



**IN THE MATTER OF** an application submitted by the Department of Housing Preservation and Development (HPD):

- 1) pursuant to Article 16 of the General Municipal Law of New York State for:
  - a) the designation of property located at 1616 and 1624 Fulton Street, and 20R Troy Avenue (Block 1699, Lots 35, 39, and 43), as an Urban Development Action Area; and
  - b) an Urban Development Action Area Project for such area; and
- 2) pursuant to Section 197-c of the New York City Charter for the disposition of such property to a developer to be selected by HPD;

to facilitate the construction of an 11-story mixed use building with approximately 96 dwelling units and ground floor commercial space.

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This application for an Urban Development Action Area designation, project approval and disposition of city-owned property was filed by the New York City Department of Housing Preservation and Development (HPD) (the applicant) on March 3, 2017. This application would facilitate the construction of an 11-story mixed-use building with affordable residential units and ground floor retail space in the Bedford-Stuyvesant neighborhood of Community District 3, Brooklyn.

**BACKGROUND**

HPD is seeking Urban Development Action Area Project (UDAAP) designation, project approval, and disposition of City-owned property at 1616 and 1624 Fulton Street, and 20R Troy Avenue (the “project area”), in the Bedford-Stuyvesant neighborhood in Brooklyn, Community District 3. The proposed action would facilitate the development of an 11-story, 84,653 square foot mixed-use development (the “proposed development”) consisting of 71,417 square feet of residential space and 13,236 square feet of retail space on the ground floor.

The project area is located within the Fulton Park Urban Renewal Area (“URA”), which was approved by the City Planning Commission (“CPC” or “Commission”) in 1985 (C 850254 HUK) and last amended in 2003 (C 030299 HUK). The URA expires in 2028. The URA is roughly bounded by Atlantic Avenue, Decatur Street, Throop Avenue, and Buffalo Avenue, and promotes the redevelopment of various City-owned urban renewal sites, designated for a variety of land uses, including residential, commercial, public institutions, and open space. In 2003, the project area was designated as Sites 17F and 17G, which were reserved for residential and/or commercial uses. Simultaneously in 2003, HPD applied for and received approval from the CPC (C 030301 HDK) for disposition of Sites 17F and 17G (along with 26 other urban renewal sites) for the construction of small homes. The project area was never developed, however, and the sites remained under City ownership.

The project area was rezoned in 2007 as part of the larger Bedford-Stuyvesant South Rezoning. The CPC approved a zoning map amendment (C 070447 ZMK), which rezoned the majority of the project area to an R7D/C2-4 district. In addition to the zoning map amendment, a zoning text amendment approved by the CPC (N 070448 ZRY) created the new R7D zoning district and mapped a Voluntary Inclusionary Housing (VIH) designated area on the portion of the project area coterminous with the R7D zoning district. The R7D district permits a residential floor area ratio (FAR) of 4.2, and the VIH area provides an FAR bonus (up to 5.6 residential FAR) for complying with the VIH program. A small portion of the project area (55 square feet) on the eastern end of Lot 43 is zoned R6, with an allowable residential FAR of 3.0 for Quality Housing buildings. The entire project area is mapped with a C2-4 commercial overlay, which permits up to 2.0 FAR of commercial use.

The surrounding area is zoned R7D, R6A, and R6B. A C2-4 commercial overlay covers most of Fulton Street surrounding the project area. A VIH designated area is also mapped along Fulton Street, beginning at the project area and extending west. The area is developed with predominantly residential uses with ground floor commercial spaces with some one- and two-family residences in the area. The project area is located at the eastern end of the Bedford-Stuyvesant Gateway Business Improvement District, which serves the commercial corridor of

Fulton Street between Classon and Troy Avenues. Atlantic Avenue is a busy thoroughfare located two blocks south of the project area, with various industrial and manufacturing uses.

Across the street from the project area is the Risley Dent Towers, a six-story residential complex. Scattered in the surrounding area are various public facilities and institutions, including the Interfaith Medical Center on Atlantic Avenue. The project area is well served by mass transit. The A/C subway line runs underneath Fulton Street, with a C stop at Kingston-Throop Avenues (two blocks to the west) and an A/C stop at Utica Avenue (two blocks to the east). A Select Bus Service line (SBS 46) and a local bus line (B46) run north and south along Utica Avenue, connecting Williamsburg and Marine Park. The B25 bus runs east-west along Fulton Street, directly in front of the project area, connecting Downtown Brooklyn and East New York. The B15 bus runs north-south along Lewis Avenue and Marcus Garvey Boulevard, connecting Bushwick and JFK Airport. Atlantic Avenue also serves as the right of way for the aboveground Long Island Rail Road (LIRR) train line. There is an LIRR stop within one mile of the project area at Nostrand Avenue.

The project area comprises three city-owned lots (Block 1699, Lots 35, 39 and 43), all of which are currently vacant. In addition to the project area, the proposed development site comprises an additional five lots (Block 1699, Lots 33, 34, 36, 38, and 137) that have been acquired by the development team.

The development site is approximately 15,200 square feet, with a 140-foot frontage along Fulton Street and a depth of 100 feet. There are two existing vacant buildings on the development site, including a three-story mixed-use brick building, which was previously occupied by two residential units and a ground-floor commercial unit, and a one-story concrete building, which was previously occupied by a laundromat. These buildings will be demolished to make room for the proposed development.

