CITY PLANNING COMMISSION

December 16, 2015, Calendar No. 8 C 160002 ZMK

IN THE MATTER OF an application submitted by the Department of Housing Preservation and Development and New Van Sinderen Lots LLC, pursuant to Sections 197-c and 201 of the New York City Charter for the amendment of Zoning Map, Section No. 17d:

1. changing from an M1-1 District to an R7A District property bounded by a line 185 feet southerly of Newport Avenue, a line midway between Van Sinderen Avenue and Snediker Avenue, 430 feet northerly of Linden Avenue, and Van Sinderen Avenue; and

2. establishing within the proposed R7A District a C2-4 District bounded by a line 185 feet southerly of Newport Avenue, a line midway between Van Sinderen Avenue and Snediker Avenue, 430 feet northerly of Linden Avenue, and Van Sinderen Avenue;

Borough of Brooklyn, Community District 5, as shown on a diagram (for illustrative purposes only) dated August 3, 2015.

The application for an amendment to the Zoning Map (C 160002 ZMK) was filed by the Department of Housing Preservation and Development (HPD) on June 16, 2015 to change from an existing M1-1 district to R7A/C2-4 on two block fronts along New Lots Avenue. This amendment, in conjunction with the related action, will facilitate the development of Van Sinderen Plaza, a mixed-use development to include affordable housing, commercial and community facility space in Community District 5, East New York, Brooklyn.

RELATED ACTIONS

In addition to the zoning map amendment which is the subject of this report, implementation of the proposed project also requires action by the City Planning Commission on the following application, which is being considered concurrently with this application.

C 160003 HAK Designation of an Urban Development Action Area, project approval, and disposition of City-owned properties to a developer selected by HPD

BACKGROUND

A full background discussion and description of this application appear in the report on the related action for UDAAP designation, project approval, and disposition of City-owned property (C 160003 HAK).

ENVIRONMENTAL REVIEW

The application (C 160002 ZMK), in conjunction with the application for the related action (C 160003 HAK), was reviewed pursuant to the New York State Environmental Quality Review Act (SEQRA) and the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 et seq. and the City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The designated CEQR number is 15HPD054K. The lead agency is the Department of Housing Preservation and Development.

After a study of the potential impact of the proposed actions, a Negative Declaration was issued on July 8, 2015.

UNIFORM LAND USE REVIEW

This application (C 160002 ZMK), in conjunction with the application for the related action (C 160003 HAK), was certified as complete by the Department of City Planning on August 3, 2015, and was duly referred to Brooklyn Community Board 5 and the Brooklyn Borough President in accordance with Title 62 of the Rules of the City of New York, Section 2-02(b).

Community Board Public Hearing

Community Board 5 held a public hearing on this application (C 160002 ZMK) and the related action (C 160003 HAK), on September 23, 2015. On October 8, 2015, by a vote of 24 to 1, with one abstention, the Community Board adopted a resolution recommending approval of the application.

Borough President Recommendation

This application (C 160002 ZMK) was considered by the Borough President of Brooklyn, who on November 5, 2015 issued a recommendation on the application to approve with conditions as described in the report on the related application for UDAAP designation, project approval, and disposition of City-owned property (C 160003 HAK).

CITY PLANNING COMMISSION PUBLIC HEARING

On November 2, 2015 (Calendar No. 1), the City Planning Commission scheduled November 18, 2015 for a public hearing on this application (C 160002 ZMK). The hearing was duly held on November 18, 2015 (Calendar No. 11), in conjunction with the application for the related action (C 160003 HAK).

Five speakers spoke in favor of the project, as described in the report on the related application for UDAAP designation, project approval, and disposition of City-owned property (C 160003 HAK), and the hearing was closed.

CONSIDERATION

The City Planning Commission believes that the proposed amendment to the zoning map is appropriate.

A full consideration and analysis of the issues, and the reasons for approving the application appears in the report on the related application for UDAAP designation, project approval, and disposition of City-owned property (C 160003 HAK).

RESOLUTION

RESOLVED, that the City Planning Commission finds that the action described herein will have no significant adverse impact on the environment, and be it further

RESOLVED, by the City Planning Commission, pursuant to Sections 197-c and 200 of the New York City Charter, that based on the environmental determination and the consideration described in this report, that the Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended by changing the Zoning Map, Section No. 17d:

1. changing from an M1-1 District to an R7A District property bounded by a line 185 feet southerly of Newport Avenue, a line midway between Van Sinderen Avenue and Snediker Avenue, 430 feet northerly of Linden Avenue, and Van Sinderen Avenue; and

2. establishing within the proposed R7A District a C2-4 District bounded by a line 185 feet southerly of Newport Avenue, a line midway between Van Sinderen Avenue and Snediker Avenue, 430 feet northerly of Linden Avenue, and Van Sinderen Avenue;

Borough of Brooklyn, Community District 5, as shown on a diagram (for illustrative purposes only) dated August 3, 2015.

