



**IN THE MATTER OF** an application submitted by ENY Community Residences LLC pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 17d, by changing from an M1-1 District to a C4-4L District property bounded by a line 430 feet northerly of Linden Boulevard, a line midway between Van Sinderen Avenue and Snediker Avenue, a line 90 feet northerly of Linden Boulevard, and Van Sinderen Avenue, as shown on a diagram (for illustrative purposes only) dated July 12, 2021, and subject to the conditions of CEQR Declaration E-632, Borough of Brooklyn, Community District 5.

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This application for a zoning map amendment was filed by ENY Community Residences LLC on February 12, 2021 to change an M1-1 zoning district to a C4-4L zoning district. This application, in conjunction with the related action (N 210286 ZRK), would facilitate the development of a new nine-story 103,000-square-foot mixed-use building containing 119 affordable dwelling units and approximately 13,000 square feet of commercial floor area, located at 749 Van Sinderen Avenue in the East New York neighborhood of Brooklyn, Community District 5.

### **RELATED ACTIONS**

In addition to the zoning map amendment (C 210285 ZMK) that is the subject of this report, implementation of the proposed project also requires action by the City Planning Commission (CPC) on the following application, which is being considered concurrently with this application:

**N 210286 ZRK**          Zoning text amendment to designate a Mandatory Inclusionary Housing (MIH) area

### **BACKGROUND**

The applicant requests a zoning map amendment to change an M1-1 zoning district to a C4-4L zoning district to facilitate the development of a new nine-story, approximately 103,000-square-

foot mixed-use commercial and residential building. The building would contain approximately 13,000 square feet of retail on the ground floor and mezzanine, and 90,000 square feet of residential uses on the upper floors.

The project area consists of the development site (Block 3865, Lot 9), as well as lots that are not owned by the applicant and are not expected to result in development from the proposed actions (Block 3865, Lots 6, 7, 21, p/o 44, p/o 45, p/o 46, p/o 47, p/o 49, p/o 136, p/o 137, p/o 138, p/o 139, p/o 140, p/o 141, p/o 142, p/o 150, and p/o 151). The project area comprises the western side of Block 3865, bounded by New Lots Avenue to the north, Snediker Avenue to the east, Linden Boulevard to the south and Van Sinderen Avenue to the west. In total, the project area has 340 feet of frontage on Van Sinderen Avenue.

The development site is a regularly shaped midblock lot with frontage on Van Sinderen Avenue with a total lot area of 22,500 square feet. It is currently improved with three auto body repair shops that contain approximately 20,200 square feet of floor area. Lot 7, adjoining the development site to the north, contains approximately 3,600 square feet of lot area and is improved with a one-story warehouse building. Lot 21, adjoining the development site to the south, contains approximately 3,600 square feet of lot area and is improved with a one-story warehouse building. The remainder of the project area includes approximately five-foot portions of rear lots fronting on Snediker Avenue. These lots are improved with one-family, two-family, and multi-family dwellings, each of which contain front yards and curb cuts. These residential buildings are located in an existing R6 zoning district.

The project area is located within an M1-1 zoning district. M1-1 zoning districts are light industrial districts that often serve as buffers between more intensive M2 or M3 districts and adjacent residential or commercial districts, allowing manufacturing, general service, commercial, and certain community facility uses. No residential uses are permitted. In M1-1 districts, manufacturing uses have a maximum permitted floor area ratio (FAR) of 1.0 for commercial and manufacturing uses and 2.4 for community facility uses. M1-1 districts require one accessory parking space for every 300 square feet of floor area. In M1-1 Districts, buildings can have a maximum front wall height of 30 feet or two stories, whichever is less, after which, it must set back 20 feet on a narrow street and 15 feet on a wide street. Building height above 30 feet is governed by a sky exposure plane.

The majority of the surrounding area is located within an R6 zoning district with a C2-3 commercial overlay along New Lots Avenue. The surrounding area is predominantly residential and consists of privately-owned, attached two story, one- to two-family homes, many of which were developed through the New York City Department of Housing Preservation and Development's Nehemiah Homeownership Program. Van Sinderen Plaza, which was also developed by HPD, is located directly to the north of the Rezoning Area, which is a seven-story mixed residential and commercial building within a mapped R7A district. Additional mixed residential and commercial buildings in the Surrounding Area include an 11-story mixed residential and commercial building located in the western portion of the Surrounding Area that fronts on Hegeman Avenue, Sackman Street, New Lots Avenue, and Powell Street. Multi-family walkup buildings are located south of the development sites along Van Sinderen, Snediker, and Williams avenues and Hinsdale Street between Linden Boulevard and Dewitt Avenue. Some commercial uses can be found several blocks east of the project area along New Lots Avenue. One block southeast of the development sites on Linden Boulevard is a newly constructed hotel.

The surrounding area contains Brownsville Playground, located just west of the project area. The Brownsville Playground is a 3.02-acre park that includes basketball courts, handball courts, media labs, a recreation center, fitness equipment, an indoor pool, and playgrounds.

The project area is located within the Transit Zone and is well served by public transportation. The New Lots Avenue station, providing service to the elevated L subway line is located immediately west across Van Sinderen Avenue from the project area and the Junius Street station, providing access to the 3 line, is located three blocks north of the project area. The B15 bus route runs east and west along New Lots Avenue.

The existing buildings on the development site would be demolished to facilitate the development of a nine-story mixed-use building containing approximately 103,000 square feet of floor area. The building would be built to a FAR of 4.6, with approximately 13,000 square feet of ground floor retail use and 90,000 square feet of residential uses. The building would rise to approximately 73 feet with additional floors above before a 15-foot setback from the street line to reach a maximum building height of approximately 94 feet. The ground floor of the building would include commercial space and floor to ceiling heights of approximately 17 feet in order to accommodate a retail mezzanine. It would also include a landscaped rear yard for the building's tenants, the residential lobby, a bike room, and package room. Floors two through nine would

include residential units per floor. The second floor would also include a multipurpose room and fitness room for the building's tenants. In order to improve circulation to the New Lots Subway Station, the proposed development includes a five-foot setback from the development sites property line along Van Sinderen Avenue in accordance with the C4-4L requirements. No accessory off-street parking is required and none would be provided.

The applicant proposes a zoning map amendment to map an C4-4L zoning district to a depth of 90 feet on the eastern side of Van Sinderen Avenue, between New Lots Avenue and Linden Boulevard. The proposed C4-4L district is a medium density zoning district that was developed for areas that are adjacent to elevated subway tracks to accommodate for to allow for buildings to recess from the street line, enhancing the access of light and air on the building and the sidewalk. The C4-4L zoning district mandates a five-foot setback along the property line in order to allow light and air to reach the street level. In the proposed C4-4L zoning district, residential uses are permitted as-of-right. The residential equivalent is the R7A zoning district, which is a medium density contextual residence district designed to produce Quality Housing buildings that are roughly six to eight stories in height. In C4-4L zoning districts, the maximum residential floor area ratio within MIH areas is 4.6. The C4-4L zoning district permits a maximum commercial and community facility FAR of 4.0. For Quality Housing buildings on MIH zoning lots, a maximum base height of 75 feet before setback and a maximum building height of 95 feet is permitted. No off-street parking spaces are required for income-restricted housing units located within the Transit Zone.

The applicant also seeks a zoning text amendment to modify Appendix F to designate an MIH coterminous with the project area. The MIH Area would be mapped with Options 1 and 2. Option 1 requires that at least 25 percent of residential floor area be reserved for housing units affordable to residents with household incomes averaging 60 percent of the Area Median Income (AMI), including a 10 percent band at 40 percent of the AMI. Option 2 requires that at least 30 percent of residential floor area be reserved for housing units affordable to residents with household incomes at an average of 80 percent of AMI.

