



**IN THE MATTER OF** an application submitted by 570 Fulton Street Property LLC and One Flatbush Avenue property LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 101-82 of the Zoning Resolution to modify height and setback requirements and tower lot coverage requirements of Section 101-223 (Tower Regulations), to modify the rear yard requirements of Section 33-26 (Minimum Required Rear Yards) and Section 23-47 (Minimum Required Rear Yards), and to modify the inner court recess requirements of Section 23-852(b) (Inner court recesses), in connection with a proposed mixed use development on property located at 570 Fulton Street a.k.a. 1-25 Flatbush Avenue (Block 2106, Lots 26, 35, & p/o 24), in a C6-9 District, within the Special Downtown Brooklyn District, Borough of Brooklyn, Community District 2.

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This application for a special permit pursuant to Section 101-82 of the Zoning Resolution (ZR) (C 180458 ZSK) was filed by 570 Fulton Street Property LLC (the applicant) and One Flatbush Avenue property LLC (the co-applicant) on May 25, 2018. This special permit, in conjunction with the related actions, would facilitate the construction of a new, approximately 200,000-square-foot mixed-use development with retail, office and residential units at 570 Fulton Street in the Downtown Brooklyn neighborhood of Community District 2, Brooklyn.

### **RELATED ACTIONS**

In addition to the application for a special permit that is the subject of this report, implementation of the proposed project also requires action by the City Planning Commission on the following applications, which are being considered concurrently with this application:

**C 180459 ZMK**      Zoning map amendment to rezone the project area from C6-4 to C6-9 within the Special Downtown Brooklyn District (SDBD)

**N 180457 ZRK**      Zoning text amendments to establish bulk regulations for C6-9 zoning districts mapped within the SDBD, and create a new special permit within the SDBD

### **BACKGROUND**

A description of this application, the surrounding area and the proposed project is included in the

report for the related zoning map amendment (C 180459 ZMK).

### **ENVIRONMENTAL REVIEW**

The application (C 180458 ZSK), in conjunction with the applications for the related actions (C 180459 ZMK and N 180457 ZRK), 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 is the City Planning Commission. The designated CEQR number is 18DCP111K.

A summary of the environmental review appears in the report for the related zoning map amendment (C 180459 ZMK).

### **UNIFORM LAND USE REVIEW**

This application (C 180458 ZSK) and the related application for a zoning map amendment (C 180459 ZMK) were certified as complete by the Department of City Planning on August 20, 2018 and duly referred to Brooklyn Community Board 2 and the Brooklyn Borough President in accordance with Title 62 of the Rules of the City of New York, Section 2-02(b), along with the related application for a zoning text amendment (N 180457 ZRK), which was referred in accordance with the procedures for non-ULURP actions.

### **Community Board Public Hearing**

Brooklyn Community Board 2 held a public hearing on this application (C 180458 ZSK) on September 13, 2018, and on October 10, 2018, by a vote of 19 in favor, 13 opposed, and one abstention, adopted a resolution recommending disapproval of the application.

### **Borough President Recommendation**

This application (C 180458 ZSK) was considered by the Brooklyn Borough President, who on November 30, 2018 issued a recommendation to approve the application with conditions. A summary of the Borough President's recommendation appears in the report for the related zoning map amendment (C 180459 ZMK).

## **City Planning Commission Public Hearing**

On November 14, 2018 (Calendar No. 10), the City Planning Commission scheduled December 5, 2018 for a public hearing on this application (C 180458 ZSK) and the applications for the related actions (N 180457 ZRK; C 180459 ZMK). The hearing was duly held on December 5, 2018 (Calendar No. 27).

Nine speakers testified in favor of the application and none in opposition, as described in the report for the related zoning map amendment (C 180459 ZMK), and the hearing was closed.

## **CONSIDERATION**

The Commission believes that the proposed special permit (C 180458 ZSK), in conjunction with the related actions (C 180459 ZMK and N 180457 ZRK), is appropriate. A full consideration and analysis of the issues and the reasons for approving the application appear in the report for the related zoning map amendment (C 180459 ZMK).

## **FINDINGS**

The Commission hereby makes the following findings pursuant to ZR Section 101-82:

1. there are physical conditions, including irregularity, narrowness or shallowness of lot shape or size that create practical difficulties in complying with the #bulk# regulations and would adversely affect the #building# configuration or site plan;
2. the practical difficulties of developing on the #zoning lot# have not been created by the owner or by a predecessor in title;
3. the proposed modifications are limited to the minimum needed to relieve such difficulties;
4. the proposed modifications will not unduly obstruct access of light and air to adjoining properties or #streets#; and
5. the proposed scale and placement of the #development# or #enlargement# relates harmoniously with the surrounding area.

## **RESOLUTION**

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

**RESOLVED**, by the City Planning Commission, pursuant to Sections 197-c and 200 of the New York City Charter, that based on the environmental determination, and the consideration and findings described in this report, the application submitted by 570 Fulton Street Property LLC and One Flatbush Avenue property LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 101-82 of the Zoning Resolution to modify height and setback requirements and tower lot coverage requirements of Section 101-223 (Tower Regulations), to modify the rear yard requirements of Section 33-26 (Minimum Required Rear Yards) and Section 23-47 (Minimum Required Rear Yards), and to modify the inner court recess requirements of Section 23-852(b) (Inner court recesses), in connection with a proposed mixed use development on property located at 570 Fulton Street a.k.a. 1-25 Flatbush Avenue (Block 2106, Lots 26, 35, & p/o 24), in a C6-9 District, within the Special Downtown Brooklyn District, Borough of Brooklyn, Community District 2, is approved, subject to the following terms and conditions:

1. The property that is the subject of this application (C 180458 ZSK) shall be developed in size and arrangement substantially in accordance with the dimensions, specifications and zoning computations indicated on the following approved drawings, prepared by Hill West Architects, filed with this application and incorporated in this resolution:

<u>Dwg. No.</u>	<u>Title</u>	<u>Last Date Revised</u>
Z-03	Zoning Calculations/Base Plane/Lot Diagram/Mean Lot Depth Line/Tower Lot Coverage	7/31/2018
Z-04	Site Plan	7/31/2018
Z-06	Waiver Site Plan	7/31/2018
Z-07	Waiver Section	7/31/2018
Z-08	Waiver Section	7/31/2018
Z-09	Waiver Section	7/31/2018
Z-13	Zoning Axonometrics Southwest Elevation Design Guidelines	7/31/2018

2. Such development shall conform to all applicable provisions of the Zoning Resolution, except for the modifications specifically granted in this resolution and shown on the plans

listed above which have been filed with this application. All zoning computations are subject to verification and approval by the New York City Department of Buildings.

