817 AVENUE H REZONING
817 AVENUE H, BROOKLYN, APRIL 20, 2023

1. INTRODUCTION

Agudist Council of Greater New York, (the "Applicant") seeks land use actions that would affect 817 Avenue H, 807 Avenue H, 801 Avenue H, 784 East 9th Street, 782 East 9th Street, 780 East 9th Street, 811 East 8th Street, 807 East 8th Street, and 805 East 8th Street (Block 6496, Lots 39, 45, 47, 37, 36, 49, 50 p/o 35, p/o 51) (the "Project Area"), in the Kensington/Midwood neighborhoods of Brooklyn within Community District 14. The Applicant proposes the following actions (the "Proposed Actions"):

1. A zoning map amendment to rezone the Project Area from an R5/C1-3 (OP) zoning district to R7A/C2-4 and R5 zoning districts within the Special Ocean Parkway District;
2. To amend ZR Appendix F: to establish the Project Area as a Mandatory Inclusionary Housing ("MIH") Designated Area pursuant to Options 1 and 2.

The Proposed Actions will facilitate the development of a nine-story, mixed use building with a floor area of approximately 55,169 sq. ft. (4.60 FAR), containing approximately 15,758 sq. ft. of community facility space and 42 dwelling units (the "Proposed Development") to be constructed at 817 Avenue H, Block 6496, Lot 39 (the "Development Site"). The Applicant would utilize MIH Option 1 for the Development Site to provide 11 units of permanently affordable housing.

2. BACKGROUND

The area surrounding and including the Project Area was mostly zoned as an R7-1 district at the adoption of the 1961 zoning maps, with R5 and R3-2 zoning districts mapped in the surrounding areas. Within this R7-1 zoning district, the Project Area was the only portion also mapped with a C1-3 commercial overlay along Avenue H, to a depth of 150 feet.

In 1977, the Project Area and surrounding area was rezoned as part of the adoption of the Special Ocean Parkway District ("SOPD"). While much of the surrounding area remained zoned as R7-1, the Project Area and another area on block 6495 to the west were rezoned from R7-1 to R5. As noted in a later City Planning Commission Report (N 910349 ZRK[1]), the SOPD "was created in response to the community concern that the proliferation of community facilities posed a threat to the housing stock, residential character and appearance of the Ocean Parkway community." While the City Planning Commission Report does not specifically discuss the basis for the rezoning of the Project Area (which was part of the larger mapping of the SOPD), the Project Area appears to have been rezoned to R5 zoning districts in an attempt to preserve the low-rise character of the surrounding blocks.

[1] This application for a zoning text amendment to modify certain requirements of the SOPD was brought by Agudath Israel of America, Inc., and affiliate of the applicant.

In 1993, under ULURP No. C 930183 ZMK, the areas immediately adjacent to the Project Area were rezoned from R7-1 zoning districts to R7A contextual zoning districts. As stated in the City Planning Commission's report, the goal was to ensure that new construction would be limited to new construction "more in character with the existing multi-family development within this area."

3. DESCRIPTION OF THE SURROUNDING AREA

The Project Area is located in the Kensington/Midwood neighborhoods of Brooklyn within Community District 14.

Zoning

The area within a 600-foot radius of the Project Area (the "Surrounding Area") is zoned with R2X, R5, R6A, R7A, and C8-2 zoning districts. A C1-3 commercial overlay is mapped over the Project Area, and a C2-4 commercial overlay is mapped along Coney Island Avenue, within the R6A zoning district.

R2X zoning districts are non-contextual districts that only permit single-family detached houses on lots with a minimum width of 30 feet. The higher floor area ratio (0.85 FAR) and permitted rear yard encroachment in R2X districts produce buildings with greater bulk than other single-family residence districts, and may be increased up to 1.02 by an attic allowance for the inclusion of space beneath a pitched roof. The perimeter wall may rise to 21 feet before sloping or being set back to a maximum building height of 35 feet. R2X zoning districts require one off-street parking space for each dwelling unit.

