



## CITY PLANNING COMMISSION

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July 28, 2021 / Calendar No. 26

N 210250 ZRK

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**IN THE MATTER OF** an application submitted by Vanderbilt Atlantic Holdings LLC, pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, modifying Article III Chapter 5 for the purpose of amending street wall location regulations and APPENDIX F for the purpose of establishing a Mandatory Inclusionary Housing area, Borough of Brooklyn, Community District 8.

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This application for a zoning text amendment was filed by Vanderbilt Atlantic Holdings LLC on January 19, 2021. This application, in conjunction with the related zoning map amendment (C 210249 ZMK), would facilitate the construction of an 18-story mixed use development containing 316 dwelling units, 95 of which would be permanently affordable, along with commercial and community facility space, at 840 Atlantic Avenue in the Prospect Heights neighborhood of Brooklyn, Community District 8.

### **RELATED ACTIONS**

In addition to the zoning text amendment (N 210250 ZRK) that is the subject of this report, the proposed project also requires action by the City Planning Commission (CPC) on the following application, which is being considered concurrently:

**C 210249 ZMK**      Zoning map amendment to change M1-1 and R6B zoning districts to a C6-3X zoning district.

### **BACKGROUND**

A full background discussion and description of this application appears in the report for the related zoning map amendment (C 210249 ZMK).

### **ENVIRONMENTAL REVIEW**

This application (N 210250 ZRK), in conjunction with the application for the related action (C 210249 ZMK), 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 lead agency is the City Planning Commission. The designated CEQR number is 20DCP162K.

A summary of the environmental review appears in the report for the related zoning map amendment (C 210249 ZMK).

## **PUBLIC REVIEW**

This application (N 210250 ZRK) was duly referred to Brooklyn Community Board 8 and the Brooklyn Borough President on March 1, 2021, in accordance with the procedures for non-ULURP matters, along with the application for the related action (C 210249 ZMK), which was certified as complete by the Department of City Planning and duly referred in accordance with Title 62 of the Rules of the City of New York, Section 2-02(b).

### **Community Board Public Hearing**

On May 6, 2021, Brooklyn Community Board 8 held a public hearing on this application (N 210250 ZRK) and on May 13, by a vote of 34 in favor, one in opposition, and one abstaining, adopted a resolution recommending disapproval of the application with conditions. A summary of the Community Board's recommendation appears in the report for the related zoning map amendment (C 210249 ZMK).

### **Borough President Recommendation**

On May 17, 2021, the Brooklyn Borough President held a public hearing on this application (N 210250 ZRK) and the related action (C 210249 ZMK), and on June 28, 2021, issued a recommendation to disapprove the application with conditions. A summary of the Borough President's recommendation appears in the report for the related zoning map amendment (C 210249 ZMK).

### **City Planning Commission Public Hearing**

On June 9, 2021 (Calendar No. 3), the City Planning Commission scheduled a public hearing on this application (N 210250 ZRK) and the application for the related action (C 210249 ZMK).

The hearing was duly held on June 23, 2021 (Calendar No. 20). There were four speakers in favor of the application and one in opposition, as described in the report for the related action (C 210249 ZMK).

There were no other speakers and the hearing was closed.

### **CONSIDERATION**

The Commission believes that this application for a zoning text amendment (N 210250 ZRK), in conjunction with the application for the related action (C 210249 ZMK), is appropriate. A full consideration and analysis of issues and the reasons for approving this application appear in the report for the related zoning map amendment (C 210249 ZMK).

### **RESOLUTION**

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

**RESOLVED**, by the City Planning Commission pursuant to Section 200 of the New York City Charter, that based on the environmental determination, and the consideration described in this report, the Zoning Resolution of the City of New York, effective December 15, 1961, and as subsequently modified, is further amended as follows:

Matter in underline is new, to be added;

Matter in ~~strikeout~~ is to be deleted;

Matter with # # is defined in Section 12-10;

\* \* \* indicates where unchanged text appears in the Zoning Resolution

\* \* \*

### **ARTICLE III COMMERCIAL DISTRICT REGULATIONS**

\* \* \*

### **Chapter 5**

**Bulk Regulations for Mixed Buildings in Commercial Districts**

\* \* \*

**35-66**

**Special Height and Setback Provisions for Certain Areas**

\* \* \*

**35-662**

**Special height and setback provisions in C6-3X Districts along Atlantic Avenue within Community District 8, Borough of Brooklyn**

In C6-3X Districts in Community District 8, in the Borough of Brooklyn, for a #zoning lot# with frontage along Atlantic Avenue, the #street wall# provisions of paragraph (a) of Section 35-651 shall apply along the Atlantic Avenue #street# frontage, and shall also apply along #street# frontages intersecting Atlantic Avenue, within 50 feet of the intersection.

\* \* \*

**APPENDIX F**

**Inclusionary Housing Designated Areas and Mandatory Inclusionary Housing Areas**

\* \* \*

**BROOKLYN**

\* \* \*

**Brooklyn Community District 8**

\* \* \*

Map 4. [date of adoption]



 Mandatory Inclusionary Housing area (*see Section 23-154(d)(3)*)

Area # — [date of adoption] MIH Program Option 2

Portion of Community District 8, Brooklyn

\* \* \*

The above resolution (N 210250 ZRK), duly adopted by the City Planning Commission on July 28, 2021 (Calendar No. 26), 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.

**MARISA LAGO, *Chair***

**KENNETH J. KNUCKLES, Esq., *Vice Chair***

**DAVID J. BURNEY, ALLEN P. CAPPELLI, Esq., ALFRED C. CERULLO, III,  
JOSEPH DOUEK, RICHARD W. EADDY, HOPE KNIGHT, ANNA HAYES LEVIN,  
LARISA ORTIZ, RAJ RAMPERSHAD *Commissioners***



# Community/Borough Board Recommendation

Pursuant to the Uniform Land Use Review Procedure

Application #: **C 210249 ZMK**

Project Name: **840 Atlantic Avenue Rezoning**

CEQR Number: 20DCP162K

Borough(s): Brooklyn

Community District Number(s): 8

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, 120 Broadway, 31st Floor, New York, NY 10271
  - FAX:** to (212) 720-3488 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 Vanderbilt Atlantic Holdings LLC pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 16c:

- changing from an R6B District to a C6-3X District property bounded by a line midway between Atlantic Avenue and Pacific Street, a line 125 feet easterly of Vanderbilt Avenue, Pacific Street, and a line 100 feet easterly of Vanderbilt Avenue; and
- changing from an M1-1 District to a C6-3X District property bounded by the northerly boundary line of the Long Island Railroad Right-Of-Way (Atlantic Division), a line 200 feet easterly of Vanderbilt Avenue and its northerly prolongation, a line midway between Atlantic Avenue and Pacific Street, a line 100 feet easterly of Vanderbilt Avenue, Pacific Street, and Vanderbilt Avenue and its northerly centerline prolongation;

Borough of Brooklyn, Community District 8, as shown on a diagram (for illustrative purposes only) dated March 1, 2021, and subject to the conditions of CEQR Declaration E-604.

Applicant(s): Vanderbilt Atlantic Holdings LLC 226 Broadway, Suite 601 Brooklyn, NY 11211		Applicant's Representative: Stefanie Marrazi, Esq. Hirschen, Singer, & Epstein LLP 40 Exchange Place, Suite 1502 New York, NY 10005
Recommendation submitted by: Brooklyn Community Board 8		
Date of public hearing: May 6, 2020		Location: Web Virtual Meeting
Was a quorum present? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> A public hearing requires a quorum of 20% of the appointed members of the board, but in no event fewer than seven such members.		
Date of Vote: May 13, 2021		Location: Webex Virtual Meeting
<b>RECOMMENDATION</b> <input type="checkbox"/> Approve <input type="checkbox"/> Approve With Modifications/Conditions <input type="checkbox"/> Disapprove <input checked="" type="checkbox"/> Disapprove With Modifications/Conditions Please attach any further explanation of the recommendation on additional sheets, as necessary.		
<b>Voting</b> # In Favor: 34 # Against: 1 # Abstaining: 1 Total members appointed to the board: 46		
Name of CE/BB officer completing this form JULIA NEALE	Title COMMUNITY COORDINATOR	Date 5/18/2021



# COMMUNITY BOARD NO.

1291 ST. MARKS AVENUE • BROOKLYN, NEW YORK 11213

TEL.: (718) 467,5620 • FAX: (718) 7782979

Eric Adams  
*Borough President*

Ethel Tyus.  
*Chairperson*

Robert Matthews  
*Chairperson Emeritus*

Michelle T. George  
*District Manager*

May 18, 2021

Ms. Marisa Lago, Chairperson  
NYC Dept. of City Planning  
120 Broadway  
31st Floor  
New York, NY 10271

Mr. Winston Von Engel  
Brooklyn Borough Director  
Dept. of City Planning  
16 Court Street, 7th Floor  
Brooklyn, NY 11241

Dear Chairperson Lago and Borough Director Engel,

At the May 13, 2021 Community Board 8 general meeting, members voted 34 in favor, 1 opposed, with 1 abstention to withhold support for ULURP Application for a Private Rezoning of 840 Atlantic Ave (C210249ZMK and N210250ZRK), Vanderbilt Atlantic Holdings LLC for a zoning map amendment for block 1122, lots 1, 9, 10, 68, 69, 70 and 71. The applicant is seeking to change from M1-1 and R6B to C6-3X and a zoning text amendment to designate a Mandatory Inclusionary Housing (MIH) area and allow flexibility in the location of the street wall in order to facilitate an 18-story mixed use development with 316 dwelling units (95 affordable units), 50,650 square feet of retail and 7,490 square feet of community facility space in the Prospect Heights neighborhood. The proposed site is directly across the street from the Prospect Heights Historic District, an area that is also listed on the State and National Registers of Historic Places.

