



IN THE MATTER OF an application submitted by Riverside Developers USA Inc. pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 12d:

1. changing from an M1-2 District to an R7A District property bounded by Flushing Avenue, Franklin Avenue, the easterly prolongation of the northerly street line of Little Nassau Street, the terminus of Little Nassau Street, Little Nassau Street, and Kent Avenue;
2. changing from an M1-2 District to an M1-2/R6A District property bounded by the easterly prolongation of the northerly street line of Little Nassau Street, Skillman Street, a line 330 feet northerly of Park Avenue, and Franklin Avenue;
3. establishing within the proposed R7A District a C2-4 District bounded by Flushing Avenue, Franklin Avenue, the easterly prolongation of the northerly street line of Little Nassau Street, the terminus of Little Nassau Street, Little Nassau Street, and Kent Avenue; and
4. establishing a Special Mixed Use District (MX-4) bounded by the easterly prolongation of the northerly street line of Little Nassau Street, Skillman Street, a line 330 feet northerly of Park Avenue, and Franklin Avenue;

as shown on a diagram (for illustrative purposes only), dated October 4, 2016 and subject to the conditions of the CEQR Declaration E-395.

This application for a zoning map amendment was filed by Riverside Developers USA Inc. (the applicant) on March 1, 2016. The applicant is proposing to change an M1-2 zoning district on portions of two blocks to an R7A/C2-4 district (Block 1884, Lots 40, 48, 7501, 53 and part of 57) and an M1-2/R6A (MX-4) district (Block 1885, Lots 15 and 20) at 376-378 Flushing Avenue and 43 Franklin Avenue. This application, in conjunction with the related action (N 160222 ZRK), would facilitate the development of two new buildings in the Bedford-Stuyvesant neighborhood of Community District 3, Brooklyn.

RELATED ACTION

In addition to the zoning map amendment (C 160221 ZMK) which is the subject of this report, the proposed project also requires action by the City Planning Commission on the following application, which is being considered concurrently with this application:

N 160222 ZRK Zoning text amendment to designate a Mandatory Inclusionary Housing area.

BACKGROUND

The applicant is proposing a zoning map amendment to portions of two blocks along Flushing and along Franklin Avenues. Each of the two proposed project areas contains a development site controlled by the applicant.

The Flushing Avenue project area, located between Kent Avenue and Franklin Avenue to the north of Little Nassau Street (Block 1884, Lots 40, 48, 7501, 53, and part of 57) is currently zoned M1-2 and is proposed be changed to a R7A/C2-4 zoning district. Within this Flushing Avenue project area is the Flushing Avenue development site, consisting of Lots 40 and 48, and currently developed with a one-story industrial building on lot 40 and a one- and two-story former commercial catering hall on lot 48. The applicants propose to replace the existing structures with an eight-story, 176,670 square foot mixed-use residential and commercial building with 167,868 square feet of residential floor area comprising approximately 168 dwelling units, and 8,802 square feet of local retail space on the ground floor, and 84 accessory parking spaces below ground. Fifty of the 168 dwelling units would be permanently affordable as per the Mandatory Inclusionary Housing (MIH) program. The other lots within the proposed Flushing Avenue project area, not controlled by the applicant, are improved with a five-story, 12-unit residential building constructed pursuant to a BSA variance (259-98-BZ), a three-story commercial office building, and a three-story building occupied by food wholesale and retail uses.

The Franklin/Skillman project area, located midblock between Park Avenue and Flushing Avenue, and between Franklin Avenue and Skillman Street (Block 1885, Lots 15 and 20), is currently zoned M1-2 and is proposed to be changed to an MX-4 Special Mixed Use District of M1-2 and R6A zoning district. The Franklin/Skillman development site consists of Lot 15, is currently vacant and used for parking and is proposed to be developed with a 126,839 square foot, six-story residential building. The proposed building would have an FAR of 3.6, comprising 128 dwelling units, and a 64-space underground accessory parking garage. Thirty-eight of the 128 dwelling units would be permanently affordable through the MIH program.

To the south of the Flushing Avenue project area is a four-story commercial and office building, and a three-story industrial/manufacturing building. Further south on the remainder of the block are mostly two- and three-story commercial and industrial buildings. Northwest of the project area, across Flushing Avenue, is a seven-story residential building. Other residential buildings, some of which are under construction, are located to the east along the north side of Flushing Avenue between Kent Avenue and Spencer Street.

To the south of the Franklin/Skillman project area are two five-story residential apartment houses; further south on the block are low-rise commercial/warehousing buildings and older walkup residences. Adjoining the project area to the north is a vacant lot, a two-story warehouse and commercial building and, on Flushing Avenue, a four- and five-story commercial and office building. To the south and west of the project area are one- to three-story industrial/manufacturing and community facility buildings, with a residential enclave of three- to five-story buildings south of Little Nassau Street between Taaffe Place and Kent Avenue.

The surrounding area is characterized by a mix of warehouse/distribution, commercial, community facility, and conforming and non-conforming residential uses. The prevailing built form of the area is a mix of mid-rise residential buildings (five to eight stories) and low- to mid-rise commercial and mixed-use buildings (one to six stories).

The project area and to the south, west and east that extend from Flushing Avenue to Park Avenue, generally from Cumberland Street to the west to Franklin Avenue and Skillman Street to the east is currently zoned M1-2 which permits light manufacturing and commercial uses, including transient hotels, and limited community facility uses, but not residential uses. The maximum FAR for manufacturing and commercial uses within the M1-2 district is 2.0 and the maximum FAR for community facility uses is 4.8. An M1-1 zoning district is mapped to the south of the project area across Park Avenue, which permits light industrial uses, such as woodworking shops, repair shops, wholesale service, storage facilities, some community facilities, and commercial uses. There is an MX-4 zoning district with an M1-2/R6A designation located to the south and east of the project area, extending south from Flushing Avenue to Myrtle

Avenue, generally bounded by Franklin Avenue and Spencer Street. The MX-4 zoning district permits residential, commercial, and light manufacturing uses.

The proposed R7A district is a medium density residential zoning district which allows residential and community facility uses. Under the MIH program, the maximum FAR is 4.6 for developments that provide affordable housing pursuant to program requirements and the maximum building height is 80 feet (up to 95 feet with affordable housing and a qualifying ground floor). C2-4 is a commercial zoning district which allows local retail uses at a maximum FAR of 2.0.

The proposed MX-4 zoning district (pairing M1-2 and R6A) allows residential, commercial, and light manufacturing uses. R6A is a medium-density residential district, and allows a maximum FAR of 3.6 under the MIH program and a maximum building height of 70 feet (up to 85 feet with affordable housing and a Qualifying Ground Floor).

The project area is adjacent to the Flushing/Bedford Rezoning (C 000109 ZMK), approved by the Commission and adopted with modifications by the City Council in 2001. The Flushing/Bedford Rezoning rezoned approximately 15 blocks in Community Districts 1 and 3 from M1-2 and M3-1 to R7-1, and from M1-1 and M1-2 to create a new Special Mixed Use (MX-4) District, Flushing Bedford (N 000110 ZRK), which pairs M1-2 and R6A zoning districts. The MX-4 district extends south from Flushing Avenue to Myrtle Avenue, generally bounded by Franklin Avenue and Spencer Street. The portion of the project area on Block 1885 was initially within the proposed boundaries of the MX-4 zoning district, but the northern portion of the block was removed prior to the City Council approval.

