



IN THE MATTER OF an application submitted by the Department of Citywide Administrative Services (DCAS), pursuant to Section 197-c of the New York City Charter, for the disposition of one city-owned property located at 794 Flatbush Avenue (Block 5063, Lot 58) pursuant to zoning, Borough of Brooklyn, Community District 14.

This application (C 170127 PPK) for the disposition of City-owned property was filed by the NYC Department of Citywide Administrative Services (DCAS) on October 24, 2016 to facilitate a mixed use development, located at 794 Flatbush Avenue (Block 5063, Lot 58) in the Flatbush neighborhood of Brooklyn, Community District 14.

RELATED ACTIONS

In addition to the proposed disposition which is the subject of this report (C 170127 PPK), 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 170128 ZMK Zoning map amendment to change the project area from R7A and R7A/C2-4 districts to an R8A/C2-4 district; and

N 170129 ZRK Zoning Text Amendment to designate a Mandatory Inclusionary Housing Area

BACKGROUND

This application for the disposition of City-owned property would facilitate a mixed use development containing 228,957 square feet of residential, retail, and community facility space, including 251 units of affordable housing and a 9,370 square foot vendors market for small businesses, at 794 Flatbush Avenue (Block 5063, Lot 58) in the Flatbush neighborhood of Brooklyn, Community District 14.

The development site comprises an irregularly shaped, 31,600 square-foot City-owned lot (Block 5063, Lot 58) with a lot depth of 123 feet along Caton Avenue and 135 feet along Flatbush Avenue.

It is currently occupied by a one-story 7,680 square-foot vendors market for small businesses (the “Flatbush Caton Market” or “Market”), a municipal parking lot with 49 spaces, and an outdoor plaza space in front of the market. The Flatbush Caton Market is a collection of local vendors managed by the Caribbean American Chamber of Commerce and Industry (“CACCI”), and overseen by the New York City Department of Small Business Services (SBS). Since its inception in 1997, the market has played a social, cultural, and economic role in Flatbush by providing affordable spaces for burgeoning entrepreneurs and small businesses, particularly for the local Caribbean American population. The market contains approximately 39 vendors in 43 stalls selling a variety of goods and services. The size of each stall ranges from about 70 to 100 square feet and vendors typically sell goods, such as apparel, art, bridal and party supplies, jewelry, music, food, fabric and sewing accessories, and health and beauty supplies. Two vendors rent outdoor plaza space and three vendors rent multiple stalls.

Prior to serving as a vendors market, the entire development site was used as a City-owned municipal parking lot pursuant to a CPC special permit (C 820025 ZSK) and zoning map amendment (C 830592 ZMK). In 1997, the market began operating in a portion of the municipal parking lot and faced challenges with congestion issues as vendors sold goods along the sidewalk. In an effort to provide adequate space for vendors with year-round protection from the weather, a site selection action (C 980295 PSK) was sought and approved and an enlarged market was constructed in 2001.

Recent efforts were undertaken to re-envision the site as a new, more economically sustainable market with additional public benefits, including affordable housing and community facility space. In 2013, EDC released a Request for Proposals (RFP) for the development of the site with a new market space, mixed-income affordable housing and other public amenities. In 2015, EDC announced BRP Companies as the selected RFP respondents, along with project partners CACCI, a nonprofit that offers services and programs to businesses, and Urbane Development, a community development consultant for the market and incubator spaces.

The proposed development would be a 14-story mixed-use building with residential, commercial

and community facility uses with a total floor area of 228,957 square feet (7.19 FAR), including 197,912 square feet of residential floor area, 19,824 square feet of commercial floor area, and 11,221 square feet of community facility floor area. The residential portion would contain 251 affordable units with a mix of studios and one-, two-, and three-bedroom apartments. According to the applicant team, affordable units would consist of a mix of low-, middle- and moderate-income tiers based on HPD's Mixed Middle Income Program. The commercial portion would include a 9,370-square-foot Flatbush Caton Market for local vendors and two retail spaces along Flatbush Avenue. The community facility portion would consist of a non-profit business incubator as well as the new headquarters for CACCI. The building's base would rise to approximately 105 feet before setting back 10 feet on both avenues and 15 feet along the northern lot boundary. Along the Flatbush Avenue frontage, the building would rise to 125 feet and then set back an additional 15 feet. The maximum building height will be 145 feet. The City is exercising its option not to be subject to its zoning requirements when performing a governmental function to allow a 20-foot setback along the Caton Avenue frontage to provide additional light and air for an open space for outdoor vendors, market patrons, residents, and the general public. The proposed development proposes a ground floor height of 17 feet to enhance the quality of the streetscape, as well as improve the efficiency of the market and retail spaces. Sixty-three below-grade parking spaces, a portion of which would be dedicated for market vendors and visitors, would be located in the cellar, along with 126 bicycle parking spaces.

While the proposed development is under construction, existing vendors would be relocated to a temporary site at 2215 Vanderveer Place, near Flatbush Avenue approximately 0.75 miles south of the current market. Urbane Development, in collaboration with BRP Companies and EDC, would help guide the project's market and incubator components, serving as the lead operating entity of the market and managing its daily operations, providing business training and marketing services, and assisting existing vendors with the transition to the temporary and redeveloped spaces.

The surrounding neighborhood features a variety of building types and uses. Commercial uses are concentrated along Flatbush Avenue, a wide street and active retail corridor characterized by one-

to two-story commercial buildings and three- to four-story mixed-use buildings with ground floor retail and residences above. The blocks east and west of Flatbush Avenue are predominantly residential and characterized by three- to six-story apartment buildings with pockets of rowhouses. Prospect Park, a major regional public park, is located a few blocks northwest of the development site. The development site is also located within the Flatbush Avenue Business Improvement District (BID), which serves Flatbush Avenue from Parkside Avenue to Cortelyou Road.

The surrounding area is well-served by public transit. The development site is located less than a quarter mile from the B and Q subway lines, which can be accessed at the Church Avenue and Parkside Avenue stations, and within a few blocks of numerous bus routes, including the B12, B16, B35, B49 Select Bus Service (SBS) and B41, which run north-south alongside the development site on Flatbush Avenue. Caton Avenue also serves as a local truck route.

To facilitate the proposed development, the applicants seek the disposition of one City-owned property (5063, Block Lot 58) and two related actions: a zoning map amendment (C 170128 ZMK) and zoning text amendment (N 170129 ZRK) to designate the proposed rezoning area as a Mandatory Inclusionary Housing Area.

Disposition (C 170127 PPK)

DCAS intends to dispose of the proposed project site to the NYC Land Development Corporation, which intends to transfer the site to the NYC Economic Development Corporation (EDC), which would transfer the site to BRP Caton Flats LLC for development purposes.

Zoning Map Amendment (C 170128 ZMK)

The Applicant is also seeking a zoning map amendment to change the project area from R7A and R7A/C2-4 zoning districts to an R8A/C2-4 zoning district. The rezoning or project area is located on the northwest corner of the intersection of Flatbush Avenue and Caton Avenue and comprises the development site (Block 5063, Lot 58), which is occupied by the existing vendors market and municipal parking lot, as well as small portions of Lot 9 and Lot 56, two adjoining tax lots to the west and north which are occupied by a six-story apartment buildings (Lot 9) and a one-story

supermarket (Lot 56). The project area extends 200 feet along the frontage of Flatbush Avenue to a depth of 135 feet and 140 feet along the frontage of Caton Avenue to a depth of 125 feet.

