109 Marcus Garvey Boulevard Rezoning
Project Description LR3

June 2024

1. Introduction

The applicant, Phoenix Realty Group, LLC (the "Applicant"), seeks a series of discretionary actions to facilitate a new infill development in the Bedford-Stuyvesant area of Brooklyn Community District 3. The actions seek to provide 175,017 square feet of zoning square feet ("zsf") and 292 dwelling units as Affordable Independent Residences for Seniors (AIRS) within an underutilized portion of a pre-existing zoning lot that contains an existing mixed-use development located at 109 Marcus Garvey Boulevard (Block 1588, Lot 1, "Development Site"). The actions consist of the following (hereafter, the "Proposed Actions")

1) a zoning map amendment from R6 and R6/C2-4 to R7A and R7A/C2-4;
2) a zoning text amendment; and
    a. a zoning text amendment to Appendix F of the ZR to make the Development Site applicable to the Mandatory Inclusionary Housing (MIH) program (hereafter, the "Proposed Actions")
3) a zoning special permit to establish a large-scale general development ("LSGD") comprised of the Development Site, pursuant to 74-743 of the Zoning Resolution ("ZR"):
    a. The LSGD would waive the maximum height regulations as set forth under ZR 23-664 to permit a building with 14-stories and up to 155 feet.

The zoning lot, with 130,000 square feet of lot area, currently contains four buildings ranging from 3 to 9 stories, with a total floor area of 284,563 sf (2.27 FAR) and 267 dwelling units. The Proposed Actions would add a new 14-story infill development on the eastern end of the zoning lot, which is currently underutilized with a 63-space surface parking lot.

The new infill development will feature AIRS units, new plantings, landscaping, furniture, and fencing will be employed to improve the zoning lot. The new building will provide an additional 175,017 zoning square feet (1.35 FAR) and will include 292 dwelling units (the "Proposed

Development"). The surface parking will be relocated to a cellar level below the new 14-story building.

In total, the zoning area for the lot will be 495,580 zoning square feet, with a 3.62 FAR and 559 dwelling units.

2. Background

The Rezoning Area was zoned R6 under the 1961 Zoning Resolution. That district remained until 2012 when a C2-4 district was mapped at 100 feet in depth along Marcus Garvey Boulevard as part of the Bedford-Stuyvesant North Rezoning (ULURP No. 120294 ZMK).

The Bedford-Stuyvesant North Rezoning affected a 140-block area in the northern half of Brooklyn Community District 3 in the Bedford-Stuyvesant neighborhood. The rezoning mapped new contextual districts (R6A, R6B, R7A, R7D), established a new Enhanced Commercial District along Broadway, and created the C4-4L zoning district. In addition, the rezoning included a citywide zoning text amendment to establish transparency requirements in R7D, R9D, and C4-5D districts (ZR 37-34). The affected area was generally bounded by Lafayette Avenue and Quincy Street to the south, Classon and Franklin Avenues to the west, Broadway to the east, and Flushing Avenue to the north. The rezoning was undertaken at the request of Community Board 3 and local elected officials as a follow-up to the 2007 rezoning of Bedford-Stuyvesant South and in response to concerns that existing zoning in the area does not reflect established growth patterns.

It should be noted that despite the removal of the R6 district in a majority of the neighborhood in favor of contextual districts, the Development Site remained zoned R6 and R6/C2-4.

3. Description of the Surrounding Area

The Development site is located in the northern portion of the Bedford Stuyvesant neighborhood of Brooklyn Community District 3. The surrounding area is generally bound by Myrtle Avenue to the north, Throop Avenue to the west, Pulaski Street to the south and Stuyvesant Avenue to the east (the "Surrounding Area").

Marcus Garvey Boulevard is a 'narrow' roadway with 70 feet in width, despite the mixed-use arterial nature of the roadway. To the north is Myrtle Avenue, a notable east-west mixed-use neighborhood corridor that is 'wide' with 75 feet in width. Throop and Lewis Avenues are also 'narrow' roadways with 70 feet in width, despite the mixed-use arterial nature of the roadways.