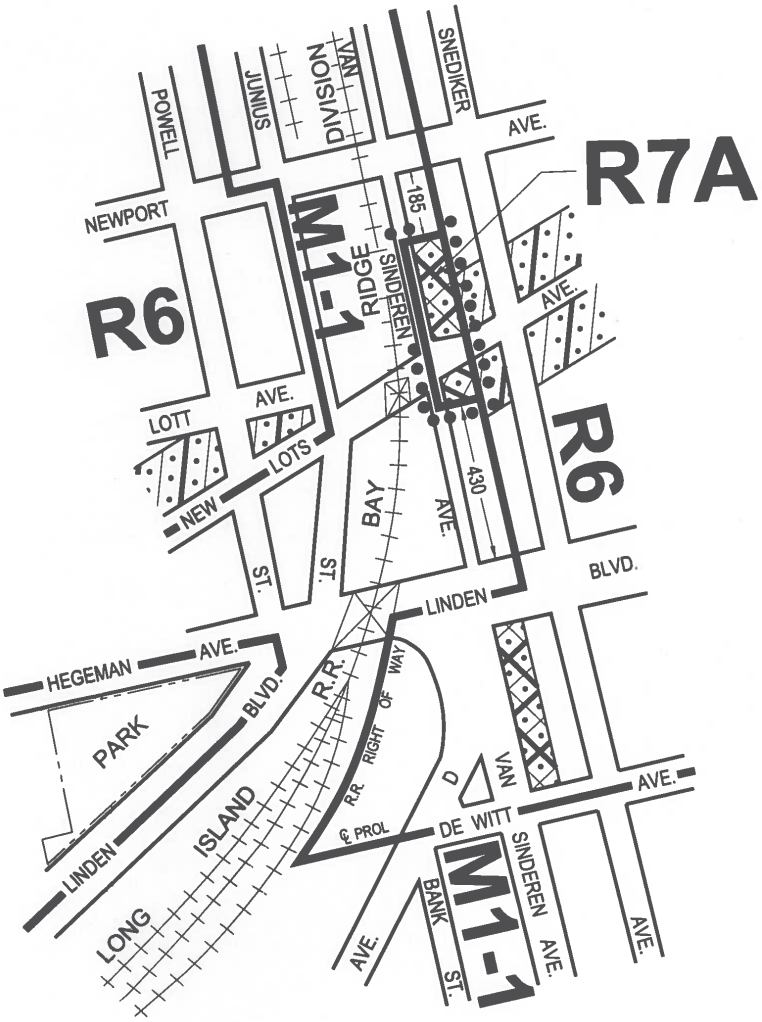
The above resolution (C 160002 ZMK), duly adopted by the City Planning Commission on December 16, 2015 (Calendar No. 8), is filed with the Office of the Speaker, City Council and the Borough President in accordance with the requirements of Section 197-d of the New York City Charter.

CARL WEISBROD, *Chairman*
KENNETH J. KNUCKLES, *Esq., Vice Chairman*

RAYANN BESSER, IRWIN G. CANTOR, P.E., ALFRED C. CERULLO, III, MICHELLE DE LA UZ, RICHARD W. EADDY, CHERYL COHEN EFFRON, JOSEPH I. DOUEK, ANNA HAYES LEVIN, ORLANDO MARIN, LARISA ORTIZ,
Commissioners

C.D. 05

C 160002 ZMK



CITY PLANNING COMMISSION

CITY OF NEW YORK

DIAGRAM SHOWING PROPOSED

ZONING CHANGE

ON SECTIONAL MAP

17d

BOROUGH OF

BROOKLYN

New York, Certification Date
AUGUST 03, 2015

J. Miraglia, Director
Technical Review Division

SCALE IN FEET

400 0 400

NOTE:

Indicates Zoning District Boundary.

The area enclosed by the dotted line is proposed to be rezoned by changing an existing M1-1 District to an R7A District and by establishing within the proposed R7A District a C2-4 District.

Indicates a C2-3 District.

Indicates a C2-4 District.

NYCPLANNING
DEPARTMENT OF CITY PLANNING CITY OF NEW YORK

Community/Borough Board Recommendation

Pursuant to the Uniform Land Use Review Procedure

Application #: **C 160002 ZMK**	Project Name: **Van Sinderen Plaza**
CEQR Number: 77HPD028K	Borough(s): Brooklyn Community District Number(s): 5

Please use the above application number on all correspondence concerning this application

CITY PLANNING COMMISSION
2015 OCT 21 PM 1:23
DEPT. OF CITY PLANNING

SUBMISSION INSTRUCTIONS

1. Complete this form and return to the Department of City Planning by one of the following options:
   - **EMAIL (recommended):** Send email to **CalendarOffice@planning.nyc.gov** and include the following subject line: (CB or BP) Recommendation + (6-digit application number), e.g., "CB Recommendation #C100000ZSQ"
   - **MAIL:** Calendar Information Office, City Planning Commission, Room 2E, 22 Reade Street, New York, NY 10007
   - **FAX:** (212) 720-3356 and note "Attention of the Calendar Office"
2. Send one copy of the completed form with any attachments to the applicant's representative at the address listed below, one copy to the Borough President, and one copy to the Borough Board, when applicable.

