Holland & Knight

31 West 52nd Street | New York, NY 10019 | T 212.513.3200 | F 212.385.9010
Holland & Knight LLP | www.hklaw.com

281 & 311 Marcus Garvey Boulevard
Applicant's Description of Proposal
November, 2022

1. Introduction

This application (the "Application") submitted by Omni New York LLC (the "Applicant") proposes the construction of two new primarily-residential buildings (Building A and Building B, the "Proposed Development") that will together include a total of approximately up to 141,025 square feet of zoning floor area and 155 new income restricted dwelling units within underutilized portions of existing affordable housing developments at 281 Marcus Garvey Boulevard (Block 1629, p/o Lot 1, "Development Site 1") and 311 Marcus Garvey Boulevard (Block 1634, p/o Lot 1, "Development Site2"), in the Bedford-Stuyvesant neighborhood, Community District 3, Brooklyn.

In order to facilitate the Proposed Development the Applicant requests:

1. a zoning map amendment (the "Rezoning") to rezone Block 1629, p/o Lot 1 and Block 1634, p/o Lot 1 and p/o Lot 79, at a depth of 100 feet from Marcus Garvey Boulevard, from a mix of R6A/C2-4, R6B/C2-4, R6A and R6B to a R7A/C2-4 district (the "Rezoning Area"),

2. a zoning text amendment to Appendix F of the Zoning Resolution of the City of New York (the "ZR") to establish a Mandatory Inclusionary Housing (MIH) over the Rezoning Area (the "MIH Text Amendment") including Option 1,

3. establishment of a large-scale residential development (LSDG) comprised of Block 1629, Lot 1 and 1634, Lot 1 along with the granting of a special permit pursuant to ZR 74-743 to distribute floor area without regard to zoning district boundaries, and to modify height and setback restrictions applying to the large scale residential development (the "LSGD Special Permit"), and

4. a special permit pursuant to ZR 74-532 to reduce the previously required amount of parking provided in connection with existing buildings within the LSGD from a total of 234 spaces to 118 spaces (the "Parking Special Permit").

2. Background

The Project Area is coincident with the actions that are requested as part of this Application, including the Rezoning Area and the LSGD.

The LSGD includes all of Block 1629, Lot 1 (LSGD Site 1) and Block 1634, Lot 1 (LSGD Site 2), and is currently improved with a total of 5 six-story residential buildings (Existing Buildings 2-5) and a one-story parking garage (the Garage) that face across from each other upon both frontages of Gates Avenue between Marcus Garvey Boulevard and Lewis Avenue (the "Existing Development").[1]

At the time of construction of the Existing Development in 1972, the Project Area had been zoned R6 throughout. In 2007, the Project Area was included in the Bedford-Stuyvesant South rezoning (C 070447 ZMK) changing its zoning from R6 to the current mix of R6A, R6B, R6A/C2-4 and R6B/C2-4 that exists today. In 2012, the City adopted the Bedford-Stuyvesant North rezoning, which extended the contextual districts immediately north of the Project Area (C 120294 ZMK). As part of that rezoning the block frontages north of the Project Area along both sides of Marcus Garvey Avenue were rezoned to a R7A district. More recently, in 2016 the City adopted Zoning for Quality and Affordability and at that time the Project Area was designated as being within the Transit Zone.

The Rezoning Area includes that part of the LSGD within 100 feet of Marcus Garvey Avenue, and includes Block 1629, p/o Lot 1 and Block 1634, p/o Lot 1. There is also a 20 foot wide portion of Block 1634, Lot 79 that lies within a 100 foot depth from Marcus Garvey Avenue and will be included in the Rezoning Area.

This Application seeks to extend the R7A district that was established on Marcus Garvey Avenue as part of the Bedford-Stuyvesant North rezoning by establishing it southward over that part of the Project Area lying within a 100 foot distance of the Avenue frontage. It also would establish new commercial overlays within these areas.

3. Surrounding Area

The Project Area and its Surrounding Area are extensively mapped with R6B districts, with primary corridors such as portions of Marcus Garvey Boulevard and Gates Avenue mapped with the higher density R6A district designations. C2-4 commercial overlays are mapped along primary business corridors like Marcus Garvey Boulevard, along with the corners and short ends of blocks where retail uses historically operated.