The applicant's representatives, Stephanie Marazzi and Benjamin Stark, presented a revised plan for the project before the CB 8 Land Use Committee, downsizing it as compared to the plan presented to the Committee in March and April 2021. During their public hearing, committee members asked questions on: the number of dwelling units in the revised plan, the number of affordable apartments, rental rates/SF, and the revised number of parking spaces, among others. The committee motion, ratified by the full Board, was to withhold support for the project until the following conditions are met:



1. That in lieu of the proposed C6-3X district, lots 70 and 71 be rezoned R7A with a C1-4 overlay, matching the zoning on blocks to the south on Vanderbilt Avenue;
2. That in lieu of the proposed C6-3X district, lots 68 and 69, and the portion of lot 1 fronting Pacific Street be rezoned R6B, matching the zoning on lots to the east on Pacific Street;
3. That in lieu of the proposed C6-3X district for the remainder of lot 1, as well as lots 9 and 10, the following action be taken.
  - a. The applicant removes these lots from its applications, and files a zoning text amendment to create a contextual variation of the existing C6-1 zoning district with required non-residential frontage consistent with the regulations of the Special Enhanced Commercial District (SECD), with base FAR of 6 and incentive FAR of 1 for non-residential use.
  - b. If (a) is not possible, in lieu of the proposed district, then Applicant makes a binding commitment subject to the establishment of C6-2A zoning to restrict residential use on the lots to 4.6 FAR.
  - c. If (b) is not possible, the lots be rezoned C4-5D.
4. That all lots be mapped to MIH options 1 and 3, and that the applicant make a binding commitment to offer the required affordable units under MIH option 3.
5. That the applicant makes a binding commitment to restrict the use of 8,000 sq. ft. to UG 9A (limited to studios), the latter to ensure a permanent facility for a creative arts sector studio.

The conditions requested would align the project more closely with the Community Board's M-CROWN proposal for mixed-use commercial/residential density along Atlantic Avenue than does the existing proposal.

If you have any questions or require additional information, please do not hesitate to contact us.

Sincerely,



Ethel Tyus, Esq.  
Chairperson



## Brooklyn Borough President Recommendation

CITY PLANNING COMMISSION  
120 Broadway, 31<sup>st</sup> Floor, New York, NY 10271  
[CalendarOffice@planning.nyc.gov](mailto:CalendarOffice@planning.nyc.gov)

### 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

840 ATLANTIC AVENUE – 210249 ZMK, 210250 ZRK

Applications submitted by Vanderbilt Atlantic Holdings LLC pursuant to Sections 197-c and 201 of the New York City Charter, for land use actions affecting the western portion of a block bounded by Atlantic Avenue, Pacific Street, Underhill Avenue, and Vanderbilt Avenue. The applicant proposes a zoning map amendment to change a portion of the development site from M1-1 and R6B to C6-3X, and two zoning text amendments, one to designate a portion of the project area a Mandatory Inclusionary Housing (MIH) area, and another to establish New York City Zoning Resolution (ZR) Section 35-662, which would apply street wall regulations to zoning lots along Atlantic Avenue in C6-3X districts in Brooklyn Community District 8 (CD 8). Such actions are requested to facilitate an 18-story, 342,610 square-foot (sq. ft.) mixed-use development at 840 Atlantic Avenue. The building would provide 316 apartments, of which 95 would be affordable to households earning an average 80 percent area median income (AMI), pursuant to MIH Option 2. The non-residential portion would contain 50,650 sq. ft. of commercial uses and 7,490 sq. ft. of community facility space on the first and second floors.

BROOKLYN COMMUNITY DISTRICT NO. 8

BOROUGH OF BROOKLYN

### RECOMMENDATION

APPROVE  
 APPROVE WITH  
MODIFICATIONS/CONDITIONS

DISAPPROVE  
 DISAPPROVE WITH  
MODIFICATIONS/CONDITIONS

SEE ATTACHED

*Ethi L. Adams*

June 28, 2021

\_\_\_\_\_  
BROOKLYN BOROUGH PRESIDENT

\_\_\_\_\_  
DATE

**RECOMMENDATION FOR: 840 ATLANTIC AVENUE – 210249 ZMK, 210250 ZRK**

Vanderbilt Atlantic Holdings LLC submitted applications, pursuant to Sections 197-c and 201 of the New York City Charter, for land use actions affecting the western portion of a block bounded by Atlantic Avenue, Pacific Street, Underhill Avenue, and Vanderbilt Avenue. The applicant proposes a zoning map amendment to change a portion of the development site from M1-1 and R6B to C6-3X, and two zoning text amendments, one to designate a portion of the project area a Mandatory Inclusionary Housing (MIH) area, and another to establish New York City Zoning Resolution (ZR) Section 35-662, which would apply street wall regulations to zoning lots along Atlantic Avenue in C6-3X districts in Brooklyn Community District 8 (CD 8). Such actions are requested to facilitate an 18-story, 342,610 square-foot (sq. ft.) mixed-use development at 840 Atlantic Avenue. The building would provide 316 apartments, of which 95 would be affordable to households earning an average 80 percent area median income (AMI), pursuant to MIH Option 2. The non-residential portion would contain 50,650 sq. ft. of commercial uses and 7,490 sq. ft. of community facility space on the first and second floors.

On May 17, 2021, Brooklyn Borough President Eric Adams held a remote public hearing on these zoning map and text amendments. There were 15 speakers on the item, with 13 in support including a representative of 32BJ Service Employees International Union (32BJ), who noted the developer's commitment to providing well-paying building service jobs, and one in opposition.

In response to Borough President Adams' inquiry as to why the applicant believes that its revised proposal would provide greater public purpose given Community Board 8's (CB 8) M-Crown position regarding height and density along Atlantic Avenue and its resolution on this proposal, as well as how such benefits would be memorialized, the representative stated that the development would go a long way to meet M-Crown affordable housing targets, while providing a commercial ground floor, with dedicated space for a cultural entity. The representative expressed willingness to dedicate a second floor to non-residential use.

In response to Borough President Adams' inquiry regarding the affordable housing units, specifically, the qualifying income range for prospective households based on household size, the anticipated rents based on the number of bedrooms, and the distribution of units by bedroom size, the representative noted the community board's expressed desire for deeper affordability. Under MIH Option 1, the original proposal would provide 79 apartments, including 12 studios, 35 one-bedrooms, 24 two-bedrooms, and eight three-bedrooms. The revised proposal would provide 284 units, of which 71 would be affordable to households earning an average 60 percent AMI. While the representative did not disclose a revised bedroom mix, pursuant to MIH Option 1, 10 percent of all 284 apartments would be available at 40 percent AMI.

In response to Borough President Adams' inquiry as to whether one of the community's affordable housing administering agents would be used in the tenant selection process in order to ensure the highest level of participation from CD 8 residents, and whether the applicant's marketing strategy would include a financial literacy campaign to assist local residents in becoming lottery-eligible, the representative stated that the applicant exploring ways to market the affordable units to the community, possibly in partnership with non-profit organizations in Crown Heights and Prospect Heights.

In response to Borough President Adams' inquiry as to what regarding the applicant's intent to lease 8,000 sq. ft. of community facility space to a dance studio, and what mechanism would reserve such floor area for non-profit uses in perpetuity, as a benefit of the proposed rezoning, the representative stated that the applicant would file a restrictive declaration to earmark the proposed non-residential space for non-profit use in perpetuity.

