

**Brooklyn Borough President
Recommendation**

CITY PLANNING COMMISSION
22 Reade Street, New York, NY 10007
FAX # (212) 720-3356

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 # 100185 ZMK, 100186 ZRK, 100187 ZSK, 100188 ZSK, 100189 ZSK, 100190 ZAK
The New Domino

In the matter of applications submitted by the Refinery LLC pursuant to Sections 197-c and 201 of the New York City Charter for actions including an amendment to the zoning map and text and the grant of special permits pursuant to Sections 74-743(a)(1&2); 74-744(b); and, 74-53 of the Zoning Resolution to allow for a mixed-use development with approximately 2,200 residential units, 30 percent (660 units) intended to be affordable with provisions for waterfront public access area/esplanade on property bounded by Grand to south 5th Street between East River and Kent and upland parcel east of Kent between South 3rd & 4th Street.

COMMUNITY DISTRICT NO.

1

BOROUGH OF BROOKLYN

RECOMMENDATION

Zoning Text Amendment:
100186 ZRK

APPROVE
 APPROVE WITH
MODIFICATIONS/CONDITIONS

DISAPPROVE
 DISAPPROVE WITH
MODIFICATIONS/CONDITIONS

Zoning Map Amendment and Special Permits:
100185 ZMK – 100187 ZSK – 100188 ZSK

APPROVE
 APPROVE WITH
MODIFICATIONS/CONDITIONS

DISAPPROVE
 DISAPPROVE WITH
MODIFICATIONS/CONDITIONS

Special Permit:
100189 ZSK

APPROVE
 APPROVE WITH
MODIFICATIONS/CONDITIONS

DISAPPROVE
 DISAPPROVE WITH
MODIFICATIONS/CONDITIONS



BOROUGH PRESIDENT

April 9, 2010

DATE

**RECOMMENDATION FOR THE FOLLOWING
PROPOSED ACTIONS: AMENDMENT OF THE ZONING MAP,
ZONING TEXT, THE GRANT OF SPECIAL PERMITS
100185 ZMK, 100186 ZRK, 100187 ZSK, 100188 ZSK, 100189 ZSK,
100190 ZAK**

These applications by the Refinery LLC seeks an amendment to the zoning map and text; and the granting of special permits in order to facilitate the redevelopment of a sugar refinery and the development of a mixed-use project on 11 acres of waterfront and upland property in the Williamsburg community.

Public Hearing

On March 11, 2010 the borough president held a public hearing for the New Domino proposal. Eighty people were in attendance of which thirty-four testified. Nineteen speakers were in favor of the application including representatives for Congresswoman Nydia Velazquez and Council Member Diana Reyna. Fifteen speakers testified against the application including a representative for Council Member Stephen Levin.

Both elected officials and other speakers in favor commented on the importance of providing more affordable housing that would benefit the community. Additionally, they stressed that this plan will open up to the community much needed access to the waterfront and the provision of open space which is much in need in the area. The project would help revitalize the vacated site while retaining a historic component of the community. Lastly, many welcomed the jobs which the project will create both through construction and permanent employment.

Although Council Member Levin commended favorably about the amount of affordable housing and open space, he did not support the project as it is currently laid out citing its overwhelming height and impact on infrastructure. Generally, opponents felt that the project as proposed is too big. It is believed that its height will dwarf parts of the surrounding neighborhood and would result in an abundance of people into the community. It was stated that this project did not properly reflect the historic value that the Domino Sugar site held in New York City history. Others commented that alternative plans should be realized for this site.

Consideration

Community Board 1 (CB 1) voted to disapprove the application unless certain conditions were met by the developer. These included: a reduction in the project's overall density; a restriction of the heights on the upland parcel to reflect an R6A envelope; mitigation of the shadow impacts on Grand Ferry Park through a reduction in height of the towers; funding of a transportation study covering the entire community district; a reduction in the parking provided; a reduction in the retail portion of the upland site; and memorialized guarantees on all of the proposed aspects of the project.

Requested Land Use

The applicant has requested a zoning designation change from M3-1 to C6-2 and R8/C2-4 for the waterfront site and R6 for the upland site. The proposed zoning would extend the permitted land use from the recently established R7-3 zoning on waterfront parcels south of Broadway, and the blended R8/R6 zoning north of North 3rd street. It is the borough president's policy to support land use changes that enhance open space access and increases the supply of housing for Brooklyn residents; especially when such projects result in affordable housing. The borough president is concerned that too many of the borough's resident's leave because they can no longer afford to live in Brooklyn. The proposed zoning

provides an opportunity to address this concern by allowing for development that provides waterfront public access and additional floor area to facilitate affordable housing.

However, the borough president has concerns with a number of issues including: overall bulk (upland parcel) and density; details of the affordable housing commitment; adequacy of schools and day care; opportunity for a supermarket and artisan establishments; amount of parking; traffic management; adequacy of the public transportation; impact on Grand Ferry Park; maximizing employment opportunities; and, opportunities from the retained Domino sign.

Bulk/Density

The borough president does not believe that the waterfront site, in itself, warrants floor area that is not generally consistent with recent rezonings along the Williamsburg waterfront. The area-wide Williamsburg-Greenpoint rezoning capped floor area at 4.7 FAR, with blended zoning district designations with the inclusion of affordable housing. Rezoning to the south of Broadway, which were pursued at the expense of individual applicants, were capped at 5 FAR with the inclusion of affordable housing by being designated R7-3. The borough president recently approved a fourth rezoning to the south at Division Avenue for this R7-3 designation. The borough president believes that this application to redevelop privately-owned property should be more in keeping with the density of what is permitted by the R7-3. However, certain public concerns that are discussed in later sections, do warrant consideration for floor area exemptions.

