CITY PLANNING COMMISSION

February 24, 2016 / Calendar No. 7 N 160050 ZRK

IN THE MATTER OF an application submitted by the Department of City Planning pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York for the purpose of establishing Special Mixed Use District 16, establishing Special Enhanced Commercial Districts, and establishing a Mandatory Inclusionary Housing Area in Community Districts 5 and 16, Borough of Brooklyn.

This application for an amendment to the Zoning Resolution, N 160050 ZRK, was filed by the Department of the City Planning on September 18, 2015 to establish Special Mixed Use District 16, establish Enhanced Commercial Districts and establish a Mandatory Inclusionary Housing area.

RELATED ACTIONS

In addition to the amendment to the Zoning Resolution which is the subject of this report (N 160050 ZRK), implementation of the proposed project also requires action by the City Planning Commission on the following applications which are being considered concurrently with this application:

C 160035 ZMK	Amendment to the Zoning Map to change R5, R6, C8-1, C8-2, M1-1 and M1-2 districts to R5B, R6B, R6A, R7A, R7D, R8A, C4-4D, C4-5D, M1-1/R6A, M1-1/R7D and M1-1/R8A districts, eliminate and establish new commercial overlays, establish a Special Mixed Use District, and establish Special Enhanced Commercial Districts.
N 160036 ZRK	Amendment to the Zoning Resolution to create a Mandatory Inclusionary Housing program that would require, through zoning actions, a share of new housing to be permanently affordable.
C 160037 HUK	Amendment to the Dinsmore Chestnut Urban Renewal Plan
C 160042 HDK	Disposition of Property within the Dinsmore Chestnut Urban Renewal Area

Together, all of these actions would facilitate the East New York Community Plan, a coordinated neighborhood plan for new housing with requirements for the inclusion of housing affordable to low-income residents, active local retail corridors, new commercial development opportunities and community facilities to serve area residents.

BACKGROUND

A description of this application, the surrounding area and the proposed project is included in the report on the related action for an Amendment to the Zoning Map (C 160035 ZMK).

ENVIRONMENTAL REVIEW

This application (N 160050 ZRK), in conjunction with the related applications (C 160035 ZMK, C 160037 HUK, C160042 HDK, and N160036 ZRK), 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 15DCP102K. The lead agency is the City Planning Commission.

A summary of the environmental review, including the Final Environmental Impact Statement (FEIS), issued on February 12, 2016, appears in the report on the related application for an Amendment to the Zoning Map (C 160035 ZMK).

PUBLIC REVIEW

The application (N 160050 ZRK) and the application for the related non-ULURP item (N160036 ZRK), was duly referred on September 21, 2015, to Community Boards 5 and 16 and the Brooklyn Borough President for information and review, in accordance with the procedure for referring non-ULURP matters. The applications for the related ULURP items (C 160035 ZMK, C 160037 HUK, C160042 HDK), were certified as complete by the Department of City Planning on September 21,

2015, and were duly referred to Community Boards 5 and 16 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 (N 160050 ZRK) on October 28, 2015 and on November 18, 2015, by a vote of 17 to 0 with 5 abstaining, adopted a resolution recommending disapproval of this application with conditions as described in the report on the related application for an amendment to the Zoning Map (C160035 ZMK).

Community Board 16 held a public hearing on this application (N 160050 ZRK) on October 19, 2015 and on November 23, 2015, by a vote of 23 to 1 with 4 abstaining, adopted a resolution recommending disapproval of this application with conditions as described in the report on the related application for an amendment to the Zoning Map (C160035 ZMK).

Borough President Recommendation

This application (N 160050 ZRK) was considered by the Borough President of Brooklyn, who issued a recommendation on December 30, 2015 disapproving the application with conditions as described in the report on the related application for an amendment to the Zoning Map (C160035 ZMK).

City Planning Commission Public Hearing

On December 16, 2015 (Calendar No. 4), the City Planning Commission scheduled January 6, 2016 for a public hearing on this application (N 160050 ZRK). The hearing was duly held on January 6, 2016 (Calendar No. 22), in conjunction with the public hearing on the related applications (C 160035 ZMK, C 160037 HUK, C 160042 HDK, and N 160036 ZRK).

32 speakers offered testimony in favor of the project, and 34 spoke in opposition, as described in the report on the related application for an amendment to the Zoning Map (C160035 ZMK), and the hearing was closed.

CONSIDERATION

The City Planning Commission believes that the proposed amendment to the Zoning Resolution is appropriate, as modified.

A full consideration and analysis of the issues, and the reasons for approving the application appear in the report on the related action for an Amendment to the Zoning Map (C 160035 ZMK).

RESOLUTION

RESOLVED, that having considered the Final Environmental Impact Statement (FEIS), for which a Notice of Completion was issued on February 12, 2016, with respect to this application (CEQR No. 15DCP102K), and the Technical Memorandum (Technical Memorandum 001), dated February 24, 2016, the City Planning Commission finds that the requirements of the New York State Environmental Quality Review Act and Regulations have been met and that:

1. Consistent with social, economic and other essential considerations from among the reasonable alternatives available, the action is one which avoids or minimizes adverse environmental impacts to the maximum extent practicable; and

2. The adverse environmental impacts identified in the FEIS will be minimized or avoided to the maximum extent practicable by the placement of (E) designations for Hazardous Materials, Air Quality, and Noise, as well as through the provisions of Sections 81-624 and 81-691(a)(3) of the Zoning Resolution, which form part of the action.

The report of the City Planning Commission, together with the FEIS, constitutes the written statement of facts, and of social, economic and other factors and standards, that form the basis of the decision, pursuant to Section 617.11(d) of the SEQRA regulations; and be it further

RESOLVED, by the City Planning Commission, pursuant to Section 200 of the New York City Charter, that based on the environmental determination and consideration described in this report, the Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended as follows:

Matter in <u>underline</u> is new, to be added;

Matter in ~~strikeout~~ is to be deleted;

Matter within # # is defined in Section 12-10;

* * * indicates where unchanged text appears in the Zoning Resolution

Note: Cross references to Section numbers and titles and certain changes in this text reflect the city wide zoning text amendment, Zoning for Quality and Affordability (ULURP # N160049 ZRY), that is in public review concurrently.

Article XII - Special Purpose Districts

Chapter 3

Special Mixed Use District

* * *

123-63

Maximum Floor Area Ratio and Lot Coverage Requirements for Zoning Lots Containing Only Residential Buildings in R6, R7, R8 and R9 Districts

* * *

The provisions of this Section shall not apply on #waterfront blocks#, as defined in Section 62-11. In lieu thereof, the applicable maximum #floor area ratio# and #lot coverage# requirements set forth for #residential uses# in Section 62-30 (SPECIAL BULK REGULATIONS) through 62-32 (Maximum Floor Area Ratio and Lot Coverage on Waterfront Blocks), inclusive, shall apply.

However, in #Inclusionary Housing designated areas# and #Mandatory Inclusionary Housing areas#, as listed in the table in this Section, the maximum permitted #floor area ratio# shall be as set forth in Section 23-~~952~~154 (Inclusionary Housing). The locations of such districts are specified in APPENDIX F of this Resolution.

#Special Mixed Use District#	Designated #Residence District#
MX 2 - Community District 2, Brooklyn	R7A R8A
MX 8 - Community District 1, Brooklyn	R6 R6A R6B R7A
MX 11 - Community District 6, Brooklyn	R7-2
MX 13 – Community District 1, The Bronx	R6A R7A R7X R8A
MX 14 - Community District 6, The Bronx	R7A R7X
MX 16 - Community Districts 5 and 16, Brooklyn	R6A R7A R7D R8A

123-64

Maximum Floor Area Ratio and Lot Coverage Requirements for Zoning Lots Containing Mixed Use Buildings

For #zoning lots# containing #mixed use buildings#, the following provisions shall apply.

(a) Maximum #floor area ratio#

* * *

(4) Maximum #floor area# in #mixed use buildings#

The maximum total #floor area# in a #mixed use building# shall be the maximum #floor area# permitted for either the #commercial#, #manufacturing#, #community facility# or #residential use#, as set forth in this Section, whichever permits the greatest amount of #floor area#.

However, in #Inclusionary Housing designated areas# <u>and in #Mandatory Inclusionary Housing areas#</u>, except within Waterfront Access Plan BK-1, the maximum #floor area ratio# permitted for #zoning lots# containing #residential# and #commercial#, #community facility# or #manufacturing uses# shall be the base #floor area ratio# set forth in Section 23-952 for the applicable district. Such base #floor area ratio# may be increased to the maximum #floor area ratio# set forth in such Section only through the provision of #affordable housing#, pursuant to Section 23-90, inclusive.

* * *

123-90

SPECIAL MIXED USE DISTRICTS SPECIFIED

The #Special Mixed Use District# is mapped in the following areas:

* * *

#Special Mixed Use District# - 15: (11/13/12)

West Harlem, Manhattan

The #Special Mixed Use District# - 15 is established in West Harlem in Manhattan as indicated on the #zoning maps#.

<u>#Special Mixed Use District# - 16: [date of adoption]</u>

<u>Ocean Hill/East New York, Brooklyn</u>

The #Special Mixed Use District# - 16 is established in Ocean Hill and East New York in Brooklyn as indicated on the #zoning maps#.

* * *

Article XIII - Special Purpose Districts

Chapter 2

Special Enhanced Commercial District

132-00

GENERAL PURPOSES

The "Special Enhanced Commercial District," established in this Resolution, is designed to promote and protect public health, safety and general welfare. These general goals include, among others, the promotion and maintenance of a lively and engaging pedestrian experience along commercial avenues and the following specific purposes:

* * *

(d) in "Special Enhanced Commercial District" 4, to enhance the vitality of commercial districts by limiting the ground floor presence of inactive street wall frontages; ~~and~~

(e) in "Special Enhanced Commercial District" 5, to enhance the vitality of emerging commercial districts by limiting the ground floor presence of inactive street wall frontages;

(f) in "Special Enhanced Commercial District" 6, to enhance the vitality of well-established commercial districts by ensuring that ground floor frontages continue to be occupied by active uses that enliven the pedestrian experience along the street; and

(~~e~~g) to promote the most desirable use of land in the area and thus preserve, protect and enhance the value of land and buildings and thereby protect City tax revenues.

* * *

132-11

Special Enhanced Commercial Districts Specified

The #Special Enhanced Commercial District# is mapped in the following areas:

(a) #Special Enhanced Commercial District# 1 ~~(11/29/11)~~

The #Special Enhanced Commercial District# 1 (EC-1) is established on (11/29/11) on the following #designated commercial streets# as indicated on #zoning maps# 16c and 16d:

~~(1)~~ Fourth Avenue, in the Borough of Brooklyn, generally between 24th Street and Atlantic Avenue.

(b) #Special Enhanced Commercial District# 2 ~~(6/28/12)~~

The #Special Enhanced Commercial District# 2 (EC-2) is established on (6/28/12) on the following #designated commercial streets# as indicated on #zoning maps# 5d and 8c:

(1) Amsterdam Avenue, in the Borough of Manhattan, generally between West 73rd and West 110th Streets; and

(2) Columbus Avenue, in the Borough of Manhattan, generally between West 72nd and West 87th Streets.

(c) #Special Enhanced Commercial District# 3 ~~(6/28/12)~~

The #Special Enhanced Commercial District# 3 (EC-3) is established on (6/28/12) on the following #designated commercial streets# as indicated on #zoning maps# 5d and 8c:

~~(1)~~ Broadway, in the Borough of Manhattan, generally between West 72nd and West 110th Streets.

(d) #Special Enhanced Commercial District# 4 ~~(10/11/12)~~

The #Special Enhanced Commercial District# 4 (EC-4) is established on (10/11/12) on the following #designated commercial streets# as indicated on #zoning maps# 13b and 17a:

~~(1)~~ Broadway, in the Borough of Brooklyn, on the south side of the street generally between Sumner Place and Monroe Street.

(e) #Special Enhanced Commercial District# 5

The #Special Enhanced Commercial District# 5 (EC-5) is established on [date of adoption] on the following #designated commercial streets# as indicated on #zoning map# 17c:

(1) Atlantic Avenue, in the Borough of Brooklyn, generally between Sheffield Avenue and Euclid Avenue;

(2) Pitkin Avenue, in the Borough of Brooklyn, generally between Sheffield Avenue and Crescent Avenue;

(3) Fulton Street, in the Borough of Brooklyn, generally between Eastern Parkway and Van Sinderen Avenue; and

(4) Pennsylvania Avenue, in the Borough of Brooklyn, generally between Fulton Street and Atlantic Avenue.

(f) #Special Enhanced Commercial District# 6

The #Special Enhanced Commercial District# 6 (EC-6) is established on [date of adoption] on the following #designated commercial streets# as indicated on #zoning map# 17c:

Fulton Street between Sheffield Avenue and Euclid Avenue.

* * *

132-13

Applicability of Special Use, Transparency, Street Wall and Parking Regulations

The special #use#, transparency, street wall and parking regulations of this Chapter shall apply to #buildings# in #Special Enhanced Commercial Districts# as designated in the following table, except as otherwise provided in Sections 132-21, 132-31 and 132-41.

Table

Special Regulations for Enhanced Commercial Districts

USE REGULATIONS

#Special Enhanced Commercial District#	Mandatory Ground Floor #Uses#			Minimum Number of Establishments (132-23)
	Minimum Percentage of #Commercial Uses# (132-22(a))	Mandatory Non-#Residential Uses# (132-22(b))	Other Permitted #Uses# (133-22(c))	
EC – 1 (Fourth Avenue, Brooklyn)	x		x	
EC – 2 (Columbus & Amsterdam Avenues, Manhattan)				x
EC – 3 (Broadway, Manhattan)				
EC – 4 (Broadway, Brooklyn)		x	x	
EC – 5 (Atlantic Avenue, Pitkin Avenue, Pennsylvania		x	x	

Avenue & Fulton Street, Brooklyn)				
EC – 6 (Fulton Street, Brooklyn)		x	x	

#Special Enhanced Commercial District#	Maximum #Street Wall# Width		
	Banks and Loan Offices (132-24(a))	Other Non-#Residential# Establishments (132-24(b))	#Residential# Lobbies (132-24(c))
EC – 1 (Fourth Avenue, Brooklyn)			x
EC – 2 (Columbus & Amsterdam Avenues, Manhattan)	x	x	x
EC – 3 (Broadway, Manhattan)	x		x
EC – 4 (Broadway, Brooklyn)			x
EC – 5 (Atlantic Avenue, Pitkin Avenue, Pennsylvania Avenue & Fulton Street, Brooklyn)			x
EC – 6 (Fulton Street,			x

Brooklyn)			

TRANSPARENCY, STREET WALL AND PARKING REGULATIONS

#Special Enhanced Commercial District#	Ground Floor Transparency (132-32)	Street Wall Location (132-33)	Location of Parking Spaces (132-42)	Curb Cuts (132-43)
EC – 1 (Fourth Avenue, Brooklyn)	x		x	x
EC – 2 (Columbus & Amsterdam Avenues, Manhattan)	x			
EC – 3 (Broadway, Manhattan)	x			
EC – 4 (Broadway, Brooklyn)	x		x	x
EC – 5 (Atlantic Avenue, Pitkin Avenue, Pennsylvania Avenue & Fulton Street, Brooklyn)	x		x	x
EC – 6 (Fulton Street, Brooklyn)	x	x	x	x

132-20

SPECIAL USE REGULATIONS

The special #use# regulations of this Section, inclusive, shall apply to #buildings# in the #Special Enhanced Commercial Districts# designated in Section 132-13 (Applicability of Special Use, Transparency, Street Wall and Parking Regulations), except as otherwise provided in Section 132-21 (Applicability of Use Regulations).

* * *

132-21

Applicability of Use Regulations

In #Special Enhanced Commercial Districts#, the applicable special #use# provisions set forth in Section 132-13 (Applicability of Special Use, Transparency, Street Wall and Parking Regulations) shall apply as follows:

(a) #Special Enhanced Commercial Districts# 1~~and~~, 4, 5 and 6

In the #Commercial Districts# located within #Special Enhanced Commercial Districts# 1~~and~~, 4, 5 and 6, the applicable special #use# provisions indicated in the table in Section 132-13 shall apply to #developments# and to #buildings enlarged# on the #ground floor level#, where such #ground floor level# fronts upon a #designated commercial street#~~,~~. ~~except that such provisions shall not apply to #zoning lots# with a width of less than 20 feet, as measured along the #street line# of the #designated commercial street#, provided such #zoning lot# existed on:~~

* * *

132-22

Mandatory Ground Floor Uses

In the applicable #Special Enhanced Commercial Districts# indicated in the table in Section 132-13 (Applicability of Special Use, Transparency, Street Wall and Parking Regulations), the following provisions shall apply to the #ground floor level street walls# of #buildings# fronting along a #designated commercial street#. For #buildings# fronting along multiple #streets#, the required percentage of #ground floor level street wall# allocated to certain #uses#, as set forth in this Section, shall apply only to the portion of the #building's ground floor level# fronting upon a #designated commercial street#.

* * *

132-23

Minimum Number of Establishments

In the applicable #Special Enhanced Commercial Districts# indicated in the table in Section 132-13 (Applicability of Special Use, Transparency, Street Wall and Parking Regulations), the following provisions shall apply to the #ground floor level# of all #buildings# with #street# frontage along a #designated commercial street#.

* * *

132-24

Maximum Street Wall Width

In the applicable #Special Enhanced Commercial Districts# indicated in the table in Section 132-13 (Applicability of Special Use, Transparency, Street Wall and Parking Regulations), the following provisions shall apply to the #ground floor level# of all #buildings# with #street# frontage along a #designated commercial street#.

* * *

132-30

SPECIAL TRANSPARENCY AND STREET WALL LOCATION REGULATIONS

The special transparency regulations of this Section, inclusive, shall apply to #buildings# in the #Special Enhanced Commercial Districts# indicated in the table in Section 132-13 (Applicability of Special Use, Transparency, Street Wall and Parking Regulations), except as otherwise provided in Section 132-31.

132-31

Applicability of Transparency Regulations

In #Special Enhanced Commercial Districts#, the special transparency provisions indicated in the table in Section 132-13 (Applicability of Special Use, Transparency, Street Wall and Parking Regulations) shall apply to #developments# and to #buildings enlarged# on the #ground floor level#, where such #ground floor level# fronts on a #designated commercial street#, except that such provisions shall not apply:

(a) to #zoning lots# in #Commercial Districts# with a width of less than 20 feet, as measured along the #street line# of a #designated commercial street#, provided such #zoning lots# existed on:

(1) November 29, 2011, for #Special Enhanced Commercial District# 1;

(2) June 28, 2012, for #Special Enhanced Commercial Districts# 2 and 3; ~~and~~

(3) October 11, 2012, for #Special Enhanced Commercial District# 4; and

(4) [date of adoption], for #Special Enhanced Commercial Districts# 5 and 6; and

~~(b) to any #community facility building# used exclusively for either a #school#, as listed in Use Group 3, or a house of worship, as listed in Use Group 4; and~~

~~(c)~~(b) in #Special Enhanced Commercial Districts# 1~~ and~~, 4, 5 and 6, to #buildings# in #Residence Districts# where the #ground floor level# contains #dwelling units#~~ or #rooming units#~~.

132-32

Ground Floor Level Transparency Requirements

In the applicable #Special Enhanced Commercial Districts#, as indicated in the table in Section 132-13 (Applicability of Special Use, Transparency, Street Wall and Parking Regulations), the special transparency regulations of ~~this~~ Section 37-34 (Minimum Transparency Requirements) shall apply to the #ground floor level street walls# of #buildings# fronting along a #designated commercial street#.

* * *

However, in #Special Enhanced Commercial Districts# 5 and 6, for #buildings# containing Use Groups 16, 17 and 18 at the #ground floor level#, up to 50 percent of the length of a #street wall# may be exempt from such regulations. Where the exempted portion is 50 feet or more in length and contains no transparent element between #curb level# and 12 feet above #curb level# or the ceiling of the ground floor, whichever is less, such exempted portion shall be covered with vines or similar planting or contain artwork or be treated so as to provide visual relief. Plantings shall be planted in soil having a depth of not less than two feet, six inches, and a minimum width of 24 inches. Where an #extension# or a #conversion# of the #ground floor level# results in a reduction of the exempted portion, provisions set forth in 37-34 (Minimum Transparency Regulations) shall apply to such reduced portion.

132-33

Street Wall Location

In the applicable #Special Enhanced Commercial Districts# indicated in the table in Section 132-13 (Applicability of Special Use, Transparency, Street Wall and Parking Regulations), the following provisions shall apply to a #street wall# or its prolongation fronting along a #designated commercial street#. The open area between the #street line# and #street wall#, or its prolongation, resulting from requirements set forth in this provision, shall be improved to Department of Transportation standards for sidewalks, be at the same level as the adjoining public sidewalk and be accessible to the public at all times. When applying requirements set forth in this provision, two or more adjacent #developments# or #enlargements# under common ownership or control shall be considered a single #development# or #enlargement#.

In Commercial and Manufacturing Districts, other than C4-4L Districts, mapped within #Special Enhanced Commercial District# 6, for #developments# or horizontal #enlargements# at the ground level, resulting in a #street wall# of 40 feet or wider, as measured along the #street line # of the #designated commercial street#, a sidewalk widening of five feet shall be provided along such #street wall# and its prolongation. A line parallel to and five feet from the #street line# of such #street#, as measured within

the #zoning lot#, shall be considered the #street line# for the purpose of applying any applicable #street wall# provision.

132-40

SPECIAL PARKING REGULATIONS

The special parking regulations of this Section, inclusive, shall apply to all #buildings# in the #Special Enhanced Commercial Districts# indicated in the table in Section 132-13 (Applicability of Special Use, Transparency, Street Wall and Parking Regulations).

132-41

Applicability of Parking Regulations

In #Special Enhanced Commercial Districts#, the applicable special parking provisions indicated in the table in Section 132-13 (Applicability of Special Use, Transparency, Street Wall and Parking Regulations) shall apply to all #buildings# with frontage along a #designated commercial street#.

132-42

Locations of Parking Spaces

In the applicable #Special Enhanced Commercial Districts#, as indicated in the table in Section 132-13 (Applicability of Special Use, Transparency, Street Wall and Parking Regulations), the following provisions shall apply to the ground floor of all #buildings# with #street# frontage along a #designated commercial street#.

* * *

132-43

Curb Cut Requirements

In the applicable #Special Enhanced Commercial Districts#, as indicated in the table in Section 132-13 (Applicability of Special Use, Transparency, Street Wall and Parking Regulations), the following provisions shall apply to the ground floor of all #buildings# with #street# frontage along a #designated commercial street#.

For #zoning lots# with frontage along a #designated commercial street# and another #street#, curb cuts accessing off-street parking spaces shall not be permitted along a #designated commercial street#.

Curb cuts accessing off-street parking spaces shall be permitted on a #designated commercial street# only where such curb cut is located on a #zoning lot# that:

(a) is an #interior lot# fronting along a #designated commercial street#;

(b) existed on:

(1) November 29, 2011, in #Special Enhanced Commercial District# 1; ~~or~~

(2) October 11, 2012, in #Special Enhanced Commercial District# 4;

(3) [date of enactment], in #Special Enhanced Commercial District# 5; or

(4) [date of enactment], in #Special Enhanced Commercial District# 6;

(c) has a width of at least 60 feet, as measured along the #street line# of the #designated commercial street#; and

(d) has a #lot area# of at least 5,700 square feet.

