



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

- 1) pursuant to Article 16 of the General Municipal Law of New York State for:
  - a) the designation of property located at 3 Livonia Avenue (Block 3566, Lot 6), as an Urban Development Action Area; and
  - b) an Urban Development Action Area Project for such area; and
- 2) pursuant to Section 197-c of the New York City Charter for the disposition of such property to a developer to be selected by HPD;

to facilitate an affordable housing development containing approximately 125 affordable units and approximately 3,079 square feet of community facility or retail space, Borough of Brooklyn Community District 16.

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Approval of three separate matters is required:

1. the designation of property located at 3 Livonia Avenue (Block 3566, Lot 6), as an Urban Development Action Area; and
2. An Urban Development Action Area Project (UDAAP) for such area; and
3. The disposition of such property, to a developer selected by HPD

The application for an Urban Development Action Area designation and project approval and disposition of City-owned property (C 170456 HAK) was filed by the Department of Housing Preservation and Development (HPD) on June 12, 2017.

Approval of this application would facilitate the development of an eight-story building with approximately 126 units of affordable and supportive housing in the Brownsville neighborhood of Brooklyn, Community District 16.

The Department of Housing Preservation and Development states in its application that:

“The Project Area consists of an underutilized vacant lot that tends to impair or arrest the

sound development of the surrounding community, with or without tangible physical blight. Incentives are needed in order to induce the correction of these substandard, insanitary, and blighting conditions. The project activities will protect and promote health and safety and encourage sound growth and development. The Project Area is therefore eligible to be an Urban Development Action Area and the Proposed Development is therefore eligible to be an Urban Development Action Area Project pursuant to Article 16 of the General Municipal Law.”

## **RELATED ACTIONS**

In addition to the application for UDAAP designation and project approval and disposition of City-owned property, which is the subject of this report, implementation of the proposed project also requires action by the City Planning Commission on the following applications, which are being considered concurrently with this application.

C 170457 ZSK      Special permit to modify the floor area requirements for a non-profit institution with sleeping accommodations;

C 170454 ZMK      Zoning map amendment to rezone the project area from R6 to R7-2/C2-3; and

N 170455 ZRK      Zoning text amendment to designate a Mandatory Inclusionary Housing (MIH) area.

## **BACKGROUND**

HPD is seeking UDAAP designation, project approval, and disposition of City-owned property located at 3 Livonia Avenue (Block 3566, Lot 6) to facilitate the development of an eight-story mixed-use building providing approximately 126 units of affordable and supportive housing, in addition to ground floor retail or community facility space, in the Brownsville neighborhood of Community District 16, Brooklyn.

3 Livonia Avenue is a vacant, 20,000-square-foot, City-owned lot located on Livonia Avenue between Howard Avenue and Grafton Street. It is mapped with an R6 zoning district, a medium-density residential district widely mapped in Brooklyn. R6 districts allow all housing types at a maximum floor area ratio (FAR) of up to 2.43 for residential uses and up to 4.8 for buildings

containing community facility uses. R6 is a “height factor” district where residential and community facility uses are permitted with no fixed height limits and building envelopes are regulated by an open space ratio and a sky exposure plane after a maximum base height of 60 feet. Residential development under the optional Quality Housing Program has a maximum FAR of 2.2 on narrow streets (2.42 in MIH areas) and a 55-foot building height limit, and a maximum FAR of 3.0 on wide streets (3.6 in MIH areas) with a height limit of 85 feet in developments meeting MIH requirements. Off-street parking is required for 70 percent of the dwelling units. This requirement is lowered to 50 percent of the units if the lot area is less than 10,000 square feet, or if Quality Housing provisions are used.

The Department of City Planning has collaborated with HPD on the *Brownsville Plan*, a proposal released in 2017 recommending the development of 2,500 new affordable residential units across Brownsville, specifically highlighting the Livonia Avenue corridor, including the Edwin’s Place project area at 3 Livonia Avenue, as an opportunity area to encourage higher density, mixed-use developments. As part of the *Plan*, a Request for Proposals (RFP) was released for four City-controlled sites along the corridor. The RFP identified opportunities for increasing residential density and adding neighborhood retail and services to help activate ground floor spaces along this important corridor.

To facilitate the proposed project, the applicant is seeking four land use actions.

- 1) UDAAP designation, project approval, and disposition of City-owned Property.
- 2) Zoning map amendment to rezone the project area from R6 to R7-2/C2-3.
- 3) Zoning Special Permit pursuant to Zoning Resolution Section 74-903 (*Certain community facility uses in R3 to R9 Districts and certain Commercial Districts*) to modify the floor area ratio requirements of Section 24-111 (*Maximum floor area ratio for certain community facility uses*). The as-of-right floor area for this use in R7-2 districts is 3.44. However, with a special permit pursuant to 74-903, the floor area can be increased to that allowed under 24-11 (6.5 FAR) if it meets the following findings:
  - a) that the distribution of #bulk# on the #zoning lot# will not unduly obstruct the access of light and air to adjoining properties or public #streets#, and will result in satisfactory site planning and satisfactory urban design relationships of #buildings# to adjacent #streets # and the surrounding area;

- b) that the proposed facility will not require any significant additions to the supporting services of the neighborhood or that provision for adequate supporting services has been made; and
  - c) that the #streets# providing access to such #use# will be adequate to handle the traffic generated thereby or provision has been made to handle such traffic.
- 4) Zoning text amendment to revise Appendix F of the Zoning Resolution to map the project area as an MIH area with Options 1 and 2.

