

April 15, 2002

Mr. Daniel Doctoroff
Deputy Mayor for Economic Development
City of New York
City Hall
New York, N.Y.

Dear Deputy Mayor Doctoroff:

For too many years, New York City's communities have suffered from the disinvestment, degradation and other deleterious effects of thousands of abandoned and under-utilized brownfields. The signatories below have been engaged over the last three years in developing a comprehensive brownfields program for NYS. It has become clear that while we are all disadvantaged by the lack of a state law that encourages private, voluntary cleanup of these sites, there are measures that NYC can and should take, even in the absence of State legislation, to promote the cleanup and sustainable re-use of these properties. The attached Discussion Paper lays out a new approach for New York City to address brownfield sites and we would very much appreciate the opportunity to meet with you to discuss these ideas.

This Discussion Paper has come together under the auspices of New Partners for Community Revitalization, a foundation-funded brownfields initiative co-led by Jody Kass and Mathy Stanislaus, that brings together diverse groups to advance the sustainable reuse of brownfield sites. Please call Jody Kass (917-923-3785) if you have any questions on this, and we will follow up with your office in the next week to schedule a meeting.

The cleanup and re-use of the City's thousands of brownfields will provide enormous benefits to New Yorkers, and a programmatic approach will ensure that untapped federal and state brownfields resources are directed toward New York City sites. Thank you for your consideration.

Sincerely,

John Fleming - **El Puente**

Val Washington – **Environmental Advocates**

Brad Lander - **Fifth Avenue Committee**

Marilyn Gelber, **Independence Community Foundation**

Eva Hanhardt – **Municipal Arts Society**

Jody Kass, Mathy Stanislaus - **New Partners for Community Revitalization**

Eddie Bautista, Gail Miller, Gail Suchman – **New York Lawyers for the Public Interest**

Yolanda Garcia, **Nos Quedamos**

Eric Bluestone - **Queens County Builders and Contractors Association**

Roberta E. Weisbrod, Ph.D. - **Partnership for Sustainable Ports**

Ron Shiffman, Joan Byron - **Pratt Institute Center for Community and Environmental Development**

Majora J. Carter, **Sustainable South Bronx**

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A New Approach to Brownfields in NYC **Discussion Paper**

Introduction: Most of NYC's 6,000 brownfields are located in or near low- and moderate-income communities that have witnessed a long history of abandonment, disinvestment, and environmental degradation. Residents, property owners and community-based organizations in these communities want to see vacant land in their communities redeveloped, improved, and put to productive use. In particular, these properties are viewed as opportunities to meet real and pressing community needs -- affordable housing, good jobs, educational & community facilities, waterfront access and open space -- that are increasingly difficult to site in NYC due to rising land values. Brownfields offer a real chance not only to increase NYC's tax base by putting property back on the tax roles, but also to meet real needs facing NY's communities and the City.

While re-use and redevelopment of brownfields is very important, blind redevelopment, i.e., re-use that is determined solely by the highest bidder, has historically had negative impacts on low- and moderate-income residents as a result of gentrification and rising property values. In several communities, re-development has led to skyrocketing property values and rents nearby, which have had the net effect of displacing people from the community. Particularly in neighborhoods close to the waterfront, there is a real threat of increasing displacement.

With the common goals of achieving brownfield redevelopment that provides sustainable, equitable benefit for diverse members of our communities, a preliminary policy framework and recommendations for carrying out that policy have been crafted.

The Opportunity: The City's portfolio of developable land is dwindling and brownfields are nearly all that is left. While State legislation that encourages private, voluntary cleanup is needed to address the brownfields problem, there are measures that the City of New York can and should undertake, even in the absence of state legislation. Moreover, with the President's signing of the Small Business Liability Relief and Brownfields Revitalization Act on January 11, 2002, significant new resources are now available. A City brownfields re-use program is now even more important if local nonprofit groups and the City are going to get their fair share of federal brownfields dollars.

The City of New York needs to re-adjust its thinking about brownfield sites. In NYC, the mandate to address NYC's brownfields and the issues associated with brownfields are not housed in one agency. Instead, brownfields policy, planning and project issues crop up at various times, can involve any number of agencies (City Planning, Environmental Protection, Housing Preservation and Development, and/or the Economic Development Corporation), and are generally handled on an ad hoc, project-by-project basis.

Over the last two decades, New York has led the country in re-building urban America, with some of the most successful housing programs in the nation. Locally based groups have developed partnerships with the public and private sectors, which has resulted in a highly sophisticated housing delivery network. But we are now running out of land, and what is left is often contaminated from previous uses or illegal dumping, and there is tremendous pressure from a range of competing land use needs.

What is needed is the realization that NYC is now in the next generation of urban development, and to craft a new approach that responds to our changed landscape. While there are many, many important “lessons learned” from NY’s housing programs which can be applied to the brownfields problem, it is time to develop a comprehensive policy framework and brownfields program for NYC that approaches these thousands of sites thoughtfully, comprehensively, and in the context of the many competing pressures and needs.

Policy Framework – Below are five broad policy goals that should guide the creation of a brownfields program.