Docket Description:

IN THE MATTER OF an application submitted by NYC Department of Housing Preservation and Development and New Van Sinderen Lots LLC pursuant to Sections 197-c and 201 of the New York City Charter for the amendment of the Zoning Map, Section No. 17d:

1. changing from an M1-1 District to an R7A District property bounded by a line 185 feet southerly of Newport Avenue, a line midway between Van Sinderen Avenue and Snediker Avenue, 430 feet northerly of Linden Avenue, and Van Sinderen Avenue; and

2. establishing within the proposed R7A District a C2-4 District bounded by a line 185 feet southerly of Newport Avenue, a line midway between Van Sinderen Avenue and Snediker Avenue, 430 feet northerly of Linden Avenue, and Van Sinderen Avenue;

Borough of Brooklyn, Community District 5, as shown on a diagram (for illustrative purposes only) dated August 3, 2015.

Applicant(s):	**Applicant's Representative:**
NYC Department of Housing Preservation and Development 100 Gold Street, New York, NY 10038 New Van Sinderen Lots LLC 438 Fifth Avenue, Pelham NY 10803	Lin Zeng NYC Dept. of Housing Preservation & Development 100 Gold Street New York, NY 10038

Recommendation submitted by:
Brooklyn Community Board 5

Date of public hearing: 9/23/15 10/8/15 **Location:** 145 Pennsylvania Ave. 800 Van Sicien Ave Bklyn, NY

Was a quorum present? YES [X] NO [ ]
A public hearing requires a quorum of 20% of the appointed members of the board, but in no event fewer than seven such members.

Date of Vote: 10/8/15 **Location:** 800 Van Siden Ave

RECOMMENDATION

[X] Approve
[ ] Approve With Modifications/Conditions
[ ] Disapprove
[ ] Disapprove With Modifications/Conditions

Please attach any further explanation of the recommendation on additional sheets, as necessary.

Voting
 # In Favor: 24 **# Against:** 0 **# Abstaining:** 1 **Total members appointed to the board:** 46

Name of CB/BB officer completing this form	*Title*	*Date*
Walter Campbell	Dist. Mgr.	10/9/15

Brooklyn Borough President Recommendation

CITY PLANNING COMMISSION
22 Reade Street, New York, NY 10007
CalendarOffice@planning.nyc.gov

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 #: VAN SINDEREN PLAZA – 160002 ZMK / 160003 HAK

In the matter of the applications submitted by the Department of Housing Preservation and Development (HPD) seeking approval of an Urban Development Action Area Project (UDAAP) designation and project approval, and the disposition of City-owned and privately-owned properties located at 169, 170-174, 178-182 New Lots Avenue and 679, 669 Van Sinderen Avenue, in the East New York neighborhood of Brooklyn in Community Board 5. In addition, HPD and the New Van Sinderen Lots LLC are seeking approval of a Zoning Map Amendment from the existing M1-1 District to an R7A District with a C2-4 commercial overlay.

COMMUNITY DISTRICT NO. 5 BOROUGH OF BROOKLYN

RECOMMENDATION

☐ APPROVE
☒ APPROVE WITH MODIFICATIONS/CONDITIONS
☐ DISAPPROVE
☐ DISAPPROVE WITH MODIFICATIONS/CONDITIONS

SEE ATTACHED

BOROUGH PRESIDENT

November 5, 2015
DATE

RECOMMENDATION FOR VAN SINDEREN PLAZA – 160002 ZMK / 160003 HAK

The Department of Housing Preservation and Development (HPD) seeks approval of an Urban Development Action Area Project (UDAAP) designation and project approval, and the disposition of City-owned and privately-owned properties located at 679, 669 Van Sinderen Avenue (Site 1) and 169, 170-174, 178-182 New Lots Avenue (Site 2) in the East New York neighborhood of Brooklyn in Community District 5 (CD 5). In addition, HPD and the New Van Sinderen Lots LLC seek approval of a Zoning Map Amendment from the existing M1-1 District to an R7A District bounded by a line 185 feet south of Newport Avenue, a line midway between Van Sinderen Avenue and Snediker Avenue, 430 feet north of Linden Avenue, and Van Sinderen Avenue. The Zoning Map Amendment also seeks to establish C2-4 commercial overlays along New Lots Avenue.

On October 7th, 2015, the Borough President held a public hearing on this disposition and development proposal. There was one speaker in support of this item, Director of Economic Development for Local Development Corporation of East New York (LDCENY), the development partner. The speaker stated that this project will redevelop a blighted area of the community and create much needed affordable housing as well as employment for the area. There is a possibility of incorporating local organizations such as Arts East New York into the newly developed incubator space and possibly housing one of LDCENY's own satellite offices.

In response to the Borough President's concern regarding the provision of more one-bedroom apartments, rather than two- and three-bedroom apartments, the representative for HPD stated that while the demand is higher for larger family size apartments, there is also a great demand for one-bedroom apartments for the older children of the families, the young professionals, to remain in the community after college. Per the community's request, the development does not contain any studio apartments which results in the provision of larger sized apartments, with a mixture of one-, two-, and three-bedroom distribution. Additionally, unlike the standard HPD model of 50 percent two- and three-bedrooms, this development will provide 61 percent of these types of apartments.