The project area is split between an R7A and R7A/C2-4 zoning district. R7A is a moderate density contextual district with mandatory Quality Housing regulations that permit a maximum FAR of 4.0 for residential and community facility uses. A C2-4 commercial overlay extends over the project area at a depth of 100 feet from Flatbush Avenue. C2-4 is a commercial overlay that permits a range of local retail and other commercial uses with a maximum commercial FAR of 2.0 when mapped within an R7A district. The maximum building height of 80 feet under R7A rules may be increased five feet if a qualifying ground floor is provided. These contextual districts were mapped as part of a 180-block area-wide rezoning of Flatbush approved in 2009 (C 090336 ZMK and N 090335 ZRK), which sought to better reflect the neighborhood's built character and provide incentives for affordable housing along certain corridors. As part of the Flatbush rezoning, the project area was rezoned from R7-1/C1-3 to R7A and R7A/C2-4, including a reduction in the commercial overlay depth to 100 feet from Flatbush Avenue.

The zoning map amendment would change the current R7A and R7A/C2-4 zoning district to an R8A/C2-4 district. R8A is a contextual zoning district with mandatory Quality Housing regulations that permits a maximum residential FAR of 7.2 when mapped with an Inclusionary Housing designated area. Street wall heights can range from 75 to 105 feet, with a maximum building height of 140 feet or 145 feet (14 stories) when providing a qualifying ground floor at least 13 feet high. R8A districts require off-street parking for 40 percent of units, but this requirement is reduced for affordable housing developments within the Transit Zone: off-street parking is not required for income-restricted units, defined as affordable units at or below 80 percent of the Area Median Income (AMI), and can be reduced further from 40 percent to 25 percent for other government-assisted units. Based on the proposed affordability levels, 50 percent of the units would be at or below 80 percent AMI and thus qualify as income-restricted units, while the remaining units at a higher AMI qualify as government-assisted units. As part of the proposed zoning map change, the C2-4 overlay would extend beyond the current depth of 100 feet to cover the entire project area in order to accommodate greater flexibility in the location of the vendors market and other retail

spaces.

Zoning Text Amendment (N 170129 ZRK)

The applicants propose a zoning text amendment to designate the project area as a Mandatory Inclusionary Housing Area. This action will require a certain amount of new housing be provided as permanently affordable to low- or moderate-income households. The applicants have requested to incorporate Option 2, which requires that at least 30 percent of the residential floor area shall be provided as housing affordable to households at an average of 80 percent of AMI.

ENVIRONMENTAL REVIEW

This application (C 170127 PPK), 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 16DME004K. The Lead Agency is the Deputy Mayor's Office for Housing and Economic Development (DME).

After a study of the potential environmental impacts of the proposed action, a Negative Declaration was issued on October 31, 2016. The Negative Declaration includes an (E) Designation (E-397) on the Development Site (Block 5063, Lot 58) related to noise and hazardous materials to avoid the potential for significant adverse impacts, as described below.

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

Task 1

The applicant submits to OER, for review and approval, a Phase 1 ESA for the Project Site along with a soil, soil gas and groundwater 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 sample sites should be selected to adequately characterize the site, the specific source 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

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 the 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. An OER-approved construction-related health and safety plan would be implemented during evacuation and construction and activities to protect workers and the community from potentially significant adverse impacts associated with contaminated soil and/or groundwater. This plan would be submitted to OER for review and approval prior to implementation. All demolition or rehabilitation would be conducted in accordance with applicable requirements for disturbance, handling and disposal of suspect lead-paint and asbestos-containing materials. In addition to the requirements for lead-based paint and asbestos, requirements (including those of NYSDEC) should petroleum tanks and/or spills be identified and for off-site disposal of soil/fill would need to be followed.

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

In order to ensure an acceptable interior noise environment, future residential and community facility spaces must provide a minimum of 33 dBA of window-wall attenuation (under closed-window conditions) and an alternate means of ventilation for the Proposed Building in order to maintain a maximum interior noise environment of 45 dBA or less for residential and community facility uses. Attenuation requirements for commercial uses would require 5 dBA less (28 dBA).

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

UNIFORM LAND USE REVIEW

This application (C 170127 PPK), in conjunction with the related zoning map amendment (C 170128 ZMK), was certified as complete by the Department of City Planning on October 31, 2016,

and was duly referred to Community Board 14 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 application for a zoning text amendment (N 170129 ZRK), which was referred for information and review in accordance with the procedures for non-ULURP matters.

Community Board Public Hearing

Community Board 14 held a public hearing on this application on December 7, 2016 and on December 12, 2016, by a vote of 34 in favor, 0 in opposition, and 0 abstentions, adopted a resolution recommending approval of the application.

Borough President Recommendation

This application was considered by the Borough President of Brooklyn, who held a public hearing on December 20, 2016 and issued a recommendation on January 12, 2017 approving the application subject to the following conditions:

1. That BRP Caton Flats LLC and the New York City Department of Housing Preservation and Development (HPD) demonstrate, in writing, to the City Council prior to its hearing, efforts to incorporate additional tiers of affordability for the affordable housing lottery offerings
2. That the appropriate City agency or entity provides, in writing, to the City Council, commitment to incorporate in the Land Disposition Agreement or Regulatory Agreement with BRP Caton Flats LLC for:
 - a. The affordable housing floor area to provide for at least 50 percent of the dwelling units to be two- and three-bedroom units, as a means to accommodate a greater percentage of families with children, consistent with Zoning Resolution (ZR) Section 23-96(c)(ii),
 - b. The vendor status shall be codified inclusive of the following:
 - i. Interim property vendor stall floor plan shall be prepared, inclusive of stall layout, with individual stall sizes, aisle arrangement, and possible utility connections/infrastructure
 - ii. Interim property vendor leases shall specify the duration of free rent and conditions that might initiate rent prior to relocation back to the existing Flatbush Caton Market (Market) site, at Caton and Flatbush avenues
 - iii. The permanent vendors market shall contain a floor plan that delineates vendor stalls, stall sizes, aisle widths, composition of vendor arrangement, and indication of possible utility connections/infrastructure

- iv. The permanent vendor leases shall specify the duration that current rents would remain in effect and contain terms that specify how nominal subsequent rent renewal increases would be determined
 - v. The permanent vendor leases shall specify the hours of operation as well as the procedures and rules to gain access to the community support spaces that might support vendor food preparation and/or product production, as well as any associated fees schedule, if applicable, and
 - vi. The permanent communal spaces shall have a clear set of rules, procedures, and protocols to clarify how vendors, locally-based organizations, and individuals from the community might gain access
- c. The project developer to be required to retain Brooklyn-based contractors and subcontractors, especially those that are designated Local Business Enterprises (LBE) consistent with section 6-108.1 of the City's Administrative Code, and LBE and Minority- and Women-Owned Business Enterprises (MWBE) establishments, as a means to meet or exceed standards per Local Law 1 (no fewer than 20 percent participation), as well as to coordinate the monitoring of such participation with an appropriate monitoring agency
3. That BRP Caton Flats LLC shall provide commitment, in writing, to the City Council prior to its hearing, to 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, permeable plaza pavers, solar panels, and wind turbines in the development of Caton Flats.

