



**IN THE MATTER OF** an application submitted by 1121 of Delaware, LLC pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 16c, changing from an M1-1 District to an R6B District property bounded by Dean Street, a line 150 feet easterly of Carlton Avenue, a line midway between Dean Street and Bergen Street, a line 310 feet easterly of Carlton Avenue, Bergen Street, a line 210 feet easterly of Carlton Avenue, a line 80 feet northerly of Bergen Street, and a line 100 feet easterly of Carlton Avenue, Borough of Brooklyn, Community District 8, as shown on a diagram (for illustrative purposes only) dated July 24, 2017, and subject to the conditions of CEQR Declaration E-439.

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This application for a zoning map amendment was filed by 1121 of Delaware, LLC on April 14, 2017, to change an M1-1 zoning district to an R6B zoning district on a mid-block portion of Block 1137 to facilitate the development of a new four-story building containing approximately 26 residential units, including 10 units of permanently affordable housing, in the Prospect Heights neighborhood of Community District 8, Brooklyn.

### **RELATED ACTION**

In addition to the zoning map amendment (C 170356 ZMK) that is the subject of this report, the proposed project also requires action by the City Planning Commission on the following application, which is being considered concurrently with this application:

**N 170357 ZRK**     Zoning text amendment to designate a Mandatory Inclusionary Housing (MIH) area

### **BACKGROUND**

The applicant is proposing a zoning map amendment to change an M1-1 zoning district to an R6B zoning district on a mid-block portion of Block 1137 and a zoning text amendment to designate the area as an MIH area in order to facilitate the development of a new four-story building containing approximately 26 residential units, including 10 units of permanently affordable housing at 587 Bergen Street (Block 1137, Lots 82, 81, and 77).

The project area consists of four tax lots (Block 1137, Lots 15, 16, 17 and 82) and portions of four tax lots (Block 1137, Lots 14, 18, 77 and 81) on a block bounded by Dean Street to the north,

Vanderbilt Avenue to the east, Bergen Street to the south and Carlton Avenue to the west. The property is flag-shaped and covers a mid-block portion of Block 1137 that extends from Dean Street to Bergen Street. Lots 15, 16 and 17 have frontages on Dean Street and are improved with three legally non-conforming two-story row houses used as one- and two-family homes. Lot 18 is an “L”-shaped lot with frontage on Dean Street and is improved with a one-story warehouse building. Lots 77, 81 and 82 front on Bergen Street and comprise the development site, which is owned by the applicant and contains a surface parking lot.

The project area is currently within an M1-1 zoning district, a manufacturing district that permits commercial uses and industrial uses at a Floor Area Ratio (FAR) of up to 1.0, and limited community facility uses at an FAR up to 2.40. New residential uses are not permitted. M1-1 zoning districts have a maximum building height of 30 feet at the street line, after which a setback is required and governed by the sky exposure plane.

In 1993, the Prospect Heights Rezoning (C 930430 ZMK) rezoned several blocks adjacent to the proposed development site from an R6 zoning district to an R6B zoning district in order to protect the neighborhood character of lower scale, row house-style homes and apartment buildings. R6B is a moderate-density contextual district that allows a maximum FAR of 2.0 for residential and community facility uses, and 2.20 for residential uses within an Inclusionary Housing area. The base of a building fronting a street may range from 30 to 40 feet in height, after which a 10- or 15-foot setback is required, depending on whether the building is on a wide or narrow street, respectively. The maximum permitted building height is 50 feet. R6B also includes provisions requiring that developments line up with the street wall of an adjacent building. Off-street parking is required for 50 percent of the market-rate dwelling units and is optional for income-restricted affordable units within the Transit Zone.

The development site consists of three tax lots (Block 1137, Lots 82, 81 and 77) on the north side of Bergen Street, approximately 210 feet east of Carlton Avenue. The site is a slightly irregularly shaped zoning lot with a lot area of 12,432 square feet and has historically been an unimproved, paved parcel of land used for storage and parking.

The applicant proposes to extend the existing R6B zoning district into the development site, currently zoned M1-1, to facilitate the development of a four-story residential building. The proposed building would have about 27,347 square feet of floor area (2.20 FAR) consisting of 26 dwelling units, including 10 affordable units. The building would have a base height of 38 feet, followed by a 15-foot setback and building height of 50 feet. The proposal, at certification, proposed to include dormers on the fourth floor. The development would contain 13 vehicular parking spaces to be located at the cellar level and 13 bicycle parking spaces.

The area surrounding the proposed rezoning is predominantly residential, characterized by one- and two-family row houses ranging from two to four stories, and multi-family apartment buildings ranging from three to six stories. The land directly east of the project area is developed with commercial and light industrial uses characterized by one- and two-story warehouses and loft-style buildings. Vanderbilt Avenue, located less than one block to the east, is a mixed-use corridor with access to local retail and services. To the north of the project area, across from Dean Street, is an 18-story building being developed as part of a large, multi-site development project known as Pacific Park.

The project area is well-served by public transit and located within the Transit Zone. The Bergen Street station of the 2 and 3 subway lines is located approximately two blocks from the project area and the 7<sup>th</sup> Avenue station of the B and Q subway lines is approximately three blocks to the south. Several bus lines also run within a few blocks, while Flatbush Avenue and Atlantic Avenue serve as major east-west and north-south corridors providing connections to downtown Brooklyn and several neighborhoods across the borough.

The proposed zoning map amendment would extend an R6B district and include the development site as well as three row-houses that are non-conforming with current zoning. The applicant also proposes a zoning text amendment to designate a Mandatory Inclusionary Housing (MIH) area within the rezoning area that applies the requirements of Option 1 and Option 2. Option 1 requires that at least 25 percent of residential floor area must be provided as housing affordable to

households at an average of 60 percent of Area Median Income (AMI), and at least 10 percent of residential floor area must be provided as housing affordable to households at an average of 40 percent of AMI. Option 2 requires that at least 30 percent of residential floor area must be provided as housing affordable to households at an average of 80 percent of AMI. The applicant anticipates meeting the requirements of MIH Option 2 by setting aside 30 percent of the development's residential floor area as affordable housing, which would include 10 out of 26 total dwelling units. Due to the larger size of the market-rate units, the unit proportion of affordable to market-rate units would be above 30 percent.

