



CITY PLANNING COMMISSION

November 4, 2020 / Calendar No. 9

C 200155 HAK

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 633-639 DeKalb Avenue (Block 1774, Lots 74, 75, 76 and 77), 648-654 DeKalb Avenue (Block 1779, Lots 22, 24 and 26), 1187 Fulton Street (Block 2000, Lots 43) as an Urban Development Action Area; and
 - b) an Urban Development Action Area Project for such area; and
- 2) pursuant to Section 197-c of the New York City Charter for the disposition of such properties to a developer to be selected by HPD;

to facilitate the construction of three residential developments containing an approximate total of 84 affordable dwelling units and 1,470 square feet of commercial space, Borough of Brooklyn, Community District 3.

Approval of three separate matters is required:

1. the designation of property located at 633-639 DeKalb Avenue (Block 1774, Lots 74, 75, 76 and 77), 648-654 DeKalb Avenue (Block 1779, Lots 22, 24 and 26), 1187 Fulton Street (Block 2000, Lots 43) as an Urban Development Action Area (UDAA); 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

This application for a UDAA designation, project approval and disposition of City-owned property (C 200155 HAK) was filed by HPD on October 22, 2019, to facilitate the development of two residential buildings and one mixed-use building containing a total of 84 affordable residential units and 1,470 square feet of commercial space in the Bedford-Stuyvesant neighborhood of Brooklyn, Community District 3.

HPD states in its application that:

“The Project Area consists of underutilized vacant property which 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 would protect and promote health and safety and would promote sound growth and development. The Project Area is therefore eligible to be an Urban Development Action Area and the proposed project is therefore eligible to be an Urban Development Action Area Project pursuant to Article 16 of the General Municipal Law.”

BACKGROUND

HPD is seeking UDAA designation, project approval, and disposition of City-owned property of the project area located at 633-639 DeKalb Avenue (Block 1774, Lots 74, 75, 76 and 77), 648-654 DeKalb Avenue (Block 1779, Lots 22, 24 and 26), and 1187 Fulton Street (Block 2000, Lots 43) to facilitate the development of two residential buildings and one mixed-use building containing a total of 84 affordable residential units in the Bedford-Stuyvesant neighborhood of Brooklyn, Community District 3.

The project area is divided into two ‘clusters’ (Cluster 1 and Cluster 2) containing three vacant, City-owned development sites located in the Bedford-Stuyvesant neighborhood.

Cluster 1 is comprised of Development Sites 1 and 2. Development Sites 1 and 2 are located across DeKalb Avenue from each other in the northwestern section of the Bedford-Stuyvesant neighborhood. Development Site 1, located at 633-639 DeKalb Avenue (Block 1774, Lots 74, 75, 76 and 77), is a 9,825-square-foot lot comprised of four tax lots located on the north side of DeKalb Avenue between Nostrand and Marcy avenues. The lots within this development site were previously used as accessory parking for a local business on Nostrand Avenue, approximately 300 feet to the west. Development Site 2, 648-654 DeKalb Avenue (Block 1779, Lots 22, 24 and 26), is a 10,983-square-foot lot comprised of three tax lots located on the south side of DeKalb Avenue between Nostrand and Marcy avenues. Cluster 2 is comprised of Development Site 3, located at 1187 Fulton Street (Block 2000, Lot 43). Development Site 3 is a vacant, 1,786-square-foot lot on the north side of Fulton Street between Spencer Place and Bedford Avenue. Development Site 3 is located in the southwestern section of the Bedford-Stuyvesant neighborhood, approximately one mile to the south of Development Sites 1 and 2.

All three development sites are located within the Bedford-Stuyvesant I Urban Renewal Plan (URP) (C 850788 HUK) that expired in 2008. Only Block 1774, Lot 77 (part of Development

Site 1) and Development Site 2 were acquired through the URP. The URP designated Block 1774, Lot 77 as Acquisition Parcel PP for residential use and Development Site 2 as Acquisition Parcel 116A for industrial use. However, the designation is no longer applicable because the URP has expired.