R6B zoning districts typically facilitate contextual lower-density residential buildings, allowing a maximum residential FAR of 2.2 with Inclusionary Housing, and a maximum community facility FAR of 3.0. Buildings are permitted to a maximum base height of between 30 and 40 feet, 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. The maximum base and building heights are

[1] Gates Avenue, Lewis Avenue and Marcus Garvey Boulevard are all wide streets.

increased to 45 and 55 feet, respectively, where the building includes Qualifying Ground Floor retail space.

R6A zoning districts typically facilitate contextual medium-density residential buildings, allowing a maximum residential FAR of 3.6 with Inclusionary Housing, and a maximum community facility FAR of 3.0. Buildings with Income Restricted Housing Units are allowed to a maximum base height of between 40 and 65 feet, 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 85 feet. C2-4 commercial overlays allow for a range of local-serving commercial uses up to a maximum FAR of 2.0. The district has low off-street parking requirements, and typically results in ground-floor retail or service uses within mixed-use buildings.

The existing buildings in the surrounding area include a significant concentration of post-war multi-family six-story masonry affordable housing projects constructed in the 1970's. Elsewhere in the Surrounding Area, properties along Lexington Avenue and Quincy Street to the north, Monroe Street and Madison Street to the south, Throop Avenue to the Stuyvesant Avenue to the east, the existing buildings tend to be primarily pre-war brownstone tenements that have been converted from one family into multi-family dwellings.

Community facility uses are also present in the Surrounding Area. P.S. 308 Clara Cardwell school is located on the north side of Gates Avenue between Lewis Avenue and Stuyvesant Avenue to the east of the Project Area. One block further east along the south side of Gates Avenue between Stuyvesant Avenue and Malcolm X Boulevard lies the La Cima Elementary School and Uncommon Schools Bedford Stuyvesant Collegiate. The Co-op School, Raymond Bush Playground, and Unit Prep Charter School are located to the west and southwest of the Project Area. Three blocks to the south, at Putnam Avenue, is the 13th Regiment Armory, currently operated by the Department of Homeless Services as a shelter.

The land use of the Surrounding Area largely reflects the uses and scale allowed in these districts R6A and R6B zoning districts with commercial overlays along certain Avenues that were mapped throughout the Surrounding Area in 2007 and 2012.

Subways that serve the Project Area include the A and C train line along Fulton Street at the Utica Avenue and Kingston-Throop Avenue stations about eight-tenths of a mile to the south. The J and Z train line along Broadway at Gates Avenue is located about nine-tenths of a mile to the east. The G train at Bedford and Nostrand Avenues is located eight-tenths of a mile to the west. B15, B38, B43 and B52 bus lines serve the Project Area and run throughout the Surrounding Area.

4. Project Area

The Project Area is coincident with the actions that are requested as part of this Application, including the Rezoning Area and the LSGD.

LSGD is comprised of LSGD Site 1 and LSGD Site 2 where the Existing Development is currently located. LSGD Site 1 includes a total of 87,000 square feet of lot area, and, as noted above, is improved with three existing six-story residential buildings (Buildings 2, 3, and 4) that front upon the north side of Gates Avenue that together contain a total of 175 units of existing affordable housing constructed in 1972. LSGD Site 1 also includes 99 accessory off-street parking spaces according to the COs available through the NYC DOB BIS Now site.[2] Since the Applicant acquired the Project Area, Site 1 has only included 58 spaces serving the zoning lot.

LSGD Site 2 includes a total of 83,000 square feet of lot area, and is currently improved with two six-story residential buildings with a total of 160 units of affordable housing (Buildings 5 and 6). It also includes the Garage and according to its COs a total of 112 accessory off-street parking spaces that are required to be provided on the zoning lot. Since the Applicant acquired the Project Area, Site 2 has only included 60 spaces.

