



## **CITY PLANNING COMMISSION**

September 11, 2013, Calendar No. 6

C 130376 HAK

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**IN THE MATTER OF** an application submitted by The Department of Housing Preservation and Development (HPD)

- 1) pursuant to Article 16 of the General Municipal Law of New York State for:
  - a. the designation of properties located along Livonia Avenue between Van Sinderen Avenue and Pennsylvania Avenue as an Urban Development Action Area; and
  - b. an Urban Development Action Area Project for such area; and
- 2) pursuant to Section 197-c of the New York City Charter for the disposition of such property, to a developer to be selected by HPD;

to facilitate the development of one community facility building and 4 mixed use buildings with a total of approximately 279 units.

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Approval of three separate matters is required:

1. The designation of property located along Livonia Avenue between Van Sinderen Avenue and Pennsylvania Avenue (Block 3801, Lots 1, 3, 47, 49; Block 3804, Lot 1; Block 3805, Lots 1 and 6; Block 3819, Lots 121 and 130; and Block 3820, Lot 123) in the Borough of Brooklyn as an Urban Development Action Area; and
2. An Urban Development Action Area Project for such area; and
3. The disposition of such property, to a developer selected by HPD

The application for an Urban Development Action Area designation and project approval and disposition of city-owned property (C 130376 HAK) was filed by the Department of Housing Preservation and Development (HPD) on June 11, 2013.

Approval of this application, in conjunction with related actions, will facilitate the development of Livonia Commons, a mixed-use development to include affordable housing, commercial and community facility space in Community District 5, East New York, Brooklyn.

The Department of Housing Preservation and Development states in its application that:

The Project Area consists of underutilized property that tends to impair or arrest the sound development of the surrounding community, with or without tangible physical blight. Incentives are needed in order to induce the correction of these substandard, insanitary, and blighting conditions. The project activities would protect and promote health and safety and would promote sound growth and development. The project area is therefore eligible to be an Urban Development Action Area Project pursuant to Article 16 of the General Municipal Law.

## **RELATED ACTIONS**

In addition to the designation of an Urban Development Action Area, project approval, and disposition of City-owned property which is the subject of this report (C130376 HAK), implementation of the proposed project also requires action by the City Planning Commission on the following applications, which are being considered concurrently with this application.

**C 130374 ZMK**      Zoning map amendment to change an existing R6, R6 with C2-3 overlay, and M1-1 district to R6, R7A with C2-3 overlay, and C4-4L.

**C 130375 HUK**      Third amendment to the East New York I Urban Renewal Plan for the East New York Urban Renewal Area

## **BACKGROUND**

A description of this application, the surrounding area and the proposed project is included in the report on the related action for the Third Amendment to the East New York I Urban Renewal Plan (C 130375 HUK).

## **ENVIRONMENTAL REVIEW**

The application (C 130376 HAK), in conjunction with the applications for the related actions (C 130374 ZMK and C 130375 HUK), was reviewed pursuant to the New York State Environmental Quality Review Act (SEQRA) and the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 et seq. and the City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The designated CEQR number is 13HPD074K. The lead agency is the Department of Housing Preservation and Development.

After a study of the potential impact of the proposed actions, a Negative Declaration was issued on June 14, 2013.

### **UNIFORM LAND USE REVIEW**

This application (C 130376 HAK), in conjunction with the related actions (C 130374 ZMK and C 130375 HUK), was certified as complete by the Department of City Planning on June 17, 2013, and was duly referred to Brooklyn Community Board 5 and the Brooklyn Borough President in accordance with Title 62 of the Rules of the City of New York, Section 2-02(b).

### **Community Board Public Hearing**

Community Board 5 held a public hearing on this application (C 130375 HUK) on June 26, 2013, and on that date, by a vote of 29 to 5, with one abstention, adopted a resolution recommending approval of the application, with the following conditions:

- Any residents living in any City owned HPD buildings in the Industrial Park are to be given first priority of the new apartments once the application process starts. This should not interfere with the 50% set aside for Community Board 5 residents.

### **Borough President Recommendation**

This application (C 130376 HAK) was considered by the Borough President of Brooklyn, who on August 5, 2013 issued a recommendation to approve the application.