The proposed development would be an 11-story mixed-use building. As originally filed, the development would have contained 96 residential units. Subsequent to certification, during public review, the applicant revised the development proposal to increase residential potential to

approximately 103 apartment units on the second through eleventh floors, and retail space on the ground floor. The residential units would be a mix of studio, one-, and two-bedroom apartments. All residential units would be rent-restricted, and are anticipated to be affordable to households at a mix of incomes. Twenty percent of the units would be permanently affordable under the VIH program to individuals and households earning up to 80 percent of the area median income (AMI).

Residential amenities would include an exercise room and laundry room in the cellar that would be accessible to all tenants, a children's play room on the first floor, and a rooftop patio above a portion of the first floor commercial space for use by building tenants. Five units on the second floor and four units on the tenth floor would have private outdoor terraces. The building would also provide 52 bicycle parking spaces for residential tenants in the cellar. Pursuant to zoning, accessory off-street parking is not required and can be waived for the proposed development as-of-right. The development site is located within the Transit Zone, exempting Income Restricted Housing Units ("IRHUs") from any parking requirements. Parking requirements for government-assisted dwelling units that do not qualify as IRHUs can be waived if 15 or fewer spaces are required, as is the case with the proposed development. No commercial parking spaces are proposed or required.

The proposed development is consistent with the land use designations of the Second Amended Fulton Park Urban Renewal Plan.

## **ENVIRONMENTAL REVIEW**

This application (C 170304 HAK) was reviewed pursuant to the New York State Environmental Quality Review Act (SEQRA) and the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 et seq. and the City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The lead agency is the Department of Housing Preservation and Development. The designated CEQR number is 17HPD044K.

After a study of the potential environmental impact of the proposed actions, a Negative Declaration was issued on March 17, 2017.

The proposed action would be implemented in conformance with the following provision in order to ensure that there are no significant adverse impacts. The provision is as follows:

Noise:

A noise assessment pursuant to CEQR requirements was conducted for the proposed project, with noise readings taken at one location on Fulton Street between Marcus Garvey Boulevard and Troy Avenue. Based on the maximum noise levels measured (L10 value of 75.5 dBA), 31 dBA of window-wall attenuation would be required on all facades of the Proposed Project to achieve the CEQR interior noise level requirements for residential uses, and at least 26 dBA of window/wall attenuation would be required for retail uses. In order to maintain a closed-window condition, an alternate means of ventilation must also be provided in all habitable rooms of the residential units and in the retail space to allow for the maintenance of a closed-window condition.

Prior to the disposition of Lots 35, 39, and 43 necessary to facilitate the Proposed Project, the release of HPD financing, and start of construction, a letter demonstrating compliance with the window-wall attenuation/alternate means of ventilation requirements outlined above, signed and sealed by the project sponsor's architect of record, would be submitted to HPD's Environmental Planning unit for review and approval. Construction in accordance with these commitments would be required through the Land Disposition Agreement (LDA) and applicable funding agreements between HPD and the project sponsor to ensure no significant adverse impacts related to noise would occur.

Hazardous Materials:

A Phase I Environmental Site Assessment (ESA) was prepared for the Development Site by ALC Environmental (ALC) in March of 2016. The Phase I ESA identified several current and historic land uses on or adjacent to the Development Site that warrant further investigation of subsurface conditions. These uses include a laundromat and manufacturing related facilities.

Based on these findings, a Phase II Subsurface Investigation is necessary to adequately identify all potential contaminants within the soil, groundwater and soil vapor at the Development Site. A Phase II Work Plan and Health and Safety Plan (HASP) will be submitted to HPD and the

New York City Department of Environmental Protection (DEP) for review and approval prior to the start of any fieldwork. Based on the results of the Phase II Subsurface Investigation, a Remedial Action Plan (RAP) and Construction Health and Safety Plan (CHASP) will be prepared and implemented during site redevelopment activities to address the removal and disposal of contaminated soils during the construction of the Proposed Project. No property disposition, funding, or construction will proceed without DEP's written approval of the RAP and CHASP. Upon completion of the construction activities, a Closure Report certified by a Professional Engineer or Architect will be submitted to HPD and DEP for review and approval. This report will demonstrate that all remediation activities have been implemented in accordance with the DEP-approved RAP and CHASP.

The Phase II investigation and remediation protocols outlined above will be required through provisions contained in the Land Disposition Agreement between HPD and the Project Sponsor. With implementation of these measures, no significant adverse impacts related to hazardous materials would be expected to occur during or following construction of the Proposed Project.

#### **UNIFORM LAND USE REVIEW**

This application (C 170304 HAK) was certified as complete by the Department of City Planning on March 20, 2017, 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).

#### **Community Board Public Hearing**

Brooklyn Community Board 3 held a public hearing on this application (C 170304 HAK) on May 1, 2017, and on that date, by a vote of 28 in favor, one opposed, and with one abstention, recommended approval of the application.

