35-01 Vernon Boulevard

December 2021

1. Introduction

AGAYEV HOLDING, LLC (the "Applicant") seeks a zoning map amendment and zoning text amendment (the "Proposed Actions"). The proposed zoning map amendment seeks to rezone four (4) properties (Block 328, Lots 23, 20 and portions of Lots 16 and 33; "Rezoning Area") from R5 to R7A/M1-4. The proposed zoning text amendment seeks to amend Appendix F (Inclusionary Housing Designated Areas) of the Zoning Resolution of the City of New York (ZR) to establish the Rezoning Area as a Mandatory Inclusionary Housing (MIH) area.

The Rezoning Area would be bound by the center line of Vernon Boulevard to the west; the center line of 35th Avenue to the north; the center line of 9th Street to the east; and a line 175 feet south of and parallel to 35th Avenue. The zoning text amendment will establish an MIH area coterminous with the Rezoning Area. All residential developments, enlargements, and conversions within this MIH area that meet the criteria set forth in the MIH program will comply with the requirements of Option 1: 25% of residential floor area must be for affordable housing units for residents with incomes averaging 60% Area Median Income (AMI).

The Proposed Actions would facilitate the development of a nine-story (95-foot), cellar and sub-cellar mixed-use 117,525 zoning square-foot ("zsf") building. It would have a total of 25,982 zsf of commercial retail, office, and light industrial uses on the first and second floors and 87,023 zsf of residential floor area on the first floor and floors 3-9. There would be 107 dwelling units, of which 26 of which would be income-restricted pursuant to MIH (Option 1). The Proposed Development would provide 77 parking spaces spread out across the sub-cellar, cellar and first floor. As currently proposed, the residential units would consist of 58 one-bedrooms, 38 two-bedrooms and 11 three-bedrooms, 25% of which would be affordable.

2. Background

When the 1961 Zoning Resolution (ZR) was created, the Rezoning Area was mapped R5. Since that time period, the area has been developed with a mix of uses, including community facility uses, warehouses and other light manufacturing/industrial uses. The current uses present in the surrounding area are described in greater detail below.

In July of 2006, a zoning map amendment pursuant to *N 020087 ZMQ* was enacted to create an R7-1 district on the block immediately northwest of the Rezoning Area (*Block 322, Lots 101, 112, 118*). It was mapped as a result of the Vernon Boulevard Rezoning and consisted of a proposal to construct two 19-story residential towers which are under construction.

In September of 2010, a zoning map amendment pursuant to C 100145 ZMQ was enacted to change the western portion of Block 351 (Lots 1, 3, 4, 5, 6, 7, 8, 9, 10, 11, 14 and 17) and all of Block 352 (Lots 1 and 35), approximately three blocks southeast of the Rezoning Area, from an M1-1 District to an R5D District and establish a C1-3 overlay over a portion of the area. The proposal facilitated the development of 19 affordable units for women recently incarcerated.

In May of 2013, a special permit was granted by the Board of Standards and Appeals (BSA) pursuant to BSA Calendar Number 139-12-BZ at 34-10 12th Street, approximately four blocks to the east of the Rezoning Area, to permit, within an R5 zoning district, the proposed enlargement of a non-conforming mixed-use warehouse (Use Group 16) and factory (Use Group 17) building, contrary to ZR § 22-00.

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

3. Description of the Surrounding Area

The surrounding area consists of residential, commercial, community facility and light manufacturing/industrial uses, as well as some automotive uses. The predominant building type varies within the surrounding area and reflects the underlying mixed-use character of the surrounding area. Building types range from two family residential homes, five story multi-family residential buildings, one story industrial commercial buildings and nineteen story residential buildings which are nearly completed at Block 322, Lot 101, 112 and 118.

Recently a branch of Cornell University devoted to technology, Cornell Tech, was developed on nearby Roosevelt Island on a five-acre parcel. The only roadway access point to this campus is via the 36th Avenue Bridge, which is located one block to the south of the Rezoning Area. As currently proposed, the campus would provide 28,000 jobs including 8,000 academic positions. By 2037,

the campus is expected to expand to 12 acres. It should be noted that this campus is located immediately to the south of the bridge on Roosevelt Island and as such is located in close proximity to the Rezoning Area.

In the more immediate area, there are large notable community facility uses which include Public School 76, the William Hallett School, which along with its accessory playground occupies all of Block 354 to the south east of the Rezoning Area. Additionally, the Saint Rita's Roman Catholic Church and Parochial School occupies all of Block 352 further to the south. Other notable large community facility uses include a correctional facility located at 10-06 35th Avenue (Block 330, Lot 19) and the Phoenix House substance abuse treatment facility located at 34-25 Vernon Boulevard (Block 323, Lot 14).

