



**IN THE MATTER OF** an application submitted by Kent/Greenpoint, LLC, pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, concerning Section 62-35 (Special Bulk Regulations in Certain Areas within Community District 1, Brooklyn), Borough of Brooklyn, Community District 1.

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This application for a zoning text amendment was filed by Kent/Greenpoint, LLC on April 20, 2016. The proposed text amendment to Section 62-35 (Special Bulk Regulations in Certain Areas within Community District 1, Brooklyn) seeks to allow a proposed mixed use development to have its massing and legally required windows oriented toward an adjacent park. The text amendment would apply to Parcel 12b within the Waterfront Access Plan BK-1 in Section 62-931 within Community District 1, Brooklyn.

## **BACKGROUND**

The development site subject to the proposed text amendment consists of an “L”-shaped, 22,230-square-foot parcel at 13-15 Greenpoint Avenue. It includes two tax lots (Block 2556, Lots 45 and 46) located on a waterfront block bounded by Kent Street, Greenpoint Avenue, West Street and the U.S. Pierhead Line, within the Greenpoint neighborhood of Brooklyn, Community District 1.

As part of the 2005 Greenpoint-Williamsburg area-wide rezoning (C 050111A ZMK), the development site was rezoned from M3-1 to R6 and R6/C2-4 and designated as Parcel 12b in the Waterfront Access Plan BK-1. Surrounding waterfront blocks were also mapped in 2005 with a blend of R6 and R6/R8 zoning districts, with special bulk regulations set forth in Zoning Resolution Section 62-35 (Special Bulk Regulations in Certain Areas within Community District 1, Brooklyn) related to height, setback, floor area, street wall and other bulk regulations. The site is located in an Inclusionary Housing Designated Area (IHDA) pursuant to Zoning Resolution (ZR) Section 62-352(b)(2), which allows the maximum permitted FAR to increase from 2.43 to 2.75 if 7.5 percent of the total floor area is set aside for households earning up to 80 percent of the Area Median Income (AMI).

The site is currently developed with five one- to two-story warehouses with a combined built FAR

of 1.05. The westerly boundary of the proposed development site extends 190 feet between Kent Street and Greenpoint Avenue and is contiguous with WNYC Transmitter Park, a 6.6-acre public park with passive and active recreation areas, which opened in 2012. Immediately to the east of the site are three-story mixed use buildings with ground floor retail and residences above.

The applicant's proposal, as shown at certification, is to construct an 11-story mixed use development with a total FAR of 2.75 and approximately 66,800 square feet of floor area, containing approximately 77 dwelling units, 4,300 square feet of ground floor retail and 36 off-street parking spaces located at the ground floor and second floor roof. The developer intends to comply with the IHDA provisions by providing six to eight units of affordable housing. The applicant also intends to enter a zoning lot merger with five adjacent lots (Block 2556, Lots 48, 49, 50, 51 and 52) and transfer up to approximately 5,700 square feet of unused floor area. The proposed development would be oriented toward the adjacent park in a manner that increases waterfront views with windows that front on the park. Along the western lot line of the proposed development adjacent to the park, the building's ground floor would set its commercial portion back 17 feet, and its residential portion back 8 feet. The building height would range from one story (15 feet) to 11 stories (115 feet). The street wall of the one-story commercial portions would be 30 feet in height along Kent Street and 15 feet in height along Greenpoint Avenue, while the residential portion's street wall would be six stories (65 feet) on both the park and Kent Street frontages, then setback 15 feet before rising to ten stories (105 feet) with an additional setback on the eleventh story.

To facilitate the proposed development, the applicant seeks to amend ZR Section 62-35 to modify bulk regulations related to the location of legal windows, landscaping requirements for off-street parking, and minimum street wall heights in order to permit the massing of a proposed development to be oriented toward Transmitter Park. The text amendment would allow the park boundary to constitute a "street line" for purposes of applying bulk regulations. This change would provide greater design flexibility by allowing legally required windows to front along the park, similar to the conditions allowed along the rest of the Greenpoint-Williamsburg waterfront. Following consultation with the NYC Department of Parks and Recreation (DPR), the text

amendment would also require that the building be setback at least 8 feet from the park's lot line and that no balconies be permitted within this area.

The zoning text amendment also seeks an exemption from ZR Section 62-354(g), related to rooftop landscaping, in an effort to allow more flexibility in meeting off-street parking requirements on the second-story rooftop. According to the applicant, below-grade parking is not financially feasible due to the site's location in the 100-year floodplain and must be accommodated above-grade.

The proposed zoning text amendment would permit the street wall height along Greenpoint Avenue to be lower than the minimum required height of 30 feet, as set forth in ZR Section 62-354(h). The applicant contends that a lower height of 15 feet along the building's retail portion on Greenpoint Avenue will result in a more efficient building layout and provide necessary design flexibility. The text amendment does not propose any changes to permitted floor area, building height, or other bulk regulations.

## **ENVIRONMENTAL REVIEW**

This application (N 160282 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 16DCP167K. The lead is the City Planning Commission.

As part of the previous Greenpoint-Williamsburg Rezoning (CEQR No. 04DCP003K), (E) Designations for hazardous materials and noise (E-138) were assigned to the Development Site. These (E) Designations will continue to apply.

After a study of the potential environmental impact on the proposed action, a Negative Declaration was issued on November 28, 2016.

## **PUBLIC REVIEW**

On November 28, 2016, this application (N 160282 ZRK) was duly referred to Community Board 1 and the Brooklyn Borough President for information and review in accordance with the procedures for non-ULURP matters.

### **Community Board Public Hearing**

Community Board 1 held a public hearing on this application on December 6, 2016 and on January 17, 2017, by a vote of 25 in favor, 1 in opposition, and no abstentions, adopted a resolution recommending disapproval of the application with no conditions.

### **Borough President Recommendation**

The Brooklyn Borough President held a public hearing on this application (N 160282 ZRK) on January 9, 2017, and issued a recommendation approve this application on March 13, 2017, subject to the following conditions:

1. That CPC and City Council further amend proposed ZR Section 62-356, Special Bulk Regulations for Zoning Lots Adjacent to Public Parks, as follows:
  - a. That ZR Section 62-356 is limited to being applicable specifically to building plans that are also seeking zoning compliance with ZR Section 62-352, Inclusionary Housing, filed with the New York City Department of Buildings (DOB) with supporting documentation of an approved affordable housing plan by the New York City Department of Housing Preservation and Development (HPD), and that no temporary or permanent certificate of occupancy shall be issued until HPD issues a completion notice to DOB stating that the affordable housing in the generating site is completed, with resulting floor area at or approximately 2.75 FAR, pursuant to ZR Section 62-352(b)(2)
  - b. That in lieu of the proposed text to consider a park boundary as a street line of a wide street, the text shall modify ZR Section 23-532, Required rear yard equivalents, rear yard and rear yard equivalents, and ZR Section 23-44, Permitted obstructions in required yards or rear yard equivalents, according to the following:
    - i. That ZR Section 23-532(b) be modified to allow one open area extending along the full length of Greenpoint Avenue with a minimum depth of 60 feet limited to a one-story obstruction no less than 15 feet from WNYC Transmitter Park (Park), to a height of 15 feet, provided that the adjoining open area extending along the full length of the side lot line sharing a boundary with the Park complies with ZR Section 23-532(c), which requires a minimum width of 30 feet measured from that side lot line, except that the following would be permitted as obstructions: a one-story commercial building no less than 15 feet from the Park, to a height of no

more than 15 feet with a roof level planting zone of four feet at its facade nearest to the Park; a canopy extending no more than eight feet below the level of the second floor windows

ii. Such yard shall also comply with the following:

1. That in lieu of walls being permitted as an obstruction not exceeding eight feet in height above adjoining grade, such wall height shall be required to be 11 feet above adjoining Park grade
2. Within one foot of the Park's boundary fence shall be the face of a perforated wall to a height of no less than 11 feet, that for each vertical facing square foot there shall not have openings exceeding more than 50 percent
3. Within the open space between the Park and any residential building fronting Kent Avenue, the boundary line abutting the Park shall be as follows:
  - i. A continuous planting zone of no less than 10 feet in width that shall permit a change in grade to no less than one foot below the top of the residential lobby slab elevation
  - ii. The planting of one tree per 25 feet of length, not closer than 10 feet on center, with a minimum of three inches caliper at time of planting, but for ornamental trees that shall have a minimum caliper of two inches
  - iii. All other planting surfaces shall require the planting of turf grass, other natural grasses, or groundcover
4. Within the open space between the Park and the one-story commercial building there shall be the following requirements:
  - i. The planting of one tree per 25 feet of length, not closer than 10 feet on center, with a minimum of three inches caliper at time of planting, but for ornamental trees that shall have a minimum caliper of two inches
  - ii. That eating and drinking establishments be further modified as follows:
    1. To preclude the incorporation and/or placement of amplified sound equipment
    2. To preclude musical performances other than those performing with acoustic instruments
    3. To place table service stations underneath sound-absorbent pergola framework fully integrated with vines
5. That the one-story commercial building section's roof level planting zone of four feet shall contain densely planted shrubs or multi-stemmed screening plants, with at least 75 percent being an evergreen species. Plants/shrubs should be planted at no more than two feet on center, and have a height of at least six feet at the time of planting. Plants/shrubs should also be the type of species that would be expected to grow to a height of no less than eight feet

6. All planting shall be according to a detailed landscape plan, prepared by a registered landscape architect and submitted to the New York City Department of Parks and Recreation (NYC Parks) for approval prior to DOB issuing a building permit. Building plans shall be required to demonstrate that all landscaped areas contain a built-in irrigation system, or hose bibs within 100 feet of all planting areas
  - c. Require that prior to the issuance of a building permit that evidence be filed with DOB that an amount, to be determined by the City Council, has been placed in the New York City Comptroller's Office fiduciary account, pursuant to Directive 27, dated April 9, 2013, for the benefit of NYC Parks to use toward maintenance, programming, and/or otherwise upgrading the Park
  - d. That if any of the above would be deemed by the CPC to be out of scope, the applicant be directed to file a modified zoning text amendment application to be reviewed by Brooklyn Community Board 1 (CB 1) and Brooklyn Borough President Eric L. Adams so that such modified text can be considered by the City Council
2. That Kent/Greenpoint LLC immediately engage in consultation with Friends of Transmitter Park, CB 1, NYC Parks, and local elected officials to develop consensus regarding the design of the perforated wall with integrated plantings, the design of the pergola-covered seating area with integrated vines, the planting design for the residence roof terrace above the commercial building section's planting zone, the measure to be taken to mitigate noise from both commercial and residential HVAC equipment, inclusive of equipment specifications and additional noise baffling installation measures, as well as management of commercial and residential refuse, in order to report the extent of consensus and commitment prior to the City Council's public hearing on this matter.
  3. That Kent/Greenpoint LLC provide to the City Council, in writing, commitments to:
    - a. Utilize a locally-based housing development non-profit to serve as the administering agent for the affordable housing units, as well as have one or more of such entities play a role in promoting affordable housing lottery readiness
    - b. The extent that it would continue to explore additional resiliency and sustainability measures such as incorporating bioswales, blue/green/white roof finishes, Passive House construction principles, permeable plaza pavers, solar panels, and wind turbines in the development of 13-15 Greenpoint Avenue
    - c. Retain Brooklyn-based contractors and subcontractors, especially those who are designated Local Business Enterprises (LBE) consistent with section 6-108.1 of the City's Administrative Code, and LBEs and Minority- and Women-Owned Business Enterprises (MWBE) establishments, as a means to meet or exceed standards per Local Law 1 (no less than 20 percent participation), as well as to coordinate the monitoring of such participation with an appropriate monitoring agency

Be it Further Resolved that NYC Parks use proceeds from the fiduciary account in consultation

with CB 1, Friends of Transmitter Park, and local elected officials, to install adjacent to the Park fence a planting zone consisting of densely-planted shrubs or multi-stemmed screening plants, with at least 75 percent being evergreen species. Plants/shrubs should be planted at no more than two feet on center, and have a height of at least six feet at the time of planting. Plants/shrubs should also be the type of species that would be expected to grow to a height of no less than eight feet.

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

On March 8, 2017 (Calendar No. 2), the City Planning Commission scheduled March 22, 2017 for a public hearing on this application (N 160282 ZRK). The hearing was duly held on March 22, 2017 (Calendar No. 12). There were a total of five speakers at the hearing, two speakers in favor of the application and three speakers opposed.

The applicant's land use attorney spoke in favor of the application. He provided an overview of the proposed massing scheme and how the text amendment would facilitate the proposed development. He further explained that, since the application was referred for public review, a series of concerns were raised by local residents and Friends of Transmitter Park, a volunteer-based parks group, specifically with respect to improving the edge condition between the park boundary and proposed development, and requesting that a monetary contribution be made to the park. In an effort to address these concerns, he stated that the development team is engaged in ongoing discussions with a group of local stakeholders, including staff from the offices of the local Council Member and Brooklyn Borough President and DPR. He further stated that, based on these discussions, the development team intends to increase the depth of the building setback from 8 to 30 feet along the residential portion and from 17 feet to 20 feet along the commercial portion. In addition, he said that the applicant intends to landscape the open area between the development and Transmitter Park with a dense screen of trees and shrubs planted along the park's boundary to act as a visual barrier. He also indicated that the applicant is engaged in discussions to provide a monetary contribution for the park and intends to memorialize this and the above changes in the form of a written agreement with DPR and other stakeholders.

The land use attorney stated that the development would include six to eight affordable units pursuant to the existing voluntary inclusionary housing program. Regarding changes between the

initial and revised designs, he indicated that the total residential floor area decreased slightly due to daylighting of corridors and its floor area deductions pursuant to Quality Housing regulations. However, the number of units and gross building area remains nearly the same. He also stated that increasing the building's setback depth would reduce the size of the development's ground floor retail spaces on Kent Street, but that the smaller spaces are consistent with the size and layout of existing retail spaces along Greenpoint Avenue. Another applicant representative spoke in favor and clarified that the applicant intends to pursue a zoning lot merger with adjacent tax lots to transfer some available floor area – an element of the proposal that was accounted for during environmental review and incorporated into the illustrative drawings.

The Chair of Friends of Transmitter Park spoke in opposition to the application. He acknowledged that the development team has been working with the stakeholder group, but said that even the revised design would hurt the park's integrity. He recommended that the applicant agree to construct a solid wall along the park boundary, rather than a perforated wall or screen. He also stated that the group continues to be engaged with the development team on the terms of a monetary donation and the park improvements such a contribution could support. A local resident spoke in opposition, requesting that the proposed design be better integrated and harmonious with the park and surrounding neighborhood. Another local resident and property owner spoke in opposition, expressing concerns about shadows cast on nearby buildings, neighborhood character and the relationship between the park and the proposed retail space on Greenpoint Avenue.

There were no other speakers and the hearing was closed.

## **WATERFRONT REVITALIZATION PROGRAM**

This application (N 160282 ZRK) was reviewed by the City Coastal Commission for consistency with the policies of the New York City Waterfront Revitalization Program (WRP), as amended, approved by the New York City Council on October 30, 2013 and by the New York State Department of State on February 3, 2016, pursuant to the New York State Waterfront Revitalization and Coastal Resources Act of 1981 (New York State Executive Law, Section 910 *et seq.*). The designated WRP number is 14-150. This action was determined to be consistent with



the policies of the New York City Waterfront Revitalization Program.