Development Sites 1 and 2 are located in an R6A zoning district, where residential and community facility uses are allowed up to a floor area ratio (FAR) of 3.0. R6A zoning districts require buildings with a street wall of 40 to 65 feet high before setting back 10 feet on wide streets and 15 feet on narrow streets, and may have a maximum building height of 75 feet. R6A zoning districts require off-street parking spaces for 50 percent of dwelling units. However, the project area is located within the Transit Zone, which allows for a waiver of parking requirements for developments that include affordable housing.

Development Site 3 is located in an R7D zoning district with a C2-4 commercial overlay, where residential and community facility uses are allowed up to 4.2 FAR, or 5.6 FAR for residential uses under the Voluntary Inclusionary Housing program. R7D zoning districts require buildings with a street wall of 60 to 95 feet before setting back 10 feet on wide streets and 15 feet on narrow streets, and a maximum building height of up to 115 feet for Inclusionary Housing (IH) buildings. Parking is required for 50 percent of dwelling units, though residential parking may be waived if 15 or fewer parking spaces are required. C2-4 commercial overlays allow a range of local commercial uses, including a variety of retail and service uses such as grocery stores, restaurants, convenience stores, and laundromats. When mapped in conjunction with an R7D district, the permitted maximum commercial FAR is 2.0, or 1.0 in mixed-use buildings, and uses on the ground floors of new buildings are required to be commercial or community facility uses.

The area surrounding Cluster 1 is comprised of a mix of uses, including residential, commercial, open spaces, and public facilities. Residential buildings in the surrounding area are generally two- to three- story rowhouses with a few five- to six- story multi-family residential buildings. Commercial uses in the surrounding area include small corner stores, delis, and other local commercial uses, primarily located on the ground floor of mixed-use buildings on Nostrand and Marcy avenues. In addition to a home improvement store located on the west side of Nostrand Avenue north of DeKalb Avenue, there are also eating and drinking establishments, a bodega, a drugstore and a health care facility.

There are several recreational facilities and open spaces in the area. Kosciuszko Pool is directly east of Development Site 2 on the south side of DeKalb Avenue. Banneker Playground and Hattie Carthan Community Garden are one block south of the pool on Kosciuszko Street, between Marcy and Nostrand avenues. Herbert Von King Park is approximately three blocks southeast of Cluster 1. There are also several community facilities in the surrounding area, including Public School 54, Public School 256 and Marcy Library, a branch of the Brooklyn Public Library located on DeKalb Avenue to the west of Development Site 1.

The area surrounding Development Site 3 includes a mix of residential, commercial, and institutional uses. Fulton Street is a wide street that is a major commercial corridor in the area, containing primarily two- to four-story mixed-use buildings with ground-floor commercial uses and residential uses above. Residential buildings surrounding Development Site 3 are predominantly three- to four- story rowhouses. There are a few taller residential buildings, including an eight-story residential building two blocks west on Franklin Avenue and a six-story residential building two blocks northwest, and a six-story residential building on the north eastern side of the same block as Development Site 3.

There are several open space resources in the area surrounding Cluster 2: John Hancock Playground, at the intersection of Jefferson Avenue and Bedford Avenue, two blocks northeast of Development Site 3, and the Crispus Attucks Playground, two blocks west at the corner of Fulton Street and Classon Avenue. Public facilities in the surrounding area include the Bedford Branch of the Brooklyn Public Library located one block to the northwest along Franklin Avenue and Public School 3 located two blocks north on Jefferson Avenue.

All Development Sites are well served by public transportation. Development Sites 1 and 2 are located two blocks north of the MTA Bedford-Nostrand Avenue station that provides service to the G train. Development Site 3 is one block east from the MTA Franklin Avenue station, providing service to the C train, and the MTA Shuttle that runs along Franklin Avenue between Fulton Street and Prospect Park East.

HPD proposes to construct three residential buildings with a total of 84 affordable rental units, one superintendent's unit, and 1,470 square feet of commercial space on the ground floor. Development Sites 1 and 2 are expecting to comply with Passive Housing Institute US and

NYSERDA NCP Tier 3 programs, while all Development Sites expect to comply with the Enterprise Green Communities Program.

