Project Description (LR Item-3)

Project ID: 2021K0393

73-99 Empire Boulevard Rezoning

March 2023

1. Introduction

The Applicant, Empire Boulevard Holdings LLC, seeks a zoning map amendment and zoning text amendment (the "Proposed Actions") to facilitate the development of a 13-story 274,166 zoning square foot (7.2 FAR) mixed-use building on Block 1306 Lot 28, (the "Project Area/Development Site") located in the Crown Heights section of Brooklyn Community District 9.

The Proposed Actions are as follows:

1. Zoning Map Amendment to rezone Block 1306 Lots 28 from C8-2, R6/C1-3 to C4-4D.

2. Zoning Text Amendment to amend Appendix F (Inclusionary Housing Designated Areas and Mandatory Inclusionary Housing Areas) of the Zoning Resolution of the City of New York to establish the proposed Project Area as a Mandatory Inclusionary Housing Area ("MIH").

The Proposed Actions would facilitate the development of a 13-story mixed use building containing 274,166 zoning square feet (7.2 FAR) and 384,429 gross square feet of floor area. The two cellar levels and first two floors above grade would contain 99,221 gross square feet of commercial uses and 209,806 zoning square feet of residential floor area on floors 1-13. 191 required accessory parking spaces would be provided in a sub-cellar for both residential and commercial users. The building would contain 261 total dwelling units, 30% of which would be permanently affordable pursuant to MIH Option 2, which mandates that at least 30% of the residential floor area be affordable to incomes averaging 80% of Area Median Income (AMI).

2. Background

The Development Site has been zoned C8-2, R6/C1-3 since 1961.

In September 2013, NYC Council adopted the Crown Heights West Rezoning (C 130213 ZMK) with its southern boundary along Eastern Parkway located six blocks north of the Proposed Development Site. The Rezoning rezoned an approximately 55-block area in the western portion of Crown Heights from non-contextual R6, C4-3 and R7-1 districts to medium density contextual and non-contextual residential districts including R5B, R6, R6B, R6A and R7A and R7D districts interspersed with C2-4 overlays along commercial thoroughfares. The Rezoning sought

to maintain the existing scale and character of the neighborhood, create incentives for the development of affordable housing and match commercial zoning to reflect the existing retail character.

In June 2014, NYC Council adopted the Empire Boulevard Rezoning (C 100202 ZMK) located approximately five blocks east of the proposed Development Site along Empire Boulevard. The Rezoning eliminated an existing C1-3 District from an existing R5 and R7-1 District and rezoned the Project Area from R5/C1-3 to R7A/C2-4 to facilitate the development of a 7-story mixed-use building containing a mix of commercial, community facility and residential uses.

In November 2017, NYC Council adopted the Bedford-Union Armory Rezoning (C 170416 ZMK), which rezoned an area located approximately five blocks northeast of the proposed Development Site along the eastern side of Bedford Avenue between Union Street and President Street from R6 to R7-2/C2-4. The Rezoning in part was meant to facilitate a mixed-use development comprised of three buildings containing a mix of commercial, community facility and residential uses totaling approximately 496,000 sf of floor area.

In December 2018, NYC Council adopted the Franklin Avenue Rezoning (C 180347 ZMK), which rezoned an area located approximately 1-2 blocks north of the Development Site along the western side of Franklin Avenue between Montgomery Street and the center line between President and Carroll Streets from R6A and R8A to R8X and R8X/C2-4. The Rezoning was meant to facilitate the development of two new 16-story towers containing a total of 518 dwelling units. The development sites were mapped with MIH Option 1 to facilitate the construction of permanently affordable housing. However, in December 2020, NYS Supreme Court struck down the rezoning approval maintaining that a thorough environmental review process was not conducted when certifying the rezoning. The City plans to appeal this Supreme Court decision.

In September 2021, City Planning Commission ("CPC") disapproved the 960 Franklin Avenue Rezoning application (C 200184 ZMK), which sought to rezone an area located one block northwest of the proposed Development Site from R6A to R9D/C2-4 and R9D. The Applicant sought to develop two 39-story mixed-use buildings containing a total of 1,578 dwelling units, 19,890 sf of commercial use and 9,087 sf of community facility space on the ground floors. 50% of the dwelling units were to be dedicated as affordable housing. However, CPC disapproved the application primarily because the proposed density was inappropriate at this location given the surrounding context and because the proposed towers would result in significant adverse shadow impacts on the conservatories and greenhouses of the nearby Brooklyn Botanic Garden.

