**347 FLUSHING AVENUE REZONING**
**FEBRUARY 13, 2024**

## 1. INTRODUCTION

Flushing Condo Holdings LLC (the "Applicant") proposes a zoning map amendment to rezone 347 Flushing Avenue and 760-768 Kent Avenue, Block 2260, Lot 35 and Lot 7501 (Current Condo Lot 1099, Former Lots 125, 126, 127, 128 and 129), (the "Proposed Project Area") in the Williamsburg neighborhood within Brooklyn Community District 1 from an M1-2 zoning district to M1-5 and R7-1/C2-4 zoning districts. The proposed zoning map amendment will facilitate the conversion of a recently constructed eight-story plus cellar and sub-cellar, mixed-use commercial, community facility and warehouse building, to an eight-story plus cellar and sub-cellar mixed-use commercial and community facility building with a lower parking requirement than is required within the existing M1-2 zoning district at 347 Flushing Avenue, Block 2260 Lot 35, (the "Proposed Development Site"). The proposed building will have a total floor area of approximately 163,310 square feet (5.57 FAR), consisting of approximately 25,783 square feet of community facility use (0.88 FAR) and approximately 137,527 square feet of commercial use (4.69 FAR), and 86 (voluntary) parking spaces located in the sub-cellar (the "Proposed Development"). The proposed zoning map amendment will also legalize the legal non-conforming residential use permitted by BSA variance (113-00-BZ-117-00-BZ) located at 760-768 Kent Avenue (Lot 7501).

In addition, the Applicant proposes a zoning text amendment to Zoning Resolution ("ZR") Appendix F: Inclusionary Housing Designated Areas and Mandatory Inclusionary Housing Areas for Brooklyn Community District 1 to designate the southwest corner of Flushing and Kent Avenues as a Mandatory Inclusionary Housing ("MIH") Designated Area. The Applicant proposes mapping both Option 1 and Option 2 to provide maximum flexibility for this non-applicant-controlled lot. Option 1 requires 25% of residential floor area to be set aside for affordable housing units for residents with incomes averaging 60% AMI, with a minimum of 10% of housing to be affordable at 40% AMI. Option 2 requires 30% of residential floor area to be set aside for affordable housing units for residents with incomes averaging 80% AMI. Although there is currently existing residential use on Lot 7501, the proposed zoning text amendment will allow for affordable housing set asides to address the need for housing to serve a broad range of the City's diverse incomes should there be any future residential redevelopment.

## 2. BACKGROUND

Existing Development at the Proposed Development Site

An as-of-right eight-story plus cellar and sub-cellar, mixed-use commercial, community facility and warehouse building with a total floor area of approximately 140,625 square feet/4.79 FAR building has been constructed at the Proposed Development Site and was issued a CO on June 12, 2023 (CO No. 3428557-0000003). The existing building requires a total of 313 parking spaces, which are provided in the sub-cellar and on the first floor with attended parking and the use of 140 stackers. The existing uses consist of commercial retail, commercial office, community facility ambulatory diagnostic or treatment health care facility and warehouse uses.

Area Rezonings

The Proposed Project Area is west of the 2001 Flushing-Bedford Rezoning (C 000109 ZMK, N 000110 ZRK, May 9, 2001), which rezoned 15 blocks from M1-1, M1-2 and M3-1 zoning districts to R7-1 and M1-2/R6A zoning districts while creating a new Special Mixed Use District (MX-4) in Brooklyn Community Districts 1 and 3 to permit residential and mixed manufacturing and residential uses in an area that the City Planning Commission noted had a decline in manufacturing and commercial uses resulting in an increase in auto related uses, junk yards, vacant land and non-conforming residential uses. The Flatbush-Bedford Rezoning sought to accommodate the growing need for housing while preserving industrial and commercial uses in the proposed mixed-use district.

