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 #: 150305 PCK – NY County District Attorney Records Storage

In the matter of an application submitted by the New York County District Attorney and the Department of Citywide Administrative Services, pursuant to Section 197-c of the New York City Charter for the site selection and acquisition of acquisition of 96,000 sf of property located at 4312 Second Avenue for a warehouse facility for records storage within Community District 7.

COMMUNITY DISTRICT NO. 7 BOROUGH OF BROOKLYN

RECOMMENDATION

☐ APPROVE
☒ APPROVE WITH MODIFICATIONS/CONDITIONS
☐ DISAPPROVE
☐ DISAPPROVE WITH MODIFICATIONS/CONDITIONS

SEE ATTACHED

June 29, 2015

BOROUGH PRESIDENT DATE

RECOMMENDATION FOR THE PROPOSED NY COUNTY DISTRICT ATTORNEY RECORDS STORAGE – 150305 PCK

The New York County District Attorney (DANY) and the Department of Citywide Administration Services (DCAS) for site selection and the acquisition of property located at 4312 2nd Avenue (Block 726, lot 1) for use as a records storage facility in an M3-1 district within the boundaries of the Southwest Brooklyn Industrial Business Zone (IBZ), in the Sunset Park section of Community District 7.

On June 1st, 2015, the Borough President held a public hearing on the proposed warehouse application. There were no speakers for this item.

The representatives for the applicants, DCAS and DANY, noted that as DANY currently has had a license agreement to use 73,000 square feet of storage space on the 5th floor in this building for the past year and a half, they want to continue using this site for a longer term beyond the license agreement. As such, DANY is seeking Site Selection and Acquisition ULURP approval to acquire an additional 19,250 square feet of space on a portion of the second floor to store future files and evidence and to continue to occupy the fifth floor space. Approximately 250 case boxes would be transferred in a typical week. DANY had to vacate 20 Jay Street more than a year earlier, resulting in finding 4312 2nd Avenue as its solution to replace that facility.

The Deputy Borough President noted the huge demand for industrial and manufacturing buildings and that box storage does not translate into jobs, rather it diminishes economic activity. She expressed a 21st Century vision for digitizing paperwork. The DANY representative noted requirements of the Courts and the District Attorney offices that would need to be given consideration in terms of how case files are maintained. The DANY representatives expressed intent to provide the Borough President's Office with more clarity.

In response to furthering the interest of Community Board 7 (CB7) to have 43rd Street Gateway to Bush Terminal Waterfront Park beautified through the installations of plantings and improvement the streetscape to enhance the pedestrian environment being furthered by the presence of DANY in the building, the representative stated that it supports such improvements and would work closely with DCAS in the lease negotiations. DCAS would take the lead with the other City agencies to plant trees, beautify and improve the lighting. The Deputy Borough President expressed consideration for making use of the District Attorney's settlement funds to contribute to such improvements.

In response to the Borough President's policy that HRA utilizes Minority and Women-Owned Business Enterprises (MWBE) and Locally-Based Enterprises (LBE) for construction, the representative for DANY noted that the landlord is responsible for the buildout, though the DCAS representative promised to follow-up.

Consideration

CB 7 voted to approve and called upon DANY to compel the property owner to work with the Department of Transportation (DOT) and the Department of Parks and Recreation (DPR) to plant, beautify and create public amenities along the 43rd Street side of the building in response to this street leading to Bush Terminal Waterfront Park.

The Proposed land use action would allow the DANY to acquire approximately 92,250 sf of the existing six-story loft building, within a 581,250 sf building used for light manufacturing and storage. Facilitated by a license agreement, it currently has approximately 73,000 sf of occupancy on the 5th floor for the purpose of storing evidence, case files and general records. DANY also seeks to occupy an approximately 19,250 sf portion of the 2nd floor. DANY, will use this storage space in conjunction with their primary office locations located at 80 Centre Street.

Other City tenants include the City's Board of Elections, which is utilizing 150,000 sf of space for the warehousing of old voting machines at the site on the 3rd and 4th floors, and the New York City Police Department (NYPD), which on the 6th floor and is concurrently applying for a site selection and acquisition for the 6th and a portion of the 1st floor of the site.

In the search to secure a leased space for this storage facility, is was essential for the location to accommodate access for delivery vans without disturbing the area, able to accommodate security features, be expansive enough to accommodate the huge influx of record files, and have high elevations to prevent any damages by storms or flooding (ex. Hurricane Sandy). 4312 Second Avenue is less vulnerable to coastal flooding as compared to other possible building options as it is located beyond the boundaries of the 500-year floodplain.

DANY requires a safe and secure storage facility to ensure that case files and records are protected. It finds it crucial that the files be available for prompt retrieval to be brought to 80 Centre Street. DANY has most of the files already in the space it uses pursuant to the license agreement, though, because of space constraints at 4312 Second Avenue, prompt space retrieval becomes challenging. With the leasing of the 2nd floor space, DANY will expand the electronic security system to this new space to have all of its spaces in the building to be safe and secure.