## **ENVIRONMENTAL REVIEW**

This application (C 170356 ZMK), in conjunction with the application for the related action (N 170357 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 17DCP163K. After a study of the potential environmental impact of the proposed actions, a Negative Declaration was issued on July 24, 2017. The Negative Declaration includes (E) designations to avoid the potential for significant adverse impacts related to hazardous materials and air quality (E-439), as described below:

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

### **Block 1137, Lots 77, 81, and 82**

#### **Task 1-Sampling Protocol**

**The applicant submits to OER, for review and approval, a Phase I of the site along with a soil, groundwater and soil vapor testing protocol, including a description of methods and a site map with all sampling locations clearly and precisely represented. If site sampling is necessary, no sampling should begin until written approval of a protocol is received from OER. The number and location of samples should be selected to adequately characterize the site, specific sources of suspected**

contamination (i.e., petroleum based contamination and non-petroleum based contamination), and the remainder of the site's condition. The characterization should be complete enough to determine what remediation strategy (if any) is necessary after review of sampling data. Guidelines and criteria for selecting sampling locations and collecting samples are provided by OER upon request.

## **Task 2-Remediation Determination and Protocol**

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

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

A construction-related health and safety plan should be submitted to OER and would be implemented during excavation and construction activities to protect workers and the community from potentially significant adverse impacts associated with contaminated soil, groundwater and/or soil vapor. This plan would be submitted to OER prior to implementation.

The (E) designation text requirements related to air quality would apply to the following sites:

### **Block 1137, Lots 77, 81, and 82**

Any new residential development on the above-referenced property must exclusively use natural gas as the type of fuel for heating, ventilating, air conditioning (HVAC) and hot water system to avoid any potential significant adverse air quality impacts. The HVAC Stack shall be located at least 20-feet from the lot line facing Dean street at the highest tier, or at a minimum of 53 feet above grade to avoid any potential significant adverse air quality impact.

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

## **UNIFORM LAND USE REVIEW**

This application (C 170356 ZMK) was certified as complete by the Department of City Planning on July 24, 2017, and was duly referred to Community Board 8 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 170357 ZRK), which was referred for information and review in accordance with the procedures for non-ULURP matters.

### **Community Board Public Hearing**

In a letter by the Community Board accompanying its recommendation, dated September 20, 2017, the Community Board stated that, as a condition of its approval, the owner, 1121 of Delaware, LLC, provide a phone number to community residents for 24/7 access to the owner's representative and change the setback of the dormers by 10 feet to reduce visibility from the street.

### **Borough President Recommendation**

The Brooklyn Borough President held a public hearing on this application (C 170356 ZMK) on September 13, 2017, and issued a recommendation to approve this application on October 29, 2017, subject to the following conditions:

1. "That the property owner be required to provide recordation against 587 Bergen Street that New York City Zoning Resolution (ZR) section 23-621 (c)(1) would not be applicable to residential development should the property be rezoned to R6B as a means to mandate a full setback of the fourth story, prior to City Council determination.
2. That prior to considering the application, the City Council obtain commitments in writing from the developer, 1121 of Delaware LLC, that clarify how it would memorialize the extent that it would:
  - a. Commit to utilizing one or more locally-based housing development non-profits to serve as the administering agent, and play a role in promoting affordable housing lottery readiness
  - b. Continue to explore additional resiliency and sustainability measures such as incorporating bioswales, blue/green/white roof treatment, Passive House construction principles, solar panels, and wind turbines in the development
  - c. Retain Brooklyn-based contractors and subcontractors, especially those that are designated Local Business Enterprises (LBE) consistent with section 6-108.1 of the City's Administrative Code and Minority- and Women-Owned Business Enterprises (MWBE) as a means to meet or exceed standards per Local Law 1 (no

less than 20 percent participation), as well as coordinate the oversight of such participation by an appropriate monitoring agency”

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

On October 18, 2017 (Calendar No. 10), the City Planning Commission scheduled November 1, 2017 for a public hearing on this application (C 170356 ZMK). The hearing was duly held on November 1, 2017 (Calendar No. 20). One speaker testified in favor of the application.

The applicant’s land use attorney spoke in favor of the application, providing an overview of the proposal and the requested actions. He explained that the development site had been unimproved for 60 years and was currently used for parking. By extending the R6B district over a larger portion of the block, three existing town homes would also be in conformance with zoning. In response to the Community Board’s condition regarding the dormer setback, the representative stated that the applicant’s architect had redesigned the building to eliminate the dormers on the fourth floor to better fit with the character of the adjacent Prospect Heights Historic District.

The applicant’s attorney explained that the off-street parking spaces would be offered equally to market-rate and affordable unit residents. While the number of parking spaces provided is five more than what would be required by zoning, the representative noted the potential tenant demand and the site’s layout, which can accommodate additional parking in the cellar. Lastly, the representative clarified that the proposed development would consist entirely of one- and two-bedroom units, and that there would be an even distribution of one- and two-bedroom units among the affordable units.

There were no other speakers and the hearing was closed.

### **CONSIDERATION**

The Commission believes that this application for a zoning map amendment (C 170356 ZMK), in conjunction with the related action, is appropriate.

The proposed zoning map amendment would extend an existing R6B zoning district over a portion of Block 1137 to cover the development site and additional tax lots, including three residential buildings that are currently non-conforming under the M1-1 zoning district. Residential uses occupy a significant portion of the block frontages on Dean Street and Bergen Street, and the Commission believes that the proposed rezoning would strengthen the goals of the 1993 Prospect Heights rezoning to protect the neighborhood character of lower scale, row house-style homes and apartment buildings that are developed in the area. In addition, the proposed rezoning would facilitate the development of properties that have been historically used as parking and remain underutilized. Moreover, the existing residential uses along Dean Street (Lots 15, 16 and 17) would be brought into conformance with zoning. The Commission believes that the proposed R6B district is consistent with the low-scale, row house-style character of the neighborhood and the immediate context of the project area.