The proposed R7-2 district allows residential uses up to 3.44 FAR for height factor buildings or 3.44 FAR (on a narrow street) and 4.0 FAR (on a wide street) for Quality Housing buildings. With inclusionary housing, R7-2 allows 4.6 FAR. The R7-2 district allows community facility uses up to 6.5 FAR, but limits community facility non-profits with sleeping accommodations to 3.44 FAR, except by special permit, which is the special permit requested in this application. For height factor buildings, there is no height limit in R7-2 districts, but building bulk is governed by a sky exposure plane beginning 60 feet above the street line. For Quality Housing buildings with inclusionary housing, the R7-2 district allows a base height of 75 feet and a maximum height of 95 feet (on a narrow street) and 105 feet (on a wide street). The proposed C2-3 district allows a range of local-serving commercial uses at a maximum FAR of 2.0.

The proposed actions would facilitate the development of an eight-story, 98,800-square-foot mixed-use building (4.94 FAR) containing 126 units of supportive and affordable housing and 3,079 square feet of leasable space for a retail or community facility tenant. Of the 126 residential units, at least 60 percent would be supportive units for the formerly homeless, and the remainder of the units would be affordable units for individuals and families with incomes below 60 percent of the Area Median Income (AMI). The majority of the zoning floor area (95,721 square feet; 4.79 FAR) would be designated as community facility Use Group 3A: philanthropic or non-profit institutions with sleeping accommodations, which would include all of the housing units on the first through eighth floors. Additionally, 3,079 square feet of zoning floor area (0.15 FAR) on the ground floor, with frontage on Livonia Avenue, would be used as a separate space for a retail or community facility tenant and would be designated either as Use Group 6A retail or as another as-of-right use. The 10,344-square-foot cellar would be used as offices and common space for amenities and delivery of on-site support services. Social services provided to residents of the

building would include services such as case management, medical care, mental health counseling, nutritional services, entitlement benefits counseling, parenting and family skills, and financial literacy/job placement services. Amenities would include a laundry room, exercise room, and an outdoor landscaped courtyard, in addition to an outdoor landscaped terrace on the eighth floor. The building would have a 24-hour attended lobby, security camera system, controlled building access, and on-site maintenance personnel. The proposed building would have a street wall height of 71 feet on all three street frontages and would rise to a total height of approximately 80 feet after a setback. No parking would be provided, since the Zoning Resolution does not require parking for community facility non-profit institutions with sleeping accommodations in an R7-2 district.

The project is within an existing R6 zoning district, which is the most prevalent zoning district in Brownsville and the area surrounding the project area. One block to the west of the project area, along East 98th Street, there is a C8-2 zoning district, which is a district for heavy commercial uses, including auto-oriented uses, mapped along major traffic arteries in Brooklyn. There are C2-3 and C1-3 commercial overlays widely mapped within the R6 district in the surrounding area, including C2-3 overlays directly across the street from the project area on three sides.

The predominant land use in the surrounding area is residential, including one-, two-, and multi-family uses. Other land uses include mixed-use residential and commercial buildings, commercial uses, and institutional uses. Neighborhood retail is located primarily along East 98th Street to the west of the project area and along Livonia Avenue to the east of the project area. The built form in the surrounding area is characterized by two- and three-story residential buildings, many of which are single- and two-family uses, in addition to larger four- to six-story multi-family apartment buildings. Retail uses in the surrounding area are found primarily on the ground floor of mixed-use buildings with residential uses above and, in some cases, in stand-alone low-rise commercial buildings.

The project area is well served by transit. The Metropolitan Transportation Authority 3-train stops at Saratoga Avenue, two blocks east of the project area, and several bus lines serve the immediate vicinity of the project area. The primary open space resource in the surrounding area is Betsy Head Park, an 11-acre Department of Parks and Recreation-owned park, located three blocks east of the

project area.

The proposed zoning text amendment would designate the project area as an MIH area in which MIH Options 1 and 2 would be applicable. Option 1 requires that a minimum of 25 percent of the residential floor area be designated as affordable to households at an average of 60 percent of AMI, with 10 percent of floor area designated as affordable to households at 40 percent of AMI or below. Option 2 requires that a minimum of 30 percent of the residential floor area be designated as affordable to households at an average of 80 percent of AMI. Because the proposed project would be Use Group 3A, it would not require MIH compliance. However, if the site were to be developed for residential use in the future, compliance with Option 1 or 2 would be required.

### **ENVIRONMENTAL REVIEW**

This application (C 170456 HAK), in conjunction with the application for the related actions (C 170457 ZSK; C 170454 ZMK; N 170455 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 designated CEQR number is 16HPD052K. The lead agency is the Department of Housing Preservation and Development.

After a study of the potential impact of the proposed actions, a Negative Declaration was issued on June 2, 2017.

### **UNIFORM LAND USE REVIEW**

This application (C 170456 HAK), in conjunction with the applications for the related special permit and zoning map amendment actions (C 170457 ZSK and C 170454 ZMK, was certified as complete by the Department of City Planning on June 19, 2017, and was duly referred to Brooklyn Community Board 16 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 170455 ZRK), which was referred in accordance with the procedures for non-ULURP actions.

### **Community Board Public Hearing**

Community Board 16 held a public hearing on this application (C 170456 HAK) on June 27, 2017, and on that date, by a vote of 21 in favor, zero opposed, and with one abstention, adopted a resolution recommending approval of the application.

### **Borough President Recommendation**

This application (C 170456 HAK) was considered by the Brooklyn Borough President, who on August 10, 2017 issued a recommendation to approve the application, listing the following recommendations:

- "1. That Breaking Ground LLC give appropriate consideration to incorporating into the development the following:
  - a. That a portion of the proposed ground floor commercial/community facility space be marketed at affordable lease terms to art groups, and/or locally-based community organizations, in consultation with Brooklyn Community Board 16 (CB 16) and local elected officials, according to adequate solicitation of such cultural organizations as potential building occupants; and
  - b. The inclusion of bioswales as part of the Builders Pavement Plan
2. The New York City Department of City Planning undertake, in consultation with CBs 16 and 17 and their and local elected officials, a zoning study that would consider whether to upzone the section of Livonia Avenue in CD 16 extending from East 98<sup>th</sup> Street to the CD 5 border as well as the section of East 98<sup>th</sup> Street from Livonia Avenue to East New York Avenue where it borders with CDs 16 and 17, in Brownsville to an R7D or C4-4L district.
3. The New York City Transit (NYCT) should advance the construction of the free transfers between the Livonia Avenue L train station and the Junius Street 3 train station."