3. Such development shall conform to all applicable laws and regulations relating to its construction, operation and maintenance.
4. All leases, subleases, or other agreements for use or occupancy of space at the subject property shall give actual notice of this special permit to the lessee, sub-lessee or occupant.
5. Upon the failure of any party having any right, title or interest in the property that is the subject of this application, or the failure of any heir, successor, assign, or legal representative of such party, to observe any of the covenants, restrictions, agreements, terms or conditions of this resolution whose provisions shall constitute conditions of the special permit hereby granted, the City Planning Commission may, without the consent of any other party, revoke any portion of or all of said special permit. Such power of revocation shall be in addition to and not limited to any other powers of the City Planning Commission, or of any other agency of government, or any private person or entity. Any such failure as stated above, or any alteration in the development that is the subject of this application that departs from any of the conditions listed above, is grounds for the City Planning Commission or the City Council, as applicable, to disapprove any application for modification, cancellation or amendment of the special permit hereby granted.
6. Neither the City of New York nor its employees or agents shall have any liability for money damages by reason of the city's or such employee's or agent's failure to act in accordance with the provisions of this special permit.

The above resolution (C 180458 ZSK), duly adopted by the City Planning Commission on January 9, 2019 (Calendar No. 19), is filed with the Office of the Speaker, City Council, and Borough President together with a copy of the plans of the development, in accordance with the requirements of Section 197-d of the New York City Charter.

**MARISA LAGO**, *Chair*

**KENNETH J. KNUCKLES, ESQ.**, *Vice Chairman*

**ALLEN CAPPELLI, ESQ., MICHELLE de la UZ, JOSEPH DOUEK,**

**RICHARD W. EADDY, HOPE KNIGHT, ANNA HAYES LEVIN, ORLANDO MARIN,**

**LARISA ORTIZ, RAJ RAMPERSHAD**, *Commissioners*



CITY OF NEW YORK  
**Community Board No. 2**

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ERIC ADAMS  
*Borough President*

SHIRLEY A. McRAE  
*Chairperson*

ROBERT PERRIS  
*District Manager*

October 24, 2018

Marisa Lago, Chair  
City Planning Commission  
120 Broadway, 31st Floor  
New York, New York 10271

*via mail and calendaroffice@planning.nyc.gov*

Dear Chair Lago:

I am writing to inform you that Community Board 2 (CB2) has reviewed and made a determination on the "570 Fulton Street Rezoning," four applications submitted on behalf of 570 Fulton Street Property LLC and One Flatbush Avenue Property LLC for a roughly triangular area southeast of the intersection of Flatbush Avenue and Fulton Street, in Brooklyn.

The four applications consist of a zoning map change (C 180459 ZMK) from C6-4 to C6-9; a zoning text amendment (N 180457 ZRK) establishing the permissible floor area ratio (FAR) and height, setback and tower regulations for C6-9 districts in the Special Downtown Brooklyn District (SBDB) and creating a new special permit for the modification of bulk requirements for buildings in C6-9 districts in the SBDB; an application for a special permit (C 180458 ZSK) pursuant to the newly created special permit; and a request for a waiver (N 180455 ZCK) of the subway stair relocation requirements in the SBDB.

Narratively, applicant seeks to merge a development site and an adjacent property, already under construction by a related entity, into a single zoning lot, upzone both and utilize the newly created FAR to construct office space in addition to residential development that would take advantage of the existing, as-of-right FAR. The proposed building requires modification of certain bulk requirements due to an irregularly shaped development lot and a goal of minimizing the height of the structure. The property already under construction received a waiver of the subway stair relocation requirement and as a result of the zoning lot merger, a second waiver is sought.

The community board held a public hearing on these applications on September 13, 2018 at St. Francis College, 180 Remsen Street, Brooklyn, New York. Nine of the 48 members of Community Board 2 on that date attended the hearing, one less than required for quorum pursuant to the Uniform Land Use Review Procedure (ULURP).

Following the hearing and discussion, the CB2 Land Use Committee voted five in favor, one opposed, one abstention (5-1-1) to recommend that Community Board 2 oppose the four applications. On October 10, 2018, the community board voted 19 in favor, 13 opposed, one abstention (19-13-1) to ratify the Land Use Committee recommendation in opposition.

The split vote reflects a recognition that the project fulfills long-standing policy goals of Community Board 2. The community board is on record as supporting the development of new office space in Downtown Brooklyn as well as the construction of affordable housing anywhere in the district. Some of the votes against the recommendation to disapprove were cast by board members who do not want to deter the office space or affordable housing proposed as part of this project.

However, there were also practical concerns as well as more philosophical opposition. Some members of the CB2 Land Use Committee were shocked to learn that a subway stair relocation waiver was granted for 1 Flatbush Avenue. The property, under construction by a related entity, is adjacent to the Nevins Street subway station. This heavily used station is in poor repair\* and does not comply with standards established pursuant to the Americans with Disabilities Act, has limited exits and entrances that impede movement on the sidewalk, and is often crowded at the insufficient turnstiles. The statement made by the applicant's team, 'We did everything asked of us by New York City Transit,' was of no consolation. New development adds burden to the already inadequate subway station but in this case, the Metropolitan Transportation Authority reportedly asked little of the developer.

Some committee members were also upset to learn that deliveries to the proposed commercial space are planned to be made from the street, where the current Department of Transportation regulation is No Standing, Monday-Friday, 7am-7pm. Fulton Street is the first street where drivers may turn left (east) after crossing the Manhattan Bridge and is very busy. When asked about the possibility of a loading bay, applicant's attorney and architect both stated unequivocally that curb cuts are prohibited on this section of Fulton Street. This response is at best incomplete; Section 101-51 of the Zoning Resolution states

"...the City Planning Commission may, by authorization, permit a curb cut ... for parking facilities and loading berths on a zoning lot that does not have access or egress on another street, provided that such curb cut will not unduly inhibit surface traffic or result in conflict between pedestrian and vehicular circulation, and will result in a good overall site plan."

The zoning lot merger may complicate the applicability of this section of the Zoning Resolution.

Some members are also resentful that the Downtown Brooklyn Development Plan, approved in 2004 "to generate an estimated 4.5 million square feet of new commercial office space," has almost exclusively produced market-rate residential development instead and resulted in a net

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\* A study by the Citizens Budget Commission, based on the Metropolitan Transportation Authority's August 2015 "Stations Condition Survey," found 24 of 47 structural components (51 percent) at the Nevins Street station were not in a state of good repair.