The remaining roads (Vernon Avenue, Willoughby Avenue, Hart Street and Pulaski Street) are predominantly side streets with 70 feet in width.

The Surrounding Area is predominantly residential in use. However, the area contains wide arterial avenues (Throop Avenue, Myrtle Avenue, Lewis Avenue) that are lined with commercial overlays in segments and contain ground-floor retail below residential uses and some older single-story commercial uses. In addition, some community facility uses are present which include P.S. 304 (Brighter Choice Community School) at Marcus Garvey Boulevard and Pulaski Street (280 Hart Street) as well as St. John the Baptist Roman Catholic Church at Hart Street and Lewis Avenue (333 Hart Street). In addition, immediately to the west opposite Marcus Garvey of the church is Bedford Stuyvesant Beginnings Charter School (83 Lewis Avenue) and St. John's Preparatory School (72 Lewis Avenue). In terms of public open spaces, Lewis Playground is located immediately to the east of the Development Site, which consists of a 7,000 square-foot facility operated and maintained by the Department of Parks and Recreation (DPR). In addition, Pulaski Playground is located adjacent P.S. 304 and is a 1.42-acre facility operated by DPR and the Department of Education (DOE).

In terms of building types, the area is mixed in densities and building types. The historic R6 district mapped in this area recognized and facilitated several older 'tower-in-a-park' style residential developments that rise between 6- and 24-stories in the area, a majority of which are NYCHA developments developed in the 1950s and 1960s. Examples of these include a 24-story residential development immediately to the north of the Development Site at 95 Marcus Garvey Boulevard and the NYCHA Sumner Houses, which are located north of Myrtle Avenue and rise between 7- and 12-stories and encompass an area between Throop Avenue and Lewis Avenue in approximately a dozen buildings. To the south of the Development Site between Hart and Pulaski Streets between Marcus Grevey Boulevard and Stuyvesant Avenue are the NYCHA Roosevelt Houses. These buildings rise between 14- and 15-stories. Blocks without 'tower-in-a-park' style developments instead contain a mix of rowhomes between 2- and 4-stories interspersed with small apartment buildings between 4- and 6-stories. As mentioned above, the avenues contain mixed-use buildings with ground floor retail. These range from 3- to 7-stories. Pursuant to the 2012 rezoning of this area, new development has occurred in the Surrounding Area, with a new 7-story apartment building at 707 Willoughby Avenue to the east of the Development Site in the newly mapped R6A/C2-4 district. In addition, an 8-story mixed-use building is under construction at 75 Lewis Avenue.

The Development Site is zoned R6 with a C2-4 overlap mapped along Marcus Garvey Boulevard. The R6 zoning district allows a maximum FAR from 0.78 to 2.43 for residential use under Height Factor regulations and 3.0 FAR under Quality Housing regulations. With the inclusion of community facility space, up to 4.8 FAR is permitted under Height Factor regulations and 2.0 FAR is permitted overall for commercial uses Use Groups 6-9), typically on

the ground-floor. Height Factor regulations for R6 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. Height limitations ensure that these buildings are often more compatible with older buildings in the neighborhood. As an incentive for developers to choose the Quality Housing option, a higher floor area ratio (3.0 FAR), and therefore, more apartments, is permitted for buildings on or within 100 feet of a wide street than would be permitted under height factor regulations. For Height Factor buildings, 70% of dwelling units require parking, while for Quality Housing buildings, 50% of dwelling units require parking.

To the northeast and northwest of the Development Site is R7D/C2-4 districts along Myrtle Avenue - and to the east of the Development Site and areas south is mapped R6B. The entire Surrounding Area is within the Transit Zone, which reduces parking requirements for income-restricted dwelling units.