The Proposed Project Area is directly west of the Wallabout Street Rezoning (C 110390 ZMK, September 12, 2012), which rezoned Block 2261 from an M1-2 zoning district to an R7-1/C1-5

zoning district to facilitate the development of a seven-story mixed-use building and a five-story community facility building at 755 Kent Avenue.

The Proposed Project Area is directly northwest of the Rose Castle Rezoning (C 160221 ZMK, N 160222 ZRK, May 10, 2017), which rezoned portions of two blocks southeast of the Proposed Project Area from an M1-2 zoning district to R7A/C2-4 and M1-2/R6A zoning districts to facilitate the development of two mixed-use buildings with a total of approximately 300 dwelling units.

The Proposed Project Area is east of the Special Brooklyn Navy Yard District application (C 210462 ZMK, N 210463 AZRK, December 15, 2021), which completed a zoning text amendment to the Brooklyn Navy Yard Special District modifying regulations regarding use, bulk, streetscape, open space, parking, loading and the waterfront, and rezoned existing R6B, M1-2 and M3-1 zoning districts to an M2-1 zoning district to facilitate the expansion of the Brooklyn Navy Yard.

Area Board of Standards and Appeals (BSA) Cases
113-00-BZ-117-00-BZ
On August 15, 2000, the BSA granted a variance to 760-768 Kent Avenue, located directly adjacent to the Proposed Development Site and within the Proposed Project Area, to permit the construction of five, six-story residential buildings with a total of 30 dwelling units (six units per building) contrary to use regulations. These buildings were constructed in 2004.

## 3. DESCRIPTION OF THE SURROUNDING AREA

Zoning
The area within a 600-foot radius of the Proposed Project Area (the "Surrounding Area") is zoned M1-2, M3-1, M1-2/R6A (MX-4), R6, R6/C2-2, R6/C2-4, R7-1, R7-1/C1-5 and R7A/C2-4. The Proposed Project Area is also located within the Transit Zone, within a FRESH zone offering zoning and discretionary tax incentives and within the Coastal Zone Boundary.

M1-2
M1-2 districts are manufacturing districts which permit commercial, light industrial, and select community facility uses, generally including retail uses, woodworking shops, repair shops, and wholesale service and storage facilities. All permitted industrial uses must meet minimum performance standards. The maximum permitted FAR is 2.0 for industrial and commercial uses and 4.8 for community facility uses. Required off-street parking varies by use, but 1 per 300 square feet is required for general retail uses and may be waived if fewer than 15 spaces are required.

M3-1
An M3-1 zoning district is located west of the Proposed Project Area. M3-1 zoning districts are designated for areas with heavy industries that generate noise, traffic or pollutants and permit a maximum FAR of 2.0 for industrial and commercial uses. Required off-street parking varies by use, but 1 per 300 square feet is required for general retail uses and may be waived if fewer than 15 spaces are required.

M1-2/R6A (MX-4)
An M1-2/R6A zoning district (Special Mixed-Use MX-4 District) is located to the southeast of the Proposed Project Area. The MX-4 zoning district permits a mix of light industrial and commercial uses up to 2.0 FAR, community facility up to 4.8 FAR and residential uses up to 3.0 FAR or 3.6 with inclusionary housing. R6A districts are contextual residential districts where the Quality Housing bulk regulations are mandatory. These regulations produce high lot coverage, six- or seven-story apartment buildings set at or near the street line. Above a maximum base height of 60 feet/65 feet with QGF or inclusionary housing, a 10-foot setback is required on a wide street and a 15-foot setback is required on a narrow street, before rising to a maximum height of 70 feet/75 feet with QGF or with inclusionary housing 80 feet/85 feet with QGF. Off-street parking is required for 50% of a building's dwelling units or can be waived if five or fewer spaces are required, but requirements are lower for income-restricted housing units (IRHU) and are further modified within the Transit Zone or for lots less than 10,000 square feet.

