

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 #: 1620 CORTEYOU ROAD REZONING – 180496 ZMK, 180497 ZRK

Applications submitted by 1600/20 Realty Corp., pursuant to Sections 197-c and 201 of the New York City Charter, for a zoning map amendment to change the south side of Cortelyou Road between East 16th and East 17th streets from R6A/C2-4 to R7D/C2-4, and a zoning text amendment to designate the rezoning area a Mandatory Inclusionary Housing (MIH) area. Such actions are requested to facilitate a nine-story 82,962 square-foot (sq. ft.) mixed-use development with 85 dwelling units and 9,500 sq. ft. of commercial space, intended for a 6,500 sq. ft. supermarket and local retail, in Brooklyn Community District 14 (CD 14). The building's cellar would contain 44 accessory parking spaces accessible via a ramp on East 16th Street.

BROOKLYN COMMUNITY DISTRICT NO. 14

BOROUGH OF BROOKLYN

RECOMMENDATION

APPROVE
 APPROVE WITH
MODIFICATIONS/CONDITIONS

DISAPPROVE
 DISAPPROVE WITH
MODIFICATIONS/CONDITION

SEE ATTACHED

Eric L. Adams

BROOKLYN BOROUGH PRESIDENT

December 14, 2020

DATE

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Applications were submitted by 1600/20 Realty Corp., pursuant to Sections 197-c and 201 of the New York City Charter, for a zoning map amendment to change the south side of Cortelyou Road between East 16th and East 17th streets from R6A/C2-4 to R7D/C2-4, and a zoning text amendment to designate the rezoning area a Mandatory Inclusionary Housing (MIH) area. Such actions are requested to facilitate a nine-story mixed-use development with 85 dwelling units and 9,500 square feet (sq. ft.) of commercial space, intended for a 6,500 sq. ft. supermarket and local retail, in Brooklyn Community District 14 (CD 14). The building's cellar would contain 44 accessory parking spaces accessible via a ramp on East 16th Street.

Brooklyn Borough President Eric Adams held a remote public hearing on this application on November 30, 2020. There were 35 speakers in opposition, including board members of the adjacent buildings, who questioned the proposal's contextual appropriateness and benefit to the community, while noting potential for gentrification and displacement. The speakers cited specific issues such as:

- The low number of affordable units at Area Median Incomes (AMI) that meet community need, in contrast to 1921 Cortelyou Road, a project that provides affordable housing at 30 percent AMI
- The high number of studios and one-bedroom units, and low number of family-sized apartments in the development
- Establishing a precedent for future high-rise development, which would permanently alter highly-valued neighborhood character
- The potential loss of the Key Food and the difficulty of keeping the supermarket open during phased construction, particularly cellar excavation for the parking garage
- The loss of a laundromat in an area where many buildings do not provide laundry on-site
- Deficient drainage and sewage infrastructure on Cortelyou Road
- Ongoing parking problems and traffic concerns with delivery trucks
- Insufficient capacity at local public schools
- The building's extreme height, which would block sunlight for abutting buildings, and potentially interfere with their solar installations
- Extreme crowding on the Cortelyou Road subway station platform and limited opportunities for improvement
- The questionable accuracy and completeness of drawings shown to the community
- The history of dry-cleaning operations and chemical storage at the site, and limited analysis in the Environmental Assessment Statement (EAS)
- The proposal's inconsistency with the 2009 Flatbush rezoning
- Lack of per-capita green space in CD 14
- The lack of guarantees regarding expressed community benefits, absent a legal mechanism to bind developer commitments to the property

The speakers also noted a lack of public information about the project and widespread community opposition to the proposed development.

There was one speaker in support who argued that the project would add 21 affordable housing units to the neighborhood and increase business activity along Cortelyou Road. The speaker also noted that approval would ensure that the property would be retained by a member of the community.

In response to Borough President Adams' inquiry as to why the applicant elected to pursue a rezoning to R7D rather than a lower-density district such as the adjacent R7A, the applicant's representative stated that an R7A district would offer market-rate floor area similar to what is permitted as-of-right. The representative argued that such bulk would not support the maintenance of the existing supermarket and

provision of affordable units. The representative also noted that the development would rise to 102 feet and would not substantially exceed the R7A MIH 95-foot height limit.

In response to Borough President Adams' inquiry regarding the qualifying income range for prospective households based on household size, the anticipated rents based on the number of bedrooms, and the distribution of units by bedroom size, the representative stated that the development would contain seven studios, 52 one-bedrooms and 26 two-bedrooms. Under MIH Option 1, average rents would be targeted to 60 percent AMI, with \$909 for a studio, \$1,143 for a one-bedroom unit, and \$1,366 for a two-bedroom unit. At the required 40 percent AMI band, studios would rent at \$567, one-bedrooms at \$717, and two-bedrooms at \$854. Though the affordable unit mix was not disclosed, the representative noted that qualifying income for a two-bedroom affordable unit would range from \$47,760 to \$68,220, based on household size.

In response to Borough President Adams' inquiry as to whether one of the community's affordable housing administering agents would be used in the tenant selection process in order to ensure the highest level of participation from CD 14 residents, and whether the applicant's marketing strategy would include a financial literacy campaign to assist local residents in becoming lottery-eligible, the representative noted that the applicant has begun discussions with CAMBA, a local affordable housing operator that also conducts financial literacy training.

In response to Borough President Adams' inquiry as to what mechanisms guarantee that a supermarket would be provided within the development, and that such new store would be consistent with the pricing and merchandising of the current operation, the representative stated that the applicant is committed to rebuilding the Key Food with an additional 1,500 sq. ft., and will work with the architect to ensure the supermarket remains open during construction.