In addition to the proposed zoning map change, a zoning text change is also required to establish a Mandatory Inclusionary Housing area coterminous with the rezoning area. The proposed zoning text amendment would require all residential developments, enlargements, and conversions of over 12,500 square feet or 10 units within the rezoning area to comply with the requirements of Option 1, Option 2 or the Workforce Option of the MIH program, described below:

- Option 1: 25 percent of residential floor area must be for affordable housing units for residents with incomes averaging 60 percent AMI, with a minimum of 10 percent of housing to be affordable at 40 percent AMI.
- Option 2: 30 percent of residential floor area must be for affordable housing units for residents with incomes averaging 80 percent AMI.
- Workforce Option: 30 percent of residential floor area must be for affordable housing units for residents with incomes averaging 115 percent AMI, with five percent of residential floor area for affordable housing units for residents with incomes at 70 percent AMI, and five percent of residential floor area for affordable housing units for residents with incomes at 90 percent AMI.

Developments, enlargements, and conversions of less than 25,000 square feet and fewer than 25 dwelling units have the option of paying a fee in lieu of providing affordable units directly. The zoning text amendment would also modify Section 123-00 of the Zoning Resolution to include Block 1885, Lots 15 and 20 in the MX-4 Special Mixed Use District.

The applicant intends to pursue the Workforce Option in the two developments, and to provide 88 units of permanently affordable housing.

ENVIRONMENTAL REVIEW

This application (C 160221 ZMK), in conjunction with the application for the related action (N 160222 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 lead is the City Planning Commission. The designated CEQR number is 16DCP121K.

After a study of the potential environmental impact of the proposed actions, a Negative Declaration was issued on October 4, 2016. The Negative Declaration included (E) designations to avoid the potential for significant adverse impacts related to hazardous materials, air quality, and noise (E-395), as described below:

The (E) designation related to hazardous materials would apply to the following sites:

- **Block 1884, Lot 40, 48 (Projected Development Site 1)**
- **Block 1885, Lot 15 (Projected Development Site 2)**

The (E) designation text related to hazardous materials is as follows:

Task 1-Sampling Protocol

The applicant submits to OER, for review and approval, a Phase I of the site along with a soil, groundwater and soil vapor testing protocol, including a description of methods and a site map with all sampling locations clearly and precisely represented. If site sampling is necessary, no sampling should begin until written approval of a protocol is received from OER. The number and location of samples should be selected to adequately characterize the site, specific sources of suspected contamination (i.e., petroleum based contamination and non-petroleum based contamination), and the remainder of the site's condition. The characterization should be complete enough to determine what remediation strategy (if any) is necessary after review of sampling data. Guidelines and criteria for selecting sampling locations and collecting samples are provided by OER upon request.

Task 2-Remediation Determination and Protocol

A written report with findings and a summary of the data must be submitted to OER after completion of the testing phase and laboratory analysis for review and approval. After receiving such results, a determination is made by OER if the results indicate that remediation is necessary. If OER determines that no remediation is necessary, written notice shall be given by OER.

If remediation is indicated from test results, a proposed remediation plan must be submitted to OER for review and approval. The applicant must complete such remediation as determined necessary by OER. The applicant should then provide proper documentation that the work has been satisfactorily completed.

A construction-related health and safety plan should be submitted to OER and would be implemented during excavation and construction activities to protect workers and

the community from potentially significant adverse impacts associated with contaminated soil, groundwater and/or soil vapor. This plan would be submitted to OER prior to implementation.

With the assignment of the above-referenced (E) designation for hazardous materials, the Proposed Actions would not result in significant adverse impacts.

The (E) designation related to air quality would apply to the following properties:

- **Block 1884, Lot 40, 48 (Projected Development Site 1)**
- **Block 1885, Lot 15 (Projected Development Site 2)**

The (E) designation related to air quality is as follows:

Block 1884, Lots 40 and 48 (Projected Development Site 1): Any new development or enlargement on the above-referenced property must use natural gas as the type of fuel for heating, ventilating, and air conditioning (HVAC). Adherence to these conditions would avoid any potential significant adverse air quality impacts.

Block 1885, Lot 15 (Projected Development Site 2): Any new development or enlargement on the above-referenced property must exclusively use natural gas as the type of fuel for HVAC systems, and ensure that the heating, ventilating and air conditioning stack(s) is located at least 40 feet away from the lotline facing Franklin Avenue, to avoid any potential significant air quality impacts.

With the assignment of the above-referenced (E) designation for air quality, the Proposed Actions would not result in significant adverse impacts.

The (E) designation related to noise would apply to the following properties:

- **Block 1884, Lot 40, 48 (Projected Development Site 1)**

The text for the (E) designation related to noise is as follows:

Block 1884, Lots 40, 48 (Projected Development Site 1): To ensure an acceptable interior noise environment, future uses must provide a closed window condition with a

minimum of 35 dBA window/wall attenuation on all facades to maintain an interior noise level of 45 dBA. To maintain a closed-window condition, an alternate means of ventilation must also be provided. Alternate means of ventilation includes, but is not limited to, central air conditioning.

With the assignment of the above-referenced (E) designation for noise, the Proposed Actions would not result in significant adverse impacts.

The City Planning Commission has determined that the proposed action will have no significant effect on the environment.

UNIFORM LAND USE REVIEW

This application (C 160221 ZMK) was certified as complete by the Department of City Planning (DCP) on October 4, 2016, and was duly referred to Brooklyn Community Board 3 and the Brooklyn Borough President, in accordance with Title 62 of the rules of the City of New York, Section 2-02(b), along with the related action (N 160222 ZRK) which was duly referred to Brooklyn Community Board 3 and the Brooklyn Borough President on October 4, 2016, in accordance with the procedures for non-ULURP matters.

Community Board Public Hearing

Brooklyn Community Board 3 held a public hearing on this application (C 160221 ZMK) and the related action (N 160222 ZRK) on December 5, 2016. On that date, the Board held a vote resulting in a count of 18 in favor, 17 opposed, and 2 abstentions to approve the project with conditions of “affordability be[ing] reduced” and “zoning reducing from 7A to 6A.” In response to this failed vote, and after further discussion of the proposal, the Board subsequently held a second vote. On January 9th, the Community Board, by a count of 24 in favor, 4 opposed, and 1 abstention, voted to support the application with the following recommendations:

- **Consider option 1, average 60% AMI, level of affordability.**

Riverside’s proposal of workforce/Option 2 levels of 80% - 115% of AMI far exceeds the CB3 median income of \$36,535.

- **Choose a local not for profit to administer the affordable housing and marketing.**

CB#3 is rich in community development corporations that have experience with not for profit development, management and marketing, such as Bedford-Stuyvesant Restoration Corporation, Bridge Street Development Corporation, Brooklyn Neighborhood Services, Northeast Brooklyn Neighborhood Housing Development Corporation and IMPACCT

- **Reduce zoning from 7A to 6A.**

To consider the existing built character of Flushing Avenue

- **Disclose Riverside's Principals and Owners**

CB#3 does not have the opportunity to meet and discuss projects with owners/principals since projects are presented by professionals.