The borough president does not believe that the upland site should accommodate the more than doubling of the permitted floor area based on the proposed R6 designation. The borough president agrees with the recommendation of CB 1 to limit bulk per the R6A district standard of 3.6 FAR. With such floor area limitation, the borough president believes that it is not necessary to authorize the transfer of all the requested 187,187 square feet through the General Large Scale Plan. The maximum street wall height of 60 feet and overall height of 70 feet according to R6A regulations should be adequate to accommodate 3.6 FAR. Therefore, the borough president does not see the need to accommodate the requested bulk modifications for the upland block as they pertain to: tower floor plates; base height and setback requirements; and, rear yard requirements. By not permitting the first few modification requests, the resulting building would be sufficiently in context with the surrounding inland blocks. By maintaining the rear yard requirement, a more ample interior space would result with a higher percentage of the apartments fronting the street and the interior facing apartments having more extensive light and air.

Affordable Housing

Guarantee of Affordable Housing Provided and "Affordable Forever"

The New Domino project proposes to set aside 30 percent of its total units for affordable housing, including 20 percent of the floor area pursuant to the Zoning Resolution's Inclusionary Housing Program's (IHP) floor area bonus. The IHP set aside is consistent with the borough president's "Affordable Forever" initiative as floor area would remain affordable for the life of the development. According to the IHP, the affordable housing units would accommodate families earning up to 80 percent of area median income (AMI). If the developer seeks real estate tax abatement according to the City's 421-a tax program, the affordable units would be restricted to up to 60 percent of AMI. According to the terms of the proposed General Large Scale Plan, the requested zoning bulk waivers would only be available if the development made use of the IHP.

The borough president supports the establishment of zoning text that makes the IHP applicable to the requested zoning map change. He believes that the floor area, real estate incentives, and restricting applicability of the bulk waivers would go a long way towards

providing the expectation that such affordable units linked to the IHP would be part of the development. However, this does not result in an explicit guarantee of receiving these units. The units proposed in excess of the 20 percent pursuant to the IHP have no basis under the proposal to ensure that they are included in the development. It would be unfortunate if circumstances prevented the applicant from honoring this commitment, especially given that the community's need for affordable housing is only increasing.

It is the borough president's policy to obtain a written commitment or explanation that conveys a suitable assurance that the affordable housing will be built. Residential construction should proceed only according to both a building permit that includes the floor area bonus, approved by the commissioner of the Department of Housing Preservation and Development (HPD), and the filing of a legal instrument that assures that as proposed, 30 percent of the units would be affordable. In a letter from the applicant dated April 8, 2010, the applicant commits to development pursuant to IHP through the provision of a legal instrument and will work with the City to memorialize the commitment to having 30 percent of the project's units as permanently affordable.

The New Domino proposes that 20 percent of the affordable units would be affordable homeownership for middle-income households. The borough president is committed to seeking to provide opportunities for Brooklyn's working families to have access to affordable housing. The borough president believes that it is appropriate for the New Domino project to provide a percentage of housing devoted to such households as represented by tenants, civil servants and uniformed services. For such housing, he advocates for these units to be "Affordable Forever."

Affordable Housing for the Elderly

The New Domino proposes to provide approximately 100 of the affordable housing units for the elderly. The borough president supports projects that increase the supply of affordable housing for the growing number of elderly residents of Brooklyn. Unfortunately, many seniors continue to live in substandard accommodations and/or are forced to spend an excessive amount of their income on their housing. The increasing demand for decent affordable senior citizen housing is not being met by the rate of production and needs to be addressed through the construction of quality accommodations. Though this section of Williamsburg is often thought of as a burgeoning community for a younger generation, the larger area has a senior population in need of affordable housing options. The borough president urges the applicant to provide a firm commitment that affordable senior citizen housing would be part of the overall development. In a letter from the applicant dated April 8, 2010, the applicant has indicated its previous commitment to include such housing and will explore the feasibility of including senior housing within the earliest possible phase of the project

The borough president has recommended capping the floor area of the upland parcel to 3.6 FAR pursuant to R6A height and setback standards. However, he believes that it is appropriate to make an exception for floor area as part of a nonprofit residence for the elderly. According to R6A regulations, such buildings are permitted to have an FAR of 3.9. The borough president supports such FAR as an incentive to include a nonprofit building on the upland site for housing the elderly.

Providing Maximum Opportunity for Obtaining Affordable Housing

The New Domino project is proposed to target income tiers up to: 30 percent and 60 percent for the unrestricted rental units and to 130 percent for homeownership units. For smaller household size compositions eligible for a specific bedroom type (i.e. two-bedroom apartment) rent is typically set at two percent less than the maximum allowable income. These income eligibility bands increase for larger households. Families earning above or

below each band within the income tiers proposed would not have an opportunity to seek affordable housing in the New Domino project. For ownership housing typical eligibility bands are broad, meaning that more modest income households would be competing with households earning towards the upper limit of eligibility for the same home.

The borough president believes that expanding opportunities for more households within the community to apply for scarce affordable housing is an important objective to achieve. Adding more income tiers between the 30 percent and 60 percent tiers would provide a means to allow an increased number of families to become eligible to seek such housing at the New Domino. Such a strategy was integrated into the Palmer's Dock affordable housing development with income tiers ranging from 30 to 80 percent AMI. Establishing multiple tiers for the homeownership units would provide a greater assurance that households of lesser means are selected for such homes. This can be achieved, for example, by establishing income bands at multiple tiers such as 100 to 110 percent; 110 to 120 percent; and 120 to 130 percent. Such brackets would also result in varied subsidies being needed as higher priced homes would not require as much subsidy. In a letter from the applicant dated April 8, 2010, the applicant will explore the feasibility of increasing the number of tiers of affordability for the affordable housing units.

Retaining Homeownership as "Affordable Forever"

Permanently affordable homeownership, also known as "shared equity," provides the benefits of building wealth for the homeowner while assuring that the home remains an affordable housing resource when resold. Resale restrictions could be based on several existing models such as subsequent re-sales of the homeownership units being indexed to standards as defined by the City's IHP. Other methods are noted in documents produced by the Center for Housing Policy, including the Consumer Price Index. Establishing permanent resale considerations would recycle the initial subsidies, while resulting in these housing units being affordable for future generations of Brooklynites. In a letter from the applicant dated April 8, 2010, the applicant commits to working with the City to memorialize permanent affordability and agreed to further investigate mechanisms to facilitate this concept.