## **ENVIRONMENTAL REVIEW**

The application (C 210285 ZMK), in conjunction with the application for the related action (N 210286 ZRK), was reviewed pursuant to the New York State Environmental Quality Review Act (SEQRA) and the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 et seq. and the City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The lead is the City Planning Commission. The designated CEQR number is 21DCP147K.

After a study of the potential environmental impact of the proposed actions, a Conditional Negative Declaration was issued on November 6, 2021. The Negative Declaration included an (E) designation to avoid the potential for significant adverse impacts related to hazardous materials, etc (E-632). The requirements of the (E) designation are described in the Environmental Assessment Statement and Conditional Negative Declaration.

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

The application (C 210285 ZMK) was certified as completed by the Department of City Planning on July 12, 2021 and duly referred to Brooklyn Community Board 5 and the Brooklyn Borough President in accordance with Title 62 of the Rules of the City of New York, Section 2-02(b), along with the related application for a zoning text amendment (N 210286 ZRK), which was referred in accordance with the procedures for non-ULURP matters.

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

Brooklyn Community Board 5 did not hold a public hearing on the application (C 210285 ZMK) and the related action (N 210286 ZRK).

#### **Borough President Recommendation**

The Brooklyn Borough President held a public hearing on the application (C 210285 ZMK), and the related action (N 210286 ZRK) on October 6, 2021, and, on October 10th, 2021, issued a recommendation to approve the application with the following conditions:

“1. That prior to considering the application, the City Council obtain written commitments from the applicant, ENY Community Residences LLC, clarifying how it would:

- a. Guarantee that residential development subject to the adopted rezoning would be 100 percent affordable consistent with the Extremely Low-Income and Low Affordability (ELLA) program's Area Median Income (AMI) tiers, as defined by the New York City Department of Housing Preservation and Development (HPD),
- b. Ensure that in addition to the Mandatory Inclusionary Housing (MIH) floor area, all other residential units would be permanently affordable,
- c. Achieve an affordable housing mix with at least 50 percent two- or three-bedroom units, and at least 75 percent one-, two-, or three-bedroom units, but for studios targeted to households at 40 percent AMI,
- d. Utilize local affordable housing development non-profit(s) as administering agent(s) that would play a role in promoting lottery readiness,
- e. Implement outreach efforts to seniors earning 30 or 40 percent AMI and up to 50 percent AMI for dual-person households, including the formerly homeless, to maximize their participation in the affordable housing lottery,
- f. Set aside ground floor commercial space for interim arts/cultural entities, non-profit organizations, and/or businesses at risk of displacement including Use Group (UG) 9 studios and/or manufacturing uses,
- g. Incorporate resiliency and sustainability measures, such as blue roofs, passive house design, solar façades, micro-grid battery storage, and/or wind turbines,
- h. Coordinate with the New York City Department of Environmental Protection (DEP), the New York City Department of Parks and Recreation (NYC Parks), and the New York City Department of Transportation (DOT) regarding installation of DEP rain gardens as part of a Builders Pavement Plan (BPP) in consultation with Brooklyn Community Board 5 (CB 5) and local elected officials,

Be it further resolved:

1. That the New York City Department of Housing Preservation and Development (HPD) modify its affordable housing lottery community preference standards to include the school zone, thus capturing the population of public schoolchildren residing at City-funded or -operated shelters,
2. That HPD extend local preference to also include residents of portions of Brooklyn Community District 16 (CD 16) residing in the City Council District 42,

3. That the CPC and/or the City Council call for modification of the MIH section of the New York City Zoning Resolution (ZR) to be adopted with a requirement that permits households with rent-burdened status (allow for exceptions to the 30 percent of income threshold for households paying the same or higher rent than what the housing lottery offers) to qualify for MIH affordable housing lotteries,
4. That the Metropolitan Transit Authority (MTA)/New York City Transit (NYCT), along with DOT, and local elected officials, facilitate lighting improvements under the elevated New Lots Avenue train trestle, by introducing a lighting installation that includes participation by such local arts groups in consultation with CBs 5 and 16.
5. That the MTA/NYCT sustain free transfers between the Livonia Avenue 14th Street-Canarsie Local L train station and Junius Street Seventh Avenue Express 3 train station, inclusive of timely implantation of the intended physical connection,
6. That NYCT investigate the feasibility of extending the terminus of the 3 train to a newly constructed station that would be integrated as part of the Livonia Yard rail decking over Linden Boulevard between Elton and Linwood streets.”

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

On November 3, 2021 (Calendar No. 2), the City Planning Commission scheduled November 17, 2021 for a public hearing on this application (C 210285 ZMK), and the related action (N 210286 ZRK). The hearing was duly held on November 17th, 2021 (Calendar No. 24). There were six speakers in favor of the application.

Speakers in favor included three members of the applicant team. The team provided an overview of the project, surrounding context, and rationale for the proposed rezoning. They emphasized how the proposed project would ensure the growth of commercial and residential uses in the area, which is currently comprised primarily of auto-related uses, as well as the retention of some commercial uses allowed on the site. The applicant team explained that they will seek to provide high performance windows to mitigate noise from the train, as well as the willingness to put in place any other measure to ensure a good quality of life within the dwelling units of the building. On the sidewalk fronting the proposed development, the applicant stated that street trees will be provided along with landscaping next to the façade of the building.

Representatives from Not Another Child Inc, Greater Allen Cathedral of New York, and Greater Temple of Praise, all community partners on this project, stated support for the project, the creation of the much-needed affordable housing.

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

## **CONSIDERATION**

The Commission believes that this application for a zoning map amendment (C 210285 ZMK), in conjunction with the related application for a zoning text amendment (N 210286 ZRK), is appropriate.

Together, these actions will facilitate the development of a nine-story mixed-use building containing 119 permanently affordable dwelling units and approximately 13,000 square feet of commercial floor area in the East New York neighborhood of Brooklyn.

The Commission believes that this zoning map amendment to change an M1-1 district to a C4-4L district on the eastern side of Van Sinderen Avenue between New Lots Avenue and Linden Boulevard is appropriate. The C4-4L zoning district will add appropriate residential density and a require a contextual building envelope with a sidewalk widening for lots fronting elevated train structures, such as the development site. The Commission believes that the proposed C4-4L zoning district is appropriate given the surrounding context, built forms, and land use trends. The existing M1-1 zoning district is a light industrial district originally mapped in 1961 and is no longer appropriate for this location. The M1-1 zoning district allows an FAR of 1.0 for industrial uses and some limited commercial uses, requires setback of 20 feet on narrow streets, and a maximum base height of 30 feet or two stories, whichever is less, has relatively stringent performance standards for noxious uses, and requires a significant number of off-street parking space.

The Commission notes that the density and height permitted in C4-4L zoning districts is appropriate due to the project area's proximity to transit and the growing residential neighborhood. Because C4-4L has an R7A equivalent, it will act as an extension of the R7A-C2-4 zoning district mapped to the north of the project area. The immediate area is adjacent to the elevated subway lies and approximately half a block from the New Lots Avenue subway station.

The C4-4L zoning district mandates a five-foot setback along the property line in order to allow light and air to reach the street level.

The Commission also believes that the greater variety of uses allowed by the proposed C4-4L district, such as much needed housing, are appropriate due to the existing and future uses within the surrounding area. The proposed actions will facilitate the repurposing of underutilized industrial buildings into an improved transit-oriented, well-lit, affordable housing building that reinforces the existing land use patterns of the area. Additionally, the requirements of the C4-4L district will result in an improved streetscape. Because the C4-4L districts requires a five-foot setback from the property line for sidewalk widening, the rezoning will result in improved pedestrian circulation to the subway located to the north of the project, as well as improving sidewalk conditions along the 25-foot-wide Van Sinderen Avenue.

The Commission believes that the zoning text amendment (N 210286 ZRK) to Appendix F to create a new MIH Area is appropriate. The new MIH Area will be coterminous with the project area. The MIH Area will be mapped with MIH Options 1 and 2, for which permanently affordable housing must be provided at a range of 25 and 30 percent of the residential floor area. The MIH text amendment is also aligned with citywide objectives outlined in *Housing New York* to locate affordable housing near transit.

