



Brooklyn Borough President Recommendation

CITY PLANNING COMMISSION

120 Broadway, 31st Floor, New York, NY 10271

CalendarOffice@planning.nyc.gov

INSTRUCTIONS

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

APPLICATION #: Bed-Stuy Central and North NIHOP Cluster (210173 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 and Section 197-c of the New York City Charter to designate 187 and 187R Chauncey Street, 772 Myrtle Avenue, 890 Myrtle Avenue, and 119-125 Vernon Avenue an Urban Development Action Area and an Urban Action Development Area Project (UDAAP), and convey these properties to a developer selected by HPD. These actions are requested to facilitate four new buildings with a total of 45 affordable homeownership units and approximately 3,254 square feet (sq. ft.) of ground-floor commercial space in Brooklyn Community District 3 (CD 3).

BROOKLYN COMMUNITY DISTRICT NO. 3

BOROUGH OF BROOKLYN

RECOMMENDATION

APPROVE
 APPROVE WITH
MODIFICATIONS/CONDITIONS

DISAPPROVE
 DISAPPROVE WITH
MODIFICATIONS/CONDITION

SEE ATTACHED

Eric L. Adams

BROOKLYN BOROUGH PRESIDENT

March 31, 2021

DATE

RECOMMENDATION FOR: Bed-Stuy Central and North NIHOP Cluster (210173 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 and Section 197-c of the New York City Charter to designate 187 and 187R Chauncey Street, 772 Myrtle Avenue, 890 Myrtle Avenue, and 119-125 Vernon Avenue an Urban Development Action Area and an Urban Action Development Area Project (UDAAP), and convey these properties to a developer selected by HPD. These actions are requested to facilitate four new buildings with a total of 45 affordable homeownership units and approximately 3,254 square feet (sq. ft.) of ground-floor commercial space in Brooklyn Community District 3 (CD 3).

Brooklyn Borough President Eric Adams held a remote public hearing on this application on February 16, 2021. There were no speakers on the item.

In response to Borough President Adams' inquiry regarding the qualifying income range for prospective households based on household size, the anticipated sales prices based on the number of bedrooms, and the distribution of units by bedroom size, the developer stated that 38 units would be offered at 90 to 110 percent Area Median Income (AMI), and seven would be offered at 111 to 130 percent AMI. At the lower tier, there would be 23 one-bedrooms with qualifying incomes from \$76,700 to \$93,830 and sale prices of \$308,311 to \$345,730. The 15 two-bedrooms would be offered at \$368,225 to \$410,366 with qualifying incomes of \$92,160 to \$112,640. At the upper tier, there would be five one-bedrooms with eligible incomes from \$94,683 to \$110,890 and sale prices of \$362,076 to \$392,874. The two two-bedroom units would be offered at \$419,483 to \$448,134 with qualifying incomes of \$113,664 to \$133,120.

In response to Borough President Adams' inquiry as to how long these units are required to be maintained as income-restricted housing and how that would be enforced, the developer stated intent to apply for an Article XI Tax Incentive, which would provide a 40-year tax abatement. A monitor would work with the cooperative board to ensure compliance for any sales that might occur in that time. As such monitor would be a Housing Development Fund Corporation (HDFC), it is expected that unit owners would seek an additional 40-year term at the conclusion of the initial period.

In response to Borough President Adams' inquiry as to whether one of the community's affordable housing administering agents would be used in the owner selection process to ensure the highest level of participation from CD 3 residents, and whether the applicant's marketing strategy would include a financial literacy campaign to assist local residents in becoming lottery-eligible, the applicant stated that Restored Homes HDFC, which has worked with HPD on other Open Door projects, would handle lottery administration and marketing. In addition to a required homebuyer education course, financial literacy services would be provided through Brooklyn Neighborhood Services (BHS).

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 applicant stated that the buildings would incorporate white roofs and water conservation features. Homeowners would be expected to comply with Enterprise Green Communities (EGC) standards.