Be it further resolved that:

1. That the New York City Department of Housing Preservation and Development (HPD) 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, and
2. The CPC and/or the City Council should call to seek for the modification of MIH section of the ZR pertaining to MIH-designated areas to be adopted with a requirement that permits households with rent-burdened status to qualify for such affordable housing units pursuant to MIH

City Planning Commission Public Hearing

On January 4, 2017 (Calendar No. 4), the City Planning Commission scheduled January 18, 2017 for a public hearing on this application (C 170127 PPK) and related actions. The hearing was duly held on January 18, 2017 (Calendar No. 27). Thirteen speakers testified in support of the application and two speakers testified in opposition.

Several members of the applicant team spoke in support of the application, including representatives from EDC, the designated developer, their architects and the community economic consultant. A representative from EDC described the site's history, reiterated the goals set forth in the 2013 RFP, and clarified that the Flatbush Caton Market is distinct from the vendor licensing and procurement rules associated with other municipal markets, such as the Essex Street Market in Manhattan. Members of the development team stated that the project's primary goals were to build a sustainable market for existing vendors and provide opportunities for affordable housing. A representative from the community development consultant, Urbane Development, shared additional background information about the site and surrounding area, described the market's existing conditions, and indicated that the site is situated near public transit at the intersection of two active corridors with a lot of foot traffic. They noted that, in their role as a community development consultant, the company studied local market conditions to assess opportunities for existing vendors and met individually with vendors to understand their operational needs. They also noted that they would help vendors relocate to the temporary space and provide ongoing business development training and marketing. The applicant's architect provided an overview of the development's design and building massing, façade treatments, parking, ground floor uses, elements of active and sustainable design, and the sidewalk plaza in front of the market.

The development team explained that CACCI would be offered nonprofit space either through a condo sale or lease for a nominal amount with the opportunity to purchase eventually. The representative from EDC stated that vendors in good standing would be eligible for grandfathered terms. The representative stressed that the project sought to advance multiple public policy goals, including building affordable housing, operating an economically sustainable local vendors market, and relocating vendors to a temporary space during construction, all of which would need to be balanced with the project's overall financial viability. The proposed unit mix was structured based on HPD's Mixed-Middle Income ("M Square") term sheet, which the team said was also reflective of the growing demand for rental units at middle and moderate income tiers.

The applicant team stated further that the proposed incubator space will include classrooms and a

kitchen and an apparel production facility to offer vendors an affordable space to test and make products in-house. This space is also intended to support local entrepreneurs. A nonprofit affiliated with Urbane Development intends to operate the space with potential partnerships with local colleges and universities. The new market will be approximately 1,700 square feet larger than the current space with more space for food vendors. In regards to the market's parking needs, Urbane Development stated that customer parking is an important amenity, but stated that it was not considered as essential or requisite for the market's success. The developer also confirmed that 63 parking spaces will be provided for the entire building, including parking for customers and vendors. The team explained that goods sold in the market are not meant to compete with the development's separate retail space or with nearby businesses, but will instead be complementary and synergistic.

Although SBS would not have a role in overseeing or managing the new market, the team expressed a willingness to work closely with SBS in utilizing their services and programs. The development team also clarified that CACCI is a project partner as a service provider, rather than managing the day-to-day market operations. A market vendor spoke in support of the application and stated that the market is in a poor state and needs to be rejuvenated. The vendor was pleased that the proposal builds and improves upon on the market's original concept, but also acknowledged parking as a concern.

A market vendor spoke in opposition of the application and raised concern about the temporary space and a proposed rent abatement for six months, requesting a longer abatement. A representative from the labor union SEIU 32BJ spoke in opposition to the application and requested that the developer provide high quality building service jobs.

There were no other speakers, and the hearing was closed.

CONSIDERATION

The Commission believes that the disposition of City-owned property, and the related applications for a zoning map amendment and zoning text amendments, are appropriate.

Approval of the proposed actions would facilitate a mixed use development with 251 units of affordable housing, ground floor retail, incubator and nonprofit space, and the development of a new 9,370-square-foot Flatbush Caton Market. Since its inception, this market has played a social, cultural, and economic role in the Flatbush neighborhood by providing affordable spaces for entrepreneurs and small businesses, many of whom are immigrants from the Caribbean. The proposed development represents a key opportunity to reinvigorate the Flatbush Caton Market so that it more fully reaches its potential as a hub for local vendors and a community gathering space. The physical space of the new market would include many enhancements, most notably an expansion of the market space from 7,680 to 9,370 square feet, allowing for larger and more efficient stalls, improved circulation and flow throughout the space, and additional seating and common areas for visitors. Furthermore, the new market would include state-of-the-art facilities for individual vendors, such as new HVAC and plumbing systems, cold storage, and more glazing to increase natural light. The building would also set back 20 feet along Caton Avenue to provide a public plaza, similar to the plaza in front of the existing market. This would allow vendors to continue selling goods outdoors and provide an amenity for residents, market patrons, and the broader community. The Commission notes that the additional setback would also allow more light and air from above to the street below.

In addition to the market space, the project as proposed would include a ground floor with a 4,220-square-foot business incubator space to be operated by a nonprofit organization affiliated with the community development consultant project partner. This incubator space, which would be adjacent to the market, would consist of classrooms and a kitchen, apparel, and multi-purpose production space used in connection with the vendors market. The incubator space will support local workforce and economic development goals by providing vendors, local businesses, and community groups access to the space and its services.

The Commission is pleased that the applicant team reached out to each vendor to listen to their needs and concerns, collect their feedback and suggestions, and then incorporate their feedback in designing and programming the new market space. Over the past year, the applicant team has

conducted a market research study to analyze local economic conditions and compiled information on successful public markets, food halls, and business incubator models. The team stated that vendors will also receive business development education, financial training, and marketing services based on industry segment (e.g. food, apparel, personal care), topic (e.g. social media, e-commerce, import/export), and attainment levels (beginner vs. advanced). The Commission acknowledges the importance of community-based partnerships in such projects and is pleased that the development team has considered partnering with local nonprofit organizations, higher education institutions, local banks and financial institutions, and City agencies.

The Commission acknowledges CACCI's letter of support submitted on January 17, 2017 and their current role in managing the market, under SBS oversight, and providing an array of services and networking for Caribbean-owned businesses throughout New York City and beyond. The Commission supports their continued involvement as a project partner and service provider in connection with the new market and incubator spaces. Moreover, the proposal to locate the new headquarters for CACCI on the development's second floor, directly above the market, will provide the organization with a sorely-needed space closer to their members. In a follow-up letter to the Commission, the applicants confirmed that CACCI will be part of the market's management structure as a governing board member and play a vital role in vendor support.

During the proposed development's construction, market vendors will be relocated to a temporary or interim space approximately 0.75 miles south of the current market. According to the Applicant team, the temporary space is comparable in size to the current market and well-suited to contain all of the vendors. The development team has committed to providing a rent abatement to offset potential loss of business and provide ongoing forms of assistance. The Commission also notes that the temporary space remains close to Flatbush Avenue and near other busy commercial areas.

The application for a zoning map amendment (C 170128 ZMK) is appropriate. The proposed R8A/C2-4 zoning regulations reflect the project area's proximity to transit and location along an active commercial corridor at the intersection of two wide streets. The proposed rezoning would facilitate a development that seeks to leverage scarce City-owned property at a prominent location

for a series of public benefits, including a new Flatbush Caton Market, business incubator space, and housing that's 100 percent affordable. Furthermore, the allowed density would help achieve the proposed mix of uses and numerous public benefits, including the reinvigorated vendors market, the incubator space, and the sorely-needed affordable housing. The extension of the C2-4 commercial overlay will enable greater flexibility in locating the market and retail components in the ground floor.

