

**Brooklyn Borough President Recommendation**  
CITY PLANNING COMMISSION  
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**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 #:** ROCHESTER SUYDAM UDAAP – 190453 HAK

An application submitted by the New York City Department of Housing Preservation and Development (HPD), pursuant to Article 16 of the General Municipal Law of New York State to designate the following 13 properties as an Urban Development Action Area (UDAA) and an Urban Development Action Area Project (UDAAP): 421-423 Herkimer Street, 440-444 Herkimer Street, 816 Herkimer Street, 329-331 Ralph Avenue, 335 Ralph Avenue, 35-37 Rochester Avenue, and 18-22 Suydam Place, and pursuant to Section 197-c of the New York City Charter for the disposition of these sites to a developer selected by HPD. Such actions would facilitate the construction of seven new buildings with a total of approximately 78 affordable homeownership units in Brooklyn Community District 3 (CD 3).

COMMUNITY DISTRICT NO. 3

BOROUGH OF BROOKLYN

**RECOMMENDATION**

APPROVE  
 APPROVE WITH  
MODIFICATIONS/CONDITIONS

DISAPPROVE  
 DISAPPROVE WITH  
MODIFICATIONS/CONDITIONS

SEE ATTACHED

BROOKLYN BOROUGH PRESIDENT

January 8, 2020

DATE

**RECOMMENDATION FOR: ROCHESTER SUYDAM UDAAP – 190453 HAK**

The New York City Department of Housing Preservation and Development (HPD) submitted an application pursuant to Article 16 of the General Municipal Law of New York State to designate the following 13 properties as an Urban Development Action Area (UDAA) and an Urban Development Action Area Project (UDAAP): 421-423 Herkimer Street, 440-444 Herkimer Street, 816 Herkimer Street, 329-331 Ralph Avenue, 335 Ralph Avenue, 35-37 Rochester Avenue, and 18-22 Suydam Place, and pursuant to Section 197-c of the New York City Charter for the disposition of these sites to a developer selected by HPD. Such actions would facilitate the construction of seven new buildings with a total of approximately 78 homeownership affordable housing units in Brooklyn Community District 3 (CD 3).

On December 10, 2019, Brooklyn Borough President Eric Adams held a public hearing on this special permit request. There were no speakers on the item.

In response to Borough President Adams' inquiry regarding the qualifying income range for prospective buyers, and how many homeownership affordable housing units are intended to be offered at each Area Median Income (AMI) tier by unit type, the applicant disclosed that the proposed development would target households at 80 to 110 percent AMI, with the majority geared toward the 100 percent AMI tier. The applicant expressed that one of the project goals is to attract moderate-income households, including New York City municipal employees.

During the presentation, HPD provided a summary of the proposed income distribution and bedroom mix for the homeownership affordable housing units. According to the applicant, the Rochester-Suydam New Infill Housing Opportunity Program (NIHOP) would result in 33 one-bedroom units and 45 two-bedroom apartments. Six one-bedroom units would be offered at 80-90 percent AMI, 18 would be offered at 100 percent AMI, and nine would be offered at 110 percent AMI. Nine two-bedroom units would be offered at 80-90 percent AMI, 21 would be offered at 100 percent AMI, and 15 would be at 110 percent AMI. In all, 19 percent of the units would be targeted to households at a combination of 80 and 90 percent AMI and 31 percent would be geared toward households at 110 percent AMI, with a full 50 percent reserved for households at 100 percent AMI.

For potential purchasers in the 80 percent AMI tier, qualifying incomes would need to be at least \$64,020 and not exceed \$76,824, with sale prices ranging from \$209,352 to \$297,498. For prospective buyers in the 90 percent AMI tier, qualifying incomes would need to be at least \$72,023 and not exceed \$86,427, with a minimum price of \$252,505 and a maximum price set of \$349,280. For potential purchasers in the 100 percent AMI tier, qualifying incomes would need to be at least \$80,025 and not exceed \$96,030, with sale prices ranging from \$295,567 to \$401,063. Finally, for prospective buyers in the 110 percent AMI tier, qualifying incomes would range from \$88,028 and \$105,633, with a minimum price of \$338,810 and a maximum price of \$452,846.

In response to Borough President Adams' inquiry as to what marketing strategies would be used in the buyer selection process in order to ensure the highest level of participation from CD 3, and whether such marketing strategy would include a financial literacy campaign to assist area residents in becoming lottery-eligible, the applicant stated intent to work with the New York City Housing Partnership (NYCHP) to develop a marketing campaign, including homeownership counseling and financial education. The applicant would conduct preliminary outreach to community stakeholders, including houses of worship to promote the homeownership affordable housing development in CD 3.

