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Community District 12 Distribution TO	Borough President Marty Markowitz FROM
July 26, 2010 DATE	Kevin Parris, Land Use & Community Coordinator Phone: (718) 802-3856 E-Mail: kparris@brooklynbp.nyc.gov CONTACT
ULURP Recommendation Culver EI Project RE: 100345 ZMK/100346 ZRK/ 100347 HAK/100348 – 100361 ZSK	8 NO. PAGES, INCLUDING COVER

Attached is the recommendation report for ULURP application 100345 ZMK/100346 ZRK/ 100347 HAK/100348 – 100361 ZSK.

If you have any questions, please contact Kevin Parris at (718) 802-3856.

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Brooklyn Borough President Recommendation

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INSTRUCTIONS

1. Return this completed form with any attachments to the Calendar Information Office, City Planning Commission, Room 2E at the above address.

2. Send one copy with any attachments to the applicant's representatives as indicated on the Notice of Certification.

APPLICATION #: 100345 ZMK/100346 ZRK/100347 HAK/100348-100361 ZSK
Culver EI Project

In the matter applications submitted by the Department of City Planning pursuant to Sections 197-c and 201 of the New York City Charter; the Department of Housing Preservation and Development pursuant to: Article 16 of the General Municipal Law of New York for an amendment of the Zoning Map and Zoning Text, UDAAP designation and land disposition, and the grant of 14 special permits to facilitate development of seventeen 4-story buildings with approximately 68 units and three accessory parking lots.

COMMUNITY DISTRICT NO. 12

BOROUGH OF BROOKLYN

RECOMMENDATION

APPROVE

APPROVE WITH

MODIFICATIONS/CONDITIONS

DISAPPROVE

DISAPPROVE WITH

MODIFICATIONS/CONDITIONS

Recommendation report on following pages



BOROUGH PRESIDENT

July 26, 2010

DATE

**RECOMMENDATION FOR THE PROPOSED
CULVER EL REZONING
100345 ZMK/100346 ZRK/100347 HAK/100348-100361 ZSK**

These applications by the Department of City Planning (DCP) and the Department of Housing Preservation and Development (HPD) seek actions including an amendment to the zoning map and disposition of city-owned properties; in order to facilitate the development of a residential project consisting of 17 buildings with 68 units within the Borough Park community.

Public Hearing

On July 8, 2010 the borough president held a public hearing for the former Culver-elevated railroad/transit way right-of-way (Culver El) rezoning proposal. Three speakers were in favor of the application including Council Member Brad Lander, while two speakers testified against the application.

Council Member Brad Lander expressed his support of the project because of its permanent affordable housing component. However, the council member noted the need for more open space, and that opportunities to provide such space should be explored. While discussing the overall rezoning, the council member disagreed with the City's Inclusionary Housing program not being made applicable as well as the extent that the rezoning would make residential conversions as-of-right in manufacturing districts. Additionally, the council member believes that the department store site should not be proposed as a C4-2A district, but instead rezone as a C8-2 district. With respect to schools, the council member noted that the area's K-8 grades are operating at current capacity. Based on the enrollment projections, he suggested that there is likely to be a future need for the siting of a new K-8 school needs to occur.

Those in favor for this project commented on the importance of providing more affordable housing to the community. Generally, opponents to the proposal believed that an opportunity to address the lack of open space within the community is being missed. It was believed that alternative land use actions could provide a way to address these concerns by incorporating ways to increase green space with respect to the Culver El project.

CONSIDERATION

DCP has requested a zoning map change to rezone manufacturing districts to districts that facilitate residential development. HPD has submitted applications for the disposition of city-owned property and special permits to permit development within the Culver El to facilitate the development of affordable housing and accessory parking for area community facilities. It is the borough president's policy to support land use changes that increase the supply of housing for Brooklyn residents, especially when such projects result in affordable housing. He also supports opportunities that result in having adequate provision for accessory parking. As without adequate parking made available for community uses, parking attributed to such uses might impose on the quality-of-life of area residents who might be dependent on the scarce curbside parking availability. The proposed land use actions provide opportunities to address these concerns.