The proposed text amendment (N 170129 ZRK) is appropriate. Designating the project area as a Mandatory Inclusionary Housing Area will ensure permanent affordability for a portion of the units on the site. Option 2 requires that at least 30 percent of the residential floor area shall be provided at an average of 80 percent AMI. Additionally, the Commission recognizes that this project, in consultation with terms set by HPD and EDC as part of the disposition agreement, will exceed the MIH requirements and be entirely affordable pursuant to HPD's Mixed Middle Income ("M Square") Program term sheet and other subsidies.

While the proposed development would be taller than most buildings within the immediate surrounding area, its design and massing responds to the local context by breaking up the façade with different materials and articulation, providing setbacks at various upper floors, and allowing additional light and air by setting back much of the building 20 feet from Caton Avenue. The proposed ground-floor height of 17 feet with extensive glazing will improve the quality of the streetscape and promote the building's ground floor uses.

In addition, the applicant team submitted a memo on January 26, 2017, clarifying the market's management structure and programming, the relationship between the market and neighboring retail, the proposed affordability levels, parking, and involvement with SBS. Regarding the proposed levels of affordability for the units within the proposed building, the Commission acknowledges that the development team has been engaging with City agencies and elected officials to explore deeper levels of affordability and encourages these ongoing conversations. In response to questions related to the market's management structure, the applicants stated that the market will be managed by a newly formed business under a joint venture between the project

partners, including CACCI, while Urbane Development intends to serve as the lead operating entity and manage daily operations. In an effort to ensure that the concerns of vendors are heard, the applicant team expressed a willingness to engage with vendors and any group formed to act on their behalf. In response to questions raised about the market's programming, the memo further states that design features will allow for modularity of size and orientation for vendor stalls, which will help maximize common space and improve circulation. The applicants also stated that vendors will be given priority in using the incubator spaces and that the facility will be open to community members during non-market hours or designated shifts. With respect to services and programs available to vendors, the applicant team shared a list of potential partners and described the types of training and educational programs. The applicant team also reiterated that they seek to foster a complementary relationship between the market and the building's retail spaces and nearby commercial uses. The Commission notes that the applicant has set aside 63 off-street parking spaces, which is above the amount of parking by required by zoning. The parking will be available to residents, vendors, visitors, and other users of the market and incubator spaces

Regarding the Borough President's recommendation about the use of sustainable design, the development team has expressed a commitment to sustainable design elements, such as bioswales, green roofs, and permeable pavers, provided there is available funding. The team stated that the proposed development also seeks to meet LEED standards and the Enterprise Green Communities guidelines with efficient insulation, windows, plumbing, lighting, and other sustainable elements, and has indicated that they will use active design principles to encourage physical activity.

Concerning the Borough President's recommendation to incorporate additional tiers of affordability and increase the proportion of two- to three-bedroom units, the applicant team is exploring the feasibility of such changes, balanced with other project priorities. The Commission also acknowledges the applicant team's response to the Borough President's recommendation about the involvement of LBE and M/WBE contractors with efforts being made to partner with local and trade specific organizations. Regarding the Borough President's recommendation about the hours of operation, market layout, stall sizes, vendor leases, and procedures related to the market and incubator spaces, the applicants have provided more detail on the management and

programming of these spaces. While the stall and common space layout is still being configured, the uses of such spaces will be subject to deed restrictions set forth in the land disposition agreement for a proposed 50-year period and EDC will retain the right to review vendors' rents to ensure they are kept at reasonable levels.

RESOLUTION

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

RESOLVED, that the City Planning Commission, pursuant to Section 197-c of the New York City Charter, that based on the environmental determination and the consideration described in this report, the application submitted by the NYC Department of Citywide Administrative Services (DCAS), pursuant to Section 197-c of the New York City Charter, for the disposition of one city-owned property located at 794 Flatbush Avenue (Block 5063, Lot 58), Community District 14, Borough of Brooklyn, pursuant to zoning, is approved.

The above resolution (C 170127 PPK), duly adopted by the City Planning Commission on February 22, 2017 (Calendar No. 11), 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, IRWIN G. CANTOR, P.E., ALFRED C. CERULLO, III,
JOSEPH DOUEK, RICHARD W. EADDY, CHERYL COHEN EFFRON,
HOPE KNIGHT, ANNA HAYES LEVIN, ORLANDO MARIN, Commissioners

Brooklyn Borough President Recommendation

CITY PLANNING COMMISSION
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INSTRUCTIONS

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

APPLICATION

CATON FLATS – 172127 PPK, 170128 ZMK, and 170129 ZRK

The applications, submitted by the New York City Department of Citywide Administrative Services (DCAS) and the New York City Economic Development Corporation (EDC), seek disposition of the City-owned property located at 794 Flatbush Avenue, in Brooklyn Community District 14 (CD 14), and modification to the New York City Zoning Resolution (ZR). The proposed amendment to the zoning map would change this property from an R7A district to an R8A district, with a C2-4 district overlay. The zoning text amendment would create a new Mandatory Inclusionary Housing (MIH) area within CD 14. Such actions would facilitate the development of a 14-story, mixed-use, 100 percent affordable housing development with 250 units and approximately 31,000 square feet of community and retail space, including nearly 9,400 square feet set aside to accommodate the existing Flatbush Caton Market.

BROOKLYN COMMUNITY DISTRICT NO. 14

BOROUGH OF BROOKLYN

RECOMMENDATION

APPROVE

APPROVE WITH
MODIFICATIONS/CONDITIONS

DISAPPROVE

DISAPPROVE WITH
MODIFICATIONS/CONDITIONS

SEE ATTACHED

BROOKLYN BOROUGH PRESIDENT

January 12, 2017

DATE

RECOMMENDATION FOR: CATON FLATS – 172127 PPK, 170128 ZMK, and 170129 ZRK

Applications submitted by the New York City Department of Citywide Administrative Services (DCAS) and the New York City Economic Development Corporation (EDC), in coordination with BRP Caton Flats LLC, seek the disposition of City-owned land at 794 Flatbush Avenue in the Flatbush neighborhood of Brooklyn Community District 14 (CD 14), a zoning map amendment to rezone the property from R7A and R7A/C2-4 to R8A/C2-4, and a zoning text amendment to create a new Mandatory Inclusionary Housing (MIH) area in CD 14. Such actions would facilitate the development of a new 14-story, mixed-use 100 percent affordable building with approximately 229,000 square feet of floor area, including 197,778 square feet, 251 units, of affordable housing. The proposed development would also include approximately 19,800 square feet of commercial retail floor area, including a new 9,370 square-foot Flatbush Caton Market (Market), and approximately 11,300 square feet of community facility floor area, including 4,220 square feet of community facility incubator space.

On December 20, 2016, Brooklyn Borough President Eric L. Adams held a public hearing on these requests. There were eight speakers in favor of this item, representing several vendors of the Market, the Brooklyn Chamber of Commerce, CaribBEING, Caribbean American Chamber of Commerce and Industry, Inc. (CACCI), and Brooklyn Community Board 14 (CB 14).