R6, R6/C2-2, R6/C2-4
An R6 zoning district is located northeast of the Proposed Project Area. R6 districts are residential

districts which are widely mapped in built-up, medium-density areas in Brooklyn, Queens and the Bronx. Developers can choose between two sets of bulk regulations. Height factor regulations, introduced in 1961, typically produce small multi-family buildings on small zoning lots and, on larger lots, tall buildings that are set back from the street. Quality Housing regulations, introduced in 1987, typically produce high lot coverage buildings within height limits that often reflect the scale of older, pre-1961 apartment buildings in the neighborhood. Community facility uses are permitted up to a 4.8 FAR. Within an R6 zoning district under height factor regulations, the FAR ranges from 0.78 to 2.43 for residential uses and 4.8 for permitted community facility uses. There are no height limits for height factor buildings, although they must be set within a sky exposure plane which begins at a height of 60 feet above the street line and then slopes inward over the zoning lot. Off-street parking is required for 70% of a building's dwelling units or can be waived if five or fewer spaces are required, but requirements are lower for income-restricted housing units (IRHU) and are further modified within the Transit Zone or for lots less than 10,000 square feet. The Quality Housing regulations produce high lot coverage buildings set at or near the street line. For buildings on or within 100 feet of a wide street, the maximum FAR is 3.0 or 3.6 with inclusionary housing, the maximum base height before setback is 65 feet, with a maximum building height of 70/75 feet with QGF or with inclusionary housing 115 feet. On a narrow street, the maximum FAR is 2.2 or 2.42 with inclusionary housing, the maximum base height before setback is 45 feet or 65 feet with inclusionary housing, with a maximum building height of 55 feet or with inclusionary housing 115 feet. Off-street parking is required for 50% of a building's dwelling units or can be waived if five or fewer spaces are required, but requirements are lower for income-restricted housing units (IRHU) and are further modified within the Transit Zone or for lots less than 10,000 square feet. Information on the commercial overlay districts is contained at the end of this section.

R7A/C2-4

An R7A/C2-4 zoning district is mapped along Flushing Avenue southeast of the Proposed Project Area. R7A zoning districts are medium density contextual residential zoning districts where the Quality Housing bulk regulations are mandatory. Community facility uses are permitted up to a 4.0 FAR. The maximum residential FAR in an R7A zoning district is 4.0 or 4.6 with inclusionary housing. Above a maximum base height of 65 feet/75 feet with QGF or with inclusionary housing, a 10-foot setback is required on a wide street and a 15-foot setback is required on a narrow street, before rising to a maximum height of 80 feet/85 feet with QGF or with inclusionary housing 90 feet/95 feet with QGF. Off-street parking is required for 50% of all dwelling units or can be waived if 15 or fewer spaces are required, but requirements are lower for income-restricted housing units (IRHU) and are further modified within the Transit Zone or for lots less than 10,000 square feet.

R7-1, R7-1/C1-5

An R7-1 zoning district is mapped directly east of the Proposed Project Area. R7 districts are medium-density apartment house districts. The height factor regulations for R7 districts encourage lower apartment buildings on smaller zoning lots and, on larger lots, taller buildings with less lot coverage. As an alternative, developers may choose the optional Quality Housing regulations to build lower buildings with greater lot coverage. Community facility uses are permitted up to a 4.8 FAR. Within an R7-1 zoning district under height factor regulations, the FAR ranges from 0.87 to 3.44 for residential uses and 4.8 for permitted community facility uses. There are no height limits for height factor buildings, although they must be set within a sky exposure plane which begins at a height of 60 feet above the street line and then slopes inward over the zoning lot. Off-street parking is required for 60% of a building's dwelling units or can be waived if five or fewer spaces are required, but requirements are lower for income-restricted housing units (IRHU) and are further modified within the Transit Zone or for lots less than 10,000 square feet. The Quality Housing regulations produce high lot coverage buildings set at or near the street line. For buildings on or within 100 feet of a wide street, the maximum FAR is 4.0 or 4.6 with inclusionary housing, the maximum base height before setback is 75 feet, with a maximum building height of 80/85 feet with QGF or with inclusionary housing 135 feet. On a narrow street, the maximum FAR is 3.44 or 4.6 with inclusionary housing, the maximum base height before setback is 65 feet, with a maximum building height of 75 feet or with inclusionary housing 135 feet. Off-street parking is required for 50% of a building's dwelling units or can be waived if five or fewer spaces are required, but requirements are lower for income-restricted housing units (IRHU) and are further modified within the Transit Zone or for lots less than 10,000 square feet.