In response to Borough President Adams' inquiry as to what consideration has been given to requiring that these sites be disposed with permanent affordable housing restrictions, according to

the shared-equity model, the applicant clarified that the proposed development would be structured as a co-operative and owned by a Housing Development Fund Corporation (HDFC). The Article XI tax benefit is coterminous with the regulatory agreement, which runs for a period of 40 years. Toward the end of the term, the HDFC co-operative would go back to HPD and request another 40-year extension, which would renew the restrictions on the resale price. Provided that the unit is sold to a qualifying low, moderate, or middle-income buyer, the homeowner would not have to repay the HPD subsidy.

In response to Borough President Adams' inquiry regarding the incorporation of Passive House design, blue, green, or white roof coverings, and New York City Department of Environmental Protection (DEP) rain gardens, the applicant's representative stated that they would explore the idea of installing a rain garden in the public right-of-way.

### **Consideration**

Community Board 3 (CB 3) approved this application on December 2, 2019.

The seven sites, located in the Bedford-Stuyvesant section of CD 3, are grouped into three clusters of two to three sites. Cluster 1 consists of two 4,000 sq. ft. assemblages, 421-423 Herkimer Street and 440-444 Herkimer Street. Both sites are located within an R6 district. Cluster 2 consists of 6,403 square feet (sq. ft.) of an irregular corner lot at 816 Herkimer Street, a 4,116 sq. ft. assemblage at 35-37 Rochester Avenue, and a 6,111 sq. ft. assemblage at 18-22 Suydam Place. These sites are located in an R6B contextual district. Cluster 3 consists of a 4,500 sq. ft. assemblage at 329-331 Ralph Avenue zoned R6B, and a 3,060 sq. ft. lot zoned M1-1/R7D.

As part of Rochester-Suydam NIHOP, the buildings at 421-423 Herkimer Street and 440-444 Herkimer Street would be five stories, with eight one-bedroom units and two two-bedroom units each. The four-story building at 35-37 Rochester Avenue would contain six one-bedroom units and two two-bedroom units. The four-story building at 18-22 Suydam Place would include 14 one-bedroom units and one two-bedroom unit. The four-story building at 816 Herkimer Street would contain nine one-bedroom units and three two-bedroom units. The five-story building at 329-331 Ralph Avenue would include three one-bedroom units and seven two-bedroom units. The seven-story building at 335 Ralph Avenue would contain two one-bedroom units and 11 two-bedroom units. Each development would provide a minimum of five bike storage spaces.

The surrounding context for the Cluster 1 properties is primarily residential, ranging from two-family homes to elevator apartment buildings. The major community facility use in the area is Interfaith Medical Center, located at Albany Avenue and Herkimer Street. Immediately south of 440-444 Herkimer Street is a midblock cluster of industrial uses, though the block is zoned R6A and R6B. The surrounding context for the Cluster 2 properties is largely low-rise residential, with a notable seven-story condominium on Atlantic Avenue and Suydam Place, zoned C4-3. The surrounding context for the Cluster 3 properties is mixed residential, commercial and light industrial. The two Ralph Avenue lots are located adjacent to a house of worship.

Brooklyn is one of the fastest growing communities in the New York metropolitan area and the ongoing Brooklyn renaissance has ushered in extraordinary changes that were virtually unimaginable even a decade ago. Unfortunately, Brooklyn's success has led to the displacement of longtime residents who can no longer afford to live in their own neighborhoods. In Bedford-Stuyvesant, and across New York City, there is a pressing need for affordable and stable housing, among elderly adults, homeless households, low-income families, and those with special needs. Increasing the supply of affordable apartments for a range of incomes and household types is a critical strategy for promoting a sustainable neighborhood and city.

Borough President Adams is concerned that too many Brooklyn residents are currently unemployed or underemployed. It is his policy to promote economic development that creates more employment opportunities. According to the Furman Center's "State of New York City's Housing and Neighborhoods in 2015," double-digit unemployment remains a pervasive reality for several of Brooklyn's neighborhoods, with more than half of the borough's community districts experiencing poverty rates of nearly 25 percent or greater. Prioritizing local hiring would assist in addressing this employment crisis.