In response to Borough President Adams' inquiry as to what consideration has been given to setting aside a portion of the commercial ground floor as affordable spaces for arts and cultural uses, and/or local retail, the representative stated that the applicant would seek local businesses to complement the supermarket.

In response to Borough President Adams' inquiry regarding the incorporation of sustainable features such as passive house design, blue/green/white roof covering, and/or New York City Department of Environmental Protection (DEP) rain gardens, the representative stated that applicant has committed to installing solar panels on the roof, in order to meet the 2020 Energy Conservation Code. The representative noted that the developer is exploring stormwater management strategies.

In response to Borough President Adams' inquiry regarding the inclusion and participation of locally-owned business enterprises (LBEs) and minority- and women-owned business enterprises (MWBES) in the construction process, the representative noted that nearly all of the Key Food employees are local residents, and that the owner would seek to hire from that pool as the supermarket grows.

Prior to the hearing, Borough President Adams received written testimony in opposition, from 40 local residents expressing concerns that were later elaborated at the hearing.

Subsequently, Borough President Adams received letters from 15 local residents, in opposition, reiterating comments made at the hearing.

On November 20, 2020, Borough President Adams received a letter from the applicant's representative, summarizing how the developer would achieve affordable housing units, financial literacy/application readiness, streetscape improvements, sustainability, bicycle storage, and environmental remediation. The letter also expressed intent to support open space and transit improvements in the neighborhood.

Consideration

Community Board 14 (CB 14) voted to approve this application, with conditions, on November 9, 2020. The board requested that the applicant:

- Maintain Option 1 for the originally proposed 21 affordable units
- Substantially increase the number of affordable units that would be offered at 40 percent AMI
- Commit to an equivalent distribution of affordable versus market-rate studio, one-bedroom, and two- to three-bedroom units
- Enter a binding agreement with community-based organizations (CBOs) Flatbush Development Corporation (FDC) and CAMBA to help Community District 14 (CD 14) residents attain readiness for the required 50 percent local lottery preference, and fund such marketing and outreach efforts
- Configure the building with a setback along Cortelyou Road to minimize visual imposition on the streetscape and neighboring residential units.
- Conduct a shadow study for all potential setback options, including an R6A sky exposure plane scenario
- Expand the shadow study to address incremental shading on Cortelyou Road, where outdoor uses now encompass sidewalk cafes
- Demonstrate that the development will not limit the solar revenue of neighboring buildings
- Demonstrate that the site has no environmental concerns stemming from past dry-cleaning operations on the property
- Commit to exceeding the City's 2020 Energy Code requirements, while advancing resiliency, sustainable energy, and waste and wastewater management
- Conduct a traffic study that shows a non-disruptive delivery window for the building's retail stores
- Provide trip generation data and a Level of Service (LOS) analysis of the impact of 44 additional vehicles on Cortelyou Road, East 16th Street, and the residential blocks to the south of East 16th Street during anticipated peak hours
- Provide a study analyzing additional parking demand from the building's residents and users of its commercial space.
- Account for loss of street parking during and after construction, as well as anticipated truck traffic and road closures.
- Ensure provision of bike storage for residents and exterior bike racks for public use
- Support CB 14's requests to the Metropolitan Transportation Authority (MTA), including restoration of the B23 bus, and a capacity study of Cortelyou Road subway station.
- Commit to a greener streetscape plan and demonstrate ensured, ongoing maintenance of plantings and cleanliness along the building line
- Provide funding to support New York City Department of Parks and Recreation (NYC Parks) maintenance and programming at Cortelyou Road Tot Lot, via a fiduciary account underwritten by the New York City Comptroller's Office
- Demonstrate a long-term commitment to maintain the supermarket onsite and ensure local hiring for staff positions

The proposed actions concern a 14,815 sq. ft. irregular lot that extends approximately 150 feet along the south side of Cortelyou Road and 90 feet on the east side of East 16th Street. The development site is occupied by a one-story, with a floor area ratio (FAR) of 0.88, approximately 16-foot tall commercial building. 1620 Cortelyou Road contains a Key Food supermarket, a dry cleaner, a laundromat, a nail salon, and a restaurant. The rezoning area covers three additional lots fronting Cortelyou Road and parts of two others. 1622, 1624, and 1626 Cortelyou Road are three-story buildings with ground-floor retail and

apartments above. 385 East 16th Street and 400 East 17th Street are six and seven-story apartment buildings typical of the area.

Much of the development site and project area is located in an R6A district, with a C2-4 commercial overlay mapped to a depth of 100 feet, though a small southern portion falls within an R7A district. Prior to 2009, the majority of Cortelyou Road, including the project area was zoned R6. This non-contextual district permits 3.0 FAR for residential use on wide streets, 2.2 FAR governed by narrow street regulations and 2.43 for height-factor regulated taller structures of at least 12-stories, and 4.8 FAR for community facilities. For height factor and community facility use, massing and zoning envelope are governed by the sky exposure plane. The pervasiveness of such allowable FAR in CD 14 had contributed to the demolition of older, low-rise properties.

In 2009, the Department of City Planning (DCP) rezoned CD 14 to preserve neighborhood character and promote development of affordable housing. The Flatbush Rezoning replaced large swaths of R6 with medium-density R6A, R6B, R7A, and R7A Inclusionary Zoning (IZ) districts, as well as incorporated some sections into the adjoining lower density districts. For this intended rezoning area, this action did not alter the permitted residential FAR, though, it decreased its community facility FAR, and mandated height limits for subsequent development. The commercial overlay on this block was also changed from C2-3 to C2-4, and reduced in depth from 150 to 100 feet.