Local Preference for Displaced Households

The local community district preference for fifty percent, while laudable, does not benefit those who have been and continue to be displaced from Greenpoint and Williamsburg. Adequate consideration for those who have been unable to find affordable accommodations within Community District 1 (CD1) is imperative. In the borough president's recommendation for the 2005 rezoning of Williamsburg and Greenpoint, he called for the local preference to be extended to those subsequently displaced from the district. He understands that the Palmer's Dock affordable housing development included in its 50 percent CD1 prioritization of those families who had lived in the district at the time of the May 11, 2005 rezoning. He believes that such a standard should also be met by the New Domino development to provide additional opportunities for those displaced from CD1 subsequent to May 11, 2005. In a letter from the applicant dated April 8, 2010, the applicant will include in the local preference families that have recently been displaced from CD1 subject to review and approval by HPD.

Financial Considerations to Achieve 30 Percent of the Housing as Affordable

The borough president believes that the New Domino is an ambitious undertaking with tremendous financial obligations. Reconstructing/stabilizing the bulkhead and over water platform for approximately one-quarter of the development is a significant financial undertaking in itself. Landscaping the site, consisting of approximately four-acres of waterfront public promenades and supplemental spaces, is relatively double the minimum required public open space and presents additional costs for the development to incur.

However, except for the extra acreage, these financial hurdles are standard for redeveloping the waterfront with high-density housing. Unique to this development is the responsibility to preserve the Refinery Building, which is actually three structures that wrap machinery. Though the Landmarks Preservation Commission (LPC) approved adaptive reuse with a limited amount of floor area created through building enlargements, this is an expensive undertaking which requires stabilizing the existing walls while essentially building a new building on the interior.

With all these elements to account for, the New Domino development is intended to provide 30 percent of its housing units as affordable. This is the basis for the requested floor area. As the borough president commented in regards to bulk and density, he believes the project should be scaled back to be more in line with R7-3 floor area for the waterfront parcel, and R6A floor area for the upland lot. The borough president is aware that such a reduction would not enable the development to successfully cross-subsidize the intended amount and degree of affordability of the below market-rate housing. The project's extraordinary cost associated with preservation and reuse of the Refinery building, additional open space and ratio of land to water's edge, will be absorbed by the remaining market-rate units.

In order for the New Domino project to meet the stated objectives while reducing the bulk and density, the borough president would seriously consider designating funds from his Fiscal Years 2012, 2013 and 2014 Brooklyn Housing Development Fund. He encourages the developer to apply annually for such funding. In addition, the borough president believes that as the community preference includes all of CD 1, it is appropriate for the city council members from the 33rd and 34th districts, the assembly members and state senators encourage the developer to call on them for funding allocations because the government has an obligation to leverage opportunities where such an extensive amount of affordable housing, including units to those households of very low income. It is a legitimate public purpose to balance the highly atypical costs in developing this site with government financial resources to obtain the significant public benefits associated with this project rather than rely on providing the balance merely through market-rate density. In addition, it is appropriate for the developer to seek City and State financing. He believes that with such additional funding, the New Domino would successfully meet its objectives with some bulk and density reduction.

School/Day Care

Schools

According to the DEIS, the New Domino in combination with ongoing and projected developments, could result in nearly 2,500 additional elementary school children and more than 1,000 intermediate school students living within one-half mile of the development. These estimates do not include much of the new development around McCarren Park and on the east side of the Brooklyn-Queens Expressway. The number of needed seats would be nearly 1,800 for elementary schools within a ten minute walk from the development. For intermediate schools, the shortfall would be approximately 100 seats.

The Department of Education's (DOE) 2010-2014 Five-Year Capital Plan for Community School District 14 (CSD14) includes a 738-seat PS/IS that is apparently in response to DCP's 2005 rezoning. It is believed to be a leased facility that is expected to be completed by 2013. The borough president anticipates that this school is more likely to be located close to McCarren Park or further to the north, though DOE has revealed little despite the anticipated completion date. He would like DOE/School Construction Authority (SCA) to be more transparent about the site and timeline for completion. Even with this school, the borough president believes that the New Domino development warrants an additional elementary school site to supplement P.S. 84 (two blocks from the site) and P.S. 17 (six blocks from the site).

Within the Refinery Building, community facility space totaling 104,135 square feet has been allotted. According to information provided to the borough president's office, a 665-seat school could be accommodated within a 94,000 sf section of this building. Based on other considerations involved in preparing the Refinery Building for occupancy, it is possible to commence construction of a school space by 2014, making it possible to provide an adequate school for the larger area surrounding the site.

The borough president supports effort to include a public school in the Refinery Building, including floor area exemption for such space. This would be a reasonable modification to the borough president's general position as noted in the section above pertaining to bulk and density. Though he recommended capping the floor area of the waterfront parcel to 5 FAR, the borough president would support such space within the Refinery Building to be exempt from zoning floor area calculations. Further, he seeks DOE/SCA's commitment for the acquisition of a sufficient area of designated community facility space within the Refinery Building in order to proceed with a design for an elementary school to house grades Pre-K to 5 in a timely manner. Planning for the school should commence at least one year prior to the estimated December 2013 Refinery Building construction date. The 27-foot wide terrace above the one-story, ground level addition along the East River side should serve as an exclusive roof-top open space for the school.

With regard to these schools, in a letter dated April 8, 2010, the borough president wrote to Chancellor Joel Klein seeking more specific information on the current status of the PS/IS in the Capital Plan, particularly regarding the exact site location; and for a written commitment of intent to open and operate the school within the Refinery Building that would be incorporated into a subsequent Capital Plan.

In order to assure that a school of appropriate size is included in the Refinery Building, the borough president seeks a legal instrument that binds development for a school within the building of not less than 90,000 square feet.

