Fulton Street Daycare & Senior Housing Rezoning
3285 Fulton Street
Block 4129, Lot 1
Borough of Brooklyn
September 15, 2021

I. Introduction

This is an application by Cypress Hills Local Development Corporation, the owner through its wholly-owned subsidiary Cypress Hills Child Care Corporation ("CHCCC") of 3285 Fulton Street (Block 4129, Lot 1), Borough of Brooklyn (the "Development Site"), together with its development partner MHANY Management, Inc. (Cypress Hills Local Development Corporation, together with MHANY Management, Inc., hereafter referred to collectively as the "Applicant"). This land use application would facilitate a new seven story mixed residential and community facility building containing 33 AIRS units and a new daycare facility for CHCCC (the "Proposed Development") in the Cypress Hills/East New York neighborhood of Brooklyn Community District 5.

The land use actions required to facilitate the Proposed Development are as follows:

1. Zoning map amendment to:

    a. Rezone the portion of Block 4129 within 100 feet of Fulton Street between Pine Street and Euclid Avenue from an R5 zoning district with a C2-3 overlay to an R7A zoning district with a C2-4 overlay within a Special Enhanced Commercial (EC-6) District;

    b. Remove the C2-3 commercial overlay from Block 4129 beyond 100 feet of Fulton Street, between Pine Street and Euclid Avenue; and

2. Zoning text amendment to:

    a. Amend the description of Special Enhanced Commercial District 6 in Section 132-11 of the Zoning Resolution of the City of New York ("Zoning Resolution" or "ZR") to extend up to Pine Street; and

    b. Add a new Mandatory Inclusionary Housing ("MIH") area in Appendix F of the Zoning Resolution.

Approval of this land use application will help to fulfill one of the five Community Resources commitments made by the City in connection with the rezoning of East New York in 2016, by facilitating the construction of a new child care center by Cypress Hills Local Development Corporation. The Proposed Development would allow CHCCC to vacate its leased space at 3295 Fulton Street, expand the number of daycare slots they provide to low income families in the community, and operate from a location that its parent organization owns and controls.

II. Background

On April 20, 2016, the City Council approved certain land use actions to facilitate the East New York Community Plan pursuant to ULURP Nos. C160035ZMK, N160036ZRK, C160037HUK, C160042HDK, and N160050ZRK (collectively, the "East New York Rezoning"). The East New York Rezoning was the first rezoning to utilize the Mandatory Inclusionary Housing program, and involved a rezoning of 190 blocks in East New York in Community District 5.[1] The East New York Community Plan called for establishing a "Mixed-Use Corridor" along Fulton Street, to allow "moderate density mixed-use development with affordable and mixed-income housing, retail, businesses, and community facilities near transit."[2]

The Project Area (as defined herein) is located immediately to the east of, and adjacent to, the East New York Rezoning area.

The Development Site is owned by Cypress Hills Child Care Corporation ("CHCCC"), a wholly-owned subsidiary of Cypress Hills Local Development Corporation, and is currently vacant. CHCCC currently operates a daycare out of leased space comprised of four classrooms and a commercial kitchen in the parish hall at Blessed Sacrament Church, at 108 Pine Street (aka 187 Euclid Avenue), a two minute walk from the Development Site. This Pine Street location services 72 children ages 2.6 to 4 years old. Fifty five of those childcare slots are funded by the New York City Department of Education ("DOE") under the Birth-To-Five program, 17 slots are pending approval from the United States Health & Human Services under CHCCC's Head start contract, and 4 are private pay, non-DOE-funded slots. CHCCC also currently leases additional space at 3295 Fulton Street for the family and educational activities associated with their Head Start program and their family day care network.