Subsequent to the hearing, Borough President Adams received a letter from the designated developer, Shelter Rock Builders LLC, Heritage V LLC, dated March 25, 2021 proposing a revised affordability program for the project.

Consideration

Brooklyn Community Board 3 (CB 3) voted to approve this application on February 1, 2021.

The proposed UDAAP designation and disposition actions would transfer four vacant, City-owned sites in Bedford-Stuyvesant (187 and 187R Chauncey Street, 772 Myrtle Avenue, 890 Myrtle Avenue, and 119-125 Vernon Avenue) to a private entity, to be redeveloped via HPD's New Infill Homeownership Opportunities Program. These cluster sites comprise Phase 2 of HPD's Bed-Stuy Central & North project, which would bring 78 affordable cooperative, fee-simple, and rental units to CD 3.

Located in the southeast section of CD 3, 187 and 187 R Chauncey Street consists of a mid-block lot with 25 feet of frontage on the north side of Chauncey Street and a small abutting interior lot. The property has a maximum depth of 132 feet, with a total area of 3,287 sq. ft. The underlying R6B district allows a floor area ratio (FAR) of 2.0 for residential development, with a maximum height of 50 feet. The site was rezoned from R5 to R6B as part of the 2007 Bedford-Stuyvesant South Rezoning, which established contextual districts along multiple CD 3 corridors. The site would be redeveloped as a four-story, 1.67 FAR, 5,463 sq. ft. building with approximately seven homeownership units, including a mix of one- and two-bedrooms. The development would rise to a height of 37 feet and set back 12 feet from the lot line to provide a landscaped front yard.

The other project sites are clustered in the northwest section of CD 3. 772 Myrtle Avenue is located mid-block between Marcy and Tompkins avenues, with a lot area of 2,500 sq. ft, and 25 feet of frontage on the south side of Myrtle Avenue. 890 Myrtle Avenue, located approximately 1,330 feet to the east, is similarly sized. Both parcels are zoned R7D/C2-4 and mapped with a Voluntary Inclusionary Housing (VIH) Area, coterminous with the zoning district. When paired with commercial overlays, R7D districts require the provision of ground-floor commercial use. VIH designation provides a 33 percent floor area bonus for a maximum residential FAR of 5.6. 772 Myrtle Avenue was previously zoned R6, while 890 Myrtle Avenue was zoned R6/C1-3. The R7D/C2-4 and VIH were mapped as part of the 2012 Bedford-Stuyvesant North Rezoning and related amendments.

772 Myrtle Avenue would be redeveloped as a six-story, 60-foot tall elevator building with approximately 8,383 sq. ft. (3.35 FAR) of residential use and 1,627 sq. ft. (0.65 FAR) of ground-floor commercial use. As proposed, the development would contain 10 units, including one- and two-bedroom apartments, and a 295 sq. ft. rooftop terrace. 890 Myrtle Avenue would be a similar building with 8,660 sq. ft. (3.46 FAR) of residential use and a 1,627 sq. ft. (0.65 FAR) commercial ground floor. The development would provide 10 elevator-accessible units, and a substantially larger, 589 sq. ft. rooftop terrace.

The largest of the four sites, 119-125 Vernon Avenue, consists of four lots with a total area of 8,000 sq. ft. and 80 feet of frontage on the north side of Vernon Avenue. The current R6B zoning was established by the Bedford-Stuyvesant North Rezoning; the parcels were previously zoned R6. The assemblage would be redeveloped as a five-story, 2.0 FAR, approximately 16,000 sq. ft. residential building with a maximum height of 50 feet. The development would contain 18 homeownership units, with a mix of one- and two-bedroom apartments, nine bicycle parking spaces, and a 3,505 sq. ft. ground-floor rear yard.