## **CONSIDERATION**

The Commission believes that this application for a zoning text amendment (N 160282 ZRK) is appropriate.

The proposed text amendment would have limited applicability to Parcel 12b located within the Waterfront Access Plan BK-1 (ZR Section 62-931) and allow greater flexibility in orienting the massing of a proposed development to face both an adjacent park and the East River waterfront. Absent the text amendment, under an as-of-right scenario, a development may directly abut the park boundary with a blank wall and no legal windows. Moreover, without the text amendment, rear yard equivalent provisions would likely result in two separate towers, each with its own core on Greenpoint Avenue and Kent Street. The text amendment would enable the development to be a more efficient, single building with a single core and improved urban design, interacting more harmoniously with the park and surrounding neighborhood instead of turning a series of blank walls to the park. Additionally, exempting the site from the required street wall height on Greenpoint Avenue would allow retail space to be constructed with a lower building height that is similar to the scale of adjacent buildings. Since the site is located partially within the 100-year floodplain, exempting the proposed development from the rooftop landscaping requirement is warranted to accommodate required accessory off-street parking on the ground and second floors. The Commission notes that the second floor parking would also not be visible from the street level on Kent Street.

The Commission appreciates that DPR was consulted in developing the text amendment, including the restriction on balconies within the required minimum 8-foot setback area. Such 8-foot buffer serves as a baseline for minimizing conflicts with park operations and maintenance and is related to requirements set forth in the New York State Multiple Dwelling Law (MDL). The Commission finds that the proposed text amendment would result in a more efficient development that relates more harmoniously to the surrounding context than that which could be developed on the site today, and with an appropriate 8-foot minimum setback from the park where none would be

required today.

The Commission understands that the applicant has presented a revised design in response to concerns raised by local residents, Friends of Transmitter Park and other stakeholders, that proposes to significantly increase the setback depth from the park, provide a landscaped open area along the park boundary, and offer screening and planted trees to serve as a buffer between the park boundary and development site. The Commission notes that all of these enhancements would be permitted under the proposed text amendment. In addition, the Commission is aware that the applicant is coordinating with the stakeholder group to make a donation that would fund certain improvements to Transmitter Park and is prepared to memorialize this funding commitment as well as the above-referenced revisions to the design. While the Commission supports the applicant's willingness and efforts to be a good neighbor to the park, it finds no land use or environmental basis to require these design changes, and it deems the monetary contribution to be beyond the scope of the action.

Regarding the Borough President's recommendation requesting that the development be required to provide affordable housing pursuant to Inclusionary Housing regulations, the Commission believes that such a requirement would be inappropriate because the proposed action does not alter the permitted floor area and would not facilitate a substantial increase in housing. Regarding the Borough President's and Friends of Transmitter Park's proposed revisions to the text amendment that would require an increased setback depth, detailed landscaping provisions, noise mitigation measures for the ground floor commercial uses, and an 11-foot perforated wall along the park boundary, as noted above, the Commission finds no basis to require these changes to the design of the development and refers to the applicant's intention to incorporate many of these recommendations into the revised massing. The Commission is in receipt of the applicant's letter to the Borough President, dated March 10, 2017, wherein the applicant confirmed its intention to provide affordable units in accordance with the Inclusionary Housing provisions, provide a monetary contribution to the park, develop and operate the proposed open space in an environmentally sustainable manner, and make reasonable efforts to pursue the hiring of a locally-based nonprofit housing developer and MWBE or LBE contractors.

The Commission notes that, since the proposed text amendment was referred out for review, a cross-reference has been added to the first sentence in order to clarify the applicability of the regulations.

## **RESOLUTION**

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

**RESOLVED**, the City Coastal Commission finds that the action will not substantially hinder the achievement of any WRP policy and hereby determines that this action is consistent with WRP policies; and be it further

**RESOLVED**, by the City Planning Commission, pursuant to Section 200 of the New York City Charter, that based on the environmental determination, and the consideration described in this report, the Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently modified, is further amended as follows:

Matter in underline is new, to be added;

Matter in ~~strikeout~~ is to be deleted;

Matter within ## is defined in 12-10;

\* \* \* indicates where unchanged text appears in the Zoning Resolution

## **Article VI**

### **SPECIAL REGULATIONS APPLICABLE TO CERTAIN AREAS**

\* \* \*

## **Chapter 2**

### **Special Regulations Applying in the Waterfront Area**

\* \* \*

## **62-30**

### **SPECIAL BULK REGULATIONS**

\* \* \*

**62-35**

**Special Bulk regulations in Certain Areas Within Community District 1, Brooklyn**

\* \* \*

**62-356**

**Special bulk regulations for zoning lots adjacent to public parks**

On Parcel 12b within Waterfront Access Plan BK-1 in Section 62-931, any #lot line# that coincides with the boundary of a #public park# shall be considered to be a #street line# of a #wide street# for the purposes of applying all #bulk# regulations of this Resolution, except that the provisions of paragraphs (g) and (h) of Section 62-354 (Special height and setback regulations) shall not apply. In lieu thereof, the #street wall# of any #building# fronting on a #lot line# that coincides with the boundary of a #public park# shall be located at least eight feet from such #lot line# and no balconies shall be permitted within such eight-foot setback area. At least 90 percent of the width of the #street wall# of a #building# or #buildings# fronting on Kent Street shall be located within eight feet of the #street line# and extend to a minimum height of 30 feet.

\* \* \*

The above resolution (N 160282 ZRK), duly adopted by the City Planning Commission on April 26, 2017 (Calendar No. 14) 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, IRWIN G. CANTOR, P.E., ALFRED C. CERULLO, III,**

**JOSEPH DOUEK, RICHARD W. EADDY, CHERYL COHEN EFFRON,**

**HOPE KNIGHT, ANNA HAYES LEVIN, ORLANDO MARIN, LARISA ORTIZ,**

*Commissioners*



**COMMUNITY BOARD NO. 1**  
435 GRAHAM AVENUE – BROOKLYN, NY 11211  
PHONE: (718) 389-0009  
FAX: (718) 389-0098  
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HON. ERIC L. ADAMS  
BROOKLYN BOROUGH PRESIDENT



RABBI ABRAHAM PERLSTEIN  
FIRST VICE-CHAIRMAN

DEL TEAGUE  
SECOND VICE-CHAIRPERSON

STEPHEN J. WEIDBERG  
THIRD VICE-CHAIRMAN

MARIA VIERA  
FINANCIAL SECRETARY

SONIA IGLESIAS  
RECORDING SECRETARY

PHILIP A. CAPONEGRO  
MEMBER-AT-LARGE

DEALICE FULLER  
CHAIRPERSON

GERALD A. ESPOSITO  
DISTRICT MANAGER

HON. STEPHEN T. LEVIN  
COUNCILMEMBER, 33<sup>rd</sup> CD

HON. ANTONIO REYNOSO  
COUNCILMEMBER, 34<sup>th</sup> CD

January 17, 2017

Honorable Carl Weisbrod  
Commissioner  
NYC Planning Commission  
120 Broadway - 31<sup>st</sup> Floor  
NY, NY 10271

RE: N160282 ZRK  
13-15 Greenpoint Avenue  
Text Amendment

Dear Commissioner Weisbrod:

Please be advised that Brooklyn Community Board No. 1 held its regular meeting on January 10, 2016. At the meeting there was a large public opposition to the text amendment.