Speakers in support of this project voiced numerous comments regarding:

- The Market being an institution for the community and the importance of it continuing to remain in place and bring the cultural programming to the community
- The timely arrival of this redevelopment opportunity in order to allow the Market to expand, improve, and prosper
- Creating economic development for area surrounding the proposed development site, as well as the temporary Market site
- The professionalism of the selection process and the selected developer being Minority- and Women-Owned Business Enterprises (MWBE)-certified as well as committing to working with the vendors and the community
- The development's potential to create jobs for the community
- The provision of a business incubator space and offices for the non-profit, and
- CB 14's unanimous support for the project and the transparency in the dialogue between the stakeholders

There were also concerns voiced during the hearing regarding: the importance of monitoring during construction to minimize traffic disruption as the intersection of Flatbush and Caton avenues is very busy, and the belief of the temporary Market site location being a more residential area rather than commercial, which could potentially hurt the viability of the vendors.

In response to Borough President Adams' interest in maintaining synergy between the existing vendors, the representative for the applicant stated that several strategies would be implemented in order to ensure sales throughout the development process. Marketing strategies, including newspaper, radio ads, and social media, would begin well before the move to the interim Market space, in order to ensure that people have knowledge of the new location. Additionally, promotional events will be held at the existing Market space. The representative also pointed out that data shows the existing Market clientele largely resides south of the current site, therefore, the expectation is that the interim location not hinder vendor sales. Additional opportunities exist in partnering with other markets throughout the city.

In response to Deputy Brooklyn Borough President Diana Reyna's inquiry regarding leases for the existing vendors at the interim Market space, the representative stated that vendors will receive subleases for the temporary space.

In response to Borough President Adams' inquiry regarding assurance that the proposed business incubator space would remain available for community use, the representative stated that the deed will include use restrictions specifically with regard to the Market aspect of the building, requiring the Market remain eligible for small business vendors and that the community facility space be occupied by a non-profit for a term of 50 years. The representative clarified that this space would be prioritized for Market vendors although the space would still be available for community use as an asset to the community at large.

In response to Borough President Adams' inquiry regarding the qualifying income range for prospective tenants based on household size, and anticipated rents based on the number of bedrooms, the applicant's representative stated that 20 percent of the units will go to households qualifying for rent pegged to 47 percent AMI, 30 percent of the units will go to households qualifying for rents pegged to 80 percent AMI, and 50 percent of the units will go to households qualifying for rents pegged to 130 percent AMI. The representative stated that there is a marketing band of approximately three percent for the 47 percent AMI tier, but as the qualifying income goes higher, the band has to expand. For example, for the 80 percent AMI, the marketing band expands to reach between 90 and 100 percent AMI, and for 130 percent AMI, the marketing band expands to reach up to 145 percent, in terms of incomes that would qualify for units within that tier. Additionally, the unit breakdown is as follows: 10 studios, 21 one-bedrooms, 11 two-bedrooms, and nine three-bedrooms at 47 percent AMI levels; 15 studios, 32 one-bedrooms, 17 two-bedrooms, and 12 three-bedrooms at 80 percent AMI levels, and 25 studios, 51 one-bedrooms, 26 two-bedrooms, and 21 three-bedrooms at 130 percent AMI levels.

In response to Borough President Adams noting that the proposed affordable housing mix favors studio and one-bedroom units, the representative stated that the proposed mix was created to maximize both affordability and the number of affordable units for the community. The representative stated that shifting the overall unit mix would reduce the overall number of units for the entire project. Additionally, the representative noted that data shows the highest demand for affordable housing lottery units is for studio and one-bedroom units.

In response to Borough President Adams' acknowledgement of those in the surrounding area that are at risk for displacement or being further rent-burdened, the representative stated that this project will have a community liaison who will work directly with the community to ensure comprehensive outreach in terms of local hiring as well as the tenant lottery. The liaison will work with community residents ahead of time in order to prepare them for application process and ensure they have all the necessary documents.

In response to Borough President Adams noting the concerns voiced by neighboring residents regarding the proposed development blocking lot line windows of the adjacent building, the representative stated that while these are not legal windows, the developer will be meeting with the building's affected residents in order to measure and determine the purpose of the windows.

In response to Borough President Adams' policy of promoting the use of renewable and sustainable energy resources and promoting practices to retain stormwater runoff, the applicant's representative stated that the developer frequently works with the New York City Department of Environmental Protection's (DEP) Office of Green Infrastructure. The Passive House design option was explored but the total development cost would come out much higher than would be feasible to complete this development, and would further eliminate some of the units to accommodate the

thicker building envelope. The representative also stated that the development is designed to high energy standards.

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 MWBEs, the representative stated that the developer has a high rate of partnering with MWBEs, including architects, demolition companies, environmental companies, and title companies. The developer, architect, and Urbane Development LLC (Urbane) are all MWBE-certified. In terms of hiring, the developer will be working with local companies in order to identify skilled and non-skilled labor for the site.

Subsequent to the hearing, Representative Yvette D. Clarke provided additional testimony in support of the project, which stated that the proposed development would provide desperately-needed housing for the families in the community, as well as updated space and numerous services for the Market.

Subsequent to the hearing, BRP Caton Flats LLC provided a letter dated January 9, 2017 with clarification regarding some of the questions discussed at the hearing. With regard to maximizing job opportunities, the applicant stated that per their MWBE Utilization Plan, which is an exhibit in the contract of sale, the target MWBE goal is 35 percent. To further local and MWBE empowerment, the applicant listed local and trade-specific organizations with the expressed intention of seeking partnerships. Additionally, the applicant stated their commitment toward pursuing sustainable design to the extent that funding is available.

Consideration

CB 14 approved these applications without conditions.

The proposed actions would facilitate the sale of the property to BRP Caton Flats LLC for the development of an improved Market as part of the ground floor of the new mixed-use building.

In 2013, EDC issued a Request for Proposals (RFP) for the purchase and redevelopment of a site of approximately 31,600 square feet of lot area owned by the City of New York, located at 794 Flatbush Avenue. The site currently contains the 7,680 square-foot Market and a 49 space municipal parking lot. The RFP specifically requested retention of the Market by either retaining the existing market or developing a new, improved space for the Market on site.

The Market is a collection of local Caribbean vendors selling a variety of goods, managed by CACCI, and overseen by the New York City Department of Small Business Services (SBS). Since its inception almost 20 years ago, the Market has played a cultural, economic, and social role in Flatbush by providing affordable spaces for burgeoning entrepreneurs and small businesses within the Caribbean-American community. The Market currently contains 39 vendors in 43 stalls selling a variety of goods and services that primarily serve the neighborhood's Caribbean population. Vendors typically sell apparel, art, bridal wear, fabric and sewing accessories, health and beauty supplies, home furnishings, jewelry, music, party supplies, and specialty food, as well as provide hairstyling services. Two vendors rent outdoor plaza space and three vendors rent multiple stalls.

The Market was established at this site in 1997 as an open-air market, to offer an alternative permanent space to local street vendors occupying the sidewalk on Flatbush Avenue. It was approved for use by the City Planning Commission (CPC) in 1998 and, in 2001, a one-story building with 49 accessory parking spaces was built to enclose the Market and give it year-round protection from the weather.