### **CITY PLANNING COMMISSION PUBLIC HEARING**

On July 24, 2013 (Calendar No. 3), the City Planning Commission scheduled August 7, 2013 for a public hearing on this application (C 130376 HAK). The hearing was duly held on August 7, 2013 (Calendar No. 19), in conjunction with the applications for the related actions (C 130374 ZMK and C 130375 HUK).

Five speakers offered testimony in favor of the project, as described in the report on the related application for the Third Amendment to the East New York I Urban Renewal Plan (C 130375

HUK), and the hearing was closed.

## **CONSIDERATION**

The City Planning Commission believes that the application for UDAAP designation, project approval, and the disposition of city-owned property is appropriate.

A full consideration and analysis of the issues, and the reasons for approving the application appear in the report on the related application for the Third Amendment of the East New York I Urban Renewal Plan (C 130375 HUK).

## **RESOLUTION**

**RESOLVED**, that the City Planning Commission finds that the action described herein will have no significant adverse impact on the environment, and

**WHEREAS**, the Department of Housing Preservation and Development has recommended the designation of property located along Livonia Avenue between Van Sinderen Avenue and Pennsylvania Avenue (Block 3801, Lots 1, 3, 47, 49; Block 3804, Lot 1; Block 3805, Lots 1 and 6; Block 3819, Lots 121 and 130; and Block 3820, Lot 123) in the Borough of Brooklyn as an Urban Development Action Area; and

**WHEREAS**, the Department of Housing Preservation and Development has also recommended the approval of an Urban Development Action Area Project for such property;

**THEREFORE, BE IT FURTHER RESOLVED**, that the City Planning Commission after due consideration of the appropriateness of the actions, certifies its unqualified approval of the following matters pursuant to the Urban Development Action Area Act:

- a) the designation of property located along Livonia Avenue between Van Sinderen Avenue and Pennsylvania Avenue (Block 3801, Lots 1, 3, 47, 49; Block 3804, Lot 1; Block 3805, Lots 1 and 6; Block 3819, Lots 121 and 130; and Block 3820, Lot 123) in the as an Urban Development Action Area; and
- b) an Urban Development Action Area Project for such area; and

the City Planning Commission recommends that the New York City Council find that:

- a) The present status of the area tends to impair or arrest the sound development of the municipality;
- b) The financial aid in the form of tax incentives if any, to be provided by the municipality pursuant to Section 696 of Article 16 of the General Municipal Law is necessary to enable the project to be undertaken; and
- c) The project is consistent with the policy and purposes stated in Section 691 of Article 16 of the General Municipal Law; and

**BE IT FURTHER RESOLVED**, by the City Planning Commission pursuant to Section 197-c of the New York City Charter, that based on the environmental determination and the consideration of this report, the application of the Department of Housing Preservation and Development for the disposition of city-owned property located along Livonia Avenue between Van Sinderen Avenue and Pennsylvania Avenue (Block 3801, Lots 1, 3, 47, 49; Block 3804, Lot 1; Block 3805, Lots 1 and 6; Block 3819, Lots 121 and 130; and Block 3820, Lot 123) in Community District 5, Borough of Brooklyn, to a developer to be selected by the Department of Housing Preservation and Development, is approved.

The above resolution (C 130376 HAK), duly adopted by the City Planning Commission on September 11, 2013 (Calendar No. 6), is filed with the Office of the Speaker, City Council and the Borough President, in accordance with the requirements of Section 197-d of the New York City Charter.

**AMANDA M. BURDEN, FAICP**, Chair  
**KENNETH J. KNUCKLES, Esq.**, *Vice-Chairman*  
**RAYANN BESSER, IRWIN G. CANTOR, P.E.,**  
**ALFRED C. CERULLO, III, BETTY Y. CHEN, MICHELLE R. DE LA UZ,**  
**MARIA M. DEL TORO, JOSEPH I. DOUEK, RICHARD W. EADDY,**  
**ANNA HAYES LEVIN, ORLANDO MARIN**, Commissioners



# Community/Borough Board Recommendation

Pursuant to the Uniform Land Use Review Procedure

Application #: **C130376HAK**Project Name: **Livonia Commons**

CEQR Number: 13HPD074K

Borough(s): Brooklyn

Community District Number(s): 5

Please use the above application number on all correspondence concerning this application