In February 2009, NYC Board of Standards and Appeals ("BSA") granted a special permit (BSA Cal. No. 226-08-BZ) to legalize the vertical enlargement of an existing commercial building within the 30-foot rear yard required along a residential district boundary line that is coincident with a rear lot line, at 172 Empire Blvd, located one block east of the proposed Development Site.

In January 2010, BSA granted a special permit (BSA Cal. No. 218-09-BZ) pursuant to ZR Section 73-243 to allow an accessory drive-through facility to an eating and drinking establishment located at 57 Empire Blvd, immediately west of the Development Site.

There have been no other land use actions within 1,000 feet of the proposed Development Site within the past 15 years.

3. Description of the Surrounding Area

The surrounding area consists of a mix of residential uses at differing scales, community facility uses and commercial uses. Residential uses range from 1-2 family homes found primarily along narrow side streets and medium density multi-family apartment buildings including a new 12-story building located one block to the west along the northern side of Sullivan Place between Franklin and Washington Avenues. The surrounding area also contains two large-scale apartment complexes that are developed with towers that are significantly setback from the street including Ebbets Field Houses, which contains a cluster of seven, 25-story buildings located immediately north of the Development Site built in 1960 and the 33-story Tivoli Towers located approximately two blocks north of the Development Site built in 1973. Permits have also been issued under DOB Job Number B00620031 to construct a 7-story, 94-foot mixed-use building at 1730 Bedford Avenue located 240 feet east of the proposed Development Site, along the western side of Bedford Avenue between Empire Boulevard and Sullivan Place. As of March 2023, the existing building has been demolished and a construction fence has been installed around the perimeter of the site.

Commercial uses are predominately located along Franklin Avenue, a local retail and mixed-use corridor and Empire Boulevard, a service-based corridor characterized by 1-2 story commercial buildings. Notable commercial uses found near the Development Site along Empire Boulevard include *Western Beef* supermarket located immediately across the street, *McDonald's* restaurant located immediately to the west and two large self-storage facilities to the east, which flank Bedford Avenue to the east and west.

The surrounding area also contains several noteworthy community facility uses, open space and public institutions. Jackie Robinson Public School 375, Ebbets Field Middle School 352 and Exceed Charter School are all located immediately northwest of the Development Site on Block 1301 Lot 1 and City University of New York's Medgar Evers College campus is located 1-2 blocks to the north. Jackie Robinson Playground, which contains playground equipment and several basketball courts, is located one block to the north as well. An entrance to Prospect Park is located approximately three blocks to the west as well as the southern entrance to the Brooklyn Botanic Garden, a not-for profit institution spanning 52 acres and encompassing several indoor and outdoor facilities including conservatories, greenhouses and educational facilities.

The Development Site is located partially in a C8-2 district and partially in an R6/C1-3 district. The underlying C8-2 district is mapped along the northern and southern portions of Empire Boulevard beginning at Flatbush Avenue to the west and extends to Rogers Avenue to the east.

The underlying R6/C1-3 district runs along the southern side of Sullivan Place from Franklin Avenue to the west to Bedford Avenue to the east.

C8-2 Districts are generally low-density, auto-oriented commercial districts that tend to bridge commercial and manufacturing uses. They allow an FAR of up to 2.0 for commercial and some light industrial uses and 4.8 FAR for community facility uses in Use Group 4. Building heights are governed by a sky exposure plane that begins 30 feet above the street line. Parking is required 1 per 400 sq. ft. for most commercial/light industrial uses.

R6 districts are general residential districts that are widely mapped in built-up, medium density areas in Brooklyn. The R6 zoning district allows residential buildings under Quality Housing and Height Factor regulations. Under Height Factor regulations, a maximum FAR from 0.78 to 2.43 is permitted, along with a required open space ratio (OSR) from 27.5 to 37.5 percent. Under Quality Housing regulations, a maximum FAR of 3.0 is permitted for buildings along wide street outside the Manhattan Core and up to 3.6 FAR is permitted with MIH. Buildings along narrow streets are permitted at 2.2 FAR and up to 2.42 FAR with MIH. Community facility uses are permitted up to 4.8 FAR. Under Quality Housing regulations, the maximum base height before setback is 65 feet and the maximum building height is 75 feet (70 feet without a Qualifying Ground Floor) along wide streets outside the Manhattan Core, while along narrow streets the maximum base height is 45 feet and the maximum building height is 55 feet. However, for MIH buildings, the maximum street wall height is 65 feet and the maximum building height is 115 feet, 11 stories along both wide and narrow streets. Under Height Factor regulations, the sky exposure plane controls the maximum height after a maximum street wall height of six-stories or 60 feet. For Height Factor buildings, 70% of dwelling units require parking, while for Quality Housing buildings 50% of dwelling units require parking and reduced for income-restricted dwelling units in the Transit Zone.

