2080 McDonald Avenue Rezoning

October 2020

1. Introduction

JACKSON EX 2 AVENUE S, LLC (the "Applicant"), seeks a zoning map amendment and zoning text amendment. The proposed zoning map amendment would affect four properties on two separate blocks (Block 6680, Lots 39 and 42 & Block 7087, Lots 1 and 5; the "Project Area") at the intersection of Avenue S and McDonald Avenue in the Bensonhurst East area of Brooklyn Community District 11. The proposed zoning map amendment would rezone the Project Area from an M1-1 and R5B district to a C4-4L district. In addition, a zoning text amendment would be required (hereafter, the "Proposed Actions") to amend Appendix F (Inclusionary Housing Designated Areas) of the Zoning Resolution of the City of New York ("ZR") to establish the Project Area as a Mandatory Inclusionary Housing Area ("MIH").

The Proposed Actions would facilitate the redevelopment of Block 6680, Lots 39 and 42 (the "Development Site") with a 120,625 square foot (4.6 FAR), eight-story and cellar mixed use building ("the Proposed Development"). The total building would consist of 97,889 square feet of residential floor area, 18,783 square feet of commercial floor area and 3,953 square feet of community facility floor area. There would be 63 dwelling units, 19 of which would be affordable through MIH (Option 2 or 30 percent). The ground floor would contain commercial retail (Use Group 6) and day care uses (Use Group 4) and the cellar level would provide 67 residential accessory off-street parking spaces.

2. Background

The Development Site was zoned M1-1 at the inception of the 1961 Zoning Resolution. Subsequently in 1971 the western half of Block 6680 (including portions of the Development Site) was amended from M1-1 to R5, for the area fronting Lake Street (CP-21401). Subsequently the same area was rezoned from R5 to R5B in 2005 as part of the Bensonhurst Rezoning (discussed below).

The area to the west of the Project Area was rezoned in 2005 as part of the Bensonhurst Rezoning (C 050296 ZMK), which aimed to encourage higher density residential development along certain arterial thoroughfares, such as Avenue P, Quentin Road and Kings Highway where R7A districts were mapped. Between these corridors, mid-density contextual zoning districts were created from previous R6 districts, such as R4-1, R4A and R5B districts. Arterial and commercial thoroughfares were rezoned to R6A, R6B and R7A districts with commercial overlays such as C2-2 and C2-3 districts.

In March 2002, the Board of Standards and Appeals ("BSA") granted a variance and special permit (279-09-BZ) to permit a school at 2106 McDonald Avenue (Block 7087: Lots 14, 22, 24, 73 and 76). The school, located in a split M1-1/R5 zoning district, exceeded the permitted floor area ratio, lot coverage side, front yard, rear yard, front setback and height requirements.

In January 2008, the BSA granted a special permit (202-07-BZ) to permit a religious pre-school at 2160 McDonald Avenue (Block 7087, Lot 34), a use not permitted as-of-right in an M1-1 district.

There are no other relevant approved land use actions in the last ten years within 1,000 feet of the proposed Project Area.

3. Description of the Surrounding Area

The surrounding area is predominantly residential in nature, with the exception of McDonald Avenue which contains commercial and community facility uses. The surrounding area is traversed by an elevated train line, the New York City Transit (NYCT) "F Train" which runs north to south along McDonald Avenue. A public park, the McDonald Playground, is located southeast of the Project Area, across McDonald Avenue between Avenues S and T.

The building typology is mixed with one and two-family homes and multi-family elevator buildings both prevalent in the surrounding area. Notable community facility buildings in the area include the Magen David Yeshiva elementary school and synagogue (Block 7087, Lot 76) which is located directly south of the Development Site on McDonald Avenue between Avenues S and T. To the east on Avenue S and East 3rd Street is P.S. 215 (Morris H. Weiss School). The David Boody Jr. High School is located three blocks to the west at Avenue S and West 4th Street and the Church of Saints Simon & Jude is located one block to the southeast on the corner of Avenue T and Lake Street.