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

On August 9, 2017 (Calendar No. 6), the City Planning Commission scheduled August 23, 2017 for a public hearing on this application (C 170456 HAK) and the applications for the related actions (C 170457 ZSK, C 170454 ZMK and N 170455 ZRK). The hearing was duly held on August 23, 2017 (Calendar No. 23). There were four speakers in favor and none opposed.

Speakers in favor included representatives from HPD, the proposed service providers (Breaking Ground and African American Planning Commission), and the architect. HPD provided an overview of the project and the requested land use actions, explaining that the project supports the Mayor's housing plan and is consistent with HPD's *Brownsville Plan*. Breaking Ground described their organization and the proposed building and service provision program, noting that a tenant had not yet been identified for the ground floor leasable space, but that they would reach out to local stakeholders to find one. The project architect described the design elements and how the building would respond to the elevated infrastructure, explaining that the building would have sound attenuation features to reduce the noise of the elevated train. The architect noted that the building would activate Livonia Avenue with the ground floor retail component. The African American Planning Commission explained that their support services were partly funded by the New York City Department of Health.

There were no other speakers and the hearing was closed.

## **CONSIDERATION**

The Commission believes that this application (C 170456 HAK) for UDAAP designation, project approval, and the disposition of City-owned property, in conjunction with the applications for the related actions (C 170457 ZSK, C 170454 ZMK and N 170455 ZRK), is appropriate.

The applicant is proposing an eight-story, 98,800-square-foot (4.94 FAR) mixed-use building with 95,712 square feet (4.79 FAR) designated for a non-profit with sleeping accommodations, including 126 units of supportive and affordable housing, and 3,079 square feet (0.15 FAR) of active ground floor uses including neighborhood retail or services located along Livonia Avenue. Approximately 57,427 square feet, or 76 apartments, would be supportive units for the formerly homeless, and approximately 38,284 square feet, or 50 apartments, would be affordable for individuals and families with incomes below 60 percent of the AMI. Additional cellar space would be utilized for building amenities and supportive services for residents, with accessible outdoor areas located in the rear yard and on the roof. The building would rise to a base height of 71 feet and, after a 20-foot setback, would rise to a total height of 80 feet.

The Commission finds that the UDAAP designation, project approval, and disposition of this



vacant, City-owned site to facilitate the creation of affordable and supportive housing with an active ground floor space is appropriate. The 20,000-square-foot site has been vacant since 1968 and its redevelopment would help anchor the western portion of Livonia Avenue with a new node of activity. Furthermore, the proposal is closely aligned with the *Brownsville Plan*, which recommends the redevelopment of City-owned sites along Livonia Avenue to facilitate higher density, mixed-use buildings. Given the site's location directly adjacent to the elevated MTA 3-train Saratoga Avenue station, the site is well suited for transit oriented development and would provide an opportune location for a mixed-use building with affordable housing. The Commission believes that the proposed development would make productive use of vacant, underutilized property while providing much-needed supportive and affordable housing in the Brownsville neighborhood.

The Commission finds that the zoning map amendment to change an existing R6 district to an R7-2 residential district with a C2-3 commercial overlay is appropriate. The applicant's proposed building would be subject to the district's community facility bulk regulations, which allow a maximum street wall height of 60 feet, after which heights are governed by a sky exposure plane. The extension of the adjacent C2-3 commercial overlay across the site, to a depth of 100 feet, would allow the proposed development to include a range of neighborhood-serving retail and services up to a maximum FAR of 2.0. This increase in allowable residential density and height, combined with the commercial overlay, would be consistent with the City's policy of facilitating additional housing, including affordable housing, in mixed-use developments along important transit corridors and close to subway stations. This zoning map change to increase density and allow for a mix of uses would be consistent with the recommendations of the *Brownsville Plan*, and serve to strengthen the activity along the western portion of the Livonia Avenue corridor with active ground floor uses.

Furthermore, the project area is adjacent to Howard Avenue, a wide street, and one block east of East 98<sup>th</sup> Street, a wide street and major thoroughfare. R7-2, a height-factor district, is more appropriate at this location because of the increased flexibility in the design and bulk of the proposed development needed to respond to the elevated rail infrastructure that passes nearer to the southwest corner of this project area than to other lots along Livonia Avenue. Using the R7-2 community facility bulk regulations, the applicant's proposed building sets back 7 feet, 6 inches

from the Livonia Avenue street line and sets back another 12 feet, 6 inches from the southwest corner of the lot above the first floor. In this way, the R7-2 district would allow the building to respond more appropriately to the elevated infrastructure than would be possible with similar-density contextual districts, which have street wall location requirements and minimum street wall height requirements that would restrict the design of the building from responding to the elevated infrastructure in the ways described.