DCP under the leadership of Executive Director Amanda Burden and Brooklyn Office Director Purnima Kapur, has developed a thoughtful proposal to address concerns from Borough Park

community leaders. DCP's proposal for a mixed-use zoning district would allow for construction of residential, community facility, commercial or industrial buildings, including mixed-use buildings. Manufacturing uses would remain permitted and for blocks now zoned M2-1, the proposal would allow for a wider range of commercial uses. HPD's proposal for disposition of city-owned property, would facilitate 68 affordable homeownership units and three accessory parking facilities for adjacent community facilities consisting of 25, 8 and 15 spaces.

However, the borough president has concerns with a number of issues including: the provision of affordable housing on privately-owned properties and permanency of such housing on city-owned sites; the anticipated loss of jobs; lack of open space and streetscape greenery in the surrounding area; and, the need to accommodate parking.

Affordable Housing

Rezoning

According to the environmental assessment statement (EAS), Lot 1 in Block 5301 was assumed for potential redevelopment of 121 dwelling units. Pursuant to the proposed rezoning, there would be no obligation to provide any affordable housing. With the increasing demand by Brooklyn residents for affordable housing, he believes every attempt should be made to provide for these opportunities. It is the policy of the borough president to support residential development subject to ULURP that provides at least 20 percent of its units as affordable and that such housing should remain "affordable forever."

With the proposed zoning change from M1-2 to C4-2A (an R6A residential equivalent), the borough president believes that providing up to 25 percent affordable housing is warranted, including a blend of moderate- and middle-income affordable units. It is the borough president's policy to obtain a written commitment or explanation that conveys a suitable assurance that affordable housing will be included as part of any residential development facilitated by rezoning. Without a commitment from the property owner to file legal instruments to bind the property to the provision of affordable housing, the borough president believes that it is not in the public interest to rezone this block.

According to the EAS, this site was estimated to contain approximately 60 jobs. Without the public benefit of affordable housing, the borough president believes it is not warranted to place such retail jobs at risk. In lieu of any filing of a legal instrument that would bind residential redevelopment to the provision of affordable housing, the borough president believes it would be appropriate to rezone this block to reflect its retail usage. This can be achieved by rezoning the site from the existing M1-2 to C8-2, a district that permits a wide range of retail uses, including much needed supermarkets, by-right.

Disposition

For the 68 affordable units anticipated to be developed by the South Brooklyn Community Organization (SBCO), there is no guarantee that such units remain permanently affordable. Typical terms of disposition call for full repayment of government subsidies (including the assessed value of the land) for sales within the first five years of initial occupancy, with the amount being reduced in ten percent increments over years six through 15. The combination of owing a lesser amount of

subsidy and increased market value, create an incentive for the initial occupant to obtain substantial equity at the cost of eliminating the unit as part of the city's affordable housing stock.

Creating and maintaining affordable housing continues to be a challenge in New York City. The trend of losing such affordable housing to privatization has resulted in the increased demand for such housing. The borough president believes that without actively trying to meet such demand, the city will consist of those who are either poor or very affluent. When new affordable units are created, it is always a concern of the borough president regarding the number of years they can be kept affordable. In areas where new developments can be realized on city-owned sites, it should be the policy of the City to minimize the loss of affordable housing. Measures need to be put in place in order to ensure that these residences can remain as affordable housing options for the city's residents. The borough president believes that as the City goes about disposing of its land to developers, the land disposition agreement (LDA) would be an appropriate mechanism to ensure that the affordable housing remains in perpetuity. Therefore, stipulations should be placed that guarantee those units developed by SBCO would remain affordable for the life of the development.

Permanent affordable homeownership housing, known as "shared equity," provides the benefits of building wealth for the homeowner while assuring that the home remains an affordable housing resource when sold. Resale restrictions could be based on several existing models such as subsequent re-sales of the homeownership unit being indexed to standards as defined by the City's Inclusionary Housing Program (IHP). Other methods are noted in documents produced by the Center for Housing Policy, including the Consumer Price Index. Establishing permanent affordable homeownership housing would recycle initial subsidies, while resulting in these housing units being affordable for future generations of Brooklynites. The borough president believes that such housing should be made permanently affordable through the LDA incorporating provisions of the IHP, with no requirements to repay subsidies and land appraisal values.