All four project sites are convenient to public transportation. 187 Chauncey Street is accessible via several buses including the B46, which makes stops on Malcolm X Boulevard, and the B49 and B99, which travel along Fulton Street. The Eighth Avenue Express A and Eighth Avenue Local C trains are available at the Utica Avenue subway station two blocks south on Fulton Street. 772 and 890 Myrtle Avenue are accessible via the B54 bus, which runs along Myrtle Avenue. The Brooklyn-Queens Crosstown Local G train at the Myrtle-Willoughby Avenues stop is situated on Marcy Avenue between

the two sites, and one block northwest of 119-125 Vernon Avenue. The fourth site is also served by the B43 bus, which makes stops along Tompkins Avenue.

The built context around 187 Chauncey Street consists primarily of one- and two-family homes and multi-family walkups up to four stories. Brevoort Houses, a New York City Housing Authority (NYCHA) complex of 13 buildings and nearly 900 apartments, extends from Patchen Avenue to Ralph Avenue between Bainbridge and Fulton streets. Commercial uses can be found along Malcom X Boulevard, which is mapped with C2-4 overlays. There are several large community facilities on Chauncey and Fulton streets, including Public School (PS) 21 Crispus Attucks, the Brooklyn Gardens Nursing and Rehabilitation Center, and several churches. Recreational resources include Fulton Park to the west, and multiple playgrounds, the largest being Jackie Robinson Park Playground.

772 and 890 Myrtle Avenue are located along one of CD 3's major commercial and transit corridors. The predominant housing type in the underlying R7D district is elevator apartment buildings, though low-rise homes are more common in the R6B district immediately to the south. The NYCHA Marcy Houses, located across the street from 772 Myrtle Avenue, is a 27-building campus bounded by Bedford, Marcy, Myrtle, and Nostrand avenues with more than 4,000 residents. The areas to the east and west are zoned for light industrial activity and medium-density residential use. Another NYCHA community, Tompkins Houses, extends from Tompkins to Lewis avenues, just east of 119-125 Vernon Avenue. Community facilities in the immediate vicinity include public schools and houses of worship. New York City Health + Hospitals/Woodhull is located on the north side of Park Avenue. The major open space resource is Marcy Playground, with several smaller playgrounds scattered throughout the area.

Brooklyn is one of the fastest growing boroughs in New York City and throughout the metropolitan area and its ongoing renaissance has ushered in extraordinary changes that were virtually unimaginable even a decade ago. Unfortunately, Brooklyn's success has led 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 permanently affordable housing, particularly for elderly adults, homeless households, and low-income families. Borough President Adams is committed to addressing the ongoing affordable housing crisis through the creation and preservation of units for Brooklynites of various incomes and household types.

Borough President Adams is also 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 Bed-Stuy Central and North NIHOP Cluster sites includes financing for which HPD contributes no less than \$2 million, Shelter Rock Builders LLC, Heritage Builders 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 in the design and construction process. Developers may adopt a goal higher than the minimum.

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.

Borough President Adams supports HPD and Shelter Rock Builders LLC's proposal to deliver approximately 45 affordable homeownership units on four City-owned sites in Bedford-Stuyvesant. However, he seeks a guarantee of permanent affordability and more opportunities for households complying with VIH AMIs, generation of transferable development rights, optimal community participation in the lottery, a greater proportion of family-sized units, integration of resilient and sustainable practices, and affordable commercial space for minority-owned small businesses. He encourages HPD and Shelter Rock Builders LLC to further consider his recommendations and continue working with the Council Member to maximize the project's public benefit as outlined in the following sections.

Ensuring Permanent Affordability

Since its inception in the early 1980s, HPD's homeownership program has helped first time home 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 10 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 later, given limited public land for such purposes.