The board had previously held a public hearing on December 6, 2016 for the following: 13-15 Greenpoint Avenue - N160282 ZRK - An application for a Zoning Text Amendment to the NYC Zoning Resolution Section (ZR) 62-35 (Special Bulk Regulations in Certain Areas within Community District 1, Brooklyn). The text amendment proposes to modify these requirements in order to orient the massing of a proposed 11-story mixed-use building adjacent to a public park located within the Greenpoint neighborhood of Brooklyn (representative - Nick Hockens, Greenberg Traurig LLP). CB #1's Land Use Committee subsequently met and deliberated on the proposal. It made a recommendation that was not supported by the full board.

Kindly note that on January 10, 2017 the members of Brooklyn Community Board No. 1 voted to not support the request for a text amendment. The membership voted against the text amendment (no variance) and to have the development constructed "as of right". The vote was as follows: 25 "YES"; 1 "NO"; 2 "ABSTENTION"; 0 "RECUSALS".

Working for a Better Williamsburg-Greenpoint.

Sincerely,

Dealice Fuller  
Chairperson

DF/mbw

## Brooklyn Borough President Recommendation

CITY PLANNING COMMISSION  
22 Reade Street, New York, NY 10007  
calendaroffice@planning.nyc.gov



### INSTRUCTIONS

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

### APPLICATION

13-15 GREENPOINT AVENUE – 160282 ZRK

In the matter of the application submitted by Kent/Greenpoint LLC, seeking an amendment to Section 62-35, Special Bulk Regulations in Certain Areas, of the Zoning Resolution of the City of New York (ZR) to permit a proposed 11-story, 86,300 square-foot mixed-use building on its property located at 13-15 Greenpoint Avenue, within Brooklyn Community District 1 (CD 1). Such amendment would allow the main façade of the proposed building to be oriented toward WNYC Transmitter Park (Park) rather than Greenpoint Avenue or Kent Street.

BROOKLYN COMMUNITY DISTRICT NO. 1

BOROUGH OF BROOKLYN

### RECOMMENDATION

☐ APPROVE

☒ APPROVE WITH  
MODIFICATIONS/CONDITIONS

☐ DISAPPROVE

☐ DISAPPROVE WITH  
MODIFICATIONS/CONDITIONS

SEE ATTACHED

BROOKLYN BOROUGH PRESIDENT

March 13, 2017

DATE

**RECOMMENDATION FOR: 13-15 GREENPOINT AVENUE – 160282 ZRK**

The application submitted by Kent/Greenpoint LLC, pursuant to Section 201 of the New York City Charter, seeks an amendment to Section 62-35, Special Bulk Regulations in Certain Areas, of the Zoning Resolution of the City of New York (ZR) to permit a proposed 11-story, 86,300 square-foot mixed-use building on the applicant's property at 13-15 Greenpoint Avenue, within Brooklyn Community District 1 (CD 1). Such amendment would allow the main façade of the proposed building to be oriented toward WNYC Transmitter Park (Park) rather than Greenpoint Avenue or Kent Street.

On January 9, 2017, Brooklyn Borough President Eric L. Adams held a public hearing on this text amendment. There were two speakers, representing Friends of WNYC Transmitter Park, in opposition to this proposal. The speakers voiced their concerns regarding the proposed development creating a blurred divide between private and public amenity, as well as having the apartments and lobby overlooking the existing children's playground.

In response to Borough President Adams' inquiry to clarify details with regard to the affordable housing, the applicant's representative stated that the project is a 100 percent rental project that will contain two income restrictions. The first income restriction would comply with the inclusionary housing requirement, and special rules applying to the Brooklyn waterfront, which requires 7.5 percent, or approximately eight units, to be restricted to households not exceeding 80 percent of area median income (AMI). Household incomes at this level range between \$50,750 for a single household and \$72,500 for a four-person household, with rents at approximately \$940 for a studio, \$1,000 for one-bedroom, and \$1,220 for a two-bedroom. Of these eight units, there would be two studios, two one-bedrooms, and four two-bedrooms. The second income restriction assumes that the 421-a Tax Exemption Program is reenacted in its previous state, which would result in an additional 16 units, restricted to workforce households not exceeding 130 percent of AMI. Household incomes at this level range between \$82,250 for a single household and \$108,720 for a four-person household, with rents at approximately \$1,730 for a studio, \$2,170 for one-bedroom, and \$2,610 for a two-bedroom. Of these 16 units, there will be three studios, five one-bedrooms, and eight two-bedrooms.

Deputy Brooklyn Borough President Diana Reyna noted that this community is in need of family-sized units in order to allow Brooklyn families to remain within their neighborhoods. In response to her inquiry to the rationale behind not providing any three-bedroom units, the applicant's architect stated that marketing data from brokerage firms was used to determine the specific bedroom size need in this community.

Borough President Adams' policy of promoting the use of renewable and sustainable energy resources, promoting practices to retain stormwater runoff, as well as practices of Passive House design, was noted. The applicant's representative stated that it is still early in the process but there have already been conversations regarding such efforts. The representative stated that the suggested efforts will be taken into consideration and the applicant will reach out to the appropriate agencies.

In response to Borough President Adams' acknowledgement of those in the surrounding area who are at risk for displacement or being further rent burdened, the applicant's representative stated that at this point an administering agent has not been selected. The representative also stated that the applicant is committed to working toward selecting an appropriate community-based administering agent. The applicant will reach out to the New York City Department of Housing Preservation and Development (HPD) regarding attaining a list of such entities in order to start discussions on the matter.



In response to Borough President Adams' inquiry to identify efforts to benefit the adjacent Park, the representative stated that no special contributions have been made by the applicant toward park improvements or maintenance. The applicant understands that the development will benefit from neighboring the Park, especially a better park, and will continue conversations with the New York City Department of Parks and Recreation (NYC Parks) about identifying an appropriate contribution.

In response to Borough President Adams' policy of maximizing job opportunities for Brooklynites and procuring supplies locally through the inclusion of Local Business Enterprises (LBE) and Minority- and Women-Owned Business Enterprises (MWBE), the representative stated that no details have been worked out but that Borough President Adams will be updated accordingly.

Subsequent to the hearing, the applicant provided a letter, dated March 10, 2017, in order to provide further clarification. Over the past several weeks, the applicant has been actively engaged in discussions with representatives of Friends of WNYC Transmitter Park and staff from NYC Parks, the New York City Department of City Planning, the office of Borough President Adams, and the City Council in an effort to address the concerns regarding the edge condition between the Park and the proposed development, as well as potential contributions to the Park. The applicant is committed to continuing these discussions and anticipates the results will be memorialized in a legal mechanism that would be enforceable against any future owners of this property. The applicant confirmed their intention to comply with the provisions of the Inclusionary Housing Program, setting aside approximately six units for households earning up to 80 percent of AMI. The applicant will also pursue the hiring of a local housing development non-profit as the administering agent for the affordable housing units, and intends to consider the use of sustainable measures such as bioswales, extensive softscape areas, green roofs, permeable pavers, and white roof finishes. Additionally, the applicant will pursue LBE and MWBE hiring, and coordinate the monitoring of such participation with an appropriate monitoring agency.

### **Consideration**

Brooklyn Community Board 1 (CB 1) voted to disapprove this application.

The applicant, Kent/Greenpoint LLC, owns an L-shaped development site, extending from the Park as a ZR-defined 66-foot "through lot" between Greenpoint Avenue and Kent Street, with an additional 100 feet of frontage along Kent Street that constitutes an "interior lot," with a total lot area of 22,230 square feet. The development site is currently improved with five manufacturing buildings, which comprise warehousing and related accessory uses that have been legally non-conforming since the adoption of the 2005 Greenpoint-Williamsburg Rezoning. This changed the development site from an M3-1 district.