In response to Borough President Adams' inquiry regarding the incorporation of sustainable features such as passive house design, blue, green, or white roof covering, solar roof or façade panels, New York City

Department of Environmental Protection (DEP) rain gardens, and/or wind turbines, the representative expressed intent to incorporate solar panels, stormwater retention, and wind turbines in the project. The representative noted that the proposal would widen sidewalks on both Atlantic and Vanderbilt avenues, which would better accommodate rain gardens.

In response to Borough President Adams' inquiry regarding the inclusion and participation of locally-owned business enterprises (LBEs) and minority- and women-owned business enterprises (MWBEs) in the construction process, the representative stated intent to include as many MWBEs as possible, and cited previous experience in identifying MWBE contractors.

Prior to the hearing, Borough President Adams received six letters in support of 840 Atlantic Avenue, including three from presidents of nearby New York City Housing Authority (NYCHA) tenant associations, two from presidents of non-profit organizations in the community, and one from a local resident.

Subsequent to the hearing, Borough President Adams received a petition from Team Brown Consulting, Inc. with 114 signatures in support of 840 Atlantic Avenue, as proposed.

### **Consideration**

On May 13, 2021, CB 8 voted to disapprove this application with the following conditions:

- That lots 70 and 71 on the south side of block 1122 extending approximately 70 feet east of Vanderbilt Avenue along Pacific Street be rezoned to R7A/C1-4, to match the zoning on Vanderbilt Avenue blocks to the south;
- That lots 68 and 69, and the portion of lot 1 fronting Pacific Street be rezoned to R6B, to match the zoning on Pacific Street lots to the east;
- That the remainder of lot 1, and lots 9 and 10 be rezoned based on the following actions, in order of preference:
  - Vanderbilt Atlantic Holdings LLC withdraws from its application lots 9 and 10, as well as the portion of lot 1 fronting Atlantic Avenue, and refiles an application for a text amendment establishing a C6-1/R7A district on those lots. This would provide a Floor Area Ratio (FAR) of 6.5, with up to 4.6 FAR for residential use, and 1.9 FAR for commercial and community facility uses
  - If that is not possible, the proposed zoning is changed to C6-2A (with a total FAR of 7.2) and made contingent upon a binding applicant commitment that residential use would not exceed 4.6 FAR
  - If that is not possible, the target zoning is changed to C4-5D (with a total FAR 5.6) including a required non-residential ground floor

Given that the 840 Atlantic Avenue Uniform Land Use Review Procedure (ULURP) application is moving ahead of a desired community-led rezoning, the applicant should also make a binding commitment to provide affordable housing based on MIH Option 3 and restrict the proposed commercial 7,500 sq. ft. to Use Group (UG) 9A (limited to studios), to ensure a permanent home for Jamel Gaines Creative Outlet.

The proposed actions would enable the development of 840 Atlantic Avenue, which would contain approximately 51,840 sq. ft. of commercial and community facility space on the first and second floors, and 284,470 sq. ft. of residential use on the 16 floors above. The development site is 38,000

sq. ft. assemblage of seven lots with 218 feet of frontage on Atlantic Avenue, 200 feet of frontage on Vanderbilt Avenue, and 170 feet of frontage on Pacific Street. The site is zoned M1-1, but for a 7,000 sq. ft. southeast portion on Pacific Street slated for the envisioned community facility space. Existing uses include a drive-through McDonald's restaurant and accessory parking, driveways, low-rise commercial and residential buildings, and open storage.

The development site is located in the Prospect Heights neighborhood, on the edge of CD 8, several blocks east of both Atlantic Terminal and the Special Downtown Brooklyn District (SDBD). North of Atlantic Avenue, the surrounding context is defined by large commercial and community facility uses, and low-rise residential buildings, including the Clinton Hill and Fort Greene historic districts, situated beyond Fulton Street. South of Atlantic Avenue, the context to the east is mostly commercial and industrial, with a substantial M1-1 zone between nearly Nostrand Avenue and Vanderbilt avenues. To the west and ending to the Barclays Center, is the high-rise Pacific Park development, a 22-acre complex of slated to consist of 17 high-rise residential buildings, with approximately 6,430 apartments, including 2,250 affordable units. In addition to the Barclays Center, it is envisioned to include 250,000 sq. ft. of retail space, at least 336,000 sq. ft. of commercial office, and eight acres of public open space. with several buildings completed, with more sites planned above the Long Island Railroad (LIRR) rail yard. The blocks extending to the south are predominantly low-rise residential, mostly contained in the Prospect Heights historic district.

This M1-1 district contains the M-Crown study area, which emerged from the 2013 Crown Heights West rezoning and a 2015 CB 8 resolution calling on the Department of City Planning (DCP) to establish a zoning framework for the area. CB 8 found an urgent need for affordable housing and jobs within CD 8 and developed a vision to transform underutilized M-zoned properties south of Atlantic Avenue. The M-Crown plan treats the M1-1 district as an opportunity zone and seeks to increase available density for commercial/manufacturing uses, mixed with residential floor area on certain blocks. Its strategies include using market rate commercial, residential, and retail development to cross-subsidize affordable housing and creative/maker workspaces. It also seeks to promote affordability based on median income in CD 8 and maximize potential for living wage jobs. A key economic objective is to grow and retain creative and maker jobs, while fostering a range of employment categories like entertainment, medical, office, restaurants and retail.

The applicant's requested C6-3X zoning district stipulates 9.7 FAR, and height and setback regulations equivalent to an R9X residential district. The base height would vary by street, with setbacks beyond 113 feet on Pacific Street, 123 feet on Vanderbilt Avenue, and 114 feet on Atlantic Avenue. The development would rise to a final height of 195 feet or 18 stories at the corner of Atlantic and Vanderbilt avenues. Further along Pacific Street, the building would step down to the adjacent R6B district with a base height of 40 feet, a 15-foot setback, and a maximum height of 51 feet. 840 Atlantic Avenue would step back eight feet on Atlantic and Vanderbilt avenues, enlarging the sidewalks to 29 and 21 feet, respectively.

Since filing this ULURP application, the developer has put forth a scaled-down proposal that would map an R8A equivalent C2-2A district over the eastern portion of the site but retain R9X density at the intersection of Atlantic and Vanderbilt avenues. With MIH, the modified zoning district would permit 7.2 residential FAR and a height of 145 feet. The combination of C8-2A and C6-3X density would yield a blended FAR of approximately 8.2 and a required non-residential ground floor, per the ZR. The applicant has proposed to adopt MIH Option 1 instead of Option 2, to provide deeper affordability, and file a restrictive declaration limiting occupancy of the community facility space to nonprofit uses.

Brooklyn is one of the fastest growing boroughs in New York City and the greater metropolitan area. Its ongoing renaissance has ushered in extraordinary changes that were virtually unimaginable even

a decade ago. Unfortunately, Brooklyn's success has led to the displacement of longtime residents who can no longer afford to live in their own neighborhoods. Borough President Adams is committed to addressing Brooklyn's affordable housing crisis through the creation and preservation of housing units for very low- to middle-income households.

Moreover, in CD 8 and across New York City, there is a pressing need for affordable and stable housing among elderly adults, homeless households, low-income families, and other populations. Increasing the supply of affordable apartments for a range of incomes and household types in mixed-use buildings is a critical strategy for promoting a sustainable neighborhood and city.

Borough President Adams supports the development of underutilized land for productive uses that address the City's need for additional affordable housing. The proposed development would be consistent with Mayor Bill de Blasio's goal of achieving 300,000 affordable housing units over the next decade, according to "Housing New York: A Five-Borough, Ten-Year Plan," as modified in 2017. It is Borough President Adams' policy to support the development of affordable housing and seek for such housing to remain "affordable forever," wherever feasible.

Based on MIH Option 2, the development rights generated from the proposed rezoning would result in, at minimum, 30 percent of the residential floor area designated as permanently affordable. According to the applicant, approximately 95 of the 316 units at 840 Atlantic Avenue would be pursuant to MIH. Development adhering to the MIH program is consistent with Borough President Adams' policy for affordable housing to remain in perpetuity.

The MIH program targets affordable housing units to a broad range of incomes, consistent with his objective to extend such opportunities to households at various AMI tiers. Borough President Adams supports developments that allow low-, moderate-, and middle-income residents to qualify for the City's affordable housing lottery. The proposed rezoning and redevelopment at 840 Atlantic Avenue would gear apartments to households at multiple income tiers, which would remain permanently affordable. Additionally, mapping MIH Option 1 on the site would require that 40 percent of the MIH floor area be targeted to households at 40 percent AMI, based on 25 percent of the residential floor area being permanently affordable.

