



Brooklyn Borough President Recommendation

CITY PLANNING COMMISSION

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INSTRUCTIONS

1. Return this completed form with any attachments to the Calendar Information Office, City Planning Commission, Room 2E at the above address.
2. Send one copy with any attachments to the applicant's representatives as indicated on the Notice of Certification.

APPLICATION

98 THIRD AVENUE REZONING – 220335 ZMK, N 200336 ZRK

Applications submitted by 98 Third Avenue LLC, pursuant to sections 197-c and 201 of the New York City Charter affecting ten properties on a block of Third Avenue bounded by Bergen, Nevins, and Wyckoff streets. The requested zoning map amendment would change the project area from M1-2 to R6B and R7D/C2-4 districts. The zoning text amendment would establish a Mandatory Inclusionary Housing (MIH) area coterminous with the rezoning area (Options 1 and 2). These actions would facilitate an eight-story, 27,910 square-foot (sf) mixed-use development at 98 Third Avenue in Brooklyn Community District 2 (CD 2). The building would contain 24 apartments and 3,523 sf of ground-floor commercial space. The proposed development would contain approximately eight units affordable to households earning on average, 80% of Area Median Income (AMI) pursuant to MIH Option 2.

BROOKLYN COMMUNITY DISTRICT 2

RECOMMENDATION

☐ APPROVE
☒ APPROVE WITH
MODIFICATIONS/CONDITIONS

☐ DISAPPROVE
☐ DISAPPROVE WITH
MODIFICATIONS/CONDITIONS

SEE ATTACHED

BROOKLYN BOROUGH PRESIDENT

March 24, 2022

DATE

RECOMMENDATION FOR: 98 THIRD AVENUE REZONING – 220335 ZMK, N 200336 ZRK

98 Third Avenue LLC submitted applications pursuant to sections 197-c and 201 of the New York City Charter affecting ten properties on a block of Third Avenue bounded by Bergen, Nevins, and Wyckoff streets. The requested zoning map amendment would change the project area from M1-2 to R6B and R7D/C2-4 districts. The zoning text amendment would establish a Mandatory Inclusionary Housing (MIH) area coterminous with the rezoning area. These actions would facilitate an eight-story, 27,910 square-foot (sf) mixed-use development at 98 Third Avenue in Brooklyn Community District 2 (CD 2). The building would contain 24 apartments and 3,523 sf of ground-floor commercial space. Approximately eight units would be affordable to households earning on average, 80% of Area Median Income (AMI) pursuant to MIH Option 2.

On February 17, 2022, Brooklyn Borough President Antonio Reynoso held a remote public hearing on this Uniform Land Use Review Procedure (ULURP) application. There were no speakers on the item.

Community Board Position

Brooklyn Community Board 2 (CB 2) approved this application with no conditions on February 9, 2022.

Approval Rationale

Given growing demand for new, income-restricted housing in this section of CD 2, Borough President Reynoso believes the applicant's proposed density on Third Avenue and Bergen Street is appropriate. Establishing an MIH area at 98 Third Avenue would promote permanently affordable residential construction in a transit-rich area with proximity to major job centers. However, it is important to take a balanced view of potential impacts and benefits.

Mapping a medium-density residential district on M-zoned land where housing is not permitted results in a windfall of market-rate development rights. While Borough President Reynoso generally supports this application, he seeks to maximize its public purpose via provision of deeply affordable units that address community need, an administering agent to ensure local participation, resilient and sustainable design elements, pedestrian safety improvements, space for light industrial businesses, and a commitment to local employment.

The Borough President supports the Department of City Planning (DCP) land use rationale for establishing R7D zoning along the west side of Third Avenue between Bergen and Wyckoff streets, which includes five Department of Housing Preservation and Development (HPD) lots leased to a private entity that owns and plans to redevelop several properties on the block. However, while a residential district would enable residential construction on those lots, it is unlikely to proceed under current conditions.

The Borough President has serious misgivings about DCP's role in conducting the environmental review for this application. As the lead agency, pursuant to §617.3(g)(1)I of the New York State Environmental Quality Review (SEQR) law, DCP certified this application into ULURP knowing that the proposed rezoning would facilitate both 98 Third Avenue development and a non-applicant project with a separate environmental review. The Borough President respectfully requests that the City Planning Commission (CPC) address his concerns regarding segmented environmental review in its consideration of this application.

Furthermore, the City should conduct community engagement around the redevelopment of these underutilized lots. The Borough President supports the construction of 100% affordable housing on vacant City-owned land, and HPD should seek opportunities to site community facility uses that meet neighborhood needs on those ground floors.

Ensuring the Optimum Level of Affordability

98 Third Avenue would provide a mix of 17 one-bedrooms and seven two-bedrooms, with six units (four one-bedrooms and two two-bedrooms) affordable pursuant to MIH Option 1, or eight units (five one-bedrooms and three two-bedrooms) affordable under Option 2. However, neither scenario includes a two-bedroom unit at 40% AMI. The Borough President believes that 98 Third Avenue should be accessible to low-income families. The Option 1 requirement to set aside 10 percent of the residential floor area at 40% AMI would ensure that some two-bedroom units are targeted to this tier. Therefore, the CPC or City Council should map MIH Option 1 over the reduced rezoning area.