R5 zoning districts are residential districts which typically produce three- and four-story attached houses and small apartment buildings. Within an R5 zoning district, the maximum FAR is 1.25, the maximum street wall height is 30 feet and the maximum building height is 40 feet. Above a height of 30 feet, a setback of 15 feet is required from the street wall. R5 zoning districts require a minimum front yard of 10 feet and a minimum rear yard of 30 feet. Detached houses must have two side yards that total at least 13 feet, each with a minimum width of five feet. Semi-detached houses require one eight-foot-wide side yard. Apartment buildings require two side yards, each at least eight feet wide. Off-street parking is required for 85% of the dwelling units.

R7A zoning districts are contextual residential districts where the Quality Housing bulk regulations are mandatory. These regulations produce high lot coverage, seven- to nine-story apartment buildings. The floor area ratio (FAR) in R7A districts is 4.0, or 4.6 with Mandatory Inclusionary Housing. Above a base height of 40 to 65 feet, or 75 feet (85' with MIH) if providing a qualifying ground floor, 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 80 feet, or 85 feet if providing a qualifying ground floor (up to 95' with MIH). In order to preserve the traditional streetscape, the street wall of a new building can be no closer to the street line, than any adjacent street wall, but need not be farther than 10 feet. Buildings must have interior amenities for the residents pursuant

to the Quality Housing Program. Off-street parking is required for 50% of dwelling units.

C1-3 zoning districts are commercial overlay districts historically mapped within residence districts along streets that serve local retail needs. Typical retail uses are limited to those in Use Group 6. In mixed buildings, commercial uses are limited to one or two floors and must always be located below the residential use. When commercial overlays are mapped in R1 through R5 zoning districts, the maximum commercial FAR is 1.0; when mapped in R6 through R10 zoning districts, the maximum commercial FAR is 2.0.

Special Districts

The Special Ocean Parkway District was designed to promote and strengthen the scenic landmark designation of Ocean Parkway, maintain the existing scale and character of the community by limiting the bulk of permitted community facilities, and to promote the most desirable use of land in the area. The SOPD contains specific requirements for landscaping along Ocean Parkway, and generally limits the bulk of permitted community facility uses within low and medium density zoning districts.

Land Uses and Prevailing Built Form

The land uses within the Surrounding Area consist primarily of a residential uses. The area also contains community facility uses, as well as a commercial corridor along Coney Island Avenue.

Avenue H is an 80’ wide street categorized by five to seven story residential buildings to the south and east, and by single family homes to the west. In the area immediately surrounding the Project Area, these buildings are generally overbuilt under current R7A zoning,

East 8th Street is predominantly characterized by single and two-family homes, as well as a low-rise multifamily building and surface parking.

East 9th Street is predominantly characterized by single-family homes on the west side, and low-rise residential buildings on the east side. 701 East 9th Street, built in 2017, is improved with an 8-story, approximately 3.45 FAR residential building.

Coney Island Avenue, located two blocks to the east of the Project Area is a commercial corridor characterized by low-rise commercial and light-industrial uses.

Public Facilities

Approximately half a mile to the northeast of the Project Area at 1100 Newkirk Avenue, is P.S. 217, Colonel David Marcus School, an elementary school with a capacity of approximately 1,186 seats. This school has publicly-accessible active recreation facilities.

Mass Transit

The Project Area is located within the Transit Zone and is well served by multiple forms of public transit. Approximately one third of a mile east of the Project Area is the Avenue H Station served by the Q subway line. The 18th Avenue and Avenue I stations, served by the F subway line, are located approximately one half-mile to the west of the Project Area. The Surrounding Area is also accessible by bus service, with the B68 bus running north/south along Coney Island Avenue, and connecting with many east/west bus lines.

4. DESCRIPTION OF THE PROJECT AREA

The Project Area is in the Kensington/Midwood neighborhoods of Brooklyn Community District 14 and includes 817, 807, 801 Avenue H, and 784. 782, 780 East 9th Street and 811, 807, 805 East 8th Street (Block 6496, Lots 35, 36, 37, 39, 45, 47, 49, 50, 51) . The Project Area is bounded by Avenue H to the south, East 8th Street to the west, East 9th Street to the east, and a line 150 feet north of, and running parallel to, Avenue H to the north. The Project Area is zoned R5/C1-3 (OP) within 150 feet of Avenue H, a low-density residential district allowing for one to four story residential buildings with ground floor retail. The buildings within the Project Area generally predate modern zoning.