Borough President Adams believes that it is appropriate to zone for increased density in proximity to public transportation. 840 Atlantic Avenue would be accessible via the Long Island Railroad (LIRR), New York City Transit (NYCT) subways, and several buses. The Clinton-Washington stop of the Eighth Avenue Local C train is located two blocks northeast of the development site, at Clinton and Fulton streets. Three longer blocks to the west, the Atlantic Terminal provides access to an extensive network of local and regional routes. The B45 and B69 buses stop directly in front of the site, on Atlantic and Vanderbilt avenues, respectively. There are also multiple CitiBike docking stations in the vicinity of the site.

Borough President Adams generally supports the applicant's proposal to increase density along wide commercial streets in the M-Crown district, which would facilitate a new mixed-use building at 840 Atlantic Avenue. However, he acknowledges that the project represents a large jump in density from what is permitted by the underlying district. Borough President Adams also supports CB 8's objective to establish appropriate zoning that incentivizes preferential commercial development, more deeply affordable housing, and dedicated floor area for cultural uses. Per his land use policies, he seeks a family-oriented bedroom mix with deeply affordable smaller units targeted to seniors, maximum community participation in the affordable housing, the incorporation of resilient and sustainable features including DEP rain gardens, Vision Zero pedestrian safety enhancements, opportunities to enhance the public realm, and a high level of local job creation for the project. Finally, he calls on the Administration to extend community preference to families of homeless students in local schools and qualify rent-burdened households for affordable housing lotteries.

### **Appropriate Zoning and Density**

The proposed C6-3X MIH FAR would exceed CB 8's M-Crown floor area guidelines, which envision greater residential density along Atlantic Avenue and the north-south corridors, as opposed to the mid-blocks, though, not to the extent proposed. The M-Crown framework seeks to encourage and/or mandate non-residential use, based on a list of defined M-Crown uses, through a combination of preferential FAR and mandatory ground floor area placement, tied to various sub-areas in the district. Where the sub-areas would allow residential use, such development would be pursuant to MIH, and incorporate ground-floor non-residential use consistent with a Special Enhanced Commercial District (SECD) – a district that mandates primarily non-residential ground floor frontages. For mixed-use area mid-blocks, the framework mandates the provision of M-Crown required uses, though restrictions on permitted uses within a specific distance from the building's street wall (also consistent with SECDs). These guidelines would yield mid-block ground-floor uses with one or more of the following: arts and cultural uses, community facilities such as medical offices, light industrial applications, and studios for the creative arts. For the ground-floor use along the avenues, the guidelines stipulate permitted uses in commercial overlay districts (other than residential use), while also allowing specific commercial and manufacturing uses.

For Atlantic Avenue, additional preferential commercial floor area of 6.0 to 7.0 FAR was contemplated where residential FAR would be capped at a lesser value. Such commercial and/or community facility floor area could encompass the entire building or serve as a base in order to utilize all available floor area, though at minimum, a predominantly residential building would be required to provide a non-residential ground floor to activate the street wall. That envisioned zoning would include a commercial subzone comprised by lots on the south side of Atlantic Avenue, spanning Vanderbilt to Classon avenues. The commercial subzone would permit residential and commercial use, with SECD equivalency to require non-residential ground floor and allow preferential FAR for commercial uses with no restrictions.

Subsequently, CB 8 has deemed R7D appropriate for the block portion north of Pacific Street if the height would not exceed nine stories and ground floor would include 0.25 FAR of M-Crown mid-block required uses. In this scenario, of the additional 1.0 FAR that R7D MIH allows over R7A MIH, according to MIH Option 1, a total of 0.5 FAR would be realized as a public benefit, including 0.25 through the provision of affordable housing, and 0.25 FAR reserved for M-Crown use through a binding commitment. The M-Crown framework was also reconfirmed in a board resolution in September 2019, and reaffirmed in another resolution in February 2021.

One existing zoning district, C6-1, fits the model of preferential commercial zoning rights within the floor area parameters established as part of the M-Crown framework. However, it lacks a contextual equivalent to ensure heights between 12 to 14 stories. In response, CB 8 preferred recommendation calls for Vanderbilt Atlantic Holdings remove the Atlantic Avenue frontage from the proposed rezoning and refile an application with a text amendment establishing an R7A contextual equivalent for the C6-1 zoning district. This would provide for up to 6.5 FAR, with 4.6 FAR of residential pursuant to MIH, and maximum floor area achieved by adding commercial and community facility uses. The permitted height would be consistent with the C6-2A zoning district.

For the corner of Pacific Street and Vanderbilt Avenue, CB 8 recommended R7A/C1-4 MIH zoning, which would permit up to 4.6 FAR for residential use, and a maximum height of 95 feet (nine stories), one story taller than what is already permitted on the south side of Pacific Street along Vanderbilt Avenue. The R6B section of the site would remain 2.0 FAR with a height limit of 50 feet (five stories).

Borough President Adams recognizes that the proposed C6-3X zoning would exceed both M-Crown bulk and residential floor area guidelines. Moreover, the requested zoning does not obligate the developer to provide the represented commercial and community facility uses. The C6-3X MIH district and its R9X MIH residential equivalent has not been established in Brooklyn, though there is an R9A equivalent immediately north across Atlantic Avenue that was mapped to enable a development associated with the restoration

of the Church of St. Luke and St. Matthew governed by the New York City Landmarks Preservation Commission (LPC). While Atlantic Avenue is a very-wide street and is in a ZR-defined Transit Zone, it is not along a classic transit corridor, where such equivalent district is being proposed as part of the Gowanus Neighborhood Plan. As such, Borough President Adams believes that the proposed C6-3X density and height are not generally appropriate for this block without compelling public benefits.

Therefore, Borough President Adams generally concurs with CB 8's recommendation that a C6-1 commercial zoning with an R7A MIH residential equivalent, would be the most appropriate designation for the Atlantic Avenue frontage. Combining this commercial district with R7A MIH would ensure the availability of excess floor area available for commercial and/or community facility use. There could also be an opportunity to achieve a bulk configuration not exceeding 14 stories (145 feet). Borough President Adams acknowledges that without subsequent establishment of zoning tools consistent with the M-Crown, there is no means to adopt such zoning as part of the proposed application.

As represented, 840 Atlantic Avenue would provide more than 50,000 sq. ft. of commercial use, and approximately 8,000 sq. ft. of community facility space that the applicant intends to lease to a dance studio. While such non-residential floor area would be consistent with the M-Crown framework for Atlantic Avenue, the provision of non-residential uses permitted in C6-3X zoning districts alone would not warrant exception to the framework's floor area and height guidelines. However, a stronger case could be made with the applicant's representation of additional public benefit through the accommodation of non-profit organizations, including arts and cultural groups. Such entities require affordable space to grow their operations, but often cannot compete with retail tenants who would pay higher rents at this location, and/or other M-Crown mid-block desired commercial uses.

Nevertheless, Borough President Adams believes that it is possible to ensure a commercial ground floor, consistent with the M-Crown framework for short end-of-the-block sections with a more appropriate, lower-density district than what has been proposed. However, it should be noted that an R7A/C2-4 MIH zoning district would not ensure the inclusion of non-residential floor area in subsequent development. Unlike R7D districts, R7A districts paired with commercial overlays do not require the provision of a commercial/community facility ground floor.

Therefore, in lieu of the proposed C6-3X district, the City Planning Commission (CPC) and/or the City Council should consider retaining M1-1 zoning along Atlantic Avenue and R6B along Pacific Street, while changing the remaining Vanderbilt Avenue M1-1 frontage to R7A/C1-4. However, should the City Council be provided with adequate documentation that the applicant, Vanderbilt Atlantic Holdings LLC, has made a binding commitment subject to the establishment of C6-2A zoning, to restrict residential floor area to 4.6 FAR and further include 8,000 sq. ft. of community facility use and/or UG 9 dance studio space, then C6-2A would be warranted. If such commitment only includes 8,000 sq. ft. of community facility use and/or UG 9 dance studio space, then C4-5D should be considered for the Atlantic Avenue frontage.

### **Setting Aside a Portion of the Commercial Space for Local Arts/Cultural and Non-Profit Organizations**

It is one of Borough President Adams' policies to assist community-based non-profit organizations with securing affordable space in the borough. These organizations play an important role in the neighborhoods they serve but often struggle to secure the necessary space to expand and sustain their programs. Many cultural entities have contacted the Brooklyn Borough President's Office with these concerns. It has been Borough President Adams' policy to review discretionary land use actions for opportunities to promote cultural and non-profit uses.