132-50

CERTIFICATIONS AND AUTHORIZATIONS

* * *

APPENDIX F

Inclusionary Housing Designated Areas and Mandatory Inclusionary Housing Areas

The boundaries of #Inclusionary Housing designated areas# and #Mandatory Inclusionary Housing areas# are shown on the maps listed in this Appendix F. The #Residence Districts# listed for such areas shall include #Commercial Districts# where #residential buildings# or the #residential# portion of #mixed buildings# are governed by the #bulk# regulations of such #Residence Districts#. Where #Inclusionary Housing designated areas# or #Mandatory Inclusionary Housing areas# are mapped in #Commercial Districts#, the residential district equivalent, as set forth in Sections 34-112 or 35-23 (Residential bulk regulations in other C1 or C2 Districts or in C3, C4, C5 or C6 Districts) has instead been specified for each map.

Table of

Inclusionary Housing Designated Areas and

Mandatory Inclusionary Housing Area

by Zoning Map

* * *

BROOKLYN

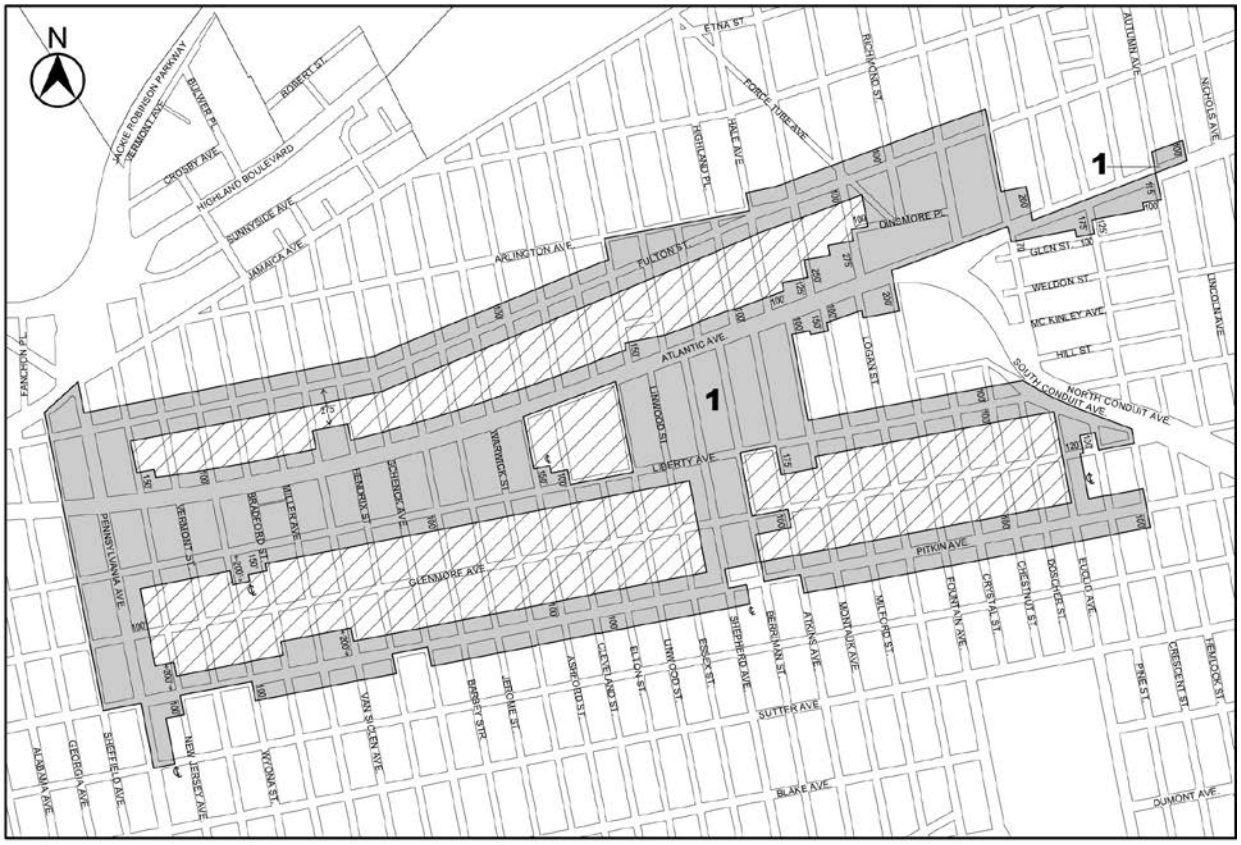
* * *

Brooklyn Community District 5

In the R6A, R6B, R7A and R8A Districts within the areas shown on the following Map 1:

Map 1 - [date of adoption]

[PROPOSED MAP]



* * *

Brooklyn Community District 16

In the R6A, R6B, R7A and R7D Districts within the areas shown on the following Map 1:

Map 1 - [date of adoption]

[PROPOSED MAP]

Mandatory Inclusionary Housing Area (MIHA)

1 MIH Program Option 1 [Section 23-154(d)(3)]

* * *

The above resolution (N 160050 ZRK), duly adopted by the City Planning Commission on February 24, 2016 (Calendar No. 7), is filed with the Office of the Speaker, City Council, and the Borough Presidents 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, JOSEPH I. DOUEK, RICHARD W. EADDY, CHERYL COHEN EFFRON, HOPE KNIGHT, ANNA HAYES LEVIN, ORLANDO MARIN, LARISA ORTIZ, *Commissioners*

MICHELLE R. DE LA UZ, *Commissioner*, Voting No

NYCPLANNING
DEPARTMENT OF CITY PLANNING CITY OF NEW YORK

Community/Borough Board Recommendation

Pursuant to the Uniform Land Use Review Procedure

Application #: **C 160035 ZMK**	Project Name: **East New York Rezoning**
CEQR Number: 15DCP102K	Borough(s): Brooklyn Community District Number(s): 5 & 16

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

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:

SEE ATTACHED

Applicant(s): NYC Department of City Planning Brooklyn Borough Office 16 Court Street, 7th Floor Brooklyn, N.Y. 11241	**Applicant's Representative:** Winston Von Engel, Director Brooklyn Borough Office NYC Department of City Planning 16 Court Street, 7th Floor Brooklyn, N.Y. 11241

Recommendation submitted by:
Brooklyn Community Board 5

Date of public hearing: 11/18/15 **Location:** 370 Fountain Ave

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: 11/18/15 **Location:** 370 Fountain Ave

RECOMMENDATION

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

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

Voting
 # In Favor: 0 **# Against:** 17 **# Abstaining:** 6 **Total members appointed to the board:** 47

Name of CB/BB officer completing this form	*Title*	*Date*
Walter Campbell	District Mgr.	11/30/15

BROOKLYN COMMUNITY BOARD 5

THE CITY OF NEW YORK

ERIC ADAMS, BOROUGH PRESIDENT
ANDRE T. MITCHELL, BOARD CHAIRMAN | WALTER CAMPBELL, DISTRICT MANAGER

"ONE COMMUNITY, ONE VOICE"

November 30, 2015

Application # C 160035 ZMK. The application was **disapproved** on November 18, 2015 at Community Board # 5 regular meeting with the following twelve (12) Modifications/Conditions:
Vote: # In Favor: 0 # Against: 17 # Abstaining: 6

Application # N160036ZRK. Disapproved with Modifications/Conditions:
Vote: # In Favor: 0 # Against: 17 # Abstaining: 6

Application # N160050ZRK. Disapproved with Modifications/Conditions:
Vote: # In Favor: 0 # Against: 17 # Abstaining: 6

Application # N160037HUK. Disapproved with Modifications/Conditions:
Vote: # In Favor: 0 # Against: 17 # Abstaining: 6

Application # N160042HDK. Disapproved with Modifications/Conditions:
Vote: # In Favor: 0 # Against: 17 # Abstaining: 6

Modifications/Conditions

1. The community does not want a storage facility on the corner of Pitkin and Pennsylvania Avenue also known as block 3721, lot 1.

2. The community would like to reclaim the Old Traffic Court building known as 127 Pennsylvania Avenue, corner of Liberty Avenue also known as block 3687, lot 1. The Community Board office is located in the building and the community would like to see this building restored to a recreation facility for community use. Approximately three million dollar is needed to repair the build. This would increase productivity and moral for community board members and staff to effectively address the economic development needs of the community. Additionally, community residents would benefit from this investment.

3. The community would like for the city to acquire the Long Island Railroad sub-station building located at Atlantic Avenue (service road) and Snediker Avenue. This building is location on block 3680. This building will be used as a Cultural Center for the residents of East New York and Brownsville.

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T: (718) 408-5711 | F: (718) 345-0501 | EMAIL: BK05@CB.NYC.GOV

4. We would like a CUNY campus in the rezone area. This would allow for long-term economic sustainability for all of East New York and neighboring communities.

5. We would like an Innovation Lab – a job-placement and training center run in conjunction with New York City College of Technology and local business organizations that would train young people to do basic computer coding; and helps locals start small cooperative businesses; and help find jobs for adults.

6. We would like approximately $20 million dollars or more investment from NYC Economic Development Corporation (EDC) in East New York for Business Incubators in the IBZ and Innovation Labs throughout Community Board #5 (Note: 2014 EDC invested $316,396 in East New York). This much needed investment would address the high unemployment in CB#5.

7. We need a 30 year Tax-Credit for long-term East New York homeowners and businesses to ease the property tax burden due to rezone changes.

8. The City should finance the creation of lower cost rental space for local small businesses.

9. We need multi-year, robust support for strengthening local business focusing training and business planning, including topics such as purchasing properties, meeting increased and differing demands for services and preparing your business for changes, etc.

10. We want to make sure that the merchants in the community request is in placed which is: assistance in the preservation/repair of mixed use properties and down-payment assistance made available to support local businesses in buying mixed-use buildings.

11. We need a City commitment to save East New York manufacturing and provide relocation fund for industrial businesses that need to relocate.

12. We need a City commitment to create good living wage jobs for East New York residents in construction and manufacturing and other growth sectors.

Mandatory Inclusionary Housing and Zoning for Quality and Affordability Disapproved.

Mandatory Inclusionary Housing. N160051ZRY

In Favor: 6 # Against: 16 # Abstaining: 1

Zoning for Quality and Affordability: N160049RLY

In Favor: 8 # Against: 15 # Abstaining: 1

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 #: EAST NEW YORK REZONING – 160035 ZMK/ 160036 ZRK/ 160037 HUK/ 160042 HDK/ 160050 ZRK

In the matter of the applications submitted by the Department of City Planning, pursuant to Section 197-c and 201 of the New York City Charter, for the amendments of the Zoning Map and Zoning Resolution that will introduce mid-density residential and commercial uses along the corridors of Fulton Street, Atlantic Avenue, Liberty Avenue and Pitkin Avenue, as well as contextual residential districts along the side streets, within portions of Cypress Hills, East New York, Ocean Hill and Brownsville sections of Brooklyn, in Community Districts 5 and 16. Amendment to the Zoning Resolution would establish Mandatory Inclusionary Housing Regulations and designated districts, create mandatory ground-floor retail districts, and create a special mixed-use manufacturing/residential district. Proposed actions also include amendment of the Dinsmore-Chestnut Urban Renewal Plan and disposition of the urban renewal site accordingly. The proposed actions would facilitate the East New York Community Plan.

COMMUNITY DISTRICTS NO. 5 and 16 — BOROUGH OF BROOKLYN

RECOMMENDATION

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

SEE ATTACHED

BOROUGH PRESIDENT

December 30, 2015

DATE

RECOMMENDATION FOR EAST NEW YORK REZONING – 160035 ZMK/ 160036 ZRK/ 160037 HUK/ 160042 HDK/ 160050 ZRK

The Department of City Planning (DCP), together with the Department of Housing Preservation and Development (HPD), is proposing a series of land use actions to implement the East New York Community Plan (ENY Plan) and to create opportunities for housing. This includes affordable housing, community facilities, economic development and other services of an approximately 191-block area of the East New York, Cypress Hills and Ocean Hill neighborhoods of Brooklyn, in Community Districts 5 and 16. Ocean Hill is generally bounded by Eastern Parkway Extension to the west, Van Sinderen Avenue to the east, Broadway to the north and East New York Avenue to the south. The proposed actions are anticipated to facilitate new residential, commercial, community facility and manufacturing development to result in the creation of 6,970 dwelling units, more than 900,000 square feet of commercial space, more than 27,000 square feet of manufacturing space, approximately 97,500 square feet of hotel space, more than 73,000 square feet of warehouse/storage space, and a decrease of approximately 137,000 square feet of auto-related space.

The ENY Plan aims to create more affordable housing and more diverse commercial uses, promote economic development and opportunity for residents, foster safer streets and generate new community resources. The proposed actions reflect DCP's ongoing engagement with Community Boards 5 and 16 (CB 5 and 16), local elected officials, community residents and stakeholders to achieve the following land use objectives:

- Create opportunities for new residential development with significant amounts of permanently affordable housing and preserve existing affordability to ensure that the neighborhood continues to serve diverse housing needs;
- Encourage mixed-use development on key corridors;
- Enhance and revitalize major thoroughfares through new economic development; and
- Protect neighborhood character of residential core and ensure predictable future development

On November 23, 2015, the Borough President held a public hearing on this text amendment and rezoning proposal. There were 28 speakers on this item, 23 in opposition and five neutral. Organizations represented by these speakers included: Metropolitan Council on Housing, Preserving East New York, Coalition for Community Advancement, Local Labor Union 79, Friends of Bushwick Inlet Park, Walmart-Free NYC, Local Development Corporation of East New York (LDCENY), Cypress Hills Local Development Corporation (CHLDC), Linden Plaza Tenant Council, Coalition of Cypress Hills, Coalition for Community Advancement, Future of Tomorrow, New York Community for Change, Pratt Center for Community Development, National Mobilization Against Sweatshops, and Faith in New York.

Speakers in opposition to this proposal voiced numerous concerns regarding:

- The affordability levels of the proposed affordable housing mostly exclude the current residents of the area;
- Steeply rising home values since the introduction of the proposed community plan, which result in increased tenant harassment by landlords interested in capitalizing on the plan;
- DCP underestimating the potential risks of displacement and not providing sufficient anti-displacement policies;
- The proposal not accounting for the existing homeless population and the existing strain on shelter capacity;

- The rezoning increase in housing density in manufacturing areas, which may not be appropriate for a residential environment;
- The proposal not including preference for veterans or existing residents and simply introducing new people to the area;
- The fear that the proposed housing will not be affordable for seniors in the area;
- This area's already high unemployment rates and low wages, and the inevitable exacerbation of the problem as the population is projected to significantly increase;
- The need for more union jobs to allow area residents to be able to work toward careers and improve their quality of life;
- The need for protection of the manufacturing sector and Draft Environmental Impact Statement (DEIS) underestimating the adverse rezoning impacts on industrial businesses;
- The fear of commercial displacement and need for protection/preservation of small and local retail businesses;
- The proposal not accounting for increased burden on already strained infrastructure, including transportation, utilities, emergency services and community resources such as schools, community centers and open space;
- The proposal including existing temporary school seats as permanent school seats, which does not fully represent the strain on the school capacity;
- The need to preserve the buildings and existing character of the area;
- Fears that the adverse impacts that resulted from the Williamsburg rezoning will repeat in this area as well;
- The proposal not accounting for pedestrian safety, amidst the proposed traffic increases, along already dangerous intersections

Speakers not taking a specific side on this proposal voiced numerous comments regarding:

- Existing housing, poverty and wage crisis in the area, and the potential for affordable housing creation
- The creation of jobs for the struggling local economy
- The provision of a new school for the community

Consideration

CB 5 voted to disapprove the application with conditions, seeking the following:

- Opportunities for recreational facilities, a cultural center, CUNY Campus and Innovation Lab;
- Funding for a business incubator;
- Residential and business real estate tax credits;
- Affordable local business space;
- Funds to renovate local businesses and relocate industrial businesses; and
- Commitment to good construction and manufacturing sector jobs

CB 16 voted to disapprove the application with conditions, seeking the following:

- Help for existing businesses and community organizations by developing a plan;
- Protection of existing manufacturing, especially at the ground level;
- Implementation of an anti-harassment program;
- Establishment of good local jobs;
- Further evaluation of Atlantic Avenue for safety improvements;
- More and better maintained community facilities and parks; and

– Change the proposed zoning map change from R7D zoning proposal to R6A zoning in order to keep with the existing context of the neighborhood

More than 6,000 new dwelling units are projected to be developed as a result of the proposed land use actions, over half of which the City is projecting to be regulated, affordable units. In order to facilitate and accommodate such growth, comprehensive initiatives were announced proposing strategies to vigorously protect existing rent-regulated housing, significantly invest in new affordable housing; launch new local economic development initiatives; build a new 1,000-seat school; improve and invest in the streetscape along Atlantic Avenue and other key corridors and improve existing parks and open spaces.

The proposed actions include amendments to the text of the "Zoning Resolution" to establish and apply a new mandatory Inclusionary Housing Program to portions of the proposed rezoning area where zoning changes are promoting new housing. DCP proposed to establish a Mandatory Inclusionary Housing program (MIH), which would require a share of the new housing to be permanently affordable. This text amendment mirrors the proposed city-wide text amendment and guarantees that affordable housing would be required in East New York in the event that the citywide MIH zoning text is not approved or is approved after the East New York rezoning is implemented. MIH would apply within the following districts: M1-4/R6A, M1-4/R7D, M1-4/R8A, R6B, R6A, R7A, R7D, R8A, C4-4D, C4-4L and C4-5D districts within the rezoning area. Additionally, the proposed actions include the establishment of an Enhanced Commercial District and a Special Mixed Use District (MX) within the rezoning area.

An Enhanced Commercial District would be established along Atlantic Avenue, Pitkin Avenue, Fulton Street and Pennsylvania Avenue. In order to foster a safe and engaging pedestrian experience along these corridors, regulations would be established requiring non-residential ground floor use, transparency on the ground floor, limited curb cuts and required building setbacks to create wider sidewalks on Fulton Street.

The MX district is a special zoning district that is mapped in several locations throughout the City. It combines a light industrial (M1) district with a residential district, and permits a mix of selected light industrial, commercial, residential and community facility uses under the applicable regulations. The MX district permits mixed-use buildings, and includes an expanded definition of "home occupations," permitting a broader variety of live-work accommodations that is allowed in standard zoning districts.

The intent of the ENY Plan's proposed rezoning actions is to:

1) Promote mixed-use development along key corridors and near transit: Retail or community facility uses will be required at the ground floor along key corridors to create and activate streetscape and strengthen the retail environment;
2) Preserve the residential character of side streets: Side streets are characterized by two- to three-story row houses, single-family homes, and small apartment buildings. This existing character will be preserved with contextual residential districts. Long-standing residential uses west of Broadway Junction which do not conform to the existing manufacturing zoning designation, will be brought into conformance with new residential zoning districts; and,
3) Allow more diverse uses in industrial area: Industrial as well as residential and commercial uses will be allowed in areas that are currently home to a mix of uses, such as Liberty Avenue and parts of Ocean Hill.

The land use actions in tandem with comprehensive initiatives of the ENY Plan furthers the work of the Sustainable Communities East New York (SCENY) study, a federally-funded collaborative planning effort led by DCP, together with community residents, stakeholders, elected officials and local organizations from 2011-2013. This study examined opportunities for transit-oriented development, capitalizing on East New York's robust transportation assets, including a regional rail station, numerous city transit stations, particularly Broadway Junction, and several bus lines. The SCENY study recommended allowing moderate-density, mixed-use development with affordable housing along key corridors; preserving the low density character of residential side streets; cultivating a regional destination with larger-scale uses around Broadway Junction; promoting job and business growth in the Industrial Business Zone, and implementing streetscape improvements to make the area safer for pedestrians. Using an extensive community engagement process, the Mayor plans to build and preserve affordable housing throughout the City in coordination with strategic infrastructure investments in order to foster a more equitable and livable New York City.

Independent of the ENY Plan land use actions, DCP's Zoning for Quality and Affordability (ZQA) is undergoing public review for consideration of a series of text amendments to eliminate what it considers to be unnecessary obstacles to the creation of housing, especially affordable housing. As part of the ZQA text amendment, there are provisions that would allow a limited amount of additional building height in medium- to high-density districts for all new developments to accommodate greater floor-to-ceiling heights at the ground floor; to better accommodate quality space for commercial, community facility; and first floor residential uses, elevated from the level of the sidewalk. Other changes are intended to relieve certain setback requirements and coverage limitations to accommodate permitted floor area and allow greater flexibility for building envelop design. The proposed changes would allow additional height for buildings utilizing the higher floor area allowed in Mandatory Inclusionary Housing (MIH)-designated areas.

The amendment would eliminate off-street parking requirements for low-income housing or inclusionary housing within areas that fall within a "Transit Zone" encompassing areas well served by transit and with low car ownership and auto commutation rates. The entire ENY Plan area falls within the Transit Zone. Existing buildings with underutilized parking would be eligible to reduce or eliminate parking requirements by a Board of Standard and Appeals (BSA) special permit. Parking requirements for market-rate units within a mixed-income development could be reduced by authorization from the City Planning Commission, if necessary to facilitate the mixed-income development. No parking would be required for senior housing. Existing low-income senior housing developments would be able to reduce or eliminate their parking.

DCP held numerous workshops and events starting in the fall of 2014 through the spring of 2015 in partnership with other City agencies, including the Department of Transportation (DOT), School Construction Authority (SCA), Department of Education (DOE), Department of Parks and Recreation (DPR), Department of Small Business Services (DSBS), Economic Development Corporation (EDC), and HPD to identify current and future needs of the neighborhood. The engagement process solicited community goals and objectives. The community identified an extensive list of outcomes desired for the neighborhood, which are as follows:

- The development of housing, including significant amounts of new affordable housing, and housing accessible to area families at current community income levels;
- Protect low-income tenants in rent-regulated apartments;

- Safer and more active streets, and an improved streetscape, especially on Atlantic Avenue;
- Creation of more job opportunities, preservation of jobs, commercial and retail options, and new commercial services;
- Providing for open space improvements in an area to create better and more accessible parks and playgrounds; and
- New community centers offering recreation and youth programs

Based on the community identified objectives, DCP, in collaboration with other City agencies, developed a plan to achieve these goals through new zoning and other land use actions, expanded programs and services, and capital investments in the ENY Plan. The ENY Plan identifies strategies in four categories: housing, economic development, community resources and land use.

The construction of new housing has resumed with an improving economy and increased demand due to a rising City population. As a result of the City's housing programs, together with the private market home construction, the population of the East New York project area has rebounded from its low-point in 1980 of approximately 40,000 residents to 48,000 today, but still remains below its 1960 peak of 66,000 residents.

Current zoning in the neighborhood does not permit the full implementation of the ENY Plan. New residential development in key areas and along major corridors is not permitted. The existing zoning restricts new development to low densities that limit the production of substantial amounts of housing, particularly affordable housing, which limits the potential of the major corridors to become vibrant pedestrian destinations.

The intent of the proposed land use actions is to facilitate vibrant, inclusive residential neighborhoods with a wide variety of local and regional commercial options, job opportunities and attractive streets that are safe and inviting for residents, workers and visitors. Opportunities for new housing, including affordable housing along key corridors (particularly along Atlantic Avenue), would provide more housing choices for current and future residents. A growing residential population would restore population lost during the neighborhood's decline in decades past and expand the customer base for existing and new businesses such as grocery stores, pharmacies, and other neighborhood services.

It is the Borough President's policy to support land use actions that are not only compatible with surrounding land uses but also that provide beneficial amenities to the surrounding neighborhood, while providing much needed affordable housing opportunities. It is also the Borough President's policy to support land use actions that provide for development in proximity to public transit infrastructure, which provides for increased population density. The proposed ENY Plan has the potential to enhance the City's community revitalization efforts as well as create a large number of new affordable housing. The proposed ENY Plan would provide local community facility uses and commercial uses along accessible transit corridors, utilizing a number of underdeveloped lots that would otherwise not advance the community. The proposed development would also promote the health, safety, and welfare of the neighborhood by facilitating sound growth and development in an area with a strong demand for affordable housing, and with direct access to public transportation.