The Commission finds that the zoning special permit (C 170457 ZSK), pursuant to ZR 74-903 (Certain community facility uses in R3 to R9 Districts and certain Commercial Districts) to allow the community facility floor area ratio of ZR 24-11 to apply to buildings containing philanthropic or non-profit institutions with sleeping accommodations, is appropriate. The R7-2 residential district allows for additional flexibility within the zoning envelope so a building on this site can better respond to the proximity of the elevated train line along the southwestern edge of the site. While this district allows for additional flexibility in the site plan, it has a maximum FAR of only 3.44 for residential uses and community facility uses with sleeping accommodations, which limits the ability of the City to leverage additional affordable housing opportunities at a transit oriented development site along the Livonia Avenue corridor. Pursuant to ZR 74-903, the applicant has proposed to increase the allowable floor area for Use Group 3A, community facility philanthropic or non-profit institution with sleeping accommodations, up to 4.79 FAR. The applicant has proposed a mixed-use development with 100 percent affordable housing, including 60 percent of the units dedicated for supportive housing for the formerly homeless, and the increase in additional floor area is essential for providing more sorely-needed supportive and affordable housing units than would be achievable under both the R6 district as-of-right and the R7-2 district, and further contributes to the financial feasibility of the project.

The Commission notes that the increase in allowable floor area pursuant to the Special Permit would not unduly obstruct light and air to adjoining properties or public access. The proposed building would provide a 30-foot-wide landscaped open space along the rear of the building, which would be available to residents for outdoor passive recreation and allow light and air to the adjacent private residential buildings. In addition, the building would set back 7 feet, 6 inches from the Livonia Avenue street line, allowing light and air to the sidewalk and providing additional relief from the elevated train line. Furthermore, the proposed development would not require any

additions to the supporting services of the neighborhood, as resident services and related support staff would be located on site, and include case management, medical care, mental health counseling, nutritional services, entitlement benefits counseling, parenting and family skills, financial literacy, and job placement services. The streets providing access to the proposed development are adequate to handle traffic generated by the proposed development. The development site fronts on Livonia Avenue, Howard Avenue, and Grafton Street. Howard Avenue is a wide street, and Livonia Avenue is a 70-foot-wide street with two travel lanes and bi-directional traffic, providing adequate vehicular access to the proposed development. It is anticipated that the development's residents and employees would predominantly use public transportation: the site is directly adjacent to the MTA 3-train Saratoga Avenue subway station, and stops for the B15, B7, and B47 bus lines are located nearby.

The Commission finds that the zoning text amendment is appropriate. The designation of an MIH area, which would be mapped with Options 1 and 2, would be consistent with City policy supporting the production of affordable housing. While the applicant is proposing a 100 percent affordable housing development at the site, with 60 percent of the units set aside for the formerly homeless and 40 percent reserved for families earning less than 60 percent of the AMI, the designation is consistent with City policy that MIH is mapped where there is a zoning change allowing for a significant increase in allowable residential floor area.

In response to the Brooklyn Borough President's recommendation that the Department of City Planning undertake a zoning study of Livonia Avenue and East 98<sup>th</sup> Street in Brownsville, the Commission notes that this request is outside the scope of this application. However, DCP has collaborated with HPD on the *Brownsville Plan*, a plan to bring 2,500 new affordable residential units to Brownsville, including an RFP to bring increased residential density to four sites along Livonia Avenue. While an HPD-led plan and a series of RFPs are in the pipeline for Livonia Avenue, the Commission also recognizes the significant opportunity for mixed-use development and affordable housing along the wide, East 98<sup>th</sup> Street transit corridor in Brownsville. The Commission is willing to review requests for zoning changes along this corridor to facilitate additional housing, including affordable housing, as well as a mix of uses and activated ground floors that could further strengthen East 98<sup>th</sup> Street as a vibrant and walkable neighborhood shopping district.

In response to the Brooklyn Borough President's recommendations that Breaking Ground LLC market the leasable ground floor space at affordable lease terms to locally-based community organizations and the inclusion of bioswales in the Builders Pavement Plan, the Commission notes that the recommendations are outside the scope of this application, but encourages the applicant to consider these recommendations and work with local stakeholders in the marketing of the leasable ground floor space.

In response to the Brooklyn Borough President's recommendation for the New York City Transit Authority (NYCTA) to advance construction on proposed free transfers between the Livonia Avenue L-line and the Junius Street 3-line, the Commission notes that this request is outside the scope of this application.

## **RESOLUTION**

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

**WHEREAS**, the Department of Housing Preservation and Development has recommended the designation of properties located at 3 Livonia Avenue (Block 3566, Lot 6) in the Borough of Brooklyn as an Urban Development Action Area; and

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

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

- a) the designation of properties located at 3 Livonia Avenue (Block 3566, Lot 6) as an Urban Development Action Area; and
- b) an Urban Development Action Area Project for such area; and

**BE IT FURTHER RESOLVED**, by the City Planning Commission pursuant to Section 197-c of the New York City Charter, that based on the environmental determination and the consideration of this report, the application of the Department of Housing Preservation and Development for the disposition of city-owned property located at 3 Livonia Avenue (Block 3566, Lot 6) in Community District 16, Borough of Brooklyn, to a developer to be selected by the Department of Housing Preservation and Development, is approved.

The above resolution (C 170456 HAK), duly adopted by the City Planning Commission on October 4, 2017 (Calendar No. 8), is filed with the Office of the Speaker, City Council and the Borough President, in accordance with the requirements of Section 197-d of the New York City Charter.

**MARISA LAGO**, *Chair*

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

**RAYANN BESSER, ALFRED C. CERULLO, III, MICHELLE R. DE LA UZ,**

**RICHARD W. EADDY, CHERYL COHEN EFFRON, HOPE KNIGHT,**

**ANNA HAYES LEVIN, ORLANDO MARIN, LARISA ORTIZ** *Commissioners*



Application #C170454ZMK  
#C170457ZSK  
#C170456HAK

Community Board #16 is in support of these applications which will rezone Block 3566, Lot 6 and erase a blighting condition by constructing 125 affordable housing units and approximately 3,079 square feet of community facility and retail space on this site.