In a letter from the applicant dated April 8, 2010, the applicant is prepared to include a school within the refinery should SCA determine that the need exists.

Supermarket

The borough president notes that access to affordable fresh food and vegetables are lacking in many neighborhoods. One of his top priorities has been to provide access to healthy food stores in those neighborhoods that are underserved. In order for all of Brooklyn to flourish, it is imperative that residents have an adequate supply of supermarkets and grocery stores in their neighborhoods to access fresh and affordable foods. In light of this, the borough president has been seeking ways to establish more supermarkets. Among his policies is to review all discretionary land use applications to determine whether it is appropriate to include a supermarket within the plans. The borough president believes that within the retail space proposed within the upland parcel fronting along Kent Avenue, it is appropriate to incorporate a supermarket that is consistent with the attributes according to the FRESH food store initiative. The DEIS assumed a supermarket of 30,000 sf as part of that assessment.

He believes that a supermarket of not less than 20,000 sf should be included as part of the development of the waterfront site, with sufficient accessory parking as a means of enticing a grocery store operator to secure such space. The borough president believes that every effort to include a supermarket should include additional incentives. This would include modifying the borough president's general position as noted in the section above pertaining to bulk and density. The borough president recommended capping the floor area of the

upland parcel to 3.6 FAR pursuant to R6A height and setback standards. However, floor area of a supermarket up to 30,000 sf should be exempt from zoning floor area calculations and further permit the overall height and setback standards to comply with R7A building envelop regulations with street wall height increased to 65 feet and overall height to 80 feet.

In a letter from the applicant dated April 8, 2010, the applicant is committed to seeking a supermarket for the entire retail space shown in the ULURP applications for the upland parcel.

Retail/Artisan Use

The recommendation of CB1 calls for limiting the size of individual retail establishments to 5,000 sf as a means of fostering neighborhood retail. The borough president generally supports this recommendation though he believes that placing such a limitation on the waterfront facing establishments might hinder the attraction and retention of restaurant operations. Restaurants are one of the rare commercial uses that can still thrive when not located on traditional street frontage. Also, restaurants are the type of use that can enliven a waterfront public access area. Therefore, the borough president does not favor space restrictions that might preclude the successful operation of a restaurant fronting such public space.

Williamsburg is a significant cog within Brooklyn's "creative economy" community, however, opportunities to flourish are dependent on the ability to pay market-based rents. "Creative economy" businesses traditionally cannot compete along retail corridors in terms of ability to pay rent.

The New Domino project proposes approximately 70,000 sf of ground floor retail on the waterfront parcel (including the Refinery Building), with the vast majority oriented towards Kent Avenue as a means to activate the street for pedestrians. The borough president would encourage the New Domino development to devote some of the retail space fronting Kent Avenue for Brooklyn's artisans. Such storefronts could be used as artisan spaces for the production and sales of items produced on premises; and/or, teaching/performing. It could include examples as follows: art needlework, hand weaving and tapestries; ceramic and glass products; custom clothing manufacturing; jewelry and art metal craft manufacturing; studios for art – including gallery/framing space, music, dancing or theatrical; and other comparable artisan ventures.

The borough president believes that a lease protection mechanism needs to be incorporated into the continued use of such retail for artisans in order to provide protection from future market based rents. A version of achieving stabilized rents could be accomplished by providing leases through a designated not-for-profit or some equivalent entity.

The borough president believes that the effort to encourage the inclusion of retail spaces for artisans should include floor area incentives. This would include modifying the borough president's general position as noted in the section above pertaining to bulk and density. The borough president recommended capping the floor area of the waterfront parcel to 5 FAR. The borough president believes that all retail space dedicated for artisan establishments should be exempt from zoning floor area calculations.

In a letter from the applicant dated April 8, 2010, the applicant will explore the feasibility of including such uses within some portion of the proposed retail space on the waterfront parcel.

Grand Ferry Park

The tower with its office in the upper floors would cast shadows in Grand Ferry Park throughout much of the year. CB1 recommended mitigating shadow impacts by reducing the height to no more than six-stories. According to the DEIS, reducing the height to 70 feet would substantially minimize the shadow while reducing to 130 feet (essentially the height where the office use begins, would provide significant enough reductions in the Spring and Summer.

As the borough president recommended bulk reductions for the waterfront parcel, it is conceivable that bulk reduction could be achieved while minimizing shadow impacts on the park. Though the borough president welcomes the provision of office floor space, as it provides opportunities for firms to bring permanent jobs to the community, he is sensitive to what Grand Ferry Park has meant to the community as an early point of public waterfront access.

The borough president believes that the developer should have the flexibility to determine whether office space, in lieu of market-rate housing, would yield the optimum cross subsidization to be part of the financing of the affordable housing commitments. For that reason, he conditional supports the requested special use permit to allow the office use on the upper floors of the northernmost tower. However, his preference is that the maximum available bulk be utilized for the market-rate housing with development of the tower with office in the upper floors being pursued only as a last resort, as part of a preferred strategy to comply with the overall reduction of bulk. If this would happen, the extent of the shadow on the park would be minimized.

Parking

CB1 recommends that parking be reduced to a level significantly less than the maximum allowed under zoning. It recommended providing for car-sharing and waiting for the re-consideration of the need for the north garage capacity to exceed the maximum zoning allowed as-of-right, later in the development. The borough president understands that having available parking might induce car ownership and therefore more automobile trips on the local streets. However, not providing enough parking in new developments at reasonable prices might lead to more competition for on-street parking spaces.

Without finding the appropriate balance between car ownership and accommodations for parking, longtime area residents might experience increased difficulty in finding convenient on-street parking as new development proceeds. Too often developments contain the minimum onsite parking standards, despite what might be the reality of car ownership after these new developments are occupied. Ultimately, long-time residents suffer as the adequacy of available on-street parking dwindles, making it more difficult for them to manage owning a car. While garages in new developments are primarily a resource for the occupying residents, existing residents are not precluded from directly benefitting from this off-street parking resource.