This application would establish R7D zoning in the area in order to realize 5.6 FAR of development rights. When paired with a C2-4 overlay, R7D districts require provision of ground-floor commercial use. The resulting mixed-use development would contain 85 dwelling units in a nine-story, with the ground floor intended for occupancy by a 6,475 sq. ft. supermarket and 3,085 sq. ft. of other retail. The represented height would be 102 feet excluding rooftop mechanicals. An existing curb cut on East 16th Street would facilitate access to a parking facility in the cellar for 44 vehicles.

The surrounding area contains a diversity of residential districts and housing typologies. The blocks south of Cortelyou Road are defined by four- to eight-story apartment buildings, while single and two-family detached homes dominate the blocks to the north. Cortelyou Road between Coney Island Avenue and East 17th Street forms the neighborhood's retail corridor, with small ground-floor restaurants, retail, and services. Notable community facilities include P.S. 139 and the Brooklyn Public Library (BPL) Cortelyou Road branch, located west of the project site.

Borough President Adams believes that it is appropriate to zone for increased density in proximity to public transportation. The development site is accessible Second Avenue/Broadway Express Q trains at Cortelyou Road subway station half a block west, as well as the B103 and BM2 buses, which make stops along Cortelyou Road.

Borough President Adams supports the development of underutilized land for productive uses that address the City's need for additional affordable housing. The proposed development would be consistent with Mayor Bill 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," as modified in 2017.

The MIH program targets affordable housing units to a broad range of incomes, consistent with Borough President Adams' objective to extend such opportunities to households at various AMI tiers. Borough President Adams supports developments that allow low-, moderate-, and middle-income households to qualify for the City's affordable housing lottery. The proposed development would gear apartments to households at multiple income tiers, which would remain permanently affordable, according to MIH.

The affordability program at 1620 Cortelyou Road would be pursuant to MIH Option 1, which stipulates that 25 percent of the residential floor area be affordable, to households earning an average of 60 percent AMI. According to the applicant, the project would include studio, one-bedroom and two-bedroom apartments. However, the bedroom mix of the anticipated MIH units has not been disclosed.

It is Borough President Adams' policy to support the development of affordable housing and to seek that such housing remain "affordable forever," wherever feasible. Development adhering to the MIH program is consistent with his policy for new residential developments to produce housing that remains affordable in perpetuity. According to the application, the development rights generated on the site would yield approximately 21 permanently affordable units.

Borough President Adams is generally supportive of encouraging development at 1620 Cortelyou Road. However, he is concerned that the rezoning would enable excessive height in a medium-density area, without a sufficient degree of public benefit. He believes that additional commitments are needed to rationalize upzoning the existing R6A district. Specifically, he seeks assurance of a new supermarket, a robust marketing campaign for the MIH units, and more contextual height for any upzoning. Though to the extent of the zoning designation requested, Borough President Adams believes the extent of affordable floor area would be inadequate, that building massing lacks sensitivity to neighboring uses and building infrastructure, that it does not address the need for family-oriented affordable housing, it displaces neighborhood laundry services, and it does not advance community partnerships. As with any rezoning, consistent with his policies, he also seeks opportunities for car-share, resiliency and sustainability measures (including rain gardens), and Vision Zero safety enhancements, as well as significant local hiring and procurement. Finally, Borough President Adams calls on transportation agencies to address community needs by conducting traffic studies, supporting bikeshare expansion, and advancing vital service improvements in the area.

Ensuring an MIH Option that Provides for Very Low-Income Households

The ZR specifies four options for new construction subject to MIH regulations. As represented at Borough President Adams' hearing, 1620 Cortelyou Road would provide affordable housing pursuant to MIH Option 1, which requires setting aside 25 percent of the floor area for households earning an average of 60 percent AMI, with 10 percent (40 percent of the affordable housing units) reserved for households at 40 percent AMI. However, the proposed text amendment to designate the site as an MIH area does not require commitment to a particular MIH Option. Post-approval, the applicant could elect to pursue MIH Option 2, which would yield 30 percent affordable floor area, but at an average of 80 percent AMI. Borough President Adams believes that such action would represent a missed opportunity to provide deeply affordable housing to those most in need, including low- and moderate-income households in CD 14, who are more likely to be rent-burdened and are thus at greater risk of displacement.

Furthermore, targeting apartments to very low-income households allows seniors, especially those living alone to qualify for affordable housing lotteries. As local preference for the affordable housing lottery provides an opportunity to award 50 percent of the units to CD 14 residents, Borough President Adams concurs that providing affordable housing opportunities for very low-income constituents would serve a reasonable public purpose and maximize the development's benefit to the community. He seeks assurance that the development at 1620 Cortelyou Road would contain affordable housing floor area consistent with MIH Option 1, without regard to what zoning district would be adopted. Therefore, prior to considering the application, the CPC and/or City Council should obtain written commitments from the developer, 1600/20 Realty Corp to provide permanently affordable housing according to MIH Option 1.

Consideration for Rezoning to R7A Pursuant to Mandatory Inclusionary Housing (MIH)

Borough President Adams acknowledges that many local residents have expressed concern that this proposal would bring excessive height and density to the neighborhood without commensurate benefits to the community. Though some would like the site to remain unchanged, Borough President Adams is aware that the owner can demolish the existing building without discretionary approvals, and replace all existing uses with an exclusively residential building, with a parking ground-floor exempt from zoning floor area. Such a development would be permitted an FAR of up to 3.0. It would have a maximum base height of 65 feet, with a required setback for half the street wall, and a final height of 75 feet with a qualifying 13-foot tall ground floor.