The Commission notes the Borough President's recommendation that all units remain permanently affordable. The applicant has stated that while their intent is to keep units permanently affordable, their current financing guarantees 30 years of affordability. The Commission also notes the Borough President's recommendation that a local preference for units be offered to residents of both Community Districts 5 and 16. The applicants have stated that they will conduct extensive marketing to residents in both districts.

The Commission notes the Borough President's recommendations on solar panel installation, bioswales, permanent pavers, retention of locally based contractors as beyond the scope of this application.

## **RESOLUTION**

**RESOLVED**, that having considered the Environmental Assessment Statement (EAS), for which a Conditional Negative Declaration was issued on November 6, 2021 with respect to this

application (CEQR No. 21DCP147K), the City Planning Commission finds that the action described herein will have no significant impact on the environment; and be it further,

**RESOLVED**, by the City Planning Commission, pursuant to Sections 197-c and 200 of the New York City Charter, that submitted based on the environmental determination, and the consideration and findings described in this report, the application by ENY Community Residences LLC pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 17d, by changing from an M1-1 District to a C4-4L District property bounded by a line 430 feet northerly of Linden Boulevard, a line midway between Van Sinderen Avenue and Snediker Avenue, a line 90 feet northerly of Linden Boulevard, and Van Sinderen Avenue, Borough of Brooklyn, Community District 5, as shown on a diagram (for illustrative purposes only) dated July 12, 2021, and subject to the conditions of CEQR Declaration E-632, .

The above resolution (C 210285 ZMK), duly adopted by the City Planning Commission on December 15, 2021 (Calendar No. 12), is filed with the Office of the Speaker, City Council and the Borough President, together with a copy of the plans of the development, in accordance with the requirements of Section 197-d of the New York City Charter.

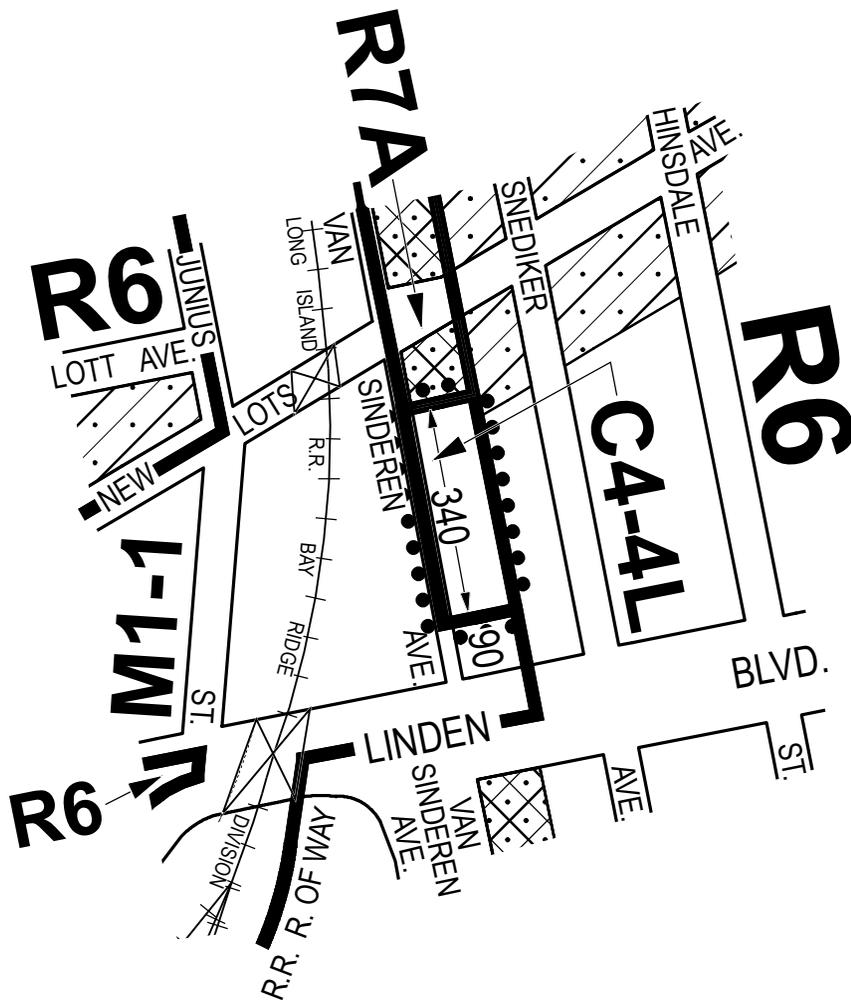
**ANITA LAREMONT**, *Chair*

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

**DAVID J. BURNEY, ALLEN P. CAPPELLI, Esq., ALFRED C. CERULLO, III,**

**JOSEPH I. DOUEK, RICHARD W. EADDY, ANNA HAYES LEVIN,**

**ORLANDO MARIN, RAJ RAMPERSHAD**, *Commissioners*



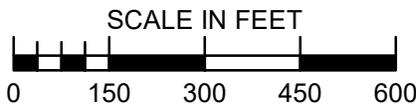
CITY PLANNING COMMISSION  
 CITY OF NEW YORK  
 DIAGRAM SHOWING PROPOSED  
**ZONING CHANGE**  
 ON SECTIONAL MAP

**17d**  
 BOROUGH OF  
**BROOKLYN**



New York, Certification Date:  
 July 12, 2021

*S. Lenard*  
 S. Lenard, Director  
 Technical Review Division



**NOTE:**

- Indicates Zoning District Boundary
- The area enclosed by the dotted line is proposed to be rezoned by changing an M1-1 District to a C4-4L District.

Indicates a C2-3 District

Indicates a C2-4 District



# BOROUGH PRESIDENT RECOMMENDATION

<b>Project Name:</b> 749 Van Sinderen Avenue Rezoning	
<b>Applicant:</b> ENY Community Residences LLC	<b>Applicant's Administrator:</b> Richard Bass
<b>Application #</b> 210285ZMK	<b>Borough:</b> Brooklyn
<b>CEQR Number:</b> 21DCP147K	<b>Validated Community Districts:</b> K05

**Docket Description:**

IN THE MATTER OF an application submitted by ENY Community Residences LLC pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 17d, by changing from an M1-1 District to a C4-4L District property bounded by a line 430 feet northerly of Linden Boulevard, a line midway between Van Sinderen Avenue and Snediker Avenue, a line 90 feet northerly of Linden Boulevard, and Van Sinderen Avenue, Borough of Brooklyn, Community District 5, as shown on a diagram (for illustrative purposes only) dated July 12, 2021, and subject to the conditions of CEQR Declaration E-632.

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

**RECOMMENDATION:** Conditional Favorable

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

**CONSIDERATION:**

Recommendation submitted by	BK BP	Date: 11/10/2021 5:47 PM
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**Brooklyn Borough President Recommendation**

CITY PLANNING COMMISSION

120 Broadway, 31<sup>st</sup> Floor, New York, NY 10271

[CalendarOffice@planning.nyc.gov](mailto: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**

749 VAN SINDEREN AVENUE REZONING – 210285 ZMK, N210286 ZRK

Applications submitted by ENY Community Residences LLC, pursuant to Sections 197-c and 201 of the New York City Charter for a zoning map amendment to change a project area involving all or part of 18 lots on the east side of Van Sinderen Avenue between New Lots Avenue and Linden Boulevard from M1-1 to C4-4L, and a zoning text amendment to designate a Mandatory Inclusionary Housing (MIH) area coterminous with the project area. The requested actions are intended to facilitate a 103,493 square-foot (sq. ft.) building with 13,000 sq. ft. of ground-floor commercial space, and 119 affordable housing units in Brooklyn Community District 5 (CD 5).

