962-972 FRANKLIN AVE REZONING
962-972 FRANKLIN AVE, BROOKLYN, NOVEMBER 6, 2023

1. INTRODUCTION

Franklin Ave Acquisition, LLC, (the "Applicant") seeks three actions over parts of 962 Franklin Avenue, 972 Franklin Avenue, 124 Montgomery Street, 1015 Washington Avenue, and 1035 Washington Avenue (Block 1192, Lot 63, p/o Lot 1, p/o Lot 46, p/o Lot 66, p/o Lot 77, and p/o Lot 85) (the "Project Area"), in the Crown Heights neighborhood of Brooklyn within Community District 9. The Applicant proposes the following actions (the "Proposed Actions"):

1. A zoning map amendment to rezone the Project Area from an R6A zoning district to R8A/C2-4 and R8A zoning districts;
2. To amend ZR Appendix F: Inclusionary Housing Designated Areas and Mandatory Inclusionary Housing Areas for Brooklyn Community District 9, to establish the Project Area as a Mandatory Inclusionary Housing ("MIH") Designated Area. The Applicant proposes mapping Option 1 over the Project Area; and
3. A zoning special permit pursuant to ZR § 74-533 to reduce the minimum off-street parking requirements for the Proposed Development to 20% of market rate dwelling units.

The Proposed Actions will facilitate the development of a mixed-use, Use Groups ("UG") 2 and 6, fourteen-story building with a floor area of approximately 383,451 zoning sq. ft. (7.20 FAR), containing commercial space and 475 dwelling units (the "Proposed Development") to be constructed at 962-972 Franklin Avenue, Block 1192, Lots 63 and 66 (the "Development Site"). The Applicant would utilize MIH Option 1 for the Development Site to provide 119 units of permanently affordable housing.

2. BACKGROUND

The surrounding area contains a mix of zoning districts. In 1991, a 13-block area-wide contextual rezoning sponsored by the Department of City Planning was adopted (C 910293 ZMK), which rezoned R6 and R8 zoning districts to R6A and R8A zoning districts to support the existing neighborhood character and minimize potential shadow impacts on the nearby Brooklyn Botanic Garden ("BBG"). In 2018, a private application to rezone a portion of three blocks along the west side of Franklin Avenue, one block north of the project area, was adopted (C 180347 ZMK, N 180348 ZRK), which mapped R8X and R8X/C2-4 zoning districts, in conjunction with an MIH area. The adoption of this application was annulled pending litigation, and the rezoning was restored by the Appellate Division in November 2022. The Project Area was also the subject of previous application sponsored by the Applicant (C 200184 ZMK) to map R9D and R9D/C2-4 zoning districts in the Project Area and other surrounding sites. This application was disapproved by the City Planning Commission on September 22, 2021.

3. DESCRIPTION OF THE SURROUNDING AREA

The project area is in the Crown Heights neighborhood, which contains a mix of residential, community facility, and commercial uses. Commercial uses are predominantly located along Franklin Avenue, a local retail and mixed-use corridor, and Empire Boulevard, a service-based corridor characterized by one- to two-story commercial buildings. Numerous public facilities and institutions are in the immediate vicinity of the project area. The blocks directly east and northeast of the project area contain the City University of New York's (CUNY's) Medgar Evers College campus, Public School 375, Middle School 352, and Jackie Robinson Playground, a one-acre city-owned park. Located one block west along Washington Avenue is the Brooklyn Botanic Garden (BBG), a not-for-profit institution spanning 52 acres and encompassing several indoor and outdoor facilities--including conservatories, greenhouses, and educational facilities.

The project area is within the Transit Zone and served by the 2, 3, 4, 5, and S (Franklin Avenue shuttle) subway lines, accessible at the Franklin Avenue and Eastern Parkway stations, five blocks north of the project area; to the south, the B, Q, and S lines can be accessed at the Prospect Park station five blocks from the project area. The B44 (Sheepshead Bay – Williamsburg), B45 (Downtown Brooklyn – Crown Heights), B48 (Lefferts Gardens – Greenpoint), and B49 (Manhattan Beach – Bedford Stuyvesant) bus lines also run within a few blocks of the project area.

Residential uses within the surrounding area are primarily characterized by one- and two-family homes and multi-family apartment buildings that generally range from two to seven stories. Two nearby apartment complexes are developed with towers that are set back from the street; Tivoli Towers, a 33-story building two blocks to the north built in 1973, and the Ebbets Field Housing complex, a cluster of seven, 25-story buildings two blocks to the east, built in 1960.

Zoning

The area surrounding the Project Area is predominantly mapped with R6A, R6, R7-1, R8A, and R8X zoning districts.

R6A

The Project Area is primarily located in an R6A zoning district; a medium-density contextual district 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 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.