The result would be a fully market-rate building without a grocery store, and entirely optional provision of ground-floor commercial use. Though such development would be consistent with existing apartment buildings on the block, it would lack the known benefit of a supermarket and other non-residential uses, which would be detrimental to the commercial corridor and local residents. A less likely, though permitted scenario would be an R6A development with Affordable Independent Residences for Seniors (AIRS). This incentive program allows developers to increase the scale of their buildings if they dedicate floor area to senior apartments. AIRS are income-restricted units for individuals aged 62 and older, with an upper limit of 80 percent AMI. The New York City Zoning resolution (ZR) allows an FAR of 3.9 for AIRS developments in R6A districts, and caps the roof height of such buildings at 85 feet.

As the site is adjacent to an existing R7A district, which permits 4.0 residential FAR, development is subject to a maximum base height of 65 feet and could rise to 85 feet or eight stories. When paired with MIH, R7A zoning permits 4.6 FAR, and a maximum height of 95 feet. For an additional 0.7 FAR increase in excess of an AIRS development, development would provide 25 percent permanently affordable floor area, pursuant to MIH Option 1. Borough President Adams believes it is important to lend consideration to rezoning applications that result in permanent affordable units with average rents targeted to 60 percent AMI.

However, where such proposals include large grocery store operations, it is his policy to seek for redevelopment to be inclusive of a ZR Food Expansion to Support Health (FRESH) equivalent supermarket. Borough President Adams believes that in order for Brooklyn to flourish, all neighborhoods must have enough grocery stores and supermarkets to provide residents affordable, fresh foods. As the proposed development's location makes it eligible for FRESH discretionary tax incentives, the applicant should pursue such designation for such future supermarket, to ensure healthy merchandising and affordable pricing.

Borough President Adams believes that it is appropriate to restrict allowable height for new buildings in order to ensure contextual development in older, low-rise neighborhoods. Given the applicant's expressed intent to build below the maximum 115 feet permitted by R7D MIH zoning (to a height of 102 feet) an 85-foot height limit for an R7A MIH building with 1.0 less FAR seems readily achievable.

Finally, it is essential that the developer take adequate steps to achieve 50 percent community preference for affordable units pursuant to MIH. This can be achieved by contracting with an affordable housing non-profit that would conduct extensive community outreach and offer financial literacy trainings across the community district. Such training and outreach should be coordinated as part of the development's marketing campaign. Borough President Adams calls on the developer to seek out organizations with proven track records of marketing affordable housing units and promoting housing lottery readiness, in consultation with his office, CB 14, and/or local elected officials.

In sum, Borough President Adams could support an R7A MIH restrict at this location, provided that it results in a building of up to 85 feet in height, inclusive of a FRESH equivalent affordable supermarket,

and the developer works with a community non-profit housing provider. Meeting of the above conditions provides an appropriate basis for a limited upzoning to an R7A district, as opposed to the applicant's requested R7D. As a condition of his support for R7A MIH, Borough President Adams seeks a legal provision that plans filed with the New York City Department of Buildings (DOB) would not exceed a roof height of 85 feet and that its corresponding Schedule A should delineate supermarket use in compliance with the ZR FRESH designation. Such guarantee should be presented to City Council, prior to its consideration of the application, and go into effect on the date that the R7A MIH district is approved. In addition, such binding mechanism should reference a contractual agreement with an affordable housing non-profit that would conduct extensive community outreach and offer financial literacy training to qualify CD 14 residents for the 1620 Cortelyou Road MIH lottery, based on the provision of adequate funding for such efforts.

Consideration for Rezoning to R7D with Mandatory Inclusionary Housing (MIH)

Borough President Adams does not agree with the applicant's assertion that an R7D district is necessary to realize both a larger supermarket and affordable housing units. Moreover, as stated in the previous section, such public purpose does not, in itself, justify the grant of additional zoning rights. While an R7A MIH district provides a small increase in market-rate floor area over R6A, based on MIH Option 1, an R7D district represents a significant jump with 4.2 base FAR, and an additional 1.4 bonus with MIH, and a maximum height of 115 feet. While the site's proximity to Cortelyou Road subway station makes R7D density a reasonable consideration, such bulk and height is invalidated by the built and zoned context, which does not exceed seven stories. As noted in the previous section, Borough President Adams recommends that adoption of a R7A be predicated on a binding height restriction of 85 feet. Merely restoring supermarket operations and adhering to MIH requirements would not achieve sufficient public benefit to justify exceeding such height. Additionally, allowing R7D zoning would establish a precedent for future applications to upzone smaller Cortelyou Road blockfronts with underbuilt properties of three or fewer stories. Therefore, such requests should be subject to a much higher threshold of achieved public benefit.

At Borough President Adams' hearing it was expressed that the development would not provide enough affordable housing to justify the adoption of such non-contextual zoning. It was also represented that only 26 of the building's 85 units would be two-bedrooms, which means that only a few such apartments would be affordable pursuant to MIH. Such unit distribution is inconsistent with Borough President Adams' policy to promote construction of family-oriented affordable housing. It is furthermore unacceptable for consideration of R7D zoning at this location.

Borough President Adams has heard strong concerns about the scale of the proposed development and potential adverse impacts on its immediate surroundings. Beyond neighborhood character, the represented R7D massing would cast shadows on Cortelyou Road, where it would shade outdoor dining facilities, and block sunlight for the adjacent apartment buildings where it would interfere with rooftop solar energy generation. Another issue would be the loss of laundry services, as this area has already lost one laundromat and many apartment households rely on such facilities to clean their clothing in reasonable proximity to where they live. Finally, there is a concern that the capital upgrade at the nearby Lt. Federico Narvaez Tot Lot, will not have the resources in the budget of NYC Parks to be adequately maintained as a smaller property.