The Rezoning Area includes only those portions of the Project Area located within a 100 foot depth from Marcus Garvey Boulevard. The 100 foot depth between Quincy Street and Gates Avenue is currently zoned R6A/C2-4 over the southern portion and R6B/C2-4 over the northern portion. Building 2 is located in the R6A/C2-4 area and a one-story non-residential building is located within the R6B/C2-4 area. The existing one-story building within the R6B/C2-4 district will be demolished so that in its place Building A can be constructed. The 100' depth between Gates Avenue and Monroe Street is currently zoned R6A over the northern portion, and R6B over the southern portion. Building 5 is located in the R6A area and a one-story non-residential building is located within the R6B area. The existing one-story building within the R6B district will be demolished so that in its place Building B can be constructed.

The Rezoning Area is proposed to be changed to an R7A/C2-4 district along the entire eastern frontage of Marcus Garvey Boulevard between Quincy Street and Monroe Avenue. R7A zoning districts facilitate contextual medium-density residential buildings, allowing a maximum residential FAR of 4.6 with Inclusionary Housing, and a maximum community facility FAR of 4.0. Buildings with income-restricted housing units are allowed a maximum base height of 95 feet, 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 90 feet (or 95' with a Qualifying Ground Floor). The C2-4 overlay allows a range of local-serving commercial uses up to a maximum FAR of 2.0. There are low off-street parking requirements and buildings typically include ground-floor retail or service establishments with residential above. Mapping the C2-4 commercial overlay with an R7A zoning district mandates non-residential uses on the ground floor.

5. Description of Development Sites

[2] The Applicant has been directed to treat LSGD Site 1 with a requirement of 122 spaces.

Development Site 1 is that p/o Block 1629, Lot 1 that is located at the intersection of Marcus Garvey Boulevard and Quincy Street and the location of Building A on the plans submitted with this Application. It has 100 feet of frontage along Marcus Garvey Boulevard and 125 feet of frontage along Quincy Street and is currently located within a R6B/C2-4 district. A two-story non-residential building is being demolished in order to allow for the construction of Building A in its former location on Development Site 1.

Development Site 2 is that p/o Block 1634, Lot 1 that is located at the intersection of Marcus Garvey Boulevard and Monroe Avenue and the location of Building B on the plans submitted with this Application. It has 100 feet of frontage on Marcus Garvey Boulevard and only eighty-feet of frontage along Monroe Avenue and is currently located within a R6B district. A one-story under-utilized and outdated non-residential building is being demolished in order to allow for the construction of Building B in its former location on Development Site 2.

6. Description of the Proposed Development

The Proposed Development includes two new affordable housing buildings with a total of up to approximately 141,025 square feet of zoning floor area and approximately 155 new dwelling units of affordable housing. The income restricted units will be provided pursuant to MIH Option 1 and affordable for households whose income does not exceed a weighted average of 60% of the Area Median Income. The base of the two buildings includes up to a total of approximately 19,881 square feet of commercial and community facility use. The Proposed Development also includes new and improved landscaped courtyards for residents and sidewalk widening areas available to the general public.

Building A would include approximately 81,479 square feet of floor area. Of this amount, 15,631 square feet of floor area would be for non-residential commercial and community facility uses located at the ground level. The building includes ten stories with an overall height of 105 feet. Building B would include approximately 59,546 square feet of floor area, of which approximately 4,727 square feet would be for community facility and commercial uses at the ground level. Like Building A, Building B includes ten stories with a height of 105 feet. Parking is not required for income-restricted housing units within the Transit Zone, and no parking is being proposed in connection with the new buildings.

Along with the construction of Buildings A and B, the Proposed Development will include improvements to the open spaces within the Project Area. A new courtyard will be constructed with Building A that would be accessible from the street and the residential lobby. This private area would provide residents with sitting and landscaping areas set back from the street. Along the sidewalk, a five-foot-wide planting strip with a row of shade trees will buffer the courtyard from the public realm and provide pedestrians a wide canopy of trees to find shade under and out of the way of those passing by. Elsewhere on Site 1, landscaping improvements would also take place within the courtyards located between buildings 2 and 3 and between buildings 3 and 4.

A new courtyard will also be constructed with Building B that would be accessible to existing residents of Building 5. Like the courtyard provided with Building A, there would be a five-foot-wide planting strip with a row of shade trees buffering the space from the public realm. In addition, the open spaces above the existing parking garage will be updated with improved recreational amenities, including a basketball court.

All of the landscaped areas within the Project Area, whether new or refurbished, are designed in an integrated fashion with similar materiality and amenities throughout.

