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Gale A. Brewer, Borough President

March 31, 2014

**Recommendation on
ULURP Application Nos. C 140233 HAM and C 140238 PQM
492 St. Nicholas Avenue
by New York City Department of Housing Preservation and Development**

PROPOSED ACTIONS

The New York City Department of Housing Preservation and Development (“HPD” or “the applicant”) seeks the approval of land use actions to facilitate the development of a 10-story, mixed-use building containing up to fourteen units of housing and approximately 2,400 square feet of commercial space in the Central Harlem neighborhood of Community District 10. The proposed project is located at the southeast corner of West 135th Street and St. Nicholas Avenue, Block 1959, Lot 54.

HPD seeks approval for the **acquisition** of privately-owned property (**C 140238 PQM**). HPD also seeks approval for the simultaneous **disposition** of said property to a recipient to be determined by HPD (the “Developer”), the designation of said property as an **Urban Development Action Area** (“UDAA”), and approval of the project as an **Urban Development Action Area Project** (“UDAAP”) (**C 140233 HAM**).

City-owned properties that are no longer in use or are in deteriorated or deteriorating condition are eligible to be designated as UDAA and UDAAP, pursuant to the Urban Development Action Area Act (Article 16 of the State General Municipal Law). UDAA and UDAAP provide incentives for private entities to correct substandard, unsanitary and/or blighted conditions. According to New York State General Municipal Law § 694(4), to receive a UDAA and/or UDAAP designation the City Planning Commission and the City Council must find that:

- (a) the present status of the area tends to impair or arrest the sound growth and development of the municipality;
- (b) the financial aid in the form of tax incentives, if any, to be provided by the municipality pursuant to [the tax incentives provisions of the Urban Development Action Area Act] ... is necessary to enable the project to be undertaken; and
- (c) the area designation is consistent with the policy and purposes [of the Urban Development Action Area Act].

Section 197-c of the New York City Charter mandates that the disposition of all City-owned real property (other than the lease of office space) be subject to the Uniform Land Use Review

Procedure (“ULURP”). While no specific findings must be met to make a property eligible for disposition under Section 197-c, Section 1802(6)(j) of the Charter limits HPD to the disposition of residential real property.

PROJECT DESCRIPTION

HPD seeks to develop an approximately 17,000 square foot, 10-story building consisting of up to 14 condominium units and 2,400 square feet of ground floor commercial space. The development will be located on land currently owned by the Greater Harlem Housing Development Corporation (“GHHDC”)¹ at 492 Saint Nicholas Avenue at the southeast corner of Saint Nicholas Avenue and West 135th Street. The development site was conveyed to GHHDC in 1994 as part of a larger project, called Striver’s Plaza Phase II, which created 117 units of affordable housing in formerly City-owned, dilapidated buildings. Because of the poor condition of the buildings and the difficulties of managing housing in multiple small buildings, the project has faced significant financial instability since its inception. According to HPD, the proposed project is being undertaken to allow GHHDC to sell the vacant lot at 492 Saint Nicholas Avenue to HPD in order to realize \$1.2 million from an immediately brokered resale from HPD to a developer, F-Lot Development, LLC.² The proceeds will be used to help stabilize the affordable housing owned by GHHDC.

Background

The entirety of the Striver’s Plaza II project is situated within the boundaries of the former St. Nicholas Park Urban Renewal Area (“URA”), which was approved in 1968 and expired in 2008. The URA generally included the blocks to the east and north of St. Nicholas Park and was created with the goal of removing blight, restoring the residential character of the area, encouraging the upgrading of housing quality, and facilitating economic development in the area. The plan was amended in 1992 to include new parcels, Sites 13, 14, and 15. The proposed development site is part of site 14. The plan set guidelines for development in the area and set specific requirements for all developments designated as URA sites. Specifically, the URA mandated that new residential buildings be limited to a height of 60 feet and that, to the extent deemed feasible by HPD, new construction should be designed to relate to the surrounding community in terms of scale, configuration, and materials.³ The Striver’s Plaza Phase II project included 10 City-owned buildings as well as some adjacent vacant lots that were granted to GHHDC for redevelopment as affordable housing. The buildings were taken by the City through the tax foreclosure process, and some of the buildings were designated URA sites.