R7D/C2-4 zoning districts typically facilitate contextual medium-density residential buildings, allowing a maximum residential/community facility FAR of 4.2 and maximum commercial use of 2.0. Buildings have a minimum base height of 60 feet and a maximum of 85 feet. A maximum height of 10-stories is permitted or 100 feet (105 feet with a Qualifying Ground Floor). Lot coverage is 100% for corner lots and buildings with commercial use, while interior lots are permitted a max of 65%. Parking is required for 50% of dwelling units and the requirement is waived for income-restricted units in the Transit Zone. Parking requirements vary by use for community facility and commercial uses, with one space generally required per 1,000 square feet and the requirement waived below 40 spaces. This latter requirement for non-residential uses reflects access to transit.

R6B zoning districts typically facilitate contextual lower density buildings, allowing a maximum residential/community facility FAR of 2.0. Buildings are permitted to a maximum base height of between 30 and 40 feet (45 feet with a Qualifying Ground Floor), above which the building must set back to a depth of 10 feet on a wide street and 15 feet on a narrow street before rising to a maximum height of 50 (55 feet with a Qualifying Ground Floor). Parking is required for 50% of dwelling units and the requirement is waived for income-restricted units in the Transit Zone.

Further east beyond Lewis Avenue and north of Myrtle Avenue to Broadway (and the elevated rail right-of-way) is a C4-4L district, which also contains a Inclusionary Housing area. The area along Marcus Garvey Boulevard to the south of the Development Site is zoned R6A with C2-4 commercial overlays in segments along Marcus Garvey Boulevard. The mid-block areas to the west of Marcus Garvey Boulevard area also zoned R6B. The areas along Throop Avenue are also zoned R6A with C2-4 overlays present in segments of the roadway. To the south of Hart Street is another R6 zoning district.

R6A zoning districts typically facilitate contextual medium-density residential buildings, allowing a maximum residential/community facility FAR of 3.0. Areas with a C2-4 commercial overlay permit a maximum 2.0 FAR for commercial use and often result in mixed-use buildings with a single-story of commercial use. Buildings have a minimum base height of 40 feet and a maximum of 60 feet (65 feet with a Qualifying Ground Floor). A maximum height of 7-stories is permitted or 70 feet (75 feet with a Qualifying Ground Floor). Lot coverage is 100% for corner lots and buildings with commercial use, while interior lots are permitted a max of 65%. Parking is required for 50% of dwelling units and the requirement is waived for income-restricted units in the Transit Zone. Parking requirements vary by use for community facility and commercial uses, with one space generally required per 1,000 square feet and the requirement waived below 40 spaces.

The C4-4L zoning district, which has an R7A residential district equivalent, allows for buildings up to 4.0 FAR (4.6 FAR with Inclusionary Housing) and generally yields seven to eight-story buildings. Maximum lot coverage is 65 percent for interior and through lots and 100 percent on corner lots. Above a base height of 40 to 65 feet (75 feet with a Qualifying Ground Floor) or 40-75 feet with Inclusionary Housing, , the building must set back to a depth of 10 feet on a wide street and 15 feet on a narrow street, before rising to a maximum of 80 feet (85 feet with a Qualifying Ground Floor) – or where Inclusionary Housing is provided the building may rise to 90 feet (95 feet with a Qualifying Ground Floor) or 9-stories. However, because Broadway is a street with an elevated rail line, a setback of at least 15 feet is required at a height of at least 25 feet or two stories, whichever is lower, and at most 65 feet or six stories whichever is lower. Additionally, the maximum building height can be increased to 105 feet or 10 stories, whichever is less, for buildings with a Qualifying Ground Floor. Parking is required for 50% of all dwelling units and income restricted units are waived in the Transit Zone.

In addition to the Transit Zone, the Surrounding Area is designated as a FRESH (Food Retail Expansion to Support Health) zone and enables buildings for zoning and tax incentives where a qualifying FRESH use is provided.

The Surrounding Area is well-serviced by transit. The Development Site is three blocks from the New York City Transit (NYCT) Subway Station at Myrtle Avenue and Broadway with JMZ Train service to Manhattan and points south. Regarding NYCT bus service, the B15, B54, B43, B38, and B47 provide service in the neighborhood.