7. Actions Necessary to Facilitate the Project

In order to facilitate the Proposed Development, this Application requests the Rezoning, Text Amendment, LSGD Special Permit, and Parking Special Permit, as follows:

Rezoning to modify the zoning designations of the Rezoning Area from a mix of R6A/C2-4, R6B/C2-4, R6A and R6B to a R7A/C2-4 district.

The Applicant proposes to rezone the Rezoning Area from its existing mix of R6A/C2-3, R6B/C2-3, R6A and R6B districts to R7A/C2-3. R7A zoning districts facilitate contextual medium-density residential buildings, allowing a maximum residential FAR of 4.6 with Inclusionary Housing, and a maximum community facility FAR of 4.0. R7A zoning districts with Inclusionary Housing allow a maximum building base height of 95 feet, 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 90 feet (95' with QGF). The proposed C2-4 commercial overlay allows a range of local-serving commercial uses up to a maximum FAR of 2.0, have low off-street parking requirements, and typically result in ground-floor retail or service uses within mixed-use buildings. Mapping the C2-4 commercial overlay with an R7A zoning district would mandate non-residential uses on the ground floor.

The proposed mix of R7A/C2-4 districts along the Marcus Garvey Avenue with R6A remaining throughout the rest of the Project Area along Gates Avenue is appropriate considering the land use development patterns in the Surrounding Area and the needs of the City that would be met by the zoning map amendment. Consistent with Housing New York 2.0, it is a goal of the City to strategically introduce increased density to existing underutilized areas in order to accommodate new affordable housing developments. To further this goal, the MIH program was established in 2016, and has been applied by text amendment in conjunction with any zoning map amendment that increases residential density. Along with MIH, the City also adopted Zoning for Quality and Affordable housing (ZQA) that same year.

ZQA included new terms and actions under the Zoning Resolution designed to reduce parking requirements applying to new and existing affordable housing developments. Because parking is expensive to provide and maintain, and because studies relied upon by the City have shown that occupants of affordable housing units tend to have lower car ownership rates when located within

closer proximity to mass transit, the City established the Transit Zone was, within which parking is no longer required for new income-restricted housing units. For instance, because the Proposed Development is comprised entirely of income-restricted housing units and is located within the Transit Zone, it will not require any accessory off-street parking spaces in connection its construction.

ZQA was also designed to reduce the burden of existing parking requirements on affordable housing development and included the Parking Special Permit under ZR 74-532 requested as part of this Application. The special permit allows for the reduction of parking requirements applying in a large scale general development provided such reduction directly facilitates the development of new income-restricted housing units.

The Development Sites are properties envisioned for increased density to facilitate affordable housing opportunities identified under Housing New York 2.0, MIH and ZQA. They contain underutilized areas that can support the increase in density resulting from changing their existing zoning from R6B and R6A to R7A. And they include existing affordable housing developments with required parking spaces that go unused by residents today. By granting the Parking Special Permit to reduce existing required parking amounts to the 118 spaces existing within the Project Area, and mapping MIH over the Rezoning Area, the Applicant is able to retain the existing amount of spaces and will not be required to provide new spaces in connection with the construction of Buildings A and B since they will be comprised of income-restricted housing units in the Transit Zone.

As described above, together, the Rezoning, MIH Text Amendment, and the Parking Special Permit make possible the creation of new income-restricted affordable housing units. And the LSGD Special Permit ensures the Proposed Development is constructed in a manner that remains respectful to the built character of the Project Area and Surrounding Area. In conclusion, the Rezoning will maximize the ability to introduce new income-restricted affordable housing units to the Project Area without the expense of providing for previously required parking that is no longer necessitated by residents. In return, the rezoning will provide for new affordable housing within the Project Area in a manner that remains respectful to the existing built character of the Surrounding Area.

For the reasons set forth herein, the Applicant's proposal to change the zoning within the Rezoning Area from the existing mix of R6A/C2-4, R6B/C2-4, R6A, and R6B to 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 Application.

MIH Text Amendment to designate the Rezoning Area an MIH area and to establish MIH Option 1.