C1-3 Districts when mapped over R6 districts permit local retail uses in Use Group 6 up to 2.0 FAR. One accessory parking space is required for every 400 sq. ft. of retail uses.

Other zoning districts within the immediate surrounding area include R6A, R7-1, R8A and R8X Districts.

An R6A district is mapped northwest of the Development Site. R6A districts are medium density contextual districts with a maximum FAR of 3.0 for residential and community facility uses. R6A zoning districts allow base heights between 40 and 60 feet with a maximum building height of 70 feet or 75 feet with a Qualifying Ground Floor (“QGF”). Off-street parking is generally required for 50 percent of the market-rate dwelling units and optional for income-restricted units within the Transit Zone.

An R7-1 district is mapped immediately north of the Development Site and to the southwest. R7-1 districts are general residential districts that permit both Quality Housing and Height Factor regulations. The Height Factor regulations for R7 districts encourage small apartment buildings on small zoning lots, and tall, narrow buildings that are set back from the street on larger lots. Quality Housing regulations encourage buildings with higher lot coverage set at or near the street line. Under Height Factor regulations, the R7-1 district allows a maximum FAR from 0.87 to

3.44 for residential use and the required open space ratio (OSR) ranges from 15.5 to 25.5 percent. The maximum FAR is achievable though only where the zoning lot is large enough to accommodate a practical building footprint as well as the required amount of open space. As an incentive to pursue the Quality Housing option, a higher floor area ratio of 4.0 FAR is permitted on wide streets outside the Manhattan Core. For Height Factor buildings, the height is controlled by the sky exposure plane, which begins at 60 feet. Under Quality Housing regulations, a base height of 40-75 feet is permitted, with a maximum height between 75-85 feet depending on the location on a wide or narrow street. For Height Factor buildings, 60 percent of dwelling units require parking, while for Quality Housing buildings, 50 percent of dwelling units require parking.

R8A and R8X districts are mapped to the west and north. Both districts permit up to 7.2 FAR with MIH and 6.02 FAR without MIH. R8A districts allow base heights between 60 and 95 feet with a maximum building height of 125 feet, while in MIH areas base heights are allowed between 60 and 105 feet and can rise to up to a maximum building height of 14 stories, 145 feet (140 feet without a QGF). R8X districts typically allow base heights between 60 and 95 feet with a maximum building height of 15 stories, 155 feet (150 feet without a QGF). For MIH buildings though, base heights are allowed between 60 and 105 feet and can rise to a total maximum building height of 17 stories, 175 feet (170 feet without a QGF).

The area is well served by public transit and is located within the Transit Zone. The New York City Transit ("NYCT") Prospect Park Station is located approximately 0.3 miles west of the Development Site with service on the B, Q and S lines. The Sterling Street Station is located approximately 0.5 miles to the east with service on the 2 and 5 trains and the Franklin Avenue Station is located approximately 0.6 miles to the north with service on the 2, 3, 4 and 5 trains. Several bus lines service the area as well. The B43 bus runs along Empire Boulevard with service between Lefferts Gardens and Greenpoint, the B48 bus has a stop on Empire Boulevard east of Flatbush Avenue with additional service between Lefferts Gardens and Greenpoint, the B41 bus has on stop on Flatbush Avenue just south of Empire Boulevard with service between Kings Plaza and Downtown Brooklyn and the B49 bus runs south along Bedford Avenue with service to Manhattan Beach. Two Citi bike docking stations flank the Development Site along Sullivan Place, one on the corner of Franklin Avenue to the west and the other on the corner of Bedford Avenue to the east.

4. Description of the Proposed Project Area

The Project Area is coterminous with the Development Site.

