LR Item 3. Description of Proposal
307 Kent Avenue Rezoning

1. Introduction

307 Kent Associates (the "Applicant") proposes the rezoning of the western half of the block bounded by Kent Avenue, South 2nd Street, Wythe Avenue and South 3rd Street (Block 2415, Lots 1, 6, 10, 7501, 7502 and p/o 16 and 38) in Brooklyn Community District 1 (the "Project Area") from an M3-1 district to (i) an M1-5 district and (ii) an M1-4/R6A district within a Special Mixed Use District ("MX-8"). A concurrent zoning text amendment is also proposed to amend Appendix F of the Zoning Resolution to establish a Mandatory Inclusionary Housing ("MIH") Area for the portion of the Project Area proposed as M1-4/R6A (MX-8). The proposed actions would facilitate the development of a new, nine-story primarily commercial office building on Lot 1 containing approximately 93,000 sf of floor area at the corner of South 3rd Street and Kent Avenue ("307 Kent Avenue" or the "Development Site").

2. Background

On December 15, 1961 the Project Area was part of a comprehensive, two-mile-long M3-1 zoning district spanning Brooklyn's East River waterfront and the immediate upland blocks. As explained below, over time, this heavy industrial district has been reduced in size by rezonings to encompass only portions of three blocks that are entirely surrounded by zoning districts that permit residential use as-of-right.

On March 23, 2011, as part of the Wythe Avenue Rezoning (C 070245 ZMK), the zoning district for the eastern half of the Subject Block was changed from an M3-1 district to an M1-4/R6A district within a Special Mixed Use District (MX-8). In addition to making the Inclusionary Housing Program applicable to this area,[1] this privately-sponsored action extended the existing MX-8 district northward from the block to the south.[2] The existing MX-8 district was initially established as part of an approximately 200-block, City-sponsored neighborhood rezoning, known as the "Greenpoint-Williamsburg Rezoning" (C 050111(A) ZMK) adopted by the City Council on May 11, 2005, which, among other things, established MX districts throughout the area.[3]

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[1] Appendix F (Inclusionary Housing Designated Areas) was amended in conjunction with the above-noted zoning map change. *See* N 070246 ZRK, March 23, 2011.

[2] While the Special Purpose District (MX-8) was extended, the underlying "paired" districts (M1-4/R6A) were not precisely the same as the portion of the block immediately to the south (M1-2/R6).

[3] Related CPC actions included four changes to the City Map (C 040415 MMK, C 040416 MMK, C 040418MMK and zoning text amendment modifying the Special Mixed Use District (ZR § 123-00 et seq.) and the special waterfront regulations (ZR § 62-00 et seq.). This text amendment also eliminated two existing special

On March 5, 2014, the New York City Planning Commission ("CPC"), through special permits, authorizations and certifications, amended a large-scale general development plan for the former Domino Sugar Site (the "Domino LSGD"), which was initially approved on July 29, 2010. *See* CPC Report (C 140132 ZSK), dated March 5, 2014. Located on five blocks across Kent Avenue to the west of the Project Area (Grand Street to South 5th Street) and on a portion of one block directly south of the Project Area (between South 3rd to South 4th streets on the east side of Kent Avenue), the Domino LSGD calls for residential, retail and office uses within four new buildings and one converted and enlarged building.[4] The 2010 CPC actions included a zoning map amendment that rezoned approximately 11 acres of M3-1-zoned land to a combination of R6/C2-4, R8/C2-4 and C6-2 districts and required large amounts of publicly accessible open space along with height and setback modifications.

3. Description of the Surrounding Area

The area within a 600-foot radius of the Project Area (the "Surrounding Area") is located in the Southside section of the Williamsburg neighborhood in Brooklyn Community District 1, just north of the Williamsburg Bridge and near the East River. The Surrounding Area is generally bounded by Berry Street to the east, the East River to the west, Grand Street to the north and the Williamsburg Bridge to the south and is mapped within the following zoning districts (generally in order of proximity to the Project Area): M3-1, M1-4/R6A, C6-2, R8/C2-4, R6/C2-4, M1-2/R6B, M1-2/R6 and R6.