The MIH Text Amendment would modify Appendix F of the Zoning Resolution to designate the Project Area a Mandatory Inclusionary Housing (MIH) area, Option 1. This would require at least 25 percent of the residential floor area be provided as housing permanently affordable to households with incomes at an average of 60 percent of the area median income (AMI). Within that 25 percent, at

least 10 percent of the square footage must be used for units affordable to residents with household incomes at an average of 40 percent of the AMI, and with no units targeted to households with incomes exceeding 130 percent of the AMI. Pursuant to City guidelines, income-restricted housing units will be made available pursuant to a lottery, and 50 percent of the units will be reserved for residents of the Community District.

LSGD Special Permit pursuant to Zoning Resolution Section 74-743 to distribute floor area without regard to zoning district boundaries and modify height and setback restrictions applying to the Proposed Development.

This Application is requesting the LSGD Special Permit pursuant to ZR Section 74-743(a)(1) to allow for the distribution of zoning floor area without regard for zoning district boundary lines. Building 1 includes 1,820 square feet of floor area distributed from the R7A/C2-4 portion to the R6B portion of Development Site 1. Building 2 includes 4,250 square feet of floor area distributed from the R6A portion to the R7A/C2-4 portion of Development Site 2. R6B, R6A, and R7A/C2-4 districts all permit residential use and therefore the distribution of bulk across the boundaries of these districts is permitted under 74-743(a)(1).

This Application also requests the Special Permit pursuant to ZR Section 74-743(a)(2) to increase the height of Buildings A and B to include ten stories and 105 feet whereas 95 feet is permitted under ZR Section 23-664(b). In addition to exceeding the maximum height of a building, the application also includes increasing the height of Buildings A and B above 65 feet when located in a R7A district and within a 25 foot setback distance from an adjacent R6B district as set forth in ZR 23-693.

Parking Special Permit pursuant to Zoning Resolution Section 74-532 to reduce parking provided in connection with existing buildings from a total of 234 spaces to 118 spaces.

Although up to 234 spaces are required to be provided between the Project Area, since the Applicant acquired the Project Area it has contained only 118 spaces - with 58 spaces located on LSGD Site 1, and 60 spaces located on LSGD Site 2. The Parking Special Permit requested under ZR 74-532 would allow the existing 118 spaces currently provided for within the LSGD to remain. Instead of demolishing the two-story and one-story non-residential buildings located on Development Site 1 and 2 in order to provide the missing complying amount of parking - by removing historically burdensome amounts of underutilized parking the buildings can be demolished for the construction of the Proposed Development.

Additionally, because the LSGD is located in the Transit Zone and is comprised entirely of income-restricted housing, no new parking spaces would be required in connection with the construction of the Proposed Development.

8. Conclusion

The Applicant respectfully requests approval of the Application, including the LSGD Special Permit, the Parking Special Permit, the Rezoning, and the MIH Text Amendment, in order to facilitate the Proposed Development, which will bring 155 units of income-restricted housing units to the Project Area. 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 Text Amendment 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 155 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 and is in line with the plans prioritization of people over parking in transit-rich neighborhoods.

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 open areas into new residential courtyards and by upgrading deteriorated and outdated play equipment. Buildings A and B would located in the place of two existing under-utilized non-residential "tax-payer" buildings that currently occupy frontages of Development Site 1 and 2 facing Marcus Garvey Boulevard. The two new mixed-use buildings with non-residential uses on the ground floor and a combined total 155 new units of income-restricted housing will bring increased residential foot traffic along Marcus Garvey Boulevard and throughout the Project Area where it is currently lacking. The increased pedestrian presence along the stretch of Marcus Garvey Boulevard between Quincy Street and Monroe Avenue will result in increased safety for occupants and visitors of the Project Area and the Surrounding Area. Modern retail at the ground floor of the buildings facing Marcus Garvey Boulevard will help meet the community's need for local retail and commercial services and will improve the quality of life for the occupants of the LSGD and the residents throughout the Surrounding Area that utilize the stores and establishments along the local retail thoroughfare.

In conclusion, the Applicant respectfully requests that the City Planning Commission grant the Application in order to facilitate the construction of the Proposed Development including 155 units of new income-restricted housing units in the Bedford-Stuyvesant neighborhood of Brooklyn.