TECHNICAL MEMORANDUM
CEQR Number 07DCP094K: Domino Sugar Project – TM004
March 5, 2014

A. INTRODUCTION

Two Trees Management Co. LLC, ("the Applicant") is seeking a number of discretionary actions (the "Proposed Action") from the City Planning Commission (CPC) that would modify land use actions previously approved in 2010 for the Domino Sugar site (Block 2414, Lot 1 and Block 2428, Lot 1). The 2010 Domino land use actions were analyzed in the *Domino Sugar Rezoning Final Environmental Impact Statement* (FEIS), for which a Notice of Completion was issued on May 28th, 2010, and in two subsequent Technical Memoranda. The first Technical Memorandum (TM 001) was completed on June 4, 2010, in connection with the City Planning Commission approval of the 2010 Domino land use actions. The second Technical Memorandum (TM 002) was completed on July 10, 2010, in connection with the City Council approval of those same actions.

Since the issuance of May 2010 FEIS and subsequent Technical Memoranda (CEQR No. 07DCP094K), the project site was acquired by the Applicant which has developed a new program (the "Proposed Modified Development") for the site. The program and building envelopes currently being proposed, as well as the development schedule, are different from the projected development analyzed for the site in the 2010 FEIS and subsequent Technical Memoranda.

A third Technical Memorandum to the FEIS was completed on October 31, 2013, to determine whether the Applicant's Proposed Modified Development would result in any significant adverse environmental impacts that were not previously identified in the 2010 FEIS and subsequent Technical Memoranda. This Technical Memorandum (TM 003) found that the Proposed Action would not result in any significant adverse environmental impacts that had not been previously identified in the 2010 FEIS and subsequent Technical Memoranda (TM 001 and TM 002).

The purpose of this Technical Memorandum is to determine whether the proposed modifications being considered by the CPC, which would modify the proposed zoning text amendment related to the affordable housing provision, would result in any significant adverse environmental impacts not already identified in the 2010 FEIS and subsequent Technical Memoranda (TM 001, TM 002, and TM 003).

As set forth below, this Technical Memorandum (TM 004) concludes that the Proposed Action as modified by the CPC modifications would not result in any significant adverse environmental impacts that had not been previously identified in the 2010 FEIS and subsequent Technical Memoranda (TM 001, TM 002, and TM 003).

B. DESCRIPTION OF THE PROPOSED CPC MODIFICATIONS

The Proposed Action includes a proposed zoning text amendment (ULURP No. N 140131 ZRK) that would revise the NYC Zoning Resolution (ZR) Section 62-352 and 74-745 related to inclusionary housing and loading requirements. The proposed zoning text amendment would be applicable only to general large scale developments on waterfront blocks and/or areas within Brooklyn Community District 1 that meet certain conditions; the Domino Sugar project site is currently the only such site that meet this criteria. The proposed modifications being considered

by the CPC would modify the provisions of the proposed zoning text amendment governing the application of the inclusionary housing program.

As originally proposed and analyzed under TM 003, the zoning text amendment would reduce the amount of floor area for affordable housing for the Proposed Modified Development required for exercise of the Inclusionary Housing bonus by defining the affordable requirement as a percentage of residential floor area only; under current regulations, the affordable requirement is calculated as a percentage of total floor exclusive of ground floor non-residential floor area. The text amendment as proposed by the Applicant, in combination with the reprogramming of the Refinery building from residential with ground-floor retail to commercial and community facilities uses (i.e., no residential) and its location on a zoning lot separated from the remainder of the waterfront parcel, the affordable floor area required under the Inclusionary Housing bonus for the Proposed Modified Development would be 427,000 zoning square feet (zsf), compared to the 502,000 zsf under the 2010 Domino land use actions.

The proposed modifications being considered by the CPC[1] would modify the Proposed Action's zoning text amendment by defining the affordable requirement as a percentage of all floor area within a general large scale development, with the exception of floor area for the proposed school and non-residential ground floor uses. The proposed modifications would result in an increase in the total affordable floor area required under the Inclusionary Housing program for exercise of the bonus, from the Applicant's proposed 427,000 zsf, to approximately 537,000 zsf. The proposed modifications would also allow for up to 50,000 zsf of affordable floor area to be available either to low-income (up to 80% of Area Median Income) or moderate-income households (up to 125% of Area Median Income), without the provision of moderate-income units resulting in an increase in the amount of affordable housing required.