Inclusionary Housing Program

It is the borough president's policy that all City sponsored rezonings that facilitate housing development establish zoning districts that permit the use of the City's IHP. As the city is running out of sites to provide affordable housing, it is important to advocate for the IHP to become applicable to areas being rezoned by the City. Though the number of units forfeited by not applying the IHP is not as significant as recent zonings in CD1, CD7 and CD14, it is a circumstance that the City can ill-afford to ignore. On block 5301, Lot 1 alone, more than 30 units could have been leveraged and dozens more on the other identified development sites. The borough president urges DCP to incorporate the inclusionary housing regulations in the future whenever it undertakes a rezoning intended to facilitate residential development.

Job Retention/Community Facilities

According to the EAS, the four-story loft building at the northwest corner of 14th Avenue at 38th Street, is estimated to have 45 jobs. It is listed as a potential development site though due to its configuration, if redeveloped, the EAS projected its use as a community facility use such as a school or house of worship. The borough president believes that such re-use would complement the community, though being configured as a loft does not guarantee that the building would not be redeveloped for housing. As noted above, the borough president seeks affordable housing as part of

residential housing developments. The proposed zoning does not guarantee such an outcome. However, he believes that if the building were to be utilized as a house of worship or school, the current M2-1 zoning serves as a deterrent as such uses now require a variance. Though, a rezoning that permits residential development is not required to facilitate such use. The borough president believes that this can be accomplished through rezoning to M1-2, which allows houses of worship as-of-right and schools via a special permit under the jurisdiction of the Board of Standards and Appeals. The EAS discloses a projected utilization of 137 percent for the three elementary schools in proximity to the area proposed to be rezoned. By not offering the option of residential conversion to the loft building, the site could be a resource that could be examined in terms of addressing the possible future need for schools. Given the medical use on the southwest corner of 14th Avenue and 38th Street, the borough president believes that it is appropriate for both this property and the loft building to become part of the abutting M1-2 district.

Open Space/Streetscape

According to the website of the Mayor's Office of Environmental Coordination, Borough Park is considered to be underserved in terms of the amount of open space provided for the neighborhood's population. The district is highly developed with few opportunities to expand its public recreational space. Unutilized city-owned sites are scarce in the immediate area and sites such as the narrow Culver-El corridor are now being considered for much needed affordable housing and accessory parking for community facilities. The 17 sites intended for affordable housing will have shallow rear yards and side yards that are intended for parking. With four- and five-bedroom units intended, it is anticipated that many children would be residing in these homes with virtually no outdoor area for recreation other than the adjacent sidewalk. As land becomes even scarcer, creative solutions are required to make optimal use of this resource in order to address the need for places for recreation.

The borough president anticipates that the lots intended for disposition for accessory parking are prime candidates to consider for more utilization. It is quite possible that a house of worship or school would have hours that such accessory parking lots would not be in use. This presents the possibility of available times that such lots could be used by area residents for recreation. In order to access the anticipated availability of these lots, as a condition of the LDA, HPD should require a report from the designated community facility organization of the anticipated hours of usage for the accessory parking lot. Based on such information, HPD should establish easements for the benefit of the 17 residential development sites to facilitate use of the property for recreational purposes during hours that these lots are not in use for accessory parking. Such easement could be governed by a homeowner's association agreement among the 68 housing units. Such an agreement could set forth requirements for insurance to protect the community facility from liabilities when in use as a resource open to the community for recreation.

In addition to better utilization of the city-owned sites intended for disposition, the street-bed of 35th Street between Church and 14th Avenue presents another opportunity to increase the supply of open space. This right-of-way abuts a Department of Parks and Recreation (DPR) "Green Streets" development on its north side. In that regard, in a letter dated July 21, 2010, the borough president has written to the Brooklyn borough commissioner of the Department of Transportation (DOT) calling for the agency to investigate the possibility of transforming the street-bed into a public open

space pursuant to its plaza program initiative and report its findings to CB 12 and affected Local Elected Officials. As this initiative requires a not-for-profit partner to commit to maintaining such a space, it might present an opportunity for a locally based organization such as the West Kensington Action Group to explore whether it could serve in such role.