Borough President Adams believes that in order to justify an R7D district at this site, the applicant would have to substantially increase the development's benefit to the community. At the building level, the developer should have to commit greater and more deeply affordable floor area in lieu of the standard MIH Option 1 of 25 percent of residential floor area requirement. Borough President Adams seeks to set aside 50 percent of the 1.0 FAR increment between R7A MIH (4.6) and R7D MIH (5.6) for permanent affordable housing. These units would be offered at similar AMIs and rents, so

that 40 percent of such floor area would be targeted to households earning 40 percent of AMI, and made affordable in perpetuity.

Such affordable housing floor area – inclusive of the standard MIH requirement and additional area noted above -- should be represented by a substantial increase of two- and three-bedroom units to provide a family-oriented bedroom mix. Borough President Adams believes that right-sizing the bedroom distribution within the MIH floor area is more important than maximizing the number of affordable housing units. It is less important that the additional floor area results in more or less than the 21 units proposed. Rather, for this building, it is important to mandate that the developer provide affordable housing pursuant to ZR Section 23- 96(c)(1)(ii). This would require at least 50 percent of the units to be two- or three-bedrooms and that at least 75 percent of the units to contain one or more bedrooms.

The zoning envelope offers opportunities to achieve lower height of 75 to 85 feet along selected portions of the façade by shifting the bulk and bulkhead to/from the rear of the building and onto East 16th Street. Borough President Adams believes that it is appropriate to allow the maximum height of 115 feet in collaborative derived locations in order to reduce the building's visual imposition, both on Cortelyou Road and to adjacent solar generating rooftop spaces. Massing should be redesigned to redistribute the bulk and height within the allowable height envelop of 115 feet with height placement shifted with consideration given to minimize shading on participating Cortelyou Road Open Streets establishments and sidewalk cafes, as well as neighboring buildings where the utility of solar roof infrastructure might be compromised. This can be achieved through ongoing community consultation during the ULURP process.

Community members have expressed that the existing laundromat is an important asset in the neighborhood, as many apartment buildings lack on-site laundry facilities. The proposed development could permanently displace this business by demolishing the existing structure. Moreover, while the applicant has expressed interest in tenanting the new commercial space with complementary uses, there is no guarantee that it would include a laundromat and even if it did, would cause an interruption of such service for at least two years. Therefore, in order to provide for residents who rely on external laundry services, the applicant should make a reasonable effort to help relocate the business to a vacant storefront on or near Cortelyou Road. The applicant should further provide assistance with moving expenses to ensure continuity of operations.

In its conditions, CB 14 notes that CD 14 has a very low percentage of residents who live more than a quarter mile from a park. The only green space in the vicinity of the proposed development is the 0.12 acre Lt. Federico Narvaez Tot Lot, on Cortelyou and Argyle roads. NYC Parks lacks sufficient funds to maintain all of its open spaces in New York City. Parklets and playgrounds in the outer boroughs face particular disparities in maintenance services. Establishing a separate funding stream for the Lt. Federico Narvaez Tot Lot 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 programmatic activities would help sustain this resource for current and future residents. Borough President Adams believes that the developer should be asked to finance its upkeep by contributing to a fiduciary account underwritten via the New York City Comptroller's Office, within 60 days of the effective date of the rezoning.

Therefore, in order to meet the threshold of public benefit necessary for the approval of R7D zoning, any FAR increment in excess of R7A MIH should require provision of affordable housing floor area at a rate of 50 percent in lieu of the standard MIH Option 1 of 25 percent floor area requirement, with permanent affordability. Moreover, the required MIH floor area and additional committed floor area should be subject to an affordable housing mix with at least 50 percent two- and/or three-bedroom units, and at least 75 percent one-bedroom units. Furthermore, drawings filed with DOB

should reflect a final design that mitigates its shadows on adjacent buildings and streetscapes. Such changes should involve consultation with local merchants and affected building representatives. Finally, City Council should attach binding provisions to ensure the seamless relocation of the existing laundromat (including associated expenses), and dedicated funding through a Comptroller Fiduciary Account for the upkeep of the Lt. Federico Narvaez Tot Lot.

Borough President Adams understands that even with increased public purpose and binding commitments, the requested R7D district may not be accepted by the community. However, he is cognizant that the applicant may choose to pursue development as-of-right, or convey the property to another entity, in which case the City would lack leverage to impose such conditions. While this scenario would result in a scaled-down project, it would be a missed opportunity to realize much-needed gains for the neighborhood.

With any upzoning that would be adopted, Borough President Adams seeks to advance his policies regarding car share, storm and energy resilience and sustainability, Vision Zero, and jobs. Whether or not a rezoning is adopted, there are opportunities to evaluate traffic, transit, and roadway safety.

Promoting Access to Car-Share Vehicles

Another way to address parking capacity is to take advantage of the growing trend of users who rely on access to car-sharing vehicles for their driving needs. A rental car can provide mobility in certain use cases, though it is not as flexible as having direct access to a car for a set amount of time and can be expensive for longer trips. Car rental requires, at minimum, a full day reservation as well as time and effort to access such facilities. However, there can be times when affordable access to automobiles would be considered a quality-of-life enhancement, even for households with higher discretionary income. Furthermore, research suggests that car-share availability reduces automobile use for individuals who already own cars, creating environmental benefits and reducing congestion.

According to ZR Section 36-46(a)(1), a car-sharing entity is permitted to occupy up to five parking spaces, though no more than 20 percent of all spaces in group parking facilities. Borough President Adams believes that the proposed development could accommodate rentals by car-share operators within its parking facility based on reasonable pricing. Borough President Adams believes that a portion of the 1620 Cortelyou Road garage should be set aside for a limited number of car-share vehicles, through dialogue with car-sharing companies.