The proposed development is located within an R7A zoning district, which is intended for medium-density apartment buildings and mandates Quality Housing bulk regulations. These regulations typically produce high lot coverage, seven- and eight-story buildings that blend with the existing buildings in the surrounding neighborhoods. The maximum permitted floor area ratio (FAR) for this R7A district for any combination of community facility and residential use is 4.0 FAR. The additional C2-4 zoning overlay permits commercial ground floor for mixed-use residential development as part of the 4.0 FAR.

In 2015, BRP Development was selected as the developer to transform the site into a mixed-use project providing 100 percent affordable housing and a new expanded market. Accordingly, the City seeks to dispose the site to BRP Caton Flats LLC and to rezone the project area from its R7A zoning district to an R8A zoning district, with a C2-4 overlay across the entire area.

The proposed rezoning area also includes small portions of two privately-owned adjacent tax lots that are not part of the development site: a 242 square-foot portion of 55 East 21st Street, which is a triangular portion bounding two rear lot lines of the development site, and a 633 square-foot portion of 786 Flatbush Avenue. 786 Flatbush Avenue contains a one-story Key Food grocery store and 55 East 21st Street contains a six-story residential apartment building.

The increased density would allow an increase in the number of housing units to be permitted onsite. Extending the commercial overlay would allow the Market and other retail uses to be placed anywhere on the ground floor of the new building.

The proposed actions would facilitate the development of a 14-story mixed-use building containing nearly 229,000 square feet of zoning floor area and 251 affordable housing units, at 7.18 FAR. The 9,730 square-foot Market would be fronting on Caton Avenue. An additional estimated 10,500 square feet would be utilized for other retail uses, fronting on Flatbush Avenue. Nearly 12,300 square feet of community facility space would comprise a non-profit business incubator space with a commercial kitchen as well as a technology and prototyping lab on the first floor, and non-profit offices on the second floor. A total of 63 attended accessory parking spaces and 126 bicycle parking spaces would be provided at the cellar level.

The proposed building will be set back from the street by 20 feet, pursuant to a zoning override obtained from the deputy mayor for New York City housing and economic development. This massing would allow the proposed development to maintain an open area in front of the building on Caton Avenue for the occasional use by vendors, similar to the open area that currently exists at the site.

BRP Caton Flats LLC has partnered with Urbane, a community development consultant, to assess the needs of the current vendors and ensure that vendors experience a smooth transition to the new Market space. BRP Caton Flats LLC and Urbane will provide business training and support to the vendors during their temporary relocation, and will assist in transition planning and implementation. The vendors will be temporarily relocated approximately five blocks south of the current Market to 2184 Clarendon Road. All current vendors will have the opportunity to transition to the new space and utilize the new business incubator space, which will offer training in retail and product manufacturing of apparel, art, food production, and technology, as well as in how to operate a small business. It is anticipated that the business incubator space will be run by a non-profit organization affiliated with Urbane.

The proposed development is also located within the Flatbush Avenue Business Improvement District (BID), which serves Flatbush Avenue from Parkside Avenue to Cortelyou Road. The BID provides services to its commercial members, including advertising initiatives, holiday lights,

marketing, security services, and, supplemental sanitation services, as well as donations to local charities that benefit the Flatbush community.

The MIH district mapped across the site would require compliance with Option 2 of the MIH program, meaning that at least 30 percent of the residential floor area, excluding non-residential ground floor space, must be permanently affordable housing for households with rents averaging 80 percent AMI. Rent would be affordable on average to single-person households with incomes of nearly \$51,000, \$58,000 for a two-person household, and approximately \$65,000 for households of three, et al. All of the other housing units, with the exception of the superintendent's unit, would be classified as affordable with 20 percent of the units will be set at or below 50 percent AMI, with eligible incomes of approximately \$31,000 for a single-person household, \$36,000 for a two-person household, \$40,000 for households of three, et al. Fifty percent of the units will be set at 130 percent AMI, with eligible incomes starting at approximately \$82,000 for single-person households, \$94,000 for two-person households, and \$106,000 for households of three, et al.

Borough President Adams supports the redevelopment of the existing Market as it would result in expanded and improved market space, as well as the provision of vendor services throughout the redevelopment, a new business incubator space, and a home for CACCI. CACCI has had a long history of providing services and promoting small businesses. It has developed expertise in providing assistance to small and start-up business owners in areas of business planning, certification, expansion and export/import opportunities, financing, and procurement. CACCI has worked to promote having a business incubator and trade center and, with the Caton Flats development, it would have firm standing to continue to offer an array of domestic and international business programs and services, create jobs, and promote cultural, investment, and trade opportunities between the United States, the Caribbean region, and other international communities.

Borough President Adams also supports the use of City-owned property for having 100 percent of its residential floor area dedicated to affordable housing at income bands serving low-, moderate-, and middle-income households. By serving a broad range of diverse incomes, the development would be consistent with Borough President Adams' objectives to provide affordable housing to households through various income band targets. Borough President Adams supports the increase in residential floor area through the proposed rezoning as it is paired with the Zoning Resolution's (ZR) MIH program, which mandates that a percentage of the housing units will be permanently affordable. The site's location near several transit options and on a regional commercial corridor is a well-suited opportunity to provide additional density, as this area is well-served by public transit with the Q Broadway Express at the Parkside Avenue station, and the Q Broadway Express and the B Sixth Avenue Express at the Church Avenue station, as well as a number of nearby bus lines.

To date, the Washington Avenue corridor along the Brooklyn Botanical Garden and the Fourth Avenue corridor in Greenwood Heights are the furthest distance from Downtown Brooklyn's transportation hub were an R8A zoning district has been established. Establishing the proposed R8A density in this area would be the first instance where it would be established to the south of the Parade Grounds. Borough President Adams believes that establishing additional density to this extent is appropriate because it presents an opportunity to extensively utilize City-owned property exclusively for public purposes.

Though Borough President Adams generally supports the proposed development, he seeks the following: expansion of the proposed income bands at each tier; modification to the proposed unit mix; commitment to the retention and accommodation of the existing Market vendors; commitment toward the inclusion of LBEs and MWBEs, and utilization of resilient and sustainable measures.

The following sections outline Borough President Adams' recommended modifications in more detail.

Expanding Ranges for Qualifying Income Bands

It is Borough President Adams' policy to promote multiple tiers of affordability in order to provide opportunities for low-, moderate-, and middle-income residents. The definition of "affordable housing" in New York City covers a broad range of family, financial, and personal circumstances. There is an acute need to create affordable housing for city residents at all qualification bands. Too often, however, household income eligibility frustrates that goal because oftentimes residents earn too much or too little compared to the income ranges typically made available for affordable housing units. Multiple qualifying income tiers provide opportunities for more people to apply for available units.

As proposed, Caton Flats is a step in the right direction, targeting three bands of qualifying household incomes: 47 percent AMI, 80 percent AMI, and 130 percent AMI. Households earning in income tiers of as low as 47 to 50 percent of AMI, which means approximately \$28,000-\$30,000 for a single-person household, \$32,000-\$35,000 for a two-person household, and \$36,000-\$39,000 for a three-person household. The middle band averaging rents are based on incomes at 80 percent AMI, which means approximately \$48,000 for single-person households, \$55,000 for two-person households, and \$62,000 for three-person households. Rent formulated at 130 percent AMI, with household lottery eligibility speculated to be up to 145 percent AMI, based on prior developments with HPD involvement, ranges from approximately \$79,000-\$88,000 for single-person households, \$90,000-\$100,000 for a two-person household, and \$101,000-\$113,000 for a three-person household.