5. Description of the Proposed Development Site

The proposed Development Site consists of Block 1306 Lot 28 located in the Crown Heights section of Brooklyn Community District 9. The tax lots that comprised this zoning lot before July 19, 2021, were Lots 28, 32 and 35; however, the lots were merged on said date to become the surviving Lot 28. Lot 28 contains 38,118 sf of lot area. It is an irregularly shaped part corner,

part through lot with approximately 238.21 feet of frontage along Empire Boulevard to the south, approximately 221.52 feet of frontage along McKeever Place to the west and approximately 142.98 feet of frontage along Sullivan Place to the north. Empire Boulevard is a 100-foot-wide thoroughfare with two-way traffic running east-west from Prospect Park to the west to Utica Avenue to the east. Sullivan Place is an approximately 70-foot-wide narrow street with one-way traffic running westbound from Nostrand Avenue to Washington Avenue and McKeever Place is a 50-foot-wide narrow street with two-way traffic running north-south between Empire Boulevard to the south and Montgomery Street to the north. The southern portion of the lot, comprising approximately 21,440 sq. ft., is located in a C8-2 district while the northern portion of the lot, comprising approximately 16,678 sq. ft., is located in an R6/C1-3 District.

The former Lot 28 contains a 1-story approximately 30,679 sf (0.8 FAR) vacant commercial building. The building was built in 1952 but has been vacant for years. The former Lot 32 is currently vacant land, and the former Lot 35 contains a 1-story 8,000 sf (0.2 FAR) laundromat, which was built in 1925. Two curb cuts exist along the Sullivan Place frontage of the lot, one providing access to the parking lot for the laundromat and the other in front of the vacant building. Four off-street parking spaces accessory to the laundromat are provided in a covered parking lot along Sullivan Place.

6. Description of the Proposed Development

The Proposed Actions would facilitate the development of a 13-story, 274,166 zoning square foot (7.2 FAR) and 384,429 gross square foot mixed-use building to be built on the Development Site. The first two floors of the building would contain 67,250 gross square feet of commercial floor area. The cellar would contain an additional 31,435 gross square feet of commercial floor area and the subcellar would contain 536 gross square feet of commercial floor area for a total of 99,221 gross square feet of commercial floor area proposed for the site. The commercial uses are intended to transform the site into a retail destination that would provide needed services for the community as well as activate the streetscape. The upper floors, specifically floors 3-13, would contain a total of 205,470 zoning square feet of residential floor area comprising a total of 261 dwelling units. 78 of those units (30%) would be permanently affordable to incomes averaging 80% of AMI pursuant to MIH Option 2. The dwelling unit sizes would consist of a mix of studio, 1-BR, 2-BR and 3-BR units. 191 required accessory parking spaces would be provided in a subcellar consisting of a mix of single space stalls and two-tiered parking stackers with an entrance to the parking ramp via a 22’ curb cut along Sullivan Place. Three loading berths for the commercial uses would be provided as well via two separate curb cuts along Sullivan Place immediately adjacent to the entrance to the parking ramp. 24 required street trees would be provided along the perimeter of the Development Site.

The building’s massing would have varying street wall heights along different portions of the facade providing for a more interesting, less-imposing street wall experience. The corner street wall at Empire Boulevard and McKeever Place would rise 8 stories, 95 feet, at which point it would set back approximately 35’-4” before rising five more stories to a total building height of

145 feet. The easternmost portion of the street wall along Empire Boulevard would rise 6 stories, 75 feet, at which point it would setback 10 feet before rising 50 feet at that distance. The street wall along the site's eastern lot line would also set back 10 feet above the 6th story. At the 12th floor, 125 feet, the building massing would set back an additional 20 feet from the side lot line, for a total of 30 feet, before rising to a total building height of 145 feet to help further soften the massing. The street wall along McKeever Place would set back 15 feet at varying heights and would set back 30 feet from Sullivan Place at the 12th floor. The street wall along Sullivan Place would only rise 75 feet, 6 stories in order to better transition to the lower-density context existing along the southern side of Sullivan Place. Above the 6th story, the building's massing would set back 15 feet and will extend along Sullivan Place on stories 7-9 for approximately 110 feet and on stories 10 and 11 for approximately 86 feet. Additionally, a 5-foot sidewalk widening would be provided along McKeever Place in order so that the building's massing would not overwhelm the pedestrian experience along that frontage. With the proposed 5-foot widening, the sidewalk along that frontage would be approximately 15 feet wide.

7. Actions Needed to Facilitate the Development

The Proposed Actions consist of a Zoning Map Amendment and Zoning Text Amendment that are intended to facilitate the Proposed Development.

The Zoning Map Amendment would create a new C4-4D district over Block 1306 Lot 28 which is currently zoned C8-2, R6/C1-3. The new C4-4D district would be mapped 380 feet west of Bedford Avenue between Sullivan Place to the north and Empire Boulevard to the south and extend westward until the centerline of McKeever Place, encompassing the entire proposed Development Site.