The CPC Report for the East New York Rezoning noted that new daycare capacity would be required to fulfill demand from new residential development in East New York.[3] In furtherance of that requirement, and in connection with the East New York Rezoning, the City made a number of commitments. One of the commitments was to "[support] the construction of a new child care center in East New York." The NYC Rezoning Commitments Tracker and the 2017 East New York Commitments Report notes that funding was allocated for this project in the capital plan, totaling $4.4 million in Fiscal Year 2021, to Cypress Hills Child Care Corporation, for development of a child care center at 3285 Fulton Street – the Development Site.[4]

III. Surrounding Area

The Project Area is located in the Cypress Hills neighborhood of East New York, in Brooklyn Community District 5, at the northeast corner of Fulton Street and Euclid Avenue. Within a radius of 600 feet of the

[1] Other land use actions included amendment of the Zoning Resolution to create the MIH program, amendment of the Dinsmore Chestnut Urban Renewal Plan and disposition of property within the Dinsmore Chestnut Urban Renewal Area, amendment of the Zoning Resolution to establish Special Mixed Use District 16, mapping of Enhanced Commercial Districts, and mapping of an MIH area.
[2] See the East New York Community Plan Presentation at page 36:
https://www1.nyc.gov/assets/planning/download/pdf/plans-studies/east-new-york/presentation_092015.pdf
[3] The Final Environmental Impact Statement for the East New York Rezoning found a significant adverse impact on publicly funded daycare facilities – an additional 203 childcare slots would be needed by 2030 to address increased demand from residential development.
[4] The East New York Commitments Report states that Cypress Hills Child Care Corporation acquired 3289 Fulton Street, but it in fact acquired 3285 Fulton Street.

Development Site (the "Surrounding Area"), there are large vacant lots (many of which are slated for development in the near future), ground floor commercial uses on Fulton Street, low-rise residential uses on the side streets, and some large community facility house of worship uses.

A. Public Transit

The Development Site and Surrounding Area is within a Transit Zone, an area where lower accessory parking requirements apply for affordable housing. The elevated J/Z train runs directly adjacent to the Development Site, above Fulton Street, with an entrance to the Crescent Street stop two blocks to the east of the Development Site. The J and Z subway lines link Jamaica, Queens with the Financial District in Manhattan. The Development Site is only two blocks from the B13 bus line, which runs down Crescent Street, and links Bushwick with the Gateway Center in Spring Creek, East New York. The B24 bus line runs on Atlantic Avenue, one block south of the Development Site, and links Jamaica, Queens, to Bushwick, Brooklyn.

B. Land Uses and Built Form

Land uses in the Surrounding Area include residential, commercial and a mix of community facilities. Ground floor retail is located on Fulton Street and along Crescent Street, with a few commercial uses located on Euclid Avenue near Ridgewood Avenue, and residential uses are generally located on side streets and above the ground floor retail, service, and community facility uses. Across from the Project Area is a 196,000 square foot vacant superblock at 3301 Atlantic Avenue, which is slated for development with 14-story buildings with over 400 units of 100% affordable housing. Adjacent to this particular development site, moving further west across Chestnut Street, are a series of parcels zoned for higher density residential and mixed use development – M1-4/R8A and M1-4/R7A. Chestnut Commons, a 275-unit 100% affordable housing development, is currently under construction on one of these parcels. The Roman Catholic Church of the Blessed Sacrament owns multiple lots along Euclid Avenue and operates Blessed Sacrament Church at 198 Euclid Avenue, as well as Blessed Sacrament Catholic Academy across the street at 187 Euclid Avenue.

Residential uses in the Surrounding Area are primarily lower scale two-story townhouses on the side streets running north and south of the Project Area. The mixed use rowhouses on Fulton Street are primarily three-story, with one story of commercial and two stories of residential use.

C. Zoning

The Development Site is mapped as an R5 zoning district with a C2-3 overlay. The R5 zoning district extends for multiple blocks on the north, south and east sides of the Development Site. To the east of the Development Site is an R6B/C2-4/EC-6 district that was mapped in the East New York Rezoning. To the south of the Development Site is a vacant city block zoned M1-4/R8A, also mapped in the East New York Rezoning. The East New York Rezoning boundary is Euclid Avenue, which bounds the Development Site.

R5 districts allow a residential FAR of 1.25 (or 1.95 for AIRS developments) and a community facility FAR of 2.0. Developments in R5 districts may have a building height 40 feet above base plane, with maximum

street wall heights of 30 feet, above which a 15 foot setback is required. A 10-foot front yard is required, and side yards are also required for detached and semi-detached buildings.

