9114 5TH AVENUE REZONING
MAY 10, 2019

1. INTRODUCTION

BayRide Realty LLC (the "Applicant"), proposes a zoning map amendment to rezone 9108 – 9128 5th Avenue and 405 – 419 92nd Street, Block 6087, Lots 23, 26, 27, 28, 29, 129, 30, 31, 32, 33, 34, and p/o 1 (the "Proposed Project Area"), in the Bay Ridge neighborhood of Brooklyn Community District 10, from a C8-2 zoning district in the Special Bay Ridge District ("SBRD") to an R7A/C2-4 zoning district. The proposed zoning map amendment will facilitate the development of 9114 5th Avenue (Block 6087, Lots 23 and 31) (the "Proposed Development Site") with a new 9-story plus cellar mixed-use building with approximately 50 dwelling units and a 1-story commercial building (the "Proposed Development").

The Applicant also proposes a text amendment to Zoning Resolution ("ZR") Appendix F: Inclusionary Housing Designated Areas and Mandatory Inclusionary Housing ("MIH") Areas for Brooklyn Community District 10, to establish the Proposed Project Area as a MIH Designated Area. The Applicant proposes mapping Options 1 and 2 to provide maximum flexibility. 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. The proposed zoning text map amendment will facilitate the development of affordable housing units within the Proposed Development at the Proposed Development Site. The Proposed Development will either provide twelve affordable housing units (25%) pursuant to Option 1 of the MIH program or fifteen affordable housing units (30%) pursuant to Option 2 of the MIH program. The applicant will seek additional input from Brooklyn Community Board 10 and Council Member Justin Brannan regarding the level of affordability for the Proposed Development.

2. BACKGROUND

The Bay Ridge Rezoning (N 050133 ZRK and C 050134A ZMK), approved by the City Planning Commission ("CPC") on March 2, 2005, and adopted by the City Council on March 28, 2005, rezoned approximately 249 blocks within the Special Bay Ridge District. The rezoning mapped contextual zoning districts that closely matched existing built conditions. The Proposed Project Area was rezoned from a C8-1 zoning district to a C8-2 zoning district.

The Applicant currently has plans filed at the Department of Buildings to construct an as-of-right hotel at the Department of Buildings under Job No. 320911448.

3. DESCRIPTION OF THE SURROUNDING AREA

Zoning
The area within a 600 foot radius of the Proposed Project Area (the "Surrounding Area") is zoned R5B, R6B/C2-3, R6A/C2-3, R4-1 and C8-2. Existing land uses within the surrounding area primarily consist of mixed commercial and residential uses along 4th and 5th Avenues.

R5B zoning districts are low density contextual residential districts mapped in neighborhoods characterized by three-story rowhouses. The district allows for all types of residences in all building types – detached, semi-detached, attached, and zero lot line residences. Buildings in these districts may have a maximum lot coverage of 55%, a maximum floor area ratio ("FAR") of 1.35, and a maximum street wall and building height of 30 and 33 feet, respectively. Variables such as lot area, lot width, side, and front and side yard requirements differ depending on if the building is a multi-family or a single- and two-family building. For standard buildings, a minimum of 66% of dwelling units ("DU") must be provided for parking; whereas 42.5% must be provided for buildings with income-restricted housing units.

R6A zoning districts are medium density contextual residential districts which were designed to produce Quality Housing buildings that are seven or eight stories tall. These districts are often, but

not exclusively, mapped along wide streets. Any new buildings constructed in this district must be Quality Housing buildings, and building heights generally range from four to five stories in height. For Quality Housing buildings, the maximum FAR is 2.20, a maximum base height of 45 feet and maximum building height of 55 feet (with qualifying ground floor) is allowed, and parking is required for 25% of DUs. For basic buildings, the maximum FAR is 2.00, a maximum base height of 30 feet and maximum building height of 50 is allowed, and parking is required for 50% of DUs.

R6B zoning districts are medium density contextual residential districts which were designed to reflect the character and scale of old rowhouse neighborhoods, as seen in Brooklyn neighborhoods with brownstone buildings. These districts are often, but not exclusively, mapped along narrow streets. Any new buildings constructed in this district must be Quality Housing buildings, and building heights generally range from four to five stories in height. For Quality Housing buildings, the maximum FAR is 2.20, a maximum base height of 45 feet and maximum building height of 55 feet (with qualifying ground floor) is allowed, and parking is required for 25% of DUs. For basic buildings, the maximum FAR is 2.00, a maximum base height of 30 feet and maximum building height of 50 is allowed, and parking is required for 50% of DUs.