Borough President Recommendation

The Brooklyn Borough President held a public hearing on this application (C 160221 ZMK) and the related action (N 160222 ZRK) on December 20, 2016, and on January 11, 2017 issued a recommendation to approve the application with the following conditions:

1. That Riverside Development USA, Inc. provide to the City Council, in writing, commitments to:
 - a) Modify the Mandatory Inclusionary Housing (MIH) zoning text amendment part of the application to require the issuance of a building permit for a development on either block to require MIH Option I, which requires an average initial rent roll, set at 60 percent Area Medium Income (AMI), in order to better accommodate local community AMI levels
 - b) Utilize a locally-based housing development non-profit, such as Bridge Street Development Corporation (BSDC); IMPACCT Brooklyn, formerly known as Pratt Area Community Council (PACC); the Bedford Stuyvesant Restoration Corporation (BSRC), and Northeast Brooklyn Housing Development Corporation (NEBHDCo), to serve as the administering agent for the affordable housing units, as well as have one or more of such entities play a role in promoting affordable housing lottery readiness

- c) The extent that it would continue to explore additional resiliency and sustainability measures such as incorporating bioswales, blue/green/white roof finishes, Passive House construction principles, and solar panels in the development of its two sites
- d) Retain Brooklyn-based contractors and subcontractors, especially those who are designated Local Business Enterprises (LBE) consistent with section 6-108.1 of the City's Administrative Code, and LBEs and Minority- and Women-Owned Business Enterprises (MWBE) establishments, as a means to meet or exceed standards per Local Law 1 (not less than 20 percent participation), as well as to coordinate the monitoring of such participation with an appropriate monitoring agency

2. That if Riverside Development USA, Inc. does amend the application to modify the MIH zoning text amendment to require the issuance of a building permit for a development on either block to require MIH Option I, the CPC and/or City Council impose such action

Be it further resolved:

1. That the New York City Department of Parks and Recreation (DPR), in location selected in consultation with Brooklyn Community Board 3 (CB 3) and local elected officials, plant the additional zoning-required street trees in locations that meet the criteria of DPR

2. 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 by leasing an MIH lottery unit, the CPC and/or the City Council, should advocate for the modification of MIH section of ZR pertaining to MIH-designated areas to be adopted with a requirement that provides eligibility taking into account rent-burdened status

3. That the New York City Department of Housing Preservation and Development (HPD):
- a. Incorporate in either the Regulatory Agreement or Land Disposition Agreement that local preference be extended to include residents of both Brooklyn Community Districts 1 and 3 (CD 1 and 3), and

- b. Modify its affordable housing apartment lottery community preference standards to be inclusive of the school zone attended by a child of a household residing at a City-funded or -operated homeless shelter

City Planning Commission Public Hearing

On January 4, 2017 (Calendar No. 1), the CPC scheduled January 18, 2017 for a public hearing on this application (C 160221 ZMK), in conjunction with the related application (N 160222 ZRK). The hearing was duly held on January 18, 2017 (Calendar No. 24). There were two speakers in favor of the application and one in opposition.

The applicant and applicant's representative described and spoke in favor of the application and proposed development, mentioning that the development sites are currently underutilized, and as such are appropriate locations for much-needed residential development.

The applicant's representative noted that the project area falls within a moderately strong housing market, and that absent public subsidy, MIH Options 1 and 2 would not be financially feasible on the development sites. If subject to the Workforce Option, however, the representative stated that the developments would be self-subsidizing, thereby allowing scarce public subsidy to be directed elsewhere. The applicant also stated that the cost of acquisition would make Options 1 and 2 financially infeasible.

The applicant's representative noted that the R7A zoning district would allow development in character with the surrounding context, providing the developments at 74 and 204 Wallabout Street and other six-, seven-, and eight-story buildings on Flushing Avenue as examples. In addition, the applicant's representative stated that while the developer has had no experience with Inclusionary Housing developments, the applicant has begun outreach to potential administering agents, and would be able to choose one of those suggested by the Community Board and Borough President to administer the program.

A representative from the 32BJ union spoke in opposition to the application, stating that the developer should commit to paying a living wage.

There were no other speakers and the hearing was closed.

CONSIDERATION

The Commission believes that this application for a zoning map amendment (C 160221 ZMK), in conjunction with the related application for a zoning text amendment (N 160222 ZRK), is appropriate.

The requested actions would facilitate the development of a new mixed-use building with ground floor retail and 168 dwelling units, and a new residential building with 128 dwelling units on sites currently developed with a former catering hall and a parking lot. The new developments facilitated by these actions would provide almost 300 new residential units, including up to 88 units of affordable housing. The new housing would help address the dire need for more housing in Brooklyn and in the City overall and would be consistent with City objectives for promoting housing production and affordability. The requested actions would allow the redevelopment of these long underutilized lots with uses that complement and activate the surrounding area. The zoning text amendment would map a Mandatory Inclusionary Housing area coterminous with the rezoning area, requiring permanent affordability for a portion of units on the site. The proposed project would create up to 88 units of permanently affordable housing.

The proposed zoning changes would be consistent with other nearby zoning districts and would result in new development in context with existing buildings in the surrounding area, and with recent rezonings approved by the Commission including 74 Wallabout Street (C 110390 ZMK) and 204 Wallabout Street (C 060377 ZMK). The 74 Wallabout Street rezoning, approved in 2012, mapped an R7-1/C1-5 zoning district that facilitated the development of a seven-story mixed-used building with 120 residential units, 28,439 square feet of ground floor commercial space and 60 accessory parking spaces in the cellar, pursuant to Quality Housing regulations. The 204 Wallabout Street rezoning, approved in 2008, mapped an R7-1/C2-4 zoning district to facilitate the development of an approximately 184,000-square-foot development containing 110 dwelling units. The proposed zoning change would also extend the existing MX-4 zoning district boundary on Block 1885 northward, allowing flexibility for a mix of uses, including industrial, commercial, and residential.

Regarding the recommendation of the Community Board concerning changing the proposed zoning on the Flushing Avenue site from R7A to R6A, the Commission notes that Flushing

Avenue is a major thoroughfare lined with other buildings developed to heights and densities similar to the proposed zoning districts and thus appropriate as an R7A zoning district. Furthermore, an R7-1 district is mapped directly across Flushing Avenue from the project area.

Regarding the recommendations of the Community Board and the Borough President that the applicant choose a local not-for-profit to administer the affordable housing and marketing, the Commission notes that, at its public hearing, the applicant's representative stated the applicant's willingness to do so.

Regarding the recommendation of the Borough President that the developer continue to explore additional resiliency and sustainability measures and work with DPR in consultation with Community Board 3 and local elected officials to select locations for the additional zoning-required street trees, the Commission notes this application seeks only changes to the Zoning Map and Zoning Text, but nevertheless encourages the applicant to take these recommendations under consideration.

The Commission notes that additional recommendations of the Borough President for modifications to the MIH program and affordable housing marketing procedures are beyond the scope of this application.

Regarding the recommendation of the Community Board and the Borough President that the applicants select Option 1 of the MIH program, the Commission notes that on February 21st, 2017, the applicant provided a letter indicating that they had examined market rents in the area and found them to reflect a moderate market condition where rents are insufficient to support the internal cross-subsidy of units affordable at low incomes. This would be consistent with the data in the financial feasibility assessment conducted by the City prior to the establishment of the MIH program, where the area was broadly categorized as exhibiting moderate market conditions. Under the proposed action, construction with subsidy would be allowed under Options 1 or 2, or unsubsidized construction under the Workforce Option. As the Commission indicated when the MIH program was created in 2016, the Workforce Option was established to address policy concerns about the potential effects of mandatory affordability requirements in areas where prevailing rents are sufficient to support construction at moderate rents, but not the internal cross-subsidy of units affordable at low incomes. Without an option to address these market

conditions, the Commission expressed concern that “the application of Option 1 or Option 2 alone could prevent the creation of moderate-income housing, resulting in less housing creation overall” and in the redirection of scarce affordable housing subsidies from other areas.