C1-5, C2-2, C2-4 Overlays
C1-5, C2-2 and C1-4 zoning districts are commercial overlay districts mapped within residence districts along streets that serve local retail needs. Typical retail uses permitted include neighborhood grocery stores, restaurants and beauty parlors. C2 districts permit a slightly wider range of uses, such as funeral homes and repair services. In mixed buildings, commercial uses are limited to one or two floors and must always be located below the residential use. When commercial overlays are mapped in R6 through R10 zoning districts, the maximum commercial FAR is 2.0. Within a C1-5 overlay, no parking is required. Within a C2-2 overlay, one parking space is required for every 300 square feet of floor area. Within a C2-4 overlay, one parking space is required for every 1,000 square feet of floor area.

Land Uses and Prevailing Built Form
Existing land uses within the Surrounding Area are a mix of light industrial, residential, mixed commercial and residential, and community facility uses.

Located to the north and northeast of the Proposed Project Area, within the M1-2, R6, R6/C2-2, and R6/C2-4 zoning districts, are one- to three-story industrial buildings, two- to seven-story, one, two- and multi-family residential buildings, two- to six-story mixed-use commercial and residential buildings, and one- to six-story community facility buildings. The existing multi-family housing located within the M1-2 zoning district are legal non-conforming uses which pre-date the 1961 zoning resolution and are surrounded by light industrial uses on all sides.

Located east and southeast of the Proposed Project Area, within the R7-1, R7-1/C1-5, R7A/C2-4, and M1-2/R6A (MX-4) zoning districts, are four- to eight-story, one, two- and multi-family residential buildings, two- to seven-story mixed-use commercial and residential buildings, three- to five-story commercial buildings, one- to five-story community facility buildings, and scattered vacant land.

Located to the south of the Proposed Project Area, within the M1-2 zoning district, are one- to three-story industrial buildings, three- to five-story one, two- and multi-family residential buildings, and two- to three-story community facility buildings.

The BQE is located directly west of the Proposed Project Area. Further west is the Brooklyn Navy Yard located within the M3-1 zoning district.

Parks
Classon Playground is located one block north of the Proposed Project Area.

Public Transportation
The Proposed Project Area is located within the Transit Zone and is well-served by public transportation. The B48, B57 and B62 bus lines are all located within one block of the Proposed Project Area. The Flushing Avenue subway station serving the G train is located approximately 5 blocks west of the Proposed Project Area.

## 4. DESCRIPTION OF THE PROPOSED PROJECT AREA

The Proposed Project Area is located in the Williamsburg neighborhood within Brooklyn Community District 1. The Proposed Project Area is bounded by Classon Avenue (56-foot wide) to the west, Flushing Avenue (70-foot wide) to the south, and Kent Avenue (60-foot wide) to the east. The Proposed Project Area consists of 347 Flushing Avenue and 760-768 Kent Avenue, Block 2260, Lot 35 and Condo Lot 7501 (Former Lots 125, 126, 127, 128 and 129). The Proposed Project Area is zoned M1-2, a low-density, light industrial district with a maximum permitted FAR of 2.0 for commercial and industrial uses, and 4.8 for community facility uses.

347 Flushing Avenue (Block 2260, Lot 35) is an approximately 29,345-square foot lot, with approximately 110 feet of frontage on Classon Avenue and approximately 323 feet of frontage on Flushing Avenue. Lot 35 improved with an as-of-right eight-story plus cellar and sub-cellar, mixed-use commercial, community facility and warehouse building with a total floor area of approximately 140,625 SF/4.79 FAR.

