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March 20, 2024 / Calendar No. 21

C 240075 ZMQ

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**IN THE MATTER OF** an application submitted by GWY Realty Inc. pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 9d by establishing within an existing R7A District, a C2-4 District bounded by Baxter Avenue, a line 100 feet northeasterly of Broadway, Pettit Avenue, and Broadway, as shown on a diagram (for illustrative purposes only) dated October 30, 2023, and subject to the conditions of CEQR Declaration E-745.

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This application for a zoning map amendment (C 240075 ZMQ) was filed on September 13, 2023, by GWY Realty Inc. The proposed action would bring existing legally non-conforming commercial uses within the project area into conformance and would not result in any new redevelopment.

## **BACKGROUND**

The applicant seeks a zoning map amendment to establish a C2-4 commercial overlay within the existing R7A zoning district. This action would not facilitate new development but would bring existing commercial uses into conformance and provide flexibility for future commercial tenants.

The project area consists of Block 1509, Lots 1 and p/o Lots 6 and 17. It has frontages along the entire blockfront of Broadway, which is an 80-foot-wide street to the south, as well as frontages on Baxter Avenue, a 60-foot-wide street to the west, and Pettit Avenue, a 60-foot-wide street to the east. Lot 1 totals 17,806 square feet in lot area and is developed with a two-story mixed-use building containing local retail uses on the ground floor and a day care on the second floor, totaling 8,746 square feet. Lot 1 also contains a single-story commercial building totaling 6,100 square feet and a single-story post office building totaling 2,960 square feet. Ground floor commercial uses on Lot 1 include three restaurants, a hardware store, a laundromat, and uses that complement the Elmhurst Hospital on the adjacent block, such as a pharmacy and a surgical supply store. Lot 17 is developed with a six-story residential building containing 106 units and

ground-floor community facility uses including a wellness center, an after-school center and a dental office. Lot 6 is developed with a six-story residential building containing 89 units. The surrounding area is developed with a mix of residential, commercial, and community facility uses. The area northwest and northeast of the project area is mapped with an R7B zoning district and consists of six-story multi-family residential buildings. The area south of the project area is mapped with R5, R6B and R7B zoning districts, primarily developed with three-to-four story and six-story residences.

Broadway is a primary commercial corridor in Elmhurst and is mostly developed with six-story multi-family buildings with ground-floor retail and residential uses above. The project area is mapped with an R7A district that extends one block east and four blocks west. A C1-3 commercial overlay is mapped southeast of the project area and is developed with four-to-six-story residential buildings with commercial uses on the ground floor.

Community facility uses in the surrounding area include P.S. 89, which is an elementary school located five blocks north of the project area serving grades kindergarten through sixth grades. Elmhurst Hospital, operated by NYC Health and Hospitals, is located on the adjacent block west of the project area and is a Level 1 trauma center with 545 hospital beds. Two houses of worship are located five blocks east of the project area and the United States Postal Service is located within the project area on Lot 1.

Open space in the surrounding area includes the Frank D. O'Connor Playground, located directly southwest of the project area and the Moore Homestead Playground, located directly east of the project area at the intersection of Broadway and 45<sup>th</sup> Avenue. Both playgrounds include amenities such as play equipment, basketball courts, handball courts, and more.

The surrounding area is well-served by public transit and is in the Transit Zone. The Elmhurst Avenue station, servicing the M and R subway lines, is located three blocks southeast of the project area. The 74<sup>th</sup> Street-Roosevelt Avenue station, servicing the 7, E, F, M and R subway lines, is a major transit hub and is located approximately a half-mile west of the project area. Numerous bus lines that service the area include the Q53 SBS, which provides service between

Woodside and Rockaway Park, and the Q29, which provides service between Jackson heights and Glendale.

The project area was mapped with an R6 zoning district in 1961 and was rezoned to an R7A district in 1989 as part of the Elmhurst-Corona Rezoning (C 880920 ZMQ), effective September 14, 1989. R7A zoning districts are contextual districts in which Quality Housing bulk regulations are mandatory. The maximum floor area ratio (FAR) is 4.6 with Mandatory Inclusionary Housing (MIH) and 4.0 for community facility uses. It requires a base height of 75 feet (with qualifying ground floor), setbacks of 10 feet from a wide street or 15 feet from a narrow street, and a maximum building height of 85 feet with qualifying ground floor. For buildings with MIH units, the maximum building height is 95 feet or nine stories. Off-street parking is required for 50 percent of dwelling units with an exemption for income-restricted units within the Transit Zone.