R6

R6 districts are medium-density districts that allow the option of residential uses to a maximum FAR of 2.2 along narrow streets, 3.6 FAR along wide streets for Quality Housing buildings, or up to 2.43 for height factor buildings, and up to 4.8 for community facility uses. For quality housing buildings, R6 districts allow a maximum base height of 45 feet and 65

feet for narrow and wide streets, respectively, and a maximum total height of 55 feet and 70 feet (75 feet with a Qualifying Ground Floor) for narrow and wide streets, respectively. For height factor buildings in R6 districts, there is no height limit, but rather height is regulated by a sky exposure plane which begins at 60 feet. Off-street parking is generally required for 50 percent of a building's dwelling units, but requirements are lower for income-restricted housing units and are further modified in certain areas, or for lots less than 10,000 square feet. Also, parking can be waived if five or fewer spaces are required. An R7-1 zoning district is located approximately 200 feet southeast of the Project Area.

R7-1

R7-1 district regulations permit residential and community facility uses with a maximum FAR of 3.44 for residential uses and 4.8 for community facility uses. There are no fixed height limits and building envelopes are governed by the sky exposure plane which begins at 60 feet. Residential developments using the optional Quality Housing Program in an R7-1 district are allowed a maximum 3.44 FAR on a narrow street with a base height of between 40 and 65 feet and a maximum building height of 75 feet, or a maximum 4.0 FAR on wide streets with a base height of between 40 and 75 feet, and a maximum building height of 80 feet (85 feet with a QGF). Off-street parking is required for a minimum of 60 percent of the dwelling units and a minimum of 50 percent of the dwelling units when the Quality Housing Program is utilized. Parking is waived if five spaces or fewer are required. An R7-1 zoning district is located approximately 300 feet east of the Project Area.

R8A/R8X

R8A and R8X zoning districts are contextual residential zoning districts that allow a maximum Floor Area Ratio (FAR) of 6.02 or 7.2 if mapped within Inclusionary Housing Areas. R8A and R8X zoning districts allow base heights between 60 and 85 feet with a maximum building height of 120 feet, while in MIH areas, R8A and R8X zoning districts allow base heights between 60 and 105 feet with a maximum building height of 145 feet (175 feet in R8X districts) with a Qualifying Ground Floor (QGF). Off-street parking is generally required for 40 percent of the market-rate dwelling units and optional for income-restricted units within the Transit Zone. An R8A zoning district exists immediately adjacent to the Proposed Project Area along Washington Avenue and Sullivan Place. An R8X zoning district exists approximately 300 feet north of the Project Area along Franklin Avenue.

C2-4

C2-4 commercial overlays allow commercial development up to an FAR of 2.0 when mapped within R6-R10 districts, and typically produce mixed-use buildings with ground floor retail space with residential units above. These overlays allow Use Groups 5-9 and 14, which include a wide variety of local neighborhood retail and service uses. For general commercial uses, one off-street parking space is required for every 1,000 square feet, but the requirement is waived when 40 or fewer spaces would be required. An C2-4 commercial overlay exists approximately 300 feet north of the Project Area along Franklin Avenue.

4. DESCRIPTION OF THE PROJECT AREA

The Project Area is in the Crown Heights neighborhood of Brooklyn Community District 9 and includes 962 Franklin Avenue, 972 Franklin Avenue, 124 Montgomery Street, 1015 Washington Avenue, and 1035 Washington Avenue (Block 1192, Lot 63, p/o Lot 1, p/o Lot 46, p/o Lot 66, p/o Lot 77, and p/o Lot 85).

Lot 1 is a portion of an open-cut right of way owned by the New York City Transit Authority for the Franklin Avenue shuttle.

124 Montgomery Street (Lot 46) is a cluster of buildings used for storage as part of the former spice factory located on the site. The buildings contain approximately 66,900 SF of floor area (1.24). It is not owned or controlled by the Applicant.

1015 Washington Avenue (Lot 77) is an approximately 27,479 SF lot improved with a six-story, approximately 95,000 SF (3.34 FAR) residential building. It is not owned or controlled by the Applicant.

1035 Washington Avenue (Lot 85) is an approximately 28,123 SF lot improved with a six-story, approximately 117,250 SF (4.17 FAR) residential building. It is not owned or controlled by the Applicant.

5. DESCRIPTION OF THE DEVELOPMENT SITE

The Development Site is comprised of 962-972 Franklin Avenue (Lots 63 and 66), and has a combined lot area of approximately 53,257 SF. Most of the Development Site is located within an R6A zoning district, while a small portion is located within an existing R8A zoning district. The Development Site fronts solely on Franklin Avenue.