The low-density zoning found along key corridors in the area today discourages mixed-use development by restricting the total allowed development. Changes to the zoning to increase residential density and allow medium- to higher-density development in key corridors of Atlantic Avenue, Fulton Street, Pitkin Avenue, Pennsylvania Avenue and Liberty Avenue,

would promote mixed-use development with housing, commercial uses and community facilities. Increased residential density will reinforce demand in the neighborhood for a greater variety of local retail services such as grocery stores, pharmacies, banks, and restaurants, while supporting the growth of existing and new businesses, as well as creating local job opportunities.

The proposed rezoning would allow for both mixed-use residential and/or commercial development at higher densities in more areas of the neighborhood. Medium density development along key corridors served by transit is intended to significantly expand the supply of housing. The mapping of MIH-designated areas would promote the development of permanently affordable housing and facilitate mixed-income communities by requiring affordable housing units to be included in any new residential development, which is not required by zoning today.

The Atlantic Avenue corridor presents the greatest opportunity for substantial new development of affordable housing, retail, and other services. The width of the street, the access to transit and the presence of a large number of sites with potential for redevelopment provide this corridor with the capacity to support significant growth. The proposed zoning changes to allow residential uses would facilitate the construction of new housing and mixed-use development along the corridor, expanding the neighborhood's supply of affordable housing. Allowing higher residential density and a variety of job-generating uses on these sites would help bring a critical mass of residents to support a greater diversity of retail offerings and activate streetscapes and public spaces. Atlantic Avenue could transform into an urban boulevard offering a diversity of housing options, shopping, entertainment, jobs and services to the surrounding neighborhood as well as drawing visitors from the broader region.

Pitkin Avenue and Fulton Street are transit corridors with many vacant or underutilized lots and low-rise buildings. Changing the low-density zoning along Fulton Street, Pitkin Avenue, Liberty Avenue, and Pennsylvania Avenue to medium-density provides a means to realize the potential to see modest growth on the underutilized sites. Increasing the zoning floor area in combination with permitting residential use according to mandatory inclusionary zoning and enhanced retail zoning designations would enable the development of new mixed-use buildings with ground-floor retail, containing affordable housing, to be built along these corridors. Such growth would be supported by the corridor's existing transit network. For Liberty Avenue, allowing new residential development and local retail could significantly strengthen this corridor as a secondary neighborhood corridor.

The establishment of an Enhanced Commercial District within the rezoning area along the corridors of Atlantic Avenue, Pitkin Avenue and Fulton Street would foster a safe and engaging pedestrian experience. This would also provide flexibility along the transit corridors by establishing regulations governing ground floor use, transparency on the ground floor and limiting curb cuts, among other potential regulations. Requirements for non-residential uses on the ground floors of new buildings along these retail corridors would ensure that street life was active and create safety for all while providing for both retail as well as community facility space.

This proposal would also map commercial overlays to a depth of 100 feet to reflect the typical depth of existing lots along corridors to prevent commercial uses from encroaching on residential side streets. Existing commercial overlays mapped at a depth of 150 feet would be removed on Fulton Street, Pitkin Avenue, and Liberty Avenue.

The investments, strategies and policies developed by City agencies during the creation of the ENY Plan acknowledge much of the challenges and opportunities presented by the proposed rezoning changes. The City's proposed strategic investments in infrastructure — including a new 1,000 seat school, improved parks, major streetscape and safety improvements to Atlantic Avenue, a new Workforce 1 Center and improvements in the Industrial Business District, if fully realized — would serve and improve the quality-of-life of existing residents and workers, as well as newly-added residents and workers.

The proposed ENY Plan includes actions for text amendments to the Zoning Resolution to establish a MIH program and apply the program to portions of the proposed rezoning area where zoning changes are promoting new housing. The regulations would require a share of as-of-right new residential development to include a permanently affordable component. This regulation would likely ensure that new development would facilitate mixed-income communities even in the event of future changes in the housing market that would make market-rate housing development for higher-income households feasible. Initially, new multifamily development would likely resemble recent multifamily development in the broader area, which has utilized public subsidy and been affordable to low-income households.

The ENY Plan estimates that about half of the projected dwelling units (assumed developed by 2030 in areas designated as MIH areas) would be affordable to lower income households, with the remaining housing affordable to moderate- or middle-income households, or higher-income households. A portion of this affordable housing will be set aside for community residents, and subsidized to meet local income bands by HPD policies. Residents added by the new housing would result in added customers for local businesses and may cause new businesses to open in the area, strengthening existing retail corridors and improving local retail options for current residents.

The Borough President is generally supportive of the intent of the proposed ENY Plan, though he understands and shares the concerns voiced by the neighborhood regarding: permanence of affordability above and beyond MIH requirements, risk of displacement, affordability levels, the MIH program, limited number of government sites, appropriate building height, supermarkets, big-box retail stores, development along elevated train lines, the need for sound economic development strategies, securing adequate community amenities and infrastructure, and accountability.

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 regulations kick 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.

The proposed rezoning creates new rental pressures on existing residents as thousands of new higher income residents are introduced into the area. This places the 49,266 existing low-income residents in East New York and the surrounding communities, currently living in 21,788 market-rate non-NYCHA units not subject to rent stabilization, at an increased risk for displacement. The risk for displacement is further increased as many units in East New York are within non-regulated small homes with nominal upzoning to R6B, neutral contextual

zoning to R5B. This is also true for areas immediately north and south of the rezoning, which remain designated as R4 and R5 because many properties are developed to approximately half or less of the allowable floor area. Such underdeveloped lots put those buildings at-risk for acquisition by developers for new infill development, when justified by the housing market. Even the handful of rent-stabilized buildings contain those significantly under-developed according to the zoning, which potentially places them at-risk for redevelopment, resulting in displacement. Therefore, it is important that all affordable housing units that are achieved through the ENY Plan be permanent.

While DCP has proposed permanently affordable housing in this area through the establishment of the MIH program, the initiative requires 25 percent of an overall new residential development in excess of 25 units to be affordable. Where a developer is willing to provide all of the units initially as affordable housing, there are no regulations in place to mandate permanent affordability for the remaining 75 percent of the units.

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 with regard 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 30 and 50 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.

The Dinsmore-Chestnut Urban Renewal disposition site and the scattered NIHOP sites provide opportunities to advance the Borough President's "affordable forever" policies. In addition, the significant proposed rezoning from M1-1 to M1-4/R8A and apparent significant financial investment that would be required by the City towards the redevelopment of the former Chloe Foods sites, intended to be developed by Phipps Houses, warrants a commitment to have that development be 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 to dispose 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.

According to the DEIS, the proposed former Chloe Foods development site would generate approximately 1,054 affordable housing units. Although the non-profit Phipps Houses is involved, there is no way to guarantee permanent affordability and the ownership's intention at the end of a typical financial terms regulatory period.

For the Dinsmore-Chestnut site floor area developed as housing and for the HPD scattered site NIHOP RFP, the Borough President believes that disposition should be pursuant to a LDA

or Regulatory Agreement that requires all housing to remain permanently affordable. For the former Chloe Foods site, he believes that 100 percent permanent affordability should be achieved through either a mechanism recorded against the property or through the terms of the funding agreement.

The Borough President believes that it is imperative for the City Council to obtain such commitments in writing from HPD regarding the Dinsmore-Chestnut and NIHOP sites, to be memorialized in the LDA or Regulatory Agreement and from HPD and/or Phipps Houses memorialized in either the funding agreement or recorded against the property, prior to granting its approval to the requested modification to the Dinsmore-Chestnut Urban Renewal Plan, property dispositions, and the proposed rezoning affecting these properties.

Preservation and Anti-Displacement Measures

As one of the fastest growing communities in the New York metropolitan area, Brooklyn has experienced a renaissance that has ushered in a series of unforeseen changes, even from 10 years ago. Unfortunately, Brooklyn's success has led to displacement of longtime residents, who can no longer afford to live in their own neighborhoods. East New York has been a safe haven for many of those displaced in recent years as well as the long-term residents who have called this community their home for many years. Without rent stabilization protection, residents of, and in proximity to, the ENY Plan area are not likely to be immune from the pressures of the real estate market, as more people are drawn to the area. As a result, many residents are struggling to remain within the community as they exhaust their life savings just to keep up with day-to-day living.

While market forces that place renters at risk for displacement will always be present, the ENY Plan could inadvertently increase the risk for displacement beyond the estimated 158 residents, projected by DCP. Approximately 80 percent of the residents in East New York and the surrounding communities will be unable to afford the market rate housing units proposed under the rezoning, and 55 percent of the residents will be unable to afford the affordable units. The DEIS projects that 3,447 affordable housing units will be produced in the neighborhood but only half of these units would be set aside for community preference. Additionally, if a more conservative estimate is considered, where as few as 1,896 affordable housing units would be produced, the local preference would be even lower, with only 948 units set aside. Ultimately, a large majority of those displaced would not be able to afford the relatively small number of new units that are proposed to be built.

The more expensive residences that would be achieved through the higher 30 percent Area Medium Incomes (AMI) equivalent rents permitted through government financing or MIH requirements or through rents pursuant to the extent of the housing marketplace, are often perceived as making the surrounding area more attractive to those with more disposable income than those within the existing community. Such occupancy of the higher-cost rentals are viewed as factors in encouraging landlords to raise rents of unregulated units to rates supported by the market. The resulting displacement of a building's tenants and loss of the neighborhood's affordable housing stock are both of equal importance for affordable housing advocates.

Based on criteria developed to prepare the DEIS, a total of 187 development sites were identified within the rezoning study area; 81 projected sites, which are more likely to be developed within 15 years (2030), and 106 potential sites, which are less likely to be developed due to lot shape, size and activity. The DEIS disclosed that tenants in the ENY Plan identified potential direct displacement of 158 people, residing in 53 units on 19 of the 80 projected development sites to accommodate development pursuant to the proposed rezoning.

Strategies to Promote Preservation and Anti-Displacement

In response to concerns raised by the community and local elected officials regarding the increased risks for loss of affordable housing, and increased displacement, including those accounted for in the DEIS, the ENY Plan outlines strategies that are meant to preserve these units and protect existing residents.

In terms of preserving the existing affordable housing stock, HPD and other city agencies are dedicating resources to aggressively fight displacement by focusing on and expanding a series of financing and tax incentive programs in East New York to maintain affordability, and will strive to preserve all identified government-assisted housing whose affordability requirements are expiring. In addition, HPD recently launched a new Green Housing Preservation Program, which provides financing for private owners of small to mid-sized buildings to undertake energy efficiency and water conservation improvements, as well as moderate rehabilitation, to improve building conditions, reduce greenhouse gas emissions, and preserve affordability. HPD will streamline and expand small home repair loan programs for low to moderate income homeowners of one- to four-unit buildings, which comprise a significant portion of the building stock in East New York.

HPD will also target code enforcement to ensure housing quality. HPD's Division of Code Enforcement will inspect, issue violations if warranted, and refer properties with violations to the appropriate Housing Quality Enforcement Program.

In terms of protecting tenants from displacement, HPD strives for participation in neighborhood planning areas as it provides HPD with an opportunity to be more nuanced in developing new or increasing the deployment of existing resources to address the specific needs of a neighborhood based on building types, demographics, available data, and expressed community concerns. Each neighborhood is unique, and while there are anti-displacement strategies that can be applied across various neighborhoods, despite sentiment from various tenant advocates, there are experts that generally agree that the application and certification required in existing anti-harassment zones are not addressing core reasons for displacement. As such, HPD is convening legal and housing advocates and community development practitioners to assist in strengthening existing and/or developing additional anti-displacement tools.

The Administration has been assertive in its commitment to deploy anti-displacement resources, which will continue to evolve and be refined as better practices are identified in response to community concerns and the real estate market. A recent $36 million commitment from the City in the ENY Plan is intended to provide free legal representation in housing court to all tenants in rezoned neighborhoods facing harassment, 47 percent of the overall citywide commitment to such purposes.

The City recently announced the creation of a Tenant Harassment Prevention Task Force to investigate and bring enforcement actions — including criminal charges — against landlords who harass tenants in East New York and other neighborhoods. The task force will address complaints that landlords are using a variety of tactics, including disruptive and dangerous renovation and construction projects, to force tenants into vacating rent-regulated apartments. The State's Housing and Community Renewal's Tenant Protection Unit, Attorney General, and the Department of Buildings (DOB) are currently conducting joint inspections citywide, following up on enforcement actions to combat such tenant harassment, which has already resulted in prosecutions. Additionally, this fall, the Mayor has signed three new measures into law (Intros. 757-A, 682-A and 700-A) to protect tenants from harassment and outlaw aggressive 'buy-out' practices used to force tenants out of rent-regulated apartments.

HPD also provides funding to local community-based development organizations for anti-eviction work and housing quality through its neighborhood preservation contracts to help meet the goals of stopping tenant displacement, improving housing quality, and generally encouraging property owners to enter into regulatory agreements with HPD.

While these initiatives can play an important role to avoid displacement, there needs to be accountability holding these initiatives in place and ensuring that they are sustained, at least until a substantial number of the probable and potential development sites identified in the DEIS are developed.

Risk for Displacement

Despite the intended initiatives, there remains much concern regarding the potential for displacement. There are several rent-stabilized buildings, which might be at risk for redevelopment given the extent of available development rights. Though such units have not been analyzed in the DEIS, the 2004 rezoning of Fourth Avenue in Park Slope is an example of such risk. Subsequent to the adoption of the Park Slope rezoning, certain buildings with occupied, rent-stabilized units were demolished. This included one particular redevelopment site where five adjoining buildings, between Butler and Douglas streets, were demolished and its tenants were displaced.

There are also concerns with regard to accommodating the current residents of Arlington Village, as 25 percent of apartments are still inhabited, of a total of 361 existing apartments, and this particular site is projected to yield 829 new units per City Planning's proposed zoning. The proposed zoning map change and MIH text does not provide any certainty that the residents of Arlington Village would remain and maintain their reasonable rental payments. Though the new owner has expressed such intent, there is nothing binding that guarantees such an outcome. The Borough President is very concerned about the long-term well-being of these tenants who have lived through a significant period of disinvestment under prior ownership.

There may be other reasons why the tenants might be displaced, which have nothing to do with upzoning. Even standard rent increases approved by the Rent Guidelines Board (RGB) could be enough of a burden to eventually lead to an inability to maintain the payment of rent. Furthermore, Major Capital Improvements (MCI) lead to much more substantial increases, which can result in displacement simply by the inability to afford such a jump in rent. Finally, there is always the risk of the residential building being sold to a developer for gut rehabilitation, where units are vacated in accordance with the DHCR Operation Bulletin.

There is concern over the small homes in the mid blocks, which are potentially at risk of displacement as the rezoning will create soft sites resulting from under built existing lots. For these mid blocks, the R5B rezoning would be a slight upzoning, only by about 10 percent, increasing from 1.25 FAR to 1.35 FAR, and the R6B rezoning would be an upzoning, by about 70 percent, from 1.25 FAR to 2.0 FAR.

The proposed contextual R5B and R6B zoning district designations are intended to seek to reinforce, preserve and enhance the existing character and context of the residential core. This would by require new development in the primarily residential central blocks to better match the form of existing buildings, by ensuring that new infill development complements the existing residential character by promoting consistent building height and size. Unfortunately, even with such nominal upzoning to R6B, neutral contextual zoning to R5B and areas immediately north and south of the rezoning remaining designated as R4 and R5, many properties are developed to approximately half or less of the allowable floor area. This

makes those buildings at risk for acquisition by developers for new infill development when justified by the housing market. But for the larger sites in the proposed R6B designated areas that tend to be part of more significant rezonings along Atlantic or Liberty avenues, the DEIS does not analyze potential displacement that would result from the upzoning to R6B and the sites that would not be gaining additional floor area or are outside the boundaries of the rezoning.

The Brooklyn Borough President's Office conducted an analysis of potential soft sites utilizing the existing built floor area ratio, as compared to the proposed allowable floor area ratio. The analysis concluded that by not downzoning, the ENY Plan proposal leaves a lot of the neighborhood vulnerable to displacement, as shown below.

Brooklyn Borough President's Office Analysis of Potential Soft Sites

One means to reduce the number of potential redevelopment sites is to reduce the amount of permitted zoning floor area. This would be accomplished through a zoning map change designation, which results in less floor area than the proposed R5B and R6B, and the adjacent R4 and R5 designated areas.

From this analysis of the potential soft sites, nine are likely rent stabilized buildings, which might provide some additional deterrents to displacement. The rest of the soft sites are at an even greater risk of displacement given the more limited regulatory role with private leases. However, the risk on rent stabilized sites is two-fold, if the building is not a soft site then the next level, besides landlord harassment, is preferential rent retraction and implementation of the much higher legal rent; in some cases this could mean up to 40 percent more than the last lease.

While the Administration has not embraced designating additional anti-harassment areas due to a belief that the application and certification required in existing anti-harassment zones are not addressing core reasons for displacement, plenty of tenant advocates have called for introduction of an anti-harassment area to Cypress Hills and East New York. Such areas can be established through a zoning text change, such as those established in the Special Clinton District and in Williamsburg and Greenpoint.

Implementation of such areas requires HPD to conduct investigations whenever the DOB receives a demolition request. Many affordable housing advocates believe that the potential

recourse resulting from an investigation that determines if harassment occurred (setting aside affordable housing in the resulting redevelopment) would minimize the number of situations in which the property owner would continue to pursue displacement, resulting from building demolition. Tenant advocates believe that the typical tenants benefitting from this process are those most vulnerable/unable to combat landlord harassment by themselves. These include: seniors, recent immigrants, the disabled, those with low literacy skills, and those with low incomes. This measure requires the City to be proactive.

In 2008, the City Council enacted the Tenant Protection Act (Local Law 7 of 2008) as a means of establishing a self-help course of action in housing court for a tenant to sue their landlord for harassment. As compared to the Anti-Harassment Area, the TPA shifts the emphasis from the City to the tenant to be proactive. If, after a hearing, the court finds that harassment has occurred, a judge can issue an order instructing the landlord to cease the harassment. The question is whether the fines ranging from $1,000 to $5,000 or the possibility of compounded fines for subsequent findings of harassment, are substantial enough — as compared to anti-harassment area penalties — to preemptively discourage the harassment of tenants broadly. Advocates believe that in order to make the best use of TPA for combating harassment, it likely requires that a tenant be knowledgeable enough and have the resources to initiate a pro se court (self-representation without Counsel) action and prove a pattern of harassment. Additionally, because such actions are tenant initiated, landlords who "successfully" displace their tenants through harassment escape sanction. Advocates believe that TPA was never conceived as a "cure-all" for the harassment of tenants and was certainly not meant to substitute for establishing more anti-harassment areas. The Borough President agrees with this position in seeking the establishment of more anti-harassment areas.

The Borough President believes that it is appropriate to implement measures that retain the City's regulated affordable housing stock. As the Administration is not embracing the idea of establishing more anti-harassment areas, is important that the City Council, on behalf of tenants, take appropriate actions to best protect tenants.

As the rezoning area and surrounding communities have been reported to have 49,266 existing low-income residents currently living in 21,788 non-rent regulated apartments, measures that have the potential to protect tenants, warrant further consideration. The Borough President believes that the City Council should review anti-harassment measures of Sections 23-90 and 93-90 of the Zoning Resolution and the TPA to determine the best means of protecting the tenants of the sections of Ocean Hill- Brownsville, Cypress Hills and East New York in the area to be rezoned from harassment that may arise as a byproduct of the threat of displacement, which may result from the adoption of this zoning map amendment. The City Council should then take appropriate action to protect tenants in these neighborhoods, including possible amendments to Local Law 7 and/or implementation of additional anti-harassment districts.

The Borough President believes that tenant protection measures can be a deterrent to displacement. However, given the displacement that happened along Fourth Avenue in Park Slope, he believes it is still possible that developers may decide that it would be more profitable to demolish one or more buildings and then construct the maximum allowable residential development.

The Borough President is aware that merely zoning from R4, R5 to R6A, R7A, R7D, R8A and their commercial zoning district equivalents does not result in immediate redevelopment. He recognizes that it can take several years to establish and engage in anti-displacement

measures to minimize displacement and provide adequate relocation resources for those displaced or at-risk for displacement.

Status, Accountability and Enhancement of Initiatives

The Borough President believes that there needs to be known status and accountability for such stated preservation measures and anti-displacement initiatives by the Administration, in order to achieve adequate success in the immediate years, as more affluent households are introduced into the neighborhood.

In terms of HPD's Green Housing Preservation Program (GHPP) and its efforts to expand small home repair loan programs by streamlining the application process as a means to preserve affordability, the Borough President believes that such rehabilitation loans should be funded at a borrowing rate of one percent to landlords willing to index lease renewal to RGB increases. HPD should provide a database of all eligible properties for the GHPP and small home repair program with a list of such properties within a half-mile radius of the proposed rezoning area, indicating owner's contact information, and status of outreach efforts to the owner and tenants. HPD should commit to providing an adequate number of brochures or other marketing materials and sustainable rounds of funding to neighborhood community-based development organizations (CBDO) such as CHLDC, LDCENY, Mutual Housing Association of New York, and Northeast Brooklyn Housing Development Corporation as well as area faith-based partners to assist in the canvassing of small property owners.

The Borough President believes that HPD should include in its menu of tax incentives such products that would be eligible for residential real estate tax credits, including tax exemptions and/or forgiveness on City collections subject to lien sales, such as water and sewer charges, real estate taxes, etc., for landlords willing to index rental unit lease renewals to RGB increases.

While HPD strives to preserve all identified government assisted housing whose affordability requirements are expiring, the Borough President believes that several steps should be implemented prior to the Council's hearing on the ENY Plan. These include providing the City Council with a list of such properties within a half-mile radius of the proposed rezoning area; indicating the year such affordability requirements would be expiring; owner's contact information, and status of outreach efforts to both the owner and tenants.

Regarding HPD's efforts pertaining to targeting of code enforcement through inspections, issuance of violations if warranted, and referral properties with violations to the appropriate Housing Quality Enforcement Program (HQEP), the Borough President believes that HPD must supplement 311 call centers to better canvas the reporting of possible violations. Tenants should be actively solicited to share what they perceive to be code violations. Efforts should include having HPD staff regularly dispatched to known places in the community where they would be available to collect such information worthy of inspection. HPD should also regularly participate in fairs sponsored by local elected officials, CBDOs and/or faith-based partners, to collect such information. In addition, HPD should use such potential code violation data collections to prioritize inspections and implementation of its HQEP, with ongoing quarterly report documenting such efforts.

HPD has expressed intent to enhance its efforts to protect tenants from displacement through convening legal and housing advocates, and community development practitioners. They would assist in strengthening existing and/or developing additional anti-displacement tools. As intent is not results driven, HPD should provide a status of progress with the convening of the advocates and practitioners.

Even if merely one landlord displays immoral and illegal behavior, it would be too many. The law should be a weapon for Brooklynites battling such landlords. Tenants who understand their rights are much less vulnerable to harassment and displacement. In order to increase knowledge to as many tenants as practical, the Borough President has held a series of tenant harassment hearings and anti-displacement legal clinics, which aim to educate tenants on their legal rights and provide free legal advice to those facing displacement threats. While empowering individual households is a component of a tenant support system, it is imperative that HPD provides ongoing funding to local CBDO for anti-eviction work, eviction prevention services and housing quality enhancements through its Neighborhood Preservation Contracts to help meet the goals of stopping tenant displacement. In addition, adequate resources need to be directed to HPD's Tenant Harassment Prevention Task Force to enable it to adequately investigate and bring enforcement actions — including criminal charges — against landlords who harass tenants within the ENY Plan study area and surrounding neighborhoods.