**Brooklyn Borough President Recommendation**

CITY PLANNING COMMISSION

3 Livonia Avenue Brooklyn, New York 11212

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 #:** EDWIN'S PLACE -170454 ZMK, 170455 ZRK, 170456 HAK, 170457 ZSK

In the matter of the applications submitted by the New York City Department of Housing Preservation & Development (HPD) pursuant to sections 197-c and 201 of the New York City Charter, seeking zoning map amendments that would change an R6 District to an R7-2 District property bounded by a line 100 feet northerly of Livonia Avenue, Grafton Street, and Howard Avenue, and would establish within the proposed R7-2 District a C2-3 District from Livonia Avenue to a line 100 feet to its north between Grafton Street and Howard Avenue; a zoning text amendment to establish the project area as a Mandatory Inclusionary Housing (MIH) area; pursuant to article 16 of the General Municipal Law of New York State, the designation of the 3 Livonia Avenue (Block 3566, Lot 6) property as an Urban Development Renewal Area and the disposition of the property to a developer to be selected by HPD, and a special permit pursuant to section 74-903 of the Zoning Resolution to modify the requirements of maximum Floor Area Ratio (FAR) for certain community facility uses to permit the allowable community facility FAR to apply to a non-profit institution with sleep accommodations. These applications would enable the construction of a new eight-story mixed-use building that would provide approximately 125 affordable housing units, one superintendent unit, ground-floor retail, and/or community facility space in the Brownsville section of Brooklyn Community District 16 (CD 16).

COMMUNITY DISTRICT NO. 16

BOROUGH OF BROOKLYN

**RECOMMENDATION**

APPROVE  
 APPROVE WITH  
MODIFICATIONS/CONDITIONS

DISAPPROVE  
 DISAPPROVE WITH  
MODIFICATIONS/CONDITION

SEE ATTACHED

BROOKLYN BOROUGH PRESIDENT

August 9, 2017

DATE



**RECOMMENDATION FOR: EDWIN'S PLACE – C 170454 ZMK, 170455 ZRK, 170456 HAK, 170457 ZSK**

An application submitted by the New York City Department of Housing Preservation & Development (HPD) pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 17b to change an R6 District to an R7-2 District property bounded by a line 100 feet northerly of Livonia Avenue, Grafton Street, and Howard Avenue; a zoning text amendment to establish the project area as a Mandatory Inclusionary Housing (MIH) area; the disposition of the property to a developer selected by HPD, and a special permit pursuant to section 74-903 of the Zoning Resolution to modify the requirements of maximum Floor Area Ratio (FAR) for certain community facility uses to permit the allowable community facility FAR to apply to a non-profit institution with sleep accommodations.

On Wednesday, July 25, 2017, Brooklyn Borough President Eric L. Adams held a public hearing on this item. There were two speakers present at this hearing, with one being in opposition to actions associated with HPD. The representative for Council Member Darlene Mealy questioned the status of communication between the applicant and the developer with the council member.

In response to Deputy Brooklyn Borough President Diana Reyna's inquiry regarding Passive House certification, the representative of the designated developer, Breaking Ground LLC, stated that the development team members chose not to pursue certification due to difficulties related to the selected building materials and the costs of additional oversight during construction. However, the representative stated that the development will integrate Passive House design principles.

In response to Deputy Borough President Reyna's inquiry regarding the use of renewable and sustainable energy resources and promoting practices to retain stormwater runoff, the representative stated that the development would include green roofs, and that its communal spaces will function as stormwater retention system in tandem with green roofs and street trees. The developer intends to do building systems commissioning, using a third party consultant, in order to be certified by the New York State Energy Research and Development Authority (NYSERDA) and Enterprise Green. At occupancy, tenants will receive educational tools and training about the function and maintenance of green infrastructure.

In response to Deputy Borough President Reyna's inquiry regarding how long the units would be rented at affordable rates, the representative stated that applicant will sign a regulatory agreement with the City for a period of 60 years.

In response to Deputy Borough President Reyna's inquiry as to what consideration might be given to accommodating local merchants and non-profit groups in the Livonia Avenue storefront, the representative stated that they intend to work with the community to identify merchants or non-profit groups that would need such space. The applicant stated an intent to prioritize the community's retail needs as identified in HPD's "Brownsville Plan," including banking and health services.

In response to Deputy Borough President Reyna's inquiry regarding the total per-unit subsidy from City and State sources, the applicant quoted a City subsidy of \$75,000 and a State subsidy of \$150,000, per unit. The City is also contributing project-based Section 8 assistance for all supportive housing units.

In response to Deputy Borough President Reyna's inquiry as to what supportive services would be made available to residents, the representative stated that the African American Planning Commission (AAPC) would act as the service provider. AAPC's role in the project will involve developing linkages with community boards to provide on- and off-site services for supportive and non-supportive housing tenants, and also throughout Brooklyn Community District 16 (CD 16).

In response to Deputy Borough President Reyna's inquiry regarding what marketing strategies would be used to maximize CD 16 residents' participation in the tenant selection process, particularly seniors, who will not meet the 60 percent Area Median Income (AMI) requirement, the representative stated that a management company has been identified that will follow HPD regulations for utilizing its Housing Connect program. Additionally, rent-burdened Brownsville seniors on fixed incomes would be captured in an assessment to be conducted during the lottery process. It was further noted that Breaking Ground would be the leasing and marketing agent for Edwin's Place, as well as the property manager. Breaking Ground would advertise the development through local publications, local elected officials' offices, and Brooklyn Community Board 16 (CB 16). It was noted that HPD has implemented a "housing ambassadors" program, which involves partnering with local non-profits that offer assistance in completing applications. Finally, Breaking Ground plans to work with CB 16 to hold informational workshops but has not identified housing ambassadors who might be potential partners in its marketing efforts.