- 1) **Promote genuine community involvement in planning & implementation.** Public and private resources (both funding and technical assistance) should be made available to enable community-based organizations, residents, businesses, and property owners to collaborate with the City and participate in the planning, redevelopment, and long-term re-use of brownfields. Where there are 197-a plans in place, brownfields redevelopment should take place in accordance with those plans.
- 2) **Promote affordable housing through "inclusionary zoning" and other incentives.** Promote affordable housing development through a combination of zoning regulation, financial incentives, and infrastructure support. Implement measures that address the special technical and cost issues associated with reusing brownfields for housing.
- 3) **Promote manufacturing businesses that create good jobs.** Establish Manufacturing Development Zones and Non-Transitional Mixed-Use Zones, and provide incentives to developers to opt for this zoning through the implementation of combined zoning regulation, financial incentives (e.g. tax increment financing, IDA bonds, 501c3 bonds), and infrastructure support.
- 4) **Promote the participation of not-for-profit community development organizations in the development of brownfields through regulatory and financial incentives** (especially those on City-owned land), in order to encourage brownfields development that affirmatively meets community needs. This includes 501c3 bond financing through the Industrial Development Agency, grants, and other financing mechanisms.
- 5) **Promote the protection of public health and the environment.** Encourage highly protective, achievable cleanups, transparent remedial decision-making, and clean re-

uses. Ensure the short and long-term effectiveness of remedial decisions.

Recommendations:

Establish a Brownfields Ombudsman Office that would report to the Deputy Mayor for Economic Development, and would be responsible to carry out the following activities:

A. Pre-planning and Planning

1. Foster partnerships between the City, the private sector, area residents, community based organizations, businesses and investors, and provide resources to support locally initiated planning processes open to all stakeholders. Such processes could plan for the remediation and reuse of brownfields and proximate sites that promote the physical, economic and social revitalization of communities in which concentrations of brownfields exist. Such area-wide planning could identify the range of activities necessary to address the social, environmental, and infrastructure needs that inhibit private investment.
2. Support and encourage groups to apply for federal and state funds available for planning around area-wide brownfield reclamation.
3. Coordinate zoning changes and other land use and regulatory approvals that emerge from area-wide planning and land use strategies.
4. Conduct Site Assemblage – Develop policies to appropriately utilize the City’s existing Urban Renewal Authority to assemble properties which are large enough to create value and new community anchors. End uses should not be solely focused on housing. However, any increase in the use of Urban Renewal Authority must be linked to the creation and carrying out of community driven plans.

B. Implementation

5. Provide technical assistance – Often, the technical issues that arise out of the actual or suspected presence of contamination on a site are extremely complex. This technical complexity, together with the cost and liability concerns that attach to every decision have delayed and derailed many, many projects. What is needed is the institutional capacity to manage and coordinate complex and often over-lapping technical and legal issues relating to site assessment, remediation and development, and the coordination of key City agencies, and State and federal regulatory agencies. This type of technical assistance is needed by developers (for profit and nonprofit), lenders, property owners, community groups, and the public.

6. Coordinate Infrastructure – Identify sewer, water, and other infrastructure improvements that might be needed in these strategic areas, and coordinate the funding, scheduling and construction.
7. Coordinate Demolition – Because brownfields are the result of disinvestment and decay, localities across the country have found that prior to reuse, there is often the need to undertake fairly extensive and expensive demolition. Identify the demolition needs in these strategic areas, and coordinate the funding, scheduling and demolition activities.
8. Coordinate code enforcement – Illegal dumping and ongoing noxious uses often accompany the existence of brownfields. Coordinated, persistent code enforcement needs to accompany cleanup and reclamation activities.

C. Zoning and Other Approvals

9. Link to Affordable Housing – Establish programmatic approaches that link the use of public brownfields funding with the production of affordable housing units. Support the creation of a new Inclusionary Housing Zone category within the NYC Zoning Resolution that provides for inclusionary zoning (i.e. that at least 20 or 25% of new housing units developed on site must be affordable housing)¹. Provide incentives for developers to opt for this zoning (e.g., allow accelerated review of zoning changes or land-disposition actions).
10. Link Brownfields Reclamation to Manufacturing Initiatives – Like other property owners, manufacturers find it difficult or impossible to refinance their operations when a lender is concerned about contamination. Promote manufacturing development through the adoption and mapping of Manufacturing Development Zones (MDZs), where manufacturing uses would be strengthened and protected. Provide regulatory assistance and low cost financing that will promote the cleanup, reuse and expansion of manufacturers in these districts.
11. Promote mixed use districts and performance based zoning in transitional manufacturing districts, as described in the June 2001 PICCED/MAS report on the Manufacturing Land Use and Zoning Initiative. These new mixed use districts should determine permitted uses through an environmental and compatibility standard, rather than through the specification of permitted uses.

¹ The Clinton Special Mixed Use District includes the provision that any conversions from manufacturing to residential use must include 20% affordable units on site.

D. Funding and Financing

12. Consider measures that would link NYC brownfield financial incentives to programs and policies that promote good jobs for NYC residents.
13. Establish a central point of information about funding available through the myriad development programs that might be available for the re-use. Assist in coordination of funding.
14. Apply for and secure State and federal brownfields dollars that are not being tapped. Use City capital funds as match to get federal and state funds.
15. Establish and administer a local revolving loan fund – which could be capitalized through federal funds or seek Bond Act repayments.
16. Use local revolving loan funds to provide gap financing or seed funding for projects consistent with the community vision.
17. Coordinate real estate tax forgiveness in coordination with the carrying out of the community vision.
18. Establish a TIF program (a pilot program, at first), and designate districts for Tax Increment Financing where some of the proceeds from increasing property values and real estate taxes are used to help mitigate some of the negative impacts, especially the potential displacement of low-income residents and small businesses (e.g. rent subsidies for nearby low-income families, developing affordable housing in the community, small business assistance grants, etc). An alternative TIF model might utilize the proceeds to subsidize and/or seed fund community facilities, open space, and other non-commercial projects. The TIF program might also be linked to an increase in the use of federal Section 108 loan guarantees and HUD grants under the Brownfields Economic Development Initiative.
19. Evaluate the Tax Lien Sales program to identify and implement changes to that program that would free up strategic brownfield sites and stop the ongoing noxious uses that often accompany land-banking that results from the Tax Lien Sales program.