The designation of an MIH area is appropriate. The zoning text amendment complements the rezoning action and ensures that the proposed project provides sorely needed affordable housing in Prospect Heights. The Commission notes that while 30 percent of the development's residential floor area is set aside for affordable units, the proportion of affordable to market-rate units is above 30 percent due to the larger size of the market-rate units.

In response to the recommendations of the Community Board and Borough President, the applicant stated in separate letters dated September 14, 2017, and October 2, 2017, an intent to share its contact information with local residents and provide advanced notification of construction. The applicant also expressed interest in soliciting input from the Borough President on selecting a nonprofit administering agent for the affordable units. With regard to the recommendation on resiliency and sustainability features, the applicant indicated that it was exploring the feasibility of installing a green roof with a solar panel and permeable pavers in the rear yard to improve water retention, among other features. The applicant also indicated that it is a Brooklyn-based, minority-owned business currently seeking MWBE certification. Lastly, the letter stated that the applicant's architect has agreed to remove the dormers on the fourth floor in response to concerns about matching the character of an adjacent building within the Prospect Heights Historic District.



## **RESOLUTION**

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

**RESOLVED**, by the City Planning Commission, pursuant to Sections 197-c and 200 of the New York City Charter that based on the environmental determination and consideration described in this report, the Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended by changing the Zoning Map, Section No.16c, changing from an M1-1 District to an R6B District property bounded by Dean Street, a line 150 feet easterly of Carlton Avenue, a line midway between Dean Street and Bergen Street, a line 310 feet easterly of Carlton Avenue, Bergen Street, a line 210 feet easterly of Carlton Avenue, a line 80 feet northerly of Bergen Street, and a line 100 feet easterly of Carlton Avenue, Borough of Brooklyn, Community District 8, as shown on a diagram (for illustrative purposes only) dated July 24, 2017, and subject to the conditions of CEQR Declaration E-439.

The above resolution (C 170356 ZMK), duly adopted by the City Planning Commission on November 29, 2017 (Calendar No. 12), 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*

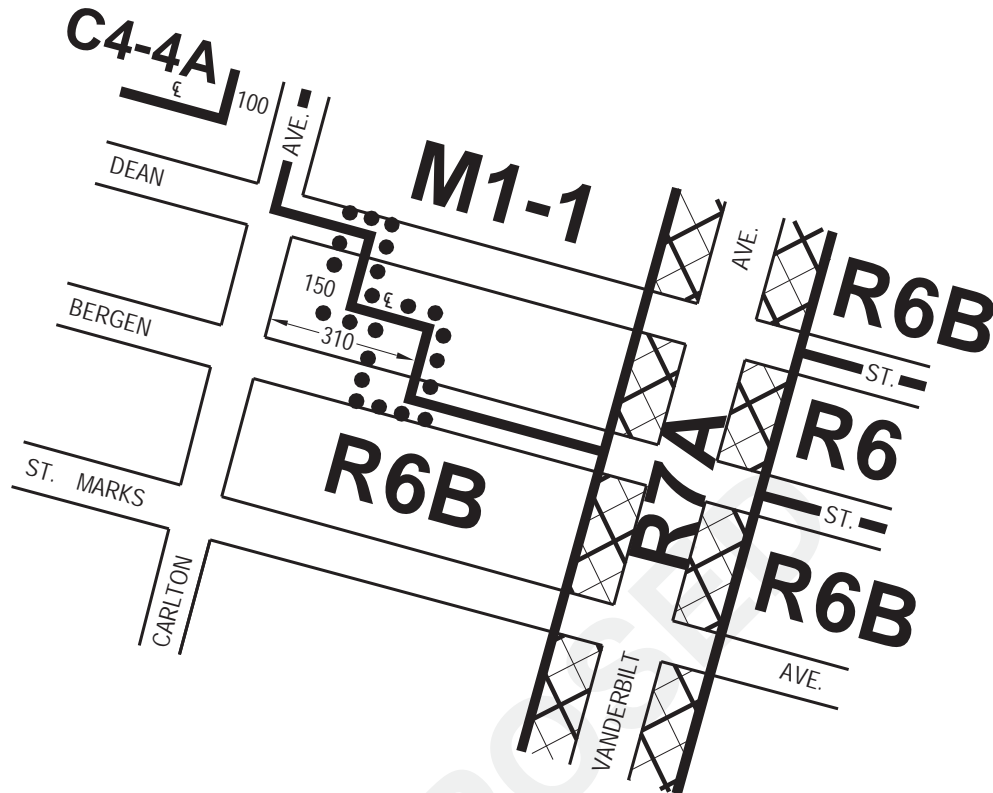
**KENNETH J. KNUCKLES, Esq.**, Vice Chair

**RAYANN BESSER, ALFRED C. CERULLO, III,**

**MICHELLE R. DE LA UZ, JOSEPH I. DOUEK, RICHARD W. EADDY,**

**CHERYL COHEN EFFRON, HOPE KNIGHT, ANNA HAYES LEVIN,**

**ORLANDO MARIN, LARISA ORTIZ**, *Commissioners*



CITY PLANNING COMMISSION  
CITY OF NEW YORK  
DIAGRAM SHOWING PROPOSED  
**ZONING CHANGE**  
ON SECTIONAL MAP  
**16c**

BOROUGH OF  
**BROOKLYN**

New York, Certification Date  
JULY 24, 2017

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 existing M1-1 District to an R6B District.
- Indicates a C1-4 District.