R4-1 zoning districts are contextual residential districts which permit only one- and two-family detached and semi-detached houses. Within an R4-1 district, the maximum FAR is 0.75 plus an attic allowance, the maximum street wall height is 25 feet and the maximum building height is 30 feet. Two side yards that total eight feet must be provided for a detached residence. There is no minimum width for each side yard but there must be eight feet between buildings on adjacent zoning lots. One four foot side yard is required for each semi-detached residence, which must be on a lot at least 18 feet wide. Zero lot line buildings, permitted in R4-1 districts, require only one eight foot side yard. Front yards must be at least 10 feet deep and at least as deep as an adjacent front yard, but need not exceed a depth of 20 feet. One off-street parking space is required per dwelling unit.

C2-3 districts are commercial overlay districts mapped within residence districts along streets that serve local retail needs. Typical retail uses 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 R1 through R5 districts, the maximum commercial FAR is 1.0; when mapped in R6 through R10 districts, the maximum commercial FAR is 2.0.

C8-2 zoning districts bridge commercial and manufacturing uses and provide heavy commercial and automotive uses that often require large amounts of land. Typical uses are automobile showrooms, repair shops, warehouses, gas stations, and car washes. Residential uses are not permitted and performance standards are imposed for some semi-industrial uses. C8 zoning districts are generally mapped along major traffic arteries. The maximum commercial floor area is a 2.0 FAR. Off-street parking requirements vary with use and those uses in PRC-B require one spot per 400 square feet.

Special District

The Special Bay Ridge Special District was designed to: (a) preserve the existing scale and character of the residential and commercial community, (b) encourage design of residential, commercial, and community facility development which is in character with the neighborhood and surrounding community; and (c) promote the most desirable land use in the area and to conserve the value of land and buildings. The SBRD provides special bulk regulations relating to maximum FAR, and height and setback regulations. These regulations apply to C8-2 zoning districts and lower residential districts, including R4A, R4-1, R4B and R5B zoning districts.

For C8-2 districts in the SBRD, the maximum Commercial FAR is 2.0 and Community Facility FAR is 3.0 (non-SBRD C8-2 districts permits 4.8 for CF). There are also height and setback limits for Community Facility development, to a maximum height of 70 feet, setback at 60 feet (non-SBRD use Sky Exposure Plane to regulate height and setback). In addition, special rooftop regulations (permitted obstructions) apply to all buildings in R6A, R6B, R7A, R7B, C4-2A, and C8-2 zoning districts.

Land Uses

Community District 10 is generally bounded by 62nd Street to the north, 14th Avenue to the east and the Belt Parkway to the south and to the west. The Surrounding Area's built form reflects a range of uses including commercial buildings, mixed residential and commercial buildings residential buildings, public facilities and institutions, industrial and manufacturing, and transportation and utility, as well as parking facilities scattered throughout.

The residential buildings are typically one- to three-story one- and two-family buildings, and two- to six-story multi-family walk-up and elevator buildings. Residential buildings are generally located east and west of the Project Area, with frontages along Gelston Avenue, Fort Hamilton Parkway, and between 90th – 94th streets, west of 4th Avenue.

The commercial and office buildings and the mixed-use residential and commercial buildings in the Surrounding Area generally have frontages along 4th Avenue and 5th Avenues; these buildings are characterized by one- to seven-story buildings. Lower density two- to four-story mixed residential and commercial buildings are located east of the Project Area, along 92nd Street. Both 4th Avenue and 5th Avenue serve as principal retail and transit corridors for the Surrounding Area.

The Surrounding Area also contains community facility uses. The Form Hamilton School PS/IS 104 is located just across the street from the Project Area, at the corner of 5th Avenue and 92nd Street, The New York City Fire Department Engine 242 building is located just south of 5th Avenue along 92nd Street and Bethel Presbyterian Reformed Church is located on 94th Street, just west of 4th Avenue.