4. Description of the Proposed Project Area

The Proposed Project Area and Development Site are the same. See below for a description of the Development Site.

5. Description of the Proposed Development Site

The Development Site consists of Block 1588, Lot 1 and is located on the east side of Marcus Garvey Boulevard (70 feet in width) bound by Vernon Avenue to the north (70 feet in width) and Willoughby Avenue to the south (70 feet in width) in the Bedford-Stuyvesant neighborhood of Brooklyn Community District 3. Marcus Garvey Boulevard, Vernon Avenue and Willoughby Avenues are classified as a 'narrow' street in the Zoning Resolution.

The Development Site occupies a majority of Block 1588 (Lot 1) and contains approximately 130,000 square feet of lot area with 200 feet of frontage along Marcus Garvey Boulevard and 650 feet of frontage along Vernon Avenue and Willoughby Avenues. The Site is currently improved with four buildings rising between 3- and 9-stories containing a total of 284,563 zsf (2.27 FAR) that includes 267 dwelling units (2.19 FAR), 5,776 zsf of commercial retail (0.04 FAR) and 4,643 zsf of community facility space (0.03 FAR). The buildings were constructed in 1976 and last altered in 2014. All 267 dwelling units located on the zoning lot are income-restricted pursuant to a regulatory agreement executed against the property and in place between the Applicant, Housing Preservation and Development (HPD) and the New York State Division of Housing and Community Renewal (DHCR), in addition to some restrictions placed on the property by the U.S. Department of Housing and Urban Development (HUD).

Building A is located along the eastern side of Marcus Garvey Boulevard between Vernon and Willoughby Avenues and rises to 8-stories (approximately 80 feet tall). The building has a lot coverage area of 20,313 square feet and contains 124,417 square feet of zsf with 119 dwelling units. The ground-floor contains 5,776 zsf of commercial retail use.

Building B is midblock between Marcus Garvey Blvd and Lewis Avenue and rises to 9-stories (approximately 100 feet tall) . Building B has a lot coverage area of 19,949 square feet and contains 132,328 square feet of zsf with 128 dwelling units, as well as 4,643 zsf of community facility use.

Building C is located on the north side of Willoughby Avenue midway between Marcus Garvey Boulevard and Vernon Avenue and rises to 3-stories (approximately 35 feet tall). Building C has a lot coverage area of 5,708 square feet and contains 17,126 zsf with 12 dwelling units.

Building D is located on the south side of Vernon Avenue midway between Marcus Garvey Boulevard and Vernon Avenue and rises to 3-stories (approximately 35 feet tall). Building D has a lot coverage area of 3,564 square feet and contains 10,692 zsf with 8 dwelling units.

The interior courtyard portions of the property contain shared outdoor space with a playground. A second playground is located to the east of Building B in a second courtyard area, which is adjacent to an existing surface parking lot that accommodates 63 cars. The zoning lot contains two curb cuts along Vernon Avenue. The first is located between Buildings A and D and serves as a loading area for building operations. The second curb cut accesses the parking lot and is located immediately to the east of Building B.

6. Description of the Proposed Development

The Proposed Actions would facilitate the redevelopment of a portion of the Development Site by the Applicant to construct a new 14-story residential building that would comprise 175,017 zsf of residential use and 292 dwelling units. The dwelling units would consist of Affordable Independent Residences for Seniors (AIRS) under HPD's Senior Affordable Rental Program (SARA).

The building would rise to 14-stories and 148 feet or a maximum of 155 feet with a footprint of approximately 29,800 square feet (200 feet deep by approximately 149 feet long). The building would contain a base height of 75 feet or 7 stories before setting back along Willoughby Avenue by 15 feet and setting back an additional 5 feet at the 9th floor (90 feet). Along Vernon Avenue, the building's base would rise to a maximum of 75 feet and then set back 15 feet before rising to a maximum of 143 feet (relative to the base plane set to 0'0").