Application #: **C 170356 ZMK**

Project Name: **587 Bergen Street**

CEQR Number: 17DCP163K

Borough(s): **Brooklyn**

Community District Number(s): **8**

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

**SUBMISSION INSTRUCTIONS**

- 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, 120 Broadway, 31st Floor, New York, NY 10271
  - FAX:** to (212) 720-3488 and note "Attention of the Calendar Office"
- 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 1121 of Delaware, LLC pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 16c, changing from an M1-1 District to an R6B District property bounded by Dean Street, a line 150 feet easterly of Carlton Avenue, a line midway between Dean Street and Bergen Street, a line 310 feet easterly of Carlton Avenue, Bergen Street, a line 210 feet easterly of Carlton Avenue, a line 80 feet northerly of Bergen Street, and a line 100 feet easterly of Carlton Avenue, Borough of Brooklyn, Community District 8, as shown on a diagram (for illustrative purposes only) dated July 24, 2017, and subject to the conditions of CEQR Declaration E-439.

Applicant(s): 1121 of Delaware, LLC 43 East 16th Street Brooklyn, NY 11226		Applicant's Representative: Joshua J. Rinesmith, Esq. Akerman, LLP 666 Fifth Avenue New York, NY 10103
Recommendation submitted by: Brooklyn      Community Board 8		
Date of public hearing: 9/7/17	Location: CNR-727 Classon Ave, Bklyn 11238	
Was a quorum present? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>		A public hearing requires a quorum of 20% of the appointed members of the board, but in no event fewer than seven such members.
Date of Vote: 9/14/17	Location: CTR-151 Rochester Ave, Bklyn 11213	
<b>RECOMMENDATION</b> <input type="checkbox"/> Approve <input checked="" type="checkbox"/> Approve With Modifications/Conditions <input type="checkbox"/> Disapprove <input type="checkbox"/> Disapprove With Modifications/Conditions		
Please attach any further explanation of the recommendation on additional sheets, as necessary.		
<b>Voting</b> # In Favor: 37    # Against: 2    # Abstaining: 0    Total members appointed to the board: 49		
Name of CB/BB officer completing this form Julia Neale	Title Comm. Coord.	Date 9/20/17



Eric Adams  
Borough President

# COMMUNITY BOARD NO. 8

1291 ST. MARKS AVENUE • BROOKLYN, NEW YORK 11213

TEL.: (718) 467-5620 • FAX: (718) 778-2979

Nizjoni Granville  
Chairperson

Robert Matthews  
Chairperson Emeritus

Michelle T. George  
District Manager

September 20, 2017

City Planning Commission  
Calendar Information Office  
120 Broadway, 31<sup>st</sup> Floor  
New York, NY 10271

**Re: Application # C 170356 ZMK**  
**CEQR # 17DCP163K**  
**587 Bergen Street, Brooklyn, NY 11238**

Dear Sir or Madam,

Please be advised that on Thursday, September 14, 2017, Brooklyn Community Board 8 members voted 37 in favor, 2 opposed, with 0 abstentions to support the aforementioned application with the following two conditions:

- The owner, 1121 Delaware LLC, will provide a phone number to community residents for 24/7 access to the owner's representative.
- Change the setback of the dormers to 10' to reduce visibility.

Please note that the applicant's representative supplied the attached response to the two conditions to the Board on the day of the meeting. Members found the compromise acceptable.

If you have any questions, comments, or concerns, please do not hesitate to contact me.

Sincerely,

Nizjoni Granville  
Chairperson

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joshua.rinesmith@akerman.com

September 14, 2017

Hon. Nizjoni Granville, Chair  
Brooklyn Community Board 8  
1291 St. Marks Avenue  
Brooklyn, NY 11213

**Re: ULURP Nos. 170356 ZMK and 170357 ZRK  
Bergen Street Rezoning  
587-597 Bergen Street  
Brooklyn, New York (the "Subject Site")**

Dear Chair Granville and Community Board Members:

On behalf of 1121 of Delaware LLC, the applicant for the above-referenced land use application, we thank you and your staff for the opportunity to present this application at the land use committee hearing on September 7, 2017. Enclosed is a letter from the applicant outlining various applicant commitments in response to issues raised by members of the community at the September 7<sup>th</sup> meeting.

In addition, I wanted to provide information to the Community Board regarding the City's E-Designation Program in response to environmental concerns raised by the project's neighbors. In the event that the proposed zoning application is approved, an Environmental Designation will be placed on the property, which will require sign-off from the NYC Office of Environmental Remediation prior to the issuance of any building permits.

The NYC E-Designation Environmental Review Program is a mandatory environmental remediation program administered by the NYC Office of Environmental Remediation (OER) to ensure that environmental requirements established during the land use process are fully addressed in a new development. Prior to the commencement of any construction at the Subject Site, the applicant will be required to submit and obtain OER approval of a Phase II Investigation Work Plan and an Investigation Health and Safety Plan. Once approved, the applicant will then conduct a Phase II Site Investigation and submit the results of such investigation to OER. In the event it is determined by OER that remedial activity is required, a Remedial Action Plan and

(b)(6)(b)(7)(C)

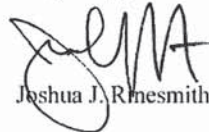


Construction Health and Safety Plan must be submitted and approved by OER. The Remedial Action Plan must also contain a Community Protection Statement that summarizes community protections to be implemented during the remedial process and addresses such issues as the community air monitoring plan, all odor, dust and noise control measures, hours of operation, and other good housekeeping practices that will be implemented at the site.

The City's E-Designation Program is designed to ensure that sites are properly assessed and, if necessary, remediated in a manner that ensures the protection of both the project's construction workers and the community at large.

We hope that this information is helpful and appreciate your time and consideration in this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "J. Rmesmith", is written over the typed name. The signature is stylized with a large, looping initial "J" and a distinct "R".

Joshua J. Rmesmith

**1121 of Delaware LLC**  
c/o The Management Group of Brooklyn  
115 Underhill Avenue  
Brooklyn, NY 11238

September 14, 2017

Hon. Nizjoni Granville, Chair  
Brooklyn Community Board 8  
1291 St. Marks Avenue  
Brooklyn, NY 11213

**Re: ULURP Nos. 170356 ZMK and 170357 ZRK**  
**Bergen Street Rezoning**  
**587-597 Bergen Street**  
**Brooklyn, New York (the "Subject Site")**

Dear Chair Granville and Community Board Members:

I write this letter on behalf of 1121 of Delaware LLC, as the owner of the Subject Site and the applicant for the above-referenced land use application, which seeks a zoning map change from M1-1 to R6B and a zoning text amendment to facilitate development of the Subject Site, which is vacant and historically underutilized, with a 4-story, 26-unit residential building consistent with surrounding development. Ten of the building's units will be permanently affordable under the City's Mandatory Inclusionary Housing Program. The rezoning will also bring into conformance three residential properties on Dean Street.