Governments have sought to limit potential windfalls to assisted buyers 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 HDFO 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. Though there is an option to attempt to renew the tax abatement for an extended term, there does not appear to be a requirement to provide a mechanism to guarantee that affordability extends beyond 40-years. As a result, 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) VIH 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 US Bureau of Labor Statistics, 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 prices remain 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 being placed 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 Bed-Stuy North and Central NIHOP Cluster sites, he calls on HPD to require affordable housing according to a shared equity model that would achieve permanent affordability equivalent to the VIH program, or 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 a legal mechanism in its land disposition agreement (LDA) or other regulatory agreement, to ensure that developments on the Bed-Stuy North and Central NIHOP Cluster sites remain affordable in perpetuity.

Maximizing Voluntary Inclusionary Housing (VIH) Bonus-Generating Floor Area

VIH was established in 1987 to encourage economically integrated communities and incentivize the creation and/or preservation of affordable housing. The program offers a density bonus for developments that provide affordable units. The additional floor area can be used on the bonus-generating site or transferred to a receiving site within the same community district or within a half-mile of the development. Inclusionary housing bulk regulations permit an additional story as reflected in the allowance of an additional 10-feet in the maximum base and final height. A VIH development with a qualifying ground floor could rise to a height of 115 feet or 11 stories.

The underlying R7D zoning at the Myrtle Avenue sites permits a FAR of 5.6 for buildings that participate in the VIH program. According to the application, 772 and 890 Myrtle Avenue would be constructed to under 4.2 FAR, the maximum permitted without the VIH bonus. According to Shelter Rock Builders LLC, exceeding the proposed six floors at the sites would trigger the New York City Building Code requirement to provide a second set of stairs. Such obligation would increase the project's construction costs while diminishing the size of the homeownership units. It would also create a spatial challenge for the rather limited commercial spaces.

According to ZR Section 23-154(b), the VIH program provides a 33 percent floor area bonus, of which 80 percent must be permanently affordable low-income floor area. In R7D districts, the 1.4 additional FAR pursuant to VIH yields a permanently affordable FAR of 1.12. According to ZR Sections 23-911 to Section 23-913, such floor area may be used to facilitate homeownership affordable housing, with an income cap of 80 percent of AMI pursuant to ZR Sections 23-154 and 23-911. While constructing the additional 1.4 FAR on the 772 or 890 Myrtle Avenue zoning lot might be infeasible, filing up to 1.12 FAR provides two opportunities to leverage the bonus development rights.

First, the ZR permits the transfer of unused floor area to abutting properties, while limiting the amount that can be sent to zoning districts that permit less density, according to Section 77-22(a). Pursuant to VIH, the 772 and 890 Myrtle Avenue sites would each generate up to 1.4 FAR or 3,500 sq. ft. of unused zoning rights, of which 1.12 FAR of 2,800 sq. ft. would be permanently affordable. ZR Sections 23-96(a)(1) and (2) allow offsite provision of VIH bonus floor area for new developments in VIH-designated districts. In CD 3, such areas are mapped primarily along Broadway, Fulton Street, and Myrtle Avenue corridors, as well as sections of Bedford and Nostrand avenues. VIH-designated areas within a half mile of the generating site are also eligible. For such developments, in lieu of establishing the 80 percent affordable floor area onsite to generate the bonus FAR, such requirement could be met by providing equivalent floor area at 772 and/or 890 Myrtle Avenue. For a development constructed in a VIH-designated area, the additional floor area according to VIH can be ultimately satisfied by buying the low-income floor area with a Certificate of Occupancy (C of O) that would record such purchase and all the bonus floor area to be used as market-rate housing.

Both the 772 and 890 Myrtle Avenue sites offer possibilities for transfer of unused development sites via zoning lot merger. For 772 Myrtle Avenue, the abutting southern lot would facilitate a feasible building enlargement. The 1,900 sq. ft. parcel at 19 Vernon Avenue is zoned R6B, with a base FAR of 2.0. With potentially 20 percent of an increase of potentially allowable floor area shifted across zoning district boundaries pursuant to ZR 77-22a, this site could receive 0.4 FAR, or 760 sq. ft. of additional floor area. The inclusion of the 17 or 21 Vernon Avenue parcels (each also 1,900 sq. ft.) in the lot merger would permit transfer of the full 1,400 sq. ft.