To the south of the Rezoning Area and immediately west of the Development Site is a cooling facility known as the Ravenswood Generating Station, which spans the majority of a superblock (Block 357) between Vernon Boulevard and the waterfront. In the middle of this facility at 36th Avenue is the bridge to access Roosevelt Island.

Surrounding zoning districts include the underlying R5 zoning district which extends to the north and east from the Rezoning Area, an R7-1 zoning district to the northwest of the Rezoning Area, M1-1 zoning districts to the west and southwest of the Rezoning Area, and a M3-1 to the southwest of the Rezoning Area.

To the east and north of the Rezoning Area is a large R5 district. The R5 district is a low-density general residence district that permits residential buildings up to 1.25 FAR and community facility buildings up to 2.0 FAR. The maximum height of buildings within R5 districts is 40 feet, with a maximum street wall height of 30 feet, as well as a 15-foot setback above the street wall. R5 districts require side yards of at least 5 feet and a 10-foot front yard. Parking is required for 85% of dwelling units.

Immediately to the northwest of the Rezoning Area is an R7-1 zoning district that was created as a result of the Vernon Boulevard Rezoning. The R7-1 residential districts generally calculate permitted FAR based on height factor and allow for buildings with a FAR that ranges from 0.87 to 3.44. Maximum open space ratios range from 15.5 to 25.5. Building height is governed by a sky exposure plane which begins at a height of 60 feet above the street line. Parking is required for 60% of all dwelling units and affordable unit parking requirements are reduced inside the transit zone, which the Premises is located within.

To the south and southwest of the Rezoning Area is an M1-1 zoning district. M1-1 districts permit light manufacturing and industrial uses, as well as some community facility uses (Use Groups 4-14, 16-17) with a maximum FAR of 1.0 for industrial/manufacturing uses and 2.4 FAR for community facility uses. The maximum height regulations in M1-1 districts are controlled by the sky exposure plane, with a maximum street wall height of 20 feet. Parking regulations vary by use.

The M3-1 district encompasses the area that contains the cooling facility for ConEdison to the west along the waterfront. Accordingly, M3 districts are designated for areas with heavy industries that generate noise, traffic or pollutants. Typical uses include power plants, solid waste transfer facilities and recycling plants, and fuel supply depots (Use Groups 6-14, 16-18). M3 districts permit a maximum FAR of 2.0 and a maximum base height before a setback of 60 feet, with the overall maximum height controlled by the sky exposure plane. M3-1 districts are subject to the same parking requirements as M1-1 districts.

In terms of public transportation, the Rezoning Area is located approximately a mile from the N/R subway station at 36th Avenue and 31st Street. Also, approximately a mile from the Rezoning Area, is the F Train subway line, with a stop at 21st Street and 41stAvenue, which travels to Manhattan in a single stop (Roosevelt Island). Furthermore, to the south is Queens Plaza, the transit hub of Western Queens. The Q103 bus line has a stop on the corner of 35th Avenue and Vernon Boulevard with service between Astoria and Hunters Point, Queens. The Q102 bus line has a stop one block south of the Development Site on the corner of Vernon Boulevard and 36th Avenue, with service between Astoria and Roosevelt Island.

4. Description of the Proposed Rezoning Area

The proposed Rezoning Area affects a total of four (4) properties. They consist of the Development Site (Block 328, Lot 23) and three (3) additional properties immediately south and west of the Development Site with frontage along Vernon Boulevard and 9th Street (Block 328, Lot 20 and portions of 16 and 33) in Queens Community District 1. 35th Avenue is a local east west arterial street and is classified as a "wide" street with 80 feet in width. Vernon Boulevard is a local north-south arterial street and is also classified as a "wide" street with 75 feet in width. In addition, the eastern frontage of the Rezoning Area is along 9th Street, which is a 'narrow' street with 50 feet in width.

Block 328, Lot 20 (35-11 / 35-15 Vernon Boulevard) is an interior lot that contains 6,000 square feet of lot area with 60 feet of frontage along Vernon Boulevard and a depth of 100 feet. The lot is developed with a five-story mixed use (residential-commercial) multifamily family residential building with commercial uses on the ground floor (a restaurant) containing 21,925 square feet of floor area (3.65 FAR) where 1.25 FAR is permitted as-of-right. The building was constructed in 1931, making it legally noncompliant.

