



Legislation Text

File #: Res 1159-2016, Version: *

**THE COUNCIL OF THE CITY OF NEW YORK
RESOLUTION NO. 1159**

Resolution approving with modifications an application submitted by the New York City Department of Housing Preservation and Development (HPD) and the decision of the City Planning Commission, ULURP No. C 160143 HAQ, for the designation of property located 133-45 41st Avenue (Block 5037, Lots 64 and 65), Borough of Queens, as an Urban Development Action Area, an Urban Development Action Area Project, a real property tax exemption pursuant to Section 577 of the Private Housing Finance Law, and approving the disposition of city-owned property located at 133-45 41st Avenue (Block 5037, Lots 64 and 65) to a developer selected by HPD pursuant to Section 197-c of the New York City Charter (L.U. No. 382; C 160143 HAQ).

By Council Members Greenfield and Dickens

WHEREAS, the City Planning Commission filed with the Council on May 13, 2016 its decision dated May 11, 2016 (the "Decision"), on the application submitted by the New York City Department of Housing Preservation and Development ("HPD") pursuant to Section 197-c of the New York City Charter and Article 16 of the General Municipal Law of New York State regarding:

- a) the designation of property located at 133-45 41st Avenue (Block 5037, Lots 64 and 65), as an Urban Development Action Area (the "Project Area");
- b) an Urban Development Action Area Project for the Area (the "Project");
- c) the disposition of city-owned of property pursuant to Section 197-c of the New York City Charter for property located at 133-45 41st Avenue (Block 5037, Lots 64 and 65) (the "Disposition Area"), to a developer to be selected by HPD; and

to facilitate development of a ten-story mixed use 100% affordable multi-family project consisting of 231 dwelling units, approximately 19,000 square feet of open space, approximately 11,208 square feet of community facility space, and below grade parking for up to 229 cars, Community District 7, Borough of Queens (ULURP No. C 160143 HAQ) (the "Application");

WHEREAS, the application is related to Applications C 160138 ZMQ (L.U. No. 378), an amendment of the Zoning Map, Section 10b, changing from a C4-2 District to a C4-5X District; N 160139 ZRQ (L.U. No. 379), a zoning text amendment to modify ZR Section 23-90 to designate the proposed rezoning area as a Mandatory Inclusionary Housing Area; C 160140 ZSQ (L.U. No. 380), a special permit, pursuant to ZR Section 74-52, to allow an attended public parking garage; C 160141 ZSQ (L.U. No. 381), a special permit, pursuant to ZR Section 74-681, to allow a portion of the right-of-way wherein railroad use has been permanently discontinued or terminated to be included in the lot area; and C 160143 HAQ (L.U. No. 382), designation of property as an Urban Development Action Area and Urban Development Action Area Project; and pursuant to

Section 197-c, disposition of such property to a developer selected by the Department of Housing Preservation and Development;

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(1) of the City Charter;

WHEREAS, the Application and Decision are subject to review and action by the Council pursuant to Article 16 of the General Municipal Law of New York State;

WHEREAS, by letter dated April 25, 2016 and submitted to the Council on May 5, 2016, HPD submitted its requests (the "HPD Requests") respecting the Application including a project summary (the "Project Summary"), and including a request for approval a real property tax exemption pursuant to Section 577 of the Private Housing Finance Law (the "Exemption") for property located at 133-45 41st Avenue (Block 5037, Lots 64 and 65) (the "Exemption Area");

WHEREAS, upon due notice, the Council held a public hearing on the Application and Decision on June 2, 2016;

WHEREAS, the Council has considered the land use and financial implications and other policy issues relating to the Application;

WHEREAS, the Council has considered the relevant environmental issues including the negative declaration (CEQR No. 16HPD014Q) issued December 17, 2015 (the "Negative Declaration");

RESOLVED:

The Council finds that the action described herein will have no significant impact on the environment as set forth in the Negative Declaration.

Pursuant to Section 197-d of the New York City Charter, based on the environmental determination and the consideration described in the report (C 160143 HAQ) and incorporated by reference herein, the Council approves with modifications the Decision of the City Planning Commission and the HPD Requests as follows:

The Council finds that the present status of the Project Area tends to impair or arrest the sound growth and development of the City of New York and that a designation of the Project as an urban development action area project is consistent with the policy and purposes stated in Section 691 of the General Municipal Law.

The Council approves the designation of the Project Area as an urban development action area pursuant to Section 693 of the General Municipal Law.

The Council approves the Project as an urban development action area project pursuant to Section 694 of the General Municipal Law.

The Project shall be developed in a manner consistent with the Project Summary submitted by HPD on May 5, 2016, a copy of which is attached hereto and made a part hereof.