In June 2016, Borough President Adams released "All the Right Moves: Advancing Dance and the Arts in Brooklyn," a report examining challenges for artists in the borough, with accompanying recommendations. The report highlighted the benefits of arts and dance, which include maintaining physical fitness,



promoting creative self-expression and contributing substantially to Brooklyn's vibrant culture. One of the difficulties faced by the Brooklyn arts community is an absence of diversity — according to 2000 United States Census data, fewer than half the individuals working in dance are people of color. Additionally, public funding for the arts has shrunk by 37 percent from the New York State Council of the Arts (NYSCA), 15 percent from the National Endowment for the Arts (NEA), and 16 percent from the New York City Department of Cultural Affairs (DCLA).

Data shows that cultural programs generate many positive effects and help combat the borough's high obesity rate. As of 2016, 61 percent of Brooklyn adults are overweight or obese, according to the New York State Department of Health (NYSDOH). Research by the Citizens' Committee for Children of New York has found that such activities also help children succeed in school. Moreover, demand for cultural programs continues to grow across Brooklyn. A 2015 report by the Center for an Urban Future (CUF) found a 20 percent increase in attendance at events organized by local cultural institutions since 2006.

Borough President Adams believes that the proposed development presents an opportunity to provide much-needed affordable space for arts and cultural organizations. The Prospect Heights neighborhood is close to the Brooklyn Cultural District, which has traditionally been a hub for arts and cultural activities. Unfortunately, many organizations that provide such programming cannot afford to lease space in the area. Borough President Adams believes that the inclusion of arts and cultural use floor area at 840 Atlantic Avenue would be consistent with public benefit intent achieved through residential development pursuant to the MIH program. Setting aside a portion of the envisioned commercial and/or retail space within the proposed development at affordable rents for such uses would increase the project's benefit to the community.

In its May 13 resolution, CB 8 called on the applicant to make a binding commitment to restrict the use of the proposed non-residential space at 840 Atlantic Avenue to UG 9A (limited to studios), thus ensuring permanent space for Jamel Gaines Creative Outlet. At Borough President Adams' public hearing, Vanderbilt Atlantic Holdings LLC indicated that it would reserve 8,000 sq. ft. of the commercial floor area to arts and cultural tenants at below-market rents to be determined. Borough President Adams believes that the rezoning of 840 Atlantic Avenue should be predicated on the applicant's written commitment to set aside commercial space for non-profit and/or arts and cultural organizations, and/or local businesses at below-market lease terms.

### **Ensuring an MIH Option that Provides Significantly for Very Low-Income Households and More Effectively Targets Income Tiers**

Borough President Adams has heard a great deal of concern about ongoing gentrification and displacement in Crown Heights and Prospect Heights. The influx of wealthier individuals to the area, through the many units developed to date as part of Pacific Park, together with increased land values, has led to the replacement of longtime, low-income tenants, with new residents able to pay higher rents. For households in non-regulated housing there is little recourse beyond targeted downzoning, which may slow the pace of property turnover and new construction by reducing development rights. It should be noted that even regulated buildings do not provide permanent protection from displacement. According to the NYU Furman Center, approximately 413 subsidized units in Crown Heights North are set to expire from housing programs between 2020 and 2025. Without further action, some tenants may lose subsidies that made such housing affordable, and others might still be subject to eviction by lawful demolition eviction.

Data shows that more than 80 percent of New York City households earning 50 percent AMI or less are rent-burdened. The situation is even worse among those who earn up to 30 percent AMI or \$23,310 for a family of three. More than one-fifth of New York City households — over two million people — earn less than \$25,000 a year and almost one-third earn less than \$35,000. Well over 50 percent of this population

pays more than half its income toward rent. As the City's housing crisis deepens, the burden falls most heavily on low-income New Yorkers, including many senior citizens.

Within CD 8, a significant number of households residing in unregulated housing and regulated apartments pay too much of their household income toward rent. According to a 2020 Association for Neighborhood & Housing Development (ANHD) report, 57.5 percent of households in CD 8 are rent-burdened. ANHD also found that, among the City's community districts, CD 8 has a very high number of serious housing code violations. Taken together, these facts point to a dual housing affordability and quality crisis in the community district whereby too many households are paying too much of their income for substandard and dangerous accommodations. There is thus a pressing need to increase the supply of safe, affordable housing in CD 8. Moreover, given the risk of displacement, the City should take steps to increase the probability that rent-burdened households qualify for as many affordable housing lotteries as possible.

According to New York City Department of Housing Preservation and Development (HPD) affordability guidelines, the New York area AMI for a family of three in 2021 is \$107,400. To qualify for affordable housing at 40 percent AMI (MIH Option 3), this household would have to earn \$42,960; at 60 percent AMI (MIH Option 1), their qualifying income would be \$64,440, and at 80 percent AMI (MIH) Option 2, the family's income would be capped at \$85,920 - \$10,000 higher than the 2019 median income for CD 8, which was \$75,700. While this figure exceeds the citywide median income, it also masks the fact that 50 percent of CD 8 residents earn less than \$60,000. These numbers indicate that Crown Heights North and Prospect Heights have experienced acute gentrification in the last decade and underscore the importance of targeting affordable housing to low-income households.

In its M-Crown framework, CB 8 has stipulated that affordable units resulting from private rezonings should be indexed to the district's median income. Such strategies would help ensure that affordable housing created in the district is accessible to tenants experiencing the most displacement pressure, rather than those able to pay higher rents to stay in the neighborhood. This is particularly important as much of the anticipated affordable housing in the Pacific Park development will be geared toward AMIs greater than 100 percent.

As applications such as this proposal move through the ULURP process, it is important to ensure that the required affordable housing meets the most pressing community needs. The MIH obligation provides opportunities to maximize permanently affordable floor area for low-income households. The ZR specifies

four options for new construction subject to MIH regulations. As stated at Borough President Adams' hearing, Vanderbilt Atlantic Holdings' revised proposal would incorporate MIH Option 1, which sets aside 25 percent of the floor area for households earning an average of 60 percent AMI, with 10 percent of all units reserved for those at 40 percent AMI. Borough President Adams is concerned that MIH Option 1 alone would not meet the needs of very low-income and severely rent-burdened households in Crown Heights North and Prospect Heights, including those who would have community preference for the 840 Atlantic Avenue MIH lottery.

CB 8 has expressly stated that this development should provide deeply affordable housing to households at 30, 40 and 50 percent AMI, consistent with MIH Option 3. With the opportunity to award 50 percent of the units to CD 8 residents, Borough President Adams concurs that targeting affordable housing opportunities to lower-income residents would maximize the development's public purpose. He therefore seeks assurance that 840 Atlantic Avenue would generate affordable housing pursuant to MIH Option 3.

Vanderbilt Atlantic Holdings has represented intent that affordable housing at 840 Atlantic Avenue would be developed pursuant to MIH Option 1. However, the applicant has not specified the intended income

tiers or how many units would be available at each one. Given that Option 1 permits incomes of up to 130 percent AMI, and requires gearing only 10 percent of the total floor area to 40 percent AMI, it is likely that many of the MIH units would be unaffordable to long-term Crown Heights and Prospect Heights residents at risk of displacement. The applicant's revised proposal does not match CB 8's recommendation that the development target households earning up to 30 percent AMI. Borough President Adams believes that mandating MIH Option 3 at 840 Atlantic Avenue would guarantee affordable housing opportunities for very-low income residents and maximize the public benefit of this substantial development.

Therefore, prior to considering the application, the CPC and/or City Council should obtain written commitments from the developer, Vanderbilt Atlantic Holdings LLC, to provide permanently affordable housing according to MIH Option 3.

### **Bedroom Mix**

A recent report has identified that rent-burdened households, which typically represent those applying to the City's affordable housing lotteries, are more likely to require family-sized units. Therefore, Borough President Adams seeks for new developments to achieve an affordable unit mix that would adequately reflect the needs of very-low-income rent-burdened families. According to MIH Option 1, the 840 Atlantic Avenue filed proposal would result in 79 permanently affordable units. The applicant has presented a bedroom mix with studio, one-bedroom, two-bedroom, and three-bedroom units, of which 60 percent would be configured as family-sized apartments. The modified proposal presented at Borough President Adams' hearing would provide 71 units, with an unknown percentage of family-sized apartments. A number of these units would be reserved for households at 40 percent AMI.

Borough President Adams believes that right-sizing the bedroom distribution within the affordable housing floor area is more important than maximizing the number of MIH units. Though the applicant expressed intent to have larger size units, development pursuant to MIH lacks leverage to require that the development's MIH units include apartments with multiple bedrooms. As such, Borough President Adams believes that it is appropriate to use discretionary land use actions to advance policies that constrain what would be permitted as-of-right.