The area directly to the east of the Development Site is located in the Special Ocean Parkway District. The Special District consists primarily of lower density residential districts with commercial districts along its eastern boundary. In general, the goal of the Special District is to limit the bulk of permitted community facility buildings and to protect the residential character of Ocean Parkway and the residential blocks radiating to the east and west of the roadway.

The Development Site is currently in an M1-1/R5B district. M1-1 is mapped along much of McDonald Avenue while R5B is mapped along Lake Street directly to the west of the Development Site.

M1-1 districts typically include light industrial uses and permit offices, hotels and most retail uses at a maximum FAR of 1.0. No front yards and side yards are required unless the side yard is along a district boundary. Rear yards of 20 feet are usually required, except within 100 feet of a corner. Parking is required based on the use and size of the establishment. Loading berths could be required as well depending on size and type of use.

R5B contextual zoning districts are residential districts that primarily consist of three-story row houses. They permit detached and semi-detached buildings. The R5B district allows a maximum FAR of 1.35 for residential use and the maximum allowable lot coverage is 55 percent. The maximum height is 33 feet and parking is required for approximately 66 percent of dwelling units.

An R4 district is mapped directly east of the Development Site, east of McDonald Avenue. R4 districts allow all residential developments at a maximum FAR of 0.75. This FAR plus an attic allowance of up to 20 percent for inclusion of space under a pitched roof usually produces buildings with three stories. Front yards of 10 feet and rear yards of 30 feet are required, with side yards of at least five feet. The maximum building height is 35 feet and one parking space is required per dwelling unit.

The area directly to the west of the R5B district along Lake Street is an R4-1 district. R4-1 districts permit contextual one and two-family detached and semi-detached houses at a maximum FAR of 0.75 with an attic allowance of 20 percent. Front yards of 10 feet and rear yards of 30 feet are required, with side yards of at least 4 feet. The maximum building height is 35 feet and one parking space is required per dwelling unit.

Higher density R6A and R7A residential districts are mapped along Avenue U to the south and Kings Highway to the north. R6A districts are contextual districts with a maximum residential FAR of 3.0 (3.6 with MIH). Quality Housing regulations are mandatory in these districts. Above a maximum base height of 60 feet, the building must set back by at least 10 feet on a wide street and 15 feet on a narrow street before rising to a maximum height of 70 feet or 75 feet (80 or 85 feet with MIH) if it provides a qualifying ground floor. Off-street parking is required for 50 percent of a building's dwelling units and is waived if five or fewer spaces are required.

R7A districts are contextual districts with a maximum FAR of 4.0 (4.6 with MIH). Above a base height of 40 to 65 feet, or 75 feet if providing a qualifying ground floor, the building must set back at a depth of 10 feet along a wide street and 15 feet along a narrow street before rising to a maximum height of 80 feet or 85 feet (90 or 95 feet with MIH) if providing a qualifying ground floor. Off-street parking is generally required for 50 percent of the building's dwelling units and is reduced or waived entirely for affordable units.

C2-3 commercial overlay districts are mapped along Kings Highway to the north and Avenue U to the south. These streets are the main commercial thoroughfares in the surrounding area. C2 districts allow for a wide variety of commercial uses (Use Groups 5-9 and 14). Within lower density residential zoning districts (R1 through R5) the maximum commercial FAR is 1.0, whereas when mapped in higher density residential districts (R6 through R10) the maximum commercial FAR is 2.0. Parking requirements vary by use.

Brooklyn Community Board 11 is located in a FRESH area and qualifies for tax incentives to provide a qualified FRESH use.

The immediate area is well served by public transit and is located in the Transit Zone. As noted above, an NYCT train line runs above McDonald Avenue with an F train stop one block north of the Development Site at the intersection of Kings Highway and McDonald Avenue (although stairs to the train can be accessed right next to the Development Site on McDonald Avenue). The F train provides service to Coney Island and Jamaica, Queens via Manhattan. Additionally, the B82 NYCT bus runs east to west along Kings Highway with a stop at McDonald Avenue and provides service between Coney Island and Spring Creek. The B3 runs a few blocks south along Avenue U and provides service from Bensonhurst to Bergen Beach.