#### **Borough President Recommendation**

The Brooklyn Borough President held a public hearing on this application (C 170304 HAK) on May 3, 2017, and on June 19, 2017 issued a recommendation to approve the application with the following conditions:

1. “That the New York City Department of Housing Preservation and Development (HPD) incorporates in either the Regulatory Agreement or Land Disposition Agreement (LDA), the following:
  - a. That the housing units resulting from the residential floor area not developed pursuant to the Voluntary Inclusionary Housing (VIH) Program and a direct result of the proportion of development rights from the City-owned lots, be permanently affordable
  - b. The extent that it would work with the developer of 1618 Fulton Street to enable the constructed Middle Income (M<sup>2</sup>) program financed dwelling units, to provide as near to 50 percent two- and three-bedroom units as a means to accommodate a greater percentage of families with children, with rents at 60, 80, and 100 percent AMI, as feasible
2. That the developer should provide a written commitment to the City Council prior to its grant of approval, to the extent that the developer would be:
  - a. Pursuing additional resiliency and sustainability measures, and
  - b. Promoting Brooklyn-based workforce participation measures

Be It Further Resolved:

1. That HPD:
  - a. Promptly advances the disposition of its Fulton-Saratoga sites in a manner that advances the establishment of an expanded facility for the Bed-Stuy Campaign Against Hunger and utilizes the available development rights from St. Mark’s Church
  - b. Modifies its affordable housing apartment lottery community preference standards to be inclusive of the school zone housing the school currently attended by a child of a household residing at a City-funded or -operated homeless shelter, and

2. That New York State shall consider its underutilized property on its Interfaith Medical Center campus as a part of Governor Cuomo's Vital Brooklyn initiative's construction of 3,000 new multi-family affordable housing units."

### **City Planning Commission Public Hearing**

On June 7, 2017 (Calendar No. 3), the CPC scheduled June 21, 2017 for a public hearing on this application (C 170304 HAK). The hearing was duly held on June 21, 2017 (Calendar No. 29).

There were three speakers in favor of the application, and none in opposition.

Speakers included three members of the project team, including representatives of the applicant (HPD), the project sponsor (SMJ Development), and the project architect. The HPD representative presented an overview of the project and provided background information on the neighborhood and proposed development. A representative of the development team explained the rationale for the building's programming, including unit mix and affordability levels, detailing the cost and background of how the sites were assembled, as well as project financing. The HPD and SMJ representatives also spoke to the decision to provide a greater number of studio and one- and two-bedroom units instead of three-bedroom units, noting that it is reflective of data showing greater demand for smaller units. Lastly, the project architect described the proposed building, including the layout of the building, urban design considerations, proposed building amenities, and proposed sustainable design measures.

There were no other speakers and the hearing was closed.

### **CONSIDERATION**

The Commission believes that the approval of this application for UDAAP designation, project approval and disposition of city-owned property located at 1618 Fulton Street (C 170304 HAK) to facilitate the development of affordable housing with ground-floor retail is appropriate.

The city-owned properties have been vacant for many years, and development of these properties along with the neighboring properties would facilitate the development of an 11-story mixed-use building with approximately 103 units of much-needed affordable housing, as well as an active ground floor with about 13,000 square feet of commercial space. The proposed development is located proximate to mass transit, retail, and open space, ensuring accessibility for residents.



Building residents would have access to amenities including an exercise room and children's play room, laundry rooms, and a rooftop patio above a portion of the first floor commercial space.

The Commission notes that the proposed project is consistent with both the Fulton Park Urban Renewal Area Plan (C 850254 HUK) approved in 1985 and the Bedford-Stuyvesant South rezoning (C 070447 ZMK) approved in 2007. The R7D/C2-4 district within which the project area falls encourages participation in the Inclusionary Housing Program, and also requires active ground floor uses. The proposed project would further the goals of the Bedford-Stuyvesant South rezoning, including provision of affordable housing, contextual development with setback and height limits, and an active street front.

In response to the Borough President's recommendation that additional floor area be devoted to permanently affordable housing, the Commission notes that the project as proposed would provide 20 percent of the floor area as permanently affordable housing subject to the VIH program. The remaining residential floor area would be subject to a regulatory agreement with HPD, creating a 100 percent affordable project for a term of at least 30 years.

Regarding the Borough President's recommendation that the development team provide more two- and three-bedroom units with rents at 60, 80, and 100 percent AMI, as feasible, the Commission understands the challenges inherent in assembling the sites and financing the project, and notes that the project as proposed will reflect the anticipated requirements of HPD's Mixed-Middle-Income (M<sup>2</sup>) program term sheet, which is currently undergoing revisions. The M<sup>2</sup> program funds the new construction of multi-family rental housing affordable to low-, moderate, and middle-income families up to 165 percent of AMI. While the term sheet for this program is undergoing revisions, it is expected to require that 25 percent of units be affordable to households earning at or below 60 percent AMI, a minimum of 30 percent of units be set aside for moderate-income households earning between 80 and 130 percent of AMI, and a maximum of 50 percent of units be set aside for middle-income households earning between 130 and 165 percent of AMI. Additionally, HPD approves the unit distribution, and it is anticipated that the required unit distribution will include a minimum of 15 percent one-bedroom units, 30 percent

two- or more-bedroom units, and a maximum of 25 percent studio units. This project would also contribute to a greater income mix in the area.

Regarding the Borough President's recommendation about resiliency and sustainability measures, the development team has stated that the project will be designed to meet Enterprise Green Communities standards, a comprehensive green building framework designed for affordable housing. The Commission applauds this commitment by the applicant, but recognizes that it is not a condition of this action.