BROOKLYN COMMUNITY DISTRICT NO. 5

BOROUGH OF BROOKLYN

**RECOMMENDATION**

APPROVE  
 APPROVE WITH  
MODIFICATIONS/CONDITIONS

DISAPPROVE  
 DISAPPROVE WITH  
MODIFICATIONS/CONDITIONS

SEE ATTACHED

*Eric L. Adams*

November 10, 2021

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

\_\_\_\_\_  
DATE

**RECOMMENDATION FOR: 749 VAN SINDEREN AVENUE REZONING – 210285 ZMK, N210286 ZRK**

ENY Community Residences LLC submitted applications, pursuant to Sections 197-c and 201 of the New York City Charter, for a zoning map amendment to change a project area involving all or part of 18 lots on the east side of Van Sinderen Avenue between New Lots Avenue and Linden Boulevard from M1-1 to C4-4L, and a zoning text amendment to designate a Mandatory Inclusionary Housing (MIH) area coterminous with the project area. The requested actions are intended to facilitate an approximately 103,500 sq. ft. building with 13,000 sq. ft. of ground-floor commercial space, and 119 affordable housing units in Brooklyn Community District 5 (CD 5).

On October 6, 2021, Brooklyn Borough President Eric Adams held a remote public hearing on these zoning map and text amendments. There were no speakers on the item.

In response to Borough President Adams' inquiry regarding the qualifying income range for prospective households based on household size, the anticipated rents based on the number of bedrooms, and the distribution of units by bedroom size, the applicant's representative stated that 749 Van Sinderen Avenue would contain 28 studios, 51 one-bedroom units, 33 two-bedroom apartments, and seven three-bedroom units. Fourteen percent, or 17 units, would be reserved for the formerly homeless; 11 percent, or 13 units, would be geared to 30 percent AMI; 24 percent, or 29 units, would be offered at 50 percent AMI; another 24 percent, or 28 units, would be targeted to 60 percent AMI, with the remaining 27 percent, or 32 units, geared toward households at 80 percent AMI. Rents would range from \$419 for a studio at 30 percent AMI to \$2,273 for a three-bedroom unit at 80 percent AMI, based on New York City Department of Housing Preservation and Development (HPD) guidelines.

In response to Borough President Adams' inquiry as to whether one of the community's affordable housing administering agents would be used in the tenant selection process to ensure the highest level of participation from CD 5 residents, and whether the applicant's marketing strategy would include a financial literacy campaign to qualify area residents for the lottery, the representative stated that the applicant would be willing to commit to a financial literacy campaign. The developer has not yet chosen an administering agent but intends to seek recommendations from Brooklyn Community Board 5 (CB 5) and local elected officials.

In response to Borough President Adams' inquiry regarding the types of commercial tenants envisioned, given the development's mid-block location along a narrow street with little foot traffic, and the possibility of accommodating local non-profits and/or art, dance, and music studios, the representative disclosed that the applicant has discussed leasing space to an entrepreneurship or workforce development incubator with CB 5. An urgent care provider and a grocery store have also been contemplated, and the applicant would be willing to consider local arts/cultural and non-profit organizations.

In response to Borough President Adams' inquiry regarding the incorporation of sustainable features such as passive house design, blue/green/white roof covering, solar roof or façade panels, New York City Department of Environmental (DEP) rain gardens, and/or wind turbines, the representative stated intent to construct a passive house building with an extensive green roof and solar panels.

In response to Borough President Adams' inquiry regarding the inclusion and participation of locally-owned business enterprises (LBEs) and minority- and women-owned business enterprises (MWBEs) in the construction process, the representative expressed a commitment to work with CB 5 and local elected officials to meet and exceed HPD and New York City MWBE guidelines.

## **Consideration**

CB 5 has not yet taken a position on this application.

The proposed actions would affect four lots and parts of 14 others on the east side of Van Sinderen Avenue between New Lots Avenue and Linden Boulevard, along the western boundary of CD 5. The development would be built on a 22,500 sq. ft. lot with 250 feet of frontage on Van Sinderen Avenue. The site is presently occupied by three autobody repair shops, with approximately 20,200 sq. ft. of gross floor area. The developer intends to relocate these uses to other applicant-controlled sites. The three other lots to be rezoned include a 900 sq. ft. vacant parcel and two 3,600 sq. ft. interior lots improved with one-story industrial buildings. The remainder of the rezoning area covers a five-foot rear portion of 14 lots fronting Snediker Avenue containing one-, two-, and three-family homes.

The project area occupies most of a block of an M1-1 district situated between the East New York Industrial Business Zone (IBZ) to the north, and the Flatlands/Fairfield IBZ to the south. The industrial area is flanked by R6 districts to the east and west. The requested C4-4L zoning district with its residential equivalent of R7A is mapped in areas adjacent to elevated subway tracks and mandates a five-foot back along the property line to allow for light and air at the street level. According to the application, 749 Van Sinderen Avenue would be a nine-story building with a floor area ratio (FAR) of 4.6, and a maximum height of 95 feet with bonuses for providing inclusionary housing and a qualifying ground floor. The project would yield approximately 90,500 sq. ft. of residential floor area, and 13,000 sq. ft. of ground-floor commercial space. As the proposal does not include to include any market-rate units, no accessory off-street parking would be required or provided.

749 Van Sinderen Avenue has been represented as being developed pursuant to HPD's Extremely Low and Low-Income Affordability (ELLA) Program, which requires that at least 80 percent of the intended units be affordable to households earning up to 80 percent AMI. In addition, at least 15 percent of such units must be set aside for formerly homeless households. As funding for 749 Van Sinderen Avenue was represented as to include HPD financing of at least \$2 million, the applicant would be required to participate in the City's MWBE Build Up program and meet additional New York State labor participation requirements. Through these obligations, there would be reasonable opportunities to address demonstrated disparities in LBE/MWBE participation in affordable housing construction. Development projects that receive HPD subsidies are required to spend at least one-quarter of HPD-supported costs on certified MWBEs during design and construction.

The surrounding area is characterized by two-story, attached, one- to two- family homes developed through HPD's Nehemiah Homeownership Program. Multi-family walk-up buildings are found primarily along Van Sinderen, Snediker, and Williams avenues. The neighborhood is now witnessing the realization of several large affordable housing projects. Ebenezer Plaza is advancing to the west beyond the elevated train embankment and Van Sinderen Plaza, a pair of seven-story mixed residential and commercial buildings in various stages of occupancy, located directly north of the proposed development. Some commercial uses can be found along New Lots Avenue, which is mapped with C2-3 and C2-4 overlays. One-story manufacturing buildings, including autobody repair shops, occupy Van Sinderen Avenue between Newport Street and Linden Boulevard. Notable community facility uses in the area include the 300-bed Flatlands Family Residence Center, which serves up to 100 homeless families. The primary open space resource is Brownsville Playground, located on Linden Boulevard, two blocks west of the site.

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 longtime residents who can no longer afford to live in their own neighborhoods. Borough President Adams is committed to addressing

Brooklyn's affordable housing crisis through creation and preservation of housing units for very low- to middle-income households.

Moreover, in CD 5 and across New York City, there is a pressing need for affordable and stable housing among elderly adults, homeless households, low-income families, and other populations. Increasing the supply of affordable apartments for a range of incomes and household types in mixed-use buildings is a critical strategy for promoting a sustainable neighborhood and city.

Borough President Adams supports the development of underutilized land for productive uses that address the City's need for additional affordable housing. The proposed development would be consistent with Mayor Bill de Blasio's goal of achieving 300,000 affordable housing units over the next decade, according to "Housing New York: A Five-Borough, Ten-Year Plan," as modified in 2017. It is Borough President Adams' policy to support the development of affordable housing and seek for such housing to remain "affordable forever," wherever feasible.