The ZR allows for the provision of at least 50 percent of the MIH units with two or more bedrooms and at least 75 percent with one or more bedrooms. For this building, it is important to mandate that the developer provide affordable housing pursuant to ZR Section 23-96(c)(1)(ii). This would require at least 50 percent of the units to be two- or three-bedrooms and at least 75 percent of the units to contain one or more bedrooms. While the applicant's revised affordability program would extend housing opportunities to households below 80 percent AMI (as compared to MIH Option 2), it is still not consistent with Borough President Adams' policy to achieve family-oriented units for very-low- to moderate-income households.

Borough President Adams seeks a binding commitment to secure a more family-oriented mix of affordable housing units. Therefore, prior to considering the application, the City Council should obtain written commitments from the developer, Vanderbilt Atlantic Holdings LLC, to provide a bedroom mix of at least 50 percent two- or three-bedroom affordable housing units, and at least 75 percent one-, two-, or three-bedroom affordable housing units at 840 Atlantic Avenue.

### **Maximizing Affordable Housing Opportunities for Seniors**

In addition to addressing the need for family-sized units, there is a pressing need for affordable apartments for the aging population, many of whom have limited financial means. Older New Yorkers are a rapidly growing segment of the city's population, with more than 300,000 seniors residing in Brooklyn alone. As noted in DCP's "Zoning for Quality and Affordability" (ZQA) study, New York's senior population is expected to grow 40 percent by 2040. According to the study, there were 60 applicants for every apartment in lotteries conducted by HPD for senior housing developments. A recent study by LiveOn NY

found that there are 200,000 New Yorkers aged 62 and older on the City's affordable housing waiting lists, with an average wait of seven years.

As the Federal government had moved away from funding senior housing, the number of such affordable units has declined, even as housing costs have gone up. In many parts of Brooklyn, severe unmet demand for age-based housing has forced the elderly to endure rising living costs and rent burdens to remain in their homes and communities. Ensuring high-quality permanently affordable housing for low-income seniors is one of Borough President Adams' top housing priorities.

While Borough President Adams typically seeks a 50/50 blend of studios, one-bedrooms, two-bedrooms, and three-bedrooms, he believes that when studio and one-bedroom units are rented at 30, 40, and 50 percent AMI, such apartments can be affordable to seniors. Borough President Adams believes that there are ways to qualify more senior households for affordable housing lotteries, and that such efforts should be part of the marketing campaign for 840 Atlantic Avenue so that more smaller units at lower AMIs are awarded to senior applicants.

Therefore, prior to considering the application, the City Council should obtain written commitments from Vanderbilt Atlantic Holdings LLC to implement targeted outreach efforts to seniors, including the formerly homeless, as part of the marketing campaign for project's affordable housing lottery.

### **Maximizing Community Participation in the Affordable Housing**

The ZR requires inclusionary housing units to be overseen by a non-profit administering agent. This entity is responsible for ensuring that the affordable housing remains in accordance with its regulatory agreement, which governs the development's affordable housing plan. Such tasks include verifying a prospective tenant household's qualifying income and approving the rents of such affordable housing units. The administering non-profit is responsible for submitting an affidavit to HPD attesting that the initial lease-up of the affordable housing units is consistent with the income requirements, as well as following up annually to ensure compliance.

It is Borough President Adams' policy for housing non-profits to play a role in maximizing community participation in new affordable housing opportunities. He recognizes that CD 8 is served by several entities, including the Fifth Avenue Committee, IMPACCT Brooklyn and the Mutual Housing Association of New York (MHANY), that are qualified to act as affordable housing administrators and/or marketing agent. The selected non-profit would work to qualify residents of CD 8 for the 840 Atlantic Avenue affordable housing lottery to meet or exceed community preference targets. Such efforts should be undertaken in consultation with the Brooklyn Borough President's Office, CB 8, and local elected officials.

Borough President Adams believes that prior to considering the application, the City Council should obtain commitments in writing from the developer, Vanderbilt Atlantic Holdings LLC, to utilize one or more local non-profits to serve as the administering agent for 840 Atlantic Avenue, and/or promote affordable housing lottery readiness.

### **Advancing Resilient and Sustainable Energy and Stormwater Management Policies**

It is Borough President Adams' policy to advocate for promoting environmentally sustainable development that integrates blue/green/white roofs, grid-connected battery storage, solar façades and roof panels, and/or wind turbines, as well as passive house construction. Such measures tend to increase energy efficiency and reduce a building's carbon footprint.

In the fall of 2019, the City Council passed Local Laws 92 and 94, which require that newly-constructed roofs, as well as existing roofs undergoing renovation (with some exceptions), incorporate a green roof and/or a solar installation. The laws further stipulate 100 percent roof coverage for such systems and expand the City's highly reflective (white) roof mandate. Borough President Adams believes that

developers should seek to exceed this mandate by integrating blue roofs with green roof systems. Regarding solar panels, there are now options beyond traditional roof installation. Multiple companies are manufacturing solar cladding from tempered glass that resembles traditional building materials, with energy output approximating that of mass-market photovoltaic systems. For taller buildings, and those in proximity to the waterfront, micro wind turbines can provide effective sustainable energy generation. Finally, passive house construction achieves energy efficiency while promoting locally-based construction and procurement.

In Borough President Adams' letter to President Joseph R. Biden Jr., dated January 21, 2021, he outlined an urban agenda based on funding policies that will rebuild America as a more equitable and just society, including initiatives consistent with the Green New Deal. Specifically, Borough President Adams advocated for renewable energy and battery storage to move beyond reliance upon natural gas and dirty "peaker plants," disproportionately sited in communities of color. He believes that grid-connected rooftop batteries should be a standard consideration for commercial buildings. Between existing flat roofs upgrades and newly developed projects, there should be sufficient demand to manufacture such units locally and create industrial jobs.

Borough President Adams believes it is appropriate for Vanderbilt Atlantic Holdings to engage the Mayor's Office of Sustainability, the New York State Energy Research and Development Authority (NYSERDA), and/or the New York Power Authority (NYPA), and consider government grants and programs that might offset costs associated with enhancing the resiliency and sustainability of 840 Atlantic Avenue. One such program is the City's Green Roof Tax Abatement (GRTA), which provides a reduction of City property taxes by \$4.50 per sq. ft. of green roof, up to \$100,000. The DEP Office of Green Infrastructure advises property owners and their design professionals through the GRTA application process. Borough President Adams encourages the developer to reach out to his office for any help in opening dialogue with the aforementioned agencies and further coordination on this matter.

As part of his flood resiliency policy, Borough President Adams encourages developers to introduce best practices to manage stormwater runoff, such as incorporating permeable pavers and/or establishing rain gardens that advance DEP's green infrastructure strategy. He believes that sidewalks with nominal landscaping and/or adjacent roadway surfaces could be transformed through the incorporation of rain gardens, which provide tangible environmental benefits through rainwater collection, improved air quality, and streetscape beautification. Tree plantings can be consolidated with rain gardens as part of a more comprehensive green infrastructure strategy. Where it is not advisable to remove existing street trees, there would be an opportunity to integrate stormwater retention measures into existing tree pits, with additional plantings, which would increase infiltration and make the site more pleasant for its users. In addition, blue/green roofs, permeable pavers, and rain gardens (including street tree pit enhancements) would help divert stormwater from the Red Hook Wastewater Treatment Plant.

The required Builders Pavement Plan for the proposed development provides an opportunity to install DEP rain gardens along the development site's three frontages, particularly Atlantic and Vanderbilt avenues, where the proposed development would result in substantially wider sidewalks. The ZR requirement to plant street trees ensures shade on hot days, helps combat the urban heat island effect, and provides aesthetic, air quality, and stormwater retention benefits. It should be noted that a rain garden would require a maintenance commitment and attention from the landlord. Maintenance includes cleaning out debris and litter that can clog the inlet/outlet and prevent proper water collection, regular inspection to prevent soil erosion, watering during dry and hot periods, and weeding to ensure proper water absorption.

Borough President Adams believes that for Vanderbilt Atlantic Holdings should consult with DEP, the New York City Department of Transportation (DOT), and the New York City Department of Parks and Recreation (NYC Parks) regarding the inclusion of rain gardens integrated with street trees as part of the

Builders Pavement Plan for 840 Atlantic Avenue. Where the agencies have interest in implementing an enhancement, advance consultation should be initiated with CB 8 and local elected officials.