Additionally, promoting Brooklyn-based businesses, including those that qualify as locally-based enterprises (LBEs) and minority- and women-owned business enterprises (MWBEs), is central to Borough President Adams' economic development agenda. This site provides opportunities for the developer to retain a Brooklyn-based contractor and subcontractor, especially those who are designated LBEs consistent with Section 6-108.1 of the City's Administrative Code, and MWBEs that meet or exceed standards per Local Law 1 (no less than 20 percent participation).

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

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

Though the development is exempt from providing parking spaces, the Rochester Suydam NIHOP sites are well-served by public transit. The Eighth Avenue Express A and Eighth Avenue local C trains run along Fulton Street, making stops approximately one block north of each site, at the Kingston-Throop Avenues, Utica Avenue, and Ralph Avenue stations. The Cluster 1 sites (421-423 and 440-444 Herkimer Street) are accessible via the B15 bus, which runs along Albany Avenue, the B25 bus, which stops at Fulton Street and Kingston Avenue, and the B43 bus, at Kingston Avenue between Atlantic Avenue and Herkimer Street. There are no bus stops around the Cluster 2 sites (816 Herkimer Street, 35-37 Rochester Avenue, and 18-22 Suydam Place). However, they are located two blocks east of Utica Avenue, which is served by the B46 bus/B46 Select Bus Service (SBS). Finally, the Cluster 3 sites (329-331 and 335 Ralph Avenue) are accessible via the B47 Ralph Avenue bus, which stops between Atlantic Avenue and Herkimer Street.

Borough President Adams supports the development of underutilized land for productive uses that address the City's need for additional affordable housing. The land use actions would be consistent with Mayor de Blasio's goal of achieving 300,000 affordable housing units over the next decade, according to "Housing New York: A Five-Borough, Ten-Year Plan," through the provision of affordable homeownership opportunities, which would enable first-time buyers to build equity and remain in Brooklyn for years to come.

Borough President Adams supports the proposed development of 78 homeownership affordable housing units on seven city-owned sites in Bedford-Stuyvesant. He calls on HPD and BJJ Development LLC to maximize opportunities for lower-income buyers — including those of larger household size, guarantee permanent affordability, maximize community participation in the lottery, and integrate resilient and sustainable practices across the Rochester-Suydam NIHOP.

### **Permanent Affordability**

Since its inception in the early 1980s, HPD's homeownership program has helped initial purchasers achieve affordable homeownership, via a combination of public subsidies. According to the most recent initiatives, purchasers who elected to sell such units within the first five years of ownership, have been required to repay the full value of the subsidy, as a condition of the sale. Thereafter, such obligation declines ten percent for each additional year of ownership until no repayment is required. In a strong real estate market, such homeowner stands to realize substantial wealth from the market-rate sale of the apartment, while the City's investment in the unit and the underlying land is lost forever. The result has been a direct reduction in the City's affordable housing resources, and potentially, a higher cost to recreate such housing at a later date, given limited public land for such purposes.

Governments have sought to limit potential windfalls to assisted buyers, in order to preserve affordable homeownership opportunities for low, moderate, and middle-income families in perpetuity while preventing the loss of subsidies that made such developments possible. However, HPD's resale price restrictions have not been sufficient to achieve this objective. When owners of affordable homeownership units sell these properties, they receive the full amount of the regulated resale price (excluding loans and closing costs), and are not required to repay a portion of the initial subsidies. Sellers are also reimbursed for capital improvements made to such homes.

It is Borough President Adams' policy that the redevelopment of City-owned properties for residential use should only yield affordable housing, and that housing developed through the disposition of public land should remain permanently affordable.

For these NIHOP sites, HPD is pursuing a cooperative ownership model governed by an HDFC and tied to a 40-year real estate tax abatement. During the 40-year period, annual sale price increases would be capped at two percent. This requirement does not appear to provide a mechanism for ensuring that affordability extends beyond 40-years. However, Borough President Adams is concerned that this regulatory term is insufficient to meet his goal of ensuring that the proposed development remains affordable in perpetuity.

Borough President Adams believes that there are appropriate mechanisms to ensure ongoing affordability. One strategy is to remove the obligation to pay back the land appraisal value and direct City subsidies for affordable homeownership units. The New York City Zoning Resolution (ZR) Voluntary Housing program provides another method. It contains a mechanism that ensures such housing remains permanently affordable pursuant to the resale provisions of ZR Sections 23-913 and 23-962, which stipulate the appreciation index for the resale price of a homeownership affordable housing unit. HPD sets the annual rate of increase based on the percentage change in the Consumer Price Index (CPI) for all urban consumers, as defined by the U.S. Bureau of Labor, plus one percent per year. However, such indexing leads to a slow rate of appreciation, and leaves owners vulnerable to interest rate spikes. As an alternative, resale price restrictions for homeownership affordable housing units could be indexed to standards defined by the Center for Housing Policy, to better offset increases in the costs of homeownership.