Marisa Lago, Chair  
City Planning Commission  
October 24, 2018  
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loss of office space. The City of New York granted tremendous value to property owners in Downtown Brooklyn and asked for no public benefit in return. Viewed from this vantage, the proposed project seems to plead, 'If you want the commercial development promised almost 15 years ago, then you need to bestow even more additional density.'

The project proposal also arrives amidst unprecedented physical growth in Downtown Brooklyn and other parts of Community District 2. Some members of CB2 as well as the general public are alarmed by the combined sum of development and are therefore opposed to any increase in FAR. For many people, much of the appeal of Brooklyn has been its lower density and the "Manhattanization" of the central business district and surrounding areas is distressing.

This perception of over-development, combined with the more concrete concerns about the Nevins Street subway station and the absence of a loading bay, formed the majority opinion of Community Board 2 on the "570 Fulton Street Rezoning." I am submitting herewith the formal community board recommendation reports for C 180459 ZMK and C 180458 ZSK. Thank you for the opportunity to comment.

Sincerely,



Irene Janner  
Acting Chairperson

cc: Hon. Eric L. Adams  
Brooklyn Borough President  
Hon. Laurie Cumbo  
New York City Council  
Winston Von Engel, Brooklyn Borough Director  
Anand Amin, City Planner  
Department of City Planning  
Jay A. Segal, Shareholder  
Greenberg Traurig, LLP

IJ:RP







**Brooklyn Borough President Recommendation**  
CITY PLANNING COMMISSION  
120 Broadway, 31<sup>st</sup> Floor, New York, NY 10271  
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 #:** 570 FULTON STREET – 180459 ZMK, 180457 ZRK, 180458 ZSK

Applications submitted by 570 Fulton Street Property LLC and One Flatbush Avenue Property LLC pursuant to Sections 197-c and 201 of the New York City Charter for the following land use actions: a zoning map amendment to change from C6-4 to C6-9 the northwest portion of a block bounded by Flatbush Avenue, Fulton Street, and Rockwell Place within the Special Downtown Brooklyn District (SDBD) in Brooklyn Community District 2 (CD 2); a zoning text amendment to establish a maximum permitted floor area ratio (FAR) of 18.0 for commercial or community facility uses in C6-9 districts within the SDBD; make the SDBD's height, setback, and tower regulations applicable to C6-9 districts; create a new special permit to allow the City Planning Commission (CPC) to permit modifications to bulk requirements for buildings in C6-9 districts, as well as a special permit to modify requirements for building setback, commercial and residential rear yards, inner court recess, and residential tower lot coverage, pursuant to the relevant ZR sections. Such actions would facilitate the development of a 40-story and cellar 202,436 sq. ft. mixed use building with commercial uses on the first 16 floors, and an approximately 106,600 sq. ft. residential tower above. The building would provide approximately 139 dwelling units, of which 30 percent would be affordable according to the Affordable New York real property tax abatement program.

COMMUNITY DISTRICT NO. 2

BOROUGH OF BROOKLYN

**RECOMMENDATION**

APPROVE  
 APPROVE WITH  
MODIFICATIONS/CONDITIONS

DISAPPROVE  
 DISAPPROVE WITH  
MODIFICATIONS/CONDITIONS

SEE ATTACHED

Handwritten signature of Eric Adams, the Brooklyn Borough President.

BROOKLYN BOROUGH PRESIDENT

November 30, 2018

DATE

**RECOMMENDATION FOR: 570 FULTON STREET – 180459 ZMK, 180457 ZRK, 180458 ZSK**

570 Fulton Street Property LLC and One Flatbush Avenue Property LLC submitted applications pursuant to Sections 197-c and 201 of the New York City Charter for the following land use actions: a zoning map amendment to change from C6-4 to C6-9 the northwest portion of a block bounded by Flatbush Avenue, Fulton Street, and Rockwell Place within the Special Downtown Brooklyn District (SDBD) in Brooklyn Community District 2 (CD 2); a zoning text amendment to establish a maximum permitted floor area ratio (FAR) of 18.0 for commercial or community facility uses in C6-9 districts within the SDBD; make the SDBD's height, setback, and tower regulations applicable to C6-9 districts; create a new special permit to allow the City Planning Commission (CPC) to allow modifications to bulk requirements for buildings in C6-9 districts, as well as a special permit to modify requirements for building setback, commercial and residential rear yards, inner court recess, and residential tower lot coverage, pursuant to the relevant New York City Zoning Resolution (ZR) sections. Such actions would facilitate the development of a 40-story and cellar 202,436 square foot (sq. ft.) mixed use building with commercial uses on the first 16 floors, and an approximately 106,600 sq. ft. residential tower above. The building would provide approximately 139 dwelling units, of which 30 percent would be affordable according to the Affordable New York real property tax abatement program, formerly known as 421-a.

On October 11, 2018, Brooklyn Borough President Eric L. Adams held a public hearing on these zoning map and text amendments. There were four speakers on the item, all in support: a representative of 32BJ Service Employees International Union (SEIU), who noted the developer's commitment to well-paying building service jobs at 570 Fulton Street, a representative of the Downtown Brooklyn Partnership who, in addition to affordable housing, cited the need for more office space in the area, especially for small businesses, and two minority- and women-owned business enterprises (MWBE) contractors who have worked successfully with the developer, and attested to the company's record of hiring MWBEs.

In response to Borough President Adams' inquiry regarding 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 applicant's representative stated intent to apply to one of the Affordable New York programs, and consult with Borough President Adams and Council Member Laurie A. Cumbo to determine the appropriate income tiers, as the program does not allow income averaging. Affordable New York targets Area Median Incomes (AMIs) ranging from 40 to 130 percent, or \$30,000 to \$100,000.

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 2, and whether the applicant's marketing strategy would include a financial literacy campaign to assist local residents in becoming lottery-eligible, the representative stated intent to retain IMPACCT Brooklyn to conduct an affordable housing education and marketing campaign in the community. The applicant has worked with the organization on previous projects.

In response to Borough President Adams' inquiry as to what action would ensure that the represented affordable housing units are realized as part of the development, the representative noted that the applicant has completed 20 rental projects utilizing the 421-a program, and intends to utilize the Affordable New York program at 570 Fulton Street.