The M3-1 district of which the Project Area is a part is mapped on the western portions of the two blocks to the north. The M3-1 district is a low scale, heavy manufacturing district with a maximum FAR of 2.0. The existing land use pattern within this M3-1 district is generally characterized by one- and two-story light industrial and commercial office buildings.

An M1-4/R6A (MX-8) district is mapped on the eastern half of the Subject Block directly adjoining the Project Area. The M1-4/R6A district typically facilitates five- to seven-story residential and/or mixed-use buildings with FARs ranging from 2.7 to 3.6. Existing land uses in this M1-4/R6A district are generally reflective of the use and bulk permitted by this district as this area contains residential, community facility and commercial uses within one- to five-story buildings, including several eating and drinking establishments and a pre-school. A new five-

purpose districts: (i) the Special Northside Mixed Use District (ZR §97-00 et seq.) and the Special Franklin Street Mixed Use District (ZR §108-00).

[4] Public benefits of the Domino LSGD include the provision of waterfront public access and affordable housing. *See* CPC (C 100187 ZSK) and the individual designation report by the Landmarks Preservation Commission ("LPC") for the former Domino Sugar refinery at 219-314 Kent Avenue (LP-2268).

story mixed-use building is under construction on the northwest corner of South 3rd Street and Wythe Avenue on the Subject Block (Block 2415, Lot 22) where retail use is proposed on the ground floor, office use on the second and third stories and residential use on the upper floors.

The five blocks along the East River waterfront to the west of the Project Area (Grand Street to South 5th Street), which are the waterfront blocks of the Domino LSGD, are mapped with R8/C2-4 and C6-2 (R8 equivalent) districts. Both of these non-contextual R8 districts typically produce 8- to 16-story mixed buildings at an FAR ranging from 5.4 to 7.2. However, here, the underlying height and setback regulations for these medium density commercial districts have been modified as part of the LSGD to allow significantly taller buildings than would otherwise be permitted. This area includes the Domino Sugar Factory, an individual landmark located on Kent Avenue between South 2nd and South 3rd Streets, which is set to be enlarged and converted to approximately 355,000 sf of commercial office space with a total height of approximately 200 feet. The two blocks to the north of the enlarged refinery will be developed with two mixed-use towers with total heights ranging from 435 and 530 feet. The 435-foot-tall tower located at the northern end of the Domino LSGD at 266 Kent Avenue (Block 2414, Lot 2), is a 42-story building currently under construction that will contain commercial office use (approximately 125,000 sf) with residential use above. The southernmost block of the Domino LSGD will contain a 535-foot-tall residential tower with ground floor retail. In total, the Domino LSGD will contain approximately 480,000 sf of office space and 2,282 dwelling units.

The western portion of the block to the south of the Project Area (across South 3rd Street), which constitutes the upland portion of the Domino LSGD, is located within an R6/C2-4 district that has a maximum residential FAR that ranges from 2.2 to 3.6. While this district typically allows 3- to 12-story buildings, height and setback regulations have been modified to allow a recently completed 15-story, 170 foot tall, residential building with ground floor retail. Moving east on this block beyond the Domino LSGD boundary are two multi-family residential buildings that are three- and four-stories tall. These adjacent residential buildings are both located within an M1-2/R6 (MX-8) district, which allows 6- to 11-story buildings with FARs ranging from 2.2 to 3.6.

An M1-2/R6 district is also mapped on portions of the two blocks to the north of the Project Area and includes a 147-foot-tall, eight-story former industrial building converted to residential use at the southwest corner of South 1st Street and Wythe Avenue. The remainder of this M1-2/R6 district, along the north side of South 1st Street, is improved with a mix of three- and four-story residential buildings and one-story industrial buildings.

