

LEGAL NOTICE

NEW YORK STATE URBAN DEVELOPMENT CORPORATION

D/B/A EMPIRE STATE DEVELOPMENT

NOTICE OF PUBLIC HEARING TO BE HELD TUESDAY, MAY 24, 2016

PURSUANT TO SECTIONS 6 AND 16 OF THE NEW YORK STATE URBAN  
DEVELOPMENT CORPORATION ACT AND ARTICLE 8 OF THE ENVIRONMENTAL  
CONSERVATION LAW IN CONNECTION WITH THE PROPOSED

FOUNTAIN AVENUE LAND USE IMPROVEMENT AND RESIDENTIAL PROJECT

PLEASE TAKE NOTICE that a public hearing (the “Public Hearing”), open to all persons, will be held at Brooklyn Sports Club, 1540 Van Siclen Avenue, Brooklyn, New York, on Tuesday, May 24, 2016 from 3:00 p.m. to 5:00 p.m. and 6:00 p.m. to 8:00 p.m. by the New York State Urban Development Corporation d/b/a Empire State Development (“ESD”), pursuant to Sections 6 and 16 of the New York State Urban Development Corporation Act (Chapter 174, Section 1, Laws of 1968, as amended; the “Act”) and the State Environmental Quality Review Act (Article 8 of the New York State Environmental Conservation Law) and the regulations adopted pursuant thereto (6 N.Y.C.R.R. part 617) (collectively, “SEQRA”), to consider (a) the General Project Plan (the “GPP”) for the proposed Fountain Avenue Land Use Improvement and Residential Project (the “Project”); (b) the essential terms of a proposed purchase and sale agreement and other documents for the Project with the Fountain Seaview One Housing Development Fund Corporation, Inc. (“Developer”); and (c) the Draft Environmental Impact Statement (“DEIS”) for the Project.

The public hearing is for the purpose of: (1) informing the public about the Project; (2) giving all interested persons an opportunity to give testimony or comment on the General Project

Plan, pursuant to Section 16 of the UDC Act; (3) giving all interested persons an opportunity to give testimony or comment on the essential terms of a proposed purchase and sale agreement and other documents for the Project, with Developer, pursuant to Section 6 of the UDC Act; (4) giving all interested persons an opportunity to present oral or written statements or submit other documents concerning the Project; and (5) offering all interested persons the opportunity to give testimony or comment on the DEIS, pursuant to applicable environmental laws.

The public purposes of the Project include, but are not limited to: (a) redeveloping two vacant and underutilized parcels at the Project Site (described below), thereby eliminating substandard and insanitary conditions at the Project Site and any future danger of such conditions; (b) creating both construction related and permanent jobs, which will enhance the tax base of the City and State; (c) creating quality affordable housing for low income households; (d) returning the Project Site to the New York City tax rolls; and (e) constructing an environmentally-responsible structure expected to reduce energy and water consumption.

A number of ESD discretionary actions are subject to review pursuant to the UDC Act and SEQRA, including ESD's approval of the General Project Plan, and the disposition via purchase and sale agreement of its interest in real property. ESD is serving as the lead agency under SEQRA. ESD's Directors have determined that the DEIS is complete for purposes of public review. After the public hearing is held and a thirty-day public comment period is concluded pursuant to applicable laws, a Final Environmental Impact Statement ("FEIS") will be completed and ESD's Directors will be required to issue the FEIS and to affirm or, if appropriate, modify the General Project Plan and make statutory findings under the UDC Act, SEQRA, and other applicable law.