Borough President Adams supports actions to facilitate 749 Van Sinderen Avenue based on the expectation of 100 percent affordable residential floor area. A percentage of the 119 units enabled by the additional zoning rights would be permanently affordable according to MIH, while the non-MIH apartments would be governed by a regulatory agreement with HPD. The requested zoning amendment, when combined with HPD financing, would help ensure that the project's affordability is maintained beyond the regulatory term. Such development is consistent with Borough President Adams' policy for new residential developments to produce permanently affordable housing.

The 749 Van Sinderen Avenue affordability program would target low- and moderate-income households, in line with Borough President Adams' objective to provide affordable housing at various AMIs. According to the applicant, approximately 50 percent of the rental units would be geared toward households below 50 percent AMI, achieving deep affordability for residents within and outside CD 5.

Borough President Adams advocates permanent housing for those seeking refuge in shelters. 749 Van Sinderen Avenue presents an opportunity to integrate such units with affordable apartments for low- and moderate-income households. Due to rising rents versus real income and other recent trends, some former CD 5 residents have been swept into the City's cumbersome shelter system. Though it is possible that some would return by moving into transitional accommodations, such facilities do not provide long-term stability.

In 2016, HPD established its Our Space Initiative, which funds supportive services for rental units affordable to formerly homeless households at or below 30 percent AMI. The subsidy supplements funding available through HPD's New Construction Finance programs. Though 749 Van Sinderen Avenue would not incorporate the Our Space Initiative, it would reserve 14 percent of units for formerly homeless households, including seniors. As such, it is consistent with Borough President Adams' policies to set aside units for the formerly homeless in 100 percent affordable developments.

Borough President Adams believes that it is appropriate to zone for increased density in proximity to public transportation. The development site is across the street from the New Lots Avenue station of the 14 Street-Canarsie Local L train, and further accessible via the B15 bus, which makes stops along New Lots Avenue.

Borough President Adams generally supports the land use actions requested to enable a mixed-use affordable housing development at 749 Van Sinderen Avenue. However, his support is predicated on the commitment to have the resulting development be entirely affordable housing and that it be permanently

affordable. Additionally, he seeks a family-oriented bedroom mix with deeply affordable smaller apartments targeted to seniors, community participation in the affordable housing lottery, dedicated commercial space for local arts/cultural groups and/or businesses at risk of displacement, integration of resilient and sustainable features including rain gardens, and a high level of local and MWBE hiring. Beyond these conditions, Borough President Adams calls on the Administration to extend community preference to families of homeless students in local schools and qualify rent-burdened households for affordable housing lotteries. He also believes that HPD should extend community preference to Brooklyn Community District 16 (CD 16) residents across Van Sinderen Avenue, and that the Metropolitan Transportation Authority (MTA)/New York City Transit (NYCT) should work with DOT, community boards, and local elected officials to improve lighting under the New Lots Avenue elevated train trestle.

**Guaranteeing a Deeply Affordable Housing Development and Retaining it as Permanent Affordability for All Units**

Borough President Adams is concerned about the ongoing loss of low- and moderate-income housing in Brooklyn and across New York City. Where new developments can be realized through government financing and residential rezoning, he supports the use of such incentives to create deeply and permanently affordable housing.

Borough President Adams recognizes that 100 percent affordable developments, as represented as what would be developed at 749 Van Sinderen Avenue, that target low- and moderate-income households, are greatly needed in CD 5. He also understands that a project of such scale requires a significant upzoning to enable residential density on the site. Development according to MIH Option 1 would ensure that 25 percent of the residential floor area would be affordable on average to households that earn up to 60 percent of AMI. However, the residential floor area not regulated by the designation of MIH for this location is not obligated to provide affordability or promote the public interest in any way. The applicant's expressed intent to pursue 100 percent deeply affordable housing development is the sole rationale to support the requested rezoning at this location. To realize such public benefit, Borough President Adams seeks to memorialize what has been represented to the community and thereby ensure the provision of an income-restricted building with rents affordable to local residents.

Where HPD has designated for-profit companies to develop affordable housing with substantial City financing, the duration of such affordable housing is often driven by financial considerations. Standard regulatory agreements used by government agencies typically involve 30- to 60-year terms, which may be extended for a duration of 15 years, with further renewals possible. However, property owners are under no obligation to seek such extensions. Without such obligation to retain housing affordability, those units not pursuant to MIH floor area would no longer be an affordable housing resource once tenants move out after the regulatory agreements expire.

Borough President Adams believes that there are effective ways to preserve such housing as permanently affordable. One way is to prioritize the involvement of non-profit affordable housing developers, which typically have a core mission to advocate for, preserve, and provide affordable housing process, including directing substantial financing to such organizations. New York City has multiple non-profit entities, with a successful record of developing and managing affordable housing, as well as fulfilling agreements with City agencies. This strategy has helped to ensure that non-MIH units developed with public funds remain affordable for the lifetime of the non-profit entity's operation. This proposed rezoning has not been represented to include such a development partner.

HPD structures financing to require a balloon payment at the end of the regulatory term to induce developers to refinance with the City, with the obligation to extend the affordability term. Borough President Adams believes that adding a mandate to the regulatory agreement that would obligate the

developer/owner to secure such refinancing based on the availability of public funds when the initial mortgage term expires, which would essentially guarantee extended affordability.

An additional measure for consideration might be participation by a community land trust (CLT) as a deed-restricted mechanism. CLTs are non-profit stewardship entities that maintain community ownership of real estate assets. They are governed by boards that contain a diverse array of stakeholders, including community development organizations, elected officials, and local residents. The developer would turn over the land to a CLT and lease it back from the CLT, which would retain ownership. The resulting ground lease appears to be a mechanism to maintain affordability for future income-eligible tenants. In a deed-restricted housing program, restrictions are recorded with the property's deed.

CLT participation is viewed as an effective tool to reduce land speculation and preserve affordability in communities. In 2017, the City Administration solicited proposals from interested stewardship groups, while the City Council passed legislation authorizing and codifying CLTs. There are currently more than a dozen CLTs in various stages of development across the city, with at least two located in Brooklyn, including the East New York CLT. Borough President Adams believes that CLTs provide a viable means to safeguard HPD's substantial investments in affordable housing throughout the borough.

Specific regulatory measures, when implemented, can ensure that units remain as affordable housing options for the city's residents. Borough President Adams believes that it is reasonable that residential floor area developed through the assistance of substantial public financing, in combination with zoning uses and increased density, should remain permanently affordable. As the City commits substantial resources to developers it should utilize the regulatory agreement as a mechanism to ensure that affordable housing is preserved in perpetuity.

Given the extent of public financing, in combination with the use allowance and increased density via the requested rezoning, Borough President Adams believes it is essential to maintain these apartments as affordable in perpetuity. This would ensure that development at 749 Van Sinderen Avenue is insulated from variable economic enticements and remains an affordable housing resource in the community.

Therefore, prior to granting approval for the requested C4-4L district, the City Council should seek guarantees that residential development subject to the adopted rezoning would be 100 percent affordable consistent with the ELLA program's AMI tiers, as defined by HPD. In addition, commitments should include a mechanism to ensure that the non-MIH units are maintained as permanently affordable housing, that would be triggered prior to the expiration of the development's regulatory term.

### **Bedroom Mix**

A recent report has identified that rent-burdened households, which typically represent those applying to the City's affordable housing lotteries, are more likely to require family-sized units. ENY Community Residences LLC has stated that 749 Van Sinderen Avenue would provide 28 studios, 51 one-bedrooms, 33 two-bedrooms, and seven three-bedrooms at 30 to 80 percent AMI. While Borough President Adams appreciates the developer's commitment to deep affordability, a bedroom mix weighted heavily toward smaller units is inconsistent with his policy to maximize affordable housing opportunities for low- to middle-income families.