In response to Borough President Adams' inquiry regarding the represented commercial ground floor, what consideration has been given to providing affordable community facility space for local arts and

cultural non-profit organizations, the representative stated support for arts and cultural groups, and cited previous experience working with such tenants. The applicant intends to continue discussions with Borough President Adams and Council Member Cumbo on incorporating such community groups into the proposed development.

In response to Borough President Adams' inquiry regarding the incorporation of sustainable features such as blue, green, or white roof coverings, passive house design, permeable pavers, New York City Department of Environmental (DEP) rain gardens, solar panels, and/or wind turbines, the representative expressed intent to follow up with a detailed letter outlining the applicant's sustainability strategy for 570 Fulton Street.

In response to Borough President Adams' inquiry regarding the inclusion and participation of locally-owned business enterprises (LBEs) and MWBEs in the construction process, the representative stated intent to work with two compliance firms, By The Numbers (BTN) Consulting and Team Brown Consulting, to ensure that 570 Fulton Street exceeds hiring goals for local and MWBE contractors.

On October 25, 2018 Borough President Adams received a letter from the applicant with additional information about the 570 Fulton Street affordable housing strategy and the development's sustainability program.

### **Consideration**

Community Board 2 (CB 2) voted to disapprove this application on October 10, 2018. The board expressed concern about two issues: first that the applicant is seeking to waive a subway stair relocation for the Nevins Street train station (as part of a separate, non-ULURP action), given the station's lack of Americans with Disabilities Act (ADA) accessibility, and second, that the building's design does not include a loading bay, which means that commercial deliveries would rely on curbside truck parking on Fulton Street. CB 2 noted that while the SDBD prohibits curb cuts for this section of Fulton Street on an as-of-right basis, ZR Section 101-51 allows CPC to authorize curb cuts for loading berths provided the zoning lot does not have access on another street, and that such curb cut would not unduly inhibit surface traffic or result in conflict between pedestrian and vehicular circulation. Finally, CB 2 noted that, although the 2004 Downtown Brooklyn Rezoning did not yield the 4.5 million square feet (sq. ft.) of intended commercial space envisioned at the time, achieving office space through drastic upzoning constitutes overdevelopment.

The proposed actions would enable the redevelopment of 570 Fulton Street, a 7,193 sq. ft. zoning lot that would be merged into one zoning lot with One Flatbush Avenue, which fronts Flatbush Avenue, Fox Square, and Fulton Street, resulting in a zoning lot of 19,163 sq. ft. 570 Fulton Street is improved with a vacant three-story building that previously contained 26,000 sq. ft. of office and retail uses. The One Flatbush Avenue section of the zoning lot is undergoing construction according to the existing zoning. The proposed rezoning would also include an approximately 3,320 sq. ft. portion of a property fronting Flatbush Avenue bordering One Flatbush Avenue.

The requested zoning map change would upzone the development site from C6-4 to C6-9, increasing the total permitted floor area to 18.0 FAR, with a maximum residential FAR of 12.0, realized according to ZR Section 23-95. The C6-9 district was established in the SDBD earlier this year as part of the adoption of the 80 Flatbush Avenue rezoning. The zoning text amendment would establish a new ZR section, 101-82, for a CPC special bulk permit applicable to irregular sites, that would enable CPC to exempt development from underlying requirements for building setback, commercial and residential rear yards, inner court recess, and residential tower lot coverage. This section would allow the requested 18.0 FAR to be constructed through larger and more efficient floorplates for the planned commercial and residential uses while facilitating a scaled-down tower more contextual to the adjacent One Flatbush Avenue development, and shorter than several existing and proposed

buildings in the vicinity. The requested special permit would allow the proposed massing of 570 Fulton Street on the site to be developed according to the drawings filed as part of that application.

Under the proposed rezoning, the lot merger would generate 72,962 sq. ft. of additional development rights in excess of what is permitted according to the existing zoning. All of the additional rights would be utilized by the proposed 570 Fulton Street development, resulting in a 40-story building constructed to a height of 506 feet (558 feet including the bulkhead). Commercial use would comprise 47 percent (95,839 sq. ft.) of the development, inclusive of retail use envisioned on the first and second floors, and office use above that would extend to the 16<sup>th</sup> floor. The residential portion of the tower would begin at the 18<sup>th</sup> floor and account for the remaining 53 percent of the development rights. The residential section is proposed to contain 139 apartments, of which at least 30 percent (42 units) would be offered through the Affordable New York program. In order to achieve the proposed 106,598 sq. ft. of residential floor area, 4,110 sq. ft. or approximately four percent would be permanently affordable according to ZR Section 23-95, which allows an increase in residential floor area from 10 FAR to 12 FAR.

The development site is located at the intersection of Downtown Brooklyn's major commercial thoroughfares and serves as an extension of the Fulton Mall shopping corridor. The surrounding context is defined by a vibrant mix of historical office and retail uses, and an influx of hotel and residential development, with several towers ranging from 35 to 54 stories and more expected to be complete by 2025. The context includes the Brooklyn Cultural District, anchored by the Brooklyn Academy of Music (BAM), and the nearby BAM and Fort Greene historic districts.

The site is located in a major transit zone. The adjacent Nevins Street subway station is served by the Lexington Avenue Express 4 and 5 lines and the Seventh Avenue Express 2 and 3 trains. The proposed development is located in close proximity to the DeKalb Avenue station, served by the Broadway Express N line, the Central Park Local/Sixth Avenue Express B line, the Queens Boulevard/Broadway/Fourth Avenue Local R line, and the Second Avenue/Broadway Express Q line. The B25, B26, B38, and B52 routes all operate along Fulton Street. Bicycle access is provided by a large Citi Bike docking station at the corner of Fulton Street and Rockwell Place.

Borough President Adams generally supports land use actions that provide affordable housing and broaden opportunity for office development. Granting approval of the requested actions would allow the developer to construct a mixed-use commercial and residential tower that would help meet demand for affordable housing and new office space in Downtown Brooklyn. Such office use would strengthen the SDBD's business core, in keeping with the objectives of the 2004 rezoning. Borough President Adams also acknowledges the benefit of realizing affordable housing and commercial development in Downtown Brooklyn and its proximity to transit infrastructure.

Borough President Adams is generally supportive of the proposed development at 570 Fulton Street. However, he believes that the requested zoning floor area increase should be achieved through the provision of additional public benefits pertaining to the inclusion of arts and cultural space, low-income affordable housing, and the advancement of new subway station access. In addition, the intended development should promote a range of his policies such as providing a more family-oriented bedroom mix for the affordable housing, maximizing community participation to obtain the affordable housing units, incorporating resilient and sustainable energy and stormwater practices, and promoting local hiring for the project's construction. He also believes that consideration should be given clarifying truck deliveries on Fulton Street and advancing the design of accessibility enhancements to the Nevins Street subway station.