C. ANALYSIS

The proposed modifications being considered by the CPC, as noted above, would increase the residential floor area required to be designated as affordable floor area under the Inclusionary Housing program in order to achieve the maximum allowable floor area ratio (FAR) for the project site from approximately 427,000 zsf to approximately 537,000 zsf, an increment of approximately 110,000 zsf. The total floor area and the maximum allowable floor area by use, including residential, would remain unchanged from the Applicant's proposed development program as described in TM 003. As the modifications would not result to any change to the Applicant's development program other than the amount of floor area required for affordable housing under the Inclusionary Housing bonus, they do not have the potential to affect the conclusions of TM 003 with respect to any impact category other than child care. The potential to affect child care is discussed below.

[1] In addition, the proposed modifications would replace the current discrete options of 20% low-income or 10% low-income plus 15% moderate income with a formula allowing for a mix of low and moderate incomes in between these two options on a proportional basis. The proposed modifications to the zoning text amendment, combined with provisions in the Restrictive Declaration, would also allow the Inclusionary Housing bonus to be earned on a proportional basis within a multi-phase development pursuant to the bonus ratio generally applicable within Inclusionary Housing designated areas, with each building's floor area and height conditioned on the amount of affordable housing provided in conjunction with the development of such building.

Child Care

The Proposed Modified Development, as noted in TM 003, would have approximately 2,281,666 gross square feet (gsf) of residential use. As noted above, the Applicant's proposed zoning text amendment would adjust the floor area compensation rules of the Inclusionary Housing program to require 427,000 zsf of floor area as affordable (i.e., equivalent to approximately 456,330 gsf). For analysis purposes the 2010 FEIS and subsequent Technical Memoranda assumed an average dwelling unit size of approximately 1,000 gsf for all residential dwelling units. However, as stated in TM 003, the Applicant's Proposed Modified Development included a potential for up to a maximum of 660 affordable DU; therefore, in order to reflect conservative assumptions with regard to potential impacts on child care, the analysis assumed 660 DU.

As stated above, the proposed modifications being considered by the CPC would increase the amount of residential floor area required to be designated as affordable in order to achieve the maximum FAR bonus from approximately 427,000 zsf to approximately 537,000 zsf. In order to reflect conservative assumptions with regard to potential impacts on child care, it is assumed that this additional 110,000 zsf of affordable floor area could potentially facilitate a total of 700 affordable DU on the Applicant's project site.

As analyzed in TM 003, the Proposed Modified Development with its 660 affordable DU would result in a significant adverse child care impact, as was the case for the 2010 FEIS prepared for the 2010 Domino land use actions. As analyzed in TM 003, the Proposed Modified Development would introduce approximately 117 children eligible for publicly-funded child care. Since the Proposed Modified Development would be developed sequentially, the potential to exceed the significance threshold for publicly-funded child care would occur upon completion of approximately 554 affordable DU (i.e., approximately 99 children eligible for publicly-funded child care). Therefore, to mitigate the potential child care impact, the Proposed Modified Development would need to implement mitigation to address a deficit of 18 child care slots within its study area. The 18 child care slots reflect a reduction in the deficit of child care slots that was identified in the 2010 FEIS (27 slots).

As stated in TM 003, mitigation measures for this significant adverse child care impact will be developed in consultation with NYC Administration for Children's Services (ACS) and may include provision of suitable space on-site for a child care center, provision of a suitable location off-site and within a reasonable distance (at a rate affordable to ACS providers), or funding or making program or physical improvements to support additional capacity. The restrictive declaration for the Proposed Modified Development requires the Applicant to work with ACS to provide suitable space for a child care center, or, at the request of ACS, to consider alternative measures to provide additional capacity. These same mitigation measures were required in connection with the 2010 approvals, pursuant to its restrictive declaration.

As noted above, it is conservatively estimated that the proposed modifications being considered by the CPC could potentially facilitate a total of 700 affordable DU (i.e., an additional 40 DU over that assumed for TM 003) on the Applicant's project site. Based on that number of affordable DU, the Proposed Modified Development with the proposed CPC modifications would instead introduce approximately 125 children eligible for publicly-funded child care versus 117 without the proposed CPC modifications. As with the Proposed Modified Development without the proposed CPC modifications, this would result in a significant adverse child care impact. To mitigate the potential child care impact, the Proposed Modified

Development with the proposed CPC modifications would need to implement mitigation to address a deficit of 26 child care slots within its study area. While this deficit is greater than under the Proposed Modified Development as analyzed in TM 003, it is less than the deficit of 27 child care slots that was identified in the 2010 FEIS. The same possible mitigation measures incorporated in the restrictive declaration for the Proposed Modified Development would be applied to the Proposed Modified Development with the proposed CPC modifications . It should be noted, however, that the 40 additional units assumed for analysis purposes in the Technical Memorandum may, either in whole or in part, consist of moderate income units which do not generate demand for publicly-funded child care under CEQR guidelines.

Consequently, the proposed modifications being considered by the CPC would not alter any of the conclusions of TM 003.