R6B districts allow a residential FAR of 2.0 (or, if paired with an MIH district, a maximum FAR of 2.2), and a community facility FAR of 2.0. Developments in R6B districts must comply with Quality Housing regulations, and may have a maximum base height of 40 feet (or 45 feet if a Qualifying Ground Floor ("QGF") is provided, and building height of 50 feet above base plane (or 55 feet for a QGF). C2-3 overlay districts, when paired with R5 districts, allow a commercial FAR of 1.0. C2-4 overlay districts, when paired with R6B districts, allow a commercial FAR of 2.0.

M1-4 zoning districts are medium-density industrial districts that allow commercial and manufacturing uses at a 2.0 FAR, with bulk controlled by a sky exposure plane that begins at 60 feet above curb level, or at 4 stories, whichever is less. R8A zoning districts, when paired with an MIH district, allow residential uses at a 7.2 FAR and a building height of 145 feet.

D. Special Zoning Areas

A Special Enhanced Commercial District (EC-6) ("SECD") is mapped along Fulton Street, west of the Development Site. It runs for twenty-five blocks along Fulton Street, between Sheffield Avenue and Euclid Avenue. The SECD requires non-residential ground floor uses, minimum levels of transparency at the ground floor, limits on curb cuts to enliven corridors, and sidewalk widening in certain locations.

The Surrounding Area is partially mapped as an MIH area, west of the Development Site. The MIH area extends over the area rezoned in the East New York Rezoning, which includes the same area that the SECD is mapped along Fulton Street. The MIH area automatically increases permitted residential FAR in certain districts and requires provision of affordable housing equivalent to 25 to 30 percent of residential floor area of new residential development pursuant to the requirements of the MIH program, with exceptions for certain small developments, AIRS developments, and developments obtaining waiver from the New York City Board of Standards and Appeals.

FRESH zoning incentives are available in the Surrounding Area, as they are in much of Central and East Brooklyn. There are no landmarks or historic districts in the Surrounding Area.

IV. Description of Proposed Project Area

The Project Area includes 3285 Fulton Street (the Development Site) as well as all of the properties within 150 feet of Fulton Street between Pine Street and Euclid Avenue; all located on Block 4129 (the "Project Area"). The Project Area is in the Cypress Hills neighborhood of East New York, in Brooklyn Community District 5. The Project Area comprises approximately 30,441 square feet of lot area. Each of the properties within the Project Area are in separate, disparate ownership.

The area to be rezoned from an R5/C2-3 district to an R7A/C2-4/EC-6 district is the portion of Block 4129 within 100 feet of Fulton Street, and includes the following properties:

- The Development Site (discussed in detail in the next section);
- 3289 Fulton Street (Lot 67), 1,741 square feet in area, improved with a three-story building with 3,420 square feet of floor area, containing a bodega, and residential use above;
- 3293 Fulton Street (Lot 66), 1,679 square feet in area, improved with a three-story building with 3,465 square feet of floor area, containing a nail salon, and residential use above;
- 3295 Fulton Street (Lot 65), 1,755 square feet in area, improved with a three-story building with 3,645 square feet of floor area, containing the previously-discussed CHCCC offices and program space for its Head Start and Family Day Care Network, and residential use above;
- 3297 Fulton Street (Lot 64), 1,630 square feet in area, improved with a three-story building with 3,645 square feet of floor area, containing a house of worship, and residential use above;
- 3299 Fulton Street (Lot 63), 1,661 square feet in area, improved with a three-story building with 3,645 square feet of floor area, containing a beauty salon and barber shop, and residential use above;
- 3301 Fulton Street (Lot 62), 1,652 square feet in area, improved with a three-story building with 3,645 square feet of floor area, containing a dollar store, and residential use above;
- 3305 Fulton Street (Lot 61), 1,916 square feet in area, improved with a three-story building with 3,600 square feet of floor area, containing a barber shop, and residential use above;;
- 3309 Fulton Street (Lot 60), 1,846 square feet in area, improved with a three-story building with 4,578 square feet of floor area, containing a money transfer and copy shop, and residential use above;
- A portion of 199 Euclid Avenue (Block 4129, Lot 5), 3,748 square feet in area, improved with a two-story residential building with 2,776 square feet of floor area; and
- A portion of 122 Pine Street (Lot 158), 2,500 square feet in area, improved with a three-story residential building with 4,107 square feet of floor area.