Borough President Adams believes that right-sizing the bedroom distribution within the affordable housing floor area is more important than maximizing the number of MIH units. Though the applicant expressed intent to provide larger units, development pursuant to MIH lacks leverage to require affordable apartments with multiple bedrooms. Borough President Adams believes that it is appropriate to use discretionary land use actions to advance policies that constrain what would be permitted as-of-right.

For this building, it is important to mandate that the developer provide affordable housing pursuant to New York City Zoning Resolution (ZR) Section 23-96(c)(1)(ii). This would require at least 50 percent of the units to be two or three bedrooms and at least 75 percent of the units to contain one or more bedrooms. The inclusion of two- and three-bedroom apartments, combined with provision of affordability pursuant to MIH Option 1, would help ensure larger units for low- to moderate-income families. However, such bedroom distribution is not guaranteed in the eventual development.

Borough President Adams seeks a binding commitment to alter what has been represented to the community since a building with 63 percent studio and one-bedroom units does not provide sufficient opportunities for families.

Therefore, prior to considering the application, the City Council should obtain written commitments from ENY Community Residences LLC that the 749 Van Sinderen Avenue unit mix would be at least 50 percent two- or three-bedrooms, and at least 75 percent one-, two-, or three-bedrooms.

### **Maximizing Community Participation in the Affordable Housing**

The ZR requires inclusionary housing units to be overseen by a non-profit administering agent, unaffiliated with the for-profit development entity, except when otherwise approved by HPD. The administering non-profit is responsible for ensuring that affordable housing complies with the regulatory agreement that governs the development's affordable housing plan. Tasks include verifying a prospective tenant household's qualifying income and approving the rents of such affordable units. The administering non-profit is responsible for submitting an affidavit to HPD attesting that the initial lease-up of the units is consistent with the income requirements and following up with annual affidavits to ensure compliance.

It is Borough President Adams' policy for housing non-profits to play a role in maximizing community participation in local affordable housing opportunities. He recognizes that this section of CD 5 is served by several non-profits with a record of marketing affordable housing units and promoting lottery readiness through education. These include East Brooklyn Congregations (EBC), the local development Corporation of East New York (LDCENY), and the Mutual Housing Association of New York (MHANY), among others. The appropriate organization should be selected in consultation with CB 5 and local elected officials.

Borough President Adams believes that prior to considering the application, the City Council should obtain written commitments from ENY Community Residences LLC to utilize one or more local affordable housing non-profits as administering agent(s) for 749 Van Sinderen Avenue that would play a role in promoting lottery readiness.

### **Maximizing Affordable Housing Opportunities for Seniors**

In addition to family-sized units, there is a pressing need to build affordable apartments for the elderly, many of whom are of limited means. As noted in the New York City Department of City Planning (DCP)'s Zoning for Quality and Affordability (ZQA) study, New York's senior population is expected to grow 40 percent by 2040. The combination of rising housing costs across Brooklyn and declining production of age-based affordable housing has created a severe rent burden for seniors. Many elderly households are struggling to remain in their homes and are exhausting their life's savings to keep up with living expenses until they are displaced from their communities.

A significant number of elderly households have negligible income and are at risk for displacement. As the Federal government has moved away from funding affordable housing for seniors, too few such rental apartments are being built, leaving tremendous demand for age-based affordable housing. As a result, many elderly households are experiencing increased and unsustainable rent burdens. One of Borough President Adams' top priorities is to help Brooklyn seniors secure affordable housing and remain in their neighborhoods. He seeks the advancement of more City projects, such as this proposal, which would result in permanently affordable units for older residents.

While Borough President Adams typically seeks a 50/50 blend of studios, one-bedrooms, two-bedrooms, and three-bedrooms, he believes that studio and one-bedroom units rented at 30, 40, and 50 percent AMI might be affordable to senior households. With targeted marketing efforts, it is reasonable to expect

that a greater share of studios and one-bedrooms at lower AMIs would be awarded to seniors. Borough President Adams calls on ENY Community Residences LLC to conduct significant outreach to older residents in East New York as part of its marketing strategy.

Therefore, prior to considering the application, the City Council should obtain written commitments from ENY Community Residences LLC memorializing intended outreach efforts to seniors earning up to 30 and 40 percent AMI, or 50 percent AMI for dual-person households, to maximize their participation in the 749 Van Sinderen Avenue affordable housing lottery.

### **Setting Aside a Portion of the Commercial Space for Local Arts/Cultural and Non-Profit Organizations and/or Businesses at Risk of Displacement**

Borough President Adams seeks to assist community-based non-profits in securing affordable space in the borough. These organizations play an important role in their neighborhoods but often struggle to obtain the necessary space to expand and sustain their programs. Many cultural entities have contacted the Office of the Brooklyn Borough President with these concerns. It has been Borough President Adams' policy to review discretionary land use actions for opportunities to promote cultural and non-profit uses.

In June 2016, Borough President Adams released "All the Right Moves: Advancing Dance and the Arts in Brooklyn," a report examining challenges for artists in the borough, with accompanying recommendations. The report highlighted the benefits of arts and dance, which include maintaining physical fitness, promoting creative self-expression, and making significant contributions to the vibrant culture of Brooklyn. Among the difficulties faced by the Brooklyn arts community is an absence of diversity — according to 2000 United States Census data, fewer than half the individuals working in dance are people of color. Additionally, public funding for the arts in New York City has shrunk dramatically in recent years: by 37 percent from the New York State Council of the Arts (NYSCA), by 15 percent from the National Endowment for the Arts (NEA), and by 16 percent from the New York City Department of Cultural Affairs (DCLA).

Data shows that cultural programs generate a variety of positive effects, which include combating the borough's high obesity rate. As of 2016, 61 percent of Brooklyn adults are overweight or obese, according to the New York State Department of Health (NYSDOH). Research by the Citizens' Committee for Children of New York has found that such activities also help children succeed in school. Moreover, demand for cultural programs continues to grow across Brooklyn. A 2015 report by the Center for an Urban Future (CUF) found a 20 percent increase in attendance at local cultural events since 2006.

As represented, 749 Van Sinderen Avenue would provide nearly 12,000 sq. ft. of ground-floor commercial space. Borough President Adams believes that the inclusion of cultural organizations and non-profits within the building would enhance its public purpose given CD 5's considerable residential density and its high proportion of children and families.

Borough President Adams seeks to ensure that small businesses, particularly artisans and manufacturers, continue to find a home in Brooklyn. To thrive, such entities need a supply of affordable, well-configured space in appropriately zoned areas, which is shrinking across the borough due to the relentless conversion of M-zoned land to residential use. The proposed development, which would replace several automotive businesses with a mixed-use building, exemplifies this trend.

Borough President Adams believes that the site's location in an M1-1 zone between two IBZs and along a lightly trafficked street makes the proposed ground-floor commercial space suitable for manufacturing tenants. Multiple use groups permitted in the proposed C4-4L district include artisan, artisanal and maker

establishments, as well as art, dance, and music studios — uses that might exist in the nearby IBZ. It is possible to monitor potential business displacement based on applications filed with the New York City Department of Buildings (DOB). Neighborhood organizations such as the LDCENY provide assistance to businesses seeking space in the area and could refer potential tenants to 749 Van Sinderen Avenue.

Borough President Adams is also concerned about immigrant-owned businesses, which are a vital part of their communities but easily displaced by rising commercial rents as well as anticipated sites yet to be redeveloped along commercial corridors upzoned as part of the East New York Community Plan such as along Atlantic and Liberty avenues and Fulton Street. For immigrant households, operating a retail store is an important and viable way to earn a living, as it poses relatively low barriers to entry. According to a recent report by the Citizens Planning and Housing Council (CPHC), immigrants own more than half of the city's small businesses, but 77 percent are burdened by commercial rents. Financial hardships threaten the livelihood of such enterprises, which are often family-owned operations with limited capital and resources. Borough President Adams recognizes the importance of supporting immigrant-owned businesses and seeks to secure opportunities for immigrant entrepreneurship through the creation of affordable commercial space.