Even with all these comprehensive approaches, unfortunately legal resources will, at times, be necessary to respond to harassment and eviction proceedings. The $36 million commitment from the City, to provide free legal representation in housing court to all tenants in rezoned neighborhoods facing harassment, is an important initiative. However, legal representation should also be extended to tenants of neighborhoods surrounding the rezoning, as the anticipated neighborhood enhancements improve the overall area's quality of life.

The Borough President believes that prior to the City Council's subcommittee on Zoning and Franchises hearing regarding the ENY Plan, it is imperative for the City Council to obtain commitments in writing from HPD regarding: the status of its expansion of a series of financing and tax incentive programs, lists and outreach regarding government-assisted housing with expiring affordability requirements; code violation data collections; the convening of the advocates and practitioners for best practice to enhance efforts to protect tenants from displacement – including possible establishment of additional anti-harassment areas; resources to enable such legal clinics to occur with regularity; ongoing funding to local CBDOs for anti-eviction work, eviction prevention services and housing quality enhancements; resources need to be directed to HPD's Tenant Harassment Prevention Task Force, and, free legal representation in housing court. Furthermore, the Borough President joins the Brooklyn Borough Board in supporting the right to counsel for low-income New Yorkers who face losing their homes in legal proceedings. He urges the City Council and the Mayor to adopt Intro 214 or any other measure that would guarantee the right to counsel for low-income New Yorkers who face losing their homes in legal proceedings.

In addition, HPD should commit to the City Council that it would provide quarterly updates of such status reports that would be required to be submitted to Community Boards 5 and 16 and affected Local elected officials.

<u>Marketing Known Affordable Housing Sites to CD 5 and 16 Residents and Ongoing Marketing Efforts</u>

Due to the ongoing housing market trends, there is potential for direct as well as indirect displacement, for residents of both CDs 5 and 16, as a result of the anticipated development, pending the approval of the ENY Plan. For community residents to truly benefit from the City's ambitious housing plan, appropriate steps should be undertaken to make sure that CD 5 and 16 residents are able to qualify for housing opportunities as they arise. The Borough President believes that developments such as HPD's sites along Livonia Avenue, NYCHA's Van Dyke Houses, and the State's Brooklyn Development Center campus

have the potential to lend themselves as initial relocation resources. However, without adequate awareness and housing lottery readiness, such opportunities would be underutilized.

HPD sites are in various stages of being developed for affordable housing along Livonia Avenue, west of Pennsylvania Avenue. These developments are projected to yield 278 units as part of Livonia Commons and 288 units as part of the second phase. NYCHA's Van Dyke Houses campus has an affordable housing development of approximately 100 units underway by CAMBA. The State's Brooklyn Development Center campus at 888 Fountain Avenue has been conditionally designated to Fountain Seaview Limited Partnership according to a proposed General Project Plan. This project is anticipated to facilitate the construction of approximately 1,000 affordable housing units, 200 of which would be replacement units designated for people with intellectual and development disabilities, contemplated for construction in 2017, with all units completed by 2028. Excluding the 200 replacement units, along with the Phipps Houses redevelopment of the former Chloe Foods site and the City's Dinsmore-Chestnut site, the above mentioned developments should be strongly considered as a relocation resource for those CD 5 and 16 residents at risk for displacement. These developments should also be considered as a relocation resource for the thousands of households living in unregulated apartments.

It should be the City's mandate to assist neighborhood residents to be as qualified and educated as possible to reap the benefits of the City's affordable housing programs. Appropriate steps to market known and subsequent affordable housing units to residents of CDs 5 and 16 must be complemented by ongoing housing literacy initiatives as a critical component of the City's plans. There are many benefits to partnering with the HPD on these efforts including creating shared literature for distribution; hosting education forums, and partnering with CBDO, faith-based organizations and local elected officials.

HPD should work with and provide resources to CBDO and faith-based organizations to help with housing lottery readiness and lottery awareness. Prior to the City Council hearing, HPD should provide in writing to the City Council its intent to help provide the educational and outreach resources in place.

Arlington Village

Currently, Arlington Village is at 25 percent occupancy, with a total of 361 existing apartments. The proposed ENY Plan projects that this site will yield an additional 829 units in accordance with the rezoning. While the new owner expressed intent to maintain the existing residents at the reasonable rents, there are no legal mechanisms in place to guarantee such promises. Therefore, the Borough President remains concerned that the proposed upzoning of this property could result in a higher risk for displacement of these long-term residents.

The new owner has expressed interest of subsequently seeking a modification to the proposed zoning as a means to provide for more affordable housing. This is something that should be considered in consultation with the community, CB 5 and local elected officials. There might be opportunities to respectfully increase density by widening the depth of the proposed Atlantic Avenue, similar to what is being proposed for the west side of Berrimann Street. Consideration should be given to providing additional density only on the section of the north-south street that does not abut neighboring properties, as is the case with Aitkens Street. However, such consideration should not be entertained without providing certainty for the existing tenants to remain in place.

In order to provide certainty for these tenants, the Borough President believes that prior to the City Council hearing, the redeveloper needs to provide proof of a binding mechanism to the Council, as a means of ensuring that the residents would be seamlessly accommodated in the redevelopment of Arlington Village, at comparable rents. Otherwise, the Borough President believes that the City Council should exclude this portion of the study area from the upzoning, leaving this property as an R5 zoning district designation.

Addressing Displacement through Downzoning

According to the soft site analysis by the Borough President's Office, there are a substantial number of properties that would become soft sites or development sites in the proposed R6B and R5B zoning districts. The R4 and R5 districts surrounding the proposed rezoning area also contain a significant number of soft sites. These soft sites increase the risk for ongoing displacement as existing homes are demolished and properties are redeveloped one by one. Even properties where it might not make sense to demolish the building might contain enough excess development rights to result in developer-driven enlargements that would likely also be preceded by displacement. While the anti-displacement strategies have the potential to provide a pathway to achieve voluntary participation, by offering RGB leases in the one- to four-family buildings, a stronger pathway appears to be in reducing development opportunities through downzoning and/or zoning districts that require detached or semi-detached housing types.

The Borough President believes that it would be appropriate for DCP to undertake a rezoning study of the proposed R5B and R6B districts as well as the surrounding R4 and R5 districts as a means to better match the allowable zoning with both the predominant building type and built floor area. Such study should be undertaken in consultation with CB 5 and 16 and its local elected officials.

Prior to the City Council hearing, the Borough President believes that the Administration should commit DCP to undertake such a rezoning study as a follow-up corrective action, with a proposal produced within six month of adoption of the ENY Plan and an application certified within 18 months.

Addressing Displacement by Providing Additional Affordable Housing Development Opportunities

It is one of the Borough President's policies to support effective ways to create more affordable housing. He is committed to seeking out all opportunities to facilitate affordable housing. As part of the ENY Plan, HPD intends to prioritize the development of more than 1,200 units of affordable housing within the next two years, including the vacant City-owned Dinsmore-Chestnut site at Atlantic Avenue. Extending beyond those 1,200 units becomes challenging given the amount of City-owned land that has diminished, and today there is very little City-owned vacant land remaining in the area. This is addressed in the ENY Plan through a proposed amendment to the Dinsmore-Chestnut Urban Renewal Plan to conform land use restrictions to zoning, to refresh the urban renewal plan's general provisions, and to allow disposition of the urban renewal site. However, given the significant number of vulnerable unregulated units, there remains a critical need for increasing the supply of very-low and low-income affordable opportunities as a future resource for at-risk and displaced households.

Given that HPD's portfolio continues to decline in development sites, the Borough President released his housing report, Housing Brooklyn: A Road Map to Real Affordability for Brooklynites, in November of 2014. The report identifies possible affordable housing development sites that can assist in facilitating the much-needed development of affordable

housing in Brooklyn. Two such sites disclosed in the report are near enough to the ENY Plan area to serve as relocation resources for those households at risk for displacement or already displaced. These include the Grant Avenue Field municipal parking facility and the site recently considered to house the Brownsville Community Justice Center.

The Grant Avenue Field City-owned municipal lot represents an opportunity for future development as a potential affordable housing site while also preserving off-street parking for high-need areas. HPD should initiate a process to develop the site. Additionally, the RFP should phase development of the lot to allow at least the land on one side of the street to be available for use during construction. Developed in the right way, in consultation with CB 5, this site could be a welcome addition to the community.

First identified in the Borough President's August 2014 ULURP recommendation, the Brownsville Community Justice Center site could also contribute to the Mayor's Housing New York Plan as a permanent affordable housing development. The open space at the northwestern portion of this property, along Amboy Street, provides 133,060 square feet of available floor area. Though, the extent of determining appropriate height should be developed in consultation with CB 16.

NYCHA's NextGen Plan identifies unused development right opportunities that are available for consideration within their own campuses. The possibility of tapping these rights presents a great opportunity for developing affordable housing. The CAMBA development at Van Dyke Houses is a good start and the recent RFP for an additional site at Van Dyke Houses will make an important contribution in addressing the critical need for affordable housing. Additional consideration would be needed to determine what spaces within the campuses would need to be transformed to accommodate new housing. Such development will offer another opportunity for residents at-risk, or already displaced, to remain or return to the Ocean Hill-Brownsville and East New York communities. There remains potential to develop an underutilized parking lot, shared by Linden and Boulevard Houses, to complement the recent addition of affordable senior citizen housing. The collective challenge is to figure out the feasibility and location for additional buildings. This is challenging because using remaining available floor area involves rethinking parking lots, the location of play areas and green spaces, or building above, such as is underway at Ingersoll and Whitman Houses. The Borough President looks forward to working with NYCHA and other City agencies, in collaboration with CBs 5 and 16, and local elected officials to unlock the possibilities at the neighborhood's NYCHA campuses.

The amount of NYCHA air rights available can make a significant dent to the extent that they are appropriate to utilize. On the high end, Van Dyke Houses might have around 1,150,000 square feet of available development rights. Howard Houses might have 800,000 square feet of such rights. Cypress Hills Houses might have approximately 500,000 square feet. Howard Avenue. Park Place appears to have a little more than 400,000 square feet and Howard Avenue might have around 250,000 square feet. Then there is Brownsville and Low Houses with roughly 175,000 square feet, while Hughes Apartments, Fiorentino Plaza, and Woodson Houses all may have around 120,000 square feet. Ocean Hill Apartments appear to have 75,000 square feet. Even Brown Houses might have 90,000 square feet, while Ralph Avenue Rehab appears to have approximately 70,000 square feet. On the low end, Long Island Baptist and Belmont-Sutter might have approximately 17,000 square feet of available rights. To the extent that it would be appropriate to place any of these rights present an important opportunity to retain households in these communities.

In recognizing that City-owned land is a diminishing resource, the Borough President established his Faith-Based Property Development Initiative, in partnership with Brooklyn's

faith-based institutions, such as Kingdom Faith Developers. Many of these institutions have a social vision that involves advancing the development of affordable and supportive housing. While they may have excess development rights, often they lack the financial and technical capacity to advance these development rights. The Office of the Brooklyn Borough President has been engaging faith-based institutions and initiating zoning and development consultations. The Borough President has provided Capital Budget funding to advance the construction of affordable housing in partnership with the faith-based organizations. He has joined faith-based organizations in engaging public agencies toward advancing technical expertise and looks forward to continuing such efforts as a means of realizing as much affordable housing as is practical through excess development rights.

In addition to specific City-owned or controlled sites, the City should work with faith-based organizations to identify potential development possibilities. Through faith-based development, there is community involvement in the advancement of affordable housing. This should be performed in recognition that the City would be teaming up with organizations that provide services to the communities directly affected by the affordable housing shortage. Partnering with faith-based community groups can help the City maximize its return on investing in affordable housing. In return, we can help them overcome technical and financial hurdles so they can increase their impact within communities most at need.

In addition to City-owned properties, the faith-based community has property development rights in and around the ENY Plan area that can serve as a resource to advance the supply of affordable housing, enabling at-risks and displaced households to remain in place. These sites are eligible to be developed as qualifying MIH generating sites where it might make sense to build the affordable housing off site. In addition, financial capacity and technical support from government would advance the development of certain faith-based sites, furthering the agenda of achieving affordability to very-low income households.

One additional potential affordable housing site was identified by the Borough President during his land use review (ULURP) for the proposed Rescue 2 fire station site selection. There are three adjacent City-owned lots with likely excess air rights. These include the one-story annex to PS 178, along Park Place, which could become a mixed use school/affordable housing development site. Its available development rights could be augmented by the adjacent section of the city lot under the jurisdiction of HPD, which is earmarked for development as a neighborhood open space as part of the Housing Authority's (NYCHA) redevelopment of its former Prospect Plaza development. There appears to be additional excess air rights associated with the Rescue 2 fire station that could be included with a development on the annex site.

The annex lot is approximately 25,000 square feet. The HPD lot has nearly 44,000 square feet inclusive of the fire station. The combined site's R6 zoning provides for community facility floor area for mixed use buildings according to Zoning Resolution 24-162. Residential floor area could attain the height factor maximum calculation of 2.43 residential floor area ratio minus the 15,621 square feet for the fire house. At some future date it might appear to be in the City's interest to consider the PS 178 annex as a development site for both school and housing purposes. There appears to be ample opportunity to incorporate the annex at its present or even expanded size should neighborhood growth necessitate additional school seats. There might be an opportunity in the neighborhood of up to 150,000 square feet of residential development.

The Borough President is concerned with regard to the risk for displacement and the limited opportunity to depend on the private sector through MIH-designated area development to achieve housing affordable to those most in need. He believes this should be addressed

through providing as many opportunities to create additional affordable housing resources for very-low income households at-risk for displacement or to allow those displaced to return to these communities. The Borough President believes that through both creative use of government property and through the City's financial capacity and technical support. He believes the City should be transferring jurisdiction of existing Grant Avenue Field municipal lot to HPD with the understanding that affordable housing development would incorporate the public parking as part of site redevelopment. Also, the section of the open area along Amboy Street of the site considered for the Brownsville Juvenile Justice Center should be transferred to HPD to allow for it to issue an RFP for the lot's unused residential floor area. HPD should be collaborating with NYCHA to explore the appropriate extent of opportunities to use the remaining development rights within the neighborhood's NYCHA campus, and only proceed with sites after consultation with the community, CBs 5 and 16, and local elected officials. Financial capacity and technical support from government should be advancing the development of neighborhood faith-based sites with available development rights. Finally, the City should take steps necessary to develop a mixed use school/affordable housing building at the PS 178 annex, as part of a larger zoning lot that provides the opportunity to maximize the available unused residential floor area with consideration for such development vision, including building bulk, income diversity and the necessary number of classrooms should be in consultation with CB 16, District 23 Community Education Council, District 23 superintendent, the principal of PS 178 and local elected officials.

Prior to the City Council hearing, the City should provide a written framework to the City Council of its intent to undergo such steps.

Community Preference

Community preference is very important to ensuring that residents of a community are able to continue living in their community and not get pushed out due to increasing housing costs.

The residential neighborhoods of Ocean Hill-Brownsville, Cypress Hills and East New York, including areas within the ENY Plan rezoning and surrounding areas, contain a substantial amount of small buildings that are not subject to rent protection laws. While these communities have had stable residential populations in recent history, generally as more people consider relocating to a neighborhood, rents typically climb in the many unregulated apartments, ultimately displacing many long-time residents. There is a concern that such upward trend in market rents would be amplified by the anticipated developments resulting from the ENY Plan.

A percentage of the expected housing to be developed in CDs 5 and 16 would be affordable through a combination of City-owned sites, non-profit controlled property and MIH requirements. However, the provision of affordable housing alone does not sufficiently protect residents from neighborhood displacement. In recognition of those who might be displaced indirectly as a result of the effects on the current housing market, impacted by the anticipated redevelopment in the area, the City should replicate its policy of extending local community preference to displaced CD 5 and 16 residents, as it did for displaced residents of CD 1.

Therefore, prior to the public hearing of the City Council, HPD should provide a written commitment to codify that the 50 percent preference for community residents would be inclusive of former CD 5 and 16 residents displaced since the certification date of the ENY Plan.

Affordability Requirements

New Yorkers at the 50 percent AMI level and below are by far the population most in need of affordable housing. The latest data shows that more than 80 percent of those making 50 percent of AMI or less are rent-burdened. The crisis is even worse among the lowest-income citizens, those making 30 percent of AMI or less (currently $23,310 for a family of three). Among this population, well over 50 percent are not only rent-burdened, as a segment of the 55 percent of City renter households that are rent-burdened, but pay more than half of their income toward rent. More than a fifth of New York City households — over two million people — earn less than $25,000 a year and almost a third make less than $35,000. As the City's housing crisis gets worse, the burden falls most heavily on these low-income households, many of them senior citizens.

There is concern that the affordable housing likely to be provided would not contain a sufficient number of units affordable to the majority of residents living in or near the rezoning area. Without changes to the anticipated distribution and income tiers, there will not be an adequate supply of truly affordable units to address households at risk for displacement, including those living doubled up, those seeking to move on from shelters and those looking to form new households. In responding to those concerns, HPD expressed intent that on public sites, it will require developers to provide its deepest affordability levels. Unfortunately, beyond Dinsmore-Chestnut and NIHOP sites, there are no known public sites in HPDs portfolio in proximity to the ENY Plan that have not already been advanced with other affordability consideration based on financing. The Dinsmore-Chestnut site availability for affordable housing could possibly be balanced by accommodating the announced 1,000-seat school as well as the community's desire to have a recreation center realized.

In addition, on private sites, HPD expressed intent to require developers using HPD subsidy to create housing at deep affordability levels. The one anticipated site is the former Chloe Foods site waiting to be redeveloped by Phipps Houses. The DEIS assumes the Dinsmore-Chestnut site and the former Chloe Foods site as one site and projects the development of 1,054 housing units overall. Therefore it is difficult to project the exact number of deeply subsidized units that would be produced by each site. Arlington Village provides another potential for deeper affordability requirements, as the property owner has already expressed interest in redeveloping the property with the intent to retain existing residents and provide housing affordable to a number of local households. Subsequently, should the property be considered for further rezoning, there might be additional opportunities to leverage affordable housing, targeting the residents living in unregulated housing units who are most at risk for displacement.

Finally, the ENY Plan will utilize the Option One of MIH, which states that 25 percent of the residential floor area shall be provided as housing affordable to households at an average of 60 percent of the Area Median Income Index (AMI), with no unit targeted at a level exceeding 130 percent of AMI. However, the Borough President believes that at least 15 percent of the residential floor area should be provided to households with incomes at or below 40 percent of AMI. While, there is no way of guarantying which other pending developers would seek HPD subsidies, this concept would at least provide a means to achieve units affordable to a segment of the area's households. Therefore, the Borough President believes that the Zoning Resolution section of the proposed zoning text amendment should include specific language, mandating not less than a 15 percent requirement for the MIH units to have rents set affordable to households earning not more than 40 percent of AMI.

Because so many households living in the ENY Plan study area and surrounding communities are of low- and very-low income, these households are often rent-burdened. A strict rent to income requirement of not exceeding 30 percent of income for yearly rent payment ends up disqualifying many income-challenged neighborhood households from the affordable housing lotteries. Unfortunately, as a result, these households do not meet the housing lottery's minimum household earnings because too often these rent-burdened households are already paying the same rent, or in excess, of the rent stated for the affordable apartment. Thus, the requirement to pay no more than 30 percent of household income is actually hurting people who are already living in substandard housing and paying more than 30 percent of their income towards housing. The Borough President believes that it is time to finally break the mold in which families already paying too much rent for substandard housing are disqualified. The Zoning Resolution should be amended to allow for exceptions to the 30 percent of income threshold so that households who are burdened, though paying the same or more rent than what the housing lottery offers, would be eligible to live in newly-produced quality affordable housing accommodations.

Therefore, the Borough President seeks for the proposed MIH section of Zoning Resolution pertaining to ENY Plan MIH-designated areas to be adopted with a requirement that no less than 15 percent of the affordable housing be targeted to rents affordable to households not exceeding 40 percent AMI. As a means to expand the number of eligible households the City should ensure, through government regulated housing lotteries, rent-burdened households should receive the maximum opportunity to secure regulated, affordable housing units. The Borough President seeks to qualify rent-burdened households for eligibility for selection through the housing lottery process. This should be achieved by amending the Zoning Resolution to adjust the AMI qualifications, which should include such households that would maintain or reduce their rent burden, through action taken by the City Planning Commission or City Council.

Deep Affordability/More Affordability

In order to have MIH withstand constitutional challenges, it must have consistency for advancing public purpose. Though, in doing so, the proposed MIH rezoning creates more development opportunity for the blocks proposed for R8A, as compared to those proposed for R6A or R7A. Property owners rezoned from R5 would not similarly benefit financially from the proposed ENY Plan public action that is intended to leverage affordable housing as a public benefit. Thus, the rezoning would make development sites in the R8A nearly twice as enriched with market rate floor area than its R6A counterpart and more than 50 percent as compared to properties zoned R7A, without any added public benefit.

The Borough President believes that significant upzonings should be yielding more and affordable housing, including at deeper levels of affordability, that rezonings that do not provide as much increase in density. As rectifying this inequity cannot be achieved directly through MIH, he believes that equity can be advanced in a manner that blends the voluntary inclusionary designated area affordable housing bonus as a means to achieve the maximum permitted floor area. The Borough President believes that maximizing the number of affordable units while lowering the levels of household affordability can be achieved by blending what is required according to the proposed MIH with a voluntary special bulk permit.

Specifically, under this scenario, for the R8A outside the MX boundaries, the Borough President believes that if developers do not choose to exceed the MIH requirements, such sites should be developed according to R7A MIH regulations 4.6 FAR. For developers seeking to use the additional 2.6 FAR and height available in the R8A designated areas, such

additional floor area would have a requirement that 30 percent of its floor area be affordable based on rents averaging 50 percent of AMI.

By linking a substantial amount of market rate floor area (1.82 FAR) to the bonus, it provides a much greater incentive for a developer to use the zoning bonus and thus provide the publicly desired affordable housing.

Therefore, the City Planning Commission or City Council should modify the proposed R8A between to Bradford Street and Montauk Avenue to R7A and prior to the public hearing of the City Council, DCP should provide a written commitment to establish a zoning text amendment to permit a voluntary affordable housing bonus to permit R8A bulk and FAR, provided that of the additional 2.6 FAR, 30 percent is affordable to no less than 50 percent AMI average rent.

Location of MIH Affordable Housing Units – Preserve Existing Apartments to Preclude Displacement

Unlike the Voluntary Inclusionary Housing program, the MIH proposed zoning text does not permit qualifying units to be provided off site in existing apartments. Without a mechanism for preservation of affordable units, the proposed MIH program misses out on an opportunity to prevent displacement of area residents. Residents of the several rent-stabilized buildings in the study area would remain vulnerable to displacement if developers deem there is sufficient unused floor area to justify purchasing and demolishing the apartment building. An example of such vulnerability was observed in Park Slope, on the Fourth Avenue redevelopment site, where five adjoining buildings between Butler and Douglas streets were demolished and a large number of tenants were displaced. However, there is still a risk for displacement even in cases insufficient available development rights to compel a complete demolition, because the building could be sold for gut rehabilitation and the units vacated in accordance with the DHCR Operation Bulletin. Furthermore, the landlord has the right to undertake a MCI to achieve much more substantial increases that can result in displacement simply because tenants may not be able to afford the rent increase. There are also residents who have been displaced through illegal harassment.

Regardless of the displacement circumstances, MIH lottery units do not guarantee lottery selection or for such households to have the proper income to be eligible for such units. The Borough Board seeks to expand eligibility to a preservation option so that more tools are available to keep residents permanently in their apartments, according to rent-regulated protection. Therefore, the Borough President believes that it is most important to have MIH modified to qualify the permanent preservation of existing units in the community as an additional tool to preclude displacement. He seeks for the Zoning Resolution to be amended accordingly by modification through the City Planning Commission or City Council.