The Commission acknowledges that the project is in the type of moderate market area where the concerns underlying the creation of the Workforce Option exist. It also notes that under the proposed action the Workforce Option would remain in effect for a limited period of ten years, after which Option 1 and 2 would become the only applicable options. Nonetheless, the Commission notes the great need for housing affordable to low-income New Yorkers that either Option 1 or 2 would be able to provide in greater numbers than the Workforce Option and therefore strongly encourages the applicant to work with the Department of Housing Preservation and Development to identify potential opportunities for financing that would enable deeper affordability to be achieved under MIH Options 1 or 2 on at least one of the two development sites.

RESOLUTION

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

RESOLVED, by the City Planning Commission, pursuant to Sections 197-c and 200 of the New York City Charter that based on the environmental determination and the consideration described in this report, the Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended by changing the Zoning Map, Section 12d,

1. changing from an M1-2 District to an R7A District property bounded by Flushing Avenue, Franklin Avenue, the easterly prolongation of the northerly street line of Little Nassau Street, the terminus of Little Nassau Street, Little Nassau Street, and Kent Avenue;
2. changing from an M1-2 District to an M1-2/R6A District property bounded by the easterly prolongation of the northerly street line of Little Nassau Street, Skillman Street, a line 330 feet northerly of Park Avenue, and Franklin Avenue;

3. establishing within the proposed R7A District a C2-4 District bounded by Flushing Avenue, Franklin Avenue, the easterly prolongation of the northerly street line of Little Nassau Street, the terminus of Little Nassau Street, Little Nassau Street, and Kent Avenue; and
4. establishing a Special Mixed Use District (MX-4) bounded by the easterly prolongation of the northerly street line of Little Nassau Street, Skillman Street, a line 330 feet northerly of Park Avenue, and Franklin Avenue;

as shown on a diagram (for illustrative purposes only), dated October 4, 2016 and subject to the conditions of the CEQR Declaration E-395.

The above resolution (C 160221 ZMK), duly adopted by the City Planning Commission on March 8, 2017 (Calendar No. 13), is filed with the Office of the Speaker, City Council, and the Borough President, in accordance with the requirements of Section 197-d of the New York City Charter.

KENNETH J. KNUCKLES, Esq., Vice Chairman
RAYANN BESSER, ALFRED C. CERULLO, III, IRWIN G. CANTOR, P.E.,
JOSEPH DOUEK, RICHARD W. EADDY,
CHERYL COHEN EFFRON, HOPE KNIGHT, ANNA HAYES LEVIN,
ORLANDO MARIN, LARISSA ORTIZ, Commissioners

MARISA LAGO, Chair, abstaining
MICHELLE DE LA UZ, Commissioner, opposed



The City of New York
Community Board No. 3
Bedford Stuyvesant Restoration Plaza
1360 Fulton Street, 2nd Floor ■ Brooklyn, New York 11216

718-622-6601 Phone ■ 718-857-5774 Fax ■ bk03@cb.nyc.gov

ERIC ADAMS
BOROUGH PRESIDENT

RICHARD FLATEAU
CHAIRPERSON

HENRY L. BUTLER
DISTRICT MANAGER

RESOLUTION

WHEREAS, Riverside Developers USA Inc. has submitted application 160221 ZMK; N160222ZRK to City Planning to rezone 376-378 Flushing Avenue and 43 Franklin Avenue from M1-2 and M3-1 to R7-1 and M1-1 and M1.2 to New Special Mixed Use (MX-4) District Project

And

WHEREAS, Riverside met with the Land Use Committee on October 12th and November 9th, 2016

And

WHEREAS, Riverside agreed to Land Use Committee concerns:

- Redesign Flushing Avenue building to reduce the street wall height in consideration of the existing built character of Flushing Avenue
- Move the access of the cellar parking level of the Flushing Avenue site from Franklin Avenue to little Nassau Street
- Give preference to hiring CB3 residents for available positions
- Give preferences for construction contracts to MWBEs in the Bedford Stuyvesant area
- Engage traffic engineer to review and consult on potential measures to facilitate vehicular traffic to and from the proposed development

And

WHEREAS, CB3 held a public hearing on Riverside Application on December 14, 2016 and the Land Use Committee met on December 14th and voted to support the application with two stipulations:

- Affordability Option 1
 - Reduce zoning from 7A to 6A
- The vote was 7 for and 2 against, No Abstentions)

And

WHEREAS, The Board voted on the Land Use Committee recommendation

The vote was 18 – For; 17 - Against and 2 –Abstention, failing a majority for or against the project.

And

WHEREAS, on January 9, 2017, the Board Chair, District Manager and Land Use Committee Chair and Co-Chair met with Council Member Levin to discuss the vote issue and possible re-vote. Council Member Levin agreed to work with CB3 to advance CB#3 concerns

And

WHEREAS, the Chairs of the Board and the Land Use Committee decided to re-vote on the Riverside Application at the January Board meeting

NOW THEREFORE, the recommendation of the Land Use Committee is: **To support the application with the following recommendations:**

- **Consider option 1, average 60% AMI, level of affordability.**

Riverside's proposal of workforce/Option 2 levels of 80% - 115% of AMI far exceeds the CB3 median income of 36,535.

- **Choose a local not for profit to administer the affordable housing and marketing.**

CB#3 is rich in community development corporations that have experience with not for profit development, management and marketing, such as Bedford-Stuyvesant Restoration Corporation, Bridge Street Development Corporation, Brooklyn Neighborhood Services, Northeast Brooklyn Neighborhood Housing Development Corporation and IMPACCT

- **Reduce zoning from 7A to 6A.**

To consider the existing built character of Flushing Avenue

- **Disclose Riverside's Principals and Owners**

CB#3 does not have the opportunity to meet and discuss projects with owners/principals since projects are presented by professionals.

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

ROSE CASTLE – 160221 ZMK AND 160222 ZRK

In the matter of the applications, submitted by Riverside Developers USA, Inc. pursuant to Section 197-c of the New York City Charter seeking a zoning map amendment and zoning text amendment to rezone portions of a two-block area along Flushing Avenue, between Kent Avenue and Skillman Street, in Brooklyn Community District 3 (CD 3). The proposed actions would rezone the existing M1-2 District to R7A/C2-4 on the partial block along Flushing Avenue, between Kent and Franklin avenues, and to MX-4 District with a M1-2/R6A on the partial block along Flushing Avenue, between Franklin Avenue and Skillman Street, and establish such area as a Mandatory Inclusionary Housing (MIH) area. Such actions would facilitate the development project known as Rose Castle, located at 376-378 Flushing Avenue, consisting of an eight-story mixed-use commercial and residential building with 168 dwelling units, and 43 Franklin Avenue, consisting of a six-story residential building with 128 dwelling units. The MIH designation would result in 88 affordable housing units.

BROOKLYN COMMUNITY DISTRICT NO. 3

BOROUGH OF BROOKLYN

RECOMMENDATION

☐ APPROVE
☒ APPROVE WITH
MODIFICATIONS/CONDITIONS

☐ DISAPPROVE
☐ DISAPPROVE WITH
MODIFICATIONS/CONDITIONS

SEE ATTACHED

BROOKLYN BOROUGH PRESIDENT

January 11, 2017

DATE

RECOMMENDATION FOR: ROSE CASTLE – 160221 ZMK AND 160222 ZRK

Applications, submitted by Riverside Developers USA, Inc. pursuant to Section 197-c of the New York City Charter, are seeking a zoning map amendment and zoning text amendment to rezone portions of a two-block area along Flushing Avenue, between Kent Avenue and Skillman Street, in Brooklyn Community District 3 (CD 3). The proposed actions would rezone the existing M1-2 District to R7A/C2-4 on the partial block along Flushing Avenue, between Kent and Franklin avenues, and to MX-4 District with a M1-2/R6A on the partial block along Flushing Avenue, between Franklin Avenue and Skillman Street, and establish such area as a Mandatory Inclusionary Housing (MIH) area. Such actions would facilitate the development project known as Rose Castle, located at 376-378 Flushing Avenue, consisting of an eight-story mixed-use commercial and residential building with 168 dwelling units, and 43 Franklin Avenue, consisting of a six-story residential building with 128 dwelling units. The MIH designation would result in 88 affordable housing units.