**Appropriate Height and As-of-Right Density for Expanding the Designation for C6-9 District within the Special Downtown Brooklyn District (SDBD)**

The 2004 Downtown Brooklyn Rezoning was represented as an opportunity to realize a substantial amount of office development. However, as the provision of office floor area is not mandated, much of the utilized floor area has yielded development that is largely residential. In fact, the resulting increase in development rights has resulted in the loss of existing commercial office space. The most significant example of this phenomenon is 525 Fulton Street. Prior to the rezoning, 525 Fulton Street was a C6-1 zoned block, with 353,000 sq. ft. of commercial floor area. The site is now zoned C6-4 and the commercial space has been demolished, with development options that could include a pursuit of additional zoning rights still pending.

Borough President Adams' office had previously identified many existing commercial office buildings that would be at risk of demolition should other property owners seek to utilize the maximum allowable FAR according to the ZR. Such risk arises because these buildings would be considered significantly underbuilt with additional development rights. The number of such sites would increase substantially if zoning districts permitting 18.0 FAR were designated in Downtown Brooklyn. As the zoning permits two-thirds of the floor area to be reserved for residential development, demolition of office development would more than likely make way for predominantly residential development. When combined with the unrestricted opportunity to utilize the remaining commercial floor area for hotel and/or retail use, new development would not necessarily create or retain existing office space, and could even result in a net loss of such floor area.

Furthermore, the recent New York State enablement that removed the 12.0 residential FAR cap could eventually result in a zoning text amendment that might not even require commercial development beyond the SDBD's mandated ground-floor retail requirements. The FAR cap for residential developments exists to prevent massive residential development in high-density areas and discourage non-contextual rezonings. Even without the ZR reflecting the removal of the residential floor area cap, developers would still be expected to prioritize residential use, which is often considered the best and highest form of development. Such a pattern has already adversely impacted this neighborhood, as evidenced by the wave of unforeseen luxury residential development in the last decade, which has strained existing infrastructure including open space, public transit, and school capacity.

A number of development projects incorporating office space but not seeking a rezoning to permit 18.0 FAR are currently proceeding in the area. These include approximately 385,000 sq. ft. at 420 Albee Square, nearly 245,000 sq. ft. at 41 Flatbush Avenue, several hundred thousand sq. ft. as part of the Macy's conversion and over-build, and part of the redevelopment of 141 Willoughby Street. It has been argued that due to the 12.0 cap on residential FAR, a zoning district that allows a maximum of 18.0 FAR would require developers to provide at least 6.0 FAR of commercial or community facility space, and thus result in the creation of much-needed office space in Downtown Brooklyn, including the proposed 13 floors of such space at 570 Fulton Street.

Part of the basis for seeking a zoning district permitting 18.0 FAR is that it would enable an excess of 95,839 sq. ft. of commercial development that, but for retail development on the ground and second floors, would be Class A office development. Such Class A commercial office space would be provided in lieu of the approximately 26,200 sq. ft. of non-Class A office space that had existed. While achieving office development is a stated goal for seeking adoption of the requested zoning, the C6-9 zoning district does not mandate office development as it allows other potentially more lucrative opportunities for hotel and retail use. Rather, the proposed 18.0 FAR could potentially set a precedent for rezoning proposals elsewhere in the SDBD, with unintended consequences. This would include the risk of losing much-needed office space in the SDBD, and an overall net loss of office space, should other property owners within the SDBD subsequently pursue rezoning to such high density zoning districts.

Borough President Adams recognizes that there is continued demand for quality office space in Downtown Brooklyn. However, Borough President Adams would welcome office development as part of the 570 Fulton Street development site, and understands the rationale for high-rise development at this intersection through incentivizing greater density on the street crossing of Flatbush Avenue and Fulton Street, the heart of Downtown Brooklyn. He also notes the proximity of the 570 Fulton Street site to two subway stations, and the rationale for high-density development at this intersection. Another critical consideration is appropriate height for any development that would be pursuant to a C6-9 designation. Such C6-9 zoning district development should acknowledge the height of towers fronting Flatbush Avenue and Fulton Street, as well as other nearby high-rises, such as the 44-story 66 Rockwell Place (489 feet), the 52-story The Ashland at 590 Fulton Street (568 feet), and the 52-story Hub at 333 Schermerhorn Street (610 feet), as well as the Williamsburg Savings Bank at 1 Hanson Place. The 1,066-foot tall building at 9 DeKalb Avenue is unique because it superimposes a new structure on the low-rise former Dime Savings Bank. The proposal for 570 Fulton Street meets this criterion, though not because of the C6-9 regulation but rather through its requested CPC special bulk permit pursuant to ZR Section 101-82 Modification of Bulk Regulations for Certain Buildings on Irregularly Shaped Lots.

Borough President Adams acknowledges the establishment of the C6-9 zoning district within the SDBD as part of the approvals for 80 Flatbush Avenue on September 26, 2018. Though he proposed limiting the building's height to 600 feet, the height was ultimately capped via a CPC special permit. In addition, such special permits assure use through the accompanying drawings to the extent that commercial development would be largely office in lieu of otherwise being hotel and/or retail.

As noted earlier, there are many soft sites remaining in the SDBD that would be even more lucrative for redevelopment if rezoned to 18.0 FAR. The heart of Brooklyn at Flatbush and Fulton itself contains four more such sites, including the former New York State Department of Motor Vehicles (DMV) office at 625 Fulton Street, the Con Edison offices at 30 Flatbush Avenue, the Verizon Building at 395 Flatbush Avenue Extension, and an assemblage in progress at DeKalb Avenue, Flatbush Avenue, and Fulton Street. If these property owners were to make a case that C6-9 zoning is warranted, there would be no guarantee that such intent would be linked to a zoning mechanism to ensure appropriate bulk, height, and use.

As noted, the land use actions requested in this application include a text amendment to ZR Section 101-223 (d), to make SDBD tower regulations applicable to C6-9 districts. This text change was in fact codified following the City Council's approval of the 80 Flatbush Avenue zoning map change. Pursuant to the revised ZR 101-223 (d), no height limits apply to C6-9 districts within the SDBD.