DANY operates its space at 4312 Second Avenue, generally between the hours of 9am and 5pm. Three DANY staff are permanently assigned to a small office area within the fifth floor. The staff members include 1 supervisor and 2 employees who file new boxes and files in response to requests from legal staff; and re-file boxes and folders. They also prep files for transfer to Archives. DANY employees would visit the proposed facility daily via pickup van for records retrieval and delivery. Daily facility visits for records delivery and pickup is defined as 1-2 times per day entering the storage facility via south side of the building through 43rd street. There will be no staff members located on the second floor though DANY might increase the number of staff serving this facility.

The Borough President believes that the proposed site acquisition would provide for secure record storage and efficient retrieval. Therefore, he believes that facilitating a lease for what is primarily memorializing an interim-leased facility, is an appropriate interim land use action.

Though the Borough President is generally supportive of the records storage facility in the near term, however, he has concerns regarding the long-term use of this space for primarily a storage function, the condition of the 43rd Street Streetscape, Minority and Women-Owned Business Enterprises (MWBE) and Locally-Based Enterprises (LBE) participation.

Vision for Sunset Park Industrial Business Zone

The DANY facility, while a permitted use in the Southwest Brooklyn Industrial Business Zone, the Borough President does not believe that utilizing such space with so few jobs is not consistent with the Sunset Park Vision Plan "New Connections/Opportunities Sunset Park" and such storage is not consistent with the area's status as a Significant Maritime and Industrial Area (SMIA). One of the Economic Development Corporation's (EDC) goals is to develop physical and policy-based strategies that protects and grows industrial employment. Citywide policy to retain and promote industrial and manufacturing firms should reflect the preservation of existing industrial occupancy for job creation over storage. This is reinforced by the CB 7 Sunset Park 197-a plan, which seeks to promote job creation while retaining industrial jobs and the area's IBZ that the City established to protect and encourage industrial growth.

The Borough President understands that DANY favors the chosen Sunset Park for its multiple benefits such as ease of access via the Gowanus Expressway, close proximity to the Manhattan Courts, lower costs, and adequate centralized off- site space to accommodate growing storage needs for the foreseeable future. He agrees that it is more beneficial and practical to keep records and other data in the same location for ease of access and prompt delivery. As a land use it is more suitable for placing records storage in an industrial neighborhood as opposed to a denser or more highly trafficked commercial area. However, as demonstrated by Industry City Associates at Bush Terminal and Salmar with its Liberty View Plaza, while the site may be an ideal location for DANY records storage, it warrants long-term consideration for prioritizing jobs over municipal storage functions in the Southwest Brooklyn IBZ.

Longer term municipal occupancy has the potential to hinder substantial job creation when a point is reached where Bush Terminal and Liberty View Plaza are leased where there would not be sufficient space to accommodate a firm that would want to expand or move to Sunset Park. Therefore, the Borough President believes that such a leasing request should not have a provision for renewal.

The Borough President believes that interim municipal tenancy provides a means to finance improvements to the building systems. This might include: lobby, window and elevator upgrades; heating, cooling and electrical systems; as well as introduce high speed connectivity throughout the building. In order to assure that proceed of the rental income is earmarked for such upgrades, the landlord should be compelled through the lease to reinvest a portion of the rent to building reinvestment activities. There is no

reason that this building does not eventually replicate the standard of building system upgrades now being pursued at Bush Terminals and Liberty View Plaza. With such investment, there should be a realistic opportunity that subsequent to this municipal occupancy the building would be more attractive to the type of job intensive firms that are starting to call Sunset Park the place to conduct business.

Therefore, the lease should compel the landlord to reinvest a portion of the rent for the purposes of upgrading the building systems as a means to render the building more attractive to the innovation/maker/creative economy firms and require the landlord to report such progress annually to Community Board 7, Local Elected Officials, the Borough President and an appropriate City monitoring agency.

The City Council should obtain such a commitment from the Administration in writing that such terms would be incorporated into the lease prior to waiving its right to call up the application or otherwise grant its approval.

Promoting Access to Bush Terminal Waterfront Park

With the City's investment in the property through the proposed acquisition, there is an opportunity to maximize waterfront access. In fact, one of EDC's goals is to develop physical and policy-based strategies that reconcile active industrial uses with public waterfront access. Recently, the first section of Bush Terminal Waterfront Park opened, providing waterfront access for the first time in generations to the local Sunset Park community. It has transformed a long-dormant brownfield site on the Sunset Park waterfront into a public recreation resource adjacent to this Manufactural zoned enclave. To date, the sole entrance to park is located on 43rd street. Though 4312 Second Avenue is not on a waterfront block, its proximity to the main entrance and having a significant City occupancy, suggests that this property should contribute to promoting park access.