Establishing Appropriate Limits for the Board of Standards and Appeals to Modify MIH requirements

In cases of hardship, in which MIH requirements would make development financially infeasible, developers would be enabled to apply to the Board of Standards and Appeals (BSA) for a special permit to reduce or modify the requirements.

The preamble of what BSA might modify merely defines income levels without any accommodation for rent-burdened household equivalents. Furthermore, there are no set parameters as to what extent BSA may modify the MIH income levels for qualifying households. According to the proposed zoning text, for BSA to determine that finding (a) has been made, BSA is not required to consider whether there has been any demonstration that the City has not been provided adequate opportunity to enhance its subsidies. Further,

the finding does not adequately define reasonable return in the context of what would be the rate of return prior to the property being rezoned according to MIH.

For buildings in excess of 25 units, in which payment in lieu is not permitted to meet the requirements of MIH, the Borough President believes that BSA should be seeking out a demonstration that the City is not prepared to provide enhanced subsidies. Furthermore, he seeks that the zoning text is amended to clarify that the qualifying households would include rent-burdened AMI equivalents and preclude the conversion of AMI restricted housing to market rate housing. The Borough President believes that it is reasonable to limit the scope of the extent that BSA might modify the 60 percent average rental basis of the MIH's affordable housing. The zoning text should limit the authority of BSA so that it could not lift the rental basis average to not exceed 90 percent AMI, with maximum eligibility maintained at no more than 130 percent AMI and its rent-burdened equivalent. This would effectively limit the available market rate floor area, and its commercial equivalent, to the equivalent 75 percent of the maximum MIH as-of-right permitted Floor Area Ratio (FAR). Should BSA determine that no affordable housing would be provided in order to make a development financially feasible, BSA should be mandated as a condition of precluding any provision of mandatory affordable housing, to reduce the allowable height in recognition of the reduction of provided floor area. The Borough President supports the Brooklyn Borough Board's Resolution regarding MIH that would restrict a market rate only housing development's height per the Brooklyn Borough Board Zoning for Quality and Affordability Height Recommendation per proposed Zoning Resolution section 23-662(b), which reduces permitted height for Voluntary Inclusionary Designated Area developments not utilizing the affordable housing zoning bonus. Finally, when determining what should be a reasonable rate of return, BSA should take into consideration what was the reasonable return of the property prior to the effective date of the public scoping notice for the preparation of the EIS adjusted by the Consumer Price Index.

The Borough President seeks for the Zoning Resolution to be amended accordingly, to establish appropriate limits and consideration by BSA through the City Planning Commission or City Council.

Payment in Lieu of Option Extended to Smaller Developments

The MIH program provides developers with projects over 10 units or 12,500 zoning square feet to 25 units or 25,000 square feet with an option to make a payment to an affordable housing fund in lieu of directly providing affordable housing to low- or moderate-income households. Developments, enlargements or conversions that do not exceed either 10 units or 12,500 square feet of residential floor area would be exempt from the requirements of the program.

There are many small lots, approximately 2,000, square feet that would eventually become desirable for redevelopment when upzoned through the ENY Plan, which would otherwise not be redeveloped; for example, upzoning from R5, with 1.25 FAR, to districts with allowable FARs of 3.6, 4.6 and 5.6. Where 2,500 square feet could be developed without the rezoning, such sites could be developed with between 7,200 to 11,200 square feet, enough of an increase that the Borough President believes should not be exempted from the proposed affordable housing obligation. Given the 25 percent MIH affordability standard for average income of 60 percent AMI, the Borough President believes that it would be appropriate to extend applicability of the payment in lieu of option to the developments with at least four dwelling units. The Zoning Resolution should be amended accordingly by the City Planning Commission or City Council.

Bedroom Mix – Promoting Family-Sized Units

A recent report identified that the rent-burden households which typically represent those households applying to the City's affordable housing lotteries, are more likely to require family-sized unit types. Therefore, the Borough President shares the concerns of the community regarding the mix of the proposed affordable housing units not reflecting the needs of CD 5 and 16's low- to middle-income communities, not seeking senior housing units.

The Borough President believes that using the affordable housing floor area for right-sizing the bedroom distribution is more important than maximizing the number of affordable housing units. As drafted, there is not sufficient leverage/flexibility to provide for a greater number of bedrooms for the affordable units as part of mixed-income buildings. The Borough President is concerned that new development might not reflect unique needs of the communities within the ENY Plan area.

The Borough President also believes that the Zoning Resolution should reflect such right-sizing affordable housing bedroom distribution. The Dinsmore-Chestnut Urban Renewal site and the former Chloe Foods site also present opportunities to achieve family-sized units for non-elderly, or supportive housing units.

The Borough President seeks to have the prosed zoning amended in order to require a minimum threshold for non-independent residences for seniors and non-supportive housing to accommodate family-sized apartments. The amendment would stipulate that the bedroom mix of affordable housing units have at least 50 percent of the affordable housing units contain two or more bedrooms and at least 75 percent of the affordable housing units contain one or more bedrooms. Additionally, such requirements should be memorialized in the LDA or regulatory rgreement between a designated developer and HPD for the Dinsmore-Chestnut Urban Renewal site disposition as well as in the funding agreement with HPD for the former Chloe Foods site.

Therefore, prior to the public hearing of the City Council, HPD should provide a written commitment to codify this minimum threshold for the bedroom mix for the Dinsmore-Chestnut and former Chloe Foods property.

More Appropriate Building Height and Density

CB 16's recommendation called for changing the proposed zoning map from R7D (bounded by Fulton and Somers streets and Mother Gaston Boulevard and Sackman Street) zoning proposal to R6A zoning in order to keep with existing context of the neighborhood in CD 16. The area is surrounded on three sides by blocks zoned R6 and on the fourth side by a proposed R6A zoning district. R6A, and its R6 Quality Housing contextual equivalent, permit a maximum height of 70 feet. R7D permits up to 100 feet, though if the proposed Quality and Affordable Zoning is adopted, permitted height would increase to 125 feet, if certain provisions are met. Given that the DEIS only identifies one potential site (assumed to be developed after 2030) in this area, the Borough President believes it is appropriate to eliminate a few potential affordable housing units in order to respect CB 16's recommendation and maintain the surrounding context.

The proposed ENY Plan is intended to be implemented pursuant to the proposed MIH and ZQA zoning regulations. Therefore, the Borough President supports providing additional height to guarantee that developments would be able to accommodate the permitted floor area. Additional height would assure feasibility to promote development and to maximize affordable housing floor area. Though, he is concerned that the proposed maximum height and number of stories are, in most instances, more than what might be deemed appropriate

increased height to accommodate allowable FAR permitted for the MIH-designated area. The proposed heights of certain districts result in such districts being less-welcomed by the host communities. This is especially true when the upzoning is integrated as part of a neighborhood-wide contextual rezoning that includes contextual, preservation-minded rezoning, as in the case of the ENY Plan.

The Borough President believes that it is appropriate to reduce the proposed maximum height for R7A and R7D districts and their commercial equivalents to be consistent with the Zoning for Quality and Affordability recommendations, adopted December 1, 2015 by the Brooklyn Borough Board.

The Borough President also believes that it is not necessary to propose uniform height and density along the R7A and R8A corridors along Atlantic and Pitkin avenues as each block has different proximity to paid transit stations and north-south bus routes. Though, specific consideration of any changes should be made in consultation with the affected council member and the community.

Therefore, the Borough President seeks for the proposed R7D zoning district within CD 16 to be changed to R6A. For the ENY Plan, he seeks for the proposed Maximum Height of Building with qualifying ground floors, where second floor is at least 13 feet above the sidewalk, in the R7A MIH, to be reduced to 95 feet (and to 90 feet when the second floor is elevated to less than 13 feet) and to 115 feet (110 feet where the second floor is less than 13 feet) in R7D MIH. In both instances, the number of stories should be restricted to nine and 11.

Supermarket

It is one of the Borough President's policies to review all appropriate land use applications to determine whether a supermarket site would realize a significant increase in floor area based on the proposed land use actions. 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 ENY Plan area and surrounding communities are significantly underserved by quality, fresh food options and are designated as food deserts. In response, the Zoning Resolution recently established FRESH program incentives and City financing made available through its FRESH initiative. These incentives are meant to encourage the development of grocery stores that sell fresh food by enabling the operation of more healthy food options within these neighborhoods. The program allows up to 20,000 square feet of floor area to be essentially exempt from zoning requirements and reduces or eliminates parking requirements according to the specific zoning district. This, along with financial incentives, might induce a redevelopment to contain a supermarket. However, the FRESH zoning does not guarantee a replacement supermarket as there is no mandate to retain an existing supermarket, should such property be pursued for valuable development rights. Therefore, rezonings that place food stores at added risk of being shut down warrant close scrutiny.

The ENY Plan's DEIS indicates that there are two supermarkets on lots that are significantly underdeveloped when compared to the proposed zoning and thus have potential to be redeveloped. These include the 13,250 square feet C-Town on Fulton Street between Barbey and Jerome streets, which would be rezoned from R5 to R6A/C2-4, more than doubling its residential potential and 18,000 square feet C-Town on Pitkin Avenue between New Jersey

Avenue and Vermont Street, would be rezoned from R5 to R7A. Lack of a sufficient guarantee for retaining these FRESH spaces would result in loss of the much needed supermarkets. Should these sites redevelop and not include a food store, despite zoning and financial incentives, it would be an unfortunate circumstance for a community already lacking access to fresh food.

The Borough President believes that redevelopment of a site with an existing supermarket should not be rewarded with significant upzoning unless it includes a comparably sized supermarket. Such measures have the potential to improve the likeliness that a replacement supermarket would be incorporated within the new development. He believes that the Fulton Street site should be limited to R5B and the Pitkin Avenue site be limited to R6A MIH, unless such developments incorporate new supermarkets of comparable floor area according to the FRESH initiative.

Therefore, prior to the public hearing of the City Council, DCP should provide a written commitment to modify the zoning text of both the floor area ratio and FRESH section as warranted as a corrective action.

Prohibiting Big-Box Stores

The Borough President supports the expansion of quality retail stores for Brooklyn residents. The Borough President notes residents' concerns that certain chain retailers have had questionable employment practices, including minimizing work weeks to avoid qualifying employees for various benefits and inconsistent work shifts provided on short notice. Certain larger chain stores are also known for low-wages.

The proposed zoning district designations of C4-4L (along Broadway between the Eastern Parkway Extension and Van Sinderin Avenue), C4-4D (Atlantic Avenue between Sheffield Avenue and Bradford Street and between Montauk and Fountain avenues, and Pitkin Avenue between Pennsylvania and New Jersey avenues) and C4-5D (south side of Atlantic Avenue between Sackman Street and Van Sinderin Avenue), within the ENY Plan, permit retail stores of all types without a restriction on size.

In order to preclude large stores from operating as-of-right in these locations, the Borough President believes in limiting the maximum square footage to 80,000 square feet per establishment. Larger stores should be pursuant to a zoning use special permit.

Therefore, prior to the public hearing of the City Council, DCP should provide a written commitment to modify the zoning text for retail uses as warranted as a corrective action.

Minimizing Noise, Vibration, Light and Air Impacts of Developing Adjacent to Elevated Train Structures

The proposed rezoning intends to allow buildings to minimize the impact of the elevated train on Fulton Street and Broadway by providing additional flexibility for street wall on upper floors and by mandating a setback at the street level. This would be achieved through an innovative zoning envelope established along a section of Broadway, as part of the Bed-Stuy North rezoning. This C4-4L commercial zoning district is a variation of the C4-4A, which allows multiple floors of commercial use and residential use on upper floors. While C4-4A carries a height limit capped at 80 feet, the C4-4L, within 125 feet of Broadway, permits heights of up to 100 feet. Such height allows for a redistribution of floor area should a development be set back further from the elevated rapid transit structure. Openness would be provided by essentially extending the sidewalk area five feet into the building site with a required street level setback. Such setback provides useful clearance between the retail facades and subway structures, like pillars and stairs, to promote pedestrian navigation along

this important shopping street. An optimal setback of 15 additional feet, while not required, provides an opportunity for more light and air to reach pedestrians as well as an added buffer of distance from the noise, vibration and other environmental factors from passing subway cars.

The five-foot setback at grade extends to at least a height of 30 feet, though not more than 65 feet, at which point the building is permitted to setback an additional 15 feet. Should a developer choose to setback at 30 feet, then there would be the added public benefit of light and air to a street that is often in the shadow of the elevated train structure. In addition, residential occupants on floors between 40 and 65 feet would be further buffered from noise and vibrations associated with the trains. While no sites were assumed to redevelop along Broadway, the DEIS assumes 22 sites could possibly redevelop along Fulton Street. This is in addition to multiple properties — as part of the 26 clusters of underdeveloped sites identified by the Brooklyn Borough President's Office — that have the potential to be redeveloped subsequent to adoption of the proposed rezoning.

Developers might utilize the added volume without the 15 foot setback by including more floor to ceiling height, increasing the cost of construction and the developer's expectation of how much more an apartment might sell for. Excessive ceiling height could lead to subsequent illegal construction of mezzanine space. The Borough President believes that developers do not need to be rewarded with the extra height when not providing the added benefits of quality-of-life for residents, of apartments along the elevated train, and pedestrians, walking along Broadway and Fulton Street.

The concept of providing the developer with extra height should be more about compensating the developer for a decision to set the building back the additional 15 feet above the height of 30 feet. As proposed, the developer can keep the full volume below 65 feet in height and yet still add the extra height of 20 feet. Again, this allows a developer to market cubic feet as an enticement to charge more for the units without providing a benefit of light and air at the pedestrian realm, or additional environmental buffering for residents between the heights of 30 and 65 feet.

The Borough President has concerns with leaving the street wall setback height to developer discretion, especially where there are so many potential sites that might be redeveloped along Fulton Street, over time. There are several examples of new residential construction fronting Broadway that are built to the lot line (Picture 1 & 2). The images show that even if a setback of five more feet is provided per the proposed rezoning, the buildings are still too close to the train station.

Picture 1

Picture 2

The Borough President believes that government has an obligation to promote both the interest of the public, in terms of light and air, and to best protect its citizens in their homes from environmental factors such as noise and vibrations. The elevated Broadway structure is not a uniform set of conditions. The range of structural variations includes station houses (Picture 3), where the structure is without the voids of transparencies when track ties reduce the sense of light to the street level. Instead, the structure becomes very solid due to mezzanines, partially enclosed stairs, and local station platforms, which significantly reduce the standards clearance between the buildings and the structure.

Picture 3

Picture 4

The provision of an alternate means of mechanical ventilation allows people to achieve interior climate comfort when windows are closed but such windows would need to be rated to achieve an interior wall construction assembly that reduces external noise to acceptable levels. While the Borough President appreciates the fact that development along Broadway and Fulton Street would be required to provide alternate means of mechanical ventilation, he believes that the setback should not be discretionary where such exterior wall contains the sole window for habitable space.

The window attenuation will not address vibration to the same extent that it can mitigate noise. Bringing ample light and air to pedestrians, especially where there are subway stations with mezzanines and solid areas where platforms exist, is more important than providing discretion to developers of what height the setback should occur. Placing building facades in proximity to the subway structure — especially when the structure is a partially-enclosed platform, stairwell or mezzanine — should not be promoted. Habitable rooms with primary window openings should not be located within five feet of a street line bordering an elevated train structure. Construction near Gerry Street demonstrates the visual benefit on mandating a setback above 30 feet (Picture 4).

The Borough President believes that buildings containing residents, characterized by a single loaded corridor with residential apartments oriented toward the rear of the lot, is an acceptable solution to not mandate a setback of 15 feet as long as proportioned windows aligning the street faced. Though, habitable rooms at street corners, where a living room or bedroom has at least one window face the side street, should not require a setback. Common spaces such as elevators, stairwells, hallways, management offices, common laundry, and meeting rooms would be appropriate to locate without additional setback. Therefore, for residential sections of developments where the street wall contains the only window wall frontage for habitable rooms, he seeks for such wall to be required to be

setback 15 additional feet at no more than 30 feet in height and the minimum street wall be at least one story.

Therefore, prior to the public hearing of the City Council, DCP should provide a written commitment to modify the zoning text for revising the street wall provisions along elevated trains, along Broadway and Fulton, as warranted as a corrective action.

Averting Commercial Displacement

Fulton Street is an important shopping and dining destination for the surrounding Cypress Hills community. The DEIS assumes 22 sites could possibly redevelop along Fulton Street, with half disclosed as being more likely to be developed by 2030. The Brooklyn Borough President's Office identified multiple properties, as part of the 26 additional clusters of underdeveloped sites that have the potential to be redeveloped subsequent to adoption of the proposed rezoning. Such potential redevelopment could directly displace many existing businesses. Additional businesses might be displaced due to ongoing market forces that have nothing to do with upzoning, where more substantial increases can result in displacement simply by the inability to afford such a jump in rent. Such sentiment might become more widespread as more affluent households are introduced to the area as a result of the rezoning. There is also the risk of commercial buildings or mixed-use buildings being sold to a developer for gut rehabilitation, ultimately with resulting displacement.

The Borough President believes that DSBS should explore the possibility of establishing incentives and/or credits and low-cost financing products for landlords who seek to maintain longtime small businesses. DSBS should include in its consideration business real estate tax exemptions and/or forgiveness on City collections, subject to lien sales, such as water and sewer charges, for landlords willing to index lease renewals to specified limit percentages.

DSBS is intent on delivering programs that help residents grow businesses by launching an East New York focused FastTrac Growth Venture Course. DSBS intends to provide education, assistance, tools to help businesses with leases, and to make the retail market more transparent. Additional targeted support would be provided through WNYC to help women operate and grow their business. The Small Business First program would help businesses in the neighborhood navigate government regulations. By extending expertise regarding technical and legal assistance to help improve the fiscal operations of small businesses, such as improving compliance with regulations to avoid fines, businesses would improve their profit margins and thus sustain rent increases.

There is additional risk of business displacement due to excessive available development rights. One means to reduce this risk is to decrease the extent of the upzoning by retaining R5 along certain stretches of Fulton Street. Another means to reduce risk is to propose alternative designations, such as R5B and/or R6B in lieu of R6A, east of Bradford Street, and R5B, R6B or R6A in lieu of C4-4L, west of Bradford Street. Supported by a study, such efforts and specific block eligibility should be determined through coordination by CBs 5 and 16 and local elected officials.

Therefore, prior to the public hearing of the City Council, DSBS should provide a written commitment of its intent to explore various possibilities of incentives and financing initiatives and of delivering its programs. Furthermore, in consultation with DCP, CPC or City Council should modify the proposed zoning text map to any combination of a more neutral and/or more modest upzoning along Fulton Street.

Strengthening Retail Corridors

The ENY Plan would likely result in a transformation of existing commercial corridors through the introduction of new buildings, intertwined with existing buildings, and a shift from the current automotive focus and haphazard state of these streets. This presents an opportunity to strengthen the commercial corridors while promoting diverse retail uses to compliment both the longtime area residents and those new to the neighborhood. Additional density would provide consumer spending to support for new and existing businesses. The proposed Special Enhanced Commercial Districts would provide for new buildings with active ground floors, ensuring that new development would not diminish retail continuity and in certain locations actually fill the gaps along these pedestrian-oriented retail corridors. There is a proven means to enhance these retail streets through supporting the creation of Business Improvement Districts and/or merchants associations to further support retail growth along these corridors.

DSBS has expressed intent to work with local partners in East New York to conduct a commercial district needs assessment that sets the stage for developing a community retail plan. Study findings would inform a request for proposals and the selection of service providers for a broad menu of commercial revitalization services, which could include: merchant organizing, retail business attraction and retention strategies, streetscape and public space planning, and supplemental sanitation. The Borough President believes this is an appropriate strategy that should be implemented with ongoing interfacing as these retail streets transition in order to enhance outcomes.

Therefore, prior to the public hearing of the City Council, DSBS should provide a written commitment of its intent to work with local partners in East New York to conduct a commercial district needs assessment to develop a menu of commercial revitalization services, which could include: merchant organizing, retail business attraction and retention strategies, streetscape and public space planning, and supplemental sanitation.

Promoting Locally-Based Entrepreneurs and Start-Up Business Opportunities

There is a concern that as commercial rents rise, chains would be out-competing locally-based entrepreneurs and making it that much more challenging to start up a business.

As noted above, DSBS programs that help residents grow businesses are often applicable to start ups. In addition, EDC is seeking to improve opportunities at the East Brooklyn Industrial Business Zone (IBZ). Coordination of improvements to City-owned buildings and incentives from the Industrial Development Agency (IDA), EDC is working to set the stage for new businesses to open their doors in this section of the neighborhood. EDC also intends to perform a study of possible opportunities to make the IBZ a thriving center for jobs.

While initiatives provided by DSBS and EDC are an important component of the solution, the Borough President believes that City property and City funding provide that opportunity to set aside retail space and space within the IBZ for discounted commercial rents that would be earmarked as affordable local business space. He believes that the Dinsmore-Chestnut Urban Renewal site and the former Chloe Food site provide such opportunities. Other private sites seeking significant government funding should also be compelled to set aside affordable commercial space. Having such space master-leased to locally-based non-profits such as the LDCENY and/or CHLDC would ensure long-term affordability.

Therefore, prior to the public hearing of the City Council, EDC should provide written commitments of its intent to pursue improvements to City-owned buildings, coordinate incentives from the IDA, and status of its study of the IBZ. Additionally, HPD should provide written commitments regarding setting aside affordable local business space as part of the

Dinsmore-Chestnut Urban Renewal site, the former Chloe Food site and other private sites seeking significant government funding.

Preserving, Promoting and Strengthening Industrial Use – Use Group Restrictions

While the ENY Plan promotes the reduction of much lot area available to uses that require C8 and M zoning district designations, there are likely various circumstances that contributed to the extent of utilization of some of the properties and blocks governed by these designations, resulting in the underutilization of many properties.

The proposed MX zoning districts allow existing light industrial businesses to be retained as well as expanded to the maximum permitted commercial floor area. At the same time, these districts encourage the redevelopment of vacant and/or underutilized land and lofts with residential uses, permitted to include commercial and industrial use as part of the redevelopment. However, such districts do not specifically require manufacturing uses and previous MX designations have generally resulted in residential development that in some projects included commercial uses, as permitted by a commercial district. An exception has been the resulting night clubs, permitted under the MX designation, but not always conducive to the buildings containing residential uses.

According to the DEIS, the MX district in CD 16 is projected for development after 2030. Although, even if the warehouse buildings were to remain in the interim, they are at risk of being converted to retail use, should the market support such investment. Another proposed MX section is along Atlantic Avenue, from Logan Street to Euclid Avenue, projected by the DEIS for development after 2030. However, this section contains the Dinsmore-Chestnut Urban Renewal site, likely to be developed as a school and other non-commercial uses, and the former Chloe Foods site, pending development of a significant number of affordable housing. Therefore, having zoning that permits use groups 16, 17 and 18 might have no impact in terms of promoting or retaining industrial use.

As for Liberty Avenue, extending from the mid-block east of Pennsylvania Avenue to Barbey Street, the M proposed MX district is already interspersed with low-rise residential uses. Though, this section also contains scrap yard uses that would certainly not enhance mixed commercial and residential development should this corridor successfully redevelop. According to the Coalition for Community Advancement's community plan, there appears to be approximately 10 businesses that require a manufacturing designation to be in conformance with use regulations. The DEIS indicates that approximately 600 feet of this 3,400 square feet of frontage might redevelop by 2030, with 1,100 feet of frontage believed possible to one day redevelop. Analysis by the Borough President's Office assume, that an additional 900 linear feet of frontage is likely to, one day, be redeveloped according to the proposed rezoning.