On December 20, 2016, Brooklyn Borough President Eric L. Adams held a public hearing on these zoning map and text amendments. There was one speaker in opposition of this item, representing the MacDonough Street 35 Block Association, voicing concerns with regard to the deficiencies in the planning of the affordable housing part of this project and lack of community outreach, as well as the implementation of a holistic community representation for this development, without excluding any part of the community.

In response to Borough President Adams' inquiry to clarify details with regard to the affordable housing, the applicant provided a breakdown of income requirements and rents for the development based on the proposed options of the MIH program. Option 2 of the MIH program has average income requirements of 80 percent Area Median Income (AMI), which range from an income of \$48,000 for single households up to \$62,000 for households of three, with rents of \$1,200 for a studio and \$1,550 for a two-bedroom unit. The Workforce Option of the MIH program has average income requirements of 115 percent AMI, which range from an income of \$69,000 for single households up to \$89,000 for households of three, with rents at \$1,725 for a studio and \$2,234 for a two-bedroom unit. This option requires that within the 115 percent AMI, five percent be at 70 percent AMI, which range from an income of \$42,000 for single households up to \$54,000 for households of three, with rents at \$1,050 for a studio and \$1,360 for a two-bedroom unit, and another five percent be at 90 percent AMI, which range from an income of \$54,000 for single households up to \$69,000 for a household of three, with rents at \$1,350 for a studio and \$1,748 for a two-bedroom unit. Additionally, no income band is permitted to exceed 135 percent AMI, which ranges from an income of \$81,000 for single households up to \$105,000 for households of three. The applicant stated that the proposed buildings will have a mix of apartment unit types. Of the 168 units for the Flushing Avenue site, there would be 20 studios, 66 one-bedrooms, 26 two-bedrooms, and 56 three-bedrooms. For the 120 units at the Franklin Avenue site, there would be 40 studios, 34 one-bedrooms, 28 two-bedrooms, and 26 three-bedrooms.

Though the median AMI levels of the surrounding area are lower than the average AMI for the affordable housing units within the proposed development, the applicant justifies moving forward with the Workforce Option due to the projected ability of the new development to self-subsidize the affordable housing. According to the BAE Urban Economics study, New York City MIH Market & Financial Feasibility, certain neighborhoods were identified where the strength of the market for payment of mid-market rents would achieve affordable housing without government subsidies. The developer is proceeding on the basis that housing rents for this section of CD 3 would help facilitate the development without the utilization of government subsidies, according to the Workforce Option of the MIH program.

The MIH program requires the applicant to select a non-profit regulatory agent to administer the affordable housing units within the development. There has been conversation with CB 3 regarding the short list of regulatory agents with whom CB 3 has relationships and would prefer to be used for this development, such as the Bedford Stuyvesant Restoration Corporation (BSRC), Bridge Street Development Corporation (BSDC), IMPACCT Brooklyn, formerly known as Pratt Area Community Council (PACC), and Northeast Brooklyn Housing Development Corporation (NEBHDCo). However, at this stage of the application, the developer has not yet selected such a regulatory agent.

Borough President Adams' policy promoting renewable energy practices as well as practices to retain stormwater runoff, by including bioswales at the street tree pits around the building, was noted. The applicant's architect stated that this project's tight budget produced the most efficient and cost effective building design. The building's envelope is designed to resemble the Passive House Design standards without actually being a Passive House Design. The windows are insulated and triple paned, which closely resembles the air quality features of a Passive House Design. Solar panels were not recommended for this building because the efficiency, while much better than in the past, is not comparable to other sources at this time. The new energy code compels developments to be built in a manner comparable to a green roof effectiveness that would be achieved by highly-insulated white roofs. As for stormwater considerations, the roof will be reevaluated for the consideration of incorporating a green roofing system and the developer is willing to look into the incorporation of bioswales as part of the street tree pits.

In response to Borough President Adams' policy to maximize job opportunities for Brooklynites and procure supplies locally through the inclusion of Local Business Enterprises (LBE) and Minority- and Women-Owned Business Enterprises (MWBE), the representative stated that the developer has in the past observed the standards for local hiring. In addition, the developer owns several properties in the area that employ many residents within the ZIP codes for CD 3.

Subsequent to the hearing, Riverside Developers USA, Inc. provided a letter dated January 10, 2017 with clarification regarding some of the questions discussed at the hearing. The applicant provided additional information stating that the proposed MIH Option 2 with the Workforce Option are appropriate for this area based on the Market and Financial Study: NYC Mandatory Inclusionary Housing prepared for the New York City Housing Development Corporation by BAE Urban Economics. The study identifies that housing market conditions in Bedford-Stuyvesant support private housing construction at moderate rents. With regard to maximizing job opportunities, the applicant commits to giving preference in bidding for the project's construction contracts to LBEs and MWBEs in the Bedford-Stuyvesant area to contract on construction of the Rose Castle project. Furthermore, the applicant will continue its commitment to local hiring and will extend a preference to applicants from CD 3 for available positions. With regard to resilient and sustainable measures, the applicant commits to reduced energy consumption, including triple-glazed windows with argon interlayers. Additionally, the applicant will set aside space on the roof and mechanical rooms for possible future battery storage for solar panels. In lieu of permeable pavers, the proposed development will provide pedestal paver systems on the courtyard and building roofs to address drainage. The applicant is committed to further exploring the potential to install bioswales in the proposed development.

Consideration

Brooklyn Community Board 3 (CB 3) voted on a resolution to approve these applications with the following conditions: that the MIH Option 1 be used instead of Option 2 and the Workforce Option; that a local non-profit be chosen to administer and market the affordable housing; that the proposed rezoning be changed to R6A instead of the R7A at Flushing Avenue site, and that the

owners and principals of Riverside Developers USA, Inc. meet with CB 3 to discuss the project in person.

The proposed rezoning map amendment would permit residential uses, which are not permitted within the current M1-2 zoning district. The proposed text amendment of Zoning Resolution (ZR) Appendix F: Inclusionary Housing Designated Areas and Mandatory Inclusionary Housing Designated Areas would establish the rezoning area as a new MIH area within CD 3. Pursuant to the MIH program, a percentage of the residential floor area in the proposed development must be affordable. The applicant proposes mapping MIH Option 2 and the Workforce Option, resulting in an affordable housing set-aside of 30 percent of the residential floor area, or an approximate total of 88 units.

The proposed actions would facilitate development of the Rose Castle project in the Bedford-Stuyvesant neighborhood of CD 3, at its Flushing Avenue district boundary with CD 1. This area contains a mix of warehouse/distribution, commercial, community facility, and conforming and non-conforming predominantly medium density residential buildings. Recent residential development consists of a mix of mid-rise, mostly contextual-type residential buildings. Much of the recent residential development was pursuant to several rezonings or were granted a use variance by the New York City Board of Standards and Appeals (BSA) on lots in the manufacturing districts. The Flushing Bedford Rezoning, initiated by the New York City Department of City Planning (DCP), rezoned approximately 15 blocks in CD 1 and CD 3 to permit residential development. A section of the project area was originally included within the proposed boundaries of the MX-4 zoning district, but removed prior to the City Council approval of the rezoning. Additionally, two recent privately-filed rezoning applications were adopted to permit residential uses within manufacturing districts.