Lot 63 is occupied by a one-story 12,968 SF warehouse building that was part of the larger spice warehouse facility located on the lots to the north of the Development Site. Lot 66 is a 40,277-SF lot that has remained predominantly vacant since 1961. Prior uses on the southern portion of the site includes tennis courts from 1951 to 1961; the Rubel Corporation's ice production and distribution facility from 1932 to 1951; and Flatbush Hygienic Ice Company's ice production and distribution facility from 1908 to 1932.

There are three existing curb cuts along Franklin Avenue. Only the northernmost curb cut on Franklin Avenue leads to a loading dock along Franklin Avenue (Lot 63). The other two curb cuts lead to the vacant Lot 66.

6. DESCRIPTION OF THE PROPOSED DEVELOPMENT

The proposed rezoning will facilitate the development of a fourteen-story mixed use building (UG 2, 6) with approximately 383,451 SF of zoning floor area (7.20 FAR) of which approximately 373,332 SF would be residential and approximately 8,128 SF would be commercial. The Proposed Development will be built to the street line and will rise 104.3' (10 stories) before setting back 15'

along Franklin Avenue. The building would then rise to a total height of 145' (14 stories). The Proposed Development will have a 15' side yard at the southern end of the site, adjacent to the parking entrance, a required 30' rear yard along the entirety of the site, and a large inner court on the northern portion of the site.

The ground floor will contain three retail spaces, a residential lobby, and residential amenities. The ground floor will also contain an approximately 27,349 SF parking area with 71 spaces provided (representing 20% of the proposed market rate units). The remaining floors will contain 475 dwelling units, of which 119 will be affordable pursuant to MIH Option 1. The partially-excavated cellar will contain bike parking, residential storage, and building employee areas, as well as mechanical and storage space.

7. ACTIONS NECESSARY TO FACILITATE THE PROPOSAL

The actions necessary to facilitate the Proposed Development are:

1. A zoning map amendment to rezone the Project Area from an R6A zoning district to R8A and R8A/C2-4 zoning districts;
2. A zoning text amendment to amend ZR Appendix F: Inclusionary Housing Designated Areas and Mandatory Inclusionary Housing Areas for Brooklyn Community District 9, to establish the Project Area as a Mandatory Inclusionary Housing ("MIH") Designated Area. The Applicant proposes mapping Option 1 within the Project Area; and
3. A special permit pursuant to ZR § 74-533 to reduce the minimum off-street parking requirement to 20% of the market rate dwelling units.

a. Rationale for the Proposed Zoning Map amendment to R8A and R8A/C2-4 Zoning Districts

The Applicant proposes to rezone the Project Area from R6A to R8A and R8A/C2-4 zoning districts[1]. The existing R6A zoning is the product of the 1991 area-wide rezoning and was designed to reflect the then-existing built environment. However, the R6A zoning designation never reflected the conditions within the proposed project area (which remains a vacant, non-conforming manufacturing use). Equally important, in 1991, the City was not facing the same housing crisis it faces in 2023—a crisis acutely felt in Brooklyn Community District 9. The need for more affordable housing has been repeatedly cited by Community Board 9 as the neighborhood's most pressing need. According to data from the NYU Furman Center, the 2021 rental vacancy rate within Community District 9 is a mere 2.7% (15% lower than Brooklyn as a whole). The existing R6A zoning district, which does not provide for Mandatory Inclusionary Housing, is insufficient to meet this challenge.

[1] The Applicant notes that the northeastern portion of Block 1192 (Lots 40, 41 and 46) are not included in the proposed actions. These sites are not controlled by the Applicant. The proximity of these parcels to the Jackie Robinson Playground and critical areas of BBG create the potential for significant shadow impacts on important sun-sensitive resources and are therefore not appropriate for consideration as part of this application. The Applicant further believes that extending the proposed commercial overlay over Lot 46 or Lot 85 would be inappropriate, as it may adversely impact planned and existing residential units on those sites.

R6A

R6A zoning districts are a medium-density contextual district 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 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.

R8A

R8A zoning districts are contextual residential zoning districts that allow a maximum Floor Area Ratio (FAR) of 6.02 or 7.2 if mapped within Inclusionary Housing Areas. R8A zoning districts allow base heights between 60 and 85 feet with a maximum building height of 120 feet, while in MIH areas, R8A zoning districts allow base heights between 60 and 105 feet with a maximum building height of 145 feet with a Qualifying Ground Floor (QGF). Off-street parking is generally required for 40 percent of the market-rate dwelling units and optional for income-restricted units within the Transit Zone.

The proposed height and density of an R8A zoning district is appropriate for this location. The Project Area fronts on Franklin Avenue, a 70-foot-wide street, and abuts an open rail corridor in the rear. This combination creates a large open-air corridor that provides additional light and air, making the Project Area well-suited to accommodate the increased height and density of the proposed R8A zoning district. The Project Area is abutted on two sides by an existing R8A zoning district, which allows buildings of a similar scale as the Proposed Development, including 109-111 Montgomery Street (12 stories) and the Bedford Union Armory building (16 stories) and height factor districts to the east that do not restrict height. The R8X district located to the north further allows development of buildings at an even taller scale than the Proposed Development with the inclusion of MIH, including 54 Crown Street (approved for 17 stories). The proposed R8A zoning district would maintain continuity with the existing R8A district, and would fit contextually with the nearby R8X and height factor districts.