For 890 Myrtle Avenue, the abutting 892 Myrtle Avenue lot is developed to 2.6 FAR. As the site is also zoned R7D, the bulk envelope could readily accommodate approximately 3,500 sq. ft. of unused rights from the HPD site. The development potential of 14,000 sq. ft, or net effective 5.6 FAR, would likely induce new construction at 892 Myrtle Avenue. Alternatively, based on ZR Section 77-22a, the Greater Cross Roads Baptist Church at 116 Tompkins Avenue, located behind 890 Myrtle Avenue and in the

adjacent R6A district, could be a receiving site for 1,500 sq. ft. As the church is built to half of its allowable 3.0 FAR, it could benefit from the added benefit provided by the transfer of development rights from 890 Myrtle Avenue. With potentially 20 percent of an increase of potentially allowable floor area shifted across zoning district boundaries pursuant to ZR 77-22a, this church property could receive 0.6 FAR, or 1,500 sq. ft. of additional floor area. A decision by the church to redevelop its property for uses such as affordable housing would be consistent with Borough President Adams' Faith-Based Development Initiative.

By establishing 1.12 FAR at both 772 and 890 Myrtle Avenue as generating floor area, and extending affordable homeownership opportunities to households earning up to 80 percent AMI, the project could realize a combined 7,000 sq. ft. of market-rate floor area, of which 5,600 sq. ft. would be permanently affordable. Such unused rights could be transferred via zoning lot merger or sent to a compensated VIH development site to achieve low-income floor area. Such possibilities could generate more than \$1 million, funds that could cross-subsidize the sales pricing for the Bed-Stuy Central and North sites and/or help reach deeper affordability for subsequent HPD affordable housing developments, such as pending sites from the Bedford-Stuyvesant Housing Initiative. A determination should be made whether such zoning rights remain with HPD or be conveyed to Shelter Rock Builders LLC.

Therefore, to achieve more units at 80 percent AMI, the C of O for each of the Myrtle Avenue buildings should mandate that VIH floor area constitute not less than 10 percent of the allowable 1.12 far, as a permanently affordable segment of the allowable 1.4 FAR VIH bonus.

Furthermore, a determination should be made regarding the market-rate zoning rights realized from providing the affordable housing segment of the VIH bonus (up to 0.28 FAR) and the remaining market-rate floor area from the allowable 5.6 FAR at 772 and 890 Myrtle Avenue. If conveyed to Shelter Rock Builders LLC, such development rights could be used to achieve deeper affordability at all four project sites or sold as part of a zoning lot merger to allow another development in a VIH-designated area within CD 3 and/or one half mile of either site. Alternatively, the rights could remain with HPD to be used to finance future affordable housing development in on City-owned cites in CD 3.

Maximizing Opportunities for Lower-Income Buyers and Families

A 2016 report by the New York University (NYU) Furman Center found that homeownership remains out of reach for most New York residents. 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 based on the current proposal, too few Bedford-Stuyvesant residents would qualify for the Bed-Stuy North & Central Phase 2 lottery. He believes that for the project to meet the 50 percent local preference target, it must provide more deeply affordable homeownership units as well as providing more family-sized units. Achieving deeper affordability would require securing a larger subsidy from HPD or redistributing some units to higher income tiers, to preserve the developer's projected revenues.

Borough President Adams is also aware that family-sized affordable housing units are in great demand across Brooklyn, and that larger apartments tend to be the most expensive. 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.