At the public hearing on September 7, 2017, the Land Use Committee voted 9-0 with one abstention in favor of a resolution supporting this land use application, with conditions relating to the proposed 4<sup>th</sup> floor dormers and construction monitoring. We hereby commit to the following:


1. **Dormers.** We are committed to making a good faith effort to redesign the dormers of the proposed building at the Subject Site to maintain consistency with the adjacent buildings within the Prospect Heights Historic District. Attached please find a revised rendering, illustrating a potential design change to the 4<sup>th</sup> story that would reduce the size of the dormers and maintain a continuous street wall height.
2. **Construction.** We are committed to being a good neighbor during and after construction of the proposed development at the Subject Site. In that regard, we agree to notify adjacent neighbors and Community Board 8 in writing prior to commencement of construction, and to provide a 24-hour contact number during construction of the proposed development.

In addition, we are committed to working with the local block association regarding quality of life issues with respect to the operations of the US Post Office that is located in the building we own on Dean Street.

Lastly, we are a Brooklyn-based, minority-owned business seeking MWBE certification. We act as our own general contractor and historically have used Brooklyn-based contractors and suppliers for at least 50% of our development projects. We look forward to working with Community Board 8 to advertise for contracting and/or supply opportunities for this project. We will also work with Community Board 8 upon completion of construction to market the permanently affordable housing units within the proposed development to ensure that maximum applications are made by local residents.

For the foregoing reasons, we respectfully request that Community Board 8 adopt a resolution in favor of the proposed land use application.

Respectfully,



Serapjit Singh  
1121 of Delaware LLC



**Brooklyn Borough President Recommendation**  
CITY PLANNING COMMISSION  
120 Broadway, 31<sup>st</sup> Floor, New York, NY 10271  
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**

587 BERGEN STREET REZONING – 170356 ZMK, 170357 ZRK

In the matter of the applications submitted by 1121 of Delaware LLC, pursuant to sections 197-c and 201 of the New York City Charter, seeking zoning map amendments to shift the existing R6B/M1-1 zoning boundary between Bergen and Dean streets further east of Carlton Avenue to expand the R6B zoning district, and designate the expanded Bergen Street section as an Mandatory Inclusionary Housing (MIH) area. Such actions would facilitate the construction of a 26-unit residential building with 10 affordable units, pursuant to MIH Option 2 on Bergen Street and bring three existing residential buildings into zoning conformance on Dean Street.

BROOKLYN COMMUNITY DISTRICT NO. 8

BOROUGH OF BROOKLYN

**RECOMMENDATION**

☐ APPROVE

☒ APPROVE WITH  
MODIFICATIONS/CONDITIONS

☐ DISAPPROVE

☐ DISAPPROVE WITH  
MODIFICATIONS/CONDITIONS

SEE ATTACHED

*Epi L. Adams*

BROOKLYN BOROUGH PRESIDENT

October 20, 2017

DATE

**RECOMMENDATION FOR: 587 BERGEN STREET REZONING – 170356 ZMK, 170357 ZRK**

Applications submitted by 1121 of Delaware LLC, pursuant to sections 197-c and 201 of the New York City Charter, seek zoning map amendments to shift the existing R6B/M1-1 zoning boundary between Bergen and Dean streets further east of Carlton Avenue to expand the R6B zoning district, and designate the expanded Bergen Street section as an Mandatory Inclusionary Housing (MIH) area. Such actions would facilitate the construction of a 26-unit residential building with 10 affordable units, pursuant to MIH Option 2 on Bergen Street and bring three existing residential buildings into zoning conformance on Dean Street.

On September 13, 2017, Brooklyn Borough President Eric L. Adams held a public hearing on these zoning map and text amendments. There were two speakers in opposition to the item, representing the Bergen Street and Dean Street block associations, who cited concerns with construction impacts and contaminated soil arising from this proposed development.

In response to Deputy Brooklyn Borough President Diana Reyna's inquiry regarding the community's request for a full street wall setback of the dormers along the top floor, the applicant's representative provided an updated rendering, showing the proposed development with a full 15-foot fourth-story setback. The developer intends to recapture the usable square footage by building out further into the building's rear yard.

In response to Deputy Borough President Reyna's inquiry regarding what steps would be taken by the applicant to reduce potential construction impacts on adjacent historic properties, the applicant's representative explained that the proposed development will be subject to stringent shoring and construction monitoring requirements by the New York City Department of Buildings (DOB). As the development site abuts a property located within the Prospect Heights Historic District, the applicant will enter into a licensing agreement with the property owner. The applicant will also work to stage the construction site in such a way as to mitigate impacts on other Bergen Street properties while providing advance notification and a 24-hour hotline to residents.

In response to Deputy Borough President Reyna's inquiry regarding how the applicant would ensure that planned excavation for the building's garage would not pose a hazard to neighboring residents, given the block's history of chemical storage by a paint company, the applicant's representative clarified that the project's Environmental Assessment Statement (EAS) recommended the imposition of an E-Designation that will require the developer to file a sampling protocol with the Mayor's Office of Environmental Remediation (OER). Upon approval of such protocol, OER will commission a Phase II site investigation and review its results to determine whether environmental remediation is required. If contamination is found at the site, the project will have to submit and receive approval for a Phase II work plan and a health and safety plan. Such a plan is designed to ensure that ground disturbance does not adversely impact air quality and public health.

In response to Deputy Borough President Reyna's inquiry as to which marketing strategies would be used in the tenant selection process in order to ensure the highest level of participation from Brooklyn Community District 8 (CD 8), for instance, designating one of the community's affordable housing non-profits as the administering agent, the applicant's representative clarified that the developer has not yet selected an administering agent but will request proposals from qualified Brooklyn-based non-profits in the next two years.