4. Description of the Proposed Project Area

The Proposed Project Area consists of the Development Site and two (2) additional properties: Block 7087, Lots 1 and 5.

Block 7087, Lot 1 (121 Lake Street) is an L shaped lot with 51.58 feet of frontage on Avenue S; 85 feet of frontage on McDonald Avenue and 160.15 feet of frontage on Lake Street. The property is developed with a two-story community facility building with 8,778 square feet of floor area (0.51 FAR) where 2.0 FAR is permitted for community facility uses in the underlying R5B zoning district and 2.4 FAR is permitted for certain community facility uses (Use Group 4) in the M1-1 zoning district. This building was constructed in approximately 1991.

Block 7087, Lot 5 (2086 McDonald Avenue) is a corner lot with 103.2 feet of frontage on Avenue S and 81.83 feet of frontage on McDonald for a total lot area of approximately 7,949 square feet.

The property is utilized for utility uses and is improved with a single-story 619-square foot concrete structure that was constructed in 2014 (0.08 FAR). As of November 2019, the use was still active.

5. Description of Proposed Development Site

The Development Site consists of two properties on a single block (Block 6680, Lots 39 and 42) in the Gravesend area of Brooklyn Community District #11. The Development Site contains frontage along three streets: approximately 169 feet along McDonald Avenue; approximately 154 feet along Avenue S; and approximately 206 feet along Lake Street. McDonald Avenue is classified as a wide street with 100 feet in width, while Avenue S is a wide street with 80 feet in width.

Block 6680, Lot 39 (2074 McDonald Avenue) is an irregular-shaped through lot with approximately 102 feet of frontage along both McDonald Avenue and Lake Street. The property is developed with a two-story commercial building with approximately 13,280 square feet of floor area (approximately 1.24 FAR) where 1.35 FAR is permitted as-of-right for residential uses by the underlying R5B zoning district and 1.0 is permitted for commercial uses in the M1-1 zoning district. This building was constructed in 1931, which renders the R5B portion legally nonconforming.

Block 6680, Lot 42 (2080 McDonald Avenue) is an irregular-shaped lot that is both a corner and a through lot with 107 feet of frontage along Lake Street; 154.8 feet of frontage along Avenue S and 66 feet of frontage along McDonald Avenue. The property is developed with a single-story community facility use with 7,500 square feet of floor area (approximately 0.5 FAR) where 2.0 FAR is permitted for community facility uses in the underlying R5B zoning district and 2.4 FAR is permitted for certain community facility uses (Use Group 4) in the M1-1 zoning district. This building was constructed in approximately 1931.

The Development Site has a lot area of 28,141 square feet. As the proposed district boundary line is not coterminous with the Development Site, approximately 1,628 square feet of Lot 39 will remain in an R5B district and 290 square feet of Lot 39 will remain in an M1-1 district but outside the Rezoning Area.

6. Description of Proposed Development

The Proposed Actions would facilitate the development of a 120,625 square foot (4.6 FAR), eight-story and cellar mixed use building ("the Proposed Development") on Block 6680, Lots 39 and 42 (the "Development Site"). The total building would consist of 97,889 square feet of residential floor area (3.73 FAR), 18,783 square feet of commercial floor area (approximately 0.66 FAR) and 3,953 square feet of community facility floor area (approximately 0.14 FAR). There would be 63 dwelling units, 19 of which would be permanently affordable. The ground floor would contain the proposed commercial use, which would consist of neighborhood retail (Use Group 6), such as a pharmacy, deli or restaurant. The proposed ground floor would also contain the proposed community facility use, which is currently proposed as daycare space (Use Group 4). The Proposed Development will have different building heights on different street frontages. Along Lake Street, the building will have a base height of 75 feet and rise to a total height of 85 feet after a 15-foot setback at the base height. Along McDonald Avenue, the first two floors of the building will be set back 5 feet from the street widening line, and then set back an additional 15 feet above the 5th floor to a maximum height of 85 feet. This is a requirement of the C4-4L district, as further outlined below. Along Avenue S, the building has a base height of 75' and rises to a total height of 85' after a setback.