The 1994 disposition approval for the Strivers Plaza II properties was not obtained through the Uniform Land Use Review Process (“ULURP”), but rather through an Accelerated UDAAP, which is used for the disposition of existing buildings for rehabilitation or for the new construction of one- to four-family buildings. The Strivers Plaza II properties were disposed of to

¹ The GHHDC is a subsidiary of the Greater Harlem Chamber of Commerce. The Greater Harlem Chamber of Commerce is managed by Lloyd Williams, President and Chief Executive Officer, and GHHDC is managed by Charles Powell.

² F-Lot Development is managed by Anthony Crusor.

³ St. Nicholas Park Urban Renewal Area, Seventh Amended Urban Renewal Plan Section C(2)(b)

GHHDC to substantially rehabilitate the existing units. The 1994 Regulatory Agreement between HPD and GHHDC governed the rehabilitation of these buildings and additionally stipulated that the vacant lot at 492 St. Nicholas Avenue was to remain as “open and recreational space.” This restriction was added to preserve views of a mural on an adjacent building that the local community wished to remain.⁴

At the time of disposition, construction loans were secured by GHHDC to finance the rehabilitation of the buildings. According to GHHDC, there were unexpected construction costs due to the condition of the buildings. In 2001, the multiple construction loans for the different premises were consolidated into a single permanent financing package through the Community Preservation Corporation that consisted of a mortgage with a principal sum of \$5,721,832.

By 2005, however, significant financial difficulties with the project required GHHDC to seek a forbearance agreement with the Community Preservation Corporation and a refinancing package was worked out with loan modifications in 2006 and 2008. These two modifications added unpaid interest arrears to the principal sum of the mortgage, created payment agreements that included smaller initial monthly payments, and extended the term of the mortgage. According to HPD, in the wake of the 2008 modification agreement, tax arrears and arrears in utility payments were brought current. Additionally, according to HPD, GHHDC has been current on its mortgage payments since the 2008 mortgage and modification agreement.

In addition to the financial difficulties, the Striver’s Plaza Phase II buildings required major renovation work by 2008. GHHDC secured \$2.5 million in Resolution A capital funding from the City Council to conduct a Phase I renovation of the buildings. This renovation included sealing the buildings and replacing the boilers that were in the worst condition in a number of the buildings. This work was necessary partly because GHHDC had been unable to complete this work during its initial rehabilitation of the buildings and partly because in the first ten years the organization had not had the operating income to conduct adequate ongoing maintenance. In conjunction with this application, GHHDC is working with HPD on \$2 million in additional Resolution A capital funding to complete a Phase II of the renovation, which will include new windows, new roofs, new entry doors, intercoms and security cameras and boilers for the rest of the buildings not included in the Phase I boiler replacement work.

Since approximately 2013, GHHDC has used ELH Management⁵ as a property manager for the 117 units of affordable housing in the Striver’s Plaza Phase II project, and states that the relationship is going well. ELH Management has a history with HPD of managing and developing affordable housing.

The GHHDC affordable housing properties still have a number of outstanding financial obligations. The properties have a number of unpaid ECB violations, which the GHHDC has stated are in the process of being cleared; however, some may require fee payments. In addition, there have been water and sewer arrears in the past, and utility arrears which are being paid off

⁴ According to HPD, the restrictions in the Regulatory Agreement can be changed, but pursuant to section 693 of Article 16 of the State General Municipal Law, absent the current actions, development on the lot would still be restricted to only four dwelling units.

⁵ ELH Management is managed by Larry Hirschfield, President.

through a payment agreement with Con Edison, on which the developer has been meeting its payments for the last two years. According to HPD, the \$1.2 million proceeds from the sale of the development site would allow GHHDC's most pressing financial debts to be resolved.

Area Context

The development site is located at 492 St. Nicholas Avenue, at the southeast corner of St. Nicholas Avenue and West 135th Street, directly across the street from St. Nicholas Park. Directly bordering the development site is the entrance to the 135th Street stop of the B and C train lines. Along this portion of St. Nicholas Avenue buildings are generally five to six story brick tenement buildings built in the early 20th century. On the West 135th Street side of the project, the context is different. West 135th Street is a major commercial corridor that includes a number of high-density residential buildings. The majority of the buildings along West 135th Street have ground floor retail. Of note, east of the project on West 135th Street is the 12-story, 170-unit Striver's Gardens development that was built by the Greater Harlem Chamber of Commerce as affordable condominiums.