As the development is at the district border of CDs 5 and 16, the Borough President has concerns regarding the housing lottery selection and the marketing strategies used in the tenant selection process. The developer stated that they are required to follow the marketing guidelines outlined by HPD and Housing Development Corporation. Such guidelines include outreach through city-wide and local newspapers, and micro marketing which includes local community institutions, like churches, schools, post offices and community boards. The developer stated that marketing outreach will include both CDs 5 and 16. LDCENY will also reach out to their existing contact lists and stakeholders. The HPD representative stated that they will look into making sure that hard copy applications will be accepted for this project. The HPD representative also stated that community preference extends only to CD 5 residents as that is the district that contains the development.

In response to the Borough President's interest in promoting sustainable and renewable energy, it was shared that due to budgetary constraints, no solar collectors or the structure for their subsequent installation will be incorporated. The developer will conduct a study to determine the feasibility of incorporating solar collectors.

In response to the Borough President's interest in promoting the incorporation of storm water retention and sustainable roof elements, the developer stated that the development will include retention tanks in the cellars of both buildings, in order to control the flow of

water into the City's sewer system, and portions of the buildings' rooftops will contain vegetated areas. The developer is looking into permeable pavers for the plaza area on the south side of New Lots Avenue as it is part of the zoning lot. However, as the plaza area on the north side of New Lots Avenue is within the Department of Transportation (DOT) right-of-way, permeable pavers are subject to the agency's approval. HPD has been in contact with DOT regarding this matter and will continue to follow up. A LDCENY representative acknowledged the importance of sustainable site design and is aware of the grant money available towards such efforts.

In response to the Borough President's concern regarding planting the remaining zoning required trees, not able to be accommodated within the site, the developer stated that they would like to accommodate all required trees on site but are unable to do so due to DOT's standards. It was noted that the landscaped plaza within DOT's right-of-way would be an ideal candidate for placing the zoning required trees but DOT's standards require a distance of 25 feet between plantings which restricts the number of trees on this site. DOT would need to provide special disposition in order to allow planting of trees closer together. The developer requested assistance from the Borough President with reaching out to DOT regarding resolving this issue.

The Deputy Borough President noted that this site's location and size of the proposed retail space complies with the eligibility requirements for the City's FRESH Program and that this neighborhood would benefit from the inclusion of a supermarket. In response to the Borough President's interest in providing a supermarket, the developer stated that a supermarket is their primary interest for the larger retail space and they will reach out to potential supermarket tenants. However, this location poses uncertainty of the desirability to potential supermarket operators. Therefore, due to the lack of a known operator and financial constraints with providing a taller building through utilizing the floor area exemption resulting from FRESH supermarket occupancy, the FRESH Program zoning incentives will not be utilized at this site. In addition, Department of City Planning staff did not view additional height and bulk as advisable due to the adjacent context of existing low-rise buildings. The developer also stated that utilizing the FRESH Program would preclude any other use of the retail space, leaving it vulnerable to vacancy.

In response to the Borough President's concerns regarding local based hiring and inclusion of MWOBE in the construction of this project, the developer stated that the project is estimated to bring between 150 to 200 local construction jobs; outreach will be done to local trades, vendors, contractors, and suppliers, and through local job fairs. The developer also stated that once they receive the documents outlining the goals and requirements for this type of hiring process, they are committed to exceeding the requirements. In order to track the progress of these goals, there will be a workforce trailer and manager on site.

Subsequent to the hearing, the representative for LDCENY submitted information noting that either LDCENY and/or its affiliate, East Brooklyn Housing Development Corporation (EBHDC), is an equity partner and will be the Housing Development Finance Corporation (HDFC) for both buildings. LDCENY is going to ensure local companies in the buildings trade have an opportunity to participate in securing contracts in the development and is also considering tenancy in one of the community spaces within this development. Additionally, the representative for LDCENY noted that this development will utilize the 420-c tax exemption therefore the affordability duration for this project will be 50 years.

Consideration

CB 5 approved the application without conditions.

The proposed development is in an M1-1 district that extends along the adjacent elevated train both to the north and south of the proposed rezoning area. The adjacent Manufacturing district includes several one-story manufacturing buildings, with bottle recycling and auto body repair businesses adjacent to the project area. The site is located within an R6 zoning district, with a C2-3 commercial overlay along New Lots Avenue. The surrounding area consists of predominantly residential, privately-owned, attached two-story one- and two-family homes, developed under HPD's Nehemiah Homeownership Program. Several multi-family walk-up buildings are located south of the project site. The requested zoning map amendment would change the existing M1-1 zoning district to R7A/C2-4 zoning facilitating the proposed residential and commercial uses on the proposed development site.

The proposed development is located in the East New York I Urban Renewal Area, with the city-owned lots being designated sites of the East New York I Urban Renewal Plan. The sites are located at Van Sinderen Avenue on both sides of New Lots Avenues. The combined lot area is approximately 37,550 sf, with approximately 28,240 sf on the north side of New Lots Avenue and approximately 9,300 sf on the south side. The sites are located directly across the street from New Lots Avenue Station on the L line.