The question is how to find the appropriate balance. The developers of the New Domino can learn much from the occupants of the nearby Edge and Northside Piers developments in terms of car ownership rates. Much can also be learned from the evolving car usage culture associated with car sharing services such as ZipCar. The Department of City Planning (DCP) is working to introduce a city wide text change that would propose such car sharing practices as part of accessory parking facilities. According to presentation documents, DCP is reporting that approximately 40 households typically utilize each shared car, and on average, 15 percent of such users relinquished auto ownership.

Because the New Domino anticipates a multi-year build-out, the borough president believes that the parking strategy should be revised based on incorporation of ZipCar or other car sharing/renting operations incorporated into the four proposed garages. Having such facilities on the site has been reported to reduce dependence of car ownership. In addition to implementing shared automobile parking accommodations, the nearby waterfront development should be observed for car ownership rates and impacts on on-street parking. Finally, utilization of the parking for the project's initial development should be taking into consideration in determining how to best address parking capacity in the succeeding phases.

The requested Special Permit to exceed maximum permitted parking spaces by 266 spaces is intended for last two-phases ("north" garage: 782 spaces). As there is much that can be learned before there is a need to proceed with that garage, the borough president believes it is premature to consider this request at this time. The applicant should voluntarily withdraw this request and only re-file at a subsequent year if it appears that such capacity would be an appropriate strategy to mitigate potential quality-of-life concerns based on the need to accommodate cars.

In a letter from the applicant dated April 8, 2010, the applicant is committed to working with the Department of City Planning on a plan to allocate parking spaces for shared parking in the various accessory parking facilities to the maximum extent feasible.

Traffic

The traffic disclosure in the DEIS was based on Kent Avenue's prior two-way operation. The Final EIS (FEIS), which would be issued prior to the decision of the City Planning Commission, provides a basis for future consideration. It will likely recommend mitigation that is some combination of signal installation and other measures including: standard traffic engineering measures (such as signal timing adjustments), lane re-striping and parking prohibition (to create turning lanes at intersections). It is possible that the community-at-large might not want certain of these measures despite it being in the neighborhood's best interest.

In order for the community to weigh in on these recommended mitigation measures, the borough president believes that it is appropriate for Community Board One (CB1) to take the lead in formulating a community position. After engaging in a proactive role to review the non-signalized traffic mitigation measures disclosed in the FEIS, CB1 should then advise the Department of Transportation (DOT) and the developer, in writing, which measures it would like to be implemented where feasible in advance of specific phases of construction.

Based on the recommendations provided by CB1 and with prior consultation with DOT, the developer should fund and analyze targeted traffic studies (including "signal warrant" studies) prior to each phase of construction. These studies will highlight whether the need for implementing other than signalized mitigation measures, and for signalized mitigation measures as disclosed in the FEIS, as warranted.

Mass Transit

The DEIS discloses that the New Domino project would be among many collective developments in the area that would result in overall population growth due primary to recent rezonings. It is clear that operational logistics of public bus and train transit need to be transformed to accommodate such residential growth. The DEIS disclosure has been rendered obsolete as certain assumptions regarding subway usage will be revised in the FEIS due to the announcement that the M-train route will be reconfigured as a modification and replacement of the current V-line. The borough president also believes that assumptions regarding the usage of bus service to get to the L-train are not realistic. He

does not believe that passengers would rather transfer from the Q59 to the B62 to take the L-train at the Bedford Avenue station when it seems much more efficient to stay on the Q59 to the Lorimer Street/Metropolitan Avenue station to head to Manhattan on the L-line and elsewhere on the G-line. He believes that the FEIS should be modified to reflect this assumption.

With significant adjustments, primarily by the MTA, the borough president believes it is feasible to accommodate growth in the area. However, he believes there are actions that could be taken by the developer.

Need for a Shuttle Bus

In terms of bus service, the borough president believes that the Q59 should be extended from Williamsburg Plaza to the southwest corner of Marcy Avenue along Broadway. Such a change would shift ridership to the east end of the station where there is more capacity to move between the street and the train platform.

Rather than simply providing more buses for the entire Q59 route (need for 11 additional buses per peak periods with three attributed to the New Domino development), with buses significantly under capacity east of Lorimer Street, the borough president believes that Q59 service should also be available in the form of a shuttle. With a shorter route, each additional bus added to the line could be utilized more efficiently and more cost effectively. The shuttle route could have terminuses at Lorimer or Union streets (Metropolitan Avenue) and at Marcy Avenue (Broadway). The route could even be extended south to Division Avenue to be proximate to developments at the Kedem and Domsey sites; Schaefer Landing and if Rose Plaza is approved for development.

The borough president believes that it may be necessary for the developer to provide initial operating subsidies for a Q59 shuttle service (or its equivalent) as a means to demonstrate to MTA the need for such service. In a letter from the applicant dated April 8, 2010, the

applicant is committed to working with the MTA on a Q59 shuttle bus – or an equivalent shuttle bus program – when demand is sufficient.

New Services

The Williamsburg community has not had express bus service nor a reliable ferry service. Due to the developments promoted since the 2005 DCP rezoning and subsequent private rezonings bringing much density along the East River a great distance from subway transit stations, it is appropriate to seek non-traditional solutions to meet transit demands of this community. The borough president supports the implementation of reliable ferry service and introducing express operation along the waterfront. Unfortunately ferry service has not been sustained though the borough president believes it should be revisited. Should ferry service begin to demonstrate that it can remain in continuous operation, he believes that the developers of the New Domino should apply for and install a ferry dock. Its commitment should be offered at the start of each phase of development. When the project receives its final Certificate of Occupancy, the commitment should remain with the various associations (ie. tenant association, homeowner association) of condominiums and rental housing on the site.

In a letter from the applicant dated April 8, 2010, the applicant will explore the feasibility of future water taxi service at the site subject to the Economic Development Corporation including the Domino site within a water taxi route, sufficient demand for the service, and sufficient subsidies.