Therefore, prior to considering this application, the City Council should obtain written commitments from ENY Community Residences LLC to set aside a portion of the commercial ground floor for non-profits and/or arts and cultural organizations, and/or businesses at risk of displacement, at below-market lease terms, as warranted. Furthermore, if the City Council seeks to secure accommodations for non-profits and/or arts and cultural organizations, ENY Community Residences LLC should actively solicit such entities, based on reasonable lease terms, in consultation with CB 5 and local elected officials.

### **Advancing Sustainable Energy and Resilient Stormwater Management**

It is Borough President Adams' policy to advocate for environmentally sustainable development that integrates blue/green/white roofs, solar panels, and/or wind turbines, as well as passive house construction. Such measures tend to increase energy efficiency and reduce a building's carbon footprint.

In the fall of 2019, the City Council passed Local Laws 92 and 94, which require newly constructed buildings as well as those undergoing renovation (with some exceptions) to incorporate a green roof and/or solar installation. The laws further stipulate 100 percent roof coverage for such systems and expand the City's highly reflective (white) roof mandate, which Borough President Adams believes developers should exceed by integrating blue roofs with green roof systems. Regarding solar panels, there are now options beyond traditional roof installation. Multiple companies are manufacturing solar cladding from tempered glass that resembles traditional building materials, with energy output approximating that of mass-market photovoltaic systems. For taller buildings, and those in proximity to the waterfront, micro wind turbines can provide effective sustainable energy generation. Finally, passive house construction achieves energy efficiency while promoting locally based construction and procurement.

In Borough President Adams' letter to President Joseph R. Biden Jr., dated January 21, 2021, he outlined policies to rebuild America as a more equitable and just society, including initiatives consistent with the Green New Deal. Specifically, Borough President Adams advocated investments in renewable energy and battery storage to move beyond reliance on natural gas and dirty "peaker plants" disproportionately sited in communities of color. He believes that grid-connected rooftop batteries should be a standard consideration for commercial buildings. Between existing flat roofs upgrades and new developments, there should be sufficient demand to manufacture such units locally and create industrial jobs.

Borough President Adams believes it is appropriate for ENY Community Residences LLC to engage the Mayor's Office of Sustainability, the New York State Energy Research and Development Authority (NYSERDA), and/or the New York Power Authority (NYPA) regarding government grants and programs that might offset costs associated with enhancing building resiliency and sustainability. For example, the

City's Green Roof Tax Abatement (GRTA) provides a rebate of \$5.23 per sq. ft. of green roof space, and \$15 for buildings in priority districts, which include Brooklyn CD 5. The DEP Office of Green Infrastructure advises property owners and their design professionals through the GRTA application process. Borough President Adams encourages the applicant to contact his office for further coordination on this matter.

As part of his resiliency policy, Borough President Adams seeks to advance stormwater management best practices including permeable pavers and/or rain gardens that promote DEP's green infrastructure agenda. He believes that sidewalks with nominal landscaping and/or adjacent roadway surfaces could be transformed through the incorporation of rain gardens, which provide tangible environmental benefits through rainwater collection, improved air quality, and streetscape beautification. Tree plantings can be consolidated with rain gardens as part of a comprehensive green infrastructure strategy. Where it is not advisable to remove street trees, it's possible to integrate stormwater retention measures into existing tree pits, with additional plantings to increase infiltration and make the site more pleasant for its users. In addition, blue/green roofs, permeable pavers, and rain gardens (including street tree pit enhancements) would help divert stormwater from the 26<sup>th</sup> Ward Wastewater Treatment Plant.

The required Builders Pavement Plan (BPP) for the proposed development provides an opportunity to install DEP rain gardens along its extensive frontage on Van Sinderen Avenue. The ZR requirement to plant street trees provides shade on excessively hot days, helps combat the urban heat island effect, and provides other aesthetic, air quality, and enhanced stormwater retention benefits. Rain gardens would require a maintenance commitment and attention from the landlord, such as cleaning out debris that can clog the inlet/outlet and prevent water collection, watering during dry and hot periods, and weeding to ensure proper water absorption. It is also necessary to conduct regular inspections to prevent soil erosion.

Borough President Adams believes that ENY Community Residences LLC should consult with DEP, the New York City Department of Transportation (DOT), and the New York City Department of Parks and Recreation (NYC Parks) about integrating rain gardens with street trees as part of the BPP. Any implementation should involve advance consultation with CB 5 and local elected officials.

Therefore, prior to considering the application, the City Council should obtain written commitments from ENY Community Residences LLC clarifying how it would integrate resiliency and sustainability features at 749 Van Sinderen Avenue.

**Community Preference: Inclusion of Homeless Shelter Student Population by School Zone**

New York City's community preference policy requires that 50 percent of affordable units be filled through affordable housing lotteries be reserved for residents in the local community. There are additional pathways for priority lottery selection such as United States Armed Forces veteran status, certain disabilities, and other categories. Given the significant increase in the number of homeless families with school-aged children entering the public shelter system, Borough President Adams believes it is appropriate for HPD to extend local lottery preference to include the school zone attended by children of households residing at immediate and neighboring City-funded or -operated homeless shelters.

According to an annual report by Advocates for Children of New York, 31,158 Brooklyn students — nearly one in 10 enrolled — experienced homelessness during the 2018-2019 school year, defined as either living in shelters or doubling up with friends and family. The number of such students in charter and public schools has increased every school year since 2014-2015. Homelessness has profound impacts on school performance, as such students are more likely to have longer commutes or to transfer schools in the middle of the year, leading to chronic absences, lower graduation rates, and higher dropout rates.

Many parents and students find it important to maintain school continuity despite the circumstances faced by households dependent on the City's homeless shelter system. Borough President Adams believes that it should be the City's responsibility to take action that would eliminate or reduce such hardships. One

such action would be to enable economically challenged households with children in public schools to qualify for community local preference based on where the children attend school. According to the Institute for Children, Poverty & Homelessness (ICPH), there are multiple public schools in proximity to the proposed development in in Community School District 19 (CSD 19), where the proportion of homeless students ranges from 20 to 50 percent.

Borough President Adams believes that HPD should modify its affordable housing 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.

### **Extend Community Preference to Residents of Community District 16 in the 42<sup>nd</sup> Council District**

City local preference policy is at times unfair to community residents who live just beyond the border of a community district. The proposed development is located at the intersection of CDs 5 and 16. Community members living on nearby blocks of CD 16 on the west side of Van Sinderen Avenue are also in need of quality affordable housing, and the new development would not only be apparent, but consequential for residents of both districts.

As such, Borough President Adams believes that HPD should extend the local preference to portions of CD 16 that fall within the 42<sup>nd</sup> Council District. This is particularly important given that the residential neighborhoods in both districts include small buildings that are not subject to rent protection laws. Borough President Adams believes that, in tandem with his recommendations for deeper affordability, 749 Van Sinderen Avenue could serve as a relocation resource for those at risk for displacement. Therefore, prior to the vote by the City Council, HPD should provide a written commitment advising that, in addition to CD 5 residents, local preference be given to residents of CD 16 within the boundaries of the 42<sup>nd</sup> Council District.

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

Data shows that more than 80 percent of New York City households earning 50 percent of AMI or less are rent-burdened. The crisis is even worse among the lowest income residents, 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 one-fifth of New York City households — more than two million people — earn less than \$25,000 a year and almost one-third earn less than \$35,000. As the City's housing crisis grows worse, the burden falls most heavily on these low-income households, exacerbating racial disparities. According to the Citizens Housing Planning Council (CHPC), one in four households of color are severely rent-burdened, which is 11 percent more than Caucasian households.

A strict rent-to-income requirement of no more than 30 percent of income for annual rent payments disqualifies many income-challenged households from the affordable housing lotteries. These rent-burdened households do not meet the housing lottery's minimum household earnings because too often they are already paying the same or greater rent for the affordable housing unit. In this way, the requirement to pay no more than 30 percent of household income is hurting people who are already living in substandard housing and are spending more than 30 percent of their income on rent.