The applicant has no plans to redevelop the existing buildings within the project area. The zoning map amendment to map the C2-4 commercial overlay would bring the non-conforming commercial uses within the project area into conformance and would provide the applicant with flexibility around inviting future commercial tenants. Commercial uses are limited to the ground floor of mixed-use buildings in a C2-4 overlay and the maximum FAR for commercial uses is 2.0 when mapped in R6 or higher residential districts. Parking requirements vary for commercial uses, but parking must be provided at a rate of one space per 1,000 square feet of floor area. Typical C2-4 commercial uses include supermarkets, plumbing and electrical shops, small bowling alleys and movie theaters.

## **ENVIRONMENTAL REVIEW**

This application (C 240075 ZMQ) was reviewed pursuant to the New York State Environmental Quality Review Act (SEQRA) and the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 et seq. and the City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The lead is the City Planning Commission. The designated CEQR number is 23DCP159Q.

After a study of the potential environmental impact of the proposed action, a Negative Declaration was issued on October 30, 2023, which includes an (E) designation (E-745) related to 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 Negative Declaration.

## **UNIFORM LAND USE REVIEW**

This application (C 240075 ZMQ) was certified as complete by the Department of City Planning on October 30, 2023 and was duly referred to Queens Community Board 4 and the Queens Borough President in accordance with Title 62 of the Rules of the City of New York, Section 2-02(b).

### **Community Board Public Hearing**

Queens Community Board 4 held a public hearing on this application (C 240075 ZMQ) on January 9, 2024, and, on that date, by a vote of 31 in favor, two opposed, and none abstaining, adopted a resolution recommending disapproval of the application.

### **Borough President Recommendation**

The Queens Borough President held a public hearing on this application (C 240075 ZMQ) on February 1, 2024, and on February 8, 2024, issued a recommendation to approve the application with the following condition:

“• With regard to potential future development, the Applicant should have a minimum 30% goal to include M/WBE firms, hiring of local residents and working with locally-based organizations and community groups for outreach and job fairs when hiring and contracting for this project. There should be quarterly reporting of these hiring initiatives to the Borough President and Council Member until the hiring goal has been reached.”

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

On February 7, 2024 (Calendar No. 13), the City Planning Commission scheduled February 21, 2024 for a public hearing on this application (C 240075 ZMQ). The hearing was duly held on

February 21, 2024 (Calendar No. 14). One speaker testified in favor of the application and none in opposition.

The applicant's representative, who testified in favor of the application, provided an overview of the application, stating that mapping the C2-4 commercial overlay would bring the legally non-conforming commercial uses within the project area into conformance.

The applicant's representative also reinforced the existing commercial character of Broadway, which is mapped with C1-3 commercial overlays northwest and southeast of the project area, and is a wide, major commercial thoroughfare in this part of Queens. The applicant's representative noted that existing commercial uses complement the adjacent Elmhurst hospital by providing a pharmacy, surgical supply store, and small eateries for workers. The applicant's representative stated that the applicant is seeking a C2-4 commercial overlay to provide for a wider range of commercial uses and reduce the parking requirement, which is appropriate due to the project area's proximity to two subway stations and numerous bus lines.

The applicant's representative reiterated that while there are no current plans for redevelopment, the owner, who has been operating the commercial uses within the project area since the 1940s, is seeking a commercial overlay to ensure that commercial uses can remain in the project area in the future.

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

## **CONSIDERATION**

The Commission believes that this application for a zoning map amendment (C 240075 ZMQ), is appropriate.

The Commission believes that the proposed zoning map amendment to establish a C2-4 commercial overlay within the existing R7A zoning district is appropriate. The C2-4 overlay district will reinforce the continuity of commercial overlays that are currently mapped north and south of the project area. The Commission notes that the existing commercial uses within the

project area are non-conforming and were built prior to the enactment of the Zoning Resolution, and that these small businesses provide vital services to the local residential community and the adjacent Elmhurst Hospital. The zoning map amendment would bring these uses into conformance and provide more flexibility than the current C1-3 overlay districts that are mapped north of the project area along Broadway by permitting a wider range of commercial uses for future tenants.