817 Avenue H (Block 6496, Lot 39, the "Development Site") is a corner lot with 120 feet of frontage on Avenue H and 100 feet of frontage along East 9th Street, with approximately 12,000 sq. ft. of lot area. The lot is improved with a single-story, approximately 9,762 sq. ft. House of Worship and retail building (0.81 FAR), built around 1950.

807 Avenue H (Block 6496, Lot 45) is an interior lot with 40 feet of frontage on Avenue H and approximately 4,000 sq. ft. of lot area. The lot is improved with a two- story, single-family dwelling, approximately 2,044 sq. (0.51 FAR), built around 1925.

801 Avenue H (Block 6496, Lot 47) is a corner lot with 40 feet of frontage on Avenue H and 100 feet of frontage on East 8th Street, with approximately 4,000 sq. ft. of lot area. The lot is improved with a two–story, single-family dwelling, approximately 1,518sq. ft.(0.38 FAR), built around 1925.

784 East 9th Street (Block 6496, Lot 37) is an interior lot with 22.75 feet of frontage on East 9th Street, with approximately 2,275 ft. of lot area. The lot is improved with a two story, converted two family dwelling, approximately 1,718 sq. ft. (0.76 FAR), built around 1925.

782 East 9th Street (Block 6496, Lot 36) is an interior lot with 19.33 feet of frontage on East 9th Street, with approximately 1,933 ft. of lot area. The lot is improved with a two story, converted two family dwelling, approximately 1,718 sq. ft. (0.89 FAR), built around 1925.

780 East 9th Street (Block 6496, Lot 35) is an interior lot with 19.33 feet of frontage on East 9th Street, with approximately 1,933 ft. of lot area. Approximately 792 sq. ft. is zoned R5/C1-3 with the remainder being zoned R5. The lot is improved with a two, converted two family

dwelling, approximately 1,718 sq. ft. (0.89 FAR), built around 1925.

811 East 8th Street (Block 6496, Lot 49) is an interior lot with 23.33 feet of frontage on East 8th Street, and approximately 2,333 ft. of lot area. The lot is improved with a two story, single family dwelling, approximately 1,730 sq. ft. (0.74 FAR), built around 1925.

807 East 8th Street (Block 6496, Lot 50) is an interior lot with 23.33 feet of frontage on East 8th Street, and approximately 2,333 ft. of lot area. The lot is improved with a two story, single family dwelling, approximately 1,730 sq. ft. (0.74 FAR), built around 1925.

805 East 8th Street (Block 6496, Lot 51) is an interior lot with 23.33 feet of frontage on East 8th Street, and approximately 2,333 ft. of lot area. Approximately 634 sq. ft. is zoned R5/C1-3 with the remainder being zoned R5. The lot is improved with a two story, single family dwelling, approximately 1,730 sq. ft. (0.74 FAR), built around 1925.

5. DESCRIPTION OF THE DEVELOPMENT SITE

The Development Site is improved with an existing, approximately 9,762 SF (0.81 FAR) house of worship, with small areas dedicated to local retail (including a laundromat). When the house of worship is not actively conducting services, the space is used by the Brookdale Senior Citizen Center through a lease arrangement with the Applicant. The Development Site is an corner lot with approximately 12,000 sq. ft. of lot area and a curb cut on East 9th Street.

6. DESCRIPTION OF THE PROPOSED DEVELOPMENT

The proposed rezoning will facilitate the development of a nine-story residential and community facility building (UG 2, 4) with approximately 55,169 sq. ft. of floor area (4.6 FAR) of which approximately 39,411 sq. ft. would be residential and approximately 15,758 sq. ft. would be community facility. The Proposed Development will be built with a 5' setback from the street line, which will allow the Proposed Development to maintain a landscaping buffer consistent with existing developments along Avenue H. The Proposed development will have two 8' side yards, a 10' setback along Avenue H, a 15' setback along East 9th Street, and additional setbacks from the side yards at the third and 5th floors before rising to a total height of 95'.