There are a number of historic resources in the neighborhood, and the majority of the surrounding area is built in keeping with the historic context. Five blocks northeast of the development site is the St. Nicholas Historic District, or "Striver's Row," which was designated by the Landmarks Preservation Commission ("LPC") in 1967. The historic district consists of four sets of townhouses designed by noted architectural firms, including McKim Meade and White, in 1891. The three blocks directly south of the St. Nicholas Historic District, including West 135th Street between Adam Clayton Powell Jr. and Malcolm X Boulevards, are included as priority preservation areas in Community Board 10's Comprehensive Historic Preservation Plan.⁶ Also included as a priority area in the plan is a collection of buildings along St. Nicholas Avenue and Frederick Douglass Boulevard, from West 136th Street to West 141st Street. This area includes the gothic St. Marks United Methodist Church. The historic City College campus sits directly across St. Nicholas Park from the proposed development.

Proposed Project

HPD proposes to dispose of the property to F-Lot Development, who proposes to build a 10-story mixed-use building with approximately 14 apartments. The building will feature one to two market-rate apartments on each floor. The building, which will rise to a height of 100 feet will have approximately 85 feet street walls on both 135th Street and St. Nicholas Avenue, after which the building will set back 10 feet on both street frontages. The project will provide the required 20 percent open space because the building will set back 20 feet from the rear lot line beginning at the second floor. The current plans for the proposed building show a façade composed of stucco and metal wall panels.

⁶ The Community Board 10 Comprehensive Preservation Plan was approved unanimously by the Board on May 2, 2012. The report is available on the Board website.

Proposed Actions

The applicant, HPD is requesting from the CPC: (1) approval for the acquisition of the development site; (2) area designation and project approval for a UDAAP; and (3) approval for the disposition of the project site to F-Lot Developer. The actions would facilitate the new construction of a mixed-use commercial and market-rate residential building on what is currently a vacant lot owned by GHHDC and generate financing for GHHDC's remaining debts to allow for its continued operation of its affordable housing units.

COMMUNITY BOARD'S RECOMMENDATION

At its Full Board meeting on February 5, 2014, Manhattan Community Board 10 voted to recommend approval of the application by a vote of 23 in the affirmative, 4 in the negative and 1 abstention.

BOROUGH PRESIDENT COMMENTS

The Office of the Manhattan Borough President shares HPD's goal of stabilizing the 117 units of affordable housing owned by GHHDC. However, the proposed development raises concerns both regarding the findings for UDAAP approval and the efficacy of this proposal as a means to stabilize GHHDC's affordable housing. To this end, two important factors must be considered before approval can be given: (1) whether a 10-story development consisting of market-rate condominiums furthers the goals of the URA, through which the property was given to GHHDC, or the goals of sound development embodied in the UDAA provisions of the General Municipal Law; and (2) whether the sale of this parcel will achieve HPD's goal to stabilize GHHDC's existing affordable housing.

Goals of the URA and Sound Development

While the URA has expired, its goals should not be ignored when disposing of a site that was specifically designated by HPD in the URA.⁷ The URA contained a limitation that residential buildings not exceed 60 feet in height. In addition, the URA mandated (1) that the neighborhood be developed in a manner compatible with the surrounding residential area; (2) that new construction relate to the surrounding community; (3) that projects harmonize scale, configuration and materials to preserve neighborhood patterns; and (4) that low rise buildings should be preferred. The proposal exceeds the URA height maximum and the design of the building does not appear to relate harmoniously in terms of scale or material with the surrounding neighborhood. Without reasonable certainty that the sale of the development site for the proposed 10-story market-rate residential and ground floor commercial building will stabilize the affordable housing (see below), it is challenging to see how a tall, market-rate building furthers the goals of the URA. In addition, regardless of the URA, it is incumbent upon HPD to ensure that the development site, originally owned by the City and to be reacquired by the City prior to disposition, furthers sound development in the community.