Another way to ensure long-term affordability is through the concept of shared-equity. This model, has been promulgated by non-profit housing associations and municipalities seeking to extend affordable homeownership to households unable to purchase a market-rate home. According to the Urban Institute, “shared equity homeownership programs provide buyers with a way of bridging the gap between what they are able to afford to pay in a mortgage and the actual mortgage cost to own a property” via strategies such as “inclusionary zoning, limited equity cooperatives, and community land trust homes with long-term affordability restrictions.” Shared equity programs also help reduce the risks associated with homeownership for low-income and minority households. For example, the purchase price often includes a reduced obligation (or preferably, no obligation) to repay the initial subsidy, so that the resale price remains profitable in a down economy, even though the home was initially sold below the market price.

Shared-equity homeownership imposes resale price restrictions to ensure that the subsidy remains with the home. The most widely implemented subsidy retention programs include community land trusts (CLTs) and deed-restricted housing programs. CLTs are non-profit stewardship entities that maintain community ownership of real estate assets. They are governed by boards that contain a diverse array of stakeholders, including community development organizations, elected officials, and local residents. CLTs increase affordability by removing the cost of the land from the sale price of a home — homebuyers purchase the structure but lease the land from the CLT, which retains ownership. Resale price restrictions are built into the ground lease to maintain affordability for future income-eligible buyers. In a deed-restricted housing program, resale restrictions are recorded with the property’s deed. New York State requires deed-restricted housing to be in the form of a cooperative ownership.

In recent years, shared-equity programs have been gaining ground in New York City, as an effective tool to reduce land speculation and preserve affordability in communities. In 2014, Habitat New York City began a four-year advocacy effort to increase city support for lasting affordable homeownership, with an emphasis on facilitating the expansion of CLTs. In 2017, the City Administration solicited proposals from interested stewardship groups, while the City Council passed legislation authorizing and codifying CLTs. There are currently more than a dozen CLTs in various stages of development across the city, with at least two located in Brooklyn. Borough President Adams believes that CLTs provide a viable means to safeguard HPD’s substantial investments in affordable housing throughout the borough.

For the Rochester-Suydam sites, Borough President Adams believes that HPD should require permanent affordable housing according to a permanent shared equity model that is equivalent to the manner that might be achieved through the Voluntary Inclusionary program, or, according to a CLT, through the designated HDFC.

Therefore, in order to realize permanent affordability, Borough President Adams believes that the City Planning Commission (CPC) and/or the City Council should direct HPD to establish in its land disposition agreement (LDA) or other regulatory agreement, a legal mechanism to ensure that development on the Rochester-Suydam NIHOP sites remains affordable in perpetuity.

### **Maximizing Opportunities for Lower-Income Buyers and Families**

As represented at Borough President Adams’ hearing, 19 percent of the homeownership affordable housing units would be targeted to households at 80 and 90 percent AMI income bands and 31 percent would be geared toward households at the 110 percent AMI band, with a full 50 percent reserved for households at 100 percent AMI income band.

A 2016 report by the New York University (NYU) Furman Center found that for the vast majority of New York residents, homeownership remains out of reach. In 2014, 70 percent of New York City households were classified as low, moderate, and middle-income. Yet only 42 percent of home sales were affordable to such households, with 22 percent affordable to households between 80 and 120 percent AMI. The study also found a concentration of middle-income homeownership opportunities in Eastern Brooklyn, and a borough-wide shortage of sales affordable to low and middle-income households.

Borough President Adams is concerned that even with local preference for at least 50 percent of the homeownership affordable housing units, too few Bedford-Stuyvesant residents would qualify for such opportunities through the Rochester-Suydam NIHOP lottery. Borough President Adams believes that in order to improve opportunities for residents of CD 3, and to achieve and perhaps exceed the 50 percent local preference mark, it is necessary to increase the number of units at 80 and 90 percent AMI eligibility tiers. This can be accomplished by reducing the number of units in the 100 percent AMI eligibility tier. He realizes that providing more deeply affordable homeownership units would require either a larger subsidy from HPD (which is likely not feasible), or balancing the reduction of units targeted to 100 percent AMI, with the provision of more units at the 110 percent AMI eligibility tier. Such income tier redistribution would generally restore the developer's expected revenue.