An R6 district, a non-contextual district that typically produces 3- to 12-story buildings, is mapped to the east of Wythe Avenue between South 1st and South 3rd Streets. This area is primarily residential in character with small walk-up apartment buildings ranging from two- to four-stories, with a few one-story industrial buildings scattered throughout. Recent construction in this area includes a 19-story apartment building located on Wythe Avenue across from the Subject Block between South 2nd and South 3rd Streets.

The Surrounding Area contains five acres of publicly accessible open space known as Domino Park, located between Kent Avenue and the East River, from Grand Street to South 5th Street. It serves as the primary source of passive and active recreation space for the Surrounding Area, with a children's playground, dog run, bocce court, volleyball court, multi-purpose ballfield and waterfront esplanade. Two additional parks, located just outside the boundaries of the Surrounding Area are (i) Grand Ferry Park located along the East River waterfront north of Grand Street, and (ii) Berry Playground located on the south side of South 3rd Street between Berry Street and Bedford Avenue.

With respect to mass transit, a bus stop for both the B32 and B59 bus lines, which connect the Development Site to Queens (Long Island City and Elmhurst, respectively), is located directly in front of the Development Site on Kent Avenue. The Bedford Avenue stop on the L line and the Marcy Avenue stop on the J, M and Z lines are located 0.7 and 0.8 miles, respectively, from the Development Site. There is a Citibike station located two blocks from the Development Site near the intersection of South 4th Street and Wythe Avenue. The East River line of the NYC Ferry network stops six blocks to the south of the Development Site at Kent Avenue and South 9th Street, providing service to Wall Street (Pier 11), DUMBO, North Williamsburg, Greenpoint, Hunters Point South (Queens) and East 34th Street (Manhattan).

4. Description of the Project Area

The Project Area consists of the western half of the block bounded by Kent and Wythe Avenues to the west and east and South 2nd and South 3rd Streets to the north and south and contains 52,500 sf of lot area (Block 2415, Lots 1, 6, 10, 7501, 7502 and p/o 16 and 38). Lot 1 is the Development Site, which is discussed in further detail below. Lot 6, adjoining the Development to the north, contains approximately 11,330 sf of lot area and is improved with a one-story warehouse building. Lot 10, further north at the corner of South 2nd Street and Kent Avenue, contains approximately 3,206 sf of lot area and is improved with a vacant one-story building formerly used as an eating and drinking establishment. Lots 7501 and 7502 with frontage on both South 2nd and South 3rd Streets and containing 19,574 sf of lot area, were developed in tandem with two, four-story multi-family residential buildings containing 47 dwelling units with 29 open

accessory parking spaces located between them. These residential buildings, located in the existing M3-1 district, were constructed pursuant to a use variance granted by the Board of Standards and Appeals ("BSA") under Calendar No. 102-03-BZ. Lot 16 is a 5,000 sf lot containing a private parking lot for commercial vehicles. Lot 38, which contains 6,525 sf of lot area, is improved with a four-story mixed-use building with eight dwelling units and ground floor retail.

The Project Area is located within an M3-1 district, which is a heavy manufacturing district that permits a broad range of commercial and manufacturing uses including heavy industrial uses that are subject to the least restrictive regulations governing noise, odor and vibration. The maximum FAR for all uses is 2.0. A building's front wall is permitted to rise to 60 feet before setting back from the street line. The M3-1 district has a high accessory parking requirement (1 space per 300 sf of floor area for most permitted uses). For office use, one loading berth is required for floor area exceeding 25,000 sf and two loading berths are required in excess of 100,000 sf of floor area. For most other commercial and manufacturing uses, one loading berth is required where in excess of 8,000 sf of floor area is constructed and two loading berths are generally required where floor area exceeds 25,000 sf.