Since 2005, the site has been located entirely within an R6 zoning district, with a 10,645 square-foot section within a C2-4 commercial overlay. This R6 district allows a floor area ratio (FAR) multiplier of 2.43 times the lot size. The C2-4 overlay allows for inclusion of a variety of local commercial retail and service uses in ZR Use Groups 6-9 and 14, limited to the ground floor of residential developments. The site is located on a waterfront block, which further modifies height, setback, and use regulations in accordance with ZR section 62-00, Special Regulations Applying to the Waterfront Area. Such modifications were intended to ensure a sensitive transition between upland blocks and waterfront, providing a pedestrian-friendly streetscape and activating waterfront public access areas. The site is also located within an Inclusionary Housing Designated Area (IHDA) where the FAR can be voluntarily increased to 2.75. Affordable housing floor area is provided according to the ZR's inclusionary housing regulations, which require that 7.5 percent of the total floor area be reserved for households earning up to 80 percent of AMI. This would permit the property to be developed with up to 61,133 square feet of zoning floor area, inclusive



of 4,585 square feet of low-income floor area, resulting in eight permanently affordable dwelling units.

In connection with the 2005 Greenpoint-Williamsburg Rezoning, a Waterfront Access Plan (WAP) was established for the Greenpoint-Williamsburg waterfront between Manhattan Avenue and North Third Street. This property was designated as Parcel 12(b), though there appears to be no specific requirements according to the WAP.

According to the as-of-right zoning requirements, it appears that it would require for two separate building footprints – one oriented to Greenpoint Avenue and the other oriented to Kent Avenue – to adequately accommodate the allowable floor area. The applicant seeks to unify the floor area through amending ZR Section 62-35, Special Bulk Regulations in Certain Areas Within Community District 1, Brooklyn, to permit modifications of ZR Sections 23-532(a), Required Rear Yard Equivalents, 23-861, General Provisions, 62-354(g) and 62-354(h), Special Height and Setback Regulations. Unifying the floor area would achieve an 11-story mixed-use building with its primary massing oriented along the Park, from its Kent Street frontage, including a one-story section, 15 feet in height, extending to the lot's Greenpoint Avenue frontage, rather than two building footprints along Greenpoint Avenue and Kent Street. The remainder of the Kent Avenue frontage extending toward West Street would contain one story of retail with a street wall height of 30 feet.

The zoning text amendment would permit modifications as follows:

1. The lot line separating the development site from the Park will be considered as a street line of a wide street for purposes of applying the bulk regulations of the ZR, including the provisions governing the minimum distance between legally required windows and lot lines, and rear yards and rear yard equivalents
2. The provisions of ZR Section 62-354(g), which requires the roof of a facility containing off-street parking spaces to be landscaped, will not apply to the building, and
3. The provisions of ZR Section 62-354(h) governing street wall location and height will not apply, and in lieu thereof:
  - a. The street wall of the building fronting the Park will be set back a minimum of eight feet from the Park, with no balconies being permitted within such eight-foot setback, and
  - b. At least 90 percent of the width of the street wall of the building fronting on Kent Street will be located within eight feet of the street line and will extend to a minimum height of 30 feet

Subject to the applicant obtaining up to 5,700 square feet of excess floor area development rights, from up to four of the five adjacent parcels on the same block, these modifications would facilitate 72,570 square feet of residential space, including 77 dwelling units, with an entrance on Kent Street. Additionally, 4,700 square feet of ground floor commercial retail space would be provided fronting on Kent Street and Greenpoint Avenue. Thirty six accessory off-street parking spaces would be provided, with 18 enclosed ground floor-level spaces accessible from Kent Street and 18 spaces on the roof of a portion of the first story accessible by a ramp from Greenpoint Avenue. The total number of the accessory off-street parking spaces is based on a minimum requirement being at least half of the residential floor area, excluding the "income-restricted housing units," which result from the Inclusionary Housing floor area. The eight foot setback from the Park is proposed to be covered above the length of the lobby by a canopy.

The transfer of development rights from the adjacent parcels would ensure that these buildings, fronting Greenpoint Avenue, would remain generally intact.

The building is also anticipated to comply with the programmatic requirements of Section 421-a of the Real Property Tax Law, which would require that at least 30 percent of the dwelling units, approximately 17 units, be reserved for households earning up to 130 percent of AMI. The Section 421-a program expired in January 2016, but it is anticipated that it will be reinstated with some modifications. However, even if the program is not reinstated, the applicant depicts that no changes would be made to the development.

Borough President Adams supports development that addresses the City's objectives by facilitating development of underutilized land for productive uses. As with other nearby waterfront blocks, this site remains underutilized. The waterfront blocks immediately surrounding the development site contain industrial warehouse and distribution facilities, apartments, offices, and an open transportation facility. The block containing the development site contains the Park as well as residential and mixed-use buildings. Such uses address the City's need for additional housing. Borough President Adams agrees that a singular residential footprint, while still achieving street wall development along both Greenpoint Avenue and Kent Street, produces a more feasible project.

Though Borough President Adams supports having a zoning text amendment to achieve a singular residential building footprint, he believes the proposed zoning section should be modified to ensure multiple objectives. Such objectives include: requiring development to be pursuant to Inclusionary Housing floor area, requiring screening along the border of the Park, and requiring financial support toward Park improvement. In addition, the developer set forth commitments to maximize community participation in securing income-restricted housing units, utilize sustainable and resilient measures, and include LBE and MWBE participation in the project's construction.

#### **Mandating Voluntary Inclusionary Housing Floor Area**

Though the applicant has stated that the project would include a number of dwelling units permanently restricted to rents indexed to no more than 80 percent of AMI, this is a non-binding voluntary decision. Constructing a single building footprint with one vertical circulation core provides the potential for more premium views and cost-saving benefits to the developer, as opposed to the as-of-right two-building footprint. Given the private benefit, Borough President Adams believes that applicability for the requested establishment of ZR 62-356, Special Bulk Regulations Applicable to Zoning Lots Adjacent to Public Parks, should be predicated on requiring the development to be pursuant to an affordable housing plan. Such modification to ZR 62-356 would ensure utilization of voluntary inclusionary housing floor area. Furthermore, it should require near maximum utilization of the 2.75 FAR pursuant to ZR 62-352(b)(2). Plan approval by the New York City Department of Buildings (DOB) should be dependent on supporting documentation of an affordable housing plan approved by HPD. The temporary or permanent certificate of occupancy should not be issued until HPD issues a completion notice to DOB stating that the affordable housing in the generating site is completed.

Therefore, Borough President Adams believes that the establishment of ZR Section 62-356 should include additional amendments that mandate the bulk waivers to be linked to the filing of an affordable housing plan and legal occupancy to be subject to the issuance of an HPD completion notice submitted to DOB. Therefore, the City Planning Commission (CPC) and/or City Council should modify the proposed zoning text amendment to incorporate such considerations.

### **Developing in Proximity to the Shared Property Line with WNYC Transmitter Park**

In response to community concerns, the applicant's representatives attended a meeting, arranged by Council Member Stephen Levin, with members of the community, including those who are members of Friends of WNYC Transmitter Park, and representatives of DPR. At that meeting, the representatives presented a set of revised documents that delineated the residential building set back 30 feet from the Park boundary, with its one-story extension to Greenpoint Avenue, set back approximately 20 feet. From the Kent Street frontage, the grade sloped upward from the level of the Park and included a depiction of a planted screening wall, expressed to be eight feet in height. The planted screening wall was added as a mitigation technique in order to obstruct views of the adjacent playground from the proposed residential lobby. A wall, several feet in height, was indicated along the open side yard area of the one-story commercial section of the proposed building, to which community members expressed concern regarding the noise that might emanate from an eating and drinking establishment.