Borough President Adams anticipates that other property owners within the SDBD will seek to upzone their sites to C6-9 and establish a maximum permitted FAR of 18.0. He therefore aims to promote respectful development in a manner that is not addressed by the existing C6-9 regulations. With regard to the 570 Fulton Street proposal, such development can be achieved by linking height in excess of the optional contextual zoning regulations, which limit height to 250 feet for C6-9 districts, subject to a special bulk permit. He believes that, moving forward, ZR Section 01-223 (d) should be modified to make new buildings taller than 250 feet subject to a CPC special permit.

Therefore, ZR Section 101-223(d) Tower regulations to not apply a height limit should be modified to require development subsequent to September 26, 2018, in excess of 250 feet to be pursuant to ZR Section 101-82 Modification of Bulk regulations for Certain Buildings on Irregularly Shaped Sites.



## **Achieving Appropriate Public Purpose Benefits When Exceeding A Floor Area Ratio of 12 In The SDBD**

A stated justification for the proposed 50 percent increase from 12.0 FAR to 18.0 FAR is that such upzoning would realize much desired office space opportunities within Downtown Brooklyn. However, Borough President Adams believes that 80,000 plus sq. ft. of Class A office space alone does not justify such an increase in density. In the case of 141 Willoughby Street, with its permitted FAR of 15.0, an additional public benefit was realized by restricting the proportion of residential use to 60 percent of the proposal while still realizing 6.0 FAR of commercial use, of which the vast majority will be Class A office development. The approval of 80 Flatbush Avenue, and its resulting FAR of 15.0 (not inclusive of additional zoning exempt floor area), will provide a modern structure for the Khalil Gibran International Academy High School with a proper gymnasium, as well as a new 350-seat elementary school.

As part of the 80 Flatbush Avenue approval, a limit of 12.0 FAR was set forth for commercial and community facility use, while residential floor area was capped at 9.0 FAR. No floor area bonuses are applicable, except for sites in excess of 50,000 sq. ft. improved with no less than 100,000 sq. ft. of public school space, developed pursuant to an agreement with the Educational Construction Fund (ECF). Borough President Adams strongly supports the 12.0 FAR as-of-right cap and opposes the requested establishment of an as-of-right 18.0 FAR for 570 Fulton Street.

For C6-9 districts in the SDBD established subsequent to September 26, 2018, it remains important to achieve appropriate public benefit standards. He believes that the requested 18.0 FAR maximum should only be achieved through a combination of FAR bonuses that would reach but not exceed 18.0 FAR. As envisioned by Borough President Adams, such bonuses would stem from the provision of additional public benefits, including floor area restricted to cultural and other community facility uses, floor area used to advance subway station improvement, and floor area that incorporates low-income affordable housing.

Therefore, Borough President Adams believes that the proposed modification of ZR Section 101-21(e) Special Floor Area and Lot Coverage Regulations for C6-9 Districts shall be further modified to exceed 12.0 FAR through applied floor area bonuses permitted to not exceed 18.0 FAR.

### **Nevins Street Station Subway Station Improvement Bonus**

Borough President Adams concurs with CB 2 that the current Nevins Street station would benefit from a new ADA-accessible entrance. As the station does not have a mezzanine level, such ADA access requires a corridor to get beneath the track level, with platform access ascending from below. Elevators would be required from street level and to each Nevins Street station platform.

According to ZR Section 101-43, for any development on a lot larger than 5,000 sq. ft. that "fronts on a sidewalk containing a stairway entrance or entrances into a subway station, the existing entrance or entrances shall be relocated from the street onto the zoning lot." Moreover, SDBD regulations stipulate that such improvements are required for certain subway stations, including Nevins Street. In addition to the requested land use actions, the developer has made a separate, non-ULURP application seeking a waiver of the subway stair relocation requirements of ZR Sections 101-43 and 37-40 by joint certification of MTA-New York City Transit (NYCT) and the CPC chair, pursuant to ZR Section 37-44. Such a waiver was previously sought and obtained for the One Flatbush Avenue development.

The project's Environmental Assessment Statement (EAS) calculated that 570 Fulton Street would not generate 200 or more peak-hour subway trips, and therefore would not result in significant adverse impacts to any subway stations. As such, the developers are not obligated to provide additional capacity at the station. However, Borough President Adams shares CB2's concerns regarding the

current Nevins Street subway station, which lacks elevator access and suffers from overcrowding. He believes that 570 Fulton Street presents an opportunity to contribute toward the realization of necessary improvements that would both improve the station's capacity and make it ADA-compliant. Accordingly, Borough President Adams believes that the project should provide more public benefit to exceed 12.0 FAR. Though the grant of the requested waiver by CPC and NYCT might be appropriate in the context of the proposed development's nominal scale, he believes that given the building's proximity to the Nevins Street subway station, the applicant should still take steps to promote access to the station from 570 Fulton Street in order to justify FAR in excess of 12.0.

The Fox Square plaza at the intersection of Flatbush Avenue and Fulton Street provides a means to reach the platform level and then connect under the sidewalk to the station's Brooklyn- and Manhattan-bound platforms. Consideration should be given to having 570 Fulton Street contribute to promoting greater accessibility to the Nevins Street subway station via a new ADA-compliant elevator entrance. Borough President Adams believes that it is appropriate to advance design development documents to resolve engineering logistics and budget for the anticipated cost of such an improvement. Borough President Adams believes that a financial contribution either directly to the NYCT or to a specific New York City Comptroller Fiduciary Account for the benefit of the NYCT toward the advancement of design development documents would be commensurate with the value of a 20 percent FAR bonus in excess of the 12.0 base FAR.

Borough President Adams believes that the pending 625 Fulton development site, as well as possible redevelopment consideration of the Con Edison offices at 30 Flatbush Avenue, the Verizon Building at 395 Flatbush Avenue Extension, and an assemblage in progress at DeKalb Avenue, Flatbush Avenue, and Fulton Street, could be contingent on more substantial contributions tied to zoning map change requests to achieve aspects of constructing such an envisioned improvement. The Con Edison site also provides an opportunity to incorporate a new subway entrance within its property line.

The SDBD provides opportunities to increase floor area through a subway station improvement bonus pursuant to ZR Section 101-211. Such improvements may involve "new connections, additions to or reconfigurations of circulation space, including provision of escalators or elevators." Specifically, the ZR provides an additional 20 percent floor area bonus above the C6-4 basic maximum FAR of 10.0. Borough President Adams recognizes that any improvements to the Nevins Street subway station would have to be initiated by NYCT. However, he believes that it is appropriate to seek a contribution from the developer to advance design development documents toward the implementation of an ADA-accessible elevator entrance to the station.