While conventional consideration might not warrant a continuation of manufacturing use groups, considering several other streets are being earmarked for retail expansion and enhancement, there does not seem to be a need to limit sections of Liberty Avenue to just another retail corridor. In addition, industrial use would likely retain a presence at various block fronts along sections of this corridor. Therefore, the Borough President believes that there is an opportunity to build on the efforts of local groups, such as Arts East New York and the creative entrepreneur start-up spirit of Brooklyn, to transform this section of Liberty Avenue to an artisanal haven, including food and beverage production.

The Borough President believes that this can be aided through zoning changes that mirror the Special Enhanced Commercial Districts (SECD) in terms of requiring non-residential uses on the first floor, and standards on fenestration and roll down window grilles. In addition,

there should be use restrictions that might restrict size, location and specific uses altogether. A location restriction for certain retail uses might specify a maximum street frontage, and/or have a size limitation to the extent that such use might be located on the ground floor, and/or have a specified limit to how much space a use might have within, for example, 30 feet or 50 feet of the street wall. A possible example might be that a large pharmacy should be primarily located on the second floor, with the exception of their lobby, or beyond 30 feet from the street line.

Warehouse and storage uses are examples of uses that would not complement such an artisanal cluster of uses and should not be permitted. Consideration should be given to size limitations for commercial establishments depending on their specific location within the building or their orientation within the first floor. An exception should be made for co-working locations, such as studio spaces, which are consistent with artisanal uses, including producers of crafts, jewelry and other artisanal products, in which each producer has their own booth and/or display area.

Protection of existing manufacturing within the East Brooklyn IBZ could become more challenging with the adoption of the ENY Plan, as it enables upzoned properties to be developed as residential. The DEIS projects more than 6,312 new dwelling units added by 2030, which could add nearly 18,800 additional residents, many with disposable income. In addition, the ongoing residential displacement that could possibly accelerate, as the neighborhood becomes more desirable, would add even more consumer spending power.

Though there would be more retail floor area brought to the neighborhood, as mandated by SECD, there is nothing in the Zoning Resolution that precludes property owners from securing change of warehousing and manufacturing uses to retail use. The sole protection is that certain destination retail uses, known to be typically larger than 10,000 square feet in the 1970s, are not permitted to exceed 10,000 square feet per establishment, though, certain destination uses that did not exist in the 1970s, such as hardware stores, remain as-of-right. Seven blocks (between Atlantic and Pitkin avenues and Sheffield and Alabama avenues, plus the middle block extending west to Williams Avenue) of the IBZ are in an M3-2 zoning district. These blocks are protected from hotels and health facilities, requiring approval under Article 28 of the Public Health Law, ambulatory diagnostic treatment health care facilities, and houses of worship, with potential to price out the existing warehouse, construction, transportation and manufacturing related uses that exist in this IBZ. However, the vast majority of the IBZ is located in an M1-4 district where medical facilities, hotels, banquet halls and houses of worship are as-of-right. Additionally, the permitted FAR for medical facilities and houses of worship is 6.5 as compared to the 2.0 FAR for the industrial uses. The added population from residential growth, permitted through adoption of the ENY Plan's rezoning, could significantly encourage the marketplace to provide medical facilities and houses of worship in this IBZ as an affordable means to be near the residents.

The Borough President believes that there is an opportunity to place use restrictions that support the IBZ. Such use restrictions might be given consideration in terms of intensity of jobs. There may also be opportunities to increase floor area for certain permitted uses, such as office floors occupied by those firms that are likely to pay enough rent to cross-subsidize lower value production uses, especially if such uses were master-leased to a CBDO. Given the extent of the permitted floor area for health-based uses and houses of worship, there could be consideration to restrict the applicability to use any community facility floor area unless a minimum amount of commercial floor area is part of the development.

The City should also promote urban agriculture given the extent of flat roofs that would not impede access to sunlight for greenhouses. The Zoning Resolution identifies agricultural use

as an open use community facility, use group 4B, and includes uses such as greenhouses, nurseries and truck gardens. Currently, state-of-the-art urban farming practice includes, but is not limited to, hydroponic farming and aquaponics. To be consistent with modern practices, especially given the extensive community facility FAR of 6.5 in the M1-4, there should be consideration to redefine agricultural uses to also be determined as enclosed uses. For the M3-2 district, there should be consideration to modify rooftop greenhouses as a permitted obstruction pursuant to section ZR 75-01 (b) to expand the use beyond the cultivation of plants, to also include aquaponics cultivation. The East New York IBZ's M3-2 district should also permit additional floor area for community facility use limited to urban farming use.

In addition to zoning text enhancements, the City should earmark low-cost financing to assist property owners with upgrading buildings within the East New York IBZ and to assist in retention of appropriate uses, otherwise facing displacement by development achieved through the City Council adopting the ENY Plan. According to the Coalition for Community Advancement's community plan, within the ENY Plan area, there appears to be approximately 100 businesses that would require a manufacturing designation to be in conformance with use regulations. To the extent appropriate, the Borough President believes that consideration should be given to assisting these uses with relocation to the East New York IBZ. He believes that EDC and DSBS should inventory and evaluate such uses in consultation with CBDO, including those that assist businesses and property owners in the IBZ, to determine where relocation might be appropriate.

In order to craft text for the Liberty Avenue section of the proposed MX district, the Borough President believes that DCP should commit to undertaking a collaborative process with CB 5, Council Member Espinal and other local elected officials as well as local CBDOs and local arts, artisans and artisanal entities.

In order to craft text for the East New York IBZ's M1-4 and M3-2 zoning districts, the Borough President believes that DCP should commit to undertaking a collaborative process with CBs 5 and 16, local elected officials, CBDO and advocates such as the Association for Neighborhood Housing Developers, East New York Farms, and other urban agriculture entities, including hydroponic and aquaponics technologies.

Given that residential development is not likely to be transforming the ENY Plan's intended residential corridors for the next several years, beyond the former Chloe Foods site, the Borough President believes that having the City Council adopt a well-thought out zoning text amendment proposal within three years should preclude the East New York IBZ from being undermined by surrounding residential development.

Prior to the public hearing of the City Council, EDC and DSBS should provide written commitments of each's intent to provide technical and financial resources to relocate appropriate ENY Plan area industrial businesses to the IBZ.

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 more than half of our community districts have suffered poverty rates of 25 percent or higher, 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 Minority- and Women- Owned Business Enterprises (MWBE) and LBE — is a key component of the Borough President's

economic development agenda. It is also important to provide community residents with resources to not only find good paying quality jobs within their neighborhood, but to also provide the necessary training that will help to improve their overall quality of life.

New construction provides opportunities for the future developers 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 (no fewer than 20 percent participation). The Borough President believes in cementing additional avenues to advocate for bringing jobs and careers to borough residents. The proposed ENY Plan has the inevitable potential to result in a large number of new construction projects. Such opportunities are essential to providing community residents with employment and the ability to remain in place as the neighborhood grows. The Borough President believes that such requirements should be incorporated where at least the City has direct role as a means to ensure that local residents will be able to benefit from the added job capacity in the area. Such roles would occur in the implementation of Capital Budget initiatives such as the reconstruction of Atlantic Avenue, the construction of schools, refurbishment of parks, and the disposition of the Dinsmore-Chestnut Urban Renewal site as well as the significant financing role with the potential redevelopment of the former Chloe Foods site.

The Borough President acknowledges that it is HPD's intent to promote local economic opportunity according to development of sites, fostered through the adoption of the ENY Plan, through affordable housing development. When HPD subsidizes new development in the affected area, it intends to work to ensure that small businesses and community facilities are integrated into the lower floors of the building to ensure ongoing employment. HPD expressed intent to work toward increasing opportunities for MWBEs to participate in the development process and connecting local residents to career training.

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.

At 19 percent, East New York's unemployment rate is three times higher than the City overall. The proposed ENY Plan acknowledges the struggle of the community in terms of employment, and outlines efforts in which to provide resources to help the community. According to the ENY Plan, DSBS proposes to open a Workforce 1 Career Center in the neighborhood to connect residents to career opportunities. The intent would be to connect qualified candidates to employment opportunities in New York City, using a unique combination of recruitment expertise, industry knowledge, and skill-building workshops to strengthen candidates' employment prospects, while providing local employers with a pipeline for talent. The agency also intends to work toward informing residents of its Community Partners program to increase the capacity of the City's public workforce development system and establish new industry partnerships in the retail, hospitality, manufacturing, and construction sectors.

The Borough President believes that it is imperative for the Workforce 1 Career Center to be located in a central location, easily accessible by public transit. Therefore, he believes that the Long Island Rail Road (LIRR) former sub-station building would be an ideal location for these purposes. The LIRR sub-station building is located within the IBZ, at Atlantic Avenue (service road) and Snediker Avenue. The building is accessible by multiple modes of transportation and is large enough to be able to adaptively reuse its entire space for a variety of much-needed community benefits. The City should explore acquisition of this

building and the economic feasibility of providing it as a public use, so that the Workforce 1 Center could possibly occupy a section of the building.

In addition to a physical presence by having an operational Workforce 1 Career Center in the community, the Borough President believes that there should be ongoing funding to CBDO for job training, including an initiative with East New York Farms for agricultural activities consistent with the Borough President's urban agriculture agenda.

The Borough President believes that CB 5's interest for introducing a college campus warrants consideration by CUNY, as institutions of higher learning are increasingly viewed as important engines of growth for their local communities. They not only provide direct economic impacts, as money is primarily spent within their local areas and staff is sourced locally, these institutions also help to raise the skills of an area's workforce. By educating potential workers, the institution of higher learning increases the supply of human capital for the community as well as the region. Perhaps less obviously, these schools can also raise a region's demand for human capital by helping local businesses create jobs for skilled workers. The higher-education sector also tends to contribute stability to a region since it's less susceptible to downturns than other sectors.

Additionally, creation of an Innovation Lab, run in conjunction with New York City College of Technology and local business organizations, can help to provide pre-screening services, job placement and training for the local residents. An Innovation Lab would provide training for basic computer coding, technology and vocational training programs targeted to business growth needs, entrepreneurship and cooperative training programs helping with starting small cooperative businesses, and continuing education programs. Providing such services can help to address the high unemployment rates in the area. Such initiative provides businesses with a trained local workforce as well as the local students with opportunities to build their experience and move on to the next level in their careers. The Borough President encourages CUNY to consider supporting such endeavors in coordination with the Borough President's Office and the area's local elected officials.

The Borough President believes that the Administrative Code and Local Law standards regarding MWBE and LBE participation should be memorialized in the Land Disposition Agreement (Dinsmore-Chestnut site) or Regulatory Agreement (such as with Phipps Houses in redeveloping the former Chloe Foods site) between the various developers and HPD. Prior to the public hearing of the City Council, HPD should provide written commitments of its intent to ensure that small businesses and community facilities are integrated into the lower floors of the building and guarantee ongoing employment. HPD expressed intent to work to increase opportunities for MWBEs to participate in the development process and connect local residents to career training. HPD should provide for quarterly updates to CBs 5 and 16, and local elected officials to demonstrate its monitoring and performance.

Prior to the public hearing of the City Council, DSBS should provide a written commitment of its intent to facilitate the opening of the Workforce 1 Career Center, and including the possibility of acquiring and retrofitting the LIRR sub-station, and commitment to ongoing funding to area CBDOs for job training and East New York Farms for agricultural activities. CUNY should provide a written commitment of its intent to investigate the possibility of establishing an institute of higher learning, possibly in collaboration with an Innovation Lab.

Broadway Junction

Although the ENY Plan does not propose rezoning the blocks immediately around the Broadway Junction transit hub, the Borough President believes that this area presents a wonderful opportunity to promote City-tenanted office development. Such efforts are

guaranteed to amount to a tremendous stimulus for economic and retail development. With the office vacancy rate in Downtown Brooklyn reaching a new low of 3.4 percent, there is a major need for office space to harness the demand in that section of Brooklyn. One approach for the City to accommodate demand for office space opportunities in Downtown Brooklyn is by relocating City agencies to the Broadway Junction, as tenants in privately-developed office buildings. This would not only resolve the office space demands in Downtown Brooklyn but would essentially improve public access to civic services within the East New York, Ocean Hill, and Brownsville communities. Additionally, relocating such offices to Broadway Junction has the potential to stimulate the private sector to provide supportive retail, destination retail, and restaurants for office workforce and visitors, providing additional benefits to area residents.

City agency relocation could be achieved through any combination of either vacating agencies from municipal buildings and/or identifying Downtown Brooklyn landlords who believe it is more lucrative to mutually terminate leases with the City. By relocating offices to Broadway Junction, the City would potentially improve public access to civic services and stimulate the private sector by providing supportive retail, including destination retail and restaurants for office workforce and visitors, which would also serve area residents.

The Borough President is concerned that part of the ENY Plan's proposed rezoning is in conflict with his development vision for Broadway Junction. The conflict concerns one whole block and half of a block as part of a proposed C4-5D zoning district. If left unchanged, the C4-5D would permit conflicting residential development, which has a R7D residential equivalent FAR of 5.6 and a commercial floor area of 4.2 FAR. He believes that it is not appropriate and will potentially undermine the Broadway Junction office development potential by otherwise having zoning adopted that permits contrary residential development. Neither blocks are indicated in the DEIS as projecting development so it does not appear to be contrary to the Mayor's goal of facilitating affordable housing through the ENY Plan to remove these areas from the rezoning proposal.

Therefore, the Borough President believes that the boundaries of the ENY Plan should be consistent with DCP's Sustainable East New York report's maximum development assemblages. This would be done by retaining the existing M1-2 zoning until a subsequent rezoning is undertaken as part of land use actions to implement the Borough President's vision for Broadway Junction as an office hub. He calls on the City Planning Commission or City Council to eliminate the proposed C4-5D zoning district north of Atlantic Avenue and east of Havens Place, retaining the M1-2 district.

As a follow-up action, he believes that DCP, in conjunction with EDC, should develop a series of land use actions to implement an upzoning of the existing 2.0 FAR blocks along with street map changes, commercial use restrictions and acquisition actions, if needed, toward facilitation of such office hub in consultation with CBs 5 and 16 and local elected officials.

Community Facilities

Currently, East New York has multiple underlying issues with the existing community facilities and resources available to its residents. Schools within the rezoning area are overcrowded and provide insufficient space for learning, in many cases utilizing "temporary" trailer classrooms. Not only is there no community center within the rezoning area that offers comprehensive services for children, young adults, parents and the elderly, a few existing community centers are also often under uncertainty of lease duration. Additionally, according to the DEIS, the area does not meet the NYC neighborhood open space standards, resulting in a lack of accessible green/open space.

School Seats Deficiencies

The Brooklyn Borough President's Office reviewed data for the existing school capacity as well as future capacity needs for East New York. Although the DEIS does not identify significantly adverse impacts on school capacity, numerous testimony received from the community, as well as review by the Borough President's Office, reveal that there is an immediate need to address existing Transportable Classroom Units (TCUs) and future school services.

Currently, several schools in the area accommodate students utilizing TCUs, which are a temporary solution only meant to be utilized for a period no longer than 10 years; however, these units are not counted in the DCP's impact analysis. Therefore, many of the schools have a "Target Capacity," that does not include TCUs and is significantly lower than the "Actual Enrollment," which includes these temporary units. There are seven schools that are listed as having students enrolled in TCUs, totaling 1,032 enrolled students: East New York Family Academy, IS 302, PS 7, PS 159, PS 202, PS 214, and PS 290. Replacing these temporary school seats, currently housed in TCUs, with permanent spaces and addressing electrical and technology deficiencies is warranted.

Acknowledging the area's need for additional school capacity, the City has committed to building a new school by 2020-2021, which would accommodate 1,000 students, 682 students in PK-fifth grades and 318 students in sixth to eight grades, in District 19. HPD has proposed an amendment to the Dinsmore-Chestnut Urban Renewal Plan to conform land use restrictions to zoning, to refresh the urban renewal plan's general provisions, and to allow disposition of the urban renewal sites and accommodate the new school. A site selection by SCA is reportedly forthcoming.

The schools that identify as having available capacity total approximately 810 elementary school seats and 1,560 intermediate school seats. It should be noted that high school seats are not taken into account because they are not geographically restricted and are therefore counted for the entire borough, resulting in 12,453 available school seats. According to the DEIS, the proposed ENY Plan would introduce a net increment of 3,471 total students — 1,830 elementary, 757 intermediate and 884 high school. Excluding the high school seats, the net increment is 2,587 students.

Taking into consideration the existing available 810 elementary seats, plus the proposed 682 seats, and subtracting the 1,830 elementary students projected by the DEIS, there might still be a shortfall of 338 elementary school seats. Additionally, the estimated shortfall for elementary school seats does not take into consideration approximately 560 existing elementary school seats within TCUs. Taking into consideration the existing available 1,560 intermediate seats, plus the proposed 318 seats and subtracting the 757 intermediate students projected by the DEIS, there is a surplus of 318 intermediate school seats. However, such considerations do not include an estimated 370 existing intermediate school seats within TCUs. While further investigation would be required to determine the exact number of TCUs per grade level, it is clear that there is great potential for a shortfall in school seats for both elementary and intermediate school seats, to result from significant additional population within the area.

While the Borough President applauds the City's efforts to alleviate projected school capacity needs, an additional 1,000 school seats might not sufficiently provide for a growing population, at the scale at which it is proposed in the ENY Plan.

The Borough President believes that appropriate planning for school capacity must include the phasing out of the TCUs. Taking into consideration the number of students occupying

TCUs and the new students projected by the DEIS, it would be a more responsible strategy to plan for the future. As Brooklyn is not known for the availability of vacant and significantly undeveloped land, creative solutions must be considered.

In that regard, the Borough President's Office identified existing school sites to determine the extent of unused development rights. The review identified two underbuilt school sites within the proposed ENY Plan area and five underbuilt school sites just outside the rezoning area, which may be within the school catchment areas or near enough to warrant consideration. In order to utilize such development rights, building enlargements might be feasible within the footprint of existing TCUs. Consideration should be given to determining the appropriateness of reducing open area on the school grounds, including whether to reduce the amount of school yard to achieve a functional addition. The Borough President believes that SCA and DOE should evaluate these seven schools to determine the appropriateness of constructing enlargements and their projected capacity, should the enlargements be feasible.

In addition to public sites, there should be consideration of inducing the development of school capacity within new developments. The City may pursue sites through the SCA's acquisition process, though doing so merely recaptures development opportunities promoted by the ENY Plan to address the City's critical need for expanding the supply of affordable housing. In non-MIH-designated areas, there would be an additional 0.5 FAR available for R8A-designated lots (Atlantic Avenue between Bradford Street and Montauk Avenue). On a typical Atlantic Avenue frontage, this would have represented an opportunity to provide 10,000 square feet of community use floor area, clearly not sufficient to house a school. The exceptions are where the depth of the R8A mapping is to a depth beyond the standard 100 feet. This occurs on the north side of Atlantic Avenue between Van Siclen Avenue and Hendrix Street, where approximately 20,000 square feet of community facility floor area is available, and on the south side between both Schenck Avenue and Barbey Street, where approximately 15,000 square feet might be available, and Shepherd Avenue and Berriman Street, where approximately 17,000 square feet might be available. The Van Siclen-Hendrix (DEIS Site 24), Schenck-Barbey (Site 37) and Sheppard-Berriman (Site 43) sites have all been identified in the DEIS as probably being developed by 2030. While Arlington Village has its R8A depth at 100 feet, because the new owner may be contemplating further zoning action and is directly to the east of a section where the R8A is mapped to a depth of 165 feet, it may present an opportunity to leverage available community facility floor area if a zoning text change were to make such floor area available.

The Borough President believes that it is appropriate to introduce community facility floor area to facilitate school capacity in the vicinity of anticipated development according to the ENY Plan. A zoning text amendment was adopted in 2013 that would modify height and setback, lot coverage and yard controls for a public school for a parcel at Dupont and Franklin streets in Greenpoint. It allows for floor space used by the school, up to a maximum of 120,000 square feet, to be exempt from the definition of floor area. Applicable yard and lot coverage requirements were modified to permit a building that entirely covers the lot. This this precedent provides an example of a state-of-the-art zoning approach to creating floor area for public schools.

In addition to the Atlantic Avenue sites, other large sites are worthy of consideration. There are properties along the north side of Liberty Avenue between Vermont and Wyona streets (DEIS Site A59), and the south side, between Wyona and Bradford streets (Site A26), both zoned M1-4/R6A, which were not assumed to be developed until after 2030. The property on the north side of Liberty Avenue between Schenck Avenue and Barbey Street, zoned R6A, was not envisioned by the DEIS for development. In a standard M1-4 district community facility use would permit 6.5 FAR, though a school would need to meet the findings of the

BSA in order to be permitted. Along Pitkin Avenue there are properties, which were not assumed to be developed until after 2030, on the north side between Pennsylvania and New Jersey avenues (Site A73), with a proposed zoning of C4-4D, and between New Jersey Avenue and Vermont Street (Site A28, though it contains a supermarket, which should be deemed as an equal public priority and, therefore, does not make sense to incentivize for school purposes), along with the following sites with a proposed zoning of R7A, including Fountain Avenue and Crystal Street (Site 81), which was assumed to be developed by 2030. In addition, a larger site exists on the south side between Jerome and Warwick streets; while not depicted in the DEIS, might be attractive for development according to analysis by the BBPO. Within the CD 16 section of the ENY Plan there are sites (DEIS Site 2) along Broadway between Somers and Truxton streets, proposed for C4-4L zoning and site 1 along the north side of Pacific Street between East New York Avenue and Sackman Street, proposed for C4-5D zoning.

The Borough President believes that DCP should study the aforementioned sites to determine the appropriateness of developing a zoning text amendment that might pattern the text applicable in Greenpoint, where such public school floor area was exempt from zoning floor area. This is already the case in CDs 5 and 16 for a FRESH food store up to 20,000 square feet. Another option would possibly be to establish a community facility floor area only applicable to public schools when such developments also satisfy the MIH requirements. Such study and draft of a possible zoning text amendment should be undertaken in consultation with CBs 5 and 16 and its local elected officials. In addition, DOE and SCA should maintain contact information with all the property owners of the sites ultimately deemed appropriate for additional community facility floor area. The agencies should maintain contact with such entities to access interest in redeveloping such sites on a quarterly basis. The DOE/SCA should provide quarterly update to CBs 5 and 16 and local elected officials on the status as well as intent to provide financial resources in DOE's Capital Plan for school construction as a means to act promptly when property owners are contemplating redevelopment.

The Borough President believes that prior to the City Council hearing, SCA should provide a written commitment of its intent and timeline to initiate the site selection process and for there to be a Capital Budget commitment for the 1,000-seat school. Furthermore, SCA and DOE should provide a written commitment of its intent to evaluate the seven schools in proximity to the ENY Plan to determine the appropriateness of constructing enlargements, and the projected capacity — should enlargements be feasible — should include elimination of the TCUs. DCP should provide a written commitment of intent to undertake a study of these sites for the appropriateness of developing a zoning text amendment to establish a community facility floor area only applicable to public schools undertaken in consultation with CBs 5 and 16 and its local elected officials. In addition, DOE and SCA should provide a written commitment of intent to compile contact information with all the property owners of the sites ultimately deemed appropriate for additional community facility floor area. The agencies should provide quarterly update to CBs 5 and 16 and local elected officials on the status of these properties being developed, as well as intent to include in DOE's Capital Plan.

Community Centers, Child Care Centers and Senior Centers

In order to have healthy communities, residents should be provided with adequate community amenities. The community has expressed concern regarding the status of the lease of the Cypress Hills Fulton Street Neighborhood Senior Citizen's Center. Without this facility there might be a community impact. As for child care, there are 69 publicly-funded child care centers within a two-mile radius (three directly within the study area) with a total capacity of 5,942 slots, operating at 88.8 percent utilization with 588 available slots. By 2030 the DEIS anticipates another 614 children, under the age of six, eligible for publicly funded

child care, which in consideration with background growth might result in a shortfall of 187 slots. Proposed mitigation listed in the DEIS suggests that there are other alternatives for those in need of child care including: using ACS vouchers for private child care; homes licensed to provide child care; parents enrolling children outside the study area, since no restrictions exist to enrolling within a specific geographic area, and the possibility that overall demand would spur development of more child care centers. As for community centers, area residents believe there is a pressing need to provide a dedicated community center for this section of Brooklyn.