5. Description of the Development Site

Development Site consists of Lot 1 on Block 2415, which has a lot area of 14,425 sf. It is an irregularly shaped corner lot with 120 feet of frontage on South 3rd Street and 125 feet of frontage on Kent Avenue and varies in depth from 75 feet to 120 feet as measured from Kent Avenue. It slopes downward from its eastern end to Kent Avenue by approximately four feet.

The Development Site is currently improved with a one-story (plus mezzanine), approximately 22-foot-high warehouse building constructed in 1970 with both a non-vehicular entrance and a loading berth on each of its Kent Avenue and South 3rd Street frontages. The existing building covers substantially all of the Development Site and provides no accessory parking spaces. The existing FAR is approximately 1.3, which is less than the maximum permitted 2.0 FAR. The building is currently used as a banquet hall (Use Group 13).[5]

6. Description of the Proposed Development

The existing building on the Development Site would be demolished to facilitate the development of a nine-story commercial and community facility building containing

[5] An Alteration Type 1 application is pending at the Department of Buildings to amend the building's Certificate of Occupancy to reflect this existing use (No. 321188969).

approximately 93,000 sf of floor area (approximately 6.5 FAR) (the "Proposed Development"). The Proposed Development would contain approximately 8,000 sf of ground floor retail use in UG 6A and/or UG 6C. The second story and a portion of the third story would contain approximately 21,500 sf of UG 4 medical offices. The remainder of the upper stories would contain UG 6B commercial offices (approximately 63,500 sf). The building would rise to five stories and 85 feet above the street line, with additional floors above setbacks of at least 20 feet from each street line, then rising under a sky exposure plane of 2.7 to 1 to a total height of nine stories and 151 feet. Floor to finished ceiling heights could range from approximately 13 to 17 feet to accommodate modern commercial work spaces.

The roof-top setbacks would be used for passive recreation space for the proposed office users. Accessory parking spaces would not be required and none are proposed. No loading berths would be required as the Proposed Development would contain less than 25,000 sf of retail and less than 100,000 sf of office use.[6] However, one loading berth is proposed, which would be accessed by a 13'-7" wide curb cut on South 3rd Street located 77'-4" feet from the intersection with Kent Avenue. While approximately 12 bicycle parking spaces would be required, 62 spaces are proposed on the cellar level. Although the Development Site is not located in a flood zone, due to its proximity to the waterfront, below-grade and at-grade mechanical equipment would be limited to the minimum amount necessary to serve utility points of entry; the remainder of the mechanical equipment would be located within a mechanical roof-top bulkhead.

7. Actions Necessary to Facilitate the Project (the Proposed Rezoning)

a) Zoning Map Amendment

i. M3-1 to M1-5

The applicant is seeking approval of a zoning map amendment to change an M3-1 district to an M1-5 district. The proposed rezoning would facilitate development of the proposed commercial office and community facility building on the Development Site. The proposed M1-5 district would permit all manufacturing uses that would be newly subject to stringent performance standards that are more appropriate for the surrounding growing mixed-use neighborhood where industrial noise, vibration, smoke, odor and diminished air quality is of greater concern. Additionally, the proposed M1-5 district would permit community facility uses commonly found proximate to residential use, such as UG 4 ambulatory diagnostic or treatment health care facilities (i.e. medical offices) and houses of worship. Given the large number of dwelling units planned or under construction in the surrounding area, especially in connection with the Domino LSGD, the proposed M1-5 district would support this growing residential population by providing greater flexibility for community facility uses that are needed in close proximity to

[6] *See* ZR § 44-53

residences. While commercial office space would not be newly permitted, the proposed M1-5 district would foster new office development that would augment a growing cluster of planned, existing and under-construction office space in the Surrounding Area.