## SUBMISSION INSTRUCTIONS

- Complete this form and return to the Department of City Planning by one of the following options:
  - EMAIL (recommended):** Send email to [CalendarOffice@planning.nyc.gov](mailto:CalendarOffice@planning.nyc.gov) and include the following subject line: (CB or BP) Recommendation + (6-digit application number), e.g., "CB Recommendation #C10000ZSQ"
  - MAIL:** Calendar Information Office, City Planning Commission, Room 2E, 22 Reade Street, New York, NY 10007
  - FAX:** (212) 720-3356 and note "Attention of the Calendar Office"
- Send one copy of the completed form with any attachments to the applicant's representative at the address listed below, one copy to the Borough President, and one copy to the Borough Board, when applicable.

### Docket Description:

IN THE MATTER OF an application submitted by the Department of Housing Preservation and Development (HPD):

1) pursuant to Article 16 of the General Municipal Law of New York State for:

a) the designation of properties located along Livonia Avenue between Van Sinderen Avenue and Pennsylvania Avenue, as an Urban Development Action Area; and

b) an Urban Development Action Area Project for such area; and

2) pursuant to Section 197-c of the New York City Charter for the disposition of such property, to a developer to be selected by HPD;

to facilitate the development of one community facility building and 4 mixed-use buildings with a total of

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|--|--|---|
| <b>Applicant(s):</b><br>NYC Dept. Of Housing Preservation & Development<br>100 Gold Street<br>New York, NY 10038   |  | <b>Applicant's Representative:</b><br>Jack Hammer<br>NYC Dept. of Housing Preservation & Development<br>100 Gold Street<br>New York, NY 10038 |
| <b>Recommendation submitted by:</b><br>Brooklyn Community Board 5  |  |   |
| <b>Date of public hearing:</b> 6/26/13   |  | <b>Location:</b> 127 Pennsylvania Avenue  |
| <b>Was a quorum present?</b> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>   |  | <i>A public hearing requires a quorum of 20% of the appointed members of the board, but in no event fewer than seven such members.</i>        |
| <b>Date of Vote:</b> 6/26/13   |  | <b>Location:</b> 127 Pennsylvania Avenue  |
| <b>RECOMMENDATION</b><br><input type="checkbox"/> Approve<br><input type="checkbox"/> Disapprove<br><input checked="" type="checkbox"/> Approve With Modifications/Conditions<br><input type="checkbox"/> Disapprove With Modifications/Conditions |  |   |
| <b>Please attach any further explanation of the recommendation on additional sheets, as necessary.</b>   |  |   |
| <b>Voting</b><br># In Favor: 29    # Against: 1    # Abstaining: 5    Total members appointed to the board: 49 *<br>Corrected Copy   |  |   |
| <b>Name of CB/BB officer completing this form</b><br>Walter H. Campbell  |  | <b>Title</b><br>District Manager  |
|  |  | <b>Date</b><br>7/1/13   |

## Brooklyn Community Board #5 Recommendation

### Application Numbers:

130374 ZMK

C130375HUK

C130376HAK

Approved with Conditions on June 26, 2013: Any residents living in any City owned HPD buildings in the Industrial Park are to be given first Priority of the New Apartments once the application process starts. This should not interfere with the 50% set aside for Community Board #5 residents.

# 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 #: 130374 ZMK – 130375 HUK – 130376 HAK

Livonia Commons

In the matter of applications submitted by the Department of Housing Preservation and Development, pursuant to:

- a)** Sections 197-c and 201 of the New York City Charter for the amendment of the Zoning Map to eliminate a C2-3 District from within an existing R6 District for area bounded by:
- 1) a line 150 feet northerly of Livonia Avenue, Williams Avenue, Livonia Avenue, Alabama Avenue, a line 100 feet southerly of Livonia Avenue, Williams Avenue, a line 150 feet southerly of Livonia Avenue, Snediker Avenue, Livonia Avenue, and a line midway between Snediker Avenue and Van Sinderen Avenue; Livonia Avenue, Sheffield Avenue, and a line 100 feet southerly of Livonia Avenue, and Georgia Avenue; and, a line 150 feet northerly of Livonia Avenue, a line midway between Pennsylvania Avenue-Granville Payne Avenue and Sheffield Avenue, Livonia Avenue, and Sheffield Avenue;
  - 2) to change an existing R6 District to a C4-4L District;
  - 3) to change an existing R6 District to a R7A District with a C2-4 District; and,
  - 4) to change an existing M1-1 District to a C4-4L District.
- b)** Section 505 of Article 15 of the General Municipal Law of New York State and Section 197-c of the NYC Charter for the third amendment to the East New York I Urban Renewal plan for the East New York I Urban Renewal Area.
- c)** Article 16 of the General Municipal Law of New York State for the designation of properties located along Livonia Avenue between Van Sinderen Avenue and Pennsylvania Avenue, as an Urban Development Action Area and an Urban Development Action Area Project for such area and pursuant to Section 197-c of the NYC Charter for the disposition of such property to a developer to be selected by HPD to facilitate the development of one community facility building and four mixed-use buildings with a total of approximately 279 units of affordable housing.

COMMUNITY DISTRICT NO. 5

BOROUGH OF BROOKLYN

### RECOMMENDATION – 120294 ZMK 120295 ZRK

☒ APPROVE

☐ APPROVE WITH

MODIFICATIONS/CONDITIONS

☐ DISAPPROVE

☐ DISAPPROVE WITH

MODIFICATIONS/CONDITIONS

BOROUGH PRESIDENT

August 5, 2013

DATE



# **RECOMMENDATION FOR THE PROPOSED ZONING MAP AMENDMENT AND UDAAP DESIGNATION FOR CITY-OWNED PROPERTIES 130374 ZMK – 130375 HUK – 130376 HAK**

The Department of Housing Preservation and Development (HPD) is seeking: approval of a zoning map amendment along Livonia Avenue between Van Sinderen Avenue and Pennsylvania Avenue; the disposition of City-owned property; an Urban Development Action Area Project (UDAAP) designation and project approval; and, an amendment to the East New York I Urban Renewal Plan (URP) to facilitate 279 units of affordable housing, retail/commercial space and community facility space to advance the Mayor's New Housing Marketplace Plan through the development of five City-owned properties along Livonia Avenue in East New York.

On July 17, 2013, the Borough President held a public hearing on the proposed land disposition agreement. Dunn Development Corp. (Dunn) representatives explained that the affordable units will feature 43 units that will be set aside for supportive housing which will be integrated throughout the units at Site 3. Dunn intends to bring the entire project online at the same time. The development is anticipated to include various community uses. Dunn intends to offer community space at a reduced rent, as a means to ensure that future community and cultural uses have a chance to thrive in the community. Space within Site 4 is being earmarked for occupancy by Arts East New York, a multicultural arts facilitator/performing arts program within the community. Arts East New York has outgrown its current location and thus will be able to expand its programming in its intended location with the development.

Dunn noted intent for the Department of Aging to open one of its new larger facilities to serve a larger number of seniors, therefore plans for this space within Site 3 reflect those dimensions. Unfortunately, due to funding constraints, the Department of Aging remains unable to allocate funds to the creation of such a center. As a result, Dunn anticipates that the space would be reserved for such tenancy with the hope that the Department of Aging will secure adequate funding to lease the space at Dunn's intended below-market leasing. Finally, the Boys Club of New York (BCNY) would be located on Site 5 and it would develop and own that site. BCNY would provide extremely affordable recreational facilities capable of serving 200 at a time -- primarily males between the ages 6 and 20. The organization has been in contact with the Department of Education to house a school of up to approximately 500 students during the hours BCNY does not run its own programming. The facility would feature a pool, gym, and spaces for media, computer, art center, library, music studio, etc.

## **CONSIDERATION**

Community Board 5 voted to approve this application with a condition for HPD to provide first priority of the new apartments to any residents of city-owned HPD buildings currently within the Industrial Park. The Board recommended that this preference should not count against the 50% set aside for residents of Community District 5.

The URP currently restricts construction of housing within 100 feet of the Livonia Avenue right-of-way and development on URP Site 127 at Sheffield Avenue is currently restricted to a Public/Institutional land use.