In response to Deputy Borough President Reyna's inquiry regarding the incorporation of energy efficiency and stormwater retention features, the representative noted their intent to undertake a study on tree pit bioswales and their feasibility, given the site's location adjacent to elevated tracks. The representative added that the development's present stormwater retention strategy involves open space and street trees on the northern portion of the site and the building's green roof. While the utilization of solar panels would not take the building entirely off the grid, the representative expressed, on behalf of Breaking Ground LLC, an intent to use solar power, as well as an efficient generator system to substantially reduce and supplement the building's energy use.

In response to Borough President Adams' policy of maximizing job opportunities for Brooklynites and procuring supplies locally through the inclusion of Local Business Enterprises (LBE) and Minority- and Women-Owned Business Enterprises (MWBE), the representative intends to comply with such advocated levels of MWBE participation. He noted that New York State requires MWBE hiring to constitute 32 percent of total labor costs while the City requires 25 percent for projects that receive public funding.

Subsequent to the hearing, a representative of CB 16 shared that there are several arts and cultural groups in the community that are in need of classroom, gallery, and/or performance space. Having a permanent space at a cost that they can afford would enable these groups to grow and provide much needed services to community residents.

### **Consideration**

CB 16 approved this application without conditions on June 27, 2017.

The proposed development actions seek to transform 20,000 square feet (sq. ft.) of unimproved, City-owned land on Livonia Avenue located between Howard Avenue and Grafton Street on the western border of Brownsville. Approval would facilitate the development of a Use Group 3 community facility building with sleeping accommodations (permanent housing) targeted to a population of individuals and families that are either low-income or formerly homeless. The

designated developer consists of Breaking Ground (formerly Common Ground), the largest developer of supportive housing in New York City, including two residences in CD 16, and AAPC, a social service and community development organization based in central Brooklyn that operates a 40-unit transitional home for domestic violence survivors and their dependents.

To proceed, Edwin's Place requires a zoning special permit pursuant to New York City Zoning Resolution (ZR) Section 74-903 to permit use of the community facility floor area ratio (FAR) of up to 4.8, to be applied to a non-profit institution with sleeping accommodations. In addition, HPD has received a related Mayoral Zoning Override that allows a street wall of 71 feet, 11 feet above the maximum permitted height of 60 feet.

Edwin's Place would be a single, eight-story mixed-use building containing approximately 125 affordable units, with retail/or community facility space on the ground floor and additional community facility space for AAPC services. Forty-seven units will be set aside for low-income households, with the other 78 set aside for formerly homeless families and individuals. The majority of supportive housing units will be studio apartments.

Based on a meeting with Borough President Adams' representatives in 2016, the project incorporates three tiers of income affordability, at 40 percent, 50 percent, and 60 percent Area Median Income (AMI) for the 47 low-income units. A 50 percent preference will be given to residents of CD 16.

Residents of Edwin's Place would receive a range of on-site social services, including job readiness training and substance abuse counseling, provided by AAPC. The building lobby will be attended 24 hours a day, seven days a week, and equipped with a state-of-the art security camera system. Intended building amenities range from a computer room, a fitness room with exercise machines, and a multipurpose room for community and tenant events. The building's yard would contain a landscaped courtyard for resident use.

The blocks surrounding the project site are predominantly residential, with a mix of two-story attached single-family homes and small residential dwellings. The site is situated near the intersection of East 98<sup>th</sup> Street and Livonia Avenue, which is dominated by commercial uses, including local retail establishments.

No accessory off-street parking spaces would be required pursuant to an as-of-right waiver according to ZR Section 36-231, though the site is well-served by public transit. The elevated 3 Seventh Avenue Local line serves the Saratoga Avenue station. There are bus routes along East 98<sup>th</sup> Street and Saratoga Avenue. Transportation would be complemented by the bicycle parking that would be provided at lobby level.

Borough President Adams supports Mayor de Blasio's goal to achieve 200,000 affordable housing units over the next decade. Brooklyn is one of the fastest growing communities in the New York metropolitan area and the ongoing Brooklyn renaissance has ushered in extraordinary changes that were virtually unimaginable even a decade ago. Unfortunately, Brooklyn's success has led to the displacement of longtime residents who can no longer afford to live in their own neighborhoods. Borough President Adams is committed to addressing the borough's affordable housing crisis through creation and preservation of much-needed affordable housing units for very low- to middle-income Brooklynites.

Borough President Adams supports actions that facilitate development of underutilized land for productive uses that address the City's need for affordable housing.

Borough President Adams believes that there is a need for supportive housing options for individuals and families who are circumstantially homeless, including persons with disabilities. Considering this section of Brooklyn has a great share of homeless shelters and transitional housing, Borough President Adams believes the City should amend the costly and cumbersome shelter system to a more cost-effective model that prioritizes permanent housing solutions. Producing supportive housing is less expensive and provides stable housing stock to serve the homeless population, while also integrating residents into the community. As more permanent units become available, steps should be taken to reduce the capacity of area shelters as accommodations in this community.

Borough President Adams supports the public policy of integrating supportive housing units into a community by interspersing such units in the same building with housing units for low-income families, with a blend of 40 percent of occupants being families earning up to 60 percent AMI. This proposal is generally consistent with recent City policy changes that have evolved to blend such supportive housing developments with 40 percent of the apartments designated for low-income households. Tenants are assigned to such apartments through the City's affordable housing lottery, inclusive of a 50 percent local preference, for occupants earning up to 60 percent AMI. The joint partnership between AAPC and Breaking Ground will ensure capable administration of such permanent housing accommodations.

In its Fiscal Year 2018 (FY18) Community District Needs statement, CB 16 identifies affordable housing as one of its three most pressing issues. The statement calls for "permanent and affordable housing, not homeless shelters...to meet the increasing needs of our senior citizens, families, and single adults with minimum wage jobs." By prioritizing over 60 percent of the units for the formerly homeless, Edwin's Place would help increase the supply of affordable and supportive housing in the community.