The nearest of such programs, in the form of Beacon schools, are located at the Van Siclen Community Middle School, run by CAMBA, and at PS 271. While both schools are out of the ENY Plan's DEIS study area, they still offer a degree of accessibility via public transit or walking. Van Siclen Community Middle School is located just south of the study area, at Van Siclen Avenue and Linden Boulevard, approximately 10 minutes walking distance to the nearest site within the study area. This school is accessible by an 11- to 15-minute bus ride along the B20 or B83 bus routes, to the nearest stop affected by the proposed rezoning, at Pennsylvania Pitkin avenues. PS 271 is located just west of the study area, at Herkimer Street and Saratoga Avenue, approximately a 10-minute walk to the nearest site proposed to be rezoned. This school is accessible by a five-minute bus ride along the B25 Fulton Street bus route, where it reaches the proposed rezoning area at Fulton Street and Eastern Parkway. This school is also accessible by the C train, located several minutes walking distance, where several C train stations provide access from sections of the rezoning area to PS 271. Such commutes are not ideal for lower grade youths and there is a limit to the number of additional users that these nearby Beacons can readily accommodate from a growing population resulting from additional development. Therefore, this community should be supported in its quest for its own community center.

Major challenges to establishing a community center include securing a site and identifying funding for construction and operation of the center. Obtaining a site owned by the City reduces the amount of Capital Budget funds required to construct such a facility. The Dinsmore-Chestnut Urban Renewal site provides such an opportunity. This site's proposed M1-4/R8A floor area likely offers ample zoning floor area to provide a school to accommodate 1,000 school seats, while also realizing a community center. In addition, school spaces such as cafeterias, auditoriums, and gymnasiums could be shared with a community center and, likewise, community centers with swimming pools could benefit schools. Though, including a community center at this location would reduce the amount of zoning floor area to achieve affordable housing on this site.

While not in City-ownership, the LIRR former sub-station building might also have the potential to provide such opportunity for the section that would not be required to accommodate a Workforce 1 Career Center. Located at Atlantic Avenue (service road) and Snediker Avenue, the building is accessible by multiple modes of transportation and appears to be large enough to be able to adaptively reuse its entire space for a variety of much needed community benefits.

The Borough President believes the Dinsmore-Chestnut site and the LIRR former sub-station building would be great opportunities for community, cultural, and/or recreational centers. He believes that the Administration should approach the LIRR to discuss the possibility of acquisition by the City.

The Borough President believes that prior to the public hearing of the City Council, DFTA and DCAS should provide a written commitment regarding status to extend the lease of the Cypress Hills Fulton Street Neighborhood Senior Citizen's Center. He believes that ACS should

provide a written commitment to monitor child care needs annually and report its findings to CBs 5 and 16 and its local elected officials, including whether funding should be provided as part of a joint community center/public school/day care center at the Dinsmore-Chestnut site. Finally, in coordination with local elected officials and CBs 5 and 16, the Administration should provide a written commitment to facilitate the development of a community center within the Dinsmore-Chestnut Urban Renewal site and to investigate acquisition of the LIRR former sub-station building, including the status of Capital Budget commitment.

Open Space Deficiencies

According to its DEIS, the ENY Plan area has a lack of accessible, green, open space. There is one large park at the northernmost section of the neighborhood, Highland Park, and two playgrounds within the actual study area. The open space is in dire need of regular maintenance.

According to CEQR standards, a neighborhood should provide one and one half acres of open space per 1,000 residents. The proposed actions would significantly decrease total open space per 1,000 residents from .688 to .563 acres, which yields a -8.31 percent change. Such a decrease would exceed the five percent threshold, especially considering that, for already burdened areas such as East New York and Ocean Hill-Brownsville, even a one percent change is considered an adverse impact. In recognition of such open space deficiencies, the DEIS disclosed mitigation measures in the form of: expanding and improving existing parks; creating new open space; encouraging large lots to create open space; establishing pedestrian plazas; making school playgrounds in the community accessible after hours. Funding, identification, and governance to undertake implementation would need to be addressed.

DPR is envisioning new recreation opportunities at City Line Park. It intends to lead a community design process to re-envision a large asphalt ball field in City Line Park as a new, green resource for the community. With funding from Councilman Espinal, DPR intends to improve existing parks, including repairing and revitalizing the basketball and handball courts in Sperandeo Brothers Playground, and installing new, modern play equipment in Lower Highland Park.

While identifying new parkland is challenging in a built up neighborhood such as East New York, the Borough President believes that upzoning creates more air rights for open space utilization. He also believes that it is possible to increase utilization of the open space where there is potential for converting grass/dirt playing fields to second generation artificial turf such as FieldTurf, and adding light to extend the number of hours of operation. In addition, there may be opportunities to maximize the hours of school yards and explore closing of certain streets in combination with traffic islands to create meaningful plazas. Oversized traffic islands of the Conduit's mall should also be given consideration for active recreation, though limited to teenager and adult programming in recognition of traffic volume.

In addition to what has been identified as DPR intent, the Borough President has been informed that there might be opportunities for park upgrades. Such opportunities include: funding to finish upgrades at Lion's Pride Playground and Callahan-Kelly Playground, including installing bathrooms so it can accommodate school groups and summer camps; installing synthetic turf field for Grace Playground; expanding of the Schoolyard to Playground program to PS 72 and PS 345; establishing a pedestrian plaza at Fulton Street and Norwood Avenue, and establishing a public space at Pitkin and Euclid avenues. Smaller initiatives should include the integration of more adult fitness equipment throughout the neighborhood. In addition, embarking on a graffiti removal initiative at Highland Park would convey a level of respect to the community that upkeep matters to DPR. Finally, DPR should

investigate the possibility of obtaining jurisdiction of one or more Conduit malls for conversion to active park use.

In order to demonstrate adequate commitments, the Borough President believes that prior to the public hearing of the City Council, DPR should provide a written commitment regarding status of: its intent to lead a community design process to re-envision a large asphalt ball field in City Line Park; its intent to repair and revitalize the basketball and handball courts in Sperandeo Brothers Playground, and installation of a new, modern play equipment in Lower Highland Park; its intent to consider funding remaining upgrades at Lion's Pride Playground and Callahan-Kelly Playground, including installing bathrooms, and synthetic turf field for Grace Playground; its intent to collaborate with, DOE for the expansion of the Schoolyard to Playground program at PS 72 and PS 345; and its intent to collaborate with DOT, for the establishment of a pedestrian plaza at Fulton Street and Norwood Avenue, and a public space at Pitkin and Euclid avenues; its intent to integrate more adult fitness equipment throughout the neighborhood; its intent to establish a graffiti removal initiative at Highland Park, and, its intent to investigate the possibility of obtaining jurisdiction of one or more Conduit malls for conversion to active park use.

Based on the above, the Administration should make a Capital Budget commitment of at least an additional $20 million for park improvements to further advance addressing deficiencies in the adequacy of neighborhood open space.

Streets and Transit

While the ENY Plan calls for strategic infrastructure investments, such as possible streetscape and safety improvements along Atlantic Avenue and other key corridors, and provision of increased transit service and connectivity, the Plan would seemingly produce more adverse impacts than proposed mitigation efforts.

Streets

The City has expressed a commitment to make Atlantic Avenue a great street. DOT intends to redevelop this central spine of the neighborhood with safer crosswalks, a newly-landscaped median, more than 100 new street trees, and new sidewalks complete with public benches and bike racks at regular intervals. This project is intended to advance Vision Zero for pedestrian safety while also helping to set the stage for new development along the Atlantic Avenue corridor. The resurfacing, repaving, and rebuilding of streets with more stop control and crosswalk pedestrian crossings, along with other forms of traffic calming such as neck-downs, would be a tremendous asset to the community.

Similar consideration, per a DOT assessment of conditions, should be considered for connecting the IBZ to the adjacent neighborhoods. Further evaluation of Atlantic Avenue for safety improvements should extend westward through CDs 2, 3, 8 and 16.

The ENY Plan also seeks to improve connectivity throughout the neighborhood, particularly around transit. DOT intends to complete the redesign and redevelopment of the street network in front of the Broadway Junction subway complex, where Broadway and Jamaica Avenue intersect, making the area safer while also adding new amenities for pedestrians and bus passengers. New bike lanes have already been added to Pitkin Avenue, extending the existing bike network in Brownsville into East New York.

Such improvement strategies need to extend to the East New York LIRR station. Gaining access to the platform requires traversing an area that is dark, dirty, unsafe, and, therefore, underutilized. Immediate renovations and upgrades, including wayfinding and signage, are

needed as part of an initiative to entice the community to take advantage of this important transportation resource.

Transit

The Borough President is aware of the significant deficiencies in the existing area's public transit service and that the community has growing concerns regarding any additional strains on the already lacking service. Seventy percent of East New York residents rely on public transportation to get to their jobs and, in most cases, their commute times exceed 60 minutes. The B12 bus route was discontinued along Liberty Avenue in 2010 and has resulted in inadequate service along this corridor. Overall north/south connectivity is very challenging in this area and results in traffic jams, unsafe pedestrian conditions and noise and air pollution. The J/Z trains break down more often than average, and C trains break down more than any other in the MTA system.

In addition to the existing strains on public transit, the DEIS identified significantly adverse transit impacts that would result from the proposed rezoning and subsequent growth in ridership. According to the DEIS, approximately 983 to 1,445 new bus trips will be generated, resulting in the Q8 bus route having a shortfall of 17 seats during evening peak hours

Service on the B12 bus route should be restored in order to adequately service existing, as well as new residents and businesses along Liberty Avenue, as it is one of the commercial corridors proposed for increased density and mixed uses. In order to increase connectivity in the area, north-south transit bus routes that cross Atlantic Avenue should have more buses added to those routes to reduce wait times. Bus routes should also be analyzed for opportunities to expand Bus Rapid Transit.

Expanding bicycle infrastructure through designated routes, signage, appropriate pavement markings, and parking infrastructure can also mitigate traffic congestion and improve street safety. There should be consideration of expanding the Citi-Bike program as a means of providing more transit options.

As for rapid transit, NYC Transit's (NYCT) proposed 2015-2019 Capital Plan includes a very limited pool of funds for improvements at selected stations, to support the City's economic development and affordable housing strategies. Adequacy and availability of funds for such purposes will depend on the cost of necessary improvements such as at Broadway Junction, and the competing priorities at other eligible stations. It is not clear to what extent of identified need that funding would become available to address all projected impacts, especially considering that none of the subway stations within the rezoning area are ADA-accessible, which will require additional costs.

On a positive note, a recent capital budget proposed by the NYCT has the potential to help enhance public transit in the already growing area by connecting Livonia Avenue and Junius Street on the L and 3 lines in Brownsville. Currently, riders, most likely already struggling to make ends meet, have to walk along a desolate stretch and pay a second fare. The proposed budget will realize this long-awaited connection, and make the station ADA-accessible, improve accessibility and extend transit service for many residents. Until such efforts are realized, the Borough President continues to advocate for the MTA to at least implement free MetroCard transfers between the Livonia Avenue L train and Junius Street 3 train.

There may be other lower-cost improvements at the subway stations that would greatly improve service delivery. In particular, NYCT should identify opportunities to re-open any

inactive entrances/exits, and examine whether there are opportunities to upgrade capacity through the installation of HEET fare control elements.

While connecting Livonia Avenue and Junius Street stations, the possibility of more access points connecting to station platforms would be system enhancements. The MTA has reported concern that, in consideration of development pursuant to ENY Plan rezoning, the convergence of the three separate subway lines at Broadway Junction was not adequately considered. NYCT projects that the Broadway Junction station complex would result in an additional 450 transfers of customers within the station complex, following the rezoning due to the new population that would be entering and exiting at other stations within the rezoning area near new development. An NYCT study evaluated the impacts on the already congested stairways and passageways and concluded that, as a result of the rezoning, there would be significant adverse impacts on the Manhattan-bound A/C platform stairs, the Queens-bound A/C platform stairs, and the Manhattan-bound J/Z platform stairs.

As for train service, the DEIS disclosed that the southbound J/Z train would exceed the guidelines during morning peak hours, which could be addressed by increasing service and frequency, though this is dependent on NYCT resources. The Borough President believes that NYCT should prioritize increasing frequency for both the J/Z and A/C train service and improve quality and accessibility in order to provide adequate service for the community.

One possible solution to both the station transfer crowding and the capacity deficiencies appears to be implementation of New York City Transit Riders Council's *Freedom Ticket* proposal for transit riders. In Brooklyn, the *Freedom Ticket* presents an opportunity to support neighborhood growth and development of the ENY Plan and the Borough President's vision for Broadway Junction. It takes only 10 minutes on the LIRR to travel from the East New York station to Atlantic Terminal; however a peak hour ticket is $8.25, a great sum for those living in some of the poorest census tracts in New York State. It takes more than twice as long to travel via the subway from Broadway Junction to Atlantic Terminal. MTA data shows that nearly 3,500 seats were available during peak-hour service from Jamaica to Atlantic Terminal. Implementing this service could have benefits for A line riders who would want to transfer to subway service at the Atlantic Avenue Barclay's Center station for 2, 3, 4, 5, B, D, N, Q and R service. Today, such riders must take either local C service to Franklin Avenue to get to the 2, 3, 4 or 5 at Eastern Parkway, or the B and Q at Prospect Park. For D, N and R service, it requires staying on the A line until Jay Street-MetroTech for the R line, with B and N service requiring an additional transfer at Pacific Street. For J and Z riders, having service from LIRR's East New York station directly to Jamaica would not only be faster in route, but would divert A and C riders from the congested connection to J and Z service.

In order to demonstrate adequate commitments, the Borough President believes that prior to the public hearing of the City Council, DOT should provide a written commitment regarding: its status of funding, designing and implementing the reconstruction of Atlantic Avenue; an intent to assess conditions for connecting the IBZ to the adjacent neighborhoods; to undertake an evaluation of Atlantic Avenue for safety improvements to extend westward through CDs 2, 3, 8 and 16; to complete the redesign and redevelopment of the street network in front of the Broadway Junction subway complex; describe the role it might play to improve access to the East New York LIRR station such as wayfinding, signage and crossing Atlantic Avenue service road, and to expand bicycle infrastructure.

In terms of transit improvements, the Borough President believes that NYCT should: restore service on the B12 bus route; add more buses to increase north-south service for routes that cross Atlantic Avenue; analyze opportunities to expand Bus Rapid Transit; implement free MetroCard transfers between the Livonia Avenue L train and Junius Street 3 train stations;

identify opportunities to re-open any inactive entrances/exits and whether there are opportunities to upgrade capacity through the installation of HEET fare control elements, including to reopen presently-closed Broadway Junction station access on Broadway and the L-train access on the south side of Atlantic Avenue; increase frequency for both the J/Z and A/C train service, and, to implement *Freedom Ticket* with service applicable at LIRR's East New York station along the Atlantic Branch.

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, blue/green/white roofs and Passive House design principles. 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 establish 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 bioswales 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 environmental, social, and economic co-benefits. DEP is developing its Jamaica Bay Tributary and Long Term Control Plan (LTCP), which is affected by the ENY Plan's resulting development's waste- and storm-water. East New York and Ocean Hill-Brownsville are within the 26th Ward Water Pollution Control Plant (WPCP). Therefore, by incorporating bioswales, permeable pavers, and green/blue roof strategies, future developments within the area would be consistent with the LTCP.

Currently, the study area suffers flooding of subway stations, roads, and basements during rainstorms due to combined sewer overflow (CSO). CSO already contributes 63 million gallons of untreated sewage and stormwater to the Fresh and Hendrix creeks. Because the City's combined sewer system relies primarily on gravity to convey flow, low-lying areas become more vulnerable to flooding. East New York is located upland of already sewer-stressed communities such as Canarsie, East Flatbush, and Flatlands. Therefore, an increase in the area's population without adequate storm-water storage capacity improvements throughout the drainage area would result in an increase of sanitary system wastes. Such increases would not be adequately captured by the WTCP during extending periods off intense rainfall. As a result, there would be an increase in contamination of nearby water bodies connected to the outflow of the 26th Ward drainage area.

The study area is a part of the Brooklyn/Queens Demand Management Zone, an area whose infrastructure has been identified by Con Edison as inadequate to support current energy demand. ConEd has determined that the area will require a new substation within the next two years. Considering the significant amount of additional demand that will be generated by the growing population, as a result of the rezoning, there is an immediate need for large scale energy retrofits and upgrades of existing residential stock. Additionally, there is a need to mandate stringent requirements for energy efficient, green, and healthy construction in new developments.

Harnessing sunshine to save on electricity is a powerful thing for families living paycheck to paycheck, but for many, solar and other renewable energy options historically haven't been on the table, due to cost or lack of access. New York recently announced 'shared renewables' policy moves the city closer to changing that, allowing families or businesses that cannot put solar on their roof to band together and reap the benefits of renewable

energy. Those who stand to benefit most from lower-cost solar energy are families struggling to make ends meet. Burdened with some of the highest electricity rates in the US, growing numbers of New Yorkers are forced to choose between paying their utility bills, putting food on their tables, or taking care of health care needs. Nearly 277,000 households in New York City saw their electricity service cut off last year due to nonpayment.

With innovating financing options, it is now possible for some homeowners install rooftop solar panels and save on electricity bills from day one. Yet, most disadvantaged families in New York City are renters who do not control their roofs. Even for low-income homeowners out there, solar financing options typically require a good credit history, disqualifying many. The newly-approved shared renewables program is changing that by prioritizing applications for projects where one-fifth of the members are low-income households. Brooklyn is moving quickly to bring this policy into reality, starting with the Renewable and Sustainable Energy Taskforce (ReSET). For example, in Sunset Park, two local non-profit
Organizations — UPROSE and Solar One — are coming together to help local low-income families save on energy bills with pollution-free sunshine.

The Borough President believes that in order to really transform the energy system, the borough needs projects like this in every neighborhood. He calls on the local organizations, such as CBDOs, including those with relationships with the many property owners in the IBZ featuring buildings with flat roofs, to step up and organize these projects, in partnership with the solar experts to make sure these projects serve disadvantaged families. However, it is up to the policymakers to follow through on their promise to create mechanisms that make shared solar work for low-income households, including those who are unable to pay upfront costs or meet traditional credit requirements.

The Borough President believes that HPD should attempt to leverage its financing to have developers 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.

HPD should encourage developers to utilize the subsidies provided to 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.

HPD should also encourage such developers to advance DEP green-water storm-water strategies by engaging the appropriate government agencies, such as the Mayor's Office of Sustainability and DEP, to give consideration to government programs and grants that might further the sustainability and resiliency of a 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, a savings of 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 believes that prior to the City Council hearing, HPD should commit in writing to encourage developers to consider using the building's roof for any combination of solar, blue, green and/or white roof improvements and to advance DEP's green-water stormwater strategies.

DEP should also investigate known locations for flooding in the IBZ area, by undertaking assessments of sewers and catch basins where flooding is frequent. It should fund, as warranted, the rebuilding of sewers and catch-basins per above referenced assessment study and incorporate bioswales.

Follow-Up Corrective Land Use Actions

The Borough President is aware that some of his requests are beyond the scope of the extent that the City Planning Commission or City Council is permitted to modify the applications, as certified for public review. He expects that additional land use actions will be required in order to ensure his recommendations regarding: subsequent preservation-based rezonings; deeper affordability bonus; supermarkets; restriction of size of retail establishments; environmental factors pertaining to the elevated train structure; Liberty Avenue MX and the East New York IBZ use restrictions; text change to promote urban agriculture; Broadway Junction rezoning, and public school community facility floor area text. In order to accomplish the best possible plan for Cypress Hills, East New York and Ocean Hill-Brownsville, the Borough President urges the Administration to commit to the City Council that the Department of City Planning would certify, at various points within the next three years, applications to amend the zoning map and text in order for the City Planning Commission and City Council to adopt the recommendations of the Brooklyn Borough President, which are technically beyond the scope of review for application numbers 160035 ZMK and 160036 ZRK.

Tracking of the Commitments by Appropriate Government Agencies, Through Accountability and Measured Deliverables,

The land use process provides no mechanism to ensure incorporation of stated commitments beyond the adoption of zoning text, zoning map changes, urban renewal plan amendments, and site disposition. It is also unclear where the ENY Plan lives after gaining approval of land use actions.

Though the Borough Presidents seeks, in many of his concerns, to have the City Council receive written commitment from the Administration and various City agencies, his intent is to ensure follow up expressed through Capital Budget commitments and actual construction for physical improvements to demonstrate certain deliverables. Other items regarding availability of agency staff, policy initiatives, and expense budget allocations, can be more challenging to assure follow-through. In order to establish the best environment to achieve the complete implementation of efforts to fully realize the ENY Plan, the Borough President believes that an accountability infrastructure should be established to track all commitments and measurable deliverables. Setting such community partnerships in motion provides the best guarantee that the succeeding administrations would follow through with commitments made to the City Council on behalf of the community.

In addition, agency efforts to comply with many of the Borough President's concerns regarding interactions with constituents should be handled to the extent practical within the community.

Currently, a model in place is that facilitated by the Bed-Stuy Campaign Against Hunger, in which various agencies have been bringing laptops to the facility to bring services to constituents and enter information from constituents directly into a City database. HPD, in collaboration with the Community Preservation Corporation and the Enterprise Community Partners, Inc.'s Neighborhood Preservation HelpDesk is another such model. This initiative assists owners of small rental buildings in becoming informed with regard to funding for repairs and upgrades, resources to save on operating and energy costs, and tax exemption programs. The HelpDesk is a user-friendly, one-stop shop model to bring information about various

resources directly to those who need it most, within their own neighborhoods. In order to allow people to connect directly with the appropriate government agencies and receive guidance (housing or job placement for example), there should be adequate resources provided for City agencies to mirror this model to open remote sites for legal and technical assistance, and intake services. Locations for remote sites should be sufficiently promoted through CBDO, CBs 5 and 16, local elected officials, faith-based entities, and other community based organizations.

The Borough President believes that the Administration should commit to the establishment of a post-approval follow-up body consisting of the appropriate agencies, CBs 5 and 16, local elected officials, CBDOs and representative community organizations as recognized by the affected City Council members. Such meetings should not be fewer than quarterly, or more frequently than required. He offers Brooklyn Borough Hall as a regular meeting space for this body. Furthermore, the Administration should be promoting remote sites for agency staff to provide various services to neighborhood residents and businesses.

The Borough President believes that prior to the City Council hearing, the Administration should commit in writing to establish an interagency body with regularly occurring meetings with local elected officials, CB 5 and 16 and community representatives, and to promote remote agency accessibility.

Recommendation

Be it resolved that the Borough President of Brooklyn, pursuant to section 197-c and 201 of the New York City Charter, recommends that the City Planning Commission and City Council disapprove of the land use action requested according to the following conditions:

1. That there be permanent affordability commitments for 100 percent of the housing units within the Dinsmore-Chestnut and NIHOP sites and the former Chloe Foods site, memorialized in the property records, through mechanisms such as a LDA, Regulatory Agreement, funding agreement or other equivalent measures, prior to granting its approval to the requested modification to the Dinsmore-Chestnut Urban Renewal Plan, property dispositions and the proposed rezoning affecting these properties.