The Commission notes that the actions would not facilitate redevelopment of the project area and that any future development would be as-of-right pursuant to the underlying R7A zoning district, which remains unchanged. The Commission believes that the underlying district is appropriate for this part of Elmhurst, which would produce contextual six-to-seven-story buildings that allow residential and community facility uses, which is consistent with the built character of the surrounding area.

## **RESOLUTION**

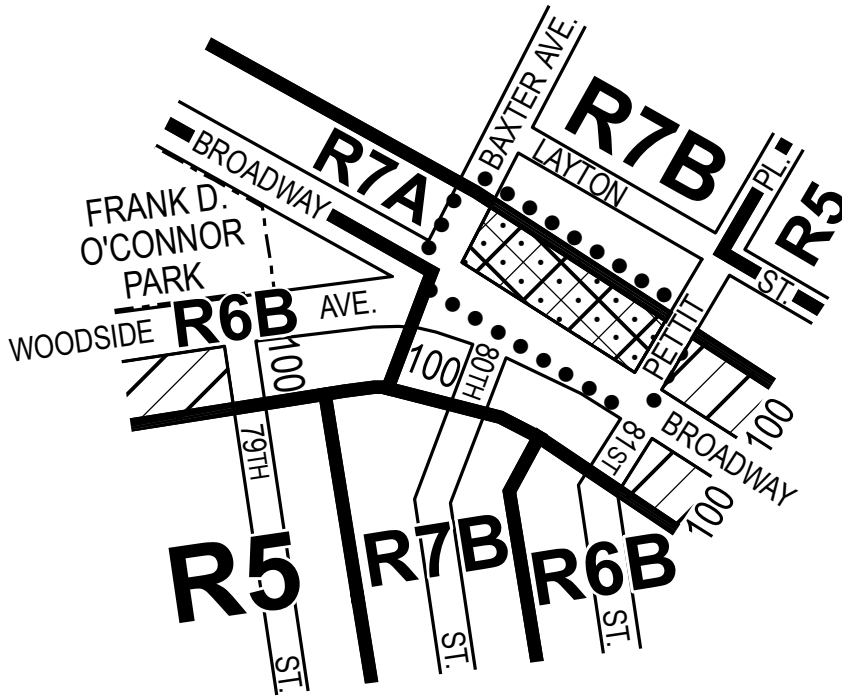
**RESOLVED**, that having considered the Environmental Assessment Statement, for which a Negative Declaration was issued on October 30, 2023, with respect to this application (CEQR No. 23DCP159Q), the City Planning Commission finds that the action described herein will have no significant impact on the 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. 9d by establishing within an existing R7A District, a C2-4 District bounded by Baxter Avenue, a line 100 feet northeasterly of Broadway, Pettit Avenue, and Broadway, as shown on a diagram (for illustrative purposes only) dated October 30, 2023, and subject to the conditions of CEQR Declaration E-745.

The above resolution (C 240075 ZMQ), duly adopted by the City Planning Commission on March 20, 2024 (Calendar No. 21), is filed with the Office of the Speaker, the 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.,**  
**LEAH GOODRIDGE, Esq., RASMIA KIRMANI-FRYE, ORLANDO MARÍN,**  
**JUAN CAMILO OSORIO, RAJ RAMPERSHAD, *Commissioners***



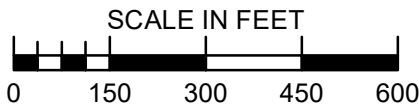
CITY PLANNING COMMISSION  
 CITY OF NEW YORK  
 DIAGRAM SHOWING PROPOSED  
**ZONING CHANGE**  
 ON SECTIONAL MAP

**9d**  
 BOROUGH OF  
**QUEENS**



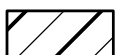

*S. Lenard*  
 S. Lenard, Director  
 Technical Review Division



New York, Certification Date:  
 October 30, 2023



**NOTE:**

-  Indicates Zoning District Boundary
-  The area enclosed by the dotted line is rezoned by establishing a C2-4 District within an existing R7A District.
-  Indicates a C1-3 District
-  Indicates a C2-4 District





# COMMUNITY/BOROUGH BOARD RECOMMENDATION

|  |  |
|--|--|
| <b>Project Name:</b> 80-01 Broadway Commercial Overlay |  |
| <b>Applicant:</b> Richard Lobel                        | <b>Applicant's Primary Contact:</b> Alexia Landesman |
| <b>Application #</b> 240075ZMQ                         | <b>Borough:</b>                                      |
| <b>CEQR Number:</b> 23DCP159Q                          | <b>Validated Community Districts:</b> Q04            |