Additionally, as noted above, the Project Area is incredibly well-served by transit, and therefore particularly well-suited to the proposed increase in density. Nearby transit options include the 2, 3, 4, 5, S (Franklin Avenue shuttle), B and Q subway lines, as well as the B44, B45, B48, and B49 bus lines, all within a few blocks of the Project Area. Consistent with the goals of *City of Yes: Housing Opportunity* and *Housing Our Neighbors: A Blueprint for Housing and Homelessness*, the proposed zoning map amendments would accelerate an increase to the City's housing supply for low-income New Yorkers in transit-rich areas.

The proposed zoning map amendment (together with the proposed text amendment and special permit) would address the housing crisis facing Crown Heights by facilitating the development of 475 new units of housing (of which 119 would be permanently affordable) on a vacant, non-conforming lot with significant transit access. Without the proposed zoning map amendment, an as-of-right development would only produce 168 dwelling units, of which 0 would be permanently affordable.

The proposed C2-4 commercial space will help activate this portion of Franklin Avenue and improve the pedestrian connection between Eastern Parkway and the commercial strip along Empire Boulevard. The proposed commercial ground floor will also provide retail options for residents of the nearby apartment buildings along Washington Avenue.

So as to avoid certain potential adverse impacts on the Brooklyn Botanic Garden and the Jackie Robinson Playground, the northeastern portion of Block 1192 (Lots 40, 41 and 46, not Applicant-controlled) is not included in the proposed actions. While certain commercial uses may be appropriately located across from public playgrounds, commercial overlay districts are not typically drawn across the streets from other parks and playgrounds. The Applicant believes it would be inappropriate to consider extending the proposed commercial overlay to Montgomery Street, where certain permitted uses could have unforeseen impacts on Jackie Robinson Playground. Additionally, due to the proximity of these parcels to the Jackie Robinson Playground and critical areas of BBG, including these parcels in the proposed actions would create the potential for significant shadow impacts on important sun-sensitive resources and are therefore not appropriate for consideration as part of this application.

b. <u>Rationale for the proposed MIH Text Amendment.</u>

The Applicant seeks to amend Zoning Resolution Appendix F to create a new Mandatory Inclusionary Housing Area for Brooklyn Community District 9 coterminous with the Project Area pursuant to Option 1, permanently requiring affordable housing at least 25 percent of the residential floor area at an average of 60% AMI, supporting the creation of much needed affordable housing in Crown Heights. The MIH text amendment is also aligned with citywide objectives outlined in *Housing New York* and *Where We Live*, New York City's housing reports that outline goals and strategies to affirmatively further the development of fair housing.

According to the NYU Furman Center, 28.7% of the renters in Community District 9 are considered "severely rent-burdened." Among low-income households, that number increases to 45.9%. The proposed MIH together with the Proposed Development will help address this by ensuring that new development includes 119 permanently affordable units.

c. <u>Rationale for the proposed Special Permit to reduce required off-street parking.</u>

The Applicant proposes a special permit pursuant to ZR § 74-533 to reduce the required off-street parking spaces pursuant to ZR § 25-23 in order to facilitate the development of 119 permanently affordable dwelling units. Under R8A zoning district regulations, off-street parking is required for 40% of market-rate units. The proposed special permit would reduce this requirement to 20% of market rate units, so that the Proposed Development would provide 71 off-street parking spaces, whereas 143 would otherwise be required.

As noted in the Statement of Findings, there are physical constraints to the Development Site that would make it financially infeasible to provide the 143 spaces that would otherwise be required for the Proposed Development. Absent the special permit, the total number of units in the Proposed Development would have to be reduced, which would in turn reduce the number of permanently

affordable units. As noted above in connection with the proposed MIH text amendment, it is critical that the Proposed Development maximize the number of affordable units—necessitating the special permit.

8. CONCLUSION

As discussed above, the Applicant proposes a zoning map amendment to rezone the Project Area from an R6A zoning district to R8A and R8A/C2-4 zoning districts, and a special permit to reduce the required parking for the proposed development. The proposed zoning map amendment and special permit will facilitate the construction of a new fourteen-story mixed use building at the Development Site. The applicant also seeks zoning text amendments to amend ZR Appendix F, Inclusionary Housing Designated Areas for Brooklyn Community District 9, to establish the Project Area as an MIH Designated Area. The proposed zoning text amendment will ensure that any future residential development at the Project Area will address the need for housing to serve a broad range of the City's diverse incomes.