The borough president believes that supplementing subway transit with express bus service provides direct Manhattan access without requiring bus transfers to reach Marcy Avenue and Lorimer Street stations for subway service. He believes that an express bus could be

implemented by the MTA through extending the B39 route to Lower or Midtown Manhattan from its Lower Eastside terminus and along the Brooklyn waterfront as an extension from its Williamsburg Plaza terminus.

Other Bus Route Improvements

Through the introduction of the subway-linked Q59 shuttle service and a waterfront express route, it is appropriate for the MTA to coordinate the installation of bus shelters on Kent and Wythe avenues in proximity to the New Domino.

With all the recent and pending developments, it is reasonable to expect an increase in ridership similar to what was disclosed in the DEIS. The MTA needs to closely monitor the ongoing increases and follow through by continuously obtaining additional buses in order to maintain adequate frequency and capacity. This would need to be done to implement the: described shuttle for the Q59 route; B39 waterfront express bus route; and, B62 route to or from Downtown Brooklyn and Long Island City.

Subway Operation

The borough president is not pleased that the MTA was not able to respond in a timely manner to address the dynamic of the growth that depends on the L line for subway service. Equipping the tracks with technology to run 33 trains per hour, in lieu of the current number of 28, was an important step to ultimately have capacity meet demand for service. Obtaining more trains towards meeting the designed capacity under the newest technology is a critical next step. The MTA needs to procure enough train cars to run the L line at the full community-based train control (CBTC) capacity of 33 trains per hour. Although many of the new subway cars currently being procured by the MTA lack CBTC technology, these new train cars are capable of being retrofitted with such technology to

run on the L line. It is imperative that the MTA direct its efforts to this end to raise operational capacity.

With the recent announcement that M-line service through Williamsburg will take over Manhattan V-line service, there may be operational benefits for the J/M/Z line from not having so many riders transfer at Essex Street. However, it may be too soon to understand how it may improve operation potential for these lines. Nevertheless, the MTA should monitor the change to determine if additional modifications would enhance service.

With regard to all of the above items that are under the jurisdiction of the MTA, in a letter dated April 2, 2010, the borough president wrote to MTA Chairman Jay Walder seeking concurrence of the agency's interest towards implementing such recommendations in a timely manner.

Employment

The developer has publicly stated a commitment for a job training initiative and to make efforts to identify local sources for labor and materials during construction. The borough president believes that the framework for the commitment of skilled jobs for 500 persons should be provided in writing prior to the City Council hearing. In addition, the developer should write to locally-based organizations such as EVIDCO as a means to provide outreach to area businesses to serve as material suppliers and subcontractors.

In a letter from the applicant dated April 8, 2010, the applicant is committed to cover a substantial portion of the cost of a job training program and has a signed memo of agreement in this regard with a New York City Council-recognized citywide job training

organization to train 500 local residents and commits to seeking out local suppliers when sourcing building materials for the construction of each of the proposed buildings.

Domino Sign

The future of the Domino sign has been set forth by the determination of LPC. It will be incorporated at a prominent location as part of the Refinery Building. The borough president believes that the sign's future placement would be of great marketing benefit for Tate & Lyle PLC, owner of Domino Sugar. He believes that the company should participate in the financing and subsequent maintenance of the repositioned sign.

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 and the City Council approve of the Zoning Text Amendment, conditionally approve the Zoning Map Amendment, and Special Bulk and Use Permit applications and disapprove the Special Permit for Parking based on the following:

AFFORDABLE HOUSING

1. That the following conditions are codified regarding affordable housing:
 - a. A legal instrument bind development to the filing of an Inclusionary Housing Plan (IHP), and provide the remaining percentage of floor area devoted to achieving a development that consists of not less than 30 percent of the units being permanently affordable.
 - b. Approximately 100 units of affordable housing for the elderly be guaranteed, preferably as part of the initial phase of development.
 - c. Affordability tiers be expanded to include up to 40 percent and 50 percent Area Median Income (AMI) in addition to the 30 percent and 60 percent.
 - d. The affordable homeownership units have the following tiers/bands of household incomes: 100 – 110 percent AMI; 110 – 120 percent AMI; and 120 – 130 percent AMI.
 - e. Re-sale price restrictions of the homeownership units be indexed to standards as defined by the City's IHP or the Center for Housing Policy.
 - f. The community preference for at least 50 percent of the affordable housing units includes those displaced from Community District One subsequent to the adoption date of the 2005 Williamsburg Greenpoint rezoning.

SUPERMARKET

2. That a legal instrument binds the development or leasing of a supermarket on the upland parcel to no less than 20,000 square feet (sf).

RETAIL

3. Size of an establishment be limited to 5,000 sf, except for waterfront-facing eating and drinking establishments.
4. That the Restrictive Declaration is modified as follows:
 - a. Limit the floor area ratio (FAR) to 5.0 FAR on waterfront parcel (per R7-3 regulations), with the exception of: the community facility use within the Refinery Building as long as it is not occupied by ambulatory diagnostic or treatment healthcare facilities operated by private or for-profit facilities;

and, Kent Avenue store front retail space being used for artisan production and sales – such as jewelry and/art metal craft manufacturing; custom clothing/accessories manufacturing; ceramic/glass products, art needlework, hand weaving or tapestries, studios for art – including gallery/framing, music, dancing or theatrical space; and,

- b. Limit FAR to 3.6 on upland parcel (per R6A regulations), with the exception that floor area be exempt from FAR limitation as follows: building occupied exclusively by a nonprofit residence for the elderly (permit 3.9 FAR); and, retail use limited to supermarkets consistent with the City's FRESH food initiative up to 30,000 square feet.
5. That not less than 90,000 square feet of the community facility space proposed within the Refinery Building be designated for use as a school and that no less than 20,000 square feet of the retail space be designated as a supermarket within the development.