The subject block, Block 6087, contains various uses: commercial and office, mixed residential and commercial, residential, industrial and manufacturing, and auto-related and parking uses.

Mass Transit

The Surrounding Area is accessible by mass transit, including bus and subway service. The 95th Street subway stop servicing the R line is located two blocks south of the Proposed Project Area. The B63 bus stop (Bay Ridge to Cobble Hill) travels along 5th Avenue and the northbound stop is located directly across the street from the Proposed Development Site. B8 (Dyker Heights to East Flatbush) travels along 4th Avenue and is located within the Proposed Project Area. The S53 (Port Richmond – Bay Ridge) and S93 (College of Staten Island – Bay Ridge) also stop within the Proposed Project Area on 4th Avenue.

4. DESCRIPTION OF THE PROPOSED PROJECT AREA

The Proposed Project Area includes 9114, 9118, 9122, 9126, and 9128 5th Avenue, 405-419 92nd Street, and 9111 4th Avenue, Block 6087, Lots 23, 26, 27, 28, 29, 129, 30, 31, 32, 33, 34, and p/o 1, in the Bay Ridge neighborhood of Brooklyn Community District 10. The Proposed Project Area is zoned C8-2.

9114 5th Avenue (Lot 23)[1] is owned by the applicant and is an open parking lot.

9118 5th Avenue (Lot 26) is improved with a three-story, approximately 4,432 square foot mixed-use building with an attorney's office on the ground floor and residences on the upper floors.

9122 5th Avenue (Lot 27) is improved with a three-story, approximately 3,000 square foot mixed-use building with a tire shop on the ground floor and residences on the upper floors.

9126 5th Avenue (Lot 28) is improved with a three-story, approximately 3,000 square foot mixed-use building with ground floor retail and residences on the upper floors.

9128 5th Avenue (Lot 29) is improved with a three-story, approximately 3,096 square foot mixed-use building with a ground floor eating and drinking establishment and residential units on the upper floors.

[1] In 2018, the former Tax Lots 23 and 25 were merged into the current Lot 23, effective August 2, 2018.

419 92nd Street (Lot 129) is improved with a three-story, approximately 2,776 square foot mixed-use with a ground floor laundromat and residential uses on the upper floors.

415 92nd Street (Lot 30) is improved with a three-story, approximately 3,978 square foot, multi-family residential building.

411 92nd Street (Lot 31), is owned by the applicant and is an open used cars lot.

409 92nd Street (Lot 32) is improved with a two-story, approximately 1,760 square foot residential building.

407 92nd Street (Lot 33) is improved with a two-story, approximately 1,760 square foot, residential building.

405 92nd Street (Lot 34) is improved with a two-story, approximately 2,240 square foot, mixed-use building with ground floor commercial use and residential use on the second floor.

9111 4th Avenue p/o Lot 1 – a small portion of a lot with an existing gas station.

5. DESCRIPTION OF THE PROPOSED DEVELOPMENT SITE

The Proposed Development Site consists of 9114 5th Avenue (Block 6087, Lot 23) and 411 92nd Street (Block 6087, Lot 31). The Proposed Development Site has approximately 27 feet of frontage along 92nd street and approximately 65 feet of frontage along 5th Avenue. Lot 23 is currently vacant. Lot 31 is used as an open used car sales lot. The zoning lot has a combined 9,851 square feet of lot area.

6. DESCRIPTION OF THE PROPOSED DEVELOPMENT

The proposed rezoning will facilitate the development of a new 9-story plus cellar, mixed use commercial and residential building with approximately 45,238 square feet of zoning floor area and an FAR of 4.59 at the Proposed Development Site. The Proposed Development will consist of 9,300 square feet of commercial space, and 35,938 square feet of residential floor area with a total of 50 dwelling units on floors two through nine. The Proposed Development will rise to a total height of 95 feet. The commercial space will be accessed along 92nd Street while the residential units will be accessed along 5th Avenue. No parking will be provided on site, as residential parking is waived pursuant to ZR § 36-341 and commercial/retail parking waived pursuant to § 36-232.