The Rose Castle development consists of two parcels, on either side of Franklin Street. The western site includes frontage on the south side of Flushing Avenue and is referred to as the Flushing Avenue site. It is occupied by a banquet facility, a door and window contractor, a one- and two-story building, and lots utilized as accessory parking. The mid-block eastern site is referred to as the Franklin/Skillman Avenue site and contains an accessory parking lot.

The Flushing Avenue site contains 39,307 square feet of lot area and would be developed with an eight-story, mixed-use commercial and residential building. The development would contain approximately 177,000 square feet of floor area, including 8,800 square feet of commercial floor area fronting on Flushing Avenue. The proposed 80-foot tall building would provide 168 dwelling units, of which 50 would be permanently affordable. The cellar-level garage would contain 84 accessory parking spaces with an entrance at Little Nassau Street.

The mid-block Franklin/Skillman Avenue site contains 35,250 square feet of lot area that would be developed with a six-story residential building with a total of approximately 127,000 square feet of floor area. The development would produce 128 dwelling units, of which 38 would be permanently affordable. The below-grade parking garage entrance would contain 64 accessory parking spaces with street access at Franklin Avenue.

The amount of accessory parking was able to be reduced because these blocks are located within the Transit Zone, pursuant to ZR Appendix I, due to proximity to the Brooklyn-Queens Crosstown G line stations at Lafayette and Nostrand avenues, and at Flushing and Marcy avenues.

Borough President Adams supports development that addresses the City's objectives by facilitating development of underutilized land, a substantial portion of which has been vacant for many years, for productive uses. Such uses address the City's need for additional housing. He supports the mapping of height-based zoning districts in neighborhoods where the anticipated development

would be generally consistent with the adjacent context. Adjoining the Flushing Avenue site is a four-story residential building and on the north side of Flushing Avenue there is construction according to the R7-1 zoning district's wide street contextual zoning bulk envelop. South of the Franklin/Skillman Avenue site there are five-story residential apartment buildings developed pursuant to the Flushing-Bedford rezoning. The R7A zoning designation for the Flushing Avenue site serves as an extension of the R7-1 wide street contextual building perimeter regulations and the R6A designation for the Franklin/Skillman Avenue site would be an extension of the R6A designation on either side of Bedford Avenue.

Borough President Adams supports rezoning when paired with the ZR's MIH program as a means to achieve permanently affordable housing units. The affordability options of the MIH program provide a range of opportunities to address the need for housing that serves a broad range of diverse incomes, consistent with Borough President Adams' objectives to provide affordable housing to households through various income band targets.

Though Borough President Adams supports the proposed zoning text and map amendments, he seeks the following: modification to the proposed MIH program options; designation of a locally based non-profit as an affordable housing regulatory agent; coordination with CB 3 for placement of additional off-site zoning-required street trees; utilization of sustainable and resilient measures, and commitment toward the inclusion of LBEs and MWBEs.

Mandatory Inclusionary Housing Qualifying Incomes

CB 3 voted on a failed motion that called for the development's affordable housing units to be in accordance with Option 1 of the MIH program. Utilization of Option 1 would require 25 percent of the residential floor area to be at an average initial rent roll that would comply with the rental payment index of no more than 30 percent of household income at 60 percent of AMI. This was intended to be in lieu of the proposed Option 2, which warranted 30 percent of the residential floor area to be governed by either 80 percent of AMI (eligible for public funding), or the Workforce Option, which warranted 115 percent of AMI average rent rolls. Although Option 1 would reduce the number of affordable housing units, the motion was intended to optimize the benefit of having available lottery assigned housing units go to residents of CD 3 by lowering the income requirements of the qualifying households. According to MIH zoning regulations, average rent for 60 percent AMI households would be set based on an income of more than \$38,000 for a single-person household, \$43,500 for a two-person household, and \$49,500 for a three-person household.

The developer has expressed an interest to proceed where 30 percent of the residential floor area would have its affordable unit rent roll set initially at 115 percent AMI. This would establish average household rents based on an average income of approximately \$73,000 for single-person households, \$83,000 for two-person households, and \$93,000 for a three-person household. Additionally, the proposed development could be restricted to approximately \$51,000 for single-person households, \$58,000 for two-person households, and \$65,000 for three-person households.

Borough President Adams concurs with members of CB 3 that a reduced average rent roll for affordable housing units would be better suited to this community. Providing more emphasis on quality of desired average rent roll over quantity of affordable units would better assist CD 3 residents who are rent-burdened and/or at risk for displacement in securing affordable housing units.

On the other hand, market-based rent would likely be beyond the means of the highest permitted rental band, which is 135 percent of AMI. It is Borough President Adams' policy to promote multiple tiers of affordability in order to provide opportunities for low- and middle-income

residents. He believes it is appropriate to develop one of the proposed sites, separated by Franklin Avenue, according to the Workforce Option.

The Workforce Option requires that five percent of the residential floor area be rented at 70 percent AMI, while Option 1 requires an average of 60 percent AMI, allowing qualifying incomes of up to 130 percent AMI. Such a combination provides a wide range of income bands that would have an opportunity to be considered by the affordable housing lottery. This ranges from households earning as low as 40 percent of AMI, which is approximately \$24,000 for a single-person household, less than \$28,000 for a two-person household, and approximately \$31,000 for a three-person household, and up to 135 percent of AMI, which is \$81,000 for single-person households, \$93,000 for a two-person household, and \$105,000 for a household of three.

Borough President Adams calls on Riverside Development USA, Inc. to modify the MIH zoning text amendment to require the issuance of a building permit for a development on either block to require MIH Option I, which requires an average initial rent roll, set at 60 percent AMI. If the application is not amended, Borough President Adams believes that such action should be imposed by the City Planning Commission (CPC) and/or the City Council.

Maximizing Community Participation of the MIH Affordable Housing

The ZR requires the affordable housing units to be overseen by a non-profit administering agent, not affiliated with the for-profit developing entity, except when otherwise approved by the New York City Department of Housing Preservation and Development (HPD). Such administering non-profit becomes the responsible entity to ensure that the affordable housing remains in accordance with its regulatory agreement, which governs the development's affordable housing plan. These tasks include verification of a prospective tenant household's qualifying income and approval of the rent up of such affordable housing units. The administering non-profit is responsible for submitting an affidavit to HPD attesting that the initial lease-up of the affordable housing units is consistent with the income requirements, followed-up with annual affidavits to ensure conformance.

In addition to the stated requirements, various non-profits have proven track records of successfully marketing affordable housing units within the host community of the particular development, as well as promoting housing lottery readiness through educational initiatives. Borough President Adams recognizes that CD 3 has four non-profit entities that should be considered by the developer for the role of administering agent. These include BSRC, BSDC, IMPACCT Brooklyn, and NEBHDCo, who are entrenched in the communities they serve and whose core missions include being providers and strong advocates for affordable housing. It is Borough President Adams' policy to advocate for such affordable housing non-profits to play a contributing role toward the success of community participation in obtaining neighborhood affordable housing opportunities.

Borough President Adams believes that prior to City Council approval, the developer should provide a letter of agreement to one of these community-based housing development non-profits to serve as the administering agent, as well as to have one or more of such entities play a role in promoting affordable housing lottery readiness.