## **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

**WHEREAS**, the Department of Housing Preservation and Development has recommended the designation of property located at located at 1616 Fulton Street (Block 1699, Lot 35), Site 17F of the Fulton Park Urban Renewal Area; 1624 Fulton Street (Block 1699, Lot 39), Site 17G of the Fulton Park Urban Renewal Area; and 20R Troy Avenue (Block 1699, Lot 43), Site 17G of the Fulton Park Urban Renewal Area, in Community District 3, Borough of Brooklyn, as an Urban Development Action Area; and

**WHEREAS**, the Department of Housing Preservation and Development has also recommended the approval of an Urban Development Action Area Project for such property;

**THEREFORE**, be it further **RESOLVED**, that the City Planning Commission, after due consideration of the appropriateness of the actions, certifies its unqualified approval of the following matters pursuant to the Urban Development Action Area Act:

- a) the designation of properties located at 1616 Fulton Street (Block 1699, Lot 35), Site 17F of the Fulton Park Urban Renewal Area; 1624 Fulton Street (Block 1699, Lot 39), Site 17G of the Fulton Park Urban Renewal Area; and 20R Troy Avenue (Block 1699, Lot 43), Site 17G of the Fulton Park Urban Renewal Area, as an Urban Development Action Area; and
- b) an Urban development Action Area Project for such area; and

the City Planning Commission recommends that the New York City Council find that:

- a) The present status of the area tends to impair or arrest sound development of the municipality;
- b) The financial aid in the form of tax incentives to be provided by the municipality pursuant to Section 696 of the Urban Development Action Area Act, is necessary to enable the project to be undertaken; and
- c) The project is consistent with the policy and purposes stated in the Section 691 of the Urban Development Action Area Act, and

**BE IT FURTHER RESOLVED**, by 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 of the Department of Housing Preservation and Development, for the disposition of city-owned properties located at 1616 Fulton Street (Block 1699, Lot 35), Site 17F of the Fulton Park Urban Renewal Area; 1624 Fulton Street (Block 1699, Lot 39), Site 17G of the Fulton Park Urban Renewal Area; and 20R Troy Avenue (Block 1699, Lot 43), Site 17G of the Fulton Park Urban Renewal Area, in Community District 3, Borough of Brooklyn, to a developer to be selected by the Department of Housing Preservation and Development, is approved (C 170304 HAK).

The above resolution (C 170304 HAK), duly adopted by the City Planning Commission on July 26, 2017 (Calendar No. 17), 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.

**MARISA LAGO**, *Chair*

**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, LARISA ORTIZ**, *Commissioners*

**MICHELLE DE LA UZ**, *Commissioner, recused*

Application #: **C 170304 HAK**

Project Name: **1618 Fulton Street**

CEQR Number: 17HPD044K

Borough(s): Brooklyn

Community District Number(s): 3

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

**SUBMISSION INSTRUCTIONS**

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

*Docket Description:*

**IN THE MATTER OF** an application submitted by the Department of Housing Preservation and Development (HPD):

- 1) pursuant to Article 16 of the General Municipal Law of New York State for:
  - a) the designation of property located at 1616 and 1624 Fulton Street, and 20R Troy Avenue (Block 1699, Lots 35, 39, and 43), as an Urban Development Action Area; and
  - b) an Urban Development Action Area Project for such area; and
- 2) pursuant to Section 197-c of the New York City Charter for the disposition of such property to a developer to be selected by HPD;

to facilitate the construction of an 11-story mixed use building with approximately 96 dwelling units and ground floor commercial space, Borough of Brooklyn, Community District 3.

<p><b>Applicant(s):</b> NYC Housing Preservation and Development 100 Gold Street New York, NY 10038</p>	<p><b>Applicant's Representative:</b> Eunice Suh 212-836-8658</p>
<p>Recommendation submitted by: <b>Henry L. Butler, District Manager</b></p>	
<p>Date of public hearing: <b>5/1/17</b></p>	<p>Location: <b>St. Stephens Church 874 Myrtle Ave, BK 12, NY 11206</b></p>
<p>Was a quorum present? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/></p> <p><small>A public hearing requires a quorum of 20% of the appointed members of the board, but in no event fewer than seven such members.</small></p>	
<p>Date of Vote: <b>5/1/17</b></p>	<p>Location: <b>St. Stephens Church 874 Myrtle Ave, BK 12, NY 11206</b></p>
<p><b>RECOMMENDATION</b></p> <p><input checked="" type="checkbox"/> Approve <span style="margin-left: 200px;"><input type="checkbox"/> Approve With Modifications/Conditions</span></p> <p><input type="checkbox"/> Disapprove <span style="margin-left: 150px;"><input type="checkbox"/> Disapprove With Modifications/Conditions</span></p> <p><b>Please attach any further explanation of the recommendation on additional sheets, as necessary.</b></p>	
<p><b>Voting</b></p> <p># In Favor: <b>28</b>    # Against: <b>1</b>    # Abstaining: <b>1</b>    Total members appointed to the board: <b>41</b></p>	
<p>Name of CB/BB officer completing this form <b>Henry L. Butler</b></p>	<p>Title <b>District Manager</b></p>
<p>Date <b>5/18/17</b></p>	

**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**

1618 FULTON STREET – 170304 HAK

In the matter of the application submitted by the New York City Department of Housing Preservation and Development (HPD), pursuant to Section 197-c of the New York City Charter, seeking Urban Development Action Area Project (UDAAP) designation and project approval, and disposition of private and City-owned land, in the Bedford-Stuyvesant neighborhood of Brooklyn Community District 3 (CD 3). Such actions would facilitate the development of an 11-story mixed-use building consisting of a total of 71,417 square feet of residential floor area and 13,236 square feet of commercial retail floor area. The development will provide approximately 96 affordable housing units, with 19 units set aside for households earning up to 80 percent of AMI pursuant to the Voluntary Inclusionary Housing Program (VIH), and the remaining units at a mix of higher incomes.