According to the March 25th letter from Shelter Rock Builders LLC, Bed-Stuy North & Central Phase 2 would provide 20 one-bedroom unit available to households earning between 90 percent to 100 percent of AMI, two units for households with earnings of at least 100 percent of AMI, eight one-bedroom units

and 15 two-bedroom apartments, for household earning between 110 to 130 percent of AMI. Should two million of requested Reso A subsidies be provided, evenly split by Borough President Adams and Council Member Cornegy, the letter projected that six one-bedroom units and three two-bedroom apartments could be earmarked for households earning between 80 percent and 90 percent of AMI, 17 one-bedrooms targeted between 93 percent and 100 percent of AMI, 12 two-bedrooms targeted between 95 percent and 100 percent of AMI, two two-bedrooms between 112 percent and 130 percent of AMI, and five one-bedrooms between 115 percent and 130 percent of AMI. Borough President Adams believes it is appropriate to modify the proposed design to achieve more two-bedrooms and/or one or more three-bedroom units. Moreover, the affordability program should earmark more such units at 80 percent AMI. Altogether, these strategies would better gear the development toward larger households and allow moderate-income families to remain in Bedford-Stuyvesant.

Based on its review of the available building plans, the Office of the Brooklyn Borough President believes that there are several ways to increase the number of two-bedroom units. For example, at 772 and 890 Myrtle Avenue, the commercial floor area could be reduced by duplexing from the rear unit on the second floor down to the first. This redesign would create an additional bedroom while providing direct access to the intended rear yard. At the Myrtle Avenue buildings, as well as 187 and 187R Chauncey Street, it is recommended that each unit remove a rear-facing one-bedroom and divide such space in half, to be duplexed to units above and below. Taken together, such actions would reduce the project's unit count from 45 to 42, while realizing a more family-oriented mix of 17 one-bedroom and 25 two-bedroom units.

Borough President Adams understands that the HPD subsidy is unfortunately based on the number of units rather than the number of bedrooms. He recognizes that providing additional two-bedroom apartments would require the developer to shift more units to AMIs exceeding 110 or even 120 percent. However, as long as some units qualify as VIH, if only half the units are targeted to households earning below 100 percent AMI, the project is much more likely to achieve 50 percent local preference. Achieving a majority two-bedroom mix would also maximize the development's public purpose. Borough President Adams believes this is essential, as the proposed development would be built on disposed City land.

Therefore, prior to consideration, City Council should obtain written commitments from HPD clarifying how its LDA or Regulatory Agreement with Shelter Rock Builders LLC would memorialize the provision of additional units more deeply affordable units while realizing a greater percentage of family-sized units.

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

afforementioned 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, Shelter Rock Builders LLC would enter into a regulatory agreement with HPD for the project's affordable housing program, that would memorialize the building plans and the bedroom mix. The agreement specifies how homeowners will be selected upon sale or resale, and how household income will be verified prior to occupancy, as well as additional information deemed necessary by HPD.

As stated at Borough President Adams' hearing, Restored Homes HDFC, which has a proven track record as an administering agent of homeownership affordable housing units, would conduct a marketing and outreach campaign, and BNS would provide financial literacy training. While Restored Homes HDFC has a Citywide focus, BNS is a local non-profit that serves the Bedford-Stuyvesant community.

Borough President Adams believes that prior to consideration, the City Council should obtain written commitments from HPD that its LDA or Regulatory Agreement with Shelter Rock Builders LLC would obligate the developer to supplement Restored Homes HDFC's efforts by designating BNS and/or other local non-profit to promote lottery readiness and financial literacy.

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 at each of the four disposition 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 HPD projects will not be required to comply with the laws for the first five years. This exemption period will allow the agency to study the feasibility of incorporating green roofs into affordable housing developments.

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 developers to engage the Mayor's Office of Sustainability, NYSEDA, 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 City 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 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 opportunities for street tree pit enhancements, which would increase stormwater infiltration and provide additional plantings. 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 any or all the project 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 from the landlord or managing entity. 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 Newtown Creek Wastewater Treatment Plant during wet weather. Such rain gardens have the added benefit of serving as a streetscape improvement.