Therefore, prior to considering the application, the City Council should obtain written commitments from the developer, Vanderbilt Atlantic Holdings LLC to integrate additional resiliency and sustainability measures at 840 Atlantic Avenue.

### **Advancing Vision Zero Policies**

Borough President Adams supports Vision Zero policies, including practices that extend sidewalks into the roadway to shorten the path where pedestrians cross in front of traffic lanes. These sidewalk extensions, also known as bulbouts or neckdowns, make drivers more aware of pedestrians and encourage them to slow down at crossings.

In 2015, Borough President Adams launched his initiative Connecting Residents on Safer Streets (CROSS) Brooklyn. This program supports the creation of bulbouts or curb extensions at dangerous intersections in Brooklyn. During the program's first year, \$1 million was allocated to fund five dangerous intersections in Brooklyn. With more curb extensions, seniors will benefit because more of their commutes will be spent on sidewalks, especially near dangerous intersections. At the same time, all users of the roadways will benefit from safer streets.

Atlantic Avenue is a designated New York City through truck route with multiple intersections lacking traffic controls such as stop signs or traffic lights. Given the area's mixed-use character, the foot traffic stemming from Atlantic Terminal, and the residents expected to occupy the proposed development, together with users of the envisioned dance studio, it is important to advance pedestrian safety improvements along Atlantic Avenue.

Per his CROSS Brooklyn initiative, Borough President Adams believes there is an opportunity to integrate Vision Zero enhancements at this intersection via curb extensions and/or painted protected sidewalks at Vanderbilt Avenue with Atlantic Avenue and Pacific Street.

Borough President Adams recognizes that the costs associated with the construction of sidewalk extensions can be exacerbated by the need to modify infrastructure and/or utilities. Therefore, where such consideration might compromise feasibility, Borough President Adams would urge DOT to explore the implementation of either protected painted sidewalk extensions defined by a roadbed surface treatment or sidewalk extensions as part of a Builders Pavement Plan. If the implementation meets DOT's criteria, the agency should enable Vanderbilt Atlantic Holdings to undertake such improvements as part

of its Builders Pavement Plan, after consultation with CB 8 and local elected officials. The implementation of a sidewalk extension through roadbed treatment requires a maintenance agreement that indemnifies the City from liability, contains a requirement for insurance, and details the responsibilities of the maintenance partner.

Borough President Adams believes that prior to considering the application, the City Council should obtain written commitments from Vanderbilt Atlantic Holdings to coordinate CROSS Brooklyn implementation with DEP and DOT for curb extensions at one or more of the development's intersections, particularly those intended for pedestrian circulation, either as part of a Builders Pavement Plan or as treated roadbed sidewalk extensions. The City Council should further seek demonstration of Vanderbilt Atlantic Holdings commitment to enter into a standard DOT maintenance agreement for those intersections. Finally, DOT should confirm that implementation of such improvements would only proceed following consultation with CB 8 and local elected officials.

### **Advancing Public Realm Improvements**

This highly visible intersection of Atlantic Avenue and Vanderbilt Avenue is located just a few blocks east of the Brooklyn Cultural District, a hub of world-class cultural institutions that draw thousands of New Yorkers and visitors each year. By providing space for an important local dance institution, 840 Atlantic Avenue would help extend the Downtown Brooklyn cultural economy into the adjacent neighborhoods of Crown Heights and Prospect Park. There are also opportunities to highlight the building's location and ground-floor arts use through creative enhancements to the public realm.

Though building design should go beyond establishing massing limits through establishing height, setback and street wall requirements, construction is not typically regulated with any consideration for aesthetics. However, there are instances where artists had a hand in designing the built form, such as Hundertwasser Village in Vienna, a colorful shopping complex constructed in the 1990s by a local artist, that has since become a significant tourist attraction.

840 Atlantic Avenue presents multiple opportunities for public realm improvements, particularly as the development would create significant sidewalk space on Atlantic and Vanderbilt avenues. Such opportunity could be in the spirit of the New York City Percent for Art law. It requires that eligible City-funded construction projects spend one percent of their budgets on public artwork. This program, managed by the New York City Department of Cultural Affairs (DCLA), has produced hundreds of site-specific projects where artist works in a variety of media are integrated into architecture and infrastructure.

In the context of public realm, the developer could employ artists to design unique patterns that provide an aesthetic benefit over poured concrete but still comply with the Americans with Disabilities Act (ADA). Street furniture such as benches could be introduced as sculptural elements, as has been done at the New York City Metropolitan Transportation Authority (MTA) Franklin Street Station. The same concept could be replicated in the design of bicycle racks above ground. It is even possible to integrate sculptures into DEP curbside rain gardens.

Borough President Adams believes that the development by Vanderbilt Atlantic Holdings could further the concept of Percent for the Arts incorporated such elements into the public realm with the site's extensive perimeter of frontage. Borough President Adams believes that prior to considering the application, the City Council should obtain written commitments from Vanderbilt Atlantic Holdings to fund public realm improvements such as sculptural bike racks and street benches, sculptures incorporated into DEP rain gardens, and street art integrated with sidewalk paving, in consultation with CB 8 and local elected officials

### **Promoting Access to Car-Share Vehicles**

Borough President Adams supports the establishment of Transit Zones in the ZR to enable affordable housing development without the requirement to provide parking for affordable housing floor area. However, one way to address parking capacity is by accommodating the growing number of city drivers who rely on car-share. A rental car can provide mobility in certain use cases, though it is not as flexible as direct access to a car and can be expensive for longer trips. Car rental requires, at minimum, a full day reservation as well as time and effort to access such facilities. However, there are times when affordable access to automobiles can provide a quality-of-life enhancement, even for higher-income households. Furthermore, research suggests that car-share availability reduces automobile use for car owners, creating environmental benefits and reducing congestion. Borough President Adams believes that facilitating car-share at this location would benefit building occupants as well as residents of the nearby Crown Heights North and Prospect Heights communities.

According to ZR Section 36-46(a)(1), a car-sharing entity is permitted to occupy up to five parking spaces, though no more than 20 percent of all spaces in group parking facilities. Though the 840 Atlantic Avenue garage would be used primarily by the building's residents, Borough President Adams believes that it

could accommodate car-share rentals based on reasonable pricing. Therefore, a portion of the intended parking facility should be set aside for such vehicles through dialogue with car-sharing companies.

The incorporation of car-share vehicles within the building's garage would require the developer to provide visible signage, per ZR Section 36-523, and to state the total number of parking spaces, as well as the maximum number of car-sharing vehicles. Therefore, prior to considering this application, the City Council should obtain written commitments from the developer, Vanderbilt Atlantic Holdings LLC to engage car-sharing companies to lease spaces within the 840 Atlantic Avenue garage.

### **Implementing a Rat Mitigation Plan in and Around the Development Site to Address Known Issues in Crown Heights North**

In Crown Heights North, Prospect Heights, and surrounding neighborhoods, new construction has disturbed rat colonies and dens, resulting in public health and quality-of-life issues. Borough President Adams has met with residents living near the Pacific Park development to observe the problem and engaged City Council representatives on proposed legislation that would enforce rat abatement standards during disruptive construction activities. These include borings and drilling, excavation, underpinning, and preparation for concrete pouring. Borough President Adams hopes that City Council involvement will lead to certification of rat abatement mitigation procedures at multiple stages of development projects.

As such standards are not in place today, Borough President Adams believes that it is appropriate to utilize his advisory role in the ULURP process to minimize quality-of-life issues for neighbors in Crown Heights North and Prospect Heights. Without adequate abatement and mitigation measures, demolition and excavation at 840 Atlantic Avenue may create ground disturbances and exacerbate rodent problems in the area. Therefore, Borough President Adams urges the developers to create a rat mitigation strategy including, but not limited to, a robust baiting plan, rat-related enforcement measures, and other pest control measures in and around the proposed development site.

Borough President Adams believes that Vanderbilt Atlantic Holdings LLC should commit to a rat mitigation plan implemented prior to and during demolition, excavation, and foundation preparation, in consultation with CB 8 and local elected officials.

### **Jobs**

Borough President Adams is concerned that too many Brooklyn residents are currently unemployed or underemployed. It is his policy to promote economic development that creates more employment opportunities. According to the Furman Center's "State of New York City's Housing and Neighborhoods in 2017," double-digit unemployment remains a pervasive reality for several of Brooklyn's neighborhoods,

with more than half of the borough's community districts experiencing poverty rates of nearly 20 percent or greater. The ongoing COVID-19 pandemic has only exacerbated widespread job insecurity. Prioritizing local hiring would assist in addressing this employment crisis. Additionally, promoting Brooklyn-based businesses, including those that qualify as LBEs and MWBEs, is central to Borough President Adams' economic development agenda. This proposal provides opportunities for the developer to retain a Brooklyn-based contractor and subcontractor, especially those that are designated LBEs consistent with Section 6-108.1 of the City's Administrative Code, and MWBEs who meet or exceed standards per Local Law 1 (no less than 20 percent participation).