The building's main entrance would be located inside a modified courtyard in the facing Building B and would lead to the lobby area of the building, as well as supporting services and recreation spaces on the first floor. The cellar level would replace 63 pre-existing parking spaces made accessible via two-way ramp (10% grade) that connects to a relocated and narrowed curb cut (22 feet wide including splays) along Vernon Avenue.

In connection with the Proposed Development, new plantings, landscaping, furniture and fencing would be employed to improve the overall site plan of the Development Site. This would include 7,434 square feet of streetscape improvements along the perimeter of the Development Site that includes new fencing, plantings and street trees, as well as 7,298 square feet of planted area in the pre-existing courtyard as well as the creation of a new courtyard between the proposed new 14-story AIRS building and existing development. The new plantings would include shrubs, perennials, and four varieties of trees. In addition, some new seating areas would be provided and the existing playground inside the existing courtyard between the pre-existing buildings would be improved with new playground equipment. Existing amenity spaces would remain, such as the playground between the new building and existing development.

In total, the zoning lot would contain 459,580 zsf (3.62 FAR) with pre-existing residential, commercial and community facility development maintained on the zoning lot. This entails 449,161 zsf of residential use (3.54 FAR), 5,776 zsf of commercial use (0.04 FAR) and 4,643 zsf of community facility use (0.03 FAR) and 559 dwelling units with 63 off-street parking spaces. It should be noted AIRS units do not require off-street parking in the Transit Zone and the proposed 63 spaces are intended to replace existing spaces for existing residents, who will have limited access to the new facility.

7. Actions Necessary to Facilitate the Project

In order to facilitate the Proposed Development, zoning map amendments, zoning text amendments and a zoning special permit is sought to facilitate the Proposed Development. These actions are described below:

1) a zoning map amendment from R6 and R6/C2-4 to R7A and R7A/C2-4;
2) a zoning text amendment to Appendix F of the ZR to make the Development Site applicable to the Mandatory Inclusionary Housing (MIH) program
3) a zoning special permit to establish a large-scale general development ("LSGD") comprised of the Development Site, pursuant to 74-743 of the Zoning Resolution ("ZR"):
    a. The LSGD would waive the maximum height regulations as set forth under ZR 23-664 to permit a building with 14-stories and up to 155 feet.

Zoning Map Amendment

The proposed zoning map amendment would amend the Development Site from R6 and R6/C2-4 to R7A and R7A/C2-4. The new district would be mapped over Block 1588 from Marcus Garvey Boulevard to a point 100 feet west of Lewis Avenue. The C2-4 district would be maintained and the remaining properties on the subject block, that are located within 100 feet of Lewis Avenue would remain as R6.

The proposed R7A district permits 4.6 FAR with the inclusion of MIH and permits 5.01 FAR for AIRS uses. Currently, the Development Site permits 3.0 FAR (390,000 zsf) for residential uses under Quality Housing and 2.43 FAR under Height Factor regulations (315,900 zsf). As 284,563 zsf currently exists on the Development Site, additional density is necessary to enable infill development on the Site, which is currently underutilized as surface parking.

As such, a new mid-rise contextual district is proposed to enable the full and productive use of the Development Site, consistent with pre-existing densities and heights found in the surrounding area. R7A zoning districts typically facilitate contextual medium-density residential buildings, allowing a maximum residential/community facility FAR of 4.0 and 4.6 FAR under MIH and 5.01 FAR with AIRS. Areas with a C2-4 commercial overlay permit a maximum 2.0 FAR for commercial use and often result in mixed-use buildings with a single-story of commercial use. Buildings have a minimum base height of 40 feet and a maximum of 75 feet. A maximum height of 9-stories is permitted or 90 feet (95 feet with a Qualifying Ground Floor). Lot coverage is 100% for corner lots and buildings with commercial use, while interior lots are permitted a max of 65%. Parking is required for 50% of dwelling units and the requirement is waived for income-restricted units in the Transit Zone, such as AIRS units. Parking requirements vary by use for community facility and commercial uses, with one space generally required per 10,000 square feet and the requirement waived below 40 spaces.