BROOKLYN COMMUNITY DISTRICT NO. 3

BOROUGH OF BROOKLYN

**RECOMMENDATION**

APPROVE  
 APPROVE WITH  
MODIFICATIONS/CONDITIONS

DISAPPROVE  
 DISAPPROVE WITH  
MODIFICATIONS/CONDITIONS

SEE ATTACHED

\_\_\_\_\_  
BROOKLYN BOROUGH PRESIDENT

June 19, 2017

\_\_\_\_\_  
DATE

**RECOMMENDATION FOR: 1618 FULTON STREET – 170304 HAK**

The application submitted by the New York City Department of Housing Preservation and Development (HPD), pursuant to Section 197-c of the New York City Charter, seeks Urban Development Action Area Project (UDAAP) designation and project approval, and disposition of private and City-owned land, in the Bedford-Stuyvesant neighborhood of Brooklyn Community District 3 (CD 3). Such actions would facilitate the development of an 11-story mixed-use building consisting of a total of 71,417 square feet of residential floor area and 13,236 square feet of commercial retail floor area. The development will provide approximately 96 affordable housing units, with 19 units set aside for households earning up to 80 percent of area median income (AMI) pursuant to the Voluntary Inclusionary Housing Program (VIH), and the remaining units at a mix of higher incomes.

On May 3, 2017, Brooklyn Borough President Eric L. Adams held a public hearing on this item. There was one speaker in support of this item, a board member of Brooklyn Community Board 3 (CB 3) speaking as an area resident, who stated that the applicant has made a sincere effort to accommodate the community's suggestions and that the project will enhance the economic development in the area.

In response to Borough President Adams' inquiry to clarify details with regard to the affordable housing, the applicant stated that 19 of the total 96 units would be for households earning up to 80 percent of AMI, pursuant to VIH, and would be permanently affordable. Twenty five percent of the units would be for households earning up to 60 percent of AMI and would be rented at \$736 for a studio unit, with a maximum income of \$32,000; \$927 for a one-bedroom unit, with a maximum income of \$40,000; \$1,121 for a two-bedroom unit, with a maximum income of \$49,000, and \$1,289 for a three-bedroom unit, with a maximum income of \$56,000. Units for households earning up to 80 percent of AMI would be rented at \$1,000 for a studio unit, with a maximum income of \$54,000; \$1,359 for a one-bedroom unit, with a maximum income of \$68,000; \$1,600 for a two-bedroom unit, with a maximum income of \$81,000, and \$1,884 for a three-bedroom unit, with a maximum income of \$94,000. Ten units for households earning up to 100 percent of AMI would be rented at: \$1,320 for a studio unit, with a maximum income of \$70,000; \$1,650 for a one-bedroom unit, with a maximum income of \$88,000; \$1,990 for a two-bedroom unit, with a maximum income of \$106,000, and \$2,300 for a three-bedroom unit, with a maximum income of \$122,000. Units for households earning up to 165 percent of AMI would be rented at \$1,728 for a studio unit, with a maximum income of \$89,000; \$2,100 for a one-bedroom unit, with a maximum income of \$112,000; \$2,600 for a two-bedroom unit, with a maximum income of \$124,000, and \$3,000 for a three-bedroom unit, with a maximum income of \$155,000.

In response to Deputy Brooklyn Borough President Diana Reyna's inquiry as to whether the developer has considered incorporating wider income tiers in order to ensure the inclusion of those typically left out due to just missing the income bracket requirements, the representative stated that they are open to further discussions with HPD.

In response to Borough President Adams' policy of providing more family-sized affordable housing units, the applicant stated that efforts will be made to target the senior population for the rental units through vouchers. The applicant will further discuss with HPD the feasibility of providing more family-sized units.

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 roof of the proposed development will be a white roof. The applicant has determined that Passive House design standards are not financially feasible for this

project. The applicant is open to exploring the feasibility of wind turbines and to exploring more opportunities with the New York State Energy Research and Development Authority (NYSERDA) regarding solar panels. Additionally, due to the subway line running below the front of the building, bioswales may not be feasible.

In response to Borough President Adams' policy of maximizing job opportunities for Brooklynites and procuring supplies locally through the inclusion of Local Business Enterprises (LBE) and Minority- and Women-Owned Business Enterprises (MWBE), the representative stated that they are committed to hiring locally as much as possible. Through the implementation of HPD's MWBE Build Up Program, a percentage of the City's contribution through subsidy, as well as other contributing factors, will determine an amount that would be specifically carved out for the inclusion of MWBE contracts.

### **Consideration**

CB 3 approved this application without conditions.

The requested actions pertain to three City-owned lots, collectively referred to as the project area. The developer selected by HPD will construct the proposed development on the development site, comprising the project area and five additional adjacent privately-owned lots, which are not subject to the proposed actions.

The development site is located in the southern section of the Bedford-Stuyvesant neighborhood on the Fulton Street commercial corridor. It is on a block bounded by Fulton Street to the north, Herkimer Street to the south, Albany Avenue to the west, and Troy Avenue to the east. Fulton Street is a busy commercial corridor, with a variety of nearby commercial and mixed-use buildings ranging from one to 10 stories high. The development site is located at the eastern end of the Bedford-Stuyvesant Gateway Business Improvement District, which services the commercial corridor of Fulton Street between Classon and Troy avenues.

The City-owned lots are part of the Fulton Park Urban Renewal Area, where sites were reserved for residential and/or commercial uses. In 2003, HPD received approval from the New York City Planning Commission (CPC) for disposition of these sites (along with 26 other Urban Renewal sites) for the construction of small homes. These lots were never developed, however, and the lots remain under City ownership. In 2007, the development site was upzoned to R7D with C2-4 overlay, as part of the larger Bedford-Stuyvesant South Rezoning, and an Inclusionary Housing designated area was mapped on the portion of the project area coterminous with the R7D zoning district.

