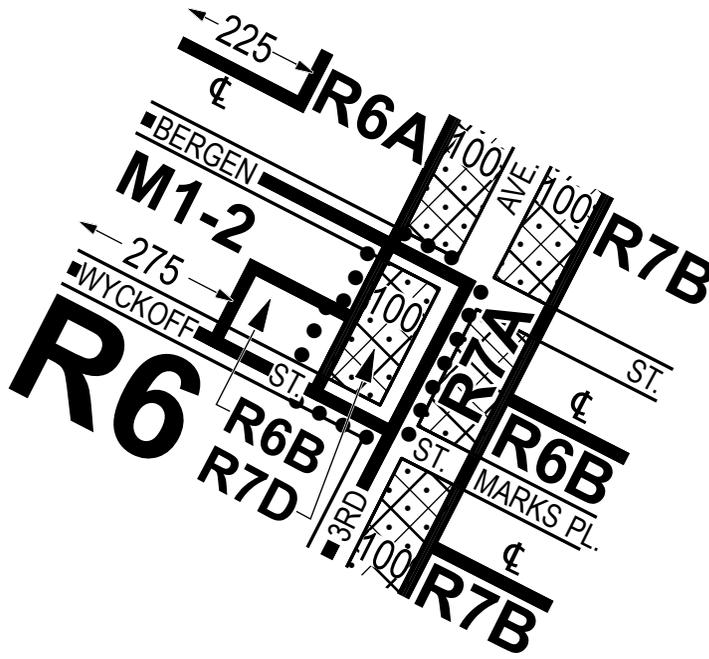
1. changing from an M1-2 District to an R6B District property bounded by a line midway between Bergen Street and Wyckoff Street, a line 100 feet northwesterly of 3rd Avenue, Wyckoff Street, and a line 120 feet northwesterly of 3rd Avenue;
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3. establishing within the proposed R7D District a C2-4 District bounded by Bergen Street, 3rd Avenue, Wyckoff Street, and a line 100 feet northwesterly of 3rd Avenue;

Borough of Brooklyn, Community District 2, as shown on a diagram (for illustrative purposes only) dated December 13, 2021, and subject to the conditions of CEQR Declaration E-647; and be it further

The above resolution (C 200335 ZMK), duly adopted by the City Planning Commission on May 11, 2022 (Calendar No. 4), 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.

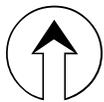
DANIEL R. GARODNICK, Esq. *Chair*
DAVID J. BURNEY, ALFRED C. CERULLO, III,
JOSEPH I. DOUEK, RICHARD W. EADDY,
ANNA HAYES LEVIN, ORLANDO MARIN,
LARISA ORTIZ, RAJ RAMPERSHAD, *Commissioners*



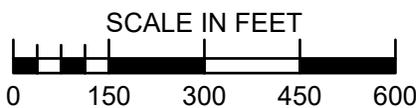
CITY PLANNING COMMISSION
 CITY OF NEW YORK
 DIAGRAM SHOWING PROPOSED
ZONING CHANGE
 ON SECTIONAL MAP

16c
 BOROUGH OF
BROOKLYN

S. Lenard
 S. Lenard, Director
 Technical Review Division



New York, Certification Date:
 December 13, 2021



NOTE:

- Indicates Zoning District Boundary
- The area enclosed by the dotted line is proposed to be rezoned by changing an M1-2 District to R6B and R7D Districts and by establishing a C2-4 District within the proposed R7D District.
- Indicates a C2-4 District



COMMUNITY/BOROUGH BOARD RECOMMENDATION

Project Name: 98 Third Avenue	
Applicant: 98 Third Avenue Realty LLC	Applicant's Primary Contact: Eric Palatnik
Application # 200335ZMK	Borough:
CEQR Number: 77DCP705K	Validated Community Districts: K02

Docket Description:

IN THE MATTER OF an application submitted by 98 Third Avenue Realty LLC pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 16c:

1. changing from an M1-2 District to an R6B District property bounded by a line midway between Bergen Street and Wyckoff Street, a line 100 feet northwesterly of 3rd Avenue, Wyckoff Street, and a line 120 feet northwesterly of 3rd Avenue;
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- Borough of Brooklyn, Community District 2, as shown on a diagram (for illustrative purposes only) dated December 13, 2021, and subject to the conditions of CEQR Declaration E-647.