With these changes, there appears to be no need to define the park boundary as a street line of a wide street. The building would not appear to need zoning bulk envelope enhancements and all its windows facing the side of the lot shared with the Park would meet the definition of a legal window. However, the building configuration would still not be allowed due to non-compliance with rear yard equivalency options.

Rather than premise a zoning amendment based on street status, Borough President Adams believes that the best approach is to allow the rear yard requirements to be achieved through a combination of a through-lot side yard of 30 feet for the residential portion of the building, and restricting to no more than the one-story commercial building for a significant depth from the Greenpoint Avenue street line.

Borough President Adams recognizes the community's concerns regarding the impact of the edge condition between the Park and the proposed development on the Park and its patrons. He is encouraged that the developer has been working with the community in order to mitigate these concerns. However, as the proposed hedges do not extend the entire length of the shared lot line, the commercial side of the proposed development would still remain overly exposed to the Park, without any noise mitigation. Borough President Adams agrees with the community in the assumption that transparency into the Park creates a blurred line between public and private amenity. He believes that the treatment of the edge condition should be generally consistent along the entire lot line in order to reduce transparency into the Park, as well as to further mitigate noise. Borough President Adams also believes there are additional measures to better address the perception of "blurred boundary lines." These measures consist of integrating a living green wall and tree plantings, incorporating a planting zone at the roof terrace, including sound control measures, and placing the row of shrubs inside the Park fence.

In order to address these concerns, the zoning text should be further amended to require the construction of a perforated wall and inclusion of plantings and vines for the entire length of the Park boundary. The face of such a wall should be within one foot of the Park's fence. The wall should be constructed to a height of 11 feet above the grade where the site adjoins the Park, and the face of the wall should be limited to perforations not exceeding half the face of the wall. Such perforations should be limited to nominally-sized openings except for when such openings would be integrated with plants. Hanging plants and vines should be established to partially obscure the face of the wall.

Along the wall, in proximity to the residential building, there should be a continuous planting zone with ground covering that could be used to transition the grade elevation at the Park's boundary up toward the elevation of the first floor slab. There should be trees planted between the



residential building and the wall to augment the screening of the lower levels of the building from the Park.

Measures should be provided for both screening and sound consideration. Trees should be planted along the wall, in proximity to the commercial building. Should this space be used as an outdoor table service area for an eating and drinking establishment, there should be a prohibition to preclude the incorporation and/or placement of amplified sound equipment. Additionally, if applicable, musical performances should be limited to acoustic instruments. Such seating areas should also be underneath a pergola framework that is integrated with vines as a measure to incorporate sound-absorbent elements.

The section of the one-story commercial building, where the roof would serve as a terrace for the residential occupants, should be required to line the Park side perimeter by a planting zone. Such a planting zone should consist of dense plants that would provide screening of rooftop users from park users.

The planting for all of these locations should be done in accordance with a detailed landscape plan, prepared by a registered landscape architect, and submitted to NYC Parks for approval prior to the issuance of a building permit. In order to ensure long-term health of the landscaping, building plans should be required to demonstrate that all landscaped areas shall contain a built-in irrigation system or contain one or more hose bibs to facilitate watering.

Inside the Park, there should be a dense planting zone along the entire length of the boundary line to serve as a screen to soften the recommended wall that would be constructed on the applicant's site, along the Park boundary. The planting zones should include shrubs or multi-stemmed screening plants, with a specified amount of evergreen species. Specifications for initial planting height and placement should be developed in consultation with community representatives. One possible species might be the *Juniperus Virginiana* "Blue Arrow", as it is drought tolerant and able to thrive when exposed to salt spray or mist from the East River.

Therefore, Borough President Adams believes that the CPC and City Council should only be approving ZR Section 62-356 if it is further modified to require that filed building plans comply with the above objectives, or with variations of these concepts that evolve during the remainder of the public process. In addition, NYC Parks, in consultation with CB 1, Friends of Transmitter Park, and local elected officials, should install adjacent to the Park fence a planting zone consisting of densely planted shrubs or multi-stemmed screening plants, with at least 75 percent being evergreen species. Plants/shrubs should be planted at no more than two feet on center, and have a height of at least six feet at the time of planting. Plants/shrubs should also be the type of species that would be expected to grow to a height of no less than eight feet.

#### **Financial Support to WNYC Transmitter Park**

Constructing a single building footprint with one vertical circulation core provides the potential for more premium views, as well as cost-saving benefits to the developer, as opposed to the as-of-right two-building footprint. In addition to the private benefit, Borough President Adams recognizes that having the Park adjacent to the proposed development, while not a direct amenity, creates an added benefit for future residents. The Park is an active and passive recreational amenity, as well as an added benefit to future residents in offering premium views of the City skyline and river over a nicely landscaped foreground.

Currently, the Park requires additional funding toward transforming the former transmitter building into the park house. In addition, a stream of ongoing funding would enhance the Park's prolonged vitality and help sustain future programming. Borough President Adams believes that it is appropriate to utilize the zoning text amendment to require the developer to provide funding

for the Park. Funding options could include: capital improvements, such as the planting zone described above; underwriting enhanced maintenance, and/or programming through a New York City Comptroller's Office fiduciary account, where upfront funding could only be withdrawn by NYC Parks toward enhanced maintenance and/or support programmatic activities such as in conjunction with Friends of WNYC Transmitter Park. The appropriate funding option/s should be worked out with, and ultimately decided by, the community as well as local elected officials.

Therefore, Borough President Adams believes that the CPC and City Council should only approve ZR Section 62-356 if it is further modified to require the developer to provide funding for the benefit of NYC Parks toward enhancing maintenance, providing programming, and/or otherwise upgrading the Park.

### **Process to Further Modify the Zoning Text**

Unlike ULURP actions, the CPC does not have a time limit to consider zoning text amendments.

This allows the CPC to consider modifications to a requested zoning text amendment, which might initially be beyond their authority, by allowing a revised version of the zoning text amendment to be crafted. The CPC would subsequently hold its own public hearing, prior to action being required on the initial public hearing. Should any of the preceding three sections be deemed by the CPC to be out of scope, Borough President Adams urges the CPC to not take immediate action following its public hearing. He urges the CPC to direct the applicant to file a modified zoning text amendment application, to be reviewed by CB 1 and Borough President Adams, so that such modified text can be considered by the City Council.

### **Community Consultation**

As it may not be practical to draft zoning text to achieve the community's ultimate vision, Borough President Adams believes that the applicant should remain in frequent dialogue with Friends of Transmitter Park, CB 1, NYC Parks, and local elected officials in advancing a design for the Park boundary wall, from the time of his recommendation to the City Council's public hearing on this zoning text amendment application. Such meetings would allow the applicant an opportunity to present design solutions for a perforated wall with integrated plantings, inclusive of material selection, perforation aesthetics, plant species, and maintenance plan. In addition, pergola and vine solutions would be reviewed with the locally-based participants. This process should also consider the roof deck plantings and consist of solutions for residential and commercial HVAC systems, as well as handling of commercial and residential refuge.

Borough President Adams believes that in the number of months between his recommendation and City Council's public hearing that it is reasonable for there to be consensus between the applicant and the community regarding these aspects.

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

The ZR requires the affordable housing units to be overseen by a non-profit administering agent, not affiliated with the for-profit developing entity, except when otherwise approved by HPD. Such administering non-profit becomes the responsible entity to ensure that the affordable housing remains in accordance with its regulatory agreement, which governs the development's affordable housing plan. These tasks include verification of prospective tenant households' qualifying income and approval of the rent-up of such affordable housing units. The administering non-profit is responsible for submitting an affidavit to HPD attesting that the initial rent-up of the affordable housing units is consistent with the income requirements, followed up with annual affidavits to ensure conformance.