The portion of Block 4129 beyond 100 feet, but within 150 feet, of Fulton Street will be rezoned from an R5/C2-3 district to an R5 district, and includes the following properties:

- A portion of 199 Euclid Avenue (Lot 5), 3,748 square feet in area, improved with a two-story residential building with 2,776 square feet of floor area;
- A portion of 197 Euclid Avenue (Lot 6), 2,533 square feet in area, improved with a three-story residential building with 3,390 square feet of floor area;
- A portion of 195 Euclid Avenue (Lot 7), 2,467 square feet in area, improved with a three-story residential building with 3,390 square feet of floor area;
- A portion of 118 Pine Street (Lot 56), 1,163 square feet in area, improved with a one-story two-family residential building with 1,050 square feet of floor area;
- A portion of 120 Pine Street (Lot 157), 2,500 square feet in area, improved with a three-story residential building with 3,602 square feet of floor area; and
- A portion of 122 Pine Street (Lot 158), 2,500 square feet in area, improved with a three-story residential building with 4,107 square feet of floor area.

V. Description of Proposed Development Site

The Development Site, 3285 Fulton Street (Lot 1), is an irregularly shaped rectangular corner lot containing 4,071 square feet of area, with 42.62 feet of frontage on Fulton Street and 100.58 feet of frontage on Euclid Avenue. The Development Site is improved with a three-story building with 9,415 square feet of floor area. The building is currently vacant, but was most recently used as a funeral home. The J/Z elevated train runs adjacent to the Development Site (and adjacent to the entire Project Area) above Fulton Street.

VI. Description of Proposed Development

The Applicant proposes to develop a new seven (7) story mixed community facility and Affordable Independent Residences for Seniors (AIRS) building at the Development Site. The Proposed Development will contain 19,679 square feet of floor area, equivalent to a 4.83 FAR. Within that total, there will be 16,929 square feet of residential AIRS use (equivalent to a 4.16 FAR), and 2,750 square feet of community facility Use Group 3 daycare floor area on the ground floor, equivalent to a 0.67 FAR.[5] Thirty-three AIRS dwelling units will be provided. The AIRS units will have access to lounges on each floor, and residential terraces at the second and fifth floors. The entrance to the AIRS units will be on Fulton Street, and the entrance to the daycare will be on Euclid Avenue. An Affordable Independent Residence for Seniors is a building with residences in which at least 90% of the dwelling units are occupied by at least one person 62 years old or older, and are income-restricted housing units with incomes at or below 80% AMI.

The front wall of the Proposed Development will rise to a height of 75 feet (7 stories) without setting back, though in the rear, along Euclid Avenue, there will be a setback for a resident terrace at the fourth floor level. The Proposed Development will not provide any off-street accessory parking spaces for the AIRS units or the community facility space, as no parking is required for either use, and therefore no curb cuts will be provided. The Proposed Development will contain 95% lot coverage, as 100% lot coverage is permitted for a corner lot.

The Proposed Development will be set back from Fulton Street by 5 feet, as is required by Section 132-33 of the EC-6 Enhanced Commercial District ("EC-6") regulations in the Zoning Resolution. Developments with a street wall of 40 feet or longer shall provide a sidewalk widening of 5 feet, in commercial districts within the EC-6. The Proposed Development will have a street wall of 42.62 feet and thus provides a 5 foot sidewalk widening, per ZR 132-33. In addition, for a street wall on a designated commercial street (such as Fulton Street), the open area between the street line and the street wall shall be improved as a sidewalk per Department of Transportation standards and shall be accessible to the public.