Advancing Sustainable and Resilient Energy and Storm Water Management Policies

It is Borough President Adams' sustainable energy policy to promote opportunities that utilize solar panels and/or blue/green/white roofs, as well as Passive House construction. He encourages developers to coordinate with the Mayor's Office of Sustainability, New York State Energy Research and Development Authority (NYSERDA), and/or New York Power Authority (NYPA) at each project site. Such modifications would reduce the development's carbon footprint and increase energy efficiency. Furthermore, as part of his flood resiliency policy, Borough President Adams also encourages developers to incorporate permeable pavers and/or establish bioswales that advance

the New York City Department of Environmental Protection's (DEP) green water/stormwater strategies. Blue/green roofs, bioswales, and permeable pavers would deflect stormwater from entering the city's water pollution control plants. According to the "New York City Green Infrastructure 2014 Annual Report," green infrastructure has a critical role in addressing water quality challenges and provides numerous environmental, social, and economic co-benefits.

Borough President Adams recognizes the applicant's commitment to pursuing resilient and sustainable measures, in the letter dated January 10, 2017. He believes that it is appropriate for the applicant to further evaluate the feasibility of pursuing additional resilient and sustainable rooftop features as well as Passive House construction. This includes 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 a valuable use of this project's roof surfaces, considering the relatively low height of surrounding structures, in order to generate sustainable energy. Borough President Adams believes there are additional opportunities by incorporating bioswales as part of the proposed Builders Pavement Plan. These strategies would help to advance DEP green-water/stormwater strategies.

It is also appropriate for the developer to engage government agencies, such as the Mayor's Office of Sustainability, NYSEDA, and/or NYPA, to give consideration to government programs and grants that might offset costs associated with enhancing the resiliency and sustainability of this development site. One such program is the City's Green Roof Tax Abatement (GRTA), which provides a reduction of City property taxes by \$4.50 per square foot of green roof, up to \$100,000. The DEP Office of Green Infrastructure advises property owners and their design professionals through the GRTA application process. Borough President Adams encourages the developer to reach out to his office for any help opening dialogue with the aforementioned agencies and further coordinating on this matter.

Prior to the granting of its approval, the City Council should obtain the applicant's commitments in writing to the extent that it would be pursuing resiliency and sustainability measures.

Jobs

Borough President Adams is concerned that too many Brooklyn residents are currently unemployed or underemployed. It is his policy to promote economic development that will create more employment opportunities. According to averaged data from 2008 to 2012, double-digit unemployment remains a pervasive reality in many of Brooklyn's neighborhoods, with more than half of our community districts experiencing poverty rates of 25 percent or greater. Prioritizing local hiring would assist in addressing this employment crisis. Additionally, promoting Brooklyn-based businesses and including those that qualify as LBE and MWBE is central to Borough President Adams' economic development agenda. This site provides opportunities for the applicant to retain a Brooklyn-based contractor and subcontractor, especially those who 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 less than 20 percent participation).

Borough President Adams recognizes the applicant's commitment, in the letter dated January 10, 2017, to giving preference in bidding for the project's construction contracts to LBEs and MWBEs in the Bedford-Stuyvesant area to contract on construction of the Rose Castle project. He believes that such Administrative Code and Local Law standards should be memorialized in the Land Disposition Agreement or Regulatory Agreement. Additionally, the applicant should coordinate the monitoring of such participation with an appropriate monitoring agency.

Prior to the granting of its approval, the City Council should obtain the applicant's commitments in writing regarding participation by LBEs and MWBEs.

Zoning Required Street Tree Placement

The ZR authorizes the New York City Department of Parks and Recreation (DPR) to select alternative locations to plant street trees when it is deemed infeasible to plant adjacent to the zoning lot being developed. For this project, of the 34 zoning-required street trees, the remaining five trees that cannot be accommodated on-site should be accommodated at alternative locations within CD 3, or within one-half mile of the zoning lot. Such trees should be placed in empty street tree pits or planting strips, and may be in an unpaved area owned by the City.

Borough President Adams believes that the community, coordinated through CB 3, should have adequate say in where the remaining five trees are planted. Borough President Adams urges community members and members of CB 3 to identify vacated tree pits for possible consideration.

The planting location of these five trees should be identified in consultation with CB 3, for locations that meet the criteria of DPR. The City Council should seek such written commitment from DPR prior to granting its approval.

Accommodating Rent-Burdened Households in Lieu of Strict Area Median Income Standards

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 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.

Too many households in CD 3 are of low- and very-low income and 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 households from the affordable housing lotteries. As a result, these rent-burdened households do not meet the housing lottery's minimum household earnings because too often they are already paying the same rent, or in excess, of the rent stated for the affordable housing unit. 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 toward housing.

As noted in his East New York Community Plan Uniform Land Use Review Procedure (ULURP) recommendation, Borough President Adams believes that it is time to break the mold in which families that are already paying too much rent for substandard housing are disqualified. Borough President Adams seeks to qualify rent-burdened households to be eligible for selection through the housing lottery process. Such eligibility would assure rent-burdened households receive the maximum opportunity to secure regulated affordable housing units, expanding the number of eligible households for government-regulated housing lotteries.

One means to address rent burden status should be achieved by amending the ZR to adjust the AMI qualifications, which should include such households that would maintain or reduce their rent burden. For such lotteries resulting from MIH housing lottery offerings, the Department of City Planning (DCP) needs to amend the ZR 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 the lottery unit rent, would be eligible to live in newly-produced, quality, affordable housing accommodations.

Borough President Adams believes that CPC and/or the City Council should echo his call to seek for the modification of the MIH section of the ZR pertaining to MIH-designated areas to be adopted with a requirement that provides eligibility, taking into account rent-burdened status.

Community Preference

Proximity to Community District Boundary

City local preference policy is at times unfair to community residents who live just beyond the border of a Community District. Given that these development sites are near the border shared with CD 1, HPD should extend the local preference to the boundaries, such as extending out through the ZIP code; this is because residents living in nearby blocks, just within CD 1, are also in need of quality affordable housing, especially considering the local Brooklyn-Queens Crosstown G Line subway station is shared by residents of both community districts, making the development apparent to residents of both neighborhoods.

This is particularly important given that the residential neighborhoods of Bedford-Stuyvesant and Williamsburg are inclusive of small buildings that are not subject to rent protection laws. Therefore, prior to the vote of the City Council, HPD should memorialize in the Land Disposition Agreement or Regulatory Agreement between the developer and HPD that local preference would be given for community residents of both CDs 1 and 3.

Inclusion of Homeless Shelter Student Population by School Zone

The City's housing lottery selection preference policy includes a pathway for achieving a preference of 50 percent or more for applicants residing in the community district where such affordable housing is being provided. There are additional pathways identified for priority lottery selection to become the tenant for such affordable housing units, such as United States Armed Forces veteran status, qualified disabilities, and more. Given the extent of the increase in homeless families with school-age children entering the public shelter system, Borough President Adams believes it is appropriate for HPD to also extend lottery local preference to include the school zone and any nearby neighboring school zone attended by a child of a household residing at a City-funded or -operated homeless shelter.

This is especially important given the number of students living in homeless shelters. The New York City Independent Budget Office (IBO) recently produced a report analyzing homeless rates in schools. School student registration data identifies those residing in public shelters as Students in Temporary Housing (STH). Using data from as recent as the 2014-2015 school year, a review of the 50 schools in Brooklyn with the highest percentage of STH enrollment identifies approximately 4,300 students attending such Brooklyn schools with more than 18 percent of the enrollment categorized as STH.