- I. The Project Site: The Project Site is Block 4586, Lot 500 (“Parcel A”) and Lot 200 (“Parcel B”) located at the former Brooklyn Developmental Center with an address of 888 Fountain Avenue, in the Spring Creek neighborhood of the East New York section of Brooklyn. Parcel A contains a total of 2 acres and is located on the southeast corner of Seaview Avenue and Erskine Street. Parcel B contains a total of 4.7 acres and is located along the south block-front of Vandalia Avenue between Erskine Street and Fountain Avenue. Both Parcels A and B are currently unimproved, predominantly level and at grade.
- II. Project Description: The design, development, construction and operation of multiple improvements at the Project Site by Developer that shall conform to agreed guidelines to be incorporated within a Purchase and Sale Agreement and other documents. When completed, the total project will be approximately 1,248,841 square feet comprised of approximately: 972,787 square feet of residential space totaling approximately 1,169 units of housing for households earning up to 60% area median income (“AMI”) which includes approximately 200 senior units as well as supportive housing units for people with intellectual and developmental disabilities; 105,460 square feet of retail, commercial or community facility space; and 170,594 square feet of parking.
- III. Essential Terms of the Purchase and Sale Agreement and Property Disposition:
  - a. DASNY is the fee owner of the Project Site. ESD would acquire title to the Project Site at closing and immediately convey the Project Site to Developer.
  - b. Developer will design, develop and construct the Project in accordance with the terms of the GPP, the Purchase and Sale Agreement, and a restrictive declaration that will be recorded against the Development Site and run with title to the land.

- c. Developer will construct the following at the Project Site:
- i. Parcel A will consist of approximately 415,595 square feet of development totaling and inclusive of approximately 286,297 square feet of residential for approximately 332 units of housing earning up to 60% AMI with approximately 44,756 square feet of ground floor retail, commercial and/or community facility space and approximately 84,542 square feet of parking, equivalent to parking for 35% of the dwelling units and parking for the commercial space. Parcel A will also include supportive housing spaces, laundry rooms and on-site parking for bicycles. Parcel A will be constructed before Parcel B.
  - ii. Parcel B will consist of multifamily residential buildings totaling approximately 833,246 square feet of development, totaling and inclusive of approximately 686,490 square feet of housing including approximately 200 units of low-income senior housing and approximately 637 units of housing at 60% AMI or less with approximately 60,704 square feet of ground floor retail, community facility and/or commercial space and approximately 86,052 square feet for parking for automobiles, equivalent to parking for 35% of the non-senior dwelling units as well as parking for the commercial space. Parcel B will also include supportive housing spaces, laundry rooms and on-site parking for bicycles.
  - iii. The Project will include a new privately-owned publicly accessible open space called Schroeders Walk which will be a pedestrianized extension of Schroeders Avenue through the site.

iv. At the election of Office of People With Developmental Disabilities (“OPWDD”), a preference in the selection of up to 20% of the non-senior unit count will be given to people with intellectual and developmental disabilities, subject to the legally required public review process.

Depending on the financing, all of the units would be affordable for a minimum of thirty (30) or fifty (50) years and would be subject to a regulatory agreement with the involved public housing finance agency or agencies. Parcel A and Parcel B will include administrative space for the operator of the supportive housing units. Such space will be determined in consultation with OPWDD and the operator of the space. In addition, at OPWDD’s discretion, the Developer will construct improvements to the perimeter fence and improvements to the internal roadway. Such determination would be made at or before closing.

- d. The Project will be completed in five Phases. Phase 1 would entail the development of Parcel A in its entirety. Depending on market conditions and the availability of financing, the construction of Parcel B, which is comprised of four phases, Phases 2 through 5, will be built by 2028.
- e. Developer will commence Phase 1 promptly after closing. Developer would use best efforts in a good faith attempt to substantially complete Phase 1 construction within 30 months of closing, subject to force majeure.
- f. Developer would indemnify ESD and hold ESD harmless from all lawsuits and liabilities arising out of ESD’s participation in the project.