It should be noted the proposed C4-4L district would occupy a majority of the Proposed Development, with a small triangular-portion of the proposed new building falling within the R5B district (approximately 32 feet of frontage along Lake Street). This area would be improved with a three-story residential townhome to be integrated into the overall Proposed Development, with access to the same amenities.

The development would provide 67 accessory off-street parking spaces at the cellar level, based on higher rates of car ownership in this area. The cellar would also provide bicycle racks for bicycle parking with a minimum of 33 spaces provided. One loading berth will be provided along Avenue S that would be 12 feet wide. The building will be accessible to cars from a single curb cut located along Lake Street (approximately 15 feet wide, including splays), wide enough for ingress/egress in each direction with a car elevator accessing the lower levels.

Recreational spaces would be provided at the roof level of four-story section fronting Lake Street and another area over the roof of the first story of the commercial use (in the court area). All of these recreational areas will include landscaping, planting, pavers for walking and fixed benches for seating areas. In addition, green rooftops will be provided on all rooftop areas, where no pavers or mechanical equipment are required. In total, new 9 street trees would be provided as a result of the Proposed Development, with 4 new street trees along Avenue S and 5 along Lake Street, to total 21 streets (including existing trees).

7. Actions Necessary to Facilitate the Project

The Proposed Actions consist of a Zoning Map Amendment and Zoning Text Amendment that are primarily intended to facilitate the Proposed Development. The Zoning Map Amendment would create a new C4-4L district on four (4) properties (Block 6680, Lots 39 and 42 & Block 7087, Lots 1 and 5) that are currently zoned R5B/M1-1. The proposed new district would be mapped at a depth of 170 feet from Avenue S to the north and a depth of 160 feet from Avenue S to the south.

The proposed zoning text amendment pursuant to Appendix F of the Zoning Resolution would make the Project Area applicable as a Mandatory Inclusionary Housing Area (MIH) and would be mapped as Options 1 or 2, pursuant to §123-154(d). All residential developments, enlargements, and conversions within this MIHA that meet the criteria set forth in the MIH program must comply with the requirements of one of the options described below:

- Option 1: 25 percent of residential floor area must be for affordable housing units for residents with incomes averaging 60 percent AMI, with a minimum of 10 percent of housing to be affordable at 40 percent AMI.
- Option 2: 30 percent of residential floor area must be for affordable housing units for residents with incomes averaging 80 percent AMI.

At this time, the Applicant proposes to utilize Option 2 and make 19 affordable housing units or approximately 30 percent of the proposed residential floor area permanently affordable to incomes averaging 80 percent AMI.

The proposed zoning map amendment would rezone the majority of the Development Site from M1-1 and R5B to C4-4L. The proposed new C4-4L district would facilitate a higher but appropriate density and permit residential use in a predominantly residential area. The proposed C4-4L district would facilitate much needed dwelling units, a portion of which would be affordable, a recognized local and citywide need. It also permits commercial retail and community facility uses and would facilitate new space for supporting neighborhood services. This would

include space for eating and drinking establishments, cafes, pharmacies or community-oriented services, such as daycare. . In addition to the above, the Proposed Development would provide new outdoor amenity space for residents and visitors. The Proposed Development would also provide 67 accessory parking spaces where 22 are currently required, to ensure adequate off-street parking is provided for building residents, in consultation with the Brooklyn Community Board 11. According to the most recent Census data, the East Bensonhurst and Homecrest communities exhibit higher vehicle ownership rates compared to the city as a whole, with approximately 42% of households owning one car (or more) compared to only 31% in the entire city. In addition, approximately 13% of residents in the neighborhood own two cars. As such, an additional level of off-street parking spaces are provided in the Proposed Development than required under the proposed zoning.