The Borough President concurs with CB 7 that it is appropriate to leverage the pedestrian-friendly street-scape improvements that promote waterfront access in combination with promoting occupancy within an industrial building along the street leading to the entrance to the park. He believes this should proceed as a partnership between the developer and the appropriate City agencies. DANY and DCAS should compel the landlord through the lease terms to coordinate with DOT and DPR to develop a public amenity plan in consultation with CB7 and its local elected officials for the building's 43rd Street sidewalk, including consideration for planting, lighting and light fixtures, seating and other public amenities that results in a safe and beautiful gateway corridor leading to Bush Terminal Waterfront Park and that such a plan be implemented through a partnership between the landlord and the City agencies within three years of lease execution.

The City Council should obtain such a commitment from the Administration in writing that such terms would be incorporated in the lease along with agency commitments to participate and partially fund such improvements prior to waiving its right to call up the application or otherwise grant its approval.

Jobs

The Borough President is concerned that too many residents of Brooklyn are unemployed or underemployed. It is his policy to promote economic development as a means of creating more employment opportunities as well as promoting Brooklyn-based businesses, including those that qualify as MWBE and LBE. As a facility that would be expanding to an additional floor, this warehouse expansion provides an opportunity for the DANY and DCAS to use the lease provisions to induce the landlord to retain Brooklyn-based contractors and subcontractors, especially those that are designated LBEs, consistent with section 6-108.1 of the City's Administrative Code, and MWBE establishments, as a means to meet or exceed standards per Local Law 1 (not less than 20 percent participation).

In addition, is it possible that a moving company would be retained to move boxes from the 5th floor to the 2nd floor. However, it is not known whether City obligations to contract with moving companies pursuant to its Requirement Contracts would allow compliance with standards consistent with the policies of the Borough President.

Should outside services be retained to facilitate the moving of the boxes, the Borough President believes that such MWBE and LBE standards be memorialized in agency protocol. This should be pursued by having DCAS evaluate its Requirement Contracts in terms of its effectiveness to retain MWBE and LBE establishments. Consideration should be given especially to those that are designated LBEs consistent with section 6-108.1 of the City's Administrative Code, and MWBE and LBE establishments, as a means to meet or exceed standards for construction contracts per Local Law 1 (not less than 20 percent participation). The evaluation should also give consideration to coordination of the monitoring of such participation with an appropriate monitoring agency.

DANY and DCAS should use its lease terms to induce the landlord to conform with the City's MWBE and LBE standards. Further, DCAS should then report its recommendations to the Borough President and the City Council of how the procedure should be improved to best retain Brooklyn-based contractors and subcontractors.

The City Council shall obtain such a commitment from DANY and DCAS in writing that such MWBE and LBE standards be incorporated into the lease and that there be an assessment be conducted prior to waiving its right to call up the application or otherwise grant its approval.

Recommendation

Be it resolved that the Borough President of Brooklyn, pursuant to section 197-c of the New York City Charter, recommends that the City Planning Commission and City Council approve the land use action requested according to the following conditions:

That the New York County District Attorney and the Department of Citywide Administrative Services incorporates in its lease agreement with the owner of 4312 Second Avenue that, as part of the lease negotiations with the landlord, provisions for the following:

1. Lease shall not have provision for renewal;

2. Lease shall compel the landlord to reinvest a portion of the rent for the purposes of upgrading the building systems as a means to render the building more attractive to the innovation/maker/creative economy firms and require the landlord to report such progress annually to Community Board 7, Local Elected Officials, the Borough President and an appropriate City monitoring agency; and,

3. Lease shall compel the landlord through the lease terms to coordinate with DOT and DPR to develop a public amenity plan in consultation with CB7 and its local elected officials for the building's 43rd Street sidewalk, including consideration for planting, lighting and light fixtures, seating and other public amenities that results in a safe and beautiful gateway corridor leading to Bush Terminal Waterfront Park and that such plan be implemented through a partnership between the landlord and the City agencies within three years of lease execution.

4. Lease shall compel the landlord to retain Brooklyn-based contractors and subcontractors, especially those that are designated LBEs consistent with section 6-108.1 of the City's Administrative Code, and MWBE and LBE establishments, as a means to meet or exceed standards per Local Law 1 (not less than 20 percent participation), as well as to coordinate the monitoring of such participation with an appropriate monitoring agency,

The City Council shall obtain such a commitment from the Administration in writing that such terms would be incorporated in the lease along with agency commitments to participate and partially fund such improvements prior to waiving its right to call up the application or otherwise grant its approval.

Be it Further Resolved that DCAS shall evaluate its Requirement Contracts in terms of its effectiveness to retain MWBE and LBE establishment and make recommendations to the Borough President and the City Council of how the procedure should be improved to best retain Brooklyn-based contractors and subcontractors, especially those that are designated LBEs consistent with section 6-108.1 of the City's Administrative Code, and MWBE and LBE establishments, as a means to meet or exceed standards per Local Law 1 (not less than 20 percent participation), as well as to coordinate the monitoring of such participation with an appropriate monitoring agency.