In addition to the stated requirements, various non-profits have proven track records of successfully marketing affordable housing units within the host community of the particular

development, as well as promoting housing lottery readiness through educational initiatives. These non-profit entities are entrenched in the communities they serve and focus on being providers and strong advocates for affordable housing. It is Borough President Adams' policy to advocate for such affordable housing non-profits to play a contributing role toward the success of community participation in obtaining neighborhood affordable housing opportunities.

Borough President Adams believes that prior to City Council approval, the developer should provide a letter of agreement to one of these community-based housing development non-profits to serve as the administering agent, as well as to have one or more 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 solar panels, wind turbines, and/or blue/green/white roofs, as well as Passive House construction. He encourages developers to coordinate with the Mayor's Office of Sustainability, New York State Energy Research and Development Authority (NYSERDA), and/or New York Power Authority (NYPA) at each project site. Such modifications would increase energy efficiency and reduce the development's carbon footprint. Furthermore, as part of his flood resiliency policy, Borough President Adams also encourages developers to incorporate permeable pavers and/or establish bioswales that advance the New York City Department of Environmental Protection (DEP) green-water/stormwater strategies. Blue/green roofs, bioswales, and permeable pavers would deflect stormwater from entering the City's water pollution control plants. According to the "New York City Green Infrastructure 2014 Annual Report," green infrastructure plays a critical role in addressing water quality challenges and provides numerous environmental, social, and economic co-benefits.

The applicant's letter, dated March 10, 2017, provides commitment toward continued consideration for the use sustainable measures such as bioswales, extensive softscape areas, green roofs, permeable pavers, and white roof finishes. Borough President Adams recognizes the applicant's commitment and believes that it is appropriate for the applicant to further evaluate the feasibility of pursuing additional resilient and sustainable rooftop features as well as Passive House construction. This includes using the building's roof for any combination of wind turbine, solar, blue, green and/or white roof improvements. Incorporating rooftop renewable energy features to harness direct sunlight would be a valuable use of this project's roof surfaces, considering the relatively low height of surrounding structures, in order to generate sustainable energy. Borough President Adams believes there are additional opportunities by incorporating permeable pavers and constructing bioswales as part of the proposed Builders Pavement Plan. These strategies would help to advance DEP green-water/stormwater strategies.

It is also appropriate for the developer to engage government agencies, such as the Mayor's Office of Sustainability, NYSERDA, and/or NYPA, to give consideration to government grants and programs that might offset costs associated with enhancing the resiliency and sustainability of this development site. One such program is the City's Green Roof Tax Abatement (GRTA), which provides a reduction of City property taxes by \$4.50 per square-foot of green roof, up to \$100,000. The DEP Office of Green Infrastructure advises property owners and their design professionals through the GRTA application process. Borough President Adams encourages the developer to reach out to his office for any help opening dialogue with the aforementioned agencies and further coordinating on this matter.

Prior to the granting of its approval, the City Council should obtain the applicant's commitments in writing to the extent that it would be pursuing resiliency and sustainability measures.



## **Jobs**

Borough President Adams is concerned that too many Brooklyn residents are currently unemployed or underemployed. It is his policy to promote economic development that will create more employment opportunities. According to averaged data from 2008 to 2012, double-digit unemployment remains a pervasive reality in many of Brooklyn's neighborhoods, with more than half of our community districts experiencing poverty rates of 25 percent or greater. Prioritizing local hiring would assist in addressing this employment crisis. Additionally, promoting Brooklyn-based businesses and including those that qualify as LBE and MWBE is central to Borough President Adams' economic development agenda. This site provides opportunities for the applicant to retain a Brooklyn-based contractor and subcontractor, especially those who are designated LBEs, consistent with section 6-108.1 of the City's Administrative Code, and MWBEs, as a means to meet or exceed standards per Local Law 1 (no less than 20 percent participation).

With the intended development, Borough President Adams believes that such Administrative Code and Local Law standards should be followed by the developer. Additionally, the developer should coordinate the monitoring of such participation with an appropriate monitoring agency. Prior to the granting of its approval, the City Council should obtain the applicant's commitments in writing regarding participation by LBEs and MWBEs.

## **Recommendation**

Be it resolved that the Brooklyn borough president, pursuant to sections 197-c and 201 of the New York City Charter, recommends that the New York City Planning Commission (CPC) and City Council approve this application with the following conditions:

1. That CPC and City Council further amend proposed ZR Section 62-356, Special Bulk Regulations for Zoning Lots Adjacent to Public Parks, as follows:
  - a. That ZR Section 62-356 is limited to being applicable specifically to building plans that are also seeking zoning compliance with ZR Section 62-352, Inclusionary Housing, filed with the New York City Department of Buildings (DOB) with supporting documentation of an approved affordable housing plan by the New York City Department of Housing Preservation and Development (HPD), and that no temporary or permanent certificate of occupancy shall be issued until HPD issues a completion notice to DOB stating that the affordable housing in the generating site is completed, with resulting floor area at or approximately 2.75 FAR, pursuant to ZR Section 62-352(b)(2)
  - b. That in lieu of the proposed text to consider a park boundary as a street line of a wide street, the text shall modify ZR Section 23-532, Required rear yard equivalents, rear yard and rear yard equivalents, and ZR Section 23-44, Permitted obstructions in required yards or rear yard equivalents, according to the following:
    - i. That ZR Section 23-532(b) be modified to allow one open area extending along the full length of Greenpoint Avenue with a minimum depth of 60 feet limited to a one-story obstruction no less than 15 feet from WNYC Transmitter Park (Park), to a height of 15 feet, provided that the adjoining open area extending along the full length of the side lot line sharing a boundary with the Park complies with ZR Section 23-532(c), which requires a minimum width of 30 feet measured from that side lot line, except that the following would be permitted as obstructions: a one-story commercial building no less than 15 feet from the Park, to a height of no more than 15 feet with a roof level planting zone of four feet at its façade nearest to the Park; a canopy

extending no more than eight feet below the level of the second floor windows

ii. Such yard shall also comply with the following:

1. That in lieu of walls being permitted as an obstruction not exceeding eight feet in height above adjoining grade, such wall height shall be required to be 11 feet above adjoining Park grade
2. Within one foot of the Park's boundary fence shall be the face of a perforated wall to a height of no less than 11 feet, that for each vertical facing square foot there shall not have openings exceeding more than 50 percent
3. Within the open space between the Park and any residential building fronting Kent Avenue, the boundary line abutting the Park shall be as follows:
  - a. A continuous planting zone of no less than 10 feet in width that shall permit a change in grade to no less than one foot below the top of the residential lobby slab elevation
  - b. The planting of one tree per 25 feet of length, not closer than 10 feet on center, with a minimum of three inches caliper at time of planting, but for ornamental trees that shall have a minimum caliper of two inches
  - c. All other planting surfaces shall require the planting of turf grass, other natural grasses, or groundcover
4. Within the open space between the Park and the one-story commercial building there shall be the following requirements:
  - a. The planting of one tree per 25 feet of length, not closer than 10 feet on center, with a minimum of three inches caliper at time of planting, but for ornamental trees that shall have a minimum caliper of two inches
  - b. That eating and drinking establishments be further modified as follows:
    - i. To preclude the incorporation and/or placement of amplified sound equipment
    - ii. To preclude musical performances other than those performing with acoustic instruments
    - iii. To place table service stations underneath sound-absorbent pergola framework fully integrated with vines