Borough President Adams believes that Caton Flats should be developed with as many income bands as is feasible, specifically targeting additional income tiers within the upper range of low-, moderate-, and middle-income affordability bands. For the additional residential floor area permitted through the MIH option established by the ZR with the average rent based on 80 percent AMI household earnings, there is an opportunity to target a range of low- to moderate-income households. This option permits income bands of up to 130 percent AMI, for a qualifying household, with an allowance for three income bands. Given the band at 47 to 50 percent AMI, having an income band ranging from 60 to 70 percent AMI or 70 to 80 percent AMI, offset by a band at 90 to 100 percent AMI, would allow more households to qualify for the housing lottery.

Where the rent has been proposed to be formulated at 130 percent of household AMI, as with the income band flexibility for the MIH residential floor area, unless there is a legal mandate that HPD must adhere to, there should be some flexibility to set rents at 110 to 120 percent AMI or 120 to 130 percent AMI, offset by rent at 140 percent AMI and up. The income band at 140 AMI and up would have the added benefit of creating more fairness to enable someone with proportionally higher income to not qualify for the same unit as someone with lower income at a significantly lower rent burden.

By providing more combination of ranges for qualifying income bands, an optimal number of households would have an opportunity to be considered by the affordable housing lottery. Therefore, Borough President Adams calls on the developer to work with HPD to have additional tiers of affordability for the affordable housing lottery offerings and for the developer and HPD to indicate such consideration in writing to the City Council prior to its hearing.

Achieving a Family-Sized Affordable Housing Unit Mix

Borough President Adams supports Mayor Bill de Blasio's goal to achieve 200,000 affordable housing units over the next decade. Brooklyn is one of the fastest growing communities in the New

York metropolitan area and the ongoing Brooklyn renaissance has ushered in extraordinary changes that were virtually unimaginable even a decade ago. Unfortunately, Brooklyn's success has led to the displacement of long-time residents who can no longer afford to live in their own neighborhoods. Borough President Adams is committed to addressing the borough's affordable housing crisis through creation and preservation of much-needed affordable housing units for very low- to middle-income Brooklynites. Among numerous strategies and approaches, Borough President Adams is committed to advancing his affordable housing policy through his role in the ULURP. The development of much-needed affordable housing provides opportunities to existing neighborhood residents at risk for displacement or increased degree of being rent-burdened.

Many residents within CD 14 live in unregulated housing, or regulated apartments subjected to legal regulated rent increase in which landlords have been renting below the legally permitted regulatory rent (preferential rent) and have been seeking to increase rent, at lease renewal, according to the legal amount permitted. The continued significant increase in rents has resulted in residential displacement or increased rent burden. Therefore, there is a pressing need to provide affordable housing units in this area.

According to the application documents, Caton Flats would consist of 20 percent studio apartments, 41 percent one-bedroom apartments, 22 percent two-bedroom apartments, and 17 percent three-bedroom apartments. A recent report identified that the rent-burdened households, which typically represent those households applying to the City's affordable housing lotteries, are more likely to require family-sized unit types. Therefore, Borough President Adams is concerned that the mix of the proposed affordable housing units would not adequately reflect the unique needs of CD 14's low- to middle-income rent-burdened communities. Borough President Adams believes that right-sizing the bedroom distribution is more important than maximizing the number of affordable housing units.

Borough President Adams believes that discretionary land use actions are appropriate opportunities to advance policies that constrain what would otherwise be permitted as-of-right. He believes that Caton Flats presents an opportunity to achieve family-sized units for the non-elderly and seeks to require a minimum threshold for non-independent residences for senior housing to accommodate family-sized apartments. Borough President Adams supports having at least 50 percent of two- or more bedroom affordable housing units and at least 75 percent of one- or more bedroom affordable housing units, consistent with zoning text for Inclusionary Housing floor area pursuant to ZR 23-96(c)(1)(ii). This provision should be memorialized in the Land Disposition Agreement or Regulatory Agreement between the developer and the City, with regard to the site disposition of the City-owned lot, as a means to guarantee more family-oriented apartments.

Therefore, Borough President Adams seeks for the Land Disposition Agreement or Regulatory Agreement for the City-owned lot to mandate that affordable housing floor area be provided for a greater percentage of two- and three-bedroom units, to accommodate more family-sized apartments, as a means to accommodate a greater percentage of families with children.

Vendors Market and Communal Spaces

Borough President Adams recognizes that the intent to achieve long term viability for the vendors needs to be advanced in order to have a clearer understanding of what the future would hold. The concerns for the interim market site range from the vendor stall size, collective stall layout, and composition, to the status of the interim location rental fees. Concerns for the permanent space range from provision of same-size stalls, spacing, and arrangement of vendors, to the duration of the initial lease and absence of methodology to increase rents after initial term. In addition, there needs to be clarity for the hours of operation, procedures, and rules to gain access to the community support spaces where vendors might engage in food preparation and production. Such communal space should have clear rules, procedures, and protocols in order to clarify how vendors

gain access to such spaces, including fee schedules, if any, as well as how locally-based organizations and neighborhood residents might gain access.

Regarding the intent for the interim rent charge according to the sublease, application documents state that rent would be free for the first six month, at minimum. That was reiterated at the CB 14 public hearing. It was expressed to Borough President Adams that the interim space should not have any payment obligation due to the location off Flatbush Avenue not being equitable to the existing location. There is a concern that vendors would not be able to recreate their current sales levels at the interim location even with the announced marketing support intended by the designated developer and its consulting team. Rather than place the vendors at risk due to diminished foot traffic, Borough President Adams believes that rent should remain free until it would be demonstrated that vendor sales return to reflect the business-as-usual status.

Borough President Adams believes that vendor leases should not follow the practice of standard, commercial leases where the marketplace determines the outcome. He believes that as the vendors market is a component of the overall public purpose of redeveloping a City property, lease renewal should be guided by other instances in which the government regulation exists. Such examples include rent-stabilized units, as indexed to the New York City Rent Guideline Board (RGB), the Consumer Price Index, caps imposed on real property assessments, etc., in order to determine a nominal measure that might lead to increases of a modest amount.

These concerns should be addressed by the appropriate City agency or entity, in writing, to the City Council, prior to its public hearing, as a commitment that would be incorporated in the Land Disposition agreement or Regulatory Agreement with BRP Caton Flats LLC.

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 fewer than 20 percent participation).

Borough President Adams applauds BRP Caton Flats LLC for their goal to retain 35 percent MWBE participation as well as their expressed intentions to seek partnerships with a variety of local and trade specific organizations, as stated in the January 9, 2017 letter. He believes that in order to memorialize such efforts, EDC should require, through a land disposition agreement or similarly legal binding mechanism, BRP Caton Flats LLC, as the project developer, to retain Brooklyn-based contractors and subcontractors, especially those that are designated LBEs consistent with section 6-108.1 of the City's Administrative Code, and MWBE and LBE establishments, as a means to meet or exceed standards per Local Law 1 (no fewer than 20 percent participation). Additionally, EDC should coordinate the monitoring of such participation with an appropriate monitoring agency.

Advancing Resilient and Sustainable Energy and Stormwater Management Policies

It is Borough President Adams' sustainable energy policy to promote opportunities that utilize solar panels, wind turbines 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 increase energy efficiency and reduce the development's carbon footprint. 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 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.