The incorporation of car-sharing vehicles within the building's garage would require the developer to provide visible signage, per ZR Section 36-523, and to state the total number of parking spaces, as well as the maximum number of car-sharing vehicles.

Therefore, prior to considering this application, the City Council should obtain commitments, in writing, from the developer, 1600/20 Realty Corp, clarifying how it would engage car-sharing companies to lease multiple spaces within the garages.

Advancing Resilient and Sustainable Energy and Stormwater Management Policies

It is Borough President Adams' policy to advocate for the use of environmentally sustainable development that integrates blue/green/white roofs, solar panels, and/or wind turbines, as well as passive house construction. Such measures tend to increase energy efficiency and reduce a building's carbon footprint.

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 the expansion of the City's highly reflective (white) roof mandate. Borough President Adams believes that developers should seek to exceed this mandate by integrating blue roofs with green roof systems.

With regard to solar panels, there are now options beyond traditional roof installation. Multiple companies are manufacturing solar cladding from tempered glass that resembles traditional building materials, with energy output approximating that of mass-market photovoltaic systems. For taller buildings, and those in proximity to the waterfront, micro-wind turbines can provide effective sustainable energy generation. Finally, passive house design achieves energy efficiency while promoting locally-based construction and procurement.

Borough President Adams believes it is appropriate for 1600/20 Realty Corp. to engage the Mayor's Office of Sustainability, the New York State Energy Research and Development Authority (NYSERDA), and/or NYPA, and consider 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' Office is available to facilitate dialogue between the applicant and aforementioned agencies, and for 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 can be transformed through the incorporation of rain gardens, which provide environmental benefits such as improved air quality and streetscape beautification through efficient rainwater collection. Moreover, tree plantings can be consolidated with rain gardens as part of a comprehensive green infrastructure strategy. Where it is not advisable to remove existing street trees, street tree pit enhancements can realize enhanced stormwater retention benefits while making a site more pleasant for pedestrians. The incorporation of blue/green roofs, permeable pavers, and rain gardens (including street tree pit enhancements) would also help divert stormwater from the City's water pollution control plants.

The required Builders Pavement Plan provides an opportunity to install DEP rain gardens along the proposed Cortelyou Road and East 16th Street frontages. 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 Coney Island Wastewater Treatment Plant during wet weather. Such rain gardens have the added benefit of serving as a streetscape improvement.

Therefore, prior to considering the application, the City Council should obtain commitments, in writing, from the developer, 1600/20 Realty Corp., clarifying how it would memorialize integrating resiliency and sustainability features at 1620 Cortelyou Road.

Advancing Vision Zero Policies

Borough President Adams supports Vision Zero policies, including practices that extend sidewalks into the roadway as a means of shortening the path where pedestrians cross in front of traffic lanes.

These sidewalk extensions, also known as bulbouts or neckdowns, make drivers more aware of pedestrian crossings and encourage them to slow down.

In 2015, Borough President Adams also launched his own initiative, Connecting Residents on Safer Streets (CROSS) Brooklyn. This program supports the creation of bulbouts or curb extensions at dangerous intersections in Brooklyn. During the program's first year, \$1 million was allocated to fund five dangerous intersections in Brooklyn. The installation of curb extensions benefits seniors by providing more sidewalk space for their commutes, particularly at major intersections. At the same time, all roadway users benefit from calmer and safer streets.

The proposed development at 1620 Cortelyou Road would bring a significant number of new residents to the area, while also attracting users to its retail spaces. Given the foot traffic stemming from the Cortelyou Road subway station and what would be generated by the new development, it is important to enhance pedestrian safety at this intersection. Per his CROSS Brooklyn initiative, Borough President Adams believes there is an opportunity to provide a curb extension and/or a painted protected sidewalk at the southeast corner of Cortelyou Road and East 16th Street. Such enhancements would facilitate safer pedestrian crossings to and from 1620 Cortelyou Road.

Borough President Adams recognizes that the costs associated with the construction of sidewalk extensions can be exacerbated by the need to modify infrastructure and/or utilities. Therefore, where such consideration might compromise feasibility, Borough President Adams would urge the New York City Department of Transportation (DOT) to explore the implementation of either protected painted sidewalk extensions, defined by a roadbed surface treatment or sidewalk extensions as part of a Builders Pavement Plan. If the implementation meets DOT's criteria, the agency should enable 1600/20 Realty Corp. to undertake such improvements after consultation with CB 14, as well as local elected officials, as part of its Builders Pavement Plan. The implementation of a sidewalk extension through roadbed treatment requires a maintenance agreement that indemnifies the City from liability, contains a requirement for insurance, and details the responsibilities of the maintenance partner. Borough President Adams would expect 1600/20 Realty Corp. to commit to such maintenance as an ongoing obligation.

Borough President Adams believes that prior to considering the application, the City Council should obtain commitments, in writing, from 1600/20 Realty Corp. to coordinate CROSS Brooklyn implementation with DEP and DOT, in consultation with CB 14 and local elected officials, for the installation of a curb extension at the southeast corner of Cortelyou Road and East 16th Street, either as part of a Builders Pavement Plan or as a treated roadbed sidewalk extension. The City Council should further seek demonstration of 1600/20 Realty Corp.'s commitment to enter into a standard DOT maintenance agreement for this intersection. Finally, DOT should confirm that implementation of such improvements would not proceed prior to consultation with CB 14 and local elected officials.