The zoning map amendment of the M1-1 portion of the lot to C4-4L will serve to increase the permitted commercial bulk from 1.0 to 4.0 FAR, permit commercial uses and change the permitted commercial Use Groups. The M1-1 district permits Use Groups 4-14, 16 and 17. The proposed C4-4L district permits Use Groups 1-6, 8-10 and 12. As such, uses in Use Groups 7, 11, 13, 14, 16 and 17 would no longer be permitted on the M1-1 portion of the lot.

The zoning map amendment of the R5B portion of the lot to C4-4L will increase the permitted residential and community facility bulk in the rezoning area from 1.35 to 4.0 FAR (4.6 with MIH) and will permit a greater range of Use Groups. The R5B district permits Use Groups 1-4. The proposed C4-4L district permits Use Groups 1-6, 8-10 and 12. As such, Use Group 5, 6, 8-10 and 12 will be permitted pursuant to the proposed zoning map amendment.

The C4-4L zoning district, which has an R7A residential district equivalent, allows for buildings up to 4.0 FAR (4.6 FAR with MIH) and generally yields seven to eight-story buildings. Maximum lot coverage is 65 percent for interior and through lots and 100 percent on corner lots. Above a base height of 40 to 75 feet, the building must set back to a depth of 10 feet on a wide street and 15 feet on a narrow street, before rising to a maximum of 95 feet or 9-stories (with MIH). It should be noted the district is intended for wide avenues with the presence of elevated rail right-of-way's, with one present on McDonald Avenue. As such, where rail lines are present, a setback of at least 15 feet is required at a height of at least 25 feet or two stories, whichever is lower, and at most 65 feet or six stories whichever is lower. Additionally, the maximum building height can be increased to 105 feet or 10 stories, whichever is less, for buildings with a qualifying ground floor. Parking is required for 50 percent of all dwelling units and parking requirements are reduced for affordable units outside the transit zone.

In terms of the proposed boundaries of the new C4-4L district, the district would be mapped at a depth of 170 feet from Avenue S to the north and a depth of 160 feet from Avenue S to the south. The dimensions of the proposed mixed-use district would be consistent with character of the surrounding area, with pre-existing non-residential uses present within this area. Moreover, lower-rise residential uses are present beyond 160-170 Street of Avenue S along Lake Street. As such, the proposed depths of 160 and 170 feet from Avenue S would prevent non-residential uses from further encroaching down Lake Street, thereby concentrating the proposed new mixed-use density along Avenue S and McDonald Avenue, both 'wide' roadways with pre-existing mixed-use character.

Based on the above, the proposed C4-4L district is appropriate for this area, which is located at the intersection of two wide streets (McDonald Avenue and Avenue S) in addition to the presence of a rail right-of-way, with the area in close proximity to transit. Moreover, the C4-4L district is the regional commercial equivalent of an R7A medium-density residential zoning district, with that district mapped one block to the north at Kings Highway, a roadway with similar width (80 feet) to Avenue S. This was the result of the Bensonhurst Rezoning, the intent of which was to promote development along arterial thoroughfares with contextual density and the proposed would

be consistent with that intent. Accordingly, the proposed new district would provide increased residential capacity (with affordable units) and a wide range of commercial service uses in a key location, in proximity to transit and a growing residential community.

8. Conclusion

The Proposed Actions would create a new C4-4L district at the intersection of two wide streets (Avenue S and McDonald Avenue). The proposed C4-4L district is appropriate for this area, as it intended for areas with the presence of a rail right-of-way, consistent with McDonald Avenue and the F train that runs overhead. Overall, the proposed C4-4L district under MIH would serve to permit a wide range of neighborhood and regional commercial uses in an existing mixed-use area, while increasing residential capacity to a level consistent with Kings Highway to the north, which would result in much needed new dwelling units, as well as required affordable units.