**Docket Description:**

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

|  |                     |                               |   |
|--|---------------------|-------------------------------|---|
| <b>RECOMMENDATION: Unfavorable</b>     |                     |                               |   |
| <b># In Favor:</b> 31                  | <b># Against:</b> 2 | <b># Abstaining:</b> 0        | <b>Total members appointed to the board:</b> 33 |
| <b>Date of Vote:</b> 1/9/2024 12:00 AM |                     | <b>Vote Location:</b> Virtual |   |

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

|                                 |  |
|---------------------------------|--|
| <b>Date of Public Hearing:</b>  |  |
| <b>Was a quorum present?</b> No | <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> |  |

|  |        |                         |
|--|--------|-------------------------|
| <b>CONSIDERATION:</b> Community Board 4Q voted to deny the commercial overlay for 80-01 Broadway. Please see stipulations on the denial vote for Community Board 4Q. |        |                         |
| Recommendation submitted by  | QN CB4 | Date: 1/26/2024 3:27 PM |



## COMMUNITY BOARD # 4Q

Serving: Corona, Corona Heights, Elmhurst, and Newtown

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**Donovan Richards**  
Queens Borough President

**Marielena Giampino**  
Chairperson

**Ebony Young**  
Deputy Borough President

**Christian Cassagnol**  
District Manager

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80-01 Broadway – Commercial Overlay to allow non-conforming commercial uses to become conforming.  
Elmhurst, NY 11373

### January 9, 2024 Community Board meeting

The Board expressed several concerns related to transportation and traffic congestion, and whether there was any current consideration for traffic safety. It was noted that this area is already congested and within close proximity to Elmhurst Hospital Center, a hospital with over 5000 employees. It is also adjacent to an area where there is a large number of pedestrian, vehicular, and ambulatory traffic.

At the ULURP/Zoning Committee meeting, one of the owners were present and he had stated in maybe 5 years they would redevelop the site and he wants commercial/businesses to stay.

So since one of the principals stated that he may redevelop the site in the future at the ULURP Committee meeting; something that was not mentioned at the Full Board meeting. While the Board understood that future housing could be a possibility, it was unclear whether this housing would benefit the community. More so if the zoning change was granted to allow commercial overlay on the current zoning, it is uncertain what would be in its place at the site in the future.

The current zoning is in place for the benefit of the community, and if the site is redeveloped as of right it would allow residential and require community space. The current R6 zoning does not allow commercial and the community does not want to give up the current zoning and its required community space. Community space is vital to the community and the Board felt the community space component would be lost. More affordable housing is needed in the community.

Elmhurst has many stores and no space for community usage. If building is rebuilt with the zoning change they are asking for, the community loses its leverage.

Board felt nothing wrong with the zoning currently in place and the current site is grandfathered in and has been operating with commercial usage for a long time and there is nothing wrong or illegal as it has been and currently operating.

Property is under LLC business structure. There are four partners. Although there is no intent currently by the owners to sell the property would the owner's children sell and the property be redeveloped?

Why didn't applicant come to the Board when plans were in progress to redevelop the site and why not come with the actual plan when ready?

The Board would like the applicant to come back with a clear redevelopment plan before allowing the commercial overlay for this zoning change. Therefore, the board must deny this application without a redevelopment plan.

Motion to **deny** the commercial overlay for 80-01 Broadway passed. The vote was 31 in favor, 2 opposed with 0 abstentions.



# BOROUGH PRESIDENT RECOMMENDATION

|  |  |
|--|--|
| <b>Project Name:</b> 80-01 Broadway Commercial Overlay |  |
| <b>Applicant:</b> Richard Lobel                        | <b>Applicant's Administrator:</b> Alexia Landesman |
| <b>Application #</b> 240075ZMQ                         | <b>Borough:</b> Queens                             |
| <b>CEQR Number:</b> 23DCP159Q                          | <b>Validated Community Districts:</b> Q04          |

**Docket Description:**

*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:**

|                             |       |                        |
|-----------------------------|-------|------------------------|
| Recommendation submitted by | QN BP | Date: 2/8/2024 4:12 PM |
|-----------------------------|-------|------------------------|

# Queens Borough President Recommendation

**APPLICATION:** 80-01 Broadway Commercial Overlay  
**COMMUNITY BOARD:** Q04

## DOCKET DESCRIPTION

**ULURP #240075 ZMQ —IN THE MATTER OF** an application submitted by GWY Realty Inc. pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 9d by establishing within an existing R7A District, a C2-4 District bounded by Baxter Avenue, a line 100 feet northeasterly of Broadway, Pettit Avenue, and Broadway, as shown on a diagram (for illustrative purposes only) dated October 30, 2023, and subject to the conditions of CEQR Declaration E-745.