These applications seek to transform this section of the Livonia Avenue corridor into a vibrant mixed-use area by adding population density and creating retail opportunities through the development of four mixed-use buildings with a total of 279 units and one community facility building, a stand-alone space for the Boys Club of New York. Site 1 would be six-stories and contain 52 residential units and 3,000 square feet of retail. Site 2 would be eight-stories and contain 84 units as well as more than 10,000 sf of ground floor retail. Site 3 would be seven-stories and contain 91 units and nearly 9,000 sf of retail. Site 4 would be seven-stories and contain 52 residential units and approximately 2,500 sf for retail. The Boys Club on Site 5 would likely be 60,000 sf containing a gymnasium, auditorium, in-ground swimming pool, music rooms, computer lab, dance theatre, art studios, game rooms, classrooms and cafeteria.

The Borough President concurs with the Administration's pursuit of facilitating smart development opportunities that take advantage of public rapid transit infrastructure. It is his policy to support initiatives such as amendments to the Zoning Map that provide for increased population density when the availability of public transit access warrants the type of neighborhood transformation to spur such development. The proposed rezoning, with its proximity to the "L" and "3" train stations, support increased density. The block front along the north side of Livonia Avenue adjacent to the "3" station would be rezoned to C4-4L to facilitate more flexibility in the amount of commercial floor area and use as compared to the remainder of this section of Livonia Avenue. This will be achieved by allowing commercial use on multiple floors while still permitting residential use on the higher floors up to ten stories, with a mandatory five foot setback at street level.

It is the Borough President's policy to support land use actions that would increase the supply of affordable housing options for those Brooklyn residents in need of such housing options. He is troubled that too many borough residents leave because they can no longer afford to live in Brooklyn. With the great demand for affordable housing, he believes that every attempt should be made to provide these opportunities. For city-owned lots, it is generally the policy of the Borough President to seek at least 50 percent of the generated units to be affordable. It is also his policy that such units should remain "Affordable Forever" where feasible. With this project, the Borough President believes Dunn has created a proposal where the city-owned sites would be developed entirely as affordable housing and is generally consistent with his policies regarding affordability. The units are required to be affordable for at least 30 years, and depending on State financing, might have a 50 year affordability minimum requirement. The Borough President prefers programs that would entice the property owner to extend or make permanent the affordability of these units. The Borough President has concerns regarding the trend for new developments to include a greater proportion of studio and one bedroom units, which results in fewer opportunities for larger families to qualify for such affordable housing. He commends Dunn for ensuring that larger households will have an adequate opportunity to secure affordable housing as more than fifty percent of the proposed units will contain two and three bedroom apartments.

The Borough President has consistently supported housing construction that incorporates a supportive housing component within the development. Dunn will provide supportive housing opportunities for those formerly homeless and with various disabilities. On-site supportive services will be made available to assist residents to integrate into the community. It has been clearly demonstrated that the most cost effective means to address the needs of the formerly homeless is to provide permanent, supportive housing.

The East New York community is underserved for services such as arts programming as facilities for senior citizens – which is exacerbated by the fact that this is an area with a growing population of seniors.

The Borough President appreciates Dunn's commitment to the neighborhood through its intention to secure beneficial amenities for the community by offering community space at a reduced rent, ensuring that future community and cultural uses have a chance to thrive in the community. As part of the plans, Dunn's interest to include a senior center on one of its sites and place Arts East New York within another site. The Borough President agrees with Dunn that the arts community has the potential to be a driving force within the area. The Borough President endorses Dunn's commitment which provides Arts East New York a larger facility to further its mission as it furthers its role in the development and longstanding of a community's growth through the arts. The Borough President appreciates Dunn's patience to hold off on securing a leasing commitment for the space it has set aside to house a senior center given the Department of Aging is not in position to award a contract to operate at this time. He urges the developer to explore alternative funding sources while continuing to promote this space to the Department of Aging.

The Borough President welcomes BCNY's initiative to raise \$20 million to construct a 60,000 sf facility which will be a tremendous benefit for primarily male youth (age 6 through 20) residing in Brooklyn. He believes this facility would benefit the borough through its standard programming and has unique opportunities to yield further benefit through specific initiatives.