The bulk controls of the M1-5 zoning district and the building envelopes they allow are appropriate for the Project Area. The M1-5 district would facilitate development at a scale that mediates between the high-rise buildings contemplated by, and already developed under, the Domino LSGD, and the lower buildings that adjoin the Project Area. As the Project Area lies between the tall, high density buildings of the Domino Campus and an M1-4/R6A district to the east, the development permitted by the proposed M1-5 district bulk regulations would provide a rational transition between the two areas.

The proposed M1-5 district permits a maximum FAR of 5.0 for all commercial and manufacturing uses and a maximum FAR of 6.5 for community facility uses. The building typology permitted by the proposed M1-5 district (85 feet at the street line, high floor to ceiling heights) is akin to the aging loft buildings that have been attractive to and repurposed by many of today's innovative and creative companies. *See New York Works, Creating Good Jobs* ("*New York Works*"), City of New York (2017), page 87.

The proposed M1-5 district does not require any parking, which is appropriate for this location due to its proximity to mass transportation. Furthermore, eliminating parking requirements removes a major impediment to economically feasible office construction and discourages auto-oriented office use that, if built, would add vehicular traffic to an already congested area. *See New York Works* at 87.

The proposed M1-5 district would generally reduce loading berth requirements as compared to M3-1 requirements. This change is also in accord with the City's policy goals as articulated in *New York Works*, which identifies high loading requirements as often "outdated and excessive" noting that where "businesses do not require industrial-level use of trucks, the city is losing out on opportunities for office development." *New York Works* at 87.

The M1-5 bulk, parking and loading regulations would encourage office development that would help meet the growing demand for office space in locations closer to where people live, such as the Williamsburg neighborhood of Brooklyn. This trend is desirable as it improves commute times and, as a result, lessens the burden on public transportation.[7] *New York Works'* projections

[7] *New York Works* projects that citywide office demand will grow by over 60 million square feet by 2025, with nearly half of that demand occurring outside of Manhattan. *See New York Works* at 85, 87.

appear to be accurate as office space growth is already evident in the Williamsburg neighborhood.[8]

ii. M3-1 to M1-4/R6A(MX-8)

The proposed zoning map amendment would also extend the existing M1-4/R6A (MX-8) district boundary ninety feet west to align with the district boundary of the proposed M1-5 district. Thus, the easternmost 90 feet of the Project Area, bounded by South 2nd and South 3rd Streets and lines parallel to and between 120 and 210 feet from Kent Avenue, would be changed from M3-1 to M1-4/R6A (MX-8). This extension is proposed to reflect existing residential uses on this portion of the Project Area.

The proposed M1-4/R6A (MX-8) district permits residential use with a maximum FAR of 3.6, community facility use with a maximum FAR of 3.0 and commercial and manufacturing uses at 2.0 FAR. For developments or enlargements that do not contain residential use (or where residential use does not trigger MIH requirements) the maximum base height is 60 feet and the maximum building height is 70 feet. Where residential development triggers MIH requirements, height and setback regulations are modified to permit a maximum base height of 65 feet and a maximum building height of 85 feet.

The majority of the area proposed as M1-4/R6A (MX-8) consists of Lots 7501 and 7502, which contain two four-story multi-family residential buildings allowed by BSA variance. These lots are developed with a building on each street frontage (i.e. South 2nd and South 3rd Streets) with open accessory parking between the two. Additionally, the small portion of Lot 38 zoned M3-1 (otherwise already located within the M1-4/R6A (MX-8) district) would be entirely located within the proposed MX district, which would fully encompass a lot that is already improved with a four-story mixed building with ground floor retail and residential apartments above. Finally, the ten-foot wide portion of Lot 16 zoned M3-1 would be located within the proposed M1-4/R6A (MX-8) district, thereby removing this split lot condition.