Therefore, the proposed establishment of ZR Section 101-82 Modification of Bulk Regulations for Certain Buildings on Irregularly Shaped Lots should be further modified to allow CPC, in lieu of not being able to modify FAR, to exceed the as-of-right of 12.0 FAR to up to 18.0 FAR, as follows: based on 20 percent (2.4 FAR) additional floor area for contributions to advance the design development documents toward the implementation of ADA enhancements connecting the NYCT Nevins Street Station at street level within Fox Square.

### **Set Aside Portion of Commercial Space for Local Cultural Entities**

It is one of Borough President Adams' policies to assist community-based non-profit organizations with securing affordable space. These organizations play an important role in the neighborhoods they serve, though it is too often a challenge to secure sufficient affordable space to grow and maintain their operations. Many cultural organizations have contacted Borough President Adams seeking assistance in securing space to expand and sustain their programming. In response to those concerns, Borough President Adams' policy is to review discretionary land use actions for their appropriateness to promote cultural activities.

In June 2016, Borough President Adams released "All the Right Moves: Advancing Dance and the Arts in Brooklyn," a report examining the challenges facing artists in the borough, along with accompanying recommendations. The report highlighted the benefits of arts and dance, including maintaining physical fitness and enjoying creative self-expression, as well as contributions to the vibrant culture of Brooklyn. Borough President Adams finds many challenges facing the local arts community, such as an absence of diversity — fewer than half of the individuals working in dance in Brooklyn are people of color based on 2000 United States Census data. Additionally, funding for the arts has decreased dramatically in New York City in recent years, including 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 show that such cultural activities create a variety of positive contributions, including combating the borough's high rate of obesity — as of 2016, 61 percent of adults are overweight or obese, according to the New York State Department of Health (NYSDOH) — and helping children succeed in school, a finding supported by research released by the Citizens' Committee for Children of New York, Inc. Demand for cultural programs continues to grow across Brooklyn. A 2015 report from the Center for an Urban Future found a 20 percent increase in attendance at events organized by local cultural institutions since 2006.

There are many cultural and dance organizations that have contacted Borough President Adams seeking assistance with securing space to grow and sustain the programming provided. In response to those concerns, Borough President Adams' policy is to review discretionary land use actions for their appropriateness to promote cultural and dance activities.

Borough President Adams believes that the location of 570 Fulton Street is well-suited for inclusion of arts and cultural activities and other community uses given the site's proximity to the Brooklyn Cultural District and its accessibility via public transit. He also believes that a portion of the first and second floors which the developer has set aside for retail use, or one or more office floors, could be marketed to local arts and cultural groups, and/or locally-based community organizations. However, he is aware that such uses cannot afford to compete with the rent that retail uses would likely pay to lease space at this location.

Borough President Adams believes that in order to incentivize the accommodation of arts and cultural uses within 570 Fulton Street, additional floor area beyond the as-of-right 12.0 permitted FAR should be conditioned on the inclusion of arts and cultural space within the development. Therefore, the proposed establishment of ZR Section 101-82 Modification of Bulk Regulations for Certain Buildings on Irregularly Shaped Lots should be further modified to allow CPC, in lieu of not being able to modify FAR, to exceed the as-of-right of 12.0 FAR to up to 18.0 FAR, as follows: based on 20 percent (2.4 FAR) additional floor area at a rate of one square foot of non-commercial art galleries, non-profit performing or visual arts, and/or other cultural use space, per each additional four feet of bonused zoning floor area.

Furthermore, to the extent that the City Council seeks to provide below-market rents to accommodate such arts and/or cultural organizations, 570 Fulton Street Property LLC and One Flatbush Avenue Property LLC should actively solicit such organizations, based on reasonable lease terms, as determined in consultation with CB 2 and local elected officials.

### **Achieving Low-Income Affordable Housing and More Permanent Affordable Housing**

The developer is seeking to modify the C6-9 district to permit 12.0 FAR for residential use inclusive of the inclusionary housing floor area bonus for 10 FAR permitting districts. Because of how the C6-9 district was made applicable to the SDBD, residential FAR is restricted to 9.0 FAR with no apparent opportunity for a floor area bonus. The developer has also expressed intent to provide 30 percent of

the residential units as affordable housing according to Option B or C of the New York State Affordable New York Real Property Exemption/Abatement Program. Option B stipulates that at least 30 percent of the units must be affordable, with a minimum 10 percent at up to 70 percent AMI, and 20 percent at up to 130 percent AMI. Option C only requires that the 30 percent affordable units not exceed 130 percent AMI but precludes the project from receiving any public subsidies. Beyond the Affordable New York component, 570 Fulton Street will contain 4,110 sq. ft. of permanently affordable inclusionary housing according to ZR section 23-95.

Borough President Adams believes that having the affordable apartments at such AMI levels would not realize appropriate benefit for residents of CD 2 to utilize such housing lottery as an opportunity to remain in the neighborhood. He would support increasing the residential FAR to 12 provided that it would be linked to a 10 percent floor area bonus to permit additional commercial floor area, provided that such affordable housing is restricted to Option A where the AMI distribution is 10 percent offered at up to 40 percent AMI, 10 percent at up to 60 percent AMI, and five percent at up to 130 percent AMI. In addition, the State Exemption/Abatement program does not require for rents to remain affordable after the benefit expires. The inclusionary housing floor area bonus merely results in four percent of the housing being permanently affordable. Borough President Adams believes that in order to achieve deeper tiers of household affordability, as well as achieving more permanent affordable housing opportunities, there is an opportunity to mandate such matters through the requested CPC special permit.

Therefore, the proposed establishment of ZR Section 101-82 Modification of Bulk Regulations for Certain Buildings on Irregularly Shaped Lots should be further modified to allow CPC, in lieu of not being able to modify FAR, to exceed the as-of-right 12.0 FAR up to 18.0 FAR, as follows: based on 10 percent (1.2 FAR) additional floor area for permitted commercial use where residential use is provided for 12.0 FAR where such floor area is pursuant to Option A of the New York State Affordable New York Real Property Exemption/Abatement Program, and where residential floor area in excess of 10.0 FAR is indicated on the Certificate of Occupancy (C of O) as permanently affordable housing floor area.

### **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 low- to middle-income rent-burdened families.

Borough President Adams believes that right-sizing the bedroom distribution of affordable housing units should be a higher priority than merely the number of affordable housing units itself. Borough President Adams believes that discretionary land use actions are appropriate opportunities to advance policies that constrain what would otherwise be permitted as-of-right.