## PUBLIC HEARING

A Public Hearing was held in the Borough President's Conference Room at 120-55 Queens Boulevard on Thursday, February 1, 2024 at 9:30 A.M. pursuant to Section 82(5) of the New York City Charter and was duly advertised in the manner specified in Section 197-c (i) of the New York City Charter. The applicant made a presentation. There were no (0) speakers on the application. The hearing was closed.

## CONSIDERATION

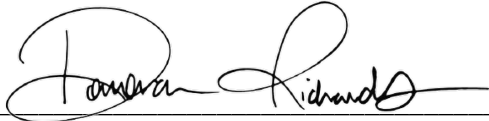
Subsequent to a review of the application and consideration of testimony received at the public hearing, the following issues and impacts have been identified:

- The applicant is seeking a Zoning Map Amendment for the purpose to rezone three (3) properties identified as Block 1509, p/o Lots, 1, 6, and 17, generally bound by Pettit Avenue to the east, Broadway to the South, Baxter Avenue to the west, and a line offset 100 feet to the north of Broadway from an existing R7A to an R7A/C2-4 zoning district;
- The proposed Zoning Map Amendment to rezone subject site would permit a wider array of commercial options and bring this exiting legally non-conforming commercial properties within the project area into conformance;
- The Project Area consists of Block 1509, p/o Lots 1, 17, and 6, which encompasses approximately an 18,125-SF corner lot with frontages on Baxter Ave at Broadway. The existing site is improved with a two-story mixed use commercial and community facility building (8,746 GSF), a one-story commercial building (6,100 GSF), and a one-story USPS occupied building (2,960 GSF). There are six (6) parking spaces at the rear area for commercial and community facility uses. All commercial uses existed before the 1961 Zoning Resolution;
- The Development Site has been historically occupied by commercial development including a two-story building contains commercial uses on the ground floor and a community facility use on the second floor. The ground floor commercial uses include local retail consisting of three (3) restaurants, a pharmacy, and a surgical supply store with a total retail floor area of 3,557 GSF and an attorney office of approximately 764 GSF. The second floor is occupied by Star America Preschool with approximately 4,425 GSF of floor area. The one-story commercial building is occupied by a hardware store. The one-story building occupied by a post office includes 2,960 GSF of floor area;
- The surrounding area is developed with a variety of residential and commercial uses which range in height. The built form in the subject area generally consists of six-story multi-family elevator buildings, two-to five-story multifamily walkup buildings, two-story one- and two-family buildings, and one-story commercial buildings. The surrounding area also contains an eleven-story hospital Elmhurst Hospital at the intersection of Broadway and Baxter Avenue. The area is served with two nearby subway stations with connections to Manhattan from the E, M, F, R and #7 lines.
- On January 9, 2024, Community Board 4 (CB4) denied the application by a vote of thirty-one (31) in favor, two (2) opposed and no (0) abstentions at a public hearing. The Board identified traffic congestion and safety, as well as the lack of redevelopment plans as reasons for their disapproval. Overall, the Board felt the current zoning was appropriate and would prefer to see the non-conforming uses grandfathered in;
- At the Borough President's Land Use Public Hearing, the Land Use Director chaired the Hearing on behalf of the Borough President. The Land Use Director asked the Applicant to confirm if these commercial uses existed pre-1961 or had Board of Standards and Appeals (BSA) variances, to which the Applicant replied that uses pre-dated the Zoning Resolution. The Land Use Director also asked the Applicant to detail CB4's concerns, and the Applicant recounted the Board's opinions.

**RECOMMENDATION**

Based on the above consideration, I hereby recommend approval of this application with the following condition:

- With regard to potential future development, the Applicant should have a minimum 30% goal to include M/WBE firms, hiring of local residents and working with locally-based organizations and community groups for outreach and job fairs when hiring and contracting for this project. There should be quarterly reporting of these hiring initiatives to the Borough President and Council Member until the hiring goal has been reached.



PRESIDENT, BOROUGH OF QUEENS

02/08/2024

DATE