There are two existing buildings on the development site: a vacant three-story, mixed-use, brick building, which was previously occupied by two residential units and a ground-floor commercial unit, as well as a vacant, one-story, concrete building, which was previously occupied by a laundromat. The remainder of the development site is vacant. Immediately to the east of the development site is a parking lot servicing the Lawrence H. Woodward Funeral Home, occupying the entire block width of Troy Avenue, between Fulton and Herkimer streets. To the west of the site is a one-story commercial structure with two storefronts housing the Brooklyn Hospital Women Infants and Children Center, as well as a Chinese restaurant. Further west on the block are The Bradford and The Garvey, two mixed-use affordable housing projects developed through the disposition of City-owned land. Across the street from the project area is the Risley Dent Towers, a six-story residential complex. Local retail establishments on Fulton Street include a bike shop, deli, dollar store, hair salon, money exchange, and pharmacy.

The development is expected to be financed with bonds issued by the New York City Housing Development Corporation (HDC) and subsidies provided by both HDC and HPD through the M2 Program. Under the current program, the units would be affordable to a range of low-, moderate-, and middle-income households with incomes at tiers up to 40, 60, and 80 percent of AMI, as well as incomes at or above 130 percent of AMI. All funding would be subject to the necessary regulatory agreements. In addition, 20 percent of these units for individuals and households earning up to 80 percent of the AMI are required to be permanently affordable under the VIH program. The remainder of the residential units of the development would initially be rent-restricted, and are anticipated to be affordable to households at a mix of incomes.

Borough President Adams supports developments that address the City's objectives by facilitating redevelopment of underutilized land for productive uses. This is especially the case with the development of affordable housing. Borough President Adams seeks for such housing to remain "affordable forever" wherever feasible. This development would result in some permanent affordable housing according to VIH as well as units remaining affordable for at least 30 years of the regulatory agreement. The VIH program provides affordable housing for households not exceeding 80 percent of AMI. When combined with the project's financing, a broad range of diverse incomes would be served, consistent with Borough President Adams' objectives of providing affordable housing to households through various income band targets. For the remaining residential floor area, there is no formal commitment that would guarantee the duration of affordability for these housing units. As tenants move out after the expiration of such a regulatory agreement, those units would no longer be a mandated affordable housing resource. Borough President Adams understands that in anticipation of the expiration of the agreement, the landlord and HPD would have discretion at that point to continue to maximize affordable housing opportunities or address other priorities through these non-MIH units.

Borough President Adams recognizes that pursuant to zoning, accessory off-street parking is not required as the site is located within the Transit Zone, exempting Income Restricted Housing Units ("IRHUs") from any parking requirements. He believes that the development's location is well-served by multiple forms of transportation options. The proposed building will provide 48 bicycle parking spaces in the cellar for residential tenants and the development site is well-served by mass transit. There are two stations served by the A Eighth Avenue Express/C Eighth Avenue Local subway line underneath Fulton Street, with a C Eighth Avenue Local stop at the Kingston-Throop avenues station, and an A Eighth Avenue Express/C Eighth Avenue Local stop at Utica Avenue. A Select Bus Service (SBS) line, SBS 46 Kings Plaza-Williamsburg runs north and south along Utica Avenue. Additional bus service is provided along Fulton Street and along Lewis Avenue/Marcus Garvey Boulevard. Additionally, the development site is located at the easternmost edge of the CitiBike network, with CitiBike stations at Utica Avenue and Fulton Street, two blocks to the east, and Albany Avenue and Fulton Street, one block to the west. Bike lanes are mapped along Pacific, Dean, and Bergen streets to the south and along Throop Avenue to the northwest.

Borough President Adams is generally supportive of the proposed development. He does believe that there are opportunities to improve the proposal while furthering his policies. He has interest in advancing his policies regarding the appropriateness of the unit bedroom mix; enhancing opportunities for community preference for homeless families, accommodating community use, access to jobs, permanent affordability, as well as advancing resilient energy and sustainable and stormwater management policies. In addition, Borough President Adams seeks opportunities for advancing the development of affordable housing on nearby government-owned land.

### **Permanent Affordability**

Creating and maintaining affordable housing continues to be a challenge in New York City. The trend of losing such affordable housing to deregulated status continues to further escalate the



challenge in maintaining an adequate supply of affordable housing. Today, more and more housing units are at risk for becoming deregulated as they approach the end of their affordability agreements and looser regulation kicks in, allowing landlords more leeway to raise the rents. In many cases, even before those restrictions are up, landlords are looking to buy these portfolios with the intention of getting the current low-income tenants out before the end of the affordability agreement.

It is Borough President Adams' policy that affordable housing units remain "affordable forever" wherever feasible. He is concerned that too many affordable units are created, with a limited regulatory term, regarding the number of years these units remain affordable. In his 2014 housing report, Borough President Adams called upon HPD to implement affordable-forever strategies so that future generations can benefit from the sound policy decisions of the current administration. In areas where new developments can be realized on City-owned sites, it should be a policy of the City to minimize the loss of affordable housing by requiring such units to remain permanently affordable.