Development Site 1 would contain a seven-story residential building with a total area of 29,246 square feet (3.0 FAR) and 37 affordable residential units. The building would rise to a base height of 59 feet and set back seven feet before rising to an overall height of approximately 69 feet. The building would set back from the street line approximately eight feet for landscaping to provide privacy to the ground floor units. An outdoor seating area, children's play area and planted area would be located in the rear yard. No parking would be provided, as Development Site 1 is within the Transit Zone. Four street trees would be planted on DeKalb Avenue.

Development Site 2 would contain a seven-story residential building with a total area of 32,485 square feet (3.0 FAR) and 44 affordable residential units. The building would rise to a base height of 59 feet and set back seven feet before rising to an overall height of approximately 69 feet. An outdoor seating area, children's play area and planted area would be located in the rear yard. In addition, this building would include a community room for tenants on the ground floor. The building would set back from the street line approximately 11 feet for landscaping to provide privacy to the ground floor units. No parking would be provided, as Development Site 2 is within the Transit Zone. Four street trees would be planted on DeKalb Avenue.

Development Site 3 would contain a four-story mixed-use building with a total of 4,809 square feet (2.7 FAR) and a total of three affordable residential units and approximately 1,470 square feet (0.8 FAR) of ground-floor commercial space. The building would rise to a height of 45 feet. No parking would be provided, as Development Site 3 is within the Transit Zone. One street tree would be planted on Fulton Street.

In order to facilitate the proposed development, HPD is seeking an UDAAP designation, project approval, and disposition of City-owned property.

ENVIRONMENTAL REVIEW

This application (C 200155 HAK) was reviewed pursuant to the New York State Environmental Quality Review Act (SEQRA) and the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 et seq. and the City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The

designated CEQR number is 18HPD078K. The lead agency is the Department of Housing Preservation and Development.

It was determined that this application may have a significant effect on the environment, and that an Environmental Impact Statement would be required. A Positive Declaration was issued on June 4, 2019, and subsequently distributed, published, and filed. Together with the Positive Declaration, a Draft Scope of Work for the Draft Environmental Impact Statement (DEIS) was issued on May 23, 2019. A public scoping meeting was held on July 26, 2019, and the final scope of work was issued on November 21, 2019.

A DEIS was prepared and a Notice of Completion for the DEIS was issued on November 8, 2019. Pursuant to SEQRA regulations and the CEQR procedures, a joint public hearing was held on the DEIS on September 2, 2020, and continued on September 16, 2020, in conjunction with the public meeting held on the related Uniform Land Use Review Procedure (ULURP) item (ULURP No. C 200155 HAK). A Final Environmental Impact Statement (FEIS) reflecting the comments made during the public review process was completed, and a Notice of Completion of the FEIS was issued on August 7, 2020.

The proposed project as analyzed in the FEIS identified significant adverse impacts with respect to shadows that cannot be mitigated. The FEIS analyzed an alternative to the Proposed Project that could avoid the significant adverse impacts related to shadows. The FEIS concludes that the development of a residential building would not be feasible under this alternative.

UNIFORM LAND USE REVIEW

In response to the COVID-19 pandemic, the Mayor issued Emergency Executive Order No. 100 on March 16, 2020 that suspended certain time requirements relating to the Uniform Land Use Review Procedure (ULURP) and other land use processes as of March 12, 2020. The suspension included portions of sections 195, 197-c and 197-d of the New York City Charter, as well as sections of the Administrative Code and the Rules of the City of New York, pertaining to time limitations. The CPC ceased meeting immediately after issuance of the Executive Order until August 3, 2020, when the regular schedule of meetings was resumed. The ULURP time requirements suspended by Emergency Executive Order No. 100 began running on September 14, 2020.

This application (C 200155 HAK) was certified as complete by the Department of City Planning on December 16, 2019, and was duly referred to Brooklyn Community Board 3 and the Brooklyn Borough President in accordance with Title 62 of the Rules of the City of New York, Section 2-02(b).