Block 328, Lot 16 (35-21 Vernon Boulevard) is an approximately 10,000 square foot interior lot with approximately 100 feet of frontage along Vernon Boulevard. The lot is developed with a 1.5 story, 10,712 square foot warehouse industrial building (1.07 FAR) with a concrete business. The building was constructed in 1965. Therefore, the building is non-conforming considering industrial uses are not permitted as-of-right in R5 districts. Approximately 15 feet of this lot is included in the proposed Rezoning Area.

Block 328, Lot 33 (35-20 9th Street) is an approximately 10,000 square foot interior lot with approximately 100 feet of frontage along 9th Street. The lot is developed with a 1 story, 11,484 square foot warehouse industrial building (1.15 FAR) that is currently a commercial bakery. The building was constructed in 1994, Therefore, the building is non-conforming considering industrial uses are not permitted as-of-right in R5 districts. Approximately 15 feet of this lot is included in the proposed Rezoning Area.

5. Description of Proposed Development Site

The Development Site consists of a single property, located at Block 328, Lot 23 (35-01 Vernon Boulevard). It is a large irregular-shaped corner lot with 26,049 square feet of lot area. It has frontage along three (3) streets: approximately 100 feet along Vernon Boulevard, approximately 200 feet along 35th Avenue, and approximately 160 feet along 9th Street.

It is currently developed with a legal nonconforming two-story warehouse, containing an estimated 44,785 square feet of floor area. The building serves as a facility for the storage and distribution of automotive parts and has been located at this facility since 2012. The facility is currently planned for consolidation into larger facilities in the Bronx and Brooklyn.

The building was constructed in approximately 1931 and altered in 1995 according to DOB records, with original constructing predating the underlying R5 zoning district mapped in 1961. The building contains (4) curb cuts associated with the use. The Vernon Boulevard frontage contains a single curb cut for loading. The 35th Avenue also contains a single curb cut for loading, while the 9th Street frontage contains two (2) curb cuts for loading. There are no front or side yards associated with the building, rendering the building noncompliant in bulk.

The building operates pursuant to Certificate of Occupancy Q400327892 (September 1995) which permits Use Group 17B factory and office warehouse uses on the first floor and Use Group 6B commercial offices on the second floor.

6. Description of Proposed Development

The Proposed Development would be a nine-story (95-foot), cellar and sub-cellar mixed-use (residential-commercial) buildings. It would contain 117,525 zsf of floor area. It would have approximately 7,923 zsf of commercial ground floor retail floor area on the first floor, 18,059 zsf of office use and light manufacturing use on the second floor and 87,023 zsf of floor area as residential space.

There would be 107 dwelling units, of which 26 of which would be income-restricted pursuant to MIH (Option 1). The Proposed Development would provide 77 parking spaces spread out across the sub-cellar, cellar and first floor. As currently proposed, the residential units would consist of 58 one-bedrooms, 38 two-bedrooms and 11 three-bedrooms, 25% of which would be affordable in proportion to the overall unit count.

The building would have varied heights. From 9th Street (narrow), the building would rise to 7-stories and set back 15 feet before rising to 9-stories (95 feet). From Vernon Boulevard (wide), the building would rise to 7-stories before setting back 10 feet and rising to 9-stories (95 feet). Along the shared lot line of Lot 33, the southern end of the building, which is affected by transition rules per ZR 26-693, the building would rise to 5-stories (55 feet) before setting back and rising to 7-stories. On th rooftop of the 7th floor, a recreational area would be provided. From 35th Avenue (wide), the building would rise to 7-stories before setting back 10 feet to rise to 9-stories.

The parking garage would be accessible from 9th Street where a curb cut is proposed. One loading berth would be provided and would be accessible from Vernon Boulevard where a second curb cut is proposed. The entrance to the retail storefront would be located along the eastern side of the building's frontage along 35th Avenue near the corner of 9th Street. There are 3 separate retail spaces proposed for the ground floor. The main residential lobby would be accessible from 35th Avenue.

7. Actions Necessary to Facilitate the Rezoning

The Proposed Actions consist of:

1. A proposed zoning map amendment which seeks to rezone four (4) properties (Block 328, Lots 23, 20 and portions of Lots 16 and 33, from R5 to R7A/M1-4; and

2. A proposed zoning text amendment seeks to amend Appendix F (Inclusionary Housing Designated Areas) of the Zoning Resolution of the City of New York) to establish the Rezoning Area as a Mandatory Inclusionary Housing Area.

The proposed R7A/M1-4 district would alter the permitted uses pursuant to the current R5 zoning within the Rezoning Area from Use Groups 1-4 to Use Groups 1-14, 16 and 17 and would increase the maximum residential total FAR from 1.25 to 4.0 (4.6 with MIH). For commercial and light industrial uses, the maximum permitted FAR would be 2.0. The permitted building height would increase from 40 feet that is permitted in the existing R5 district to 95 feet in the proposed R7A/M1-4 district with MIH.