In response to Deputy Borough President Reyna's inquiry as to whether the applicant's marketing strategy for the MIH units would start off with a financial literacy campaign to assist area residents



in becoming lottery-eligible, the representative expressed the applicant's intent to work with the Brooklyn Community Board 8 (CB 8) housing committee to ensure participation of eligible applicants.

In response to Deputy Borough President Reyna's inquiry as to what consideration has been given to incorporating bioswales, blue/green or white roofs, Passive House design, permeable pavers and/or solar panels, the representative clarified that the developer is currently investigating the feasibility of a combined green and solar roof. The property's rear yard will be landscaped with a combination of permeable pavers and green planters, and the building will have an onsite water retention system.

In response to Deputy Borough President Reyna's inquiry regarding the inclusion and participation of Minority- and Women-Owned Business Enterprises (MWBEs) and Locally-Owned Business Enterprises (LOBEs) in the construction process, the applicant's representative stated that the developer would be seeking MWBE certification and will commit to soliciting MWBE bids for various contracts on the project. The developer and his suppliers are also based in Brooklyn.

Subsequent to the hearing, Borough President Adams received a letter (attached) from the applicant's representative dated October 2, 2017, addressing affordable housing marketing and administration, green and sustainable design features, local hiring and MWBE participation, and environmental testing and remediation at 587 Bergen Street. The letter reiterated commitments made to CB 8 regarding the redesign of the dormers, and efforts to reduce construction impacts on neighboring residents.

Subsequent to the hearing, Borough President Adams received a letter jointly submitted by the Bergen Street Block Association and Dean Street Block Association, seeking commitments from the developer of 587 Bergen Street on several issues. Regarding the proposed building, they call for a setback for the fourth story from the street wall, and reduced visibility from the street for rooftop structures such as solar panels. Regarding the E-Designation, they seek community input in the determination of locations for soil sampling at the project site. The residents call on the developer to maintain a 24-hour hotline for reporting concerns associated with the construction of 587 Bergen Street and the operation of the developer's tenant, the United States Postal Service (USPS) facility, at 594 Dean Street. Finally, the Bergen and Dean Street block associations seek for the owner to finance a consultant to address government oversight and transportation concerns in the area.

### **Consideration**

On September 14, 2017, CB 8 approved this application on the condition that the applicant provide contact information to the community so that a representative can be reached 24/7 regarding any issues related to construction, and create a full 10-foot fourth-story setback to reduce the visibility of the proposed dormers.

The proposed actions would shift an existing R6B/M1-1 zoning district by enlarging the R6B district by approximately 20,600 square feet (sq. ft.) for part of a block bounded by Bergen and Dean streets and Carlton and Vanderbilt avenues, and establish an MIH area within the new R6B district. Rezoning would enable the applicant to construct a four-story, 26-unit residential building, including 10 affordable units on a vacant lot at 587 Bergen Street. A portion of the fourth story is proposed to be set back 10 feet from the street wall. The proposed rezoning would also bring three Dean Street rowhouses into zoning conformance.

The historically unimproved and underutilized development site is situated directly between a series of three-story rowhouses and industrial/warehouse buildings, including a United States Postal Service (USPS) facility. Its surrounding context is largely residential with some commercial and industrial uses. The Prospect Heights Historic District, designated in 2009 and comprised primarily of two-story multi-family rowhouses, is mapped to the east, south, and west of the development site. To the north, the area is defined by Pacific Park Brooklyn, a 22-acre development that is expected to bring 6,430 new residential units, with commercial, office, and open space to the area.

As proposed, the development would consist of 14 one-bedroom units and 12 two-bedroom units. Four of the one-bedrooms and six of the two-bedrooms will be affordable pursuant to MIH Option 2. An underground parking garage will have 13 underground parking spaces (in excess of the eight required by the zoning) and 13 bicycle parking spaces. The developer will also plant four new street trees, pursuant to street tree planting regulations in residential districts.

Borough President Adams supports the development of underutilized land and vacant properties for productive uses that address the City's need for additional affordable housing. Borough President Adams supports rezoning when paired with the New York City Zoning Resolution's (ZR) MIH program as a means to achieve permanently affordable housing units. The affordability options of the MIH program extend housing opportunities to a broad range of incomes, consistent with Borough President Adams' objective to target affordable housing to households at various Area Median Income (AMI) bands. This proposed development would result in some permanent affordable housing according to MIH. The rezoning would be consistent with Mayor Bill de Blasio's goal of achieving 200,000 affordable housing units over the next decade, according to "Housing New York: A Five-Borough, Ten-Year Plan."

Borough President Adams also believes that affordable housing floor area should result in a family-oriented unit mix, with a substantial number of two-bedroom units. The redevelopment of the applicant's property into a 26-unit residential building with 10 proposed MIH units, consisting of one- and two-bedrooms would provide opportunities for households and families seeking affordable housing. It is also Borough President Adams' policy to support the development of affordable housing and seek for such housing to remain "affordable forever," wherever feasible. According to MIH, the redevelopment of the applicant's property would result in a 30 percent permanently affordable residential floor area.

On October 2, 2017, Borough President Adams received a letter from the applicant's representative clarifying what steps would be taken if it is found that the site requires environmental remediation prior to redevelopment. If OER determines that remediation is necessary, the developer will be required to submit for approval a remedial action plan and a construction health and safety plan. The remedial plan would contain a community protection statement summarizing air monitoring, dust, noise and odor control, notice of hours of operation, as well as other measures to be implemented at the site.

In response to community concerns regarding construction impacts, the developer has committed to providing residents of Bergen and Dean streets with written notification prior to the start of construction and a 24-hour contact number where residents may report complaints during the building process. Such notification and contact information would also be provided to the Brooklyn Borough President's Office and CB 8. Borough President Adams believes that in addition to such commitments, it would be reasonable for the developer and OER to consult with representatives of the Bergen Street Block Association and Dean Street Block Association to provide input in the determination of locations for soil test probes. Regarding to the USPS operation, he believes that it would be appropriate for the developer, the New York City Department of Transportation (DOT),

and USPS representatives to meet with members of both block associations to discuss the pedestrian/vehicular conflicts related to the postal facility.