The approximately 19 residential units that would directly result from the zoning floor area constructed pursuant to the VIH program is consistent with Borough President Adams' policy for affordable housing development to remain permanently affordable. This generated bonus floor area results in 20 percent of the residential floor area to be set aside for low-income households not exceeding 80 percent AMI. For the remaining 80 percent of the residential floor area there is no known formal commitment that would guarantee the duration that these housing units remain affordable. Regulatory agreement used by HPD has not exceeded 60 years, though have specified a lesser term. The concern is that, as tenants move out after the expiration of such regulatory agreement, those units would no longer be an affordable housing resource.

Specific measures, when implemented, can ensure that units remain as affordable housing options for the city's residents. Borough President Adams believes that as the City proceeds with disposing of its land to developers, the land disposition agreement (LDA) would be an appropriate mechanism to ensure that affordable housing remains in perpetuity. In addition, Borough President Adams seeks for affordable housing opportunities to be advanced on nearby government-owned properties.

This development site is unique in that it consists of a blend of City- and privately-acquired tax lots. Borough President Adams believes that it is reasonable for the residential floor area from City-contributed land to remain permanently affordable.

Borough President Adams believes that HPD should incorporate language, in either the regulatory agreement or LDA, to ensure that non-VIH Program housing units, directly resulting from the proportion of development rights from the City-owned lots, be permanently affordable.

### **Achieving a Family-Sized Affordable Housing Unit Mix**

According to the application documents, 1618 Fulton Street would consist of approximately 45 percent one-bedroom apartments, 26 percent studio apartments, 14 percent two-bedroom apartments, and 14 percent three-bedroom apartments. Subsequent to the hearing, the Office of the Brooklyn Borough President was advised that the unit mix was further modified by increasing the number of units to 103, which included two additional studio and one-bedroom units, 17 additional two-bedroom units and eliminated 14-three-bedroom units. 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 housing units would not adequately reflect the needs of CD 3'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 the apartments targeting households at 1618 Fulton Street where rents are set based on 60, 80, and 100 percent of AMI, presents an opportunity to achieve family-sized units for the non-elderly. He seeks to require a minimum threshold for non-independent residences for senior housing to accommodate family-sized apartments at those rents. 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), though, he considers it appropriate to have more studios when rents for studios and one-bedrooms would be affordable to seniors. However, Borough President Adams believes that even the portion of the studios and one-bedrooms with rents based on accommodating households up to 60 percent AMI would not be affordable to area seniors who need to secure affordable housing accommodations.

During the public hearing on May 3, 2017, the developer stated that, perhaps if vouchers were included with the project, then seniors could be accommodated. The developer also noted the fine line of securing the most affordable housing units versus what might be the favored unit mix. Borough President Adams believes it is appropriate for HPD to further work with the developer in order to enable the project financing to allow for more family-sized units. Steps taken to eliminate the three-bedroom units eliminate affordable housing opportunities for larger households.

Therefore, Borough President Adams seeks that HPD provide a commitment in writing to the City Council to the extent that it would work with the developer in order to enable project financing toward approximately 50 percent of the constructed dwelling units to be as two- and three-bedroom units.

#### **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 New York City 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 New York City Department of Environmental Protection (DEP) green-water/stormwater strategies. Bioswales, blue/green roofs, 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 plays a critical role in addressing water quality challenges and provides numerous environmental, social, and economic co-benefits.

The developer has represented that analysis is ongoing in terms of to what extent the development might be incorporating certain resilient and sustainable measures. Based on evaluation of such feasibility, there may be additional measures that would go beyond the inclusion of a white roof improvement.

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 in opening dialogue with the aforementioned agencies and further coordinating on this matter.

Prior to granting 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 the Furman Center's "State of New York City's Housing and Neighborhoods" in 2015, double-digit unemployment remains a pervasive reality for several of Brooklyn's neighborhoods, with more than half of our community districts experiencing poverty rates of nearly 25 percent or higher. 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 developer to retain a Brooklyn-based contractor and subcontractor, especially those that are designated LBEs, consistent with section 6-108.1 of the City's Administrative Code, and MWBEs, as a means to meet or exceed standards per Local Law 1 (no fewer than 20 percent participation).

As the funding for 1618 Fulton Street includes financing/subsidizing participation for which HPD contributes no less than \$2 million, the developer must participate in HPD's MWBE Building Opportunity Initiative's Build Up program. For these projects, at least one quarter of HPD-supported costs are to be spent on certified MWBE construction contractors and professional service providers. Borough President Adams believes that, according to the Build Up program, there would be reasonable opportunities to address demonstrated disparities in MWBE participation in the affordable housing development process. Developments mandated to participate in this program require borrowers/developers to spend at least one quarter of HPD-supported costs on certified MWBEs over the course of design and construction of an HPD-subsidized project. Developers may adopt a goal higher than the minimum. All payments to certified MWBEs performing construction or providing professional services count toward the goal. For example, payments going toward an MWBE architect or an MWBE painter will count toward the goal. As part of the process to meet the minimum participation of MWBE, prior to construction loan closing, borrowers/developers are required to complete an implementation plan to identify MWBEs either under consideration or in contract and describe what steps will be taken to meet the project's applicable MWBE participation goal. The construction loan closing document contains a set dollar value of the MWBE participation goal and requires the developer to adhere to all program requirements. During construction, there are quarterly submission requirements for documenting progress and payment made to eligible MWBE businesses. HPD stands behind this initiative with staffing to support borrowers/developers and their general contractors' efforts to meet the project's MWBE participation goal including compiling resources to help borrowers/developers and their general contractors find MWBEs.