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 a C8-2 zoning district to an R7-A/C2-4 zoning district in the Special Bay Ridge District. The proposed zoning map amendment would be generally bounded by the 5th Avenue blockfront between 91st Street and 92nd Street and properties on 92nd street approximately 22 feet east of 4th Avenue and (2) a zoning text amendment to establish the rezoning area as a MIH Designated Area. Both Options 1 and 2 will be mapped for maximum flexibility.

a. Rationale for the Zoning Map Amendment from C8-2 to R7A/C2-4 within the Special Bay Ridge District at the Proposed Project Area.

The existing C8-2 zoning district permits heavy commercial uses and manufacturing uses. Residential uses are prohibited. R7A zoning districts are contextual residential zoning districts which mandate compliance with Quality Housing regulations and typically produce high lot coverage apartment buildings with a maximum permitted FAR of 4.6 with inclusionary housing. C2-4 zoning districts are commercial overlay districts mapped within residential districts. When mapped in R6 through R10 districts, the maximum commercial FAR is 2.0.

The proposed zoning map amendment will render conforming the existing residential buildings within the Proposed Project Area. As currently occupied, the Proposed Project Area is a mix of non-conforming residential uses and substantially underused commercial property. The proposed

zoning map amendment would bring all existing non-conforming residential uses located within the Proposed Project Area into conformance. Currently, the only conforming uses within the Proposed Project Area are located on the Proposed Development Site and p/o Lot 1, a gas station. The proposed rezoning would help reknit the urban fabric in the area and better integrate it within the predominantly residential portions of the Bay Ridge neighborhood surrounding the C8-2 zoning district.

The proposed R7A zoning district is reflective of the built land use within the Surrounding Area. Directly across 5th Avenue from the Proposed Project Area at 9021 5th Avenue (Block 6088, Lot 1) is an approximately 89,838 square foot, four-story (70' tall) school building. Across 92nd Street at 9201 4th Avenue (Block 6102, Lot 22), is an approximately 79,173 square foot, seven-story (72' tall) commercial building. Across 4th Avenue are numerous six-story mixed commercial and residential buildings each approximately 68' feet in height.

Additionally, the C2-4 commercial overlay will permit a wide range of retail and service uses to serve the larger residential community, and is also consistent with the character of the Surrounding Area as there are C2 commercial overlay districts mapped along the block fronts on 4th and 5th Avenues. The proposed rezoning will allow for a more active use of the Proposed Development Site and will create a residential anchor for the community with supporting retail in an area that is within a 10-minute walking distance of the 95th Street R train stop.

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

The proposed text amendment of ZR Appendix F is necessary to establish an MIH Area, which would require new developments to set aside 25-30 percent of the residential floor area for affordable housing. MIH Option 1 requires an affordable housing set aside of 25 percent of the residential floor area at an average of 60 percent of AMI with 10 percent at 40 percent AMI. MIH Option 2 requires an affordable housing set aside of 30 percent of the residential floor area at an average of 80 percent AMI. The Applicant proposes mapping both MIH Option 1 and Option 2 within the Project Area to provide maximum flexibility for non-Applicant controlled sites. The proposed affordable housing set asides would ensure that development within the Project Area would address the critical need for new affordable housing in Brooklyn. 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

Furthermore, new affordable housing is needed in Brooklyn Community District 10 where nearly forty percent of the households are rent burdened. According to the U.S. Census Bureau, American Community Survey 2012-2016 Five Year Estimates for Public Use Microdata Samples, 38.9% of households spent more than 35% of their income on rent. According to the Furman Center's State of New York City's Housing and Neighborhoods in 2016, median monthly rent in Community District 10 has risen from $1,120 in 2000 to $1,470 ($2000 asking price) in 2016.[2] Additionally, the median sales price per unit almost doubled from $244,600 in 2000 to $563,960 in 2017. *Id.*

8. CONCLUSION

As discussed above, BayRide Realty LLC proposes a zoning map amendment to rezone the Proposed Project Area in the Bay Ridge neighborhood of Brooklyn Community District 10, from a C8-2 zoning district to an R7A/C2-4 zoning district to allow the construction of a mixed-use building located at the Proposed Development Site. The proposed zoning map amendment will allow residential uses and will rectify the non-conforming status of Lots 23, 26, 27, 28, 29, 129, 30, 32, 33, and 34.

[2] *See* New York University Furman Center, *State of New York City's Housing and Neighborhoods in 2017, available at* http://furmancenter.org/files/sotc/SOC_2017_Full_2018-08-01.pdf