Parking is required for 50% of dwelling units in R7A districts. No parking is required for commercial retail, office or light industrial uses in M1-4 districts. Therefore, the Proposed Development is not required to provide accessory parking for any of the non-residential uses.

The proposed MIH zoning text amendment would increase the maximum permitted FAR within the Rezoning Area from 4.0 to 4.60. All residential developments, enlargements, and conversions within the MIH area that meet the criteria set forth in the MIH program must comply with the requirements of Option 1. Option 1 requires at least 25% of residential floor area to be affordable to residents with incomes averaging 60% AMI. Under Option 1, the Applicant will provide at least at least 25% of the residential floor area (26 of the proposed 107 dwelling units) as affordable units, pursuant to MIH.

The Proposed Actions would allow a higher density of residential use, provide needed commercial neighborhood services and create affordable dwelling units, a demonstrated need in the surrounding area all while maintaining the possibility for light manufacturing uses. The site is appropriate for increased density given its location along two wide streets (35th Avenue is 80 feet wide and Vernon Boulevard is 75 feet wide) and its immediate proximity to public transit and the waterfront. As mentioned above, the Q103 bus stops on the corner of 35th Avenue and Vernon Boulevard immediately adjacent to the Development Site. In terms of permitted bulk, the proposed R7A bulk equivalent would be consistent with R7-1 districts in close proximity, as well as residential superblocks present to the east.

Additionally, the Proposed Actions would legalize the existing non-compliance and non-conformance on Block 328, Lot 20. As stated above, the lot is developed with a mixed-use commercial-residential building with 3.65 FAR. The proposed zoning district would legalize the nonconforming commercial use as well as the noncomplying bulk. Therefore, The Proposed Actions would bring this site into compliance and conformance, thereby reconciling Zoning Map 9a with the existing, as built conditions on the site.

The proposed Special Mixed-Use District is appropriate for this area, as the surrounding area contains a mix of residential, commercial and light industrial/manufacturing uses. As noted above, the building types and uses in the surrounding area reflect residential apartment buildings, as well as industrial/commercial warehouse structures and community facility uses. Moreover, the surrounding zoning districts support this mix of uses, with R5, R7-1, M1-1 and M3-1 zoning districts in proximity. As such, an MX district would complement the range of uses and districts in the surrounding area, as well as serving to resolve the nonconforming status of properties located in the Rezoning Area. Finally, the proposed MX district would complement the continued growth of Cornell Tech, located on nearby Roosevelt Avenue.

In terms of permitted density, the proposed R7A/M1-4 district would be consistent with the pre-existing R7-1 zoning district that was created in 2006, as a result of the Vernon Boulevard Rezoning at Block 322, Lot 112 (34-46 Vernon Boulevard) just to the north west of the Rezoning Area. That site is currently being developed with two 175-foot towers. However, the proposed R7A bulk equivalent would require contextual height limits, improving the urban design of this busy corner, when compared to the R7-1 district that has no height limits under height factor regulations.

The proposed R7A/M1-4 zoning district would facilitate a new mixed-use building on the Premises and would encourage additional mixed-use development within the affected area along Vernon Boulevard. Given proximity to the waterfront and public amenities, such as Rainey Park and Socrates Sculpture Garden, as well as close proximity to Manhattan and the core of Long Island City, we believe additional housing units and the opportunity for commercial retail use is appropriate. In addition, the proposed new dwelling units would be located in close proximity and access to Cornell Tech, with thousands of new jobs that are anticipated in this area, demonstrating the need for new housing capacity in this area. As such, the proposed mixed-use zoning district, with increased housing capacity, is appropriate for this area.

8. Conclusion

The Proposed Actions would rezone an existing R5 district to an R7A/M1-4 district (MX-23). The proposed higher density district would complement the R7-1 district immediately to the northwest of the Rezoning Area and would legalize the existing non-compliance and non-conformance on Block 328, Lot 20. This mixed-use district, with newly unlocked housing capacity, is also appropriately located near waterfront amenities, transit and planned new jobs associated with the development of nearby Cornell Tech. Furthermore, the proposed project would provide new affordable housing units, a demonstrated need in the community.

So, while the object of the proposed rezoning is to facilitate the development described above, we believe that it further reflects the transition of the area that is currently underway, encourages an appropriate scale of development that complements existing and planned development in the area, and will allow for the creation of new housing, including income-restricted dwelling units.