The Council approves the disposition of 133-45 41st Avenue (Block 5037, Lots 64 and 65) pursuant to Section 197-d of the New York City Charter, to a developer selected by the New York City Department of

Housing Preservation and Development, with the following modification:

A minimum of 5,000 square feet of any building developed on the Disposition Area shall be restricted to the following uses, as set forth in Sections 22-13 and 22-14 of the New York City Zoning Resolution, for a period of five years from the date of issuance of the first temporary certificate of occupancy (TCO) for the entire building, or if no TCO is first issued for the entire building, the first final certificate of occupancy for the entire building:

1. Community center or settlement house,
2. Non-commercial recreation center,
3. Library, museum, or non-commercial art gallery, or
4. School.

The Council approves an exemption from real property taxation pursuant to Section 577 of the Private Housing Finance Law as follows:

1. For the purposes hereof, the following terms shall have the following meanings:
 - a) “Effective Date” shall mean the later of (i) the date of conveyance of the Exemption Area to the HDFC, and (ii) the date that HPD, HDC and the New Owner enter into the Regulatory Agreement in their respective sole discretion.
 - b) “Exemption” shall mean the exemption from real property taxation provided hereunder.
 - c) “Exemption Area” shall mean the real property located on the Tax Map of the City of New York in the Borough of Queens, City and State of New York, identified as Block 5037, Lots 64 and 65.
 - d) “Expiration Date” shall mean the earlier to occur of (i) a date which is forty (40) years from the Effective Date, (ii) the date of the expiration or termination of the Regulatory Agreement, or (iii) the date upon which the Exemption Area ceases to be owned or leased by either a housing development fund company or an entity wholly controlled by a housing development fund company.
 - e) “HDC” shall mean New York City Housing Development Corporation.
 - f) “HDFC” shall mean One Flushing Housing Development Fund Corporation.
 - g) “HPD” shall mean the Department of Housing Preservation and Development of the City of New York.
 - h) “LLC” shall mean One Flushing Owner LLC or an affiliate.
 - i) “New Owner” shall mean the HDFC and the LLC or any future owner of the Exemption Area.
 - j) “Project” shall mean the construction of one multiple dwelling building on the Exemption Area containing approximately 231 rental dwelling units, plus one unit for a superintendent, approximately 14,428 square feet of community facility space, and approximately 19,000 square feet of open space.
 - k) “Regulatory Agreement” shall mean the regulatory agreement between HPD, HDC and the New Owner establishing certain controls upon the operation of the Exemption Area during the term of the

Exemption.

2. All of the value of the property in the Exemption Area, including both the land and any improvements (excluding those portions, if any devoted to business or commercial use) shall be exempt from real property taxation, other than assessments for local improvements, for a period commencing upon the Effective Date and terminating upon Expiration Date.
3. (a) Notwithstanding any provision hereof to the contrary, the exemption from real property taxation provided hereunder (“Exemption”) shall terminate if HPD determines at any time that (i) the Exemption Area is not being operated in accordance with the requirements of Article XI of the Private Housing Finance Law, (ii) the Exemption Area is not being operated in accordance with the requirements of the Regulatory Agreement, (iii) the Exemption Area is not operated in accordance with the requirements of any other agreement with, or for the benefit of, the City of New York, (iv) the Exemption Area is conveyed to a new owner without the prior written consent of HPD, or (v) the demolition or construction of any private or multiple dwelling on the Exemption Area has commenced without the prior written consent of HPD. HPD shall deliver written notice of any such determination to the New Owner and all mortgagees of record, which notice shall provide for an opportunity to cure of not less than sixty (60) days. If the noncompliance specified in such notice is not cured within the time period specified therein, the Exemption shall prospectively terminate.

(b) Nothing herein shall entitle the New Owner to a refund of any real property taxes which accrued and were paid with respect to the Exemption Area prior to the Effective Date.

(c) The Exemption shall not apply to any building constructed on the Exemption Area which does not have a permanent or temporary certificate of occupancy by December 31, 2021, as such date may be extended in writing by HPD.
4. In consideration of the Exemption, the New Owner (i) shall execute and record the Regulatory Agreement, and (ii) for so long as the Exemption shall remain in effect, shall waive the benefits of any additional or concurrent exemption from or abatement of real property taxation which may be authorized under any existing or future local, state, or federal law, rule, or regulation.

Adopted.

Office of the City Clerk, }
The City of New York, } ss.:

I hereby certify that the foregoing is a true copy of a Resolution passed by The Council of The City of New York on June 21, 2016, on file in this office.

.....
City Clerk, Clerk of The Council