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

RECOMMENDATION: Favorable			
# In Favor: 36	# Against: 1	# Abstaining: 1	Total members appointed to the board: 38
Date of Vote: 2/9/2022 12:00 AM		Vote Location: ZOOM	

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

Date of Public Hearing: 1/19/2022 6:00 PM	
Was a quorum present? 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>
Public Hearing Location:	Via Zoom Meeting ID 860 7386 6506 Passcode 9kMBMQ by Phone Meeting ID: 860 7386 6506 Passcode: 246789

CONSIDERATION:

Recommendation submitted by	BK CB2	Date: 3/20/2022 3:28 PM
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COMMUNITY/BOROUGH BOARD RECOMMENDATION

Project Name: 98 Third Avenue	
Applicant: 98 Third Avenue Realty LLC	Applicant's Primary Contact: Eric Palatnik
Application # 200336ZRK	Borough:
CEQR Number: 77DCP705K	Validated Community Districts: K02

Docket Description:

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

RECOMMENDATION: Favorable			
# In Favor: 36	# Against: 1	# Abstaining: 1	Total members appointed to the board: 38
Date of Vote: 2/9/2022 12:00 AM		Vote Location: ZOOM	

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

Date of Public Hearing: 1/19/2022 6:00 PM	
Was a quorum present? 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>
Public Hearing Location:	Via Zoom Meeting ID 860 7386 6506 Passcode 9kMBMQ by Phone Meeting ID: 860 7386 6506 Passcode: 246789

CONSIDERATION:

Recommendation submitted by	BK CB2	Date: 3/20/2022 3:28 PM
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BOROUGH PRESIDENT RECOMMENDATION

Project Name: 98 Third Avenue	
Applicant: 98 Third Avenue Realty LLC	Applicant's Administrator: Eric Palatnik
Application # 200335ZMK	Borough: Brooklyn
CEQR Number: 77DCP705K	Validated Community Districts: K02

Docket Description:

IN THE MATTER OF an application submitted by 98 Third Avenue Realty LLC pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 16c:

1. changing from an M1-2 District to an R6B District property bounded by a line midway between Bergen Street and Wyckoff Street, a line 100 feet northwesterly of 3rd Avenue, Wyckoff Street, and a line 120 feet northwesterly of 3rd Avenue;
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- Borough of Brooklyn, Community District 2, as shown on a diagram (for illustrative purposes only) dated December 13, 2021, and subject to the conditions of CEQR Declaration E-647.

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

RECOMMENDATION: Conditional Favorable

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

CONSIDERATION: Conditional Favorable

Recommendation submitted by	BK BP	Date: 3/24/2022 5:12 PM
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Brooklyn Borough President Recommendation

CITY PLANNING COMMISSION

120 Broadway, 31st Floor, New York, NY 10271

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

98 THIRD AVENUE REZONING – 220335 ZMK, N 200336 ZRK

Applications submitted by 98 Third Avenue LLC, pursuant to sections 197-c and 201 of the New York City Charter affecting ten properties on a block of Third Avenue bounded by Bergen, Nevins, and Wyckoff streets. The requested zoning map amendment would change the project area from M1-2 to R6B and R7D/C2-4 districts. The zoning text amendment would establish a Mandatory Inclusionary Housing (MIH) area coterminous with the rezoning area (Options 1 and 2). These actions would facilitate an eight-story, 27,910 square-foot (sf) mixed-use development at 98 Third Avenue in Brooklyn Community District 2 (CD 2). The building would contain 24 apartments and 3,523 sf of ground-floor commercial space. The proposed development would contain approximately eight units affordable to households earning on average, 80% of Area Median Income (AMI) pursuant to MIH Option 2.

BROOKLYN COMMUNITY DISTRICT 2

RECOMMENDATION

APPROVE
 APPROVE WITH
MODIFICATIONS/CONDITIONS

DISAPPROVE
 DISAPPROVE WITH
MODIFICATIONS/CONDITIONS

SEE ATTACHED

BROOKLYN BOROUGH PRESIDENT

March 24, 2022

DATE

RECOMMENDATION FOR: 98 THIRD AVENUE REZONING – 220335 ZMK, N 200336 ZRK

98 Third Avenue LLC submitted applications pursuant to sections 197-c and 201 of the New York City Charter affecting ten properties on a block of Third Avenue bounded by Bergen, Nevins, and Wyckoff streets. The requested zoning map amendment would change the project area from M1-2 to R6B and R7D/C2-4 districts. The zoning text amendment would establish a Mandatory Inclusionary Housing (MIH) area coterminous with the rezoning area. These actions would facilitate an eight-story, 27,910 square-foot (sf) mixed-use development at 98 Third Avenue in Brooklyn Community District 2 (CD 2). The building would contain 24 apartments and 3,523 sf of ground-floor commercial space. Approximately eight units would be affordable to households earning on average, 80% of Area Median Income (AMI) pursuant to MIH Option 2.