2. That prior to the City Council's subcommittee on Zoning and Franchises hearing regarding the ENY Plan, it is imperative for the City Council to obtain such commitments in writing from HPD regarding:

    a. The status of its expansion of a series of financing and tax incentive programs, and include in its menu of tax incentives and workouts such products that would be eligible for residential real estate tax credits including tax exemptions and/or forgiveness on City collections subject to lien sales, such as water and sewer charges, real estate taxes, etc., for landlords willing to index rental unit lease renewals to RGB increases;

    b. Lists and outreach regarding government assisted housing, the affordability requirements of which are expiring;

    c. Code violation data collections;

    d. The convening of the advocates and practitioners for best practice to enhance efforts to protect tenants from displacement – including possibly establishment of additional anti-harassment areas;

    e. Resources to enable such legal clinics to occur with regularity;

f. Ongoing funding to local CBDO for anti-eviction work, eviction prevention services, and housing quality enhancements;

g. Resources need to be directed to HPD's Tenant Harassment Prevention Task Force;

h. Free legal representation in housing court, and,

i. Resources to provide educational and outreach resources to CBDOs and faith-based organizations to help with housing lottery readiness and lottery awareness regarding the 278 units as part of Livonia Commons first phase, 288 units as part of the second phase; the NYCHA Van Dyke Houses campus development of approximately 100 units underway by CAMBA and approximately 1,000 units according to the proposed General Project Plan regarding the State's Brooklyn Development Center campus at 888 Fountain Avenue, as well as subsequent MIH developments

In addition, HPD should commit to the City Council that it would provide quarterly updates of such status reports that would be required to be submitted to Community Boards 5 and 16 and affected local elected officials.

3. That for Arlington Village, prior to the City Council hearing, the redeveloper provides proof of a binding mechanism to the Council as a means of ensuring that the residents would be seamlessly accommodated in the redevelopment at comparable rents. Otherwise, the City Council shall exclude the combination upzonings of R8A along Atlantic Avenue, R6A along Liberty Avenue and R6B along the mid-blocks from the rezoning, leaving these blocks as an R5 zoning district designation.

4. That prior to the City Council hearing, the Administration commits for the DCP to undertake a rezoning study, in consultation with CBs 5 and 16 and its local elected officials, of the proposed R5B and R6B districts as well as surrounding R4 and R5 districts. This is a means to better match the allowable zoning with both the predominant building type and built floor area with proposed boundaries presented within six months of the date of ENY Plan adoption and a rezoning application certified within 18 months.

5. That prior to the public hearing of the City Council, HPD shall provide a written commitment to codify that the 50 percent preference for community residents would be inclusive of former CD 5 and 16 residents displaced since the certification date of the ENY Plan.

6. That in order to establish AMI equivalent affordable housing eligibility as a qualifier for those rent-burdened households that would be able to pay the same or have a reduction in their rent though the leasing of MIH lottery units, the City Planning Commission or City Council shall require the amending of the following sections of the Zoning Resolution:

   a. ZR 23-154 (d)(3) (i)(ii) and (iii) of the Inclusionary Housing provisions;

   b. ZR 23-91 General definitions – <u>income bands</u>, <u>income index</u>,, <u>low income household</u>, <u>low income limit</u>, <u>middle income floor area</u>, <u>middle income household</u>, <u>moderate income floor area</u>, <u>moderate income household</u>, <u>moderate income limit</u>, <u>qualifying household</u>, to be modified to clarify that

that the AMI income index and income bands, have an equivalent for allowing those rent-burdened households that would be able to pay the same or have a reduction in their rent to lease such mandatory unit also be deemed a qualifying household for eligibility;

c. ZR 23-912 Definitions applying to rental affordable housing – maximum monthly rent to reflect the equivalency of income bands as a measure to accommodate rent-burdened households; and,

d. ZR 23-961 (a)(1) and (c)(2) Additional requirements for rental affordable housing – Tenant selections and Income, to reflect the rent-burdened low, moderate and middle income households as qualifying households, and that the administering income shall verify the household's rent history in lieu of income for rent-burdened households affordability requirements

7. That in order to establish a requirement setting at least 15 percent of the MIH units at rents affordable to households earning not more than 40 percent of Area Medium Income, and its rent-burdened equivalent of ENY Plan MIH lottery units, the City Planning Commission or City Council shall require Section 23-154 (d)(3)(i)(ii) of the Zoning Resolution to note such obligation.

8. That in order to provide affordability to more households at a lower AMI, the City Planning Commission or City Council shall modify the proposed R8A along Atlantic Avenue, between Bradford Street and Montauk Avenue, to R7A and prior to the public hearing of the City Council, DCP shall provide a written commitment to establish a zoning text amendment to permit a voluntary affordable housing bonus permitting R8A bulk and FAR, provided that of the additional 2.6 FAR, 30 percent is affordable to not less than 50 percent AMI average rent.

9. That in order to make applicable the Voluntary Inclusionary Housing program's preservation option to MIH so that more tools are available to keep residents permanently in their apartments, according to rent-regulated protection, the City Planning Commission or City Council shall require the amending of the following sections of the Zoning Resolution:

   a. ZR 23-91 General definitions – Preservation affordable;

   b. ZR 23-94 (a) Methods of Providing Affordable Housing, to allow preservation affordable housing to be applicable to satisfy the requirements in Mandatory Inclusionary Housing areas;

   c. ZR 23-961 (d)(3)(1) Additional Requirements for rental affordable housing – affordable housing plans and MIH applications to include preservation affordable housing

10. That for buildings in excess of 25 units seeking modifications of MIH program requirements through the Board of Standards and Appeals, the City Planning Commission or City Council shall require the amending of the following sections of the Zoning Resolution:

    a. That there be a demonstration that the City is not prepared to provide enhanced subsidies;

    b. That qualifying households be further defined to include a rent-burdened AMI equivalent;

c. That BSA be precluded from converting the 60 percent AMI average income rental basis-restricted housing to not exceed 90 percent AMI, with maximum eligibility remaining at no more than 130 percent AMI and its rent-burdened equivalent;

d. That market rate floor area, and its commercial equivalent, be limited to 75 percent of the as-of-right permitted Floor Area Ratio (FAR);

e. That as a condition of precluding any provision of MIH mandatory affordable housing, the BSA would be mandated to reduce the allowable height in recognition of the reduction of provided floor area based on providing market rate only floor area, per Brooklyn Borough Board Zoning for Quality and Affordability Height Recommendation per proposed Zoning Resolution section 23-662b;

f. That a reasonable return shall consider what was a reasonable return of the property prior to the effective date of the public scoping notice for the preparation of the EIS, adjusted by the Consumer Price Index.

11. That to modify the payment in lieu of the option from 11 units to four units, the City Planning Commission or City Council shall require the amending of Section 23-154 (d)(4)(i) of the Zoning Resolution.

12. That a minimum threshold of family-sized units be not less than 50 percent of the affordable housing units containing two or more bedrooms and 75 percent of the affordable housing units containing one or more bedrooms, for non-independent residences for seniors and non-supportive housing, as a means to accommodate family-sized apartments, that:

    a. The City Planning Commission or City Council shall require the amending of Section ZR 23-96 Requirements for Generating Sites or MIH Sites (c)(1) of the Zoning Resolution; and,

    b. HPD shall provide a written commitment prior to the public hearing of the City Council to codify this minimum threshold for the bedroom distribution that:

        i. The Dinsmore-Chestnut Urban Renewal site disposition shall meet at least that standard of bedroom distribution through memorializing this in the LDA or regulatory agreement between a designated developer and HPD; and,

        ii. The former Chloe Foods site to be developed by Phipps Houses shall meet at least that standard of bedroom distribution, memorialized in its funding agreement with HPD

13. That to achieve additional opportunities to provide affordable housing for those at risk for displacement, already displaced, and of very-low income, prior to the City Council hearing, the City should provide a written framework, to the City Council, of its intent to undergo such steps as follows:

    a. Transfer jurisdiction of the existing Grant Avenue Field municipal lot to HPD with the understanding that affordable housing development would incorporate the public parking as part of site redevelopment;

b. Transfer jurisdiction to HPD to allow for it to issue an RFP for the lot's unused residential floor area, the section of the open area along Amboy Street of the site considered for the Brownsville Juvenile Justice Center;

c. For HPD to collaborate with NYCHA to explore the appropriate extent of opportunities to use the remaining development rights within the neighborhood's NYCHA campus, and only proceed with sites after consultation with the community, CBs 5 and 16, and local elected officials;

d. Provide financial capacity and technical support from appropriate government agencies to advance the development of neighborhood faith-based sites with available development rights; and,

e. To take steps necessary to develop a mixed use school/affordable housing building at the PS 178 annex, as part of a larger zoning lot that provides the opportunity to maximize the available unused residential floor area with consideration for such development vision, including building bulk, income diversity and the necessary number of classrooms, which should be in consultation with CB 16, the District 23 Community Education Council, the District 23 Superintendent, the principal of PS 178, and local elected officials

14. That the City Planning Commission or City Council modifies the proposed zoning map and text amendments as follows:

    a. That the proposed R7D zoning district within CD 16 be changed to R6A; and

    b. That for the Zoning Resolution section pertaining to Maximum Height of Building with qualifying ground floor, the proposed maximum height of building means the second floor would be at least 13 feet above the sidewalk; 95 feet in MIH R7A and 115 feet in R7D, with heights reduced to 90 feet and 110 feet when the second floor is placed less than 13 feet above the sidewalk. In both instances, the number of stories should be restricted to nine and 11 for these districts

15. That in order to better guarantee that redevelopment of supermarket sites would include a FRESH Food Store, DCP shall provide a written commitment prior to the City Council hearing of its intent to modify the zoning text of both the floor area ratio and FRESH section warranted as a corrective action to amend Zoning Resolution Section 35-23 (a). The amendment would state that on the effective date of this rezoning, existing supermarkets located on sites with maximum development standards of R6A and R7A, or its commercial equivalents, shall require development be pursuant to ZR 63-00, Special Regulations Applying to FRESH Food Stores. The replacement supermarket would be required to contain no less than the existing food market zoning floor area on the effective date of the rezoning, and as further modified by recommendations for Section 35-24 Table A. Otherwise, any subsequent redevelopment shall be developed as follows:

    a. Where designated as R6A MIH, pursuant to R5B; and

    b. Where designated as R7A MIH, pursuant to R6A

16. That in order to restrict the size of as-of-right retail establishments to not more than 80,000 square feet in C4-4L, C4-4D and C4-5D zoning districts, established pursuant to the ENY Plan, DCP shall provide a written commitment prior to the City Council hearing of its intent to modify the zoning text as warranted as a corrective action to amend Zoning Resolution Section 32-10 Uses Permitted As of Right.

17. That in order to minimize noise, vibration, and light and air impacts of developing adjacent to elevated train structures, DCP shall provide a written commitment prior to the City Council hearing of its intent to modify the zoning text for revising the street wall provisions along elevated trains along Broadway and Fulton. This is pursuant to Zoning Resolution Section 35-24 (c) (4) Special Street Wall Location and Height and Setback Regulations in Certain Districts, regarding setback locations as it pertains to the C4-4L zoning district and R6A district along Fulton Street, as follows:

    a. That the minimum required street wall be one story;

    b. That setback above 30 feet shall not be required where such window fenestrations are not the primary window opening for habitable spaces such as living rooms and bedrooms;

    c. That setback of 20 feet from the street line above 30 feet shall not be discretionary for sections of window walls where fenestrations are the primary windows for habitable space; and

    d. Residential developments set back starting at or below 30 feet shall obtain two additional floors allowable through rezoning

18. That in order to explore the possibility of precluding commercial displacement by establishing incentives and/or credits, and low-cost financing products for landlords who seek to maintain longtime small businesses, DSBS shall provide a written commitment prior to the City Council hearing of its intent to give consideration to business real estate tax exemptions and/or forgiveness on City collections subject to lien sales such as water and sewer charges, for landlords willing to index lease renewals to specified limit percentages.

19. That in order to ensure the DSBS's technical expertise and legal assistance is provided in a timely and ongoing manner, and is aimed to improving the fiscal operation to preclude commercial displacement of businesses due to higher rents, DSBS shall provide a written commitment prior to City Council hearing of its intent on delivering programs, which will help residents grow businesses:

    a. Launching an East New York-focused FastTrac Growth Venture Course;

    b. Providing education, assistance, and tools to help businesses with leases;

    c. Initiating efforts to make the retail market more transparent;

    d. Targeting support provided through WNYC to help women operate, and grow a business; and,

    e. Targeting its "Small Business First" program to help businesses in the neighborhood navigate government regulations

20. That in order to minimize the risk of business displacement due to excessive available development rights- attributed to the proposed rezoning along certain stretches of Fulton Street- in consultation with DCP, CPC or City Council shall modify the proposed zoning text map to any combination of a more neutral and/or more modest upzoning along Fulton Street, as warranted, as follows:

    a. In lieu of R6A, to R5B and/or R6B, to the east of Bradford Street, and,

    b. In lieu of the C4-4L west of Bradford Street to R5B, R6B or R6A.

21. That in order to strengthen retail corridors, prior to the public hearing of the City Council, DSBS shall provide a written commitment of its intent to work with local partners in East New York to conduct a commercial district needs assessment and develop a menu of commercial revitalization services. These could include: merchant organizing, retail business attraction and retention strategies, streetscape and public space planning, and supplemental sanitation.

22. That in order to promote locally-based business start-ups through affordable local business space, prior to the public hearing of the City Council, written commitments shall be provided as follows:

    a. By EDC of its intent to pursue improvements to City-owned buildings, coordinate incentives from the IDA, and a status of its study of the IBZ; and,

    b. By HPD as part of the Dinsmore-Chestnut Urban Renewal site disposition through a LDA, the former Chloe Food site, and other commercially zoned private sites seeking significant government funding, through funding agreements.

23. That in order to promote the Liberty Avenue section of the proposed MX district as a corridor for artisans and artisanal establishments, DCP shall provide a written commitment prior to the City Council hearing of its intent to modify the zoning text as warranted, as a corrective action to amend Zoning Resolution Sections 123-20, Special Use Regulations and 123-30 Supplementary Use Regulations, to undertake a collaborative process with CB 5, Council Member Espinal and other local elected officials as well as local CBDOs and local arts, artisans, and artisanal entities.

24. That in order to preserve existing industrial-conforming uses, appropriately restrict non-industrial uses, and promote appropriate urban agriculture use — inclusive of hydroponic and aquaponics technologies — in the East New York IBZ's M1-4 and M3-2 zoning districts, DCP shall provide a written commitment prior to the City Council hearing of its intent to modify the zoning text as warranted, as a corrective action to amend Zoning Resolution Sections 22-14 Use Group 4B. Open Uses, 42-10 Uses Permitted As-Of-Right, ZR 43-122 Maximum floor area ratio for community facilities and ZR 75-01 (b) Greenhouse Certification, to undertake a collaborative process with CBs 5 and 16, local elected officials, CBDO and advocates such as the Association for Neighborhood Housing Developers, East New York Farms and other urban farming entities.

25. That in order to provide technical and financial resources to relocate appropriate ENY Plan area industrial businesses to the IBZ, prior to the public hearing of the City Council, EDC and DSBS should provide written commitments of each other's intent.

26. That in order to require developers, on public property and/or with substantial public financing, 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 and reporting of such performance, HPD shall compel the Administrative Code and Local Law standards regarding MWBE and LBE participation as follows:

    a. Through a Land Disposition Agreement for Dinsmore-Chestnut site;

    b. Regulatory Agreement with Phipps Houses pertaining to its redeveloping the former Chloe Foods site; and

    c. Regulatory Agreements between the various developers seeking substantial government financing and HPD

Prior to the public hearing of the City Council, HPD shall provide written commitments of its intent to increase opportunities for MWBEs to participate in the development process; connect local residents to career training, and to provide for quarterly updates to CBs 5 and 16, and local elected officials, to demonstrate its monitoring and performance.

27. That in order to ensure ongoing employment opportunities in newly constructed buildings on the Dinsmore-Chestnut Urban Renewal site and for sites where HPD would be providing substantial financing, such as the former Chloe Foods site, prior to the public hearing of the City Council, HPD shall provide written commitments of its intent to ensure that small businesses and community facilities are integrated into the lower floors of such buildings pursuant to zoning.

28. That in order to ensure the development of the Workforce 1 Career Center and commitment of ongoing funding to area CBDOs for job training and East New York Farms for agricultural activities, prior to the public hearing of the City Council, DSBS should provide a written commitment of its intent to facilitate, including the possibility of acquiring and retrofitting the LIRR sub-station and of job training funding.

29. That in order to consider the possibility of establishing an institute of higher learning, possibly in collaboration with an Innovation Lab, prior to the public hearing of the City Council, CUNY shall provide a written commitment of its intent to investigate.

30. That in order to be consistent with the intent to facilitate an office hub at Broadway Junction, the City Planning Commission or City Council shall eliminate the proposed C4-5D zoning district north of Atlantic Avenue and east of Havens Place, retaining the M1-2 district.

31. That in order to facilitate an office hub at Broadway Junction, in consultation with CBs 5 and 16 and local elected officials, as a follow-up action, prior to the public hearing of the City Council, the City shall provide a written commitment of its intent to have DCP, in conjunction with EDC, develop a series of land use actions including rezoning the existing M1-1 and M1-2 blocks, street map changes, commercial use restrictions, and acquisition actions, as needed.

32. That in order to facilitate the expansion of the number of public school seats, prior to the City Council hearing:

a. SCA shall provide a written commitment of its intent and timeline to initiate the site selection process and for there to be a Capital Budget commitment for the 1,000 seat school;
b. Furthermore, SCA and DOE shall provide a written commitment of its intent to evaluate the seven schools in proximity to the ENY Plan and determine the appropriateness of constructing enlargements and their projected capacity, should enlargements be feasible, including elimination of the 630 school seats in the East New York Family Academy, Public Schools 7, 159, 202, 214 and 290, and 159, and IS 302 TCUs;
c. DCP shall provide a written commitment of intent to undertake a study of these sites for the appropriateness of developing a zoning text amendment to establish a community facility floor area applicable only to public schools, and undertaken in consultation with CBs 5 and 16 and their local elected officials; and
d. DOE and SCA shall provide a written commitment of intent to compile contact information with all the property owners of the sites ultimately deemed appropriate for additional community facility floor area. Also, to provide quarterly update to CBs 5 and 16 and local elected officials on the status of these properties being developed, as well as intent to include in DOE's Capital Plan

33. That in order to facilitate the long-term status of the Cypress Hills Fulton Street Neighborhood Senior Citizen's Center, prior to the public hearing of the City Council, DFTA and DCAS shall provide a written commitment regarding status to extend the lease.

34. That in order to ensure that there is adequate availability of child care slots, prior to the public hearing of the City Council, ACS shall provide a written commitment to monitor child care needs annually and report its findings to CBs 5 and 16 and their local elected officials, including whether funding should be provided as part of a joint community center/public school/day care center at the Dinsmore-Chestnut site.

35. That in order to facilitate the development of a community center, prior to the public hearing of the City Council, the Administration shall provide a written commitment:
    a. Regarding the status of its Capital Budget commitment for within the Dinsmore-Chestnut Urban Renewal site; and
    b. To investigate acquisition of the LIRR former sub-station building

36. That in order to facilitate the parkland improvement and to increase the supply of open space in the neighborhood, prior to the public hearing of the City Council, DPR shall provide a written commitment as follows:

    a. Status of DPR's intent to lead a community design process and re-envision a large asphalt ball field in City Line Park;
    b. Status of intent to repair and revitalization of the basketball and handball courts in Sperandeo Brothers playground;
    c. Status of intent to install new, modern play equipment in Lower Highland Park;
    d. Consideration of funding:
        i. Remaining upgrades at Lion's Pride Playground and Callahan-Kelly Playground, including installing bathrooms; and
        ii. Synthetic turf field installation for Grace Playground

e. Status of engaging;
    i. With DOE for the expansion of the Schoolyards to Playgrounds program to PS 72 and PS 345; and
    ii. With DOT, for the establishment of a pedestrian plaza at Fulton Street and Norwood Avenue, and a public space at Pitkin Avenue and Euclid Avenue
f. To undertake the integration of more adult fitness equipment throughout the neighborhood;
g. Embark on a graffiti removal initiative at Highland Park; and
h. Investigate the possibility of obtaining jurisdiction of one or more Conduit malls for conversion to active park use

The Administration shall make a Capital Budget commitment of at least an additional $20 million for park improvements.

37. In order to facilitate street improvements, street safety, and advance bike use, prior to the public hearing of the City Council, DOT shall provide a written commitment as follows:
    a. Regarding its status of funding, designing and implementing the reconstruction of Atlantic Avenue;
    b. Intent to assess conditions for connecting the IBZ to the adjacent neighborhoods;
    c. To undertake an evaluation of Atlantic Avenue for safety improvements, which should extend westward through CDs 2, 3, 8 and 16;
    d. To complete the redesign and redevelopment of the street network in front of the Broadway Junction subway complex;
    e. Describe the role it might play to improve access to the East New York LIRR station such as wayfinding, signage and crossing the Atlantic Avenue service road; and
    f. Intent to expand bicycle infrastructure

38. That in order to facilitate using the building's roof for any combination of solar, blue, green, and/or white roof improvements, and to advance DEP green-water/storm-water strategies, prior to the City Council hearing, HPD should commit in writing to encourage developers to incorporate such measures.

39. That in order to address street flooding, prior to the City Council hearing, DEP should commit in writing to investigate known locations for flooding in the IBZ area, by undertaking assessments of sewers and catch basins where flooding is frequent, and fund as warranted the rebuilding of sewers and catch-basins per above referenced assessment study and incorporate bioswales.

40. That in order to address implementation, the Administration shall commit to the establishment of a post-approval follow-up body consisting of the appropriate agencies, CBs 5 and 16, local elected officials, CBDOs and representative community organizations, as recognized by the affected City Council members of regular meetings occurring no less than quarterly, monitoring the tracking of all commitments, timing of deliverables, budget funding, and operational logistics, etc.

41. That in order to allow people to connect directly with the appropriate government agencies, adequate resources shall be provided for City agencies to open <u>remote sites</u>

for legal and technical assistance, and intake services, mirrored after the current Neighborhood Preservation HelpDesk initiative.

42. The Borough President believes that prior to the City Council hearing, the Administration should commit, in writing, to establishing an interagency body with regularly occurring meetings with local elected officials, CB 5 and 16 and community representatives, and to promote remote agency accessibility.

Be it further resolved:

1. That the City Council and the Mayor adopt Intro 214 or any other measure that would guarantee the right to counsel for low-income New Yorkers who face losing their homes in legal proceedings

2. That in order to explore the possibility of precluding commercial displacement by establishing incentives and/or credits and low-cost financing products for landlords who seek to maintain longtime small businesses, the Independent Budget Office analyze business real estate tax exemptions and/or forgiveness on City collections, subject to lien sales, such as water and sewer charges, for landlords willing to index lease renewals to specified limit percentages

3. That NYCT should undertake the following initiatives: restore service on the B12 bus route; add more buses to increase north-south service for routes that cross Atlantic Avenue; analysis for opportunities to expand Bus Rapid Transit; implement free Metrocard transfers between the Livonia Avenue L train station and Junius Street 3 train station; identify opportunities to re-open any inactive entrances/exits and whether there are opportunities to upgrade capacity through the installation of High Entrance/Exit Turnstile (HEET) fare control elements, including the reopening of presently closed Broadway Junction station access on Broadway and L train access on the south side of Atlantic Avenue; increasing frequency for both the J/Z and A/C train service, and implement *Freedom Ticket,* with service available at LIRR's East New York station along the Atlantic Branch

4. That the Administration shall commit to the City Council to have the Department of City Planning certify, between one and three years, applications to amend the zoning map and text in order for the City Planning Commission and City Council to adopt the recommendations of the Brooklyn Borough President, which are technically beyond the scope of review for application numbers 120294 ZMK and 120295 ZRK