Community Board Public Hearing

Community Board 3 held a public hearing on this application (C 200155 HAK) on February 3, 2020, and on February 3, 2020, by a vote of 15 in favor, 18 opposed to the project and three abstaining, adopted a resolution recommending disapproval of the application.

In addition, an attachment to the Community Board's recommendation stated the following:

“Brooklyn Community Board #3 Housing and Land Use committee did vote in favor of the project. The CB3 Chair voted in favor along with the Chair of the committee. Also, the District Manager approves of the project, even though the District Manager does not get a vote.”

Borough President Recommendation

The application (C 200155 HAK) was considered by the Brooklyn Borough President, who held a public hearing on February 12, 2020, and on April 3, 2020, and issued the following recommendations:

- “1. Disapprove the disposition of 633-639 DeKalb Avenue (Development Site 1), unless HPD and/or DeKalb Commons NY Housing Development Fund Corporation (HDFC) demonstrate satisfactory resolution with regard to the former tenant's representation of investment and rights as a long-standing leaseholder.
2. Approve the disposition of 648-654 DeKalb Avenue (Development Site 2)
3. Approve the disposition of 1187 Fulton Street (Development Site 3) with the condition that HPD incorporate in its Land Disposition Agreement (LDA) or Regulatory Agreement with DeKalb Commons NY HDFC, written commitment to retain all unused zoning floor area rights permitted by the underlying R7D/C2-4 district, established upon the issuance of the new building's Certificate of Occupancy (C of O), to facilitate a future zoning lot merger transfer of development rights, with the proceeds earmarked for the

creation and/or preservation of affordable housing in Brooklyn Community District 3 (CD 3).

Be It Further Resolved:

1. That the New York City Department of Housing Preservation and Development (HPD) incorporate in its Land Disposition Agreement (LDA) or Regulatory Agreement with DeKalb Commons NY HDFC, written commitments to:
 - a. Continue exploration of additional resiliency and sustainability measures such as incorporating rain gardens, blue/green/white roof treatment, passive house construction principles, and solar panels
 - b. Coordinate with the New York City Department of Environmental Protection (DEP), New York City Department of Transportation (DOT), and the New York City Department of Parks and Recreation (NYC Parks) to install DEP rain gardens as part of a Builders Pavement Plan along DeKalb Avenue, in consultation with CB 3 and local elected officials.
2. That HPD modify its affordable housing lottery community preference standards to include the school zone, thus capturing the population of public school children residing at City-funded or operated shelters.
3. That the City Planning Commission (CPC) and/or the City Council call for the modification of the Mandatory Inclusionary Housing (MIH) section of the New York City Zoning Resolution (ZR) pertaining to MIH-designated areas to be adopted with a requirement that permits households with rent-burdened status (Allow for exceptions to the 30 percent of income threshold for households paying the same or more rent than what the housing lottery offers) to qualify for such affordable housing units pursuant to MIH.”

City Planning Commission Public Hearing

On August 19, 2020 (Calendar No. 5), the City Planning Commission scheduled September 2, 2020 for a public hearing on this application (C 200155 HAK). The hearing was duly held on September 2, 2020 (Calendar No. 15) and extended to September 16, 2020 (Calendar No. 20).

There were three speakers in favor of the application and one in opposition.

The applicant team, consisting of a representative from HPD and two representatives of the development team, testified in favor of the application. The HPD representative provided an overview of the proposed project, explained the requested actions and the 100-percent-affordable rental housing units. The development team described the proposal, including the unit mix of each building, and the anticipated affordability levels for each development site. Lastly, the applicant team noted the negative impact of shadows and that lowering the building to two- to three- floors to mitigate the shadow impact would deem the building unfeasible.

One speaker from the Rockaways testified in opposition.

There were no other speakers and the hearing was closed.

CONSIDERATION

The Commission believes that this application (C 200155 HAK) for Urban Development Action Area designation, project approval, and disposition of City-owned property, is appropriate.