5. That the one-story commercial building section's roof level planting zone of four feet shall contain densely planted shrubs or multi-stemmed screening plants, with at least 75 percent being an evergreen species. Plants/shrubs should be planted at no more than two feet on center, and have a height of at least six feet at the time of planting. Plants/shrubs should also be the type of species that would be expected to grow to a height of no less than eight feet
  6. All planting shall be according to a detailed landscape plan, prepared by a registered landscape architect and submitted to the New York City Department of Parks and Recreation (NYC Parks) for approval prior to DOB issuing a building permit. Building plans shall be required to demonstrate that all landscaped areas contain a built-in irrigation system, or hose bibs within 100 feet of all planting areas
- c. Require that prior to the issuance of a building permit that evidence be filed with DOB that an amount, to be determined by the City Council, has been placed in the New York City Comptroller's Office fiduciary account, pursuant to Directive 27, dated April 9, 2013, for the benefit of NYC Parks to use toward maintenance, programming, and/or otherwise upgrading the Park
  - d. That if any of the above would be deemed by the CPC to be out of scope, the applicant be directed to file a modified zoning text amendment application to be reviewed by Brooklyn Community Board 1 (CB 1) and Brooklyn Borough President Eric L. Adams so that such modified text can be considered by the City Council
2. That Kent/Greenpoint LLC immediately engage in consultation with Friends of Transmitter Park, CB 1, NYC Parks, and local elected officials to develop consensus regarding the design of the perforated wall with integrated plantings, the design of the pergola-covered seating area with integrated vines, the planting design for the residence roof terrace above the commercial building section's planting zone, the measure to be taken to mitigate noise from both commercial and residential HVAC equipment, inclusive of equipment specifications and additional noise baffling installation measures, as well as management of commercial and residential refuse, in order to report the extent of consensus and commitment prior to the City Council's public hearing on this matter.
  3. That Kent/Greenpoint LLC provide to the City Council, in writing, commitments to:
    - a. Utilize a locally-based housing development non-profit to serve as the administering agent for the affordable housing units, as well as have one or more of such entities play a role in promoting affordable housing lottery readiness
    - b. The extent that it would continue to explore additional resiliency and sustainability measures such as incorporating bioswales, blue/green/white roof finishes, Passive House construction principles, permeable plaza pavers, solar panels, and wind turbines in the development of 13-15 Greenpoint Avenue
    - c. Retain Brooklyn-based contractors and subcontractors, especially those who are designated Local Business Enterprises (LBE) consistent with section 6-108.1 of the City's Administrative Code, and LBEs and Minority- and Women-Owned Business Enterprises (MWBE) establishments, as a means to meet or exceed standards per

Local Law 1 (no less than 20 percent participation), as well as to coordinate the monitoring of such participation with an appropriate monitoring agency

Be it Further Resolved that NYC Parks use proceeds from the fiduciary account in consultation with CB 1, Friends of Transmitter Park, and local elected officials, to install adjacent to the Park fence a planting zone consisting of densely-planted shrubs or multi-stemmed screening plants, with at least 75 percent being evergreen species. Plants/shrubs should be planted at no more than two feet on center, and have a height of at least six feet at the time of planting. Plants/shrubs should also be the type of species that would be expected to grow to a height of no less than eight feet.

KENT / GREENPOINT LLC  
1536 Third Avenue, 3<sup>rd</sup> Floor  
New York, New York 10028

March 10, 2017

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

Re: 13 – 15 Greenpoint Avenue  
(Brooklyn Block 2556, Lots 45 and 46) (the "Property")  
Zoning Text Amendment  
Application No. N160282 ZRK (the "Application")

Dear Borough President Adams:

This letter responds to a request from your staff relating to certain questions posed by Deputy Borough President Diana Reyna at the hearing on the Application held on January 9, 2017.

Kent/Greenpoint LLC, the owner of the Property (the "Applicant"), is seeking an amendment (the "Zoning Text Amendment") to Section 62-35 of the Zoning Resolution of the City of New York (the "Zoning Resolution" or "ZR") to permit a proposed 11-story mixed use building (the "Proposed Building") on the Property, which is adjacent to WNYC Transmitter Park (the "Park"), to have its massing oriented toward the Park in addition to Greenpoint Avenue and Kent Street. The Zoning Text Amendment would modify the applicability of requirements of ZR Sections 23-532(a), 23-861, 62-354(g) and 62-354(h) with respect to the Property by providing that: (i) the lot line separating the Property from the Park will be considered as the street line of a wide street for purposes of applying the bulk regulations of the Zoning Resolution, including, the provisions governing rear yards and rear yard equivalents and the minimum distance between legally required windows and lot lines, (ii) the provisions of ZR Section 62-354(g) requiring the roof of a facility containing off-street parking spaces to be landscaped shall not apply to the Proposed Building, and (iii) the provisions of ZR Section 62-354(h) governing street wall location and height shall not apply and in lieu thereof (a) the street wall of the Proposed Building fronting the Park shall be set back a minimum of 8 feet from the Park (and no balconies shall be permitted within such 8-foot setback area) and (b) at least 90 percent of the width of the street wall of the Proposed Building fronting on Kent Street shall be located within 8 feet of the street line and extend to a minimum height of 30 feet.

1. The Applicant confirms its intention to comply with the provisions of the Inclusionary Housing Program applicable to new developments within Brooklyn Waterfront Access Plan BK-1, which requires that 7.5 percent of the total floor area on the Property (exclusive of ground floor non-residential floor area) be reserved for households earning up to 80 percent of Area Median Income ("AMI"). Under these provisions, approximately six (6) of the 77 units in the Proposed Building, comprising approximately 4,667 zsf of residential floor area (approximately 4,900 gsf), will be reserved for households earning up to 80 percent of AMI.<sup>1</sup>

<sup>1</sup> The Applicant also intends to comply with the provisions of the replacement of the 421(a) tax abatement program, assuming it is enacted, which would result in additional affordable units in the Proposed Building.

2. Over the last several weeks, the Applicant has been actively engaged in discussions with representatives of Friends of WNYC Transmitter Park and staff from the Department of Parks and Recreation, the Department of City Planning, the Borough President's Office and the New York City Council regarding potential revisions to the design of the Proposed Building and open space between the Proposed Building and the Park, including increasing the depth of the setback of the Proposed Building from the Park beyond the 8 feet required under the proposed Zoning Text Amendment, as well as potential contributions to the Park. The Applicant is committed to continuing these discussions during the course of the public approval process and anticipates that the results of these discussions will be memorialized in a restrictive declaration or other written instrument that would be enforceable against future owners of the Property.
3. The Applicant will use commercially reasonable efforts to pursue the hiring of a locally-based housing development non-profit to serve as the administering agent for the affordable housing units, as well as have one or more such entities play a role in promoting affordable housing lottery readiness.
4. It is the Applicant's intention that the Proposed Building and surrounding open space will be developed and operated in an environmentally sustainable manner. Methods being considered include incorporating bioswales, green roofs, white roofs finishes, permeable pavers and extensive softscaped areas.
5. Finally, during the construction process, the Applicant will ask its contractor to use commercially reasonable efforts to pursue the hiring of Brooklyn residents and prioritizing retaining Brooklyn-based subcontractors, especially those that are designated Local Business Enterprises (LBE) consistent with section 6-108.1 of the City's Administrative Code, and LBE's and Minority- and Women-Owned Business Enterprises (MWBE) establishments to meet or exceed standards per Local Law 1 (not less than 20 percent participation). The Applicant will coordinate the monitoring of such participation with an appropriate monitoring agency.

With this statement of the Applicant's plans regarding the Proposed Building, we respectfully request a favorable recommendation of the Application to the City Planning Commission. Thank you for your attention and consideration.

Sincerely,

KENT/GREENPOINT LLC

By:

Name: BRADFORD STARK  
Title: MEMBER

cc: Hon. Diana Reyna, Deputy Borough President  
Richard Bearak, Land Use Director (via e-mail)  
Olga Chernomorets, Land Use Coordinator (via e-mail)  
S. Nicholas Hockens, Esq. (via e-mail)