The northern site also contains privately-owned land. The north site once contained a steel beam pressing facility and industrial dry cleaning solvent tanks, and was last occupied by an auto body shop from 1977-1983, afterwards the structure was demolished. The south site contained auto sales from around 1950 to 1966 and then an auto junk yard from 1987 to 1992, when demolition took place. Both sites have remained vacant since demolition although the south site is used as a temporary market and artist incubator.

The land use actions seek to transform the intersection of Van Sinderen and New Lots avenues into a vibrant mixed-use area by adding population density and creating retail opportunities through the development of two seven-story mixed-use buildings with a total of 130 affordable housing rental units and ground floor retail.

The proposed development will be developed under HPD's Extremely Low and Low Income Affordability Program. The proposed development will consist of one-, two-, and three-bedroom units. 13 units would be reserved for households at 27 percent of AMI ($23,000), with rents ranging from $396 to $551; 19 units would be reserved for households at 37 percent of AMI ($32,000), with rents ranging from $558 to $771; 19 units would be reserved for households at 47 percent of AMI ($41,000), with rents ranging from $720 to $1,000; and the remaining 70 units would be reserved for households at 57 percent of AMI ($50,000), with rents ranging from $882 to $1,224. Eight units will be set aside for Section 8, with rents ranging from $1,208 to $1,849. The AMI for East New York is around $34,000.

The north site will consist of approximately 102 residential rental units, including a two-bedroom unit for the superintendent, with 47 one-bedroom units, 39 two-bedroom units, and 16 three-bedroom units. The ground floor will contain nearly 16,000 sf of retail space and offer such amenities as laundry facilities, 55 bicycle parking spaces, 21 vehicle parking spaces, and a recreational room on the first floor and outdoor space on the seventh floor roof, at a height of 75 feet.

The south site will consist of approximately 28 residential rental units, with three one-bedroom units, 17 two-bedroom units, and eight three-bedroom units. The ground floor will consist of approximately 3,930 sf of retail space and offer such amenities as laundry facilities, 15 bicycle parking spaces and outdoor recreational space on the fifth floor roof.

There is also a ground floor outdoor space that could be utilized by the ground floor retail tenant.

Under the Quality Housing Program standards, seventeen trees are required to be planted on the north site and eight trees are required to be planted on the south site. However, due to the guidelines imposed by the Department of Parks and Recreation (DPR) and DOT regarding clearances from hydrants, utility poles and other street elements, only ten trees are able to be planted on the north site and five trees on south site. In lieu of planting the remaining required ten trees, the developer would make a payment to DPR's Park Tree Fund.

The proposed development will participate in the Enterprise Green Community Program and Leadership in Energy and Environmental Design (LEED) Certification, and will incorporate a variety of energy efficiency measures, including Energy Star rated appliances, windows, 25 percent recycled exterior finishes and bamboo floors, and sustainable elements within the building. The development will also incorporate sound attenuation on the heating and air-conditioning units as well as tested windows to control sound transmission between the elevated train and apartments.

It is the Borough President's policy to support land use actions that provide for development in proximity to public transit infrastructure that provides for increased population density. The proposed rezoning is adjacent to the New Lots Avenue station served by the "L" train and warrants increased density.

It is the Borough President's policy to support land use actions that are both compatible with surrounding land uses and that provide beneficial amenities to the surrounding neighborhood while providing much needed affordable housing opportunities. The proposed development would make use of city-owned property for private development which would enhance the City's community revitalization efforts. It would provide for new affordable housing, local community facility use and retail uses along New Lots Avenue, on two vacant sites that have been a blight on the neighborhood. The proposed development would also promote health, safety and welfare of the neighborhood by facilitating sound growth and development in an area with a strong demand for affordable housing, with direct access to public transportation.

The Borough President is generally supportive of the proposed development. He has allocated $500,000 of his Fiscal Year 2016 budget towards the development of this project. The Borough President does believe that there are opportunities to improve the proposal while furthering his policies as well as improve the immediate surroundings. He has interest in advancing his policies regarding the duration of affordability, community preference, supermarkets, locating community use, advancing sustainable and resilient energy and storm water management policies, street tree plantings, locally-based employment and train station lighting.

Permanent Affordability

Creating and maintaining affordable housing continues to be a challenge in New York City. The trend of losing such affordable housing to deregulated status continues to further escalate the challenge in maintaining an adequate supply of affordable housing. Today, more and more housing units are at risk for becoming deregulated, as they approach the end of their affordability agreements and looser regulation kicks in, allowing landlords more leeway to raise the rents. In many cases, even before those restrictions are up, landlords are looking

to buy these portfolios with the intention of getting the current low-income tenants out before the end of the affordability agreement.