Engaging A Non-Profit Administering Agent

An administering agent is responsible for ensuring that inclusionary housing complies with the regulatory agreement that governs the development's affordable housing plan. Borough President Reynoso believes that affordable housing non-profits are best positioned to maximize local participation in MIH lotteries. CD 2 is served by several entities that regularly act as administering agents for inclusionary housing projects. These organizations have the knowledge and experience to do targeted outreach, building marketing, and financial education in Gowanus. Therefore, prior to consideration by City Council, 98 Third Avenue LLC should provide written commitments to retain a non-profit administering agent to conduct marketing for the 98 Third Avenue lottery, including financial literacy training.

Improving Pedestrian Safety along Third Avenue

Borough President Reynoso supports traffic calming measures to improve pedestrian safety at Brooklyn intersections. Land use applications should be scrutinized for opportunities to integrate these upgrades with new construction.

The 98 Third Avenue site is situated along a local truck route. Borough President Reynoso believes that an increase in residential density at this location should be accompanied by significant safety enhancements. Curb extensions and protected sidewalks offer a scalable, low-cost, and high-impact solution.

Borough President Reynoso recognizes that infrastructure modifications can exacerbate costs associated with sidewalk extensions. 98 Third Avenue LLC should work with the Department of Environmental Protection (DEP) and the Department of Transportation (DOT) to pedestrianize this corner. Therefore, prior to consideration by CPC and/or City Council 98 Third Avenue LLC should provide written commitments to create curb extensions as part of the required Builders Pavement Plan (BPP) and/or protected sidewalk extension with painted stripes. The applicant should then enter a standard maintenance agreement with DOT for the designated area. All such improvements should proceed in consultation with CB 2 and local elected officials.

Advancing Efficiency, Resiliency, and Sustainability

Borough President Reynoso supports efforts to maximize building efficiency and sustainability as a way to mitigate climate change. Local Laws 92 and 94 of 2019 require most new construction to incorporate a green roof and/or a solar installation. Developers are increasingly pursuing impactful strategies such as passive house design and onsite energy generation.

Accordingly, 98 Third Avenue LLC should seek City and State incentives to offset costs associated with the provision of green and photovoltaic roofs. The New York State Energy Research and Development Authority (NYSERDA) manages various programs to promote efficient buildings. New York City offers the Green Roof Tax Abatement and the Green Infrastructure Grant Program, administered by DEP.

Borough President Reynoso advocates stormwater management practices that support DEP's green infrastructure strategy. The required BPP for 98 Third Avenue LLC provides an opportunity to install rain

gardens consolidated with new street trees along its frontages. Together, these measures would help divert stormwater from the Red Hook Wastewater Treatment Plant. These discussions should also involve CB 2 and local elected officials. Therefore, prior to considering the application, the City Council should obtain written commitments from the developer to incorporate sustainability and resiliency features at 98 Third Avenue.

Accommodating Gowanus Businesses at Risk of Displacement

While the proposed development falls outside the Gowanus Neighborhood Plan project area, the Borough President believes it could address potential displacement of local businesses, especially those with a retail component. When paired with a C2-4 overlay, an R7D district mandates provision of ground-floor commercial use. He therefore calls on 98 Third Avenue LLC to set aside a portion of the proposed non-residential space for innovation and maker uses, at rents affordable to such small businesses.

Local Jobs

According to the NYU Furman Center, double-digit unemployment remains a pervasive reality across Brooklyn, with more than half the community districts reporting poverty rates of 20 percent or higher. The ongoing COVID-19 pandemic has only exacerbated widespread job insecurity. One way to address the borough's economic crisis is to prioritize local hiring and promote Brooklyn-based businesses. Therefore, 98 Third Avenue LLC should commit to retain area contractors and suppliers, and provide employment opportunities to CB 2 residents, when this application comes before the City Council.

Recommendation

Be it resolved that the Brooklyn Borough President, pursuant to Section 197-c of the New York City Charter, recommends that the City Planning Commission and City Council approve this application with the following conditions:

1. That the CPC take a hard look at the environmental review for this rezoning application and ensure this rezoning would not be ripe for litigation under SEQRA law.
2. That the CPC and/or the City Council map only MIH Option 1 over the rezoning area
3. That prior to consideration by City Council, 98 Third Avenue LLC commit to:
 - a. Modify the bedroom mix with provision of studio units, while reserving at least one affordable two-bedroom unit at 40% AMI, in consultation with the local Council Member
 - b. Retain a non-profit administering agent to conduct marketing (including financial literacy training) for the 98 Third Avenue lottery
 - c. Incorporate resiliency and sustainability measures, such as blue roofs, passive house design, and/or onsite energy generation
 - d. Coordinate with DEP, DPR, and DOT to install rain gardens along Third Avenue and/or Bergen Street as part of a BPP in consultation with CB 2 and local Council Member
 - e. Work with DEP and DOT to construct a curb extension as part of a BPP or protected painted sidewalk extension at the northwest corner of Third Avenue and Bergen Street in consultation with CB 2 and the local Council Member
 - f. Reach out to Gowanus businesses at risk of displacement, including innovation and maker uses to tenant the proposed commercial space

- g. Retain Brooklyn-based contractors/suppliers, and provide employment opportunities to area residents

Be It Further Resolved:

1. That HPD initiate a public outreach and RFP process to develop a mixed-use 100% affordable housing building on the HPD-owned sites within the rezoning area.