Borough President Adams is generally supportive of the proposed development. However, he believes that there are opportunities to improve the proposal by providing a setback for the entire frontage of the top floor while furthering a range of his policies. Such opportunities include maximizing community participation in the affordable housing lottery, advancing resiliency, sustainability, and stormwater management, and promoting job creation through MWBE and local hiring.

#### **Relationship to the Prospect Heights Historic District and Dormer Setback**

Borough President Adams recognizes community concerns about out-of-scale development adjacent to the Prospect Heights Historic District. He also acknowledges the applicant's attempts to mitigate the building's visual impact on Bergen Street, such as designing a contextual façade to mirror the buildings in the Prospect Heights Historic District. In response to feedback from local residents, the developer has also made a commitment to set back the fourth-story dormers to a distance of 15 feet so that they will not be visible from the street. Such redesign is intended to maintain consistency with adjacent buildings on Bergen Street, which are part of the Prospect Heights Historic District.

Though the developer has represented a commitment verbally and in writing, such forms of commitment are not binding. In order to have adequate assurance that such commitment be binding, it is necessary that a legal mechanism be pursued that would be recorded against the property. Therefore, Borough President Adams believes that it would be appropriate for the property owner to file a conditional binding mechanism that would go into effect should the property be rezoned.

Borough President Adams believes that as a means to mandate a full setback of the fourth story prior to considering the application, the City Council should require the applicant, 1121 of Delaware LLC, to provide recordation that the New York City Zoning Resolution (ZR) section 23-621 (c)(1) would not apply to residential development at 587 Bergen Street should the property be rezoned to R6B.

#### **Maximizing Community Participation of the MIH Affordable Housing**

The ZR requires the affordable housing units to be overseen by a non-profit administering agent, unaffiliated with the for-profit developing entity, except when otherwise approved by the New York City Department of Housing Preservation and Development (HPD). Such administering non-profit becomes responsible for ensuring that the affordable housing remains in accordance with its regulatory agreement, which governs the development's affordable housing plan. These tasks include verifying a prospective tenant household's qualifying income, and approving the rents of such affordable housing units. The administering non-profit is responsible for submitting an affidavit to HPD attesting that the initial lease-up of the affordable housing units is consistent with the income requirements, and for following up with annual affidavits to ensure conformity.

Various non-profits have proven track records of successfully marketing affordable housing units within the host community of this development, as well as promoting affordable housing lottery readiness through educational initiatives. It is Borough President Adams' policy to advocate for affordable housing non-profits to play a contributing role in maximizing community participation in neighborhood affordable housing opportunities, including serving as non-profit administering agents for new developments involving affordable housing. Borough President Adams recognizes that CD 8 is served by several non-profit housing advocates with a proven track record of marketing affordable housing units and promoting affordable housing lottery readiness through educational initiatives. These include the Fifth Avenue Committee (FAC), IMPACCT Brooklyn and the Mutual Housing Association of New York (MHANY).



On October 2, 2017, Borough President Adams received a letter from the applicant's representative stating the developer's intent to seek recommendations from the Brooklyn Borough President's Office

regarding qualified administering agents for the MIH units at 587 Bergen Street. Furthermore, the developer committed to working with the Brooklyn Borough President's Office and CB 8 to ensure the highest level of MIH participation in CD 8.

Borough President Adams believes that prior to considering the application, the City Council should obtain in writing from the developer, 1121 of Delaware LLC, commitments that clarify how it would memorialize utilizing a combination of locally-based affordable housing development non-profits to serve as the administering agent, and having one or more of such entities play a role in promoting affordable housing lottery readiness.

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

It is Borough President Adams' sustainable energy policy to promote opportunities that utilize blue/green/white roofs, solar panels, and/or wind turbines, as well as Passive House construction.

He encourages developers to coordinate with the New York City Mayor's Office of Sustainability (Mayor's Office of Sustainability), the New York State Energy Research and Development Authority (NYSERDA), and/or the New York Power Authority (NYPA) at each project site. Such modifications tend to increase energy efficiency and reduce a 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's (DEP) green infrastructure strategy. Bioswales, blue/green roofs, and permeable pavers would deflect stormwater from the City's water pollution control plants. According to the "New York City Green Infrastructure 2016 Annual Report," green infrastructure plays a critical role in addressing water quality challenges and provides numerous economic, environmental, and social co-benefits.

Borough President Adams believes it is 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 to further coordinate on this matter.

The proposed development offers opportunities to explore resiliency and sustainability measures such as incorporating blue/green/white roof finishes, Passive House construction principles, solar panels, and wind turbines in the development.

On October 2, 2017, Borough President Adams received a letter from the applicant's representative stating the developer's intent to develop and operate 587 Bergen Street with environmentally sustainable features. With regard to stormwater management, the developer will utilize green landscaping and permeable pavers in the rear yard, in addition to an on-site water retention system. The developer will also implement LED lighting to reduce energy use, and consider installing a combination green roof and/or solar panels.

Borough President Adams believes that prior to considering the application, the City Council should obtain commitments in writing from the developer, 1121 of Delaware LLC, that clarify how it would memorialize integrating these resiliency and sustainability features at 587 Bergen Street.

## **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 creates 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 the borough's community districts experiencing poverty rates of nearly 25 percent or greater. Prioritizing local hiring would assist in addressing this employment crisis. Additionally, promoting Brooklyn-based businesses including those that qualify as Locally-Owned Business Enterprises (LBEs) and Minority- and Women-Owned Business Enterprises (MWBEs) 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 that meet or exceed standards per Local Law 1 (no less than 20 percent participation).

On October 2, 2017, Borough President Adams received a letter from the applicant's representative clarifying that the developer is seeking MWBE certification, and will act as the general contractor for this project. The developer intends to work with the Brooklyn Borough President's Office and CB 8 to promote opportunities for local contractors and suppliers on this project.