It is the Borough President's policy that affordable housing units remain "affordable forever" wherever feasible. The Borough President is concerned that too many affordable units are created, with a limited regulatory term in regards to the number of years these units remain affordable. In his 2014 housing report, the Borough President called upon HPD to implement affordable-forever strategies so that future generations can benefit from the sound policy decisions of the current administration. The Borough President is concerned that the standard regulatory agreement used by HPD is typically between thirty and fifty years and then loses affordability after the financing period is over. His concern is that as tenants move out after the expiration of such regulatory agreement, the units would revert to market-rate prices and no longer be an affordable housing resource. In areas where new developments can be realized on city-owned sites, it should be a policy of the City to minimize the loss of affordable housing by requiring such units to remain permanently affordable.

Specific measures, when implemented, can ensure that units remain as affordable housing options for the city's residents. The Borough President believes that as the City proceeds disposing of its land to developers, the land disposition agreement (LDA) would be an appropriate mechanism to ensure that affordable housing remains in perpetuity. This concern can be partially mitigated by the disposition of land for affordable housing opportunities to non-profit affordable housing development entities as a sound method to promote permanent affordability. A non-profit's core missions are to be an affordable housing provider and a strong advocate for affordable housing, not driven by financial considerations. The disposition of land to non-profits can usually provide a soft guarantee that the affordable units remain affordable for the duration a non-profit is in operation.

The proposed Van Sinderen Plaza development would generate approximately 130 affordable housing units for a 50 year period, utilizing the 420-c tax exemption. Although there is a non-profit involved, this is not a standard situation as the ownership is not exclusively with the non-profit. Therefore, there is no way to guarantee permanent affordability and the ownership's intention at the end of the 50 year period.

The Borough President believes that it is imperative for the City Council to obtain such commitments from the developer, in writing, to be memorialized in the Land Disposition Agreement or Regulatory Agreement, prior to waiving its right to call up the application or otherwise grant its approval.

Community Preference

City local preference policy is at times unfair to community residents that live just beyond the border of a Community District. Given these development sites are near the border shared with CD 16, HPD should extend the local preference to the boundaries, such as extending out through the zip code, because residents living in nearby blocks, just within CD 16, are also in need of quality affordable housing. Especially considering the local subway station is shared by residents of both community districts, making the development apparent to residents of both neighborhoods.

This is especially important given that the residential neighborhoods of East New York and Brownsville are inclusive of small buildings that are not subject to rent protection laws. In considering the potential for direct and indirect displacement due to the pending East New York Rezoning proposal (which includes both CDs 5 and 16), the Borough President believes this development has potential to lend itself as a relocation resource. Therefore, prior to the vote of the City Council, HPD should memorialize in the Land Disposition Agreement or

Regulatory Agreement between the developer and HPD that local preference would be given for community residents of both CDs 5 and 16.

Supermarket

It is one of the Borough President's policies to the review all appropriate land use applications to determine whether it is appropriate to include a supermarket within the plans. The Borough President is concerned with the limited access to affordable fresh food stores in many neighborhoods. In order for all of Brooklyn to flourish, it is imperative that the Borough's residents have an adequate supply of supermarkets and grocery stores in their neighborhoods to access fresh and affordable foods. Access to healthy food options, whether creating more options and/or maintaining access to healthy food options has been a top priority for the Borough President.

The East New York community, a designated food desert, is an area underserved by quality, fresh food options. In response, the Zoning Resolution recently established FRESH program incentives and the City has financing available through its FRESH initiative. The location of this site makes it eligible for these zoning and financing initiatives and its proposed retail footprint provides the opportunity for supermarket use to be established as part of the development of this site.

The Borough President commends the designated developer's stated interest to provide space for a supermarket and pursuit of a tenant that will improve fresh food access in the neighborhood. Subsequent to the hearing, the Borough President's Office provided multiple contacts that might be interested in operating a supermarket as part of this development. The Borough President believes that the designated developer should adhere to the Zoning Resolution's FRESH requirements – committing, as part of the land disposition agreement, to secure a supermarket operator, whether or not the building plans are filed in accordance with the floor area incentive through the FRESH program.

Therefore, prior to the City Council vote, HPD should memorialize in the Land Disposition Agreement or Regulatory Agreement between the developer and HPD the extent and duration of effort, based on reasonable lease terms, towards securing a FRESH supermarket.

Accommodating Community Uses

It is one of the Borough President's policies to assist community-based non-profit organizations to secure affordable space. These organizations play an important role in the neighborhoods they serve, though it is too often a challenge to secure sufficient affordable space to maintain their programming and to flourish.

The development's proximity to subway service and a bus line provides an opportunity for locating conveniently accessible community uses. The proposed retail frontage along Van Sinderen Avenue is not a highly desirable location for retail though might make a suitable location for locating community use. The Borough President believes that a portion of the proposed retail space could be marketed to local art groups, and/or locally based community organizations.

Prior to the vote of the City Council, HPD should memorialize in the Land Disposition Agreement or Regulatory Agreement between the developer and HPD that a portion of the proposed retail space that would not otherwise be used for a FRESH food store, would be marketed to art groups, and/or locally based community organizations in consultation with CB 5 and local elected officials.