SPECIAL PERMIT BULK

6. That the General Large Scale Plan waivers pertaining to the upland parcel shall be modified as follows:
- a. Tower floor plate shall not be exempt from the zoning limit of 7,000 square feet.
 - b. Base height and setback requirements shall be consistent with R7A zoning requirements, provided a supermarket is provided or else consistent with R6A standards.
 - c. Rear yard requirement shall continuously provide no less than 60 feet between the residential occupied portions of building(s).
 - d. Redistributed floor area from waterfront parcel to upland parcel shall not result in more than 3.6 FAR with the exception being as follows: if a building is occupied exclusively by a non-profit residence for the elderly, then permit 3.9 FAR for that structure; and, retail use limited to
 - e. supermarkets consistent with the City's FRESH food initiative shall be exempt up to 30,000 square feet of floor area.

SPECIAL PERMIT USE

7. That the tower with office space on the upper floors be pursued only as a last resort (in lieu of market-rate housing development elsewhere on the waterfront parcel), thus providing an opportunity to limit height to 130 feet (would reduce shadow in Grand Ferry Park in the Spring and Summer) or to 70 feet (substantially reducing shadow) as part of a preferred strategy to comply with the overall reduction of bulk.
8. That the Special Permit (for the last two-phases' "north" garage: 782 spaces) to exceed maximum permitted parking spaces by 266 spaces be voluntarily withdrawn or else denied now.

Be it further resolved that:

AFFORDABLE HOUSING COMMITMENT

1. The developer should apply annually for the borough president's Brooklyn Housing Development Fund.
2. The city council members from the 33rd and 34th districts and the assembly members and state senators and the city administration should encourage the developer to call on them for funding allocations.

SCHOOLS

3. The Department of Education (DOE)/School Construction Authority initiate the lease during 2010 for the 738-seat PS/IS as indicated as funded in DOE's 2010-2014 Five-Year Capital Plan at a site in Community School District 14 as a leased facility expected to be completed by 2013.
4. The Department of Education/School Construction Authority would commit to acquisition of a sufficient area of designated community facility space within the Refinery Building and proceed with design for a pre-K/elementary school not later than one year prior to the estimated December 2013 Refinery Building construction start date, with the understanding that the one-story, ground-level addition along East River would serve as a roof-top, 27-foot wide terrace for school open space.

DAY CARE

5. That the developer coordinates in writing with the Agency for Children Services before commencing each phase of development to solicit the agency's interest in securing space for publicly funded day care.

ARTISAN WORK/SALES

6. That the developer seeks to provide a percentage of Kent Avenue store fronts to be used for artisan spaces for both sales and production of items on premises and/or teaching/performing.
7. That should such space be provided, leases should be through a designated not-for-profit or some equivalent entity, as a means to facilitate stabilized rents.

VEHICULAR TRAFFIC

8. That Community Board One (CB1) review the other than signalized traffic mitigation measures (includes standard traffic engineering measures, such as signal timing adjustments, lane re-striping and parking prohibition) disclosed in the Final EIS (FEIS) and advise the Department of Transportation (DOT) and the developer in writing which ones it would like to be implemented where feasible in advance of construction.
9. That the developer fund and analyze (in accordance with prior consultation of DOT) a targeted traffic study (including "signal warrant" studies) prior to each phase of construction based on the recommendations provided by CB1 for implementing mitigation measures as disclosed in the FEIS in ongoing consultation with CB1.

MASS TRANSIT

10. That the developer should provide in writing a commitment to:
 - a. Provide operating initial subsidies for Q59 shuttle service (or its equivalent) if necessary to demonstrate to MTA the need for such service.

- b. Apply for a ferry dock and install such dock in the event the ferry service is in continuous operation, with such commitment being reviewed at the start of each phase of development.

MTA

11. The MTA should:

- a. Institute a frequent bus (shuttle) service segment of the Q59 to serve the New Domino development (or extended further south to Division Avenue to include Kedem, Schaefer Landing, Domsey and Rose Plaza) to both Marcy Avenue (J/M/Z) and Lorimer Street/Metropolitan Avenue (L/G) stations.
- b. Extend the last stop of Q59 (at Williamsburg Plaza) to southwest corner of Broadway at Marcy Street.
- c. Erect bus shelters on Kent and Wythe avenues in proximity to the New Domino.
- d. Introduce express bus (could be a waterfront extension of the B39 route) and/or ferry service (with the developer providing a ferry dock).
- e. Obtain additional buses for maintaining adequate frequency and capacity as follows: to implement the described shuttle for the Q59 route; B39 waterfront express bus route; and, B62 to or from Downtown Brooklyn and Long Island City.
- f. Continue to obtain additional cars to increase the number of trains along the L line from 28 to its designed operating capacity of 33 trains per peak hour service.
- g. Monitor service after implementing the rerouting of the Williamsburg M route over the Manhattan V route to determine whether additional modifications are warranted.

UNEMPLOYMENT

12. That the developer provide in writing to the City Council its funding commitment to fully train for skilled jobs for 500 persons.
13. That the developer provides written contact with EVIDCO as a means to provide outreach to area business which could serve as material suppliers and subcontractors.

DOMINO SIGN

14. That Tate & Lyle PLC, owner of Domino Sugar, should participate in the financing and subsequent maintenance of the repositioned sign.

April 8, 2010

BY HAND

Honorable Marty Markowitz
President of the Borough of Brooklyn
Borough Hall
209 Joralemon Street
Brooklyn, NY 11210

Re: The New Domino
Uniform Land Use Review ("ULURP") Nos. 100185 ZMK, 100186 ZRK, 100187
ZSK, 100188 ZSK, 100189 ZSK, 100190 ZAK, 100191 ZCK, 100192 ZCK

Dear Borough President Markowitz:

We represent The Refinery LLC ("the Applicant") regarding the referenced ULURP Applications which concern a proposed Zoning Map Amendment, Zoning Text Amendment, Special Permits, Authorizations and Certifications to enable the development of an approximately 2.8 million square foot mixed-use project on the Williamsburg waterfront between Grand and South 5th Streets (Block 2412, Lot 1) and on an upland parcel on the East side of Kent Avenue between South 3rd and South 4th Streets (Block 2428, Lot 1) ("the Project"). If approved as described in the ULURP Applications, the Project would contain a mixture of residential, retail/commercial and community facility uses and approximately 4 acres of accessible public open space, with programmed public amenities, playgrounds and a nearly one-acre great lawn. It would also include the adaptive re-use of the New York City Landmarked Refinery complex ("the Refinery"). The Applicant hereby affirms again its commitment to provide 660 units of affordable housing - 30% of the total - providing, once again, that the Project is approved as shown in the ULURP Applications. It is important to note that the density proposed in the ULURP Applications is required to provide the Applicant's committed level of affordable housing - and to serve the income levels described - while at the same time including all of the amenities and the Refinery preservation program.