The Borough President appreciates BCNY's plan to include an indoor pool in the facility that would operate as a certified Red Cross swimming program. Since nearly 6 out of 10 African-American and Hispanic children are unable to swim, nearly twice as many as their Caucasian counterparts, it is paramount that the BCNY implement a Red Cross learn-to-swim program for members ages six to twenty years old with the outcome that all BCNY members will learn to swim.

Moreover, every summer, the Department of Parks and Recreation hires 1,200 lifeguards to staff the City's pools and beaches. With first-year lifeguards earning a minimum of \$13.57 an hour, for a weekly salary of over \$650.00, it is an excellent summer job for high school and college students. However, future lifeguards need exposure to aquatic safety training early and often in their swim careers. The Borough President believes that it would be ideal for BCNY to offer at this location its GuardStart: Lifeguarding Tomorrow program which includes lessons to develop aquatic knowledge and skills needed to successfully complete the American Red Cross Lifeguarding course for those turning 15 years old.

The Borough President applauds BCNY for its interest in making its planned facility available to outside organizations when not in use for its programming. The BCNY has been in conversation with the Department of Education (DOE) to partner with an IS/HS facility that might house up to 500 students staffed by DOE teachers serving as a specialized school that would attract students from the neighborhood and beyond. The Borough President believes that BCNY and DOE should engage in an open and public meeting with both Community Education Councils 19 and 23 at regular intervals during the consideration of the planning for establishing such a school.

The BCNY site sits across the street from Success Gardens, NYC Parks-owned community garden and ecological center, built by East New York Urban Youth Corps in the early 1990s. The .92 acre site includes a pond, a gazebo and large specimen trees, including willows, conifers and red maples. When it first opened in the 1994, Success Gardens was the vanguard of community-based,

open space planning and design. However, currently the Garden is lacking a true stewardship entity to provide maintenance and public programming.

The Borough President appreciates BCNY's interest in playing a role in the rejuvenation of Success Gardens. He believes BCNY could help reactive this community space by measures taken both on its building design as well as through programming initiatives. The intended BCNY site is directly to the west of Success Gardens, where the future building would overlook the garden and incorporating a bank of windows along this facade would help activate the "eyes on the street" presence, forming are enhanced visual connection between these properties. In addition, BCNY has the opportunity to organize direct service initiatives such as routine clean-ups and how-to-garden workshops. Ideally, BCNY would sponsor a comprehensive urban agriculture program at Success Gardens which would provide hands-on farming experience and give participants the skills and confidence to go on and work in many horticulture fields – such as the urban rooftop commercial farming operations which are expected to have an expanded presence throughout the City, with a few sites in development operation and it in Brooklyn already.

#### Minimizing Impacts of Developing Adjacent to Elevated Train Structures

The Borough President made recommendations regarding the recently established C4-4L commercial district introduced by the Department of City Planning (DCP) as part of the Bedford Stuyvesant North Rezoning in order to best protect citizens in their homes from environmental factors such as noise and vibrations that would include having the optional setback at a height of 30 feet made to be mandatory. The proposed residential buildings are characterized by two solutions to address proximity to the train structure. One is a single loaded corridor, with residential apartment proportioned windows aligning the street faced, with the exception being at street corners where bedrooms have primary windows facing the side street. The other restricts the building space away from the corners below the fourth floor to spaces such as management offices and common laundry and meeting rooms. After seeing the floor plans devised by Dunn, where, within the building's setup, there are no units with primary window openings facing out to the elevated tracks below the fourth floor, the Borough President would support the optional setback provided in the C4-4L District if the Zoning Resolution was modified to reflect the innovation devised by Dunn in terms of keeping primary window openings from being within five feet of a street line bordering an elevated train structure. He urges DCP to give further consideration to revising the street wall provisions of the C4-4L district.

#### **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 approve the land use actions requested as part of the Livonia Commons application.

Be it further resolved that the Department of City Planning consider amending Zoning Resolution Section 35-24 (c) (4) Special Street Wall Location and Height and Setback Regulations in Certain Districts, regarding setback locations as it pertains to the C4-4L zoning district, to condition the option of not setting back where below the fourth floor, fenestration is not the primary window opening for living spaces such as living rooms and bedrooms.