This application will facilitate the development of three new buildings containing a total of 84 affordable residential units and 1,470 square feet of commercial space on City-owned land. The proposed developments will make productive use of longstanding vacant, underutilized property to provide much-needed affordable housing in the Bedford-Stuyvesant neighborhood.

Development Sites 1 and 2 will help activate these sections of the neighborhood by replacing the vacant lots with residential infill in context with the character of the surrounding area, which will enhance the streetscape and pedestrian experience in the neighborhood. Development Site 3 will have ground floor retail space pursuant to zoning, which will enhance the commercial corridor along Fulton Street. The Commission supports the thoughtful design of the infill developments at Development Sites 1 and 2, noting the building setbacks with landscape for privacy on the ground floor units while also providing an outdoor seating area, children's play area and landscaping within the rear yard. Development Sites 1 and 2 are expecting to comply with Passive Housing Institute US and NYSERDA NCP Tier 3 programs, while all Development Sites expect to comply with the Enterprise Green Communities Program. The proximity of all three development sites to transit make the sites well-suited for transit-oriented development and

provide opportune locations for mixed-use buildings with affordable housing.

The Commission acknowledges the support for the project from Brooklyn Community Board 3's Housing and Land Use Committee.

Regarding the Borough President's recommendation that HPD and DeKalb Commons NY Housing Development Fund Corporation (HDFC) demonstrate satisfactory resolution with regard to the former leaseholder, the Commission notes that this is outside of the score of this application.

Regarding the Borough President's recommendation that the Department of City Planning pursue a new zoning text amendment to modify the MIH regulations, the Commission notes that this is outside of the scope of this application.

Regarding the Borough President's recommendation that HPD incorporate in its Land Disposition Agreement or Regulatory Agreement with DeKalb Commons NY HDFC, a commitment to retain all unused zoning floor area, and that the Department of Environmental Protection (DEP), Department of Transportation (DOT), and the Department of Parks and Recreation (DPR) install rain gardens as part of a Builders Pavement Plan along DeKalb Avenue, the Commission notes that these recommendations are outside of the scope of this application.

RESOLUTION

RESOLVED, the having considered the Final Environmental Impact Statement (FEIS), for which a Notice of Completion was issued on August 7, 2020, with respect to this application (CEQR No. 18HPD078K), the City Planning Commission finds that the requirements of the New York State Environmental Quality Review Act and regulation, have been met and that:

1. Consistent with social, economic, and other essential considerations, from among reasonable alternatives thereto, adopted herein is one which minimizes or avoids adverse environmental impacts to the maximum extent practicable.

The report of the City Planning Commission, together with the FEIS, constitutes the written statement of facts, and of social, economic, and other factors and standards, that form the basis of

the decision, pursuant to Section 617.11(d) of the SEQRA regulations; and be it further

WHEREAS, the Department of Housing Preservation and Development has recommended the designation of properties located at 633-639 DeKalb Avenue (Block 1774, Lots 74, 75, 76 and 77), 648-654 DeKalb Avenue (Block 1779, Lots 22, 24 and 26), 1187 Fulton Street (Block 2000, Lots 43) 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 633-639 DeKalb Avenue (Block 1774, Lots 74, 75, 76 and 77), 648-654 DeKalb Avenue (Block 1779, Lots 22, 24 and 26), 1187 Fulton Street (Block 2000, Lots 43) 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 633-639 DeKalb Avenue (Block 1774, Lots 74, 75, 76 and 77), 648-654 DeKalb Avenue (Block 1779, Lots 22, 24 and 26), 1187 Fulton Street (Block 2000, Lots 43) in Community District 3, Borough of Brooklyn, to a developer to be selected by the Department of Housing Preservation and Development, is approved.

The above resolution (C 200155 HAK), duly adopted by the City Planning Commission on November 4, 2020 (Calendar No. 9), 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*

**DAVID BURNEY, ALLEN P. CAPPELLI, ESQ., ALFRED C. CERULLO III,
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Commissioners