Borough President Adams recognizes that on-site water retention can be achieved in a multitude of ways and seeks to promote green infrastructure practices in new developments. He believes that Shelter Rock Builders LLC should further consult with DEP, the New York City Department of Transportation (DOT), and the New York City Department of Parks and Recreation (NYC Parks) regarding the integration of required street trees with a DEP rain garden as part of a Builders Pavement Plan. Where the agencies have interest in implementing an enhancement, advance consultation should be initiated with CB 3 and local elected officials.

Borough President Adams believes that HPD should codify, in its LDA or Regulatory Agreement with Shelter Rock Builders LLC, the extent to which such resiliency and sustainability strategies (including green roofs with photovoltaic systems, passive house construction principles, and water-retention measures involving the proposed street tree plantings) would be integrated into the proposed development. He also calls on the developers to coordinate with DEP, DOT, and NYC Parks to explore the feasibility of planting the required street trees with a DEP rain garden as part of the Builders Pavement Plan, inclusive of the Bed-Stuy Central and North NIHOP disposition sites, in consultation with CB 3 and local elected officials.

Leveraging the Provision of Required Commercial Space on Myrtle Avenue as a Relocation Resource for Minority- and Immigrant-Owned Small Businesses

Borough President Adams is concerned about Brooklyn's minority- and immigrant-owned businesses, which form a vital part of communities, but are easily displaced by any combination of rising commercial rents and real estate values. Even before the COVID-19 pandemic devastated neighborhood economies, such entities, including long-standing operators, were being driven out by commercial gentrification and new development.

Borough President Adams supports the City's recent efforts to bolster minority and immigrant entrepreneurship by removing barriers to opportunity. One such strategy involves assisting with real estate costs, which can discourage or prevent entrepreneurs from growing their businesses. According to a recent report by the Citizens Planning and Housing Council (CPHC), 77 percent of the City's immigrant-owned small businesses, which are often family-owned operations with limited capital, are burdened by

commercial rents. Other evidence suggests that the high cost of leasing storefronts in many neighborhoods prevents individuals from scaling up companies started in their homes.

Historically, Bedford-Stuyvesant has been a thriving middle-class Black neighborhood where Black entrepreneurs established businesses that served the community. In recent years, that legacy has been diminished, with many establishments now gone and other struggling to remain. As a result, older businesses have been forced to close or move, with little possibility of returning to the neighborhood.

As stated earlier, Borough President Adams believes that residential development on public land should yield 100 percent affordable housing. Any non-residential floor area on City-owned property disposed to private developers should also advance a public purpose. The proposed commercial ground floor at 772 and 890 Myrtle Avenue, required by R7D/C2-4 zoning, would yield more than 1,600 sq. ft. of retail floor area at each site. Borough President Adams believes that commercial space resulting from the disposition of City-owned lots should serve as an affordable relocation resource for businesses displaced from Myrtle Avenue and nearby retail corridors, with priority given to minority- and immigrant-owned enterprises. Tenant recruitment and lease negotiation could be facilitated by the Bedford Stuyvesant Restoration Corporation (BSRC) and its Brooklyn Business Center, a one-stop shop for aspiring entrepreneurs and managers in the area.

Therefore, prior to considering the application, the City Council should obtain commitments from HPD and Shelter Rock Builders LLC that the required ground-floor commercial space at 772 and 890 Myrtle Avenue would be set aside for minority- and immigrant-owned small businesses. Shelter Rock Builders LLC should actively solicit such entities based on reasonable lease terms, in consultation BSRC, CB 3, and local elected officials.

Modify Open Door to Work with Voluntary Inclusionary Housing Generating Homeownership Floor Area

HPD's primary vehicle for financing the development of new affordable co-operative and condominium housing is the Open Door program. The current per-unit subsidies are \$165,000 for projects targeted to higher income tiers, and \$190,000 for projects geared toward moderate incomes. HPD has worked to increase such financing on a case-by-case basis.