The borough president's office noted the lack of street trees in the area. Sites to be redeveloped as housing or accessory parking would be required to provide street trees in accordance to the rezoning. For the adjacent West Kensington residential area to the north, it was noted that Church Avenue completely lacks such plantings despite the mix of residential buildings along this corridor. It was also noted that Story Street had tree pits with either stumps or no plantings at all. Other area residential streets lacking adequate street tree coverage include Tehama Street and Louisa Street. In that regard, in a letter dated July 22, 2010, the borough president has written to the commissioner of the DPR calling for the agency to survey the residential area bounded by Church Avenue, 36th Street, Fort Hamilton Parkway and Dahill Road to note opportunities where trees could be planted, included where tree pits would need to be established.

Parking

Certain sections of the city-owned lots set for disposition within the Culver-El are utilized as parking for area retail use, especially the department store on the south side of 37th Street. With disposition, the sites would no longer be available for patrons of the stores that have benefitted from this parking. According to the special permit associated with the disposition of the accessory parking lots, the 48 spaces that would result are limited to each of the community facilities obtaining the property. If the land use actions included a special permit to facilitate public parking, these community facilities would have had the option to permit use of the lots for the area retail patrons. In addition, the lots could have served as an overnight parking resource for area residents. Given that the 68 affordable units are expected to contain a limited amount of on-site parking, such additional resources for parking could be of great benefit to residents' quality-of-life. The borough president believes that the HPD disposition should not preclude the community facilities from pursuing land use actions that facilitate public parking at a later date. Such an approval could provide a potential source of income for the community facility and be a public benefit by having more parking resources available in the neighborhood.

RECOMMENDATION

Be it resolved that the Borough President of Brooklyn, pursuant to section 197-c of the New York City Charter, recommends that the City Planning Commission and City Council conditionally approve the land use actions that comprise the Culver El rezoning project based on the following:

Zoning map amendments

1. That for the block proposed for a C4-2A district, rezone from the existing M1-2 district to C8-2 unless adequate documentation is recorded against Block 5301, Lot 1, prior to the vote of the City Council, that binds the property to the provision of not less than 20 percent of residential floor area being for affordable housing and that such housing would remain "affordable forever."

2. That for the 14th Avenue frontages proposed for a (MX)M1-2/R6B district, rezone the existing M2-1 district north of 38th Street to M1-2 and retain the existing M1-2 district south of 38th Street

Disposition of City-Owned Property

That the Department of Housing Preservation and Development (HPD) be required to incorporate into its Land Disposition Agreement:

1. For the 17 sites to be developed as affordable housing, that such housing be permanently affordable pursuant to the re-sale provisions of Zoning Resolution Section 23-913 and 23-962, with no requirements to repay subsidies and land appraisal value.
2. For the three sites to be developed as accessory parking, that:
 - a. as a condition of disposition, HPD shall receive a report from the designated community facility organization of the anticipated hours of usage for the accessory parking lot.
 - b. easements be established for the benefit of the 17 residential development sites to facilitate use of the property for recreational purposes during hours that these lots are not in use for accessory parking, governed by a homeowner's association agreement among the 68 housing units.

Be it further resolved that the following concerns are addressed.

Affordable Housing

1. That the Department of City Planning incorporate inclusionary housing regulations whenever it undertakes any rezoning in the future intended to facilitate residential development

Open Space/Streetscape

1. That the Department of Transportation investigate the possibility of transforming the street bed of 35th Street between Church and 14th avenues into a public open space pursuant to its plaza program initiative and report its findings to Community Board 12 and affected Local Elected Officials.
2. That the Department of Parks and Recreation survey the area generally bounded by Dahill Road, Church Avenue, 36th Street and Fort Hamilton Parkway, for opportunities to plant street trees in established tree pits and for areas that merit the creation of tree pits.

Parking

That the Department of Housing Preservation and Development to advise the entities acquiring the three sites being disposed for accessory parking that each would be permitted to file a Special Permit to facilitate a public parking facility that when not in use as an accessory parking facility or recreational area, could then be made available for patrons of nearby retail and business establishment and overnight parking for area residents#