⁷ The ULURP application for the recent Site 7 project in Community District 4 (C 140181 ZMM), for example, listed compliance with the goals of an expired URA as a basis for support of a project on a former URA site.

To this end, GHHDC should work with F-Lot Development to alter the design of the proposed building. The proposed development sits along a stretch of St. Nicholas Avenue that is historic in nature. As the subway stop directly in front of the proposed building serves as the access point to the St. Nicholas Historic District, the historic City College campus, the Hamilton Grange, St. Nicholas Park, and the many other historic sites in close proximity, the developers need to make every effort to create a building that is worthy of its location. As the sale of the lot is necessary to raise revenue for affordable housing, it will be difficult to reduce the height of the building. With appropriate contextual materials, however, the development team can go a long way toward preventing an out-of-scale building from feeling out of context. The façade of the new building should be composed of brick or stone, rather than the proposed stucco and metal panel design. The design should also include architectural touches that acknowledge the scale of neighboring buildings. In the ULURP application, the sale of the property is currently listed as direct and pursuant to zoning. This should be amended such that the sale is restricted based on a contextual façade design.

Stabilization of Affordable Housing

While there is no mention in the ULURP application of the desire on the part of HPD to address the financial challenges faced by GHHDC's affordable housing developments, this goal has been communicated to the Borough President's Office. This is certainly a worthy goal and one which could very well be in keeping with the goals of the URA and the findings of the proposed actions. However, to make this finding with certainty, it must be clear that the \$1.2 million expected proceeds from the sale of the development site will further this goal in a meaningful way by being a sufficient sum to be considered the last step in the plans for stability. GHHDC has been struggling with the finances of the affordable housing it owns in the area for many years, and has had several millions of dollars in loans restructured. According to HPD, GHHDC is on a path to stabilizing its finances. It has been current in its mortgage payments since its last mortgage and modification agreement in 2008 and is current on its payment plan to for past-due utility charges. In addition, GHHDC stated that it is in the process of marketing its commercial spaces to achieve higher rents. The developer states that it is getting closer to a situation in which its rent rolls will exceed its operating expenses.

The protection of affordable, rent-stabilized apartments is of the utmost importance. It is incumbent on HPD to make sure that GHHDC's affordable housing is well enough on its way to financial stability that an infusion of funds from the sale of property will succeed in finally shoring up the long-term financial viability of the housing. Such a sale should be conditioned upon a process in which HPD takes on an active role in setting up and implementing a plan for the financial health of the affordable housing. At that point, the sale of the vacant land would play a reasonable and necessary role in assuring the protection of the affordable apartments of 117 families.

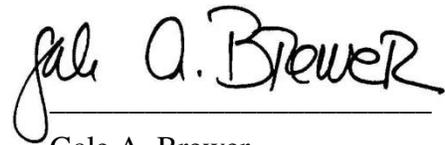
BOROUGH PRESIDENT RECOMMENDATION

In discussions with the Borough President's Office, GHHDC has committed to work closely with HPD and to enter into any agreement or program which HPD deems appropriate for the stabilization of the Striver's Plaza Phase II project. Further, GHHDC and F-Lot Development

have agreed that any final design of the proposed development will prioritize a contextually appropriate façade and design details that harmonize with the surrounding buildings.

In consideration of these commitments, the Manhattan Borough President recommends approval of ULURP Application Nos. C 140233 HAM and C 140238 PQM with the following conditions:

- 1. GHHDC meet the terms of their March 28, 2014 letter to the Borough President that they work with HPD Asset Management, participate in a Voluntary Repair Agreement with HPD, and use the proceeds of the sale to pay off outstanding debt, with any excess proceeds used for the improvement of the properties;**
- 2. F-Lot Development meet the terms of its March 27, 2014 letter to the Borough President agreeing to a contextually designed façade for the proposed mixed-use building; and**
- 3. The ULURP application be amended such that the disposition of the vacant property be restricted to a building with a contextually-designed façade.**

A handwritten signature in black ink that reads "Gale A. Brewer". The signature is written in a cursive style with a horizontal line underneath the name.

Gale A. Brewer
Manhattan Borough President