On February 17, 2022, Brooklyn Borough President Antonio Reynoso held a remote public hearing on this Uniform Land Use Review Procedure (ULURP) application. There were no speakers on the item.

Community Board Position

Brooklyn Community Board 2 (CB 2) approved this application with no conditions on February 9, 2022.

Approval Rationale

Given growing demand for new, income-restricted housing in this section of CD 2, Borough President Reynoso believes the applicant's proposed density on Third Avenue and Bergen Street is appropriate. Establishing an MIH area at 98 Third Avenue would promote permanently affordable residential construction in a transit-rich area with proximity to major job centers. However, it is important to take a balanced view of potential impacts and benefits.

Mapping a medium-density residential district on M-zoned land where housing is not permitted results in a windfall of market-rate development rights. While Borough President Reynoso generally supports this application, he seeks to maximize its public purpose via provision of deeply affordable units that address community need, an administering agent to ensure local participation, resilient and sustainable design elements, pedestrian safety improvements, space for light industrial businesses, and a commitment to local employment.

The Borough President supports the Department of City Planning (DCP) land use rationale for establishing R7D zoning along the west side of Third Avenue between Bergen and Wyckoff streets, which includes five Department of Housing Preservation and Development (HPD) lots leased to a private entity that owns and plans to redevelop several properties on the block. However, while a residential district would enable residential construction on those lots, it is unlikely to proceed under current conditions.

The Borough President has serious misgivings about DCP's role in conducting the environmental review for this application. As the lead agency, pursuant to §617.3(g)(1)I of the New York State Environmental Quality Review (SEQR) law, DCP certified this application into ULURP knowing that the proposed rezoning would facilitate both 98 Third Avenue development and a non-applicant project with a separate environmental review. The Borough President respectfully requests that the City Planning Commission (CPC) address his concerns regarding segmented environmental review in its consideration of this application.

Furthermore, the City should conduct community engagement around the redevelopment of these underutilized lots. The Borough President supports the construction of 100% affordable housing on vacant City-owned land, and HPD should seek opportunities to site community facility uses that meet neighborhood needs on those ground floors.

Ensuring the Optimum Level of Affordability

98 Third Avenue would provide a mix of 17 one-bedrooms and seven two-bedrooms, with six units (four one-bedrooms and two two-bedrooms) affordable pursuant to MIH Option 1, or eight units (five one-bedrooms and three two-bedrooms) affordable under Option 2. However, neither scenario includes a two-bedroom unit at 40% AMI. The Borough President believes that 98 Third Avenue should be accessible to low-income families. The Option 1 requirement to set aside 10 percent of the residential floor area at 40% AMI would ensure that some two-bedroom units are targeted to this tier. Therefore, the CPC or City Council should map MIH Option 1 over the reduced rezoning area.

Engaging A Non-Profit Administering Agent

An administering agent is responsible for ensuring that inclusionary housing complies with the regulatory agreement that governs the development's affordable housing plan. Borough President Reynoso believes that affordable housing non-profits are best positioned to maximize local participation in MIH lotteries. CD 2 is served by several entities that regularly act as administering agents for inclusionary housing projects. These organizations have the knowledge and experience to do targeted outreach, building marketing, and financial education in Gowanus. Therefore, prior to consideration by City Council, 98 Third Avenue LLC should provide written commitments to retain a non-profit administering agent to conduct marketing for the 98 Third Avenue lottery, including financial literacy training.

Improving Pedestrian Safety along Third Avenue

Borough President Reynoso supports traffic calming measures to improve pedestrian safety at Brooklyn intersections. Land use applications should be scrutinized for opportunities to integrate these upgrades with new construction.