Research indicates that students managing such living accommodations are most challenged in achieving optimum academic performance. Such students are more likely to lack access to technology, such as computers, to supplement homework and research assignments, as well as access to a quiet space to complete such assignments and study for exams. In addition, commuting from the shelter to and from the school for many students consumes significantly more time. Such commutes often make it difficult to participate in extracurricular educational and/or social school activities, which might otherwise enhance the school academic and community experience.

Many parents and students find it important to retain school continuity despite the circumstances that require the household to be dependent on the City's homeless shelter system. Borough President Adams believes that it should be the policy of the City to take actions that would eliminate such hardships. One such action would be to enable the working income-challenged

households with children attending public schools to qualify for community local preference on the basis of where the child is enrolled in school.

Borough President Adams believes that HPD should modify its affordable housing apartment lottery community preference standards to include the school zone attended by a child of a household residing at a City-funded or -operated homeless shelter.

Recommendation

Be it resolved that the Brooklyn borough president, pursuant to sections 197-c and 201 of the New York City Charter, recommends that the City Planning Commission (CPC) and the City Council approve this application with the following conditions:

1. That Riverside Development USA, Inc. provide to the City Council, in writing, commitments to:
 - a) Modify the Mandatory Inclusionary Housing (MIH) zoning text amendment part of the application to require the issuance of a building permit for a development on either block to require MIH Option I, which requires an average initial rent roll, set at 60 percent Area Medium Income (AMI), in order to better accommodate local community AMI levels
 - b) Utilize a locally-based housing development non-profit, such as Bridge Street Development Corporation (BSDC); IMPACCT Brooklyn, formerly known as Pratt Area Community Council (PACC); the Bedford Stuyvesant Restoration Corporation (BSRC), and Northeast Brooklyn Housing Development Corporation (NEBHDCo), to serve as the administering agent for the affordable housing units, as well as have one or more of such entities play a role in promoting affordable housing lottery readiness
 - c) The extent that it would continue to explore additional resiliency and sustainability measures such as incorporating bioswales, blue/green/white roof finishes, Passive House construction principles, and solar panels in the development of its two sites
 - d) Retain Brooklyn-based contractors and subcontractors, especially those who are designated Local Business Enterprises (LBE) consistent with section 6-108.1 of the City's Administrative Code, and LBEs and Minority- and Women-Owned Business Enterprises (MWBE) establishments, as a means to meet or exceed standards per Local Law 1 (not less than 20 percent participation), as well as to coordinate the monitoring of such participation with an appropriate monitoring agency
2. That if Riverside Development USA, Inc. does amend the application to modify the MIH zoning text amendment to require the issuance of a building permit for a development on either block to require MIH Option I, the CPC and/or City Council impose such action

Be It Further Resolved:

1. That the New York City Department of Parks and Recreation (DPR), in location selected in consultation with Brooklyn Community Board 3 (CB 3) and local elected officials, plant the additional zoning-required street trees in locations that meet the criteria of DPR
2. 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 by leasing an MIH lottery unit, the CPC and/or the City Council, should advocate for the modification of MIH section of ZR pertaining to MIH-designated areas to be adopted with a requirement that provides eligibility taking into account rent-burdened status

3. That the New York City Department of Housing Preservation and Development (HPD):
 - a. Incorporate in either the Regulatory Agreement or Land Disposition Agreement that local preference be extended to include residents of both Brooklyn Community Districts 1 and 3 (CD 1 and 3), and
 - b. Modify its affordable housing apartment lottery community preference standards to be inclusive of the school zone attended by a child of a household residing at a City-funded or -operated homeless shelter

Based on the Market and Financial Study: NYC Mandatory Inclusionary Housing prepared for the NYC Housing Development Corporation by BAE Urban Economics, housing market conditions in Bedford-Stuyvesant support private housing construction at moderate rents. The study identified the housing market conditions in the Bedford Neighborhood Tabulation Area as a moderate market. The Workforce Option is appropriate in this area because local market conditions in a moderate market do not support the skewing of rents to reach low incomes without subsidy, as contemplated in MIH Option 1 and Option 2. Affordable housing development would instead require affordable housing subsidies to reach low-incomes.

The Workforce Option would allow the creation of unsubsidized moderate-income housing, an important component of the housing stock in many New York City neighborhoods, including Bedford-Stuyvesant. The Workforce Option would ensure permanently affordable housing in the Bedford-Stuyvesant neighborhood, which is likely to experience housing cost increases in the future.

M/WBE Contracting & Local Job Opportunities

Riverside will give a preference in bidding for the project's construction contracts to local and Minority and Women-owned Business Enterprises ("M/WBE") in the Bedford-Stuyvesant area to contract on construction of the Rose Castle project. Furthermore, Riverside will continue its commitment to local hiring and extend a preference to applicants from Community District 3 for available positions.

Sustainability

Riverside is committed to sustainability. In a recent hotel project in Williamsburg, Riverside installed insulation beyond Building Code requirements based on a life cycle cost analysis and a commitment to environmental responsibility through reduced energy consumption. All the exterior walls at the hotel have R-value ratings in excess of 30, and all the windows are triple-glazed with argon interlayers. Riverside will incorporate similar insulation in the proposed development. Additionally, Riverside will set aside space on the roof and mechanical rooms for possible future battery storage for solar panels. The applicant is exploring the potential to install bioswales in the proposed development. Notably, the Building Code requires water retention tanks sized to retain a considerable amount of rainwater at the site, which would function in much the same way a swale would. In lieu of permeable pavers, the proposed development will provide pedestal paver systems on the courtyard and building roofs to address drainage. Nearly all of the fixtures throughout the building will use LEDs, and all of the appliances will be Energy Star rated.

Please be in touch with any questions or for additional information.

Respectfully,

/Zelig Weiss/

Zelig Weiss

President, Riverside Developers USA Inc.

RIVERSIDE DEVELOPERS USA INC.

Brooklyn Borough President
Hon. Eric L. Adams
Borough Hall
209 Joralemon Street
Brooklyn, NY 11201

January 10, 2017

Hon. Eric Adams:

Riverside Developers USA Inc. ("Riverside") is the applicant for the Rose Castle development project currently under public review with your office. The Rose Castle development consists of two proposed new buildings - an eight-story mixed residential and commercial building with 168 units on Flushing Avenue between Kent Avenue and Franklin Avenue, and a six-story residential building with 128 units to the south of Flushing Avenue between Franklin Avenue and Skillman Street, for a total of 296 units. The proposed zoning map amendment would establish an R7A/C2-4 zoning district at the Flushing site and an MX (R6A/M1-2) zoning district at the Franklin/Skillman site. The proposed zoning text amendment would establish the Mandatory Inclusionary Housing ("MIH") program at the development.

Mandatory Inclusionary Housing

Pursuant to the MIH program, thirty percent of the residential floor area at the development will be set aside as affordable, resulting in approximately 90 units of permanently affordable housing. The affordable housing income level option proposed for this project is MIH Option 2 with the Workforce Option. MIH Option 2 requires 30 percent of the residential floor area at an average of 80 percent of the area median income ("AMI"). The Workforce Option requires 30 percent of the residential floor area at an average of 115 percent of the AMI. At least 5 percent of the residential floor area within a Workforce Option development must be affordable at 70 percent AMI, and in addition, at least 5 percent of the residential floor area must be affordable at 90 percent AMI. No direct subsidies may be used for MIH development with the Workforce Option.

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