Alternatively, the Proposed Development may contain an additional 2,478 square feet of Use Group 3 daycare space for CHCCC, at the building's second story. If this development scenario is pursued, the additional 2,478 square feet of daycare space would be accompanied by a 2,396 square foot reduction in

[5] In addition, the Proposed Development also includes 1,223 gross square feet of Use Group 3 daycare space at the cellar level, which does not constitute zoning floor area. Therefore, together with the above-grade daycare space the Proposed Development contains 3,973 gross square feet of daycare space across the building's ground and cellar levels.

residential floor area at the building's second story. This reduction in residential space would translate to a six dwelling unit reduction. Therefore, this alternative development scenario would contain 27 Use Group 2 AIRS units across approximately 14,533 square feet of residential floor area and approximately 5,228 square feet of Use Group 3 daycare floor area (6,451 gross square feet of daycare space, with cellar space included), including accessory office space, for a total floor area of 19,761 square feet. The overall size and bulk of the building would not change between the primary and alternative development scenario for the Proposed Development. This alternative development scenario would be pursued if the Applicant is awarded Resolution A funding, which is discretionary funding awarded by the local Council Member.

VII. Actions Necessary to Facilitate Proposed Development

1. Zoning Map Amendment

a. Change from R5/C2-3 to R7A/C2-4/EC-6

The Applicant requests a zoning map amendment to rezone the portion of Block 4129 within 100 feet of Fulton Street from an R5/C2-3 district to an R7A/C2-4/EC-6 district. This portion of the rezoning area is bounded by Fulton Street, Pine Street, Euclid Avenue, and a line 100 feet north of Fulton Street, and extends for 202.94 feet along Fulton Street and for a depth of 100 feet from Fulton Street.

b. Change from R5/C2-3 to R5

The Applicant requests a zoning map amendment to remove the C2-3 overlay from the portion of Block 4129 beyond 100 feet of Fulton Street. Currently, the C2-3 overlay extends 150 feet from Fulton Street, between Pine Street and Euclid Avenue.

Description of Proposed R7A and C2-4 Districts

In R7A zoning districts, when paired with an MIH area, residential uses are permitted at a 4.6 FAR, with a requirement that at least 25% of the residential floor area be affordable to households at 60% of AMI or at least 30% of the residential floor area be affordable to households averaging 80% of AMI. The FAR for AIRS uses in an R7A district (regardless of whether an MIH area is mapped) is a 5.01 FAR. Community facility uses are permitted at a 4.0 FAR. Within an MIH area, new developments in an R7A district may rise to a maximum height of 95 feet and 9 stories. Accessory off-street parking spaces are required for 50% of market rate dwelling units. Within the Transit Zone, no off-street accessory parking spaces are required for AIRS units, or for affordable dwelling units provided pursuant to the IH or MIH program.

In a C2-4 zoning district, when overlaid on an R7A zoning district, commercial uses are permitted at a 2.0 FAR. In a C2-4 zoning district, parking is required at one space for every 1,000 square feet of floor area.

Land Use Justification – Existing Context, Public Transit, and Neighboring Development

The Project Area is an appropriate location for an R7A district because of the existing and pending built context, along with strong public transit access.

The Development Site is on a major commercial corridor in East New York having strong public transit access and is therefore an appropriate location for increased density. According to the City Planning Commission report for the East New York Rezoning, Fulton Street is a "key corridor" along which new moderate-density mixed use development should be permitted, with affordable housing required and retail or community facility uses at the ground floor to "create active streetscapes and strengthen the retail environment."[6] In the East New York Rezoning, R6A/C2-4 districts with a Special Enhanced Commercial District (discussed in more detail below) were mapped along much of Fulton Street in order to facilitate new moderate density mixed use development. However, the East New York Rezoning also included the mapping of a higher density R8A-equivalent district on Fulton Street to the south-west, and catty corner from, the Development Site. This R8A-equivalent zoning is a notable exception to the moderate density permitted by the R6A/C2-4 mapped along much of the balance of Fulton Street. That site, spanning the block from Fulton Street to Atlantic Avenue between Chestnut Street and Euclid Avenue, is proposed to be developed with the 3301 Atlantic Avenue and Chestnut Commons project. Collectively, these developments and the unbuilt parcels among them will constitute the higher density "core" of the eastern end of East New York. This higher density core provides an appropriate context for the bulk of the Proposed Development.

The Development Site is immediately adjacent to a few public transit lines. The Crescent Street entrance of the elevated J/Z subway line is just two blocks east of the Development Site. There are also two bus lines in the surrounding area: the B13, which runs on Crescent Street, and the B24, which runs on Atlantic Avenue.