The Open Door term sheet stipulates AMIs of 80 to 130 percent for homeownership affordable housing. Prospective buyers earning up to 80 percent AMI are eligible for assistance from HomeFirst, a program that provides up to \$40,000 toward a down payment or closing costs. Households at more than 80 percent AMI do not qualify, and because the Affordable Neighborhood Cooperative Program (ANCP) targets sale prices of vacant units toward households earning 80 to 120 percent AMI, HDFC co-op purchasers are disadvantaged by these requirements.

Unfortunately, Open Door terms also do not align with the VIH homeownership option, which sets the maximum qualifying income for initial occupancy at 80 percent of AMI. As HPD has jurisdiction over several City-owned sites in VIH-designated areas, this results in a lost opportunity to realize the 33 percent floor area bonus for generating moderate-income affordable housing. If the programs were aligned, HPD would be able to realize homeownership opportunities for households below 80 percent AMI using VIH floor area, which would qualify more buyers for HomeFirst assistance.

Borough President Adams believes that HPD should modify its homeownership affordable housing programs to establish a lower AMI limit that overlaps the upper limit of the ZR VIH Program. Such policy would facilitate permanently affordable housing that qualifies as VIH bonus-generating floor area.

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) incorporate into its Land Disposition Agreement (LDA) or Regulatory Agreement with Shelter Rock Builders LLC the following commitments:
 - a. That the resulting homeownership units be permanently affordable
 - b. That as a means to facilitate units not in excess of 80 percent of Area Median Income (AMI), the Certificate of Occupancy (C of O) for both 772 and 890 Myrtle Avenue shall mandate permanently affordable Voluntary Inclusionary Housing (VIH) floor area to be within not less than 10 percent of the allowable floor area ratio of 1.12 FAR as a permanently affordable segment of the allowable 1.4 FAR VIH bonus
 - c. That for both 772 and 890 Myrtle Avenue, a determination be made to the extent that market-rate development zoning rights realized from providing the affordable housing indexed segment of the VIH bonus (up to 0.28 FAR) and remaining available market rate development floor area from the allowable 5.6 FAR, should be disposed to Shelter Rock Builders LLC, to cross-subsidize the affordability of all four project sites, should be sold as part of a zoning lot merger and/or to allow another development within a VIH-designated area located in Brooklyn Community District 3 (CD 3) and/or within one-half mile of either 772 and 890 Myrtle Avenue, or, should remain with HPD to be disposed, with proceeds of such sales to be earmarked to achieve greater affordability for future affordable housing development on City-owned sites in CD 3
 - d. That the overall number of apartments be modified to realize a greater number of two-bedroom units, and/or one or more three-bedroom units
 - e. That one or more local non-profits be utilized to promote affordable housing lottery readiness and financial literacy
 - f. That development at 187 Chauncey Street, 772 and 890 Myrtle Avenue, and 119-125 Vernon Avenue, adequately demonstrate:
 - i. Integration of resiliency and sustainability measures such as rain gardens, blue/green/white roof treatment, passive house construction, and/or solar panels
 - ii. Coordination 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) to install DEP rain gardens as part of a Builders Pavement Plan, in consultation with Brooklyn Community Board 3 (CB 3) and local elected officials
 - g. That the required ground-floor commercial space at 772 and 890 Myrtle Avenue provide a relocation resource for minority- and immigrant-owned small businesses, based on reasonable lease terms, in consultation with the Bedford Stuyvesant Restoration Corporation (BSRC), CB 3, and local elected officials

Be It Further Resolved:

That HPD modify its homeownership affordable housing programs to establish a lower AMI limit that overlaps the upper limit of the ZR VIH Program to facilitate permanent affordable housing floor area that qualifies as bonus-generating floor area according to VIH