Through HPD's initiative, Borough President Adams believes that the project developer should continue the emphasis 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 LBE and MWBE establishments, as a means to meet or exceed standards per Local Law 1 (no fewer than 20 percent participation). To date, demolition of the existing buildings would be undertaken by a Brooklyn-based minority contracting company that includes military veteran participation.

Prior to granting approval, the City Council should obtain a commitment in writing from the developer to the extent that it would be promoting such Brooklyn-based workforce participation measures.

### **Advancing Affordable and Mixed-Use Housing Development on HPD's Fulton-Saratoga Sites**

The HPD tax lots contributing to the development of 1618 Fulton Street are in proximity of a cluster of City-owned development-ready sites a few blocks to the east along the Fulton Street corridor. In November 2014, Borough President Adams had written to then-HPD Commissioner Vicki Been urging for the agency to promptly advance this cluster of sites. His letter included consideration for a sole-source disposition of the City-owned site adjacent to St. Mark's Church given that it has a proposal for a mixed-use project that would include both church and City property for developing a new church, gospel museum, and affordable housing. Additionally, Borough President Adams had shared the interest of the Bed-Stuy Campaign Against Hunger for the larger City assemblage at Saratoga Avenue to provide a food pantry and day care services in the ground floor space. Borough President Adams is a supporter of the Bed-Stuy Campaign Against Hunger and has committed \$513,000 toward facilitating the construction of its new facility. He believes that any request for proposals (RFP) of this site should favor proposals that incorporate this important community partner. There may also be cultural entities interested in being part of a development of this location. Inclusion of cultural groups as part of a response to provide affordable housing would establish a strong cultural and educational anchor along this section of Fulton Street and would be consistent with Borough President Adams' policies to assist community-based non-profit organizations with securing affordable space. There had been speculation that HPD would issue an RFP in 2015. Unfortunately, that was not realized.

Therefore, Borough President Adams again urges HPD to promptly advance the disposition of its Fulton-Saratoga sites in a manner that advances utilization of the available development rights from St. Mark's Church and provides for the establishment of an expanded facility for the Bed-Stuy Campaign Against Hunger and other cultural partners.

### **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 recently 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, that would aid with 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.

According to the interactive map provided by the Institute for Children, Poverty, and Homelessness (ICPH), there are seven schools within a few blocks of the proposed development site, within New York City Community School Districts 13, 16, and 17 (CSDs 13, 16, and 17), containing a combined total of approximately 303 homeless students. Such students and their families should be considered as part of the 50 percent local preference.

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

#### **Advancing Affordable Housing Through the New York State Vital Brooklyn Initiative**

In March, New York State Governor Andrew M. Cuomo announced the \$1.4 billion Vital Brooklyn initiative with the intent to transform central Brooklyn. The initiative is intended to target and invest in eight integrated areas of investment, establishing a national paradigm for addressing chronic disparities such as entrenched poverty and systemic violence in high-need communities.

The comprehensive plan is intended to focus on increasing access to open spaces and healthy food, while transforming the health care system by increasing access and quality of health care services and preventive care. Vital Brooklyn is also intended to create a stronger, more sustainable central Brooklyn by prioritizing strategic investments in affordable housing and resiliency, as well as community violence prevention, job creation, and youth development.

Vital Brooklyn intends to bring about approximately 3,000 new affordable housing opportunities at State-owned sites in a manner that encourages active lifestyles and increases access to preventive care, developed with community input. In considering the context of the proposed affordable housing development at 1618 Fulton Street, it is important to note that it shares the same block with an accessory parking lot serving Interfaith Medical Center at Herkimer Street within an R6A zoning district containing more than 55,000 square feet of residential development rights. In addition, there is a parking area fronting Albany Avenue between Atlantic Avenue and Herkimer Street adjacent to the medical center building where the complex's remaining residential development rights are available to be utilized.

Borough President Adams believes that New York State shall consider its underutilized property on its Interfaith Medical Center campus as a part of Governor Cuomo's Vital Brooklyn initiative's construction of 3,000 new multi-family affordable housing units.

**Recommendation**

Be it resolved that the Brooklyn borough president, pursuant to sections 197-c 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 the New York City Department of Housing Preservation and Development (HPD) incorporates in either the Regulatory Agreement or Land Disposition Agreement (LDA), the following:
  - a. That the housing units resulting from the residential floor area not developed pursuant to the Voluntary Inclusionary Housing (VIH) Program and a direct result of the proportion of development rights from the City-owned lots, be permanently affordable
  - b. The extent that it would work with the developer of 1618 Fulton Street to enable the constructed Middle Income (M<sup>2</sup>) program financed dwelling units, to provide as near to 50 percent two- and three-bedroom units as a means to accommodate a greater percentage of families with children, with rents at 60, 80, and 100 percent AMI, as feasible
2. That the developer should provide a written commitment to the City Council prior to its grant of approval, to the extent that the developer would be:
  - a. Pursuing additional resiliency and sustainability measures, and
  - b. Promoting Brooklyn-based workforce participation measures

**Be It Further Resolved:**

1. That HPD:
  - a. Promptly advances the disposition of its Fulton-Saratoga sites in a manner that advances the establishment of an expanded facility for the Bed-Stuy Campaign Against Hunger and utilizes the available development rights from St. Mark's Church
  - b. Modifies its affordable housing apartment lottery community preference standards to be inclusive of the school zone housing the school currently attended by a child of a household residing at a City-funded or -operated homeless shelter, and
2. That New York State shall consider its underutilized property on its Interfaith Medical Center campus as a part of Governor Cuomo's Vital Brooklyn initiative's construction of 3,000 new multi-family affordable housing units