Mapping of the C2-4 commercial overlay along Fulton Street will facilitate commercial retail without requiring excessive parking. As discussed previously, facilitating mixed-use development on key corridors such as Fulton Street was a critical goal of the East New York Rezoning, in order to create active streetscapes and strengthen the retail environment. In a C2-3 zoning district, parking is required at one space for every 400 square feet of floor area. In a C2-4 zoning district, parking is required at one space for every 1,000 square feet of floor area. Removal of the C2-3 zoning designation beyond 100 feet of Fulton Street would make the commercial overlay consistent with the depth of the adjacent overlay on Fulton Street and would ensure that commercial uses don't inappropriately encroach into side streets presently improved with a strictly residential context.

2. Zoning Text Amendment

a. MIH Area

The Mayor's policy is to require the mapping of an MIH area whenever a zoning change substantially increases the residential capacity of a zoning lot. Therefore, the Applicant proposes an amendment to Appendix F of the Zoning Resolution to map the Project Area as an MIH area.

The Applicant proposes to map MIH Options 1 and 2. Option 1 requires that, for new residential developments, an amount of affordable floor area equivalent to at least 25% of the residential floor area within the development be provided, with the weighted average of all income bands not exceeding 60%

[6] The East New York Rezoning rezoned Fulton Street, west of the Development Site, from R5 and C8-2 to C4-4L, R6A, and R6B.

AMI. No more than three income bands may be provided, with no income band exceeding 130% of the income index, and at least 10% of the residential floor area shall be affordable to an income band at 40% of the income index. Option 2 requires that, for new residential developments, an amount of affordable floor area equivalent to at least 30% of the residential floor area within the development be provided, with the weighted average of all income bands not exceeding 80% AMI. Not more than three income bands may be provided, with no income band exceeding 130% of the income index.

b. Special Enhanced Commercial District 6

In order to extend the Special Enhanced Commercial District 6 ("EC-6") across the Project Area, the description of the area covered by EC-6 in Section 132-11(f) of the Zoning Resolution must be amended to include the Project Area. The Project Area is an appropriate location for a Special Enhanced Commercial District (EC-6), which includes certain ground floor use and transparency requirements, and requires a five foot sidewalk widening along Fulton Street. Extension of the EC-6 district to cover the Project Area would allow the continuance of the EC-6 along Fulton Street and ensure the continuity of the EC-6 district to Pine Street. The strong retail, service and community facility use presence within the Project Area would be bolstered by the mapping of the EC-6.

VIII. Conclusion

The Applicant respectfully requests approval of two actions to facilitate the Proposed Development, a seven-story mixed residential and community facility building with 19,679 square feet of floor area, approximately 33 senior housing AIRS units, and a 2,750 square foot Use Group 3 daycare.[7] Approval of this land use application will facilitate the fulfillment of one of the commitments in the East New York Commitments Report: the construction of a new childcare center in East New York, for which funding was allocated to CHCCC in the capital plan.[8] The Proposed Development is unique in its capacity to help fulfill that need, by providing a new, expanded daycare for the East New York community while not contributing to the demand for daycare services given its senior population.

The actions required to facilitate the Proposed Development are (i) a zoning map amendment to rezone the portion of Block 4129 within 100 feet of Fulton Street from an R5 zoning district with a C2-3 overlay to an R7A zoning district with a C2-4 overlay within a Special Enhanced Commercial District (EC-6), and remove the C2-3 overlay from portion of Block 4129 beyond 100 feet, but within 150 feet, of Fulton Street; (ii) a zoning text amendment to amend the description of Special Enhanced Commercial District 6 in Section 132-11 of the Zoning Resolution to include the area rezoned to R7A/C2-4; and (iii) a zoning text amendment to designate the area rezoned to R7A/C2-4 as an MIH area in Appendix F of the Zoning Resolution.

[7] As noted previously, if Resolution A funding is awarded then the Proposed Development would contain 27 AIRS units and a 5,228 square foot daycare.
[8] The East New York Commitments Report states that Cypress Hills Child Care Corporation acquired 3289 Fulton Street, but it in fact acquired 3285 Fulton Street.