Borough President Adams believes that prior to considering the application, the City Council should obtain commitments in writing from the developer, 1121 of Delaware LLC, that clarify how it would memorialize the extent that it would 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 MWBEs. This would be undertaken to meet or exceed standards per Local Law 1 (no less than 20 percent participation), as well as comply with the requirements of HPD's Build Up program.

## **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 property owner be required to provide recordation against 587 Bergen Street that New York City Zoning Resolution (ZR) section 23-621 (c)(1) would not be applicable to residential development should the property be rezoned to R6B as a means to mandate a full setback of the fourth story, prior to City Council determination.
2. That prior to considering the application, the City Council obtain commitments in writing from the developer, 1121 of Delaware LLC, that clarify how it would memorialize the extent that it would:
  - a. Commit to utilizing one or more locally-based housing development non-profits to serve as the administering agent, and play a role in promoting affordable housing lottery readiness
  - b. Continue to explore additional resiliency and sustainability measures such as incorporating bioswales, blue/green/white roof treatment, Passive House construction principles, solar panels, and wind turbines in the development

- c. Retain Brooklyn-based contractors and subcontractors, especially those that are designated Local Business Enterprises (LBE) consistent with section 6-108.1 of the City's Administrative Code and Minority- and Women-Owned Business Enterprises (MWBE) as a means to meet or exceed standards per Local Law 1 (no less than 20 percent participation), as well as coordinate the oversight of such participation by an appropriate monitoring agency

Be It Further Resolved:

1. That the developer commit to conducting soil sampling in consultation with residents of Bergen and Dean streets in order to determine appropriate locations for testing.





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October 2, 2017

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

**Re: ULURP Nos. 170356 ZMK and 170357 ZRK  
Bergen Street Rezoning  
587-597 Bergen Street  
Brooklyn, New York (the "Subject Site")**

Dear Borough President Adams:

On behalf of 1121 of Delaware LLC, the applicant for the above-referenced land use application, we thank you and your staff for the opportunity to present this application at your public hearing on September 13, 2017. We write to reiterate our responses to certain comments made and questions asked by Richard Bearak and Inna Guzenfeld at the public hearing.

Before addressing these items, we first note that Brooklyn Community Board 8 held their monthly Board meeting on September 14, 2017, subsequent to your public hearing, and voted to recommend approval of this application with conditions by a vote of 37 in favor to 2 opposed.

**Affordable Housing Marketing and Administration**

The applicant will seek recommendations from the Brooklyn Borough President's office for a local non-profit organization to serve as administering agent for the Mandatory Inclusionary Housing units within the proposed development at the Subject Site. In order to ensure the highest level of participation from Community District 8, the applicant will work with Community Board 8 and the Brooklyn Borough President's office to advertise these units and maximize the number of applications made by local residents.

**Green and Sustainable Design Features**

It is the applicant's intention to develop and operate the proposed development in an environmentally sustainable manner. The applicant is currently investigating the feasibility of

installing a combination solar panel and green roof. The development's rear yard will utilize a mix of permeable pavers and green landscaping and an on-site water retention system will be utilized to collect and temporarily retain rainwater on-site in order to mitigate storm water runoff. The building will also be utilizing LED lighting technology to reduce energy consumption.

### **Local Hiring and MWBE Participation**

The applicant is a Brooklyn-based, minority-owned business seeking MWBE certification. The applicant acts as their own general contractor and historically has used Brooklyn-based contractors and suppliers for at least 50% of their development projects. The applicant will work with Community Board 8 and the Borough President's office to advertise locally for contracting and/or supply opportunities for this project.

### **Environmental Testing and Remediation**

In the event that the proposed land use application is approved, an Environmental Designation will be placed on the property, which will require sign-off from the NYC Office of Environmental Remediation prior to the issuance of any building permits.

The NYC E-Designation Environmental Review Program is a mandatory environmental remediation program administered by the NYC Office of Environmental Remediation (OER) to ensure that environmental requirements established during the land use process are fully addressed in a new development. Prior to the commencement of any construction at the Subject Site, the applicant will be required to submit and obtain OER approval of a Phase II Investigation Work Plan and an Investigation Health and Safety Plan. Once approved, the applicant will then conduct a Phase II Site Investigation and submit the results of such investigation to OER. In the event it is determined by OER that remedial activity is required, a Remedial Action Plan and Construction Health and Safety Plan must be submitted and approved by OER. The Remedial Action Plan must also contain a Community Protection Statement that summarizes community protections to be implemented during the remedial process and addresses such issues as the community air monitoring plan, all odor, dust and noise control measures, hours of operation, and other good housekeeping practices that will be implemented at the site.

The City's E-Designation Program is designed to ensure that sites are properly assessed and, if necessary, remediated in a manner that ensures the protection of both the project's construction workers and the community at large.

### **Community Board Conditions**

At its public hearing on September 7, 2017, the Land Use Committee of Community Board 8 voted 9-0 with one abstention in favor of a resolution supporting this land use application, with conditions relating to the proposed 4<sup>th</sup> floor dormers and construction monitoring. In response to the concerns raised by the Land Use Committee of Community Board 8, the applicant has committed in writing (by letter dated September 14, 2017, a copy of which was provided to the Borough President's staff) to the following:

Proposed Dormers

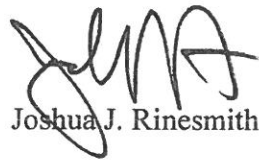
The applicant has committed to making a good faith effort to redesign the dormers of the proposed building at the Subject Site to maintain consistency with the adjacent buildings within the Prospect Heights Historic District.

Construction

In order to be a good neighbor during and after construction of the proposed development at the Subject Site, the applicant has committed to notify adjacent neighbors and Community Board 8 in writing prior to commencement of construction, and to provide a 24-hour contact number during construction of the proposed development. The applicant will also provide this notification and contact information to the Brooklyn Borough President's office.

On behalf of the applicant, we thank you for your consideration of this land use application and respectfully request that you recommend approval to the City Planning Commission.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Rinesmith', with a stylized flourish at the end.

Joshua J. Rinesmith