The proposed Zoning Text Amendment would amend Appendix F of the Zoning Resolution by establishing the Project Area as a Mandatory Inclusionary Housing Area (MIH) and would be mapped as Options 1 and 2, pursuant to ZR §23-154(d). All residential developments, enlargements, and conversions within this MIH 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% of residential floor area must be 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: 30% of residential floor area must be for affordable housing units for residents with incomes averaging 80% AMI.

C4-4D districts have an R8A residential equivalent. The proposed C4-4D district would permit multi-level commercial uses above grade, so long as all commercial spaces are located below all residential uses, at a maximum of 3.4 FAR. Residential uses are permitted up to a maximum of 7.2 FAR with MIH. They allow a maximum base height of 105 feet and a maximum building height of 145 feet or 14 stories with MIH. Parking for commercial uses is required 1 per 1,000 sq. ft. of floor area and is required for 50% of the market rate dwelling units. No parking is required for affordable units in the Transit Zone.

The proposed C4-4D district is appropriate at this site. C4 districts are mapped in regional commercial centers located outside of central business districts, where specialty and department stores, theaters and offices serve a broader region than typical neighborhood shopping areas. With a C4-4D designation, the proposed Project Area would become a regional commercial center and a retail destination that would attract a wide range of people to the site. The site is well-equipped to accommodate the anticipated activity given it fronts three streets, with its primary frontage along Empire Boulevard, a 100-foot wide highly pedestrianized, active thoroughfare in this section of Brooklyn. The site is also easily accessible from public transit given its proximity to numerous subway and bus lines. However, the site's underlying zoning has limited its ability to serve the community in a more active, engaging manner and as a result, the site has laid vacant for years becoming a blight on the community. The proposed C4-4D district would transform this under-utilized property into a retail destination that would revitalize the streetscape, stimulate the local economy, and reverse the urban decay that has been plaguing this portion of Empire Boulevard for years.

The density permitted by C4-4D districts is also appropriate at this site. The density produced by C4-4D districts can be sufficiently accommodated given the width of Empire Boulevard and the fact that the site fronts three streets. It would also produce buildings with heights that are appropriate given the surrounding context. The maximum 14 stories permitted by the C4-4D district would still be just a little more than half the height of the 25-story 224-foot Ebbets Field Housing complex located immediately north of the site and pales in comparison to the 341-foot 33 story Tivoli Towers located approximately two blocks north of the site. The proposed density is also consistent with the 12-story 119-foot building recently built at 1 Sullivan Place, for which a temporary Certificate of Occupancy has been issued under DOB Job Number 321387913, located one block to the west of the Development Site. The forthcoming 7-story, 94-foot-tall building at 1730 Bedford Avenue, once built, would further cement the already existing medium to high-density character that typifies this neighborhood.

Furthermore, there is an existing R8A district mapped one block west along the northern side of Sullivan Place between Washington and Franklin Avenues, which continues north along Washington Avenue for six blocks before terminating at Eastern Parkway. Additionally, an R8X district, which permits buildings up to 175 feet, 17 stories, is mapped beginning one block north of the Development Site. Therefore, the proposed C4-4D district, which has an R8A residential equivalent, would be consistent with the existing zoning districts mapped within the immediate surrounding area.

Moreover, the surrounding area contains local services, amenities and public facilities needed to support the projected commercial and residential program proposed for the site. In addition to being near public transit, the site is near supermarkets, local parks, playgrounds, and schools, all of which are needed to accommodate an increase in residential and commercial density. The anticipated commercial tenants that would occupy the commercial spaces in the lower levels of the Proposed Development would benefit from the residential tenants living directly above them, who would likely patronize the stores below, and the residential tenants would benefit from having easy access to services and other local retail needs.

Lastly, the proposed Zoning Text Amendment would create permanently affordable housing, a demonstrated local and citywide need. Under the existing conditions, residential uses could be built in the R6 portion of the site without any affordable units. The proposed text amendment, however, would guarantee affordable units at this site in perpetuity.

8. Conclusion

The Proposed Actions would transform an under-utilized site into an active, engaging space for the betterment of the community. It would create a retail destination that would activate the streetscape and stimulate the local economy within a building that fits appropriately within the surrounding context. Lastly, it would produce permanently affordable housing, a demonstrated local and citywide need.