The ground floor will contain an approximately 5,500 sq. ft. house of worship, accessory office space, and the residential and community facility lobbies. The second floor will contain 4,500 sq. Ft. activity room, classrooms, a kitchen and other accessory community facility spaces. The remaining floors will contain 42 dwelling units, of which 11 will be affordable pursuant to MIH Option 1. The cellar will contain 20 attendant parking spaces accessory to the residential units, 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 R5/C1-3 zoning district to an R7A/C2-4 and R5 zoning districts within the Special Ocean Parkway District; and
2. A zoning text amendment to amend ZR Appendix F: to establish the Project Area as a Mandatory Inclusionary Housing ("MIH") Designated pursuant to Options 1 and 2.

R7A zoning districts are medium-density contextual residential zoning districts, typically mapped along wide streets, where the Quality Housing bulk regulations are mandatory. R7A zoning districts s are frequently mapped along Kings Highway and Ocean Avenue to the west and south of the Proposed Rezoning Area (including the area immediately across Avenue H and East 9th Street). The maximum residential FAR in an R7A zoning district is 4.6 with mandatory inclusionary housing. R7A zoning districts also allow up to 4.0 FAR for community facility use. Above a maximum base height of 75 feet, a 10-foot setback is required on a wide street and a 15-foot setback is required on a narrow street, before rising to a maximum height of 95 feet with a qualifying ground floor and mandatory inclusionary housing. Off-street parking is required for 50% of all dwelling units (30% on lots less than 10,000 sq. ft. in lot area), with an exemption from parking for income-restricted units within the Transit Zone and can be waived if fifteen or fewer spaces are required.

C2-4 zoning districts are generally mapped within residence districts along streets that serve walkable local retail needs, but allow a greater range of uses than those uses permitted within a C1 overlay. Typical retail uses include neighborhood grocery stores, restaurants and beauty parlors, as well as other businesses and services such as plumbing and upholstery stores. In mixed-use buildings, commercial uses in Use Group 6, 7, 8, 9 or 14 cannot extend above the first floor. One parking space is required for every 1,000 sq. ft. of commercial space.

The Project Area is located on a transit-rich, wide corridor, in an area with a distinct need for new market rate and permanently affordable housing options. It is therefore particularly well suited to accept the proposed increase in density proposed by this application.

The zoning text amendment to Appendix F will create a new MIH area coterminous with the Project Area, permanently requiring affordable housing at least between 25 and 30 percent of the residential floor area, supporting the creation of much needed affordable housing in Kensington and greater Community Board 14. 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.

The 150' depth of the existing commercial overlay is inappropriate as these overlays were designed to accommodate the auto-centric commercial uses typical of the late 1950s and early 1960s, and therefore typically mapped at a depth of 150' from the street. The 150' depth allowed commercial lots to accommodate surface parking for retail customers without sacrificing ground floor space. This depth is inappropriate here for two main reasons: First, the existing 100' deep lots along Avenue H are not sufficiently deep to accommodate surface parking without sacrificing ground

floor space to accommodate the parking. Second, the existing commercial overlay encompasses single and two-family homes along East 8th and 9th streets, where future commercial uses would be largely inappropriate.

The existing C1-3 commercial overlay is inappropriate, as the limitation to retail uses in Use Group 6 is generally inconsistent with modern retail and inappropriate for new development. C2-4 commercial overlays have lower parking requirements, making them better suited for walkable retail corridors, such as the Proposed Project Area. C2-4 commercial overlays are consistently mapped with middle-density residential districts for this reason, and because they encourage continuous retail frontages and a more pleasant pedestrian experience. Furthermore, the additional uses permitted by the C2-4 commercial overlay will provide flexibility for the types of commercial services that can occupy the commercial spaces, which is important in relatively isolated commercial districts, such as the Project Area, .

8. CONCLUSION

As discussed above, Agudist Council of Greater New York, Inc. proposes a zoning map amendment to rezone the Project Area from R5/C1-3 (OP) zoning districts to R5 and R7A/C2-4 (OP) zoning districts within the Special Ocean Parkway District. The proposed zoning map amendment will facilitate the construction of a new nine-story community facility and residential building at the Development Site with approximately 15,798 sq. ft. of community facility space and 42 dwelling units. The applicant also seeks a zoning text amendment to amend ZR Appendix F, Inclusionary Housing Designated Areas for Brooklyn Community District 14, to establish the Project Area as an MIH Designated Area pursuant to Options 1 and 2. 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.