Borough President Adams is also aware that family-sized affordable housing units are in great demand across Brooklyn, and that family-sized apartments tend to be the most expensive for renters and buyers. According to the Furman Center report, the median sales price in New York City is affordable only to high-income households. As a result, low to middle-income families are unable to purchase two-bedroom and larger units.

As proposed, only nine of the projected 45 two-bedroom units are intended for households at 80 and 90 percent AMI income eligibility tier. Borough President Adams believes it would be appropriate to expand opportunities for family-sized households within the proposed development, which would allow more moderate-income families to remain in Bedford-Stuyvesant. This can be realized by earmarking a greater percentage of two-bedroom apartments at 80 and 90 percent AMI income eligibility tiers, while decreasing the number of two-bedroom units at the 100 and 110 percent AMI income eligibility tiers.

Therefore, in order to provide more homeownership affordable housing units at lower AMIs, the City Council should obtain commitments, in writing, from HPD clarifying how its LDA or Regulatory Agreement with BJB Development LLC would memorialize the provision of additional units at 80 and 90 percent AMI, with a greater percentage of two-bedroom dwellings, as a means to increase opportunities for moderate-income families.

### **Maximizing Community Participation in the Homeownership Affordable Housing**

#### **Lottery**

It is Borough President Adams' policy to advocate for affordable housing non-profits to play a contributing role in maximizing community participation in neighborhood affordable housing opportunities, including serving as administering agents for new developments involving low- and moderate-income housing. When mission-driven non-profits play a role in affordable housing projects, such developments are likely to remain permanently affordable.

At present, HPD policy provides for local community preference that strives to award 50 percent of affordable housing units to members of the host community district, selected via the housing lottery. Administering agents are charged with carrying out these lottery-based placements, and

ensuring compliance with HPD guidelines for the duration of the regulatory term. With homeownership affordable housing, the administering agent oversees the initial sale, owner occupancy, and resale of homeownership units, and is responsible for income verification, purchase approval, and regular reporting to HPD.

As part of the initial regulatory agreement, HPD sets the price of an affordable homeownership unit, to ensure that the combined purchase costs, as outlined above, do not exceed 30 percent of the low, moderate or middle-income limit. However, the administering agent is tasked with establishing the maximum resale price for the resale of any such units, and approving qualifying purchasers, based on the aforementioned guidelines. Each year following the sale of a homeownership affordable housing unit, the administering agent must submit an affidavit to HPD attesting that the resale complied with all applicable requirements. Finally, according to the ZR, a homeowner may be permitted to sublet their unit to another qualifying household for a limited period. The administering agent is responsible for ensuring that the prospective renter meets income eligibility requirements, and providing final approval.

As the developer, BJB Development LLC would enter into a regulatory agreement with HPD to govern the project's affordable housing plan, which includes the building plans and specifies the intended bedroom mix. The plan also specifies how homeowners will be selected upon sale or resale, and how eligible household income will be verified prior to occupancy, as well as additional information deemed necessary by HPD.

As expressed during Borough President Adams' hearing, the developer would partner with the NYC Housing Partnership, which has a proven track record as an administering agent of homeownership affordable housing units. NYCHP would conduct a marketing campaign, with a financial literacy component, to maximize community participation in the affordable housing lottery. Borough President Adams believes that the NYC Housing Partnership would be able to enhance its community outreach through partnering with local like-minded entities. Bedford Stuyvesant has several organizations that could assist with the outreach. Such entities might include Bedford-Stuyvesant Restoration, Bridge Street, IMPACCT Brooklyn, or NHS of Bedford-Stuyvesant.

Borough President Adams believes that prior to considering the application, the City Council should obtain commitments, in writing, from HPD that its LDA or Regulatory Agreement with BJB Development LLC would memorialize NYCHP affordable housing lottery outreach and readiness would be inclusive of local affordable housing non-profits.

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

It is Borough President Adams' sustainable energy policy to promote opportunities that utilize blue/green/white roofs, solar panels, and/or wind turbines, as well as passive house construction. He encourages developers to coordinate with the New York City Mayor's Office of Sustainability, the New York State Energy Research and Development Authority (NYSERDA), and/or the New York Power Authority (NYPA) at each project site. Such modifications tend to increase energy efficiency and reduce a development's carbon footprint. This UDAAP application offers opportunities to integrate resiliency and sustainability measures such as blue/green/white roof finishes, passive house construction principles, and solar panels across the seven NIHOP sites.