The applicant's letter, dated January 9, 2017, provides commitment toward pursuing sustainable design to the extent that funding is available. Borough President Adams recognizes the applicant's commitment and 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 rooftop 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 permeable pavers and constructing 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, NYSERDA, and/or NYPA, to give consideration to government grants and programs 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.

Community Preference: 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.

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.

In the section of CD 14 in proximity to the Caton Flats project, too many households fall into low- and very-low income categories and are often rent-burdened. According to map.dapmapnyc.org/app/*, the site is located in a considerable concentration of rent-stabilized apartments, including a few that have experienced a varying degree of reduction of what were subject to rent stabilization regulations. Given the risk for displacement, the City should take steps to increase the probability that rent-burdened households qualify for as many affordable housing lotteries as possible.

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 are paying more than 30 percent of their income toward housing.

**DAP Map is a building-by-building, web-based interactive map for New York City designed to show where residential tenants may be facing significant displacement pressures and where affordable apartments are most threatened. The Association for Neighborhood Housing Developers (ANHD) created DAP Map to provide community groups, local residents, elected officials, policymakers, and the public direct and real-time access to vital information on our city's rapidly changing residential environment.*

As noted in his East New York Community Plan 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 ensure 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 should be achieved by amending the ZR to adjust the AMI qualifications to 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 affordable, newly-produced, quality housing accommodations.

Borough President Adams believes that the CPC and/or the City Council should echo his call to seek for the modification of MIH section of the ZR pertaining to MIH-designated areas to be adopted with a requirement that permits households with rent-burdened status to qualify for such affordable housing units pursuant to MIH.

Recommendation

Be it resolved that Brooklyn Borough President Eric L. Adams, pursuant to sections 197-c, 201, and 384(b) of the New York City Charter, recommends that the City Planning Commission (CPC) and City Council approve this application with the following conditions:

1. That BRP Caton Flats LLC and the New York City Department of Housing Preservation and Development (HPD) demonstrate, in writing, to the City Council prior to its hearing, efforts to incorporate additional tiers of affordability for the affordable housing lottery offerings
2. That the appropriate City agency or entity provides, in writing, to the City Council, commitment to incorporate in the Land Disposition Agreement or Regulatory Agreement with BRP Caton Flats LLC for:
 - a. The affordable housing floor area to provide for at least 50 percent of the dwelling units to be two- and three-bedroom units, as a means to accommodate a greater percentage of families with children, consistent with Zoning Resolution (ZR) Section 23-96(c)(ii),
 - b. The vendor status shall be codified inclusive of the following:
 - i. Interim property vendor stall floor plan shall be prepared, inclusive of stall layout, with individual stall sizes, aisle arrangement, and possible utility connections/infrastructure
 - ii. Interim property vendor leases shall specify the duration of free rent and conditions that might initiate rent prior to relocation back to the existing Flatbush Caton Market (Market) site, at Caton and Flatbush avenues
 - iii. The permanent vendors market shall contain a floor plan that delineates vendor stalls, stall sizes, aisle widths, composition of vendor arrangement, and indication of possible utility connections/infrastructure

- iv. The permanent vendor leases shall specify the duration that current rents would remain in effect and contain terms that specify how nominal subsequent rent renewal increases would be determined
 - v. The permanent vendor leases shall specify the hours of operation as well as the procedures and rules to gain access to the community support spaces that might support vendor food preparation and/or product production, as well as any associated fees schedule, if applicable, and
 - vi. The permanent communal spaces shall have a clear set of rules, procedures, and protocols to clarify how vendors, locally-based organizations, and individuals from the community might gain access
- c. The project developer to be required to retain Brooklyn-based contractors and subcontractors, especially those that are designated Local Business Enterprises (LBE) consistent with section 6-108.1 of the City's Administrative Code, and LBE and Minority- and Women-Owned Business Enterprises (MWBE) establishments, as a means to meet or exceed standards per Local Law 1 (no fewer than 20 percent participation), as well as to coordinate the monitoring of such participation with an appropriate monitoring agency
2. That BRP Caton Flats LLC shall provide commitment, in writing, to the City Council prior to its hearing, to 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, permeable plaza pavers, solar panels, and wind turbines in the development of Caton Flats

Be it further resolved that:

1. That the New York City Department of Housing Preservation and Development (HPD) 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, and
2. The CPC and/or the City Council should call to seek for the modification of MIH section of the ZR pertaining to MIH-designated areas to be adopted with a requirement that permits households with rent-burdened status to qualify for such affordable housing units pursuant to MIH



BRP

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January 9, 2017

VIA ELECTRONIC DELIVERY

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

RE: Follow Up Questions to Caton Flats ULURP Public Hearing Presentation of December 20, 2016

Dear Borough President Adams:

BRP Development Corp. ("BRP") received three questions from the office of the Borough President in response to the Caton Flats development team's presentation. We respectfully submit the following answers to these questions:

1. What is the percentage of LBE and M/WBE involvement on project? Local law says no less than 20%.

Per BRP's M/WBE Utilization Plan, which is an exhibit in the contract of sale, the target M/WBE goal is 35%. Both Urbane Development, BRP's partner in the market redevelopment, and Freeform/Deform, the project architect, are certified with the City of New York as MBE. BRP is also working with 99 Solutions, a government relations consultant, which is a Veteran MWBE. While there is no specific target for LBEs, BRP has expressed intentions of seeking partnerships with the following local and trade specific organizations to further the local and M/WBE empowerment at this development:

- Caribbean American Chamber of Commerce and Industry (CACCI)
- New York Real Estate Chamber, Inc. (NYREC)
- Bedford Stuyvesant Restoration Corporation
- Non-traditional Employment for Women (NEW)
- New York Association for Minority Contractors
- Regional Alliance of Small Contractors
- NY State Association for Affordable Housing (NYSFAFH), MWBE Committee
- African-American Real Estate Professionals of New York (AAREPNY)

2. Why passive house won't work?

Passive House is an emerging set of energy performance standards, and BRP is actively working toward using Passive House standards in future developments. However, in order to achieve Passive House standards, a building needs to be designed for this purpose from the earliest stages. Caton Flats is already well into the design and development stage of architecture and engineering, so a redesign to Passive House standards would necessitate additional time and expenditures. The design team worked closely with the Department of City Planning to arrive at the current design, which is being considered through the ULURP process. For a 100% affordable development with a team comprised of numerous members, the delays and additional costs associated with the redesign, approvals, and materials would challenge the financial and logistical feasibility of the development. The development team estimates that the increased cost overall would amount to approximately \$11.2 million (\$40 per square foot). These additional costs result from changes to the HVAC system, building envelope and window type modifications, thermal bridging and required testing.

3. Open to exploring bio swells, permeable pavers, or solar power? What is feasible?

BRP has worked with a consultant in the past to design and secure grant funding for sustainable design elements such as bioswales, permeable pavers and green roofs. BRP is committed to sustainable design and will be pursuing these elements in the Caton Flats project as long as funding is available to cover the extra costs.

We would like to thank you in advance for your consideration of this application.

Please contact Renee Casertano at 212-488-4160 or at rcasertano@brpcompanies.com for any follow up questions or clarifications.

Sincerely,



Andrew C. Cohen
Director, BRP Development Corp.

cc: Lydia Downing, New York City Economic Development Corporation