Advancing Sustainable and Resilient Energy and Storm Water Management Policies

It is the Borough President's sustainable energy policy to promote opportunities to utilize solar panels and/or blue/green/white roofs. He encourages developers to coordinate with the Mayor's Office of Sustainability, NYSERDA and/or NYPA at each project site. The Borough President also encourages developers to incorporate permeable pavers and/or establishing bioswales that would help to advance the Department of Environmental Protection's (DEP) green-water storm-water strategies.

Such modification would reduce the development's carbon footprint and reduce energy costs. In addition, blue/green roofs, permeable pavers and bio-swales would defer storm-water from entering the City's water pollution control plants. According to the NYC Green Infrastructure 2014 Annual Report, Green Infrastructure plays a role in addressing water quality challenges as well as provides numerous environment, social, and economic co-benefits. DEP is developing its Jamaica Tributary and Bay Long Term Control Plan (LTCP), which is affected by this site's waste- and storm-water. Van Sinderen Street is a trunk line leading to the 26th Ward Water Pollution Control Plant. Therefore, by incorporating bioswales, permeable pavers and green/blue roof strategies the proposed Van Sinderen Plaza development would be consistent with the LTCP.

The Borough President believes that the developer should give consideration to using the building's roof for any combination of solar, blue, green and/or white roof improvements. Incorporating roof-top renewable energy features, to harness direct sunlight, would be an advantageous usage of this project's roof surfaces, considering the relatively low height of surrounding structures, in order to generate sustainable energy. Due to cost consideration, the proposed development does not feature solar panels and it is not known whether the roof structure's design may permit the incorporation of solar panels at a later date. The Borough President believes that it is appropriate for the designated developer to undertake a structural assessment of its roof to determine the feasibility to what extent it might pursue additional sustainable and resilient rooftop features. The developer and HPD should engage the appropriate government agencies such as the Mayor's Office of Sustainability, NYSERDA and/or NYPA, possibly with the guidance and assistance of the LDCENY, to offset costs associated with solar installation.

The Borough President recognizes the developer's efforts to control the flow of water into the City's sewer system by incorporating vegetated areas on certain portions of the roof. He believes there remains an additional opportunity by incorporating permeable pavers and the sidewalk plazas and constructing bioswales as part of the Van Sinderen Avenue street tree planting. These strategies would help to advance DEP green-water storm-water strategies. The developer and HPD should engage the appropriate government agencies such as the Mayor's Office of Sustainability, DEP, NYSERDA and/or NYPA, possibly with the guidance and assistance of the LDCENY, to give consideration to government programs and grants that might further the sustainability and resiliency of this development. One such program is the City's Green Roof Tax Abatement (GRTA), which provides a reduction from City property taxes of $4.50 per square foot of green roof, up to $100,000. DEP's Office of Green Infrastructure advises property owners and their design professionals through the GRTA application process. The Borough President understands there are challenges in coordinating with DOT regarding the incorporation of permeable pavers along its right-of-way section of the north of New Lots Avenue site plaza. His office has reached out to HPD and DOT to seek permission for the developer to incorporate such improvements.

The Borough President believes that prior to the City Council hearing, the developer should assess the structure of the roof to determine the feasibility of adding solar panels. The designated developer should report to the City Council of its efforts to coordinate with appropriate agencies that might underwrite such improvements. HPD should report to the City Council the status of efforts to coordinate with DOT the incorporation of permeable pavers. The designated developer should report to the City Council the status of advancing DEP's Green Infrastructure Initiative as it pertains to bio-swales along Van Sinderen Avenue.

Zoning Required Street Tree Placement

The Zoning Resolution authorizes DPR to select alternative locations to plant street trees when it is deemed infeasible to plant adjacent to the zoning lot being developed. For this project, such alternative locations may be within CD 5 or within one-half mile of the zoning lot, placed in empty street tree pits or planting strips and may be in an unpaved area owned by the City.

The site on the north side of New Lots Avenue currently contains mature trees that line Van Sinderen Avenue along what would be the sidewalk of the future development. The Borough President believes that consideration should be given to preserving the existing trees as part of the zoning required street trees, where feasible, in lieu of replacing them with new plantings.

The Borough President supports the developer interests to incorporate all 25 zoning required trees along the zoning lot or in the plaza areas that extend onto the site. There is concern that DOT's/DPR's street tree planting guidelines require trees to be planted at least 25 feet apart, which limits the northern site to ten trees and the southern site to five trees. Though, upon request, DOT/DPR may grant a special disposition to allow the trees to be planted closer or clustered. In addition, the portion of the plaza extends onto the site, thus a publicly assessable place, should be deemed in compliance for locating the zoning required street trees. The Borough President's office has reached out to HPD, DPR and DOT to seek permission for the developer to retain existing street trees, cluster street trees and place zoning required street trees in the plazas, including the section that extends onto the site.

The Borough President believes that prior to the City Council hearing, HPD should report to the City Council of its efforts to coordinate with DPR and DOT to accommodate the zoning required street trees adjacent to the site and within the plazas. If such a solution does not fully satisfy the zoning street tree planting requirement, the Borough President believes that the community, coordinated through CB 5, should have adequate say in where the remaining trees are planted. The Borough President urges community members and members of CB 5 to identify vacated tree pits for possible consideration. In addition, HPD should memorialize in the Land Disposition Agreement or Regulatory Agreement between the developer and HPD that the planting location of these three trees should be identified in consultation with CB 5, for locations that meet the criteria of DPR.