Promoting Local Hiring and MWBE Participation for Construction and Procurement 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 creates more employment opportunities. According to the Furman Center's "State of New York City's Housing and Neighborhoods in 2017," 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 20 percent or greater. Prioritizing local hiring would assist in addressing this employment crisis. Additionally, promoting Brooklyn-based businesses, including those that qualify as LBEs and 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). Borough President Adams believes that prior to considering the application, the City Council should obtain commitments in writing from the applicant, 1600/20 Realty Corp., to memorialize retention of Brooklyn-based contractors and subcontractors, especially those who are designated LBEs consistent with Section 6-108.1 of the City's Administrative Code and MWBE as a means to meet or exceed standards per Local Law 1 (no less than 20 percent participation), as well as coordinate the oversight of such participation by an appropriate monitoring agency.

DOT Traffic Study

According to the CD 14 Fiscal Year 2021 (FY 21) needs statement, east/west streets such as Cortelyou Road are constantly backed up with vehicles. CB 14 is concerned that the proposed development would generate additional truck traffic and exacerbate congestion in the area. Borough President Adams believes that it would be appropriate for DOT to take an updated look at this corridor to determine if there might be appropriate mitigation measures including, but not limited to, restrictive curbside signage for designated loading zones that can be introduced. Therefore, he calls on DOT to undertake a traffic study of Cortelyou Road between Coney Island and Flatbush avenues.

Bikeshare Expansion

Though the City's bikeshare program has grown dramatically in recent years, many outer-borough neighborhoods remain underserved. In Brooklyn, there are many Citi Bike stations along the waterfront in Community Districts (CDs 1 and 2) and none in areas south of Prospect Park, which are more densely populated. Given the paucity of transit options in Ditmas Park, the provision of Citi Bike bicycles and docking stations could be a real quality of life enhancement for local residents. Therefore, Borough President Adams calls on DOT and Citi Bike to take a proactive approach and expand bikeshare to CD 14 to this neighborhood and consider establishing a bike docking station as part of the recommended sidewalk extension at Cortelyou road and East 16th Street.

MTA Improvements

The Ditmas Park community has expressed concerns about transportation infrastructure in the area, specifically inadequate bus service and insufficient egress/ingress at Cortelyou Road subway station. In 2009, the MTA eliminated the B23 bus, which ran along Cortelyou Road and Flatbush Avenue. The route provided convenient access to multiple subway stations in CD 14, and served over 1,500 riders, including many school students lacking other options. Borough President Adams believes that the MTA should allocate funding toward the restoration of this vital bus link, for which the community has advocated for many years.

Conditions at Cortelyou Road station have become a pressing safety issue for local residents. Its restricted access to Cortelyou Road and narrow platforms promote crowding, while limiting opportunities to add needed capacity. However, some enhancements may be possible, pending further study. For example, the station entry turnstile building appears to provide an angular yard space on both sides of the building that might permit installation of elevators for Coney-Island and Manhattan-bound commuters. To facilitate safe movement between the stairwell and the platform, the MTA would have to provide a protective barrier for elevator users while maintaining space for trains. The existing stair from the turnstile level to the platform starts out wider than the stair section to the platform. It would not be feasible to widen the lower section given space needs at the platform level. However, it might be feasible to split the wider stair run at a point above the tracks with a new passageway extending over the train and onto the canopy above the platform. After sufficient clearance from the existing stair run to the platform, a second set of stairs might then be feasible. However, this would also require a barrier at the platform edge to ensure safe passage along the remaining narrow section. Such track edge barrier would need to be spaced between the doors of trains.

Borough President Adams believes that the scenarios outlined above have the potential to improve circulation and egress/ingress at Cortelyou Road subway station. He calls on the MTA to undertake a feasibility study of providing elevator access and/or splitting the upper level stairwell into a second lower level stairwell to the platform, as a means to mitigate stairwell capacity constraints.

Recommendation

Be it resolved that the Brooklyn borough president, pursuant to Section 197-c 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 CPC and/or the City Council mandate Mandatory Inclusionary Housing (MIH) Option 1
2. That in order to receive approval for an upzoning from R6A to R7A MIH, the applicant, 1600/20 Realty Corp., provide evidence of the following to City Council, prior to its consideration of this application:
 - a. A legally binding mechanism stipulating that:
 - i. The proposed development's New York City Department of Buildings (DOB) new building plans restrict roof height to no more than 85 feet and Schedule A filing indicates a ground floor supermarket in order to ensure the return of supermarket operation
 - ii. The new supermarket will be consistent with the New York City Zoning Resolution (ZR) Food Retail Expansion to Support Health (FRESH) program, and provide affordable pricing on par with the current operation
 - iii. The applicant will make a binding agreement to contract with one or more locally-based affordable housing organizations to serve as an administering agent, and provide funding to support financial literacy and marketing efforts, in order to ensure administering agents achieve 50 percent or greater lottery preference for residents of Community District 14 (CD 14)
 - b. Written commitments concerning the following:
 - i. Engagement with car-sharing companies in consultation with Brooklyn Community Board 14 (CB 14), New York City Department of Transportation (DOT), and local officials to lease multiple spaces within the garage, and obtain designated curbside signage
 - ii. Integration of resiliency and sustainability measures, such as blue roofs, passive house design, solar facades, and/or wind turbines
 - iii. Coordination with the New York City Department of Environmental Protection (DEP), DOT, and the New York City Department of Parks and Recreation (NYC Parks) regarding the installation of DEP rain gardens, as part of the required Builders Pavement Plan along Cortelyou Road and/or East 16th Street fronting the development, in consultation with CB 14 and local elected officials