The Zoning Map Amendment would rezone the property from M3-1 to R8 with a C2-4 commercial overlay for a portion of the waterfront zoning lot; from M3-1 to C6-2 for the Refinery and a portion of the waterfront zoning lot; and from M3-1 to R6 with a C2-4 overlay for the upland parcel. The Special Permits would modify the requirements of ZR Section 62-341, concerning height and setback; ZR Sections 23-852 and 23-863, concerning inner courts; ZR Sections 23-533 and 62-332, concerning rear yards; ZR Section 23-711, concerning distance between buildings; ZR Section 32-42, concerning location of uses; and ZR Section 36-12, concerning maximum number of parking spaces. The authorizations would modify the

Honorable Marty Markowitz
April 8, 2010
Page 2

requirements of ZR Sections 62-50 and 62-60, which concern requirements for the waterfront public access areas.

The project will include the filing of a Restrictive Declaration, which will mandate compliance with the approved plans and place additional design restrictions on the Project.

On March 11, we attended your public hearing regarding the Project. We greatly appreciate the opportunity to address several comments which were raised at the hearing. Below please find the Applicant's responses to these comments:

Affordable Housing

Subject to the approval of the Project by the City Planning Commission and the City Council as shown in the ULURP Applications, the Applicant will utilize the Inclusionary Housing bonus as provided in the New York City Zoning Resolution ("ZR"), which mandates that 20% of the development's residential floor area be affordable housing. The Applicant is committed to following all of the requirements of the Inclusionary Housing bonus, including the requirement that the housing provided under the program be permanently affordable. The Applicant's commitment to the Inclusionary Housing bonus will be provided for in a legal instrument that the Applicant determines is appropriate, prior to the final approval of the Project.

Assuming the Project is approved as proposed in the ULURP Applications, the Applicant is further committed to maximizing the amount of affordable housing units by providing 30% of the Project's overall units as permanently affordable and will work with the City to memorialize this commitment in a legal instrument.

The Applicant is further committed to provide a 50% local preference in the lottery program pursuant to the Inclusionary Housing bonus and will include in the local preference families that have been recently displaced from Community Board One, subject to review and approval by HPD.

Senior Housing

The Applicant has previously committed to include senior housing units within the overall Project, and will explore the feasibility of including senior housing units within the earliest possible phase of the Project.

Increase in Tiers of Affordable Housing

In addition to the affordable housing commitments discussed above, the Applicant will explore the feasibility of increasing the number of tiers of affordability for the affordable housing units.

Honorable Marty Markowitz
April 8, 2010
Page 3

Affordable Homeownership

The Applicant will explore subsidy programs and examine the financial feasibility of making the proposed affordable homeownership units permanently affordable and agrees to further investigate mechanisms to facilitate this concept.

Supermarket

The Applicant is committed to seeking a supermarket for the entire retail space shown in the ULURP Applications for the upland parcel.

Artisan Retail Users

The Applicant will explore the feasibility of including custom and crafts-related manufacturing uses and art-related uses, such as jewelry-making, ceramics, galleries or dance studios, as permitted by the Zoning Resolution, within some portion of the proposed retail space on the waterfront parcel.

Parking

The Applicant is committed to working with DCP on a plan to allocate parking spaces for shared parking in the Project's various accessory parking facilities to the maximum extent feasible.

Job Training

The Applicant is committed to cover a substantial portion of the cost of a job training program and has a signed memo of agreement in this regard with a New York City Council-recognized citywide job training organization to train 500 local residents.

Local Construction Suppliers

The Applicant commits to seek out local suppliers when sourcing building materials for the construction of each of the proposed buildings.

School Construction Authority

As discussed at the March 11 hearing, the School Construction Authority ("SCA") does not at this time see a need for an additional school within the Project. However, the Applicant is prepared to include a school within the Refinery should the SCA determine that the need exists. In a letter provided to the SCA dated January 13, 2010, the Applicant expressed its commitment to provide for a school within the Refinery, should the need arise, and to work with the SCA to assess the need for a school as each phase of Project (as shown in the phasing plan included in the ULURP application) proceeds.

Honorable Marty Markowitz
April 8, 2010
Page 4

Water Taxi

The Applicant will explore the feasibility of future water taxi service at the Site, subject to the Economic Development Corporation including the Domino site within a water taxi route, sufficient demand for the service, and sufficient subsidies.

Bus Relocation

With the MTA, the Applicant will explore the feasibility of relocating the termination point of the Q59 bus to the Marcy Avenue subway station.

Future Shuttle Bus

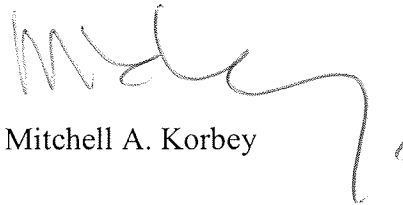
The Applicant is committed to working with the MTA on a Q59 shuttle bus - or an equivalent shuttle bus program - for the Project, when the demand is sufficient.

Day Care

The Applicant will work with the Department of Children's Services to determine their interest in space for a publicly funded day care center. If the interest exists, the Applicant will explore the feasibility of providing such a center within the Project.

Thank you for your consideration.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'MKorbey', with a long horizontal stroke extending to the right and a vertical stroke at the end.

Mitchell A. Korbey