Jobs

The Borough President is concerned that too many residents of Brooklyn are unemployed or underemployed. It is his policy to promote economic development as a means of creating more employment opportunities. Double-digit unemployment is a pervasive reality in many of Brooklyn's neighborhoods, and over half of our community districts have suffered poverty rates of 25 percent or greater, according to averaged data from 2008 to 2012. Prioritizing local hiring is integral to addressing this employment crisis. In addition, promoting Brooklyn-based businesses including those that qualify as MWBE and LBE is a key component of the Borough President's

economic development agenda. As potentially new construction, the disposition of these sites provides opportunities for the future developer to retain Brooklyn-based contractors and subcontractors, especially those that are designated LBEs, consistent with section 6-108.1 of the City's Administrative Code, and MWBE establishments, as a means to meet or exceed standards per Local Law 1 (not less than 20 percent participation). The Borough President looks forward to additional avenues that he can advocate in order to bring jobs and careers to borough residents.

The Borough President encourages responsible development and good practices by contractors and subcontractors. He believes that workers should be able to work in a non-threatening environment while promoting his agenda for achieving employment for Brooklynites through such discretionary land use actions.

With the intended development, the Borough President believes that such Administrative Code and Local Law standards should be memorialized in the Land Disposition Agreement or Regulatory Agreement between the developer and HPD. The City Council should obtain such commitments from the selected developer in writing prior to waiving its right to call up the application or otherwise grant its approval.

Light Improvements along New Lots Avenue

The adjacent entrance to the New Lots Avenue L subway station and the B15 bus stop are both located under the dimly lit elevated train trestle. While this is an area that receives a lot of pedestrian traffic, the adequacy of the lighting under the elevated trestle has been a major complaint from the residents of both CDs 5 and 16. The Borough President believes that in order to make this a safe and vibrant atmosphere, especially in accommodating the anticipated population increase in this area, it is important to significantly improve the lighting along this section of New Lots Avenue. The Borough President believes that local arts groups could play a role in designing and instrumenting a light installation that will give this area the attention it deserves and its residents a safe and vibrant transit hub.

The Borough President believes that the Metropolitan Transit Authority/ New York City Transit along with DOT should proceed in consultation with CBs 5 and 16 and local elected officials, to facilitate lighting improvements under the elevated train trestle, by introducing a lighting installation that includes participation by such local arts as Arts East New York.

Recommendation

Be it resolved that the Borough President of Brooklyn, pursuant to section 197-c and 201 of the New York City Charter and Article 16 of the General Municipal Law for New York State, recommends that the City Planning Commission and City Council approve the land use action requested according to the following conditions:

That the Department of Housing Preservation and Development incorporates the following in either the Regulatory Agreement or Land Disposition Agreement:

1. That all housing units remain permanently affordable;

2. That local preference be extended to include residents of both Community Districts 5 and 16;

3. That the developer commit to an explicit extent and duration of effort, based on reasonable lease terms, towards securing a FRESH supermarket;

4. That a portion of the proposed retail space, that would not otherwise be used for a FRESH food store, would be marketed to art groups, and/or locally based community organizations in consultation with CB 5 and local elected officials;

5. That, subject to the findings of a structural assessment of the roof, to determine the feasibility of pursuing additional sustainable and resilient rooftop features, the developer and HPD engage with the Mayor's Office of Sustainability, NYSERDA and/or NYPA, to offset costs associated with solar installation;

6. That, subject to approval by the Departments of Transportation and Environmental Protection, the plaza areas would incorporate permeable pavers, and bio-swales would be incorporated along Van Sinderen Avenue;

7. That, subject to approval by the Departments of Transportation and Parks and Recreation, existing mature trees along Van Sinderen Avenue be retained, street trees might be clustered and trees might be planted in both the plaza within the street right-of-way and plaza that extends into the site;

8. That planting of any additional zoning required street trees be planted in locations developed in consultation with Community Board 5 and local elected officials, and meet the criteria of the Department of Parks and Recreation;

9. That provisions require the project developer to retain Brooklyn-based contractors and subcontractors, especially those that are designated LBEs consistent with section 6-108.1 of the City's Administrative Code, and MWBE and LBE establishments, as a means to meet or exceed standards per Local Law 1 (not less than 20 percent participation), as well as to coordinate the monitoring of such participation with an appropriate monitoring agency;

And that the City Council has such stipulations incorporated into the Regulatory Agreement and/or Land Disposition Agreement prior to granting its approval.

Be it further resolved that:

1. The Metropolitan Transit Authority/New York City Transit along with the Department of Transportation, in consultation with Community Boards 5 and 16 and local elected officials, should facilitate lighting improvements under the elevated New Lots Avenue train trestle, by introducing a lighting installation that includes participation by such local arts groups as Arts East New York.