Borough President Adams believes that prior to considering the application, the City Council should obtain written commitments from the applicant, Vanderbilt Atlantic Holdings LLC, to retain Brooklyn-based contractors and subcontractors, especially those designated LBEs consistent with Section 6-108.1 of the City's Administrative Code and MWBE as a means to meet or exceed such standards.



### **Community Preference: Inclusion of Homeless Shelter Student Population by School Zone**

New York City's community preference policy requires that 50 percent of affordable units filled through affordable housing lotteries be reserved for residents in the local community. There are additional pathways for priority lottery selection such as United States Armed Forces veteran status, certain disabilities, and other categories. Given the significant increase in the number of homeless families with school-aged children entering the public shelter system, Borough President Adams believes it is appropriate for HPD to extend local lottery preference to include the school zone attended by children of households residing at immediate and neighboring City-funded or -operated homeless shelters.

According to an annual report by Advocates for Children of New York, 31,158 Brooklyn students — nearly one in 10 enrolled — experienced homelessness during the 2018-2019 school year, defined as either living in shelters or doubling up with friends and family. The number of such students in charter and public schools has increased every school year since 2014-2015. Homelessness has profound impacts on school performance, as such students are more likely to have longer commutes or to transfer schools in the middle of the year, leading to chronic absences, lower graduation rates, and higher dropout rates.

Many parents and students find it important to maintain school continuity despite the circumstances faced by households dependent on the City's homeless shelter system. Borough President Adams believes that it should be the City's responsibility to take action that would eliminate or reduce such hardships. One such action would be to enable economically-challenged households with children in public schools to qualify for community local preference based on where the children attend school. According to the Institute for Children, Poverty & Homelessness (ICPH), there are multiple public schools in proximity to the proposed development in Community School District (CSD) 13, where the proportion of homeless students is 12 to 27 percent.

Borough President Adams believes that HPD should modify its affordable housing lottery community preference standards to include the school zone attended by a child of a household residing at a City-funded or -operated homeless shelter.

### **Accommodating Rent-Burdened Households in Lieu of Strict Area Median Income Standards**

Data shows that more than 80 percent of New York City households earning 50 percent of AMI or less are rent-burdened. The crisis is even worse among the lowest income residents, those making 30 percent of AMI or less, currently \$23,310 for a family of three. Among this population, well over 50 percent pay more than half of their income toward rent. More than one-fifth of New York City households — more than two million people — earn less than \$25,000 a year and almost one-third earn less than \$35,000. As the City's housing crisis grows worse, the burden falls most heavily on these low-income households, exacerbating racial disparities. According to the Citizens Housing Planning Council (CHPC), one in four households of color are severely rent-burdened, which is 11 percent more than Caucasian households.

A strict rent-to-income requirement of no more than 30 percent of income for annual rent payments disqualifies many income-challenged households from the affordable housing lotteries. These rent-burdened households do not meet the housing lottery's minimum household earnings because too often they are already paying the same or greater rent for the affordable housing unit. In this way, the requirement to pay no more than 30 percent of household income is hurting people who are already living in substandard housing and are spending more than 30 percent of their income on rent.

As first noted in his East New York Community Plan ULURP recommendation, Borough President Adams believes that it is time to break the mold in which families already paying too much rent for substandard housing are excluded from affordable housing lotteries. Borough President Adams seeks to qualify rent-burdened households for selection through the housing lottery process, which would ensure that they receive the maximum opportunity to secure affordable housing units and expand the number of households eligible for government-regulated affordable housing lotteries.

Amending the ZR to adjust AMI qualifications to include households that would maintain or reduce their rent burden would be one way to address this disparity. For MIH housing lottery offerings, DCP needs to modify the ZR to allow for exceptions to the 30 percent of income threshold so that households that are rent-burdened, though paying equal or greater rent than the lottery unit rent, would be eligible to live in affordable, newly-produced, and quality accommodations. Borough President Adams believes that the CPC and/or the City Council should echo his call to seek the modification of the ZR section concerning MIH areas to be adopted with a requirement that rent-burdened households be permitted to qualify for MIH affordable housing units.

### **Recommendation**

Be it resolved that the Brooklyn borough president, pursuant to Section 197-c of the New York City Charter, recommends that the City Planning Commission and City Council disapprove this application with the following conditions:

1. That in lieu of the proposed C6-3X district, the City Council and/or CPC pursue one of the following options:
  - a. Retain the existing M1-1 zoning along Atlantic Avenue
  - b. Rezone the remainder of the M1-1 district along Vanderbilt Avenue to R7A/C1-4
  - c. Retain the existing R6B district
2. That Vanderbilt Atlantic Holdings work with the New York City Department of City Planning (DCP) to establish a contextual variation of the existing C6-1 district with required non-residential frontage consistent with Special Enhanced Commercial District (SECD) regulations.
3. That in lieu of retaining the existing M1-1 along Atlantic Avenue:
  - a. Should City Council be provided with adequate documentation that Vanderbilt Atlantic Holdings has made a binding commitment to restrict residential floor area to 4.6 FAR and include 8,000 sq. ft. of nonprofit community center, non-commercial recreation and/or school use and/or Use Group (UG) 9 dance studio space at significantly below market terms, then C6-2A should be considered for the Atlantic Avenue frontage
  - b. Should Vanderbilt Atlantic Holdings make a binding commitment to include 8,000 sq. ft. of nonprofit community center, non-commercial recreation, and/or school use and/or UG 9 dance studio space at substantially below market rates, then consider establishing a C4-5D district
4. That the proposed MIH Option 1 be changed to MIH Option 3
5. That prior to considering the application, the City Council obtain written commitments from Vanderbilt Atlantic Holdings to:
  - a. Memorialize a bedroom mix with at least 50 percent two- or three-bedroom affordable housing units, and at least 75 percent one-bedroom or larger affordable housing units but for studios targeted to households at 40 percent AMI
  - b. Implement targeted outreach efforts to seniors earning up to 40 percent AMI for one-person households, and 50 percent AMI for two-person households, to maximize their participation in the affordable housing lottery

- c. Utilize a combination of locally based affordable housing non-profits to serve as the administering agent and play a role in promoting affordable housing lottery readiness
- d. Incorporate resiliency and sustainability measures, such as blue and/or green roofs, grid-connected rooftop batteries, passive house design, solar panels and/or façades, and/or wind turbines
- e. Coordinate with the New York City Department of Environmental Protection (DEP), New York City Department of Transportation (DOT), and the New York City Department of Parks and Recreation (NYC Parks) to install DEP rain gardens as part of a Builders Pavement Plan in consultation with Brooklyn Community Board 8 (CB 8) and local elected officials
- f. Construct curb extensions as part of the Builders Pavement Plan in coordination with DEP and DOT, or, if technically infeasible, enter into a standard DOT maintenance agreement for protected painted sidewalk extensions, at the intersections of Atlantic and Vanderbilt avenues and Pacific Street, with the understanding that implementation would require advance consultation with CB 8 and local elected officials
- g. Fund public realm improvements such as sculptural bike racks and street benches, and sculptures incorporated into DEP rain gardens, street art integrated with sidewalk paving, in consultation with CB 8 and local elected officials
- h. Engage with car-sharing companies, in consultation with CB 8 and local officials, to lease multiple spaces within the development's garage
- i. Implement a rat baiting plan prior to and during demolition involving site excavation and foundation preparation, in consultation with CB 8 and local elected officials
- j. Retain Brooklyn-based contractors and subcontractors, especially those who are designated local business enterprises (LBEs) consistent with Section 6-108.1 of the City's Administrative Code, and minority- and women-owned business enterprises (MWBES) as a means to meet or exceed standards per Local Law 1 (no less than 20 percent participation), as well as coordinate the oversight of such participation by an appropriate monitoring agency

Be it further resolved:

1. That the New York City Department of Housing Preservation and Development (HPD) modify its affordable housing lottery community preference standards to include the school zone, thus capturing the population of public schoolchildren residing at City-funded or -operated shelters
2. That the CPC and/or the City Council call for modification of the MIH section of ZR to be adopted with a requirement that permits households with rent-burdened status (allow for exceptions to the 30 percent of income threshold for households paying the same or higher rent than what the housing lottery offers) to qualify for MIH affordable housing units.