760-768 Kent Avenue (Block 2260, Lot 1099) is an approximately 8,792-square foot lot, with approximately 88 feet of frontage on Flushing Avenue and 100 feet of frontage on Kent Avenue, improved with five six-story residential buildings with a total of 30 dwelling units permitted by BSA variance (BSA Cal. Nos. 113-00-BZ-117-00-BZ) built in 2004.

## 5. DESCRIPTION OF PROPOSED DEVELOPMENT SITE

The Proposed Development Site is 347 Flushing Avenue (Block 2260, Lot 35) a single zoning lot with approximately 29,345 square feet of lot area, with approximately 110 feet of frontage on Classon Avenue and approximately 323 feet of frontage on Flushing Avenue.

An as-of-right eight-story plus cellar and sub-cellar, mixed-use commercial, community facility and warehouse building with a total floor area of approximately 140,625 square feet/4.79 FAR building has been constructed at the Proposed Development Site and was issued a CO on June 12, 2023 (CO No. 3428557-0000003). The existing building requires a total of 313 parking spaces, which are provided in the sub-cellar and on the first floor with attended parking and the use of 140 stackers. The existing uses consist of commercial supermarket and retail (cellar, second and third floors), commercial office (second, third and eighth floors), community facility ambulatory diagnostic or treatment health care facility (fourth, sixth, seventh and eighth floors) and warehouse uses (fifth and sixth floors).

## 6. DESCRIPTION OF THE PROPOSED DEVELOPMENT

The Proposed Development at the Proposed Development Site is within the same building envelope as is currently constructed as-of-right, with interior modifications and a reduced parking requirement. The applicant proposes to amend the plans at DOB for the existing building to reflect an eight-story plus cellar and sub-cellar, mixed-use commercial and community facility building with a total floor area of approximately 163,310 square feet/5.57 FAR. The proposed FAR is greater than the FAR of the as-of-right building since the first floor would be converted from required parking to commercial space. The proposed building will consist of a total of approximately 25,783 square feet of community facility ambulatory diagnostic or treatment health care facility on the fourth floor, and a total of approximately 137,527 square feet of commercial use (supermarket, retail and offices) on all other floors. The proposed building would not require any parking; however, the applicant proposes 86 voluntary attended parking spaces in the sub-cellar without the need for any stackers which will be accessed by a curb cut on Classon Avenue.

## 7. ACTIONS NECESSARY TO FACILITATE THE PROPOSAL

The actions necessary to facilitate the Proposed Development at the Proposed Development Site are: (1) a zoning map amendment to rezone the Proposed Project Area from an M1-2 zoning district to M1-5 and R7-1/C2-4 zoning districts; and (2) a zoning text amendment to amend ZR Appendix F: Inclusionary Housing Designated Areas and Mandatory Inclusionary Housing Areas for Brooklyn Community District 1 to establish the R7-1C2-4 area as an MIH Designated Area.

<u>Rationale for the Zoning Map Amendment to M1-5 and R7-1/C2-4 at the Proposed Project Area</u>
The Proposed Project Area has been zoned M1-2 since 1961. The proposed rezoning from the existing M1-2 zoning district to the proposed M1-5 zoning district is appropriate as the current M1-2 zoning district is unsuitable for the Proposed Project Area which is located within the Transit Zone. The proposed rezoning from the existing M1-2 zoning district to the proposed M1-5 district would result in a change to the accessory off-street parking requirement applicable to uses at the Proposed Development Site. The parking requirements of the M1-2 zoning district, which vary by use but generally require 1 space per 300 square feet, were designed to accommodate auto-centric uses. The proposed M1-5 zoning district and its lack of a parking requirement is appropriate for the walkable, transit-oriented character of the surrounding neighborhood. The proposed rezoning will facilitate a lower parking requirement within the same eight-story envelope which is currently constructed.