The proposed R7A and R7A/C2-4 districts are appropriate for several reasons, primarily aimed at maximizing the potential of the Development Site while maintaining context with the surrounding area. Currently, the Development Site permits a relatively low FAR of 3.0, resulting in underutilization of the project site as a surface parking lot. By transitioning to R7A and R7A/C2-4 zoning, the FAR increases to 4.6 with MIH, enabling a significant increase in residential density. This higher density can support local businesses and create a more vibrant neighborhood.

The R7A zoning district balances the density of the residential and community facility use while staying within the neighborhood character. Additionally, the proposed building height and setbacks are similar to those of neighboring properties, ensuring that new development complements the existing urban fabric in scale and character.

Moreover, the district's mixed-use potential and excellent transit access promote walkability and reduce reliance on cars. In summary, the proposed R7A and R7A/C2-4 districts balance increasing density to better utilize the Development Site, promoting mixed-use development and ensuring compatibility with the surrounding neighborhood’s scale and character.

Zoning Text Amendment

A zoning text amendment is proposed as part of the Proposed Actions. This would modify Appendix F of the Zoning Resolution to make the Development Site applicable as an MIH Area. The Applicant would map Options 1 and 2. Option 1 requires at least 25% of residential floor area to be reserved for incomes averaging 60% AMI and below, while Option 2 would require at

least 30% of residential floor area to be reserved for incomes averaging 80% AMI and below. At this time the Proposed Development would comply with MIH through Option 2 with all new dwelling units affordable to incomes averaging at 80% AMI and below, which is a requirement for AIRS uses pursuant to ZR 12-10. In addition, the existing dwelling units present on the Development Site are reserved for incomes at 80% AMI and below. However, these units would not be applicable to MIH at this time, as they pre-date the program but would continue to be income-restricted pursuant to a regulatory agreement executed against the property.

Zoning Special Permit

A LSGD Special Permit is sought pursuant to ZR 74-743(a)(2) to allow for a maximum height of 155 feet and 14-stories, where 9-stories and 95 feet are currently permitted under ZR 24-664. This would enable greater vertical density as an infill development on a pre-existing zoning lot. The proposed density at 14-stories would be consistent with densities in the surrounding area, as further outlined the Statement of Findings.

For the reasons set forth herein, the Applicant's proposal to change the zoning within the Development Site from the existing mix of R6 and R6/C2-4 to R7A and R7A/C2-4 is appropriate and complementary to the existing zoning designations and land use development patterns in the Surrounding Area. The Applicant, therefore, respectfully requests that the Commission approve the Rezoning requested by this Applicant.

8. Conclusion

The Applicant respectfully requests approval of the Application, including the LSGD special permit, zoning map amendment, zoning text amendment to the LSGD special permit and the MIH text amendment, in order to facilitate the Proposed Development, which will bring 292 units of income-restricted housing units to the Development Site, oriented towards seniors under the SARA program. The Application is consistent with City policies and goals of facilitating new affordable housing development in contextually mapped areas throughout the City. Although the MIH program requires a minimum 25 percent of the new residential floor area included in the Proposed Development to be provided as permanently affordable, the Proposed Development will include 292 new units that will all be income-restricted housing. This will further the City's goal under *Housing Our Neighborhoods: A Blueprint for Housing and Homelessness.*

The Application further promotes a better site plan and increases the public health and safety of the residents of the LSGD by including converting underutilized surface parking into a new residential courtyard with area for the Proposed Development, as well as upgrading deteriorated and outdated play equipment and providing new fencing, outdoor furniture, plantings and street

trees, improving the overall layout of the zoning lot. Together, the Proposed Actions will serve to improve a pre-existing mixed-use development with an upgraded site plan, while underutilized area reserved for surface parking will be relocated below-grade and provide much needed space for income-restricted dwelling units.