IV. Financial Terms:

- a. Purchase Price: In accordance with and subject to the terms of the Purchase and Sale Agreement, Developer will pay ESD an all cash, non-contingent payment of ten million dollars (\$10,000,000) for the fee simple interest in the Project Site (“Purchase Price”). ESD currently holds a 10% deposit from the Developer which will be applied to the Purchase Price at closing.
- b. Further:
  - i. Developer will fund all out-of-pocket, third-party expenses incurred by ESD in connection with the Project, including consultant and outside counsel expenses. Developer has executed a Cost Agreement with ESD committing to fund these expenses, and Developer has deposited funds with ESD which ESD is holding in an imprest account as security for payment of these expenses.
  - ii. Developer shall be responsible for all costs of due diligence and other preliminary work by Developer.
  - iii. Developer will pay to ESD at closing a one-time, all cash, non-contingent administrative fee equal to \$650,000.
  - iv. Developer shall be responsible for any and all Project Site preparation costs.
  - v. Developer will use its best efforts to diligently apply for financing from both private and public sources in such amounts and types as are necessary in Developer’s sole discretion to develop and construct the Project consistent with the GPP.

- vi. If at OPWDD's election, improvements to the perimeter fence and improvements to the internal roadway are requested at or before closing by OPWDD, a credit of up to \$700,000 will be given to the Developer on the Purchase Price.

V. Potential Impacts of the Project:

ESD, as the SEQRA lead agency, has classified the Project as a SEQRA Unlisted action. ESD has determined that the DEIS, which has been prepared in accordance with both City and State environmental regulations for the actions described above, is complete for purposes of public review. The DEIS identifies the following areas of potential significant adverse impact: transportation (traffic and transit), community facilities (indirect impacts on childcare centers), and construction-period noise. The DEIS describes practicable and feasible measures that have been identified to mitigate these impacts.

VI. Non-Discrimination and Contractor and Supplier Diversity:

ESD's Non-Discrimination and Contractor and Supplier Diversity Policy will apply and is included within the General Project Plan.

VII. Availability of the General Project Plan and DEIS:

The General Project Plan and DEIS are on file at the corporate offices of ESD, 633 Third Avenue, New York, New York and are available for inspection by the general public between the hours of 9:30 a.m. to 5:00 p.m., Monday through Friday, public holidays excluded. Copies of the GPP and the Executive Summary of the DEIS are available, without charge, to any person requesting such copies at the offices of ESD at the address given above. To inspect and/or obtain copies of the foregoing documents, please contact

Regina Stephens at ESD at the address above or at (212) 803-3818. Pursuant to Section 16(2) of the UDC Act, ESD has also filed a copy of the GPP, including the DEIS and the findings required pursuant to Section 10 of the UDC Act, in the offices of the Clerks of the County and City of New York, and have provided copies thereof to the Mayor of the City of New York, the Borough President of the Borough of Brooklyn, the Chair of the City Planning Commission, and the Chair of Brooklyn Community Board No. 5. Copies of the DEIS also have been provided by ESD to involved and interested agencies. An additional copy of the DEIS is on file with the Spring Creek Branch of the Brooklyn Public Library located at 12143 Flatlands Avenue at New Jersey Avenue, Brooklyn, NY 11207. Copies of the GPP, Executive Summary of the DEIS and an inspection copy of the full DEIS also will be available at the hearing location during the hearing and can be viewed at the following website: [www.esd.ny.gov/Subsidiaries\\_Projects.html](http://www.esd.ny.gov/Subsidiaries_Projects.html).

VIII. Receipt of Comments:

Comments on the General Project Plan, essential terms of the Purchase and Sale Agreement and disposition, and DEIS are requested and may be made orally or in writing at the hearing on May 24, 2016 and/or in writing no later than June 23, 2016, addressed as follows: by (1) email to: [fountainave@esd.ny.gov](mailto:fountainave@esd.ny.gov), or (2) mailed to ESD at 633 Third Avenue, 37<sup>th</sup> Floor, New York, NY 10017 (Attention: Regina Stephens).

**COMMENTS RECEIVED AFTER THE CLOSE OF BUSINESS ON JUNE 23,**

**2016 WILL NOT BE CONSIDERED.**

Dated: April 21, 2016  
New York, New York

NEW YORK STATE URBAN DEVELOPMENT  
CORPORATION d/b/a EMPIRE STATE  
DEVELOPMENT

By: \_\_\_\_\_  
Eileen McEvoy, Corporate Secretary