As first 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 already paying too much rent for substandard housing are excluded from affordable housing lotteries. Borough President Adams seeks to qualify rent-burdened households for selection through the housing lottery process, which would ensure that they receive the maximum opportunity to secure affordable housing units and expand the number of households eligible for government-regulated affordable housing lotteries.

Amending the ZR for the purpose of adjusting AMI qualifications to include households that would maintain or reduce their rent burden would be one way to address this disparity. For MIH housing lottery

offerings, DCP needs to modify the ZR to allow for exceptions to the 30 percent of income threshold so that households that are rent-burdened, though paying equal or greater rent than the lottery unit rent, would be eligible to live in affordable, newly produced, and quality accommodations. Borough President Adams believes that the CPC and/or the City Council should echo his call to seek the modification of the ZR section concerning MIH areas to be adopted with a requirement that rent-burdened households be permitted to qualify for MIH affordable housing units.

### **Lighting Improvements Along New Lots Avenue**

The entrances to the New Lots Avenue L subway station and the B15 bus stop are both located under a dimly lit elevated train trestle, which has been a major concern for residents of CDs 5 and 16. As initially stated in his 2015 recommendation for Van Sinderen Plaza, Borough President Adams believes that it is important to improve lighting along this section of New Lots Avenue both for existing users and future residents expected to occupy new developments in the area. Moreover, local arts groups should play a role in designing a light installation that will create a safe and vibrant transit hub.

Borough President Adams continues to call on the MTA/NYCT and DOT to work with CBs 5 and 16 as well as local elected officials to improve lighting under the elevated train trestle, by introducing an installation with the involvement of local arts groups.

### **Expediting the Permanent Free Transfer Connecting the L and 3 Train Service**

Borough President Adams is aware of significant deficiencies in the area's public transportation infrastructure and growing community concerns around additional strain on overburdened transit services. MTA's 2020-2024 Capital Program allocates \$38.4 million to connect the Junius Street Seventh Avenue Express 3 train and Livonia Avenue 14<sup>th</sup> Street-Canarsie Local L train stops in Brownsville and additional funds to make the connected station ADA-accessible. Currently, riders transferring between the 14<sup>th</sup> Street-Canarsie Local L and Seventh Avenue Express 3 trains, in a community that is among the poorest income tracts in the country, must walk through a desolate area and, at times, be eligible for a free transfer or else, pay two fares to reenter the subway system. The proposed budget will realize this long-awaited physical connection, make the station ADA-accessible, and extend transit service for many residents.

The City of New York, as part of the MTA's Capital Program, set aside funds to improve connectivity between the two stations, including a free transfer and a new elevator to ensure ADA accessibility. The first part of this project is to make ADA accessibility modifications at the Livonia Avenue station. The MTA Capital Plan was modified in April 2018 to include this project. MTA is also exploring ways to harness the new fare payment system that will replace the MetroCard so that the connection is free in advance of the two stations being physically connected.

While Borough President Adams continues to advocate for the MTA to implement the physical free transfers between the Junius Street Seventh Avenue Express 3 train and the Livonia Avenue L train stations, he has also called upon the MTA to provide free "out-of-station" transfers akin to what is currently practiced between the Lexington Avenue/59<sup>th</sup> Street and Lexington Avenue/63<sup>rd</sup> Street stations and is seeking implementation to begin at once. In addition, he seeks an explicit timeline to achieve timely implantation for the tasks necessary to achieve the permanent physical connection.

### **Improving Area Transit Access**

Borough President Adams is aware that overall north/south connectivity is very challenging in this area and results in traffic jams, unsafe pedestrian conditions, as well as air and noise pollution. Seventy percent of East New York residents rely on public transportation to get to their jobs, and, in most cases, their

commute times exceed 60 minutes. The Spring Creek section of CD 5 continues to add thousands of housing units as part of the Gateway Estates development and through the development of New York State property as part of its Vital Brooklyn initiative between Erskine Drive and Fountain Avenue. These recent arrivals and upcoming housing developments are inadequately served by current public transportation options in the neighborhood.

Borough President Adams believes that there are opportunities to better serve the southern section of CD 5, by extending the terminus of the 3 train on existing track that connects to the Livonia Yard. A new station could be integrated as part of the rail decking over Linden Boulevard between Elton and Linwood streets. This would bring rapid transit an additional half-mile east into the community already served by the B20 bus line. The construction of this new station would also warrant consideration to adjust the routes of the B6 bus line.

Therefore, Borough President Adams requests that MTA/NYCT investigate the feasibility of extending the terminus of the 3 train to a newly constructed station that would be integrated as part of the Livonia Yard rail decking over Linden Boulevard between Elton and Linwood streets.

### **Recommendation**

Be it resolved that the Brooklyn borough president, pursuant to Section 197-c 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 prior to considering the application, the City Council obtain written commitments from the applicant, ENY Community Residences LLC, clarifying how it would:
  - a. Guarantee that residential development subject to the adopted rezoning would be 100 percent affordable consistent with the Extremely Low-Income and Low Affordability (ELLA) program's Area Median Income (AMI) tiers, as defined by the New York City Department of Housing Preservation and Development (HPD)
  - b. Ensure that in addition to the Mandatory Inclusionary Housing (MIH) floor area, all other residential units would be permanently affordable
  - c. Achieve an affordable housing mix with at least 50 percent two- or three-bedroom units, and at least 75 percent one-, two-, or three-bedroom units, but for studios targeted to households at 40 percent AMI
  - d. Utilize local affordable housing development non-profit(s) as administering agent(s) that would play a role in promoting lottery readiness
  - e. Implement outreach efforts to seniors earning 30 or 40 percent AMI and up to 50 percent AMI for dual-person households, including the formerly homeless, to maximize their participation in the affordable housing lottery
  - f. Set aside ground floor commercial space for interim arts/cultural entities, non-profit organizations, and/or businesses at risk of displacement including Use Group (UG) 9 studios and/or manufacturing uses
  - g. Incorporate resiliency and sustainability measures, such as blue roofs, passive house design, solar façades, micro-grid battery storage, and/or wind turbines

- h. Coordinate with the New York City Department of Environmental Protection (DEP), the New York City Department of Parks and Recreation (NYC Parks), and the New York City Department of Transportation (DOT) regarding installation of DEP rain gardens as part of a Builders Pavement Plan (BPP) in consultation with Brooklyn Community Board 5 (CB 5) and local elected officials

Be it further resolved:

1. That the New York City Department of Housing Preservation and Development (HPD) modify its affordable housing lottery community preference standards to include the school zone, thus capturing the population of public schoolchildren residing at City-funded or -operated shelters
2. That HPD extend local preference to also include residents of portions of Brooklyn Community District 16 (CD 16) residing in the City Council District 42
3. That the CPC and/or the City Council call for modification of the MIH section of the New York City Zoning Resolution (ZR) to be adopted with a requirement that permits households with rent-burdened status (allow for exceptions to the 30 percent of income threshold for households paying the same or higher rent than what the housing lottery offers) to qualify for MIH affordable housing lotteries
4. That the Metropolitan Transit Authority (MTA)/New York City Transit (NYCT), along with DOT, and local elected officials, facilitate lighting improvements under the elevated New Lots Avenue train trestle, by introducing a lighting installation that includes participation by such local arts groups in consultation with CBs 5 and 16.
5. That the MTA/NYCT sustain free transfers between the Livonia Avenue 14<sup>th</sup> Street-Canarsie Local L train station and Junius Street Seventh Avenue Express 3 train station, inclusive of timely implantation of the intended physical connection
6. That NYCT investigate the feasibility of extending the terminus of the 3 train to a newly constructed station that would be integrated as part of the Livonia Yard rail decking over Linden Boulevard between Elton and Linwood streets