Further, the proposed rezoning from the existing M1-2 zoning district to the proposed M1-5 zoning district would allow for a different mix of uses with a greater amount of commercial floor area. While the M1-2 zoning district only permits a maximum FAR 2.0 for commercial uses and 4.8 for community facility uses, the M1-5 zoning district permits a maximum FAR of 5.0 for commercial uses and 6.5 for community facility uses. This will allow additional commercial floor area within the Proposed Development to meet the needs of the community. Importantly, while the Proposed Development will provide 86 parking spaces in the sub-cellar, the floor area on the first floor will now better serve the community as commercial space as opposed to required parking space.

The proposed rezoning from the existing M1-2 zoning district to the proposed R7-1/C2-4 zoning district will legalize the legal non-conforming residential use permitted by BSA variance (113-00-BZ-117-00-BZ) located at 760-768 Kent Avenue (Lot 7501).

Rationale for the ZR Appendix F Text Map Amendment to map an MIH Designated Area at the Proposed Project Area

The shortage of affordable housing and housing in general has been highlighted by the current administration as an urgent issue that needs addressing. The administration has released Housing New York, A Five-Borough, Ten-Year Housing Plan, which calls for the production and preservation of 200,000 affordable housing units within a decade. The proposed affordable housing set-asides would ensure that any residential redevelopment within the Proposed Project Area would address the critical need for new affordable housing in Brooklyn Community District 1. The proposed MIH Area would address the City's Housing New York: A Five-Borough, Ten-Year Plan goals by increasing affordable housing to help ensure the community remains economically diverse in the face of increasing pressure for market-rate development.

The proposed a zoning text amendment to Zoning Resolution ("ZR") Appendix F: Inclusionary Housing Designated Areas and Mandatory Inclusionary Housing Areas for Brooklyn Community District 1 would designate Condo Lot 1099 as a Mandatory Inclusionary Housing ("MIH") Designated Area. The Applicant proposes mapping both Option 1 and Option 2 to provide maximum flexibility for this non-applicant-controlled site. Option 1 requires 25% of residential floor area to be set aside for affordable housing units for residents with incomes averaging 60% AMI, with a minimum of 10% of housing to be affordable at 40% AMI. Option 2 requires 30% of residential floor area to be set aside for affordable housing units for residents with incomes averaging 80% AMI. Although there is currently existing residential use on Lot 1099, the proposed zoning text amendment will allow for affordable housing set asides to address the need for housing to serve a broad range of the City's diverse incomes should there be any future residential redevelopment. The proposed zoning text amendment is also consistent with DCP policy to map MIH when land use actions facilitate a major increase in residential capacity.

## 8. CONCLUSION

The Applicant proposes a zoning map amendment to rezone the Proposed Project Area from an M1-2 zoning district to M1-5 and R7-1/C2-4 zoning districts. The proposed rezoning will facilitate the conversion of the existing eight-story plus cellar and sub-cellar, mixed-use commercial, community facility and manufacturing building to an eight-story plus cellar and sub-cellar mixed-use commercial and community facility building at the Proposed Development Site with a lower parking requirement than is required within the existing M1-2 zoning district. The proposed rezoning will also bring the existing residential buildings within the Proposed Project Area into conformance. The applicant also proposes a zoning text amendment to amend ZR Appendix F: Inclusionary Housing Designated Areas and Mandatory Inclusionary Housing Areas for Brooklyn Community District 1, to establish Lot 7501 as an MIH Designated Area. Although there is currently existing residential use on Lot 7501, the proposed zoning text amendment will allow for affordable housing set asides to address the need for housing to serve a broad range of the City's diverse incomes should there be any future residential redevelopment. Together, these actions are consistent with the City's goals of strengthening neighborhoods, expanding housing, including affordable housing, and encouraging employment within transit accessible areas while respecting the character of the surrounding community.