

MEMORANDUM

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Date: March 28, 2018
To: Howard Kolnis
From: George M. Janes, AICP
RE: Comments on 80 Flatbush

The following are non-exhaustive comments on 80 Flatbush, which may be submitted to the Community Board.

The failure of the 2004 Downtown Brooklyn rezoning EIS

The EIS for the 2004 Downtown Brooklyn rezoning grossly underestimated the amount of residential development the area would see. The reasonable worst case development scenario (RWCDS) showed just 979 new dwelling units. In reality, however, the area saw about 11,000 units developed or which are currently under construction or planned. The RWCDS failed by assuming office buildings would be more popular than apartment buildings.

The most obvious consequence of this gross underestimation is that utilization for elementary schools in District 15, subdistrict 3 went from around 85% in 2002-2003 to 107% today, and is projected to grow to 166% by 2025, in part because of the density added during that 2004 rezoning which is still being realized.

In 2004, had the City showed their rezoning would lead a 22 percentage point increase in elementary school utilization, that exceeded 100%, it would have had to develop a plan to mitigate the impacts on schools, most likely by committing public funds to building one or more new schools. But since it failed to show the impact, it does not have to mitigate those impacts, even now when the data show that the process has failed and there are unmitigated impacts.

Instead, the solution on which the City/ECF is relying to provide more school seats is a massive upzoning to the highest density zoning district in New York City, a district that is currently exclusively found in Lower Manhattan. ECF has proposed placing this district in the so-called "transition zone," a moderate density area designed to step down the high density from Downtown Brooklyn, to the low density of Brownstone Brooklyn.

Effectively, local residents are being asked to pay for schools for which the City would already be paying had they done their job correctly in 2004. Unlike taxes, which everyone pays, the costs for upzonings are only paid for by the local residents through increased traffic, congestion, noise, bulk and loss of light. The responsibility for providing required school seats should be with New York City,

and should be paid by all the residents of New York City, not just those in the immediate area. The City should recognize the failure of the Downtown Brooklyn EIS and retroactively mitigate the impacts that rezoning caused. It should further look at other rezonings to examine how well they have predicted those impacts to see if there has been a systematic under-counting of impacts.

The density proposed is contrary to a well-considered plan

While the Downtown Brooklyn rezoning failed to identify the impacts of the rezoning in the EIS, the plan for rezoning was well considered over a period of years, involved the local community and constituted a major change for the area. The concept of a dense urban center, surrounded by a medium density transition zone—which acts as a buffer between the low density residential area and the high density core—is an essential part of the rezoning plan.

The ECF proposal takes Lower Manhattan densities and brings them to the outer boroughs. While it would not be the first time 18 FAR densities have left Manhattan—the first was in the late 1980s for the Citigroup building in Queens and the second was at 141 Willoughby in 2016—this is the first rezoning of this size in Brooklyn, and it is clearly located in the wrong place considering the Downtown Brooklyn rezoning.

The concept of the Downtown Brooklyn rezoning was to welcome 12.0 FAR densities in its high density core, step it down to 6 and 6.5 FAR densities in the transition zones, which would act as a buffer for the nearby 2.0 FAR densities that mostly contained historic brownstones. Had the proposed 18 FAR district been proposed within the Downtown Brooklyn core, to bring even higher densities to the high density core, it could be reasonably argued that would be consistent with the plan for the rezoning.

But mapping an 18 FAR district in the transition zone across the street from a 2 FAR district is contrary to the planning principles outlined in the rezoning and the very purpose of the transition zone found therein. Considering how recent the Downtown Brooklyn rezoning is, and how important it has been to development in the area, to make a change that is so contrary to the concept of that rezoning, violates good planning and zoning principles. The fact that the City and the community would get school seats and affordable housing is irrelevant to the fact that the action proposed is contrary to a well-considered plan.

Zoning for Dollars: not a way to make land use policy

The Zoning Resolution was designed to protect the interests of the City and its residents by regulating the scale and use of development. More recently, zoning is being used to provide essential city services through massive upzonings, which is often called Zoning for Dollars. Zoning for Dollars. I believe that the fundamental regulatory purpose of zoning is at odds with this more recent goal of raising revenues to fund essential services, and zoning should not be used for both of these things.

To be clear, I have no complaints about the ECF special permit (ZR 74-75), which allows the waiver of certain requirements of zoning resolution when building a school near or with a residential development. This permit simply recognizes that such buildings can be difficult and provides flexibility to overcome those difficulties. But to empower that special permit with a tripling of density is just a horrible way to do planning and zoning, and it puts the protections that zoning provides at risk.

I encourage the rejection of the ECF proposal for a C6-9 District as being contrary to a recently adopted, well-considered zoning plan for the area. Further, the tripling of zoning density to create benefits we are unable or unwilling to pay for, is a horrible way to make land use policy. We can do so much better.