[8] In addition to the planned office space within the Domino project, smaller office projects have occurred as well, including the office space for a major media company located directly across South 2nd Street from the Project Area within a former industrial building. Additionally, the mixed building under construction at the northwest corner of South 3rd Street and Wythe Avenue (Lot 22 on the subject block), while only five stories, is notable in that the entirety of the second and third stories are proposed as office (above ground floor retail and below two stories of residential use). Given that this site is located in an MX district where residential use would be permitted on these two stories, the decision instead to construct approximately 34,000 sf of office space in a relatively small building underscores the demand for it in the immediate area. These recent market trends are also found in the broader Williamsburg neighborhood, which has become an increasingly attractive office sub-market. Such trends include a recently completed eight-story commercial office and industrial building along Kent Avenue between North 12th and North 13th Streets. Further, three co-working establishments have recently opened locations in the broader neighborhood.

b) Zoning Text Amendment to Appendix F (MIH Applicability)

The proposed zoning map amendment to change an M3-1 district to an M1-4/R6A (MX-8) triggers a text amendment to Zoning Resolution Appendix F to establish it as an MIH Area, encompassing the proposed extension of the existing M1-4/R6A (MX-8) district. Specifically, Appendix F, Map 2 (Community District 1, Brooklyn) is proposed to be amended to remove this 90-foot-wide portion of the Subject Block from the "Excluded Area" shown on Map 2 and make the MIH regulations applicable.[9] In 2016, the City created the MIH program, which is applied to both neighborhood rezonings and private applications that significantly increase residential capacity. The proposed text amendment to Appendix F is required because residential use would be newly permitted by the proposed M1-4/R6A (MX-8) district. Within MIH Areas, developments, enlargements, and conversions containing more than 10 units or 12,500 square feet are required to set aside a percentage of floor area for permanently affordable housing. However, due to the presence of recently constructed and converted residential use on the portion of the Subject Block affected by this proposed text amendment, no new affordable housing is anticipated as a result of this text amendment.

8. Conclusion

The Applicant proposes the rezoning of the Project Area from an M3-1 district to (i) an M1-5 district and (ii) an M1-4/R6A district within a Special Mixed Use District ("MX-8"). A concurrent zoning text amendment is also proposed to amend Appendix F of the Zoning Resolution to establish a Mandatory Inclusionary Housing ("MIH") Area for the portion of the Project Area proposed as M1-4/R6A (MX-8). The proposed actions would facilitate the development of a new, nine-story primarily commercial office building on Lot 1 containing approximately 93,000 sf of floor area at the corner of South 3rd Street and Kent Avenue.

Because the Project Area is located (i) adjacent to an existing M1-4/R6A (MX-8) district where residential use is permitted as-of-right, and (ii) directly across from two blocks included in the Domino LSGD where residential and office uses have been approved and/or constructed, the proposed M1-5 and M1-4/R6A(MX-8) districts are appropriate districts to replace the existing M3-1 district. The proposed rezoning, by significantly strengthening the performance standards for manufacturing uses within the proposed M1-5 portion of the Project Area would encourage the development of the type of commercial and industrial uses and job growth that is compatible with the Surrounding Area, and prohibit the development of heavy industrial uses that would be

[9] While the entire Project Area is entirely within the boundaries of an Inclusionary Housing Designated Area, the Project Area is part of an "Excluded Area" as shown on this map because residential use is not permitted in an M3-1 district. The proposed extension of the M1-4/R6A (MX-8) will be an MIH Area; the remainder of the block will continue to be governed by non-mandatory Inclusionary Housing regulations.

incompatible with the existing character of the area. In addition, the proposed change from M3-1 to M1-4/R6A (MX-8) would reflect existing residential uses on that portion of the Project Area.

Because the Proposed Development, which would contain primarily office use, is situated within an area where new commercial office space is either planned or under construction, it would dovetail with these trends. As the Project Area would be virtually surrounded by residential, retail and office uses when development under the Domino LSGD is completed, replacing the existing M3-1 district with an M1-5 district would provide opportunities for job creation that would be compatible with adjoining land uses at an appropriate building scale.