- iv. Coordination of Connecting Residents on Safer Streets (CROSS) Brooklyn implementation with DEP, DOT, and NYC Parks for the installation of a curb extension at the southeast corner of Cortelyou Road and East 16th Street, either as part of a Builders Pavement Plan, or as a treated roadbed sidewalk extension, in consultation with CB 14 and local elected officials
- v. A standard DOT maintenance agreement for that intersection and coordination among DEP and DOT should there be agency implementation for the provision of protected painted areas at the southeast corner of Cortelyou Road and East 16th Street, with the understanding that such improvements would not proceed prior to consultation with CB 14 and local elected officials
- vi. Retention of Brooklyn-based contractors and subcontractors, especially those who are designated local business enterprises (LBEs) consistent with Section 6-108.1 of the City's Administrative Code, and minority- and women-owned business enterprises (MWBES) as a means to meet or exceed standards per Local Law 1 (no less than 20 percent participation), as well as coordinate the oversight of such participation by an appropriate monitoring agency

3. That in order to receive approval for an upzoning from R6A to R7D MIH, the applicant, 1600/20 Realty Corp., produce a legally-binding mechanism mandating the following conditions, in addition to those listed above:

- a. For the additional FAR increment in excess of an R7A MIH district, provision of affordable housing floor area at a rate of 50 percent in lieu of the standard MIH Option 1 of 25 percent floor area requirement, with permanent affordability
- b. Adequate demonstration that the building's massing has been redesigned to mitigate potential shading impacts on Cortelyou Road outdoor dining facilities and rooftop solar assemblies of abutting cooperatives, in consultation with local merchants and building representatives
- c. For the required MIH floor area and additional committed floor area, an affordable housing mix with at least 50 percent two- and/or three-bedroom units, and at least 75 percent one-bedroom units
- d. Reasonable efforts to relocate the existing laundromat, including assistance with relocation expenses, to ensure continuity of its operations, and minimize inconvenience for residents who rely on external laundry services
- e. Legal commitment of adequate funds to a fiduciary account underwritten via the New York City Comptroller's Office to ensure the upkeep of the Lt. Federico Narvaez Tot Lot, within 60 days of the effective date of the rezoning

Be it further resolved:

- 1. That DOT conduct a traffic study along this section of Cortelyou Road between Coney Island and Flatbush avenues to determine appropriate mitigation measures for congestion exacerbated by

the replacement of the existing supermarket, including, but not limited to, restrictive curbside signage for designated loading zones.

2. That DOT support expansion of Citi Bike stations into this section of CD 14
3. That the Metropolitan Transportation Authority (MTA) allocate funding for community transit improvements as follows:
 - a. Restoration of the eliminated B23 bus route on Cortelyou Road
 - b. Undertake a study to determine the feasibility of mitigating stairwell capacity constraints at the Cortelyou Road Q train subway station through the provision of elevator access and/or splitting the upper level stairwell into a second lower level stairwell to the platform.



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November 24, 2020

VIA EMAIL

Brooklyn Borough President Eric Adams
209 Joralemon Street
Brooklyn, New York 11201

Re: 1620 Cortelyou Road Rezoning

Brooklyn, New York (the "Premises")

Dear Hon. Eric Adams,

We submit this letter on behalf of the applicant for the 1620 Cortelyou Road Rezoning application (the "Rezoning") in response to comments, questions and suggestions which arose at the public hearing held on November 10, 2020.

The Rezoning seeks to (1) rezone the Cortelyou Road frontage of Block 5159 from an R6A/C2-4 zoning district to an R7D/C2-4 zoning district, and (2) map a Mandatory Inclusionary Housing Designated Area. The Rezoning will facilitate the construction of a new nine-story, mixed-use building with cellar parking, ground floor commercial use and approximately 85 dwelling units at 1620 Cortelyou Road.

We note that the proposed height of 102'-0" is only 7'-0" taller than the maximum permitted height within the R7A zoning district located directly adjacent to (and covering a portion of) the Premises. Importantly, the Rezoning will facilitate the provision of approximately 21 permanently affordable housing units. Further, the Rezoning will enable the maintenance and expansion of the existing Key Food grocery store, which has been at the site for over 26 years, employs over 30 employees and provides the community with affordable, fresh food.

The applicant has considered the comments, questions and suggestions which arose at the public hearing. In response to these comments, the applicant notes the following:

1. **MANDATORY INCLUSIONARY UNITS.** The applicant will continue to review the feasibility of providing additional affordable housing units. The applicant will request Option 1 for all 21 currently proposed inclusionary units.
2. **FINANCIAL LITERACY/APPLICATION READINESS.** The applicant has already reached out to CAMBA to discuss application readiness for Community Board 14 residents with a preference for 50% of the inclusionary units.
3. **STREETSCAPE IMPROVEMENTS.** The applicant will review the potential for improvements to the streetscape and sidewalk with the project architect.
4. **SUSTAINABILITY.** The applicant has committed to the provision of solar panels on the roof of the building, and will consider additional green building improvements, including stormwater collection.
5. **OPEN SPACE.** The applicant commits to provide an endowment to the tot lot or other local green space.
6. **BIKE STORAGE.** The applicant will provide approximately 43 on-site bike parking spaces.
7. **MTA.** The applicant commits to supporting Community Board 14's efforts regarding discussions with the MTA about the B23 bus route and issues related to the subway station.
8. **ENVIRONMENTAL ISSUES.** We note that the proposed rezoning has undergone thorough environmental review with the Department of City Planning's Environmental and Assessment Review Division ("EARD"). We further note that EARD issued a Negative Declaration on March 2, 2020. Regardless, the applicant will work with its environmental consultants to provide further assurances to the community with regard to shadows, traffic, and the impacts of the former dry-cleaning use at the Premises.

The applicant looks forward to continuing to work with the Community Board, Borough President, City Planning Commission and Council Member to develop a building at 1620 Cortelyou Road which is a benefit to the community.

Very truly yours,



Richard Lobel
RL/ai