The 98 Third Avenue site is situated along a local truck route. Borough President Reynoso believes that an increase in residential density at this location should be accompanied by significant safety enhancements. Curb extensions and protected sidewalks offer a scalable, low-cost, and high-impact solution.

Borough President Reynoso recognizes that infrastructure modifications can exacerbate costs associated with sidewalk extensions. 98 Third Avenue LLC should work with the Department of Environmental Protection (DEP) and the Department of Transportation (DOT) to pedestrianize this corner. Therefore, prior to consideration by CPC and/or City Council 98 Third Avenue LLC should provide written commitments to create curb extensions as part of the required Builders Pavement Plan (BPP) and/or protected sidewalk extension with painted stripes. The applicant should then enter a standard maintenance agreement with DOT for the designated area. All such improvements should proceed in consultation with CB 2 and local elected officials.

Advancing Efficiency, Resiliency, and Sustainability

Borough President Reynoso supports efforts to maximize building efficiency and sustainability as a way to mitigate climate change. Local Laws 92 and 94 of 2019 require most new construction to incorporate a green roof and/or a solar installation. Developers are increasingly pursuing impactful strategies such as passive house design and onsite energy generation.

Accordingly, 98 Third Avenue LLC should seek City and State incentives to offset costs associated with the provision of green and photovoltaic roofs. The New York State Energy Research and Development Authority (NYSERDA) manages various programs to promote efficient buildings. New York City offers the Green Roof Tax Abatement and the Green Infrastructure Grant Program, administered by DEP.

Borough President Reynoso advocates stormwater management practices that support DEP's green infrastructure strategy. The required BPP for 98 Third Avenue LLC provides an opportunity to install rain

gardens consolidated with new street trees along its frontages. Together, these measures would help divert stormwater from the Red Hook Wastewater Treatment Plant. These discussions should also involve CB 2 and local elected officials. Therefore, prior to considering the application, the City Council should obtain written commitments from the developer to incorporate sustainability and resiliency features at 98 Third Avenue.

Accommodating Gowanus Businesses at Risk of Displacement

While the proposed development falls outside the Gowanus Neighborhood Plan project area, the Borough President believes it could address potential displacement of local businesses, especially those with a retail component. When paired with a C2-4 overlay, an R7D district mandates provision of ground-floor commercial use. He therefore calls on 98 Third Avenue LLC to set aside a portion of the proposed non-residential space for innovation and maker uses, at rents affordable to such small businesses.

Local Jobs

According to the NYU Furman Center, double-digit unemployment remains a pervasive reality across Brooklyn, with more than half the community districts reporting poverty rates of 20 percent or higher. The ongoing COVID-19 pandemic has only exacerbated widespread job insecurity. One way to address the borough's economic crisis is to prioritize local hiring and promote Brooklyn-based businesses. Therefore, 98 Third Avenue LLC should commit to retain area contractors and suppliers, and provide employment opportunities to CB 2 residents, when this application comes before the City Council.

Recommendation

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

1. That the CPC take a hard look at the environmental review for this rezoning application and ensure this rezoning would not be ripe for litigation under SEQR law.
2. That the CPC and/or the City Council map only MIH Option 1 over the rezoning area
3. That prior to consideration by City Council, 98 Third Avenue LLC commit to:
 - a. Modify the bedroom mix with provision of studio units, while reserving at least one affordable two-bedroom unit at 40% AMI, in consultation with the local Council Member
 - b. Retain a non-profit administering agent to conduct marketing (including financial literacy training) for the 98 Third Avenue lottery
 - c. Incorporate resiliency and sustainability measures, such as blue roofs, passive house design, and/or onsite energy generation
 - d. Coordinate with DEP, DPR, and DOT to install rain gardens along Third Avenue and/or Bergen Street as part of a BPP in consultation with CB 2 and local Council Member
 - e. Work with DEP and DOT to construct a curb extension as part of a BPP or protected painted sidewalk extension at the northwest corner of Third Avenue and Bergen Street in consultation with CB 2 and the local Council Member
 - f. Reach out to Gowanus businesses at risk of displacement, including innovation and maker uses to tenant the proposed commercial space

- g. Retain Brooklyn-based contractors/suppliers, and provide employment opportunities to area residents

Be It Further Resolved:

1. That HPD initiate a public outreach and RFP process to develop a mixed-use 100% affordable housing building on the HPD-owned sites within the rezoning area.