According to the American Community Survey, approximately 12 percent of the population in CD 16 is older than 62 years of age. Borough President Adams believes that the low-income studios and one-bedroom units would be suitable for housing seniors when rents of such units do not exceed 40 percent of AMI. AAPC and Breaking Ground intend to provide such opportunities to enable some units to be rented to seniors and allow very low-income seniors to become lottery eligible. Neighborhood seniors receiving nominal pension and Social Security benefits would likely qualify for such rents. Should initiatives such as Income Average advance at the federal level, there would be an enhanced opportunity to provide a portion of the units within the proposed building at rents that would allow even more seniors to qualify.

In areas where new developments can be realized on City-owned sites, Borough President Adams supports the disposition of such sites being developed for affordable housing to remain as permanently affordable housing units as a means to minimize the loss of affordable housing units. Where HPD has designated for-profit companies to develop affordable housing, the duration of such affordable housing is often driven by financial considerations. Standard regulatory agreements used by government agencies might consist of 30 or 50 years. As tenants move out after the expiration of such regulatory agreement, those units would no longer be an affordable housing resource. The disposition of the Edwin's Place property to a non-profit affordable housing developer and a social services provider that have agreed to enter into a 60-year regulatory agreement with HPD will ensure that all 125 units remain affordable much longer than comparable developments built by for-profit entities.

It is Borough President Adams' sustainable energy policy to promote opportunities that utilize blue/green/white roofs, Passive House construction, solar panels, and/or wind turbines. He encourages developers to coordinate with the New York City Mayor's Office of Sustainability,

NYSERDA, and/or New York Power Authority (NYPA) at each project site. Such modifications would increase energy efficiency and reduce the development's carbon footprint. Borough President Adams supports Breaking Ground LLCs' intention to utilize Passive House principles and pursue stringent standards for energy efficiency at Edwin's Place. The proposed development will achieve Enterprise Green Communities certification by including elements such as energy-efficient heating, cooling and ventilation; Energy Star appliances; green roofs for stormwater management; high efficiency lighting; highly efficient insulation; light color paving to reduce heat-island effect; organic paints and adhesives; native plantings, and water-saving fixtures.

Borough President Adams is concerned that too many Brooklyn residents are currently unemployed or underemployed. It is his policy to promote economic development that will create more employment opportunities. According to the Furman Center's "State of New York City's Housing and Neighborhoods in 2015," double-digit unemployment remains a pervasive reality for several of Brooklyn's neighborhoods, with more than half of our community districts experiencing poverty rates of nearly 25 percent or greater. Prioritizing local hiring would assist in addressing this employment crisis. Additionally, promoting Brooklyn-based businesses and including those that qualify as LBE and MWBE is central to Borough President Adams' economic development agenda. This site provides opportunities for the developer to retain a Brooklyn-based contractor and subcontractor, especially those who are designated LBEs, consistent with section 6-108.1 of the City's Administrative Code, and MWBEs, as a means to meet or exceed standards per Local Law 1 (no fewer than 20 percent participation).

As Edwin's Place funding includes financing/subsidizing participation for which HPD contributes no less than \$2 million, Breaking Ground LLC would be required to participate in HPD's MWBE Building Opportunity Initiative's Build Up program, and meet the State's additional labor participation requirements. Borough President Adams believes that based on the Build Up program and State requirements, there would be reasonable opportunities to address demonstrated disparities in LBE/MWBE participation in affordable housing development process. Development projects that receive HPD subsidies are required to spend at least one quarter of HPD-supported costs on certified MWBEs during the course of design and construction. Developers may adopt a goal higher than the minimum.

Through HPD's initiative, Borough President Adams believes that the project developer should continue the emphasis to retain Brooklyn-based contractors and subcontractors, especially those who are designated LBEs, consistent with section 6-108.1 of the City's Administrative Code, and LBE and MWBE establishments, as a means to meet or exceed standards per Local Law 1 (no fewer than 20 percent participation).

Though Borough President Adams supports these land use actions, he seeks for the building to include ground floor, locally-based community use and to further explore whether it would be possible to include bioswales as part of the Builders Pavement Plan. In addition, he believes that it would be appropriate to achieve more density along the Livonia Avenue – 98<sup>th</sup> Street transit corridor.

### **Accommodating Community Uses**

It is one of Borough President Adams' policies to assist community-based non-profit organizations with securing affordable space. These organizations play an important role in the neighborhoods they serve, though it is too often a challenge to secure sufficient affordable space in order to maintain their programming and to flourish.

In June 2016, Borough President Adams released "All the Right Moves: Advancing Dance and the Arts in Brooklyn," a report examining the challenges facing artists in the borough, along with accompanying recommendations. The report highlights the benefits of arts and dance, including maintaining physical fitness and enjoying creative self-expression, as well as contributions to the vibrant culture of Brooklyn. Borough President Adams finds that there are many challenges facing the local arts community, such as an absence of diversity — fewer than half of the individuals working in dance in Brooklyn are people of color, based on 2000 United States Census data. Additionally, funding for the arts has decreased dramatically in New York City in recent years, including by 37 percent from the New York State Council of the Arts (NYSCA), 15 percent from the National Endowment for the Arts (NEA), and 16 percent from the New York City Department of Cultural Affairs (DCLA).

Data show that such cultural activities create a variety of positive contributions, including combating the borough's high rate of obesity — 59 percent of adults as of 2013 are obese, according to the New York State Department of Health (NYSDOH) — and helping children succeed in school, a finding supported by research released by the Citizens' Committee for Children of New York, Inc. Demand for cultural programs continues to grow across Brooklyn; a 2015 report from the Center for an Urban Future found a 20 percent increase since 2006 in attendance at events organized by local cultural institutions.