In the fall of 2019, the City Council passed Local Laws 92 and 94, which require that newly constructed roofs, as well as existing roofs undergoing renovation (with some exceptions) incorporate a green roof and/or a solar installation. The laws further stipulate 100 percent roof coverage for such systems, and expand the City's highly reflective (white) roof mandate. It should



be noted that the law exempts HPD projects for the first five years, to allow the agency to study the feasibility of incorporating green roofs.

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

As part of his flood resiliency policy, Borough President Adams encourages developers to introduce best practices to manage stormwater runoff such as incorporating permeable pavers and/or establishing rain gardens that advance DEP's green infrastructure strategy. He believes that sidewalks with nominal landscaping and/or adjacent roadway surfaces are potential resources that could be transformed through the incorporation of rain gardens, which provide tangible environmental benefits through rainwater collection, improved air quality, and streetscape beautification. Tree plantings can be consolidated with rain gardens as part of a more comprehensive green infrastructure strategy. Where it is not advisable to remove existing street trees, there would be opportunity for street tree pit enhancements to realize enhanced stormwater retention benefits while including more plantings, which would increase infiltration at this location and also make the site more pleasant for its users. In addition, blue/green roofs, permeable pavers, and rain gardens (including street tree pit enhancements) would help divert stormwater from the City's water pollution control plants.

The required Builders Pavement Plan for the proposed development provides an opportunity to incorporate DEP rain gardens at the various Rochester-Suydam development sites. The ZR requirement to plant street trees results in the provision of shade on days of excessive heat, as well as other aesthetic, air quality, and enhanced stormwater retention benefits. It should be noted that a rain garden would require a maintenance commitment and attention from the landlord. Maintenance includes cleaning out debris and litter that can clog the inlet/outlet and prevent proper water collection, regular inspection to prevent soil erosion, watering during dry and hot periods, and weeding to keep the plants healthy and uncongested for proper water absorption. However, the implementation of rain gardens could help advance DEP green water/stormwater strategies, enhancing the operation of the Red Hook and Newtown Creek Wastewater Treatment Plants during wet weather. Such rain gardens have the added benefit of serving as a streetscape improvement.

Borough President Adams believes that BJB Development LLC should consult with DEP, the New York City Department of Transportation (DOT), and the New York City Department of Parks and Recreation (NYC Parks) for consideration regarding the inclusion of rain gardens with integration of street trees, as part of a Builders Pavement Plan. Where the agencies have interest in implementing an enhancement, consultation should be initiated with CB 3 and local elected officials prior to agreeing to take action.

Borough President Adams believes that HPD should codify the integration of such resiliency and sustainability measures in its LDA or Regulatory Agreement with BJB Development LLC, including DEP rain gardens, green roofs with photovoltaic systems, and passive house construction

principles across the Rochester-Suydam NIHOP sites. The City Council should further seek demonstration of BJB Development LLC's commitment to coordinate with DEP, the New York City Department of Transportation (DOT), and the New York City Department of Parks and Recreation (NYC Parks) regarding the installation of DEP rain gardens as part of a Builders Pavement Plan, in consultation with CB 3 and local elected officials.

### **Recommendation**

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

1. That the New York City Department of Housing Preservation and Development (HPD), memorialize the following requirements in its Land Disposition Agreement (LDA) or Regulatory Agreement with BJB Development LLC:
  - a. A mechanism to ensure that the affordable housing would remain affordable in perpetuity
  - b. The provision of additional units at 80 and 90 percent AMI income eligibility tiers, with a greater percentage of two-bedroom dwellings, as a means to increase opportunities for moderate-income families.
  - c. Utilizing locally-based affordable housing non-profits to assist with affordable housing lottery outreach and readiness efforts
  - d. Incorporation of resiliency and sustainability measures such as blue/green/white roof finishes, passive house construction principles, and solar panels across the seven NIHOP sites
  - e. A demonstration of commitment to coordinate with the New York City Department of Environmental Protection (DEP), the New York City Department of Transportation (DOT), and the New York City Department of Parks and Recreation (NYC Parks) regarding the installation of tree pits and DEP rain gardens as part of the Builders Pavement Plan, in consultation with Brooklyn Community Board 3 (CB 3) and local elected officials