Many cultural organizations have contacted Borough President Adams seeking assistance with securing space to expand and sustain their programming. In response to those concerns, Borough President Adams' policy is to review discretionary land use actions for their appropriateness to promote cultural and dance activities.

The location for the proposed Edwin's Place development is well-suited for inclusion of conveniently accessible cultural and/or dance activities, as well as other community uses given the proximity to the bus and subway lines that serve Brownsville and East New York. This is consistent with the "Brownsville Plan's" objective to "promote the design of flexible ground floor spaces that can accommodate a range of uses, including local businesses, especially on the Livonia Avenue RFP sites." Borough President Adams believes that a portion of the proposed retail space could be marketed to local art groups, and/or locally-based community organizations, though such uses cannot afford to compete with the rents that retail use would likely pay to lease at this location.

The proposed development's ground floor will have 3,000 sq. ft. designated for retail and/or community facility space to facilitate the area's cultural and social needs. The local arts group Arts East NY is an example of a non-profit recently being selected to occupy such space in a similar developments on Livonia Avenue. The type of use occupying this ground floor area has not been identified. The applicant will work with HPD to distinguish the desirable uses suited for the community's context.

Borough President Adams believes that Breaking Ground LLC should actively solicit locally-based community organizations that advance the arts and culture, including dance, as potential occupants of the proposed ground floor commercial/community facility space. Such outreach should proceed in consultation with CB 16 and local elected officials to adequately solicit such cultural organizations as potential building occupants.

### **Advancing Sustainability and Stormwater Management Policies**

It is Borough President Adams' flood resiliency policy to encourage developers to incorporate permeable pavers and/or establish bioswales that advance DEP green-water/stormwater strategies. Bioswales, blue/green roofs, and permeable pavers would deflect stormwater from

entering the City's water pollution control plants. According to the "New York City Green Infrastructure 2014 Annual Report," green infrastructure plays a critical role in addressing water quality challenges and provides numerous environmental, social, and economic co-benefits.

As noted during his public hearing, Breaking Ground LLC intended to undertake a study on tree pit bioswales and their feasibility, given the site's location adjacent to elevated tracks. Borough President Adams believes that Breaking Ground LLC would be furthering his policies by giving appropriate consideration to incorporating into the development the inclusion of bioswales as part of the Builders Pavement Plan.

### **Exploring the Appropriateness of Increasing Density along Livonia Avenue and East 98<sup>th</sup> Street**

Borough President Adams supports the Mayor's intent to achieve 200,000 affordable housing units over the next decade. In 2014, the Office of the Brooklyn Borough President released its Housing Brooklyn report, which identified potential sites for affordable housing development in Brooklyn and recommended that HPD advance City-owned vacant sites along Livonia Avenue in CD 16. Edwin's Place is one such site. The report further recommended upzoning the corridor to R7D and/or C4-4L to maximize potential for affordable housing and commercial development. In 2017, HPD issued the "Brownsville Plan," which involves advancing the Livonia Avenue sites through HPD's Request for Proposals (RFP) process. Borough President Adams supports the redevelopment of the Edwin's Place site for affordable housing with its proposed 4.94 FAR, which exceeds the R7A MIH zoning of 4.6 FAR, though it is within the permitted FAR of 5.6 for a R7D MIH district. He further supports future development of vacant HPD sites as part of the "Brownsville Plan."

Borough President Adams believes that the Livonia Avenue – East 98<sup>th</sup> Street transit corridor is an appropriate place to consider amending the zoning to permit residential density comparable to Edwin's Place. The Brooklyn Community District 5 (CD 5) section of Livonia Avenue had previously seen its residential zoning increased by approximately 50 percent. He believes that such zoning might be equally appropriate for the section of Livonia Avenue in CD 16 extending from East 98<sup>th</sup> Street to the CD 5 border as well as the section of East 98<sup>th</sup> Street from Livonia Avenue to East New York Avenue where it borders both CDs 16 and 17. The New York City Department of City Planning (DCP) should give consideration to investigating the possibility of such a rezoning in consultation with CBs 16 and 17 and their local elected officials.

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

Borough President Adams is aware of the significant deficiencies in the existing area's public transit service and that the community has growing concerns regarding any additional strains on the already lacking service.

NYC Transit's (NYCT) recently adopted capital budget proposal would connect the Livonia Avenue and Junius Street on the L and 3 lines in Brownsville. Currently, riders connecting in a community that is arguably among the poorest income tracts in the country have to walk along a desolate stretch and must pay again to reenter the subway system. The proposed budget will realize this long-awaited physical connection, and make the station ADA-accessible, improve accessibility and extend transit service for many residents. While Borough President Adams continues to advocate for the MTA to implement the physical free transfers between the Livonia Avenue L train and Junius Street 3 train, 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.

**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.

Be it Further Resolved:

1. That Breaking Ground LLC give appropriate consideration to incorporating into the development the following:
  - a. That a portion of the proposed ground floor commercial/community facility space be marketed at affordable lease terms to art groups, and/or locally-based community organizations, in consultation with Brooklyn Community Board 16 (CB 16) and local elected officials, according to adequate solicitation of such cultural organizations as potential building occupants, and
  - b. The inclusion of bioswales as part of the Builders Pavement Plan
2. The New York City Department of City Planning undertake, in consultation with CBs 16 and 17 and their and local elected officials, a zoning study that would consider whether to upzone the section of Livonia Avenue in CD 16 extending from East 98<sup>th</sup> Street to the CD 5 border as well as the section of East 98<sup>th</sup> Street from Livonia Avenue to East New York Avenue where it borders both CDs 16 and 17, in Brownsville to an R7D or C4-4L district.
3. The New York City Transit (NYCT) should advance the construction of the free transfers between the Livonia Avenue L train station and Junius Street 3 train station.