In the October 25, 2018 letter to Borough President Adams, the applicant stated that the affordable housing units will have a unit mix proportional to the market-rate units. The letter further provided a chart indicating a preliminary bedroom mix for the envisioned 138 units, as follows: 69 studios, 46 one-bedroom units, and 23 two-bedroom apartments. While family-sized units make up less than 20 percent of this bedroom mix, the applicant has indicated willingness to adjust the mix in order to produce apartments that could accommodate families.

The requested land use actions present an opportunity to assure that such representation of accommodations for family-sized apartments would be more consistent with Borough President Adams' policy of advocating for having at least 50 percent two- or three-bedroom affordable housing

units and at least 75 percent one- or more bedroom affordable housing units, consistent with the zoning text for MIH floor area, pursuant to ZR Section 23-96(c)(1)(ii).

In order to ensure that there be an increase of the number of family-sized units provided in the development, Borough President Adams believes that prior to considering the application the City Council obtain commitments in writing from the developer, 570 Fulton Street Property LLC and One Flatbush Avenue Property LLC, that clarify how it would memorialize a bedroom mix having more family-sized affordable housing units.

### **Achieving Deeper Affordability for Smaller Units to Improve Affordability for Senior Households**

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 experience 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. 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. The study noted that there were 60 applicants for every apartment in lotteries conducted by the New York City Department of Housing Preservation and Development (HPD) for senior housing developments. According to a recent study by LiveOn NY, 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 for an apartment.

As a significant number of elderly households have negligible income, providing opportunities for area seniors to secure quality affordable housing and remain in their communities is a priority for Borough President Adams. In an era in which the federal government has moved away from funding affordable housing for seniors, too few affordable apartments for seniors are being produced, leaving tremendous demand for age-based affordable housing in Brooklyn. As a result, many elderly households are experiencing increased rent burden to remain in their homes, exhausting their life savings just to keep up with day-to-day living until they are unable to remain in the area where they have lived for many years.

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 apartments are rented at 40 percent AMI or below, such apartments might be more affordable to senior households. Therefore, it is acceptable to set aside a portion of the units equal to or greater than 50 percent for studios and one-bedrooms.

The Affordable New York Housing Program provides developers with several affordability options, ranging from 25 to 30 percent of the units within a development that utilizes the program. Option A stipulates that 25 percent of the units must be affordable, with at least 10 percent offered at up to 40 percent AMI, 10 percent at up to 60 percent AMI, and five percent at up to 130 percent AMI.

Development pursuant to this option would ensure that a percentage of units at 570 Fulton Street are available to senior households, including those that are formerly homeless. Additionally, Borough President Adams believes that there are appropriate means to assist senior citizen households in becoming eligible for the affordable housing lottery. With such efforts, it is reasonable to expect that a greater share of such apartments would be awarded to senior households.

Therefore, prior to considering the application, the City Council should obtain commitments, in writing, from 570 Fulton Street Property LLC and One Flatbush Avenue Property LLC, that would incorporate language clarifying the extent that it would conduct outreach to provide opportunities for senior households, including those that are formerly homeless, with regard to studio and one-bedroom apartments affordable to one- or two-person households with rents at 40 percent AMI.

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

The ZR requires inclusionary affordable housing units to be overseen by a non-profit administering agent, unaffiliated with the for-profit developing entity, except when otherwise approved by HPD. Such administering non-profit becomes responsible for ensuring that the affordable housing remains in accordance with its regulatory agreement, which governs the development's affordable housing plan. These 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 with annual affidavits to ensure compliance.

It is Borough President Adams' policy to advocate for affordable housing non-profits to play a contributing role in maximizing community participation in neighborhood affordable housing opportunities, including serving as non-profit administering agents for new developments involving affordable housing. Borough President Adams recognizes that CD 2 is served by several non-profit housing advocates, such as IMPACCT Brooklyn and the Mutual Housing Association of New York (MHANY), with proven track records of marketing affordable housing units and promoting affordable housing lottery readiness through educational initiatives. Borough President Adams encourages the developer to follow through on its stated intent to work with IMPACCT Brooklyn in this capacity.

Borough President Adams believes that prior to considering the application, the City Council should obtain commitments, in writing, from the applicant, 570 Fulton Street Property LLC and One Flatbush Avenue Property LLC, clarifying how it would memorialize utilizing one or more locally-based affordable housing development non-profits to serve as the administering agent, and/or have such entities play a role in promoting affordable housing lottery readiness.

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

It is Borough President Adams' sustainable energy policy to promote opportunities that utilize blue/green/white roofs, solar panels, and/or wind turbines, as well as passive house construction. He encourages developers to coordinate with the New York City Mayor's Office of Sustainability, the New York State Energy Research and Development Authority (NYSERDA), and/or the New York Power Authority (NYPA) at each project site. Such modifications tend to increase energy efficiency and reduce a development's carbon footprint. The proposed development offers opportunities to explore resiliency and sustainability measures such as incorporating blue/green/white roof finishes, passive house construction principles, solar panels, and wind turbines in the development.

Furthermore, as part of his flood resiliency policy, Borough President Adams also 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. Borough President Adams believes that sidewalks with nominal landscaping and/or adjacent roadway surfaces are potential resources that 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. In addition, blue/green roofs, permeable pavers, and rain gardens would divert stormwater from the City's water pollution control plants.

Borough President Adams believes it is appropriate for the developer to engage government agencies, such as the Mayor's Office of Sustainability, NYSERDA, and/or NYPA, to give consideration to government grants and programs that might offset costs associated with enhancing the resiliency and sustainability of this development site. One such program is the City's Green Roof Tax Abatement (GRTA), which provides a reduction of City property taxes by \$4.50 per square foot 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.

The proposed developments offer opportunities to explore resiliency and sustainability measures such as incorporating blue/green/white roof finishes, passive house construction principles, solar panels, and, wind turbines in the development. The required Builders Pavement Plan provides an opportunity to incorporate DEP rain gardens along the site's frontage on Fulton Street. The planting of street trees would provide shade on days of excessive heat, as well as other aesthetic, air quality, and enhanced 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 keep the plants healthy and uncongested for proper water absorption. However, the implementation of rain gardens could help advance DEP green water/stormwater strategies, enhancing the operation of the Red Hook Wastewater Treatment Plant during wet weather. Such rain gardens have the added benefit of serving as a streetscape improvement.

Borough President Adams believes that 570 Fulton Street Property LLC and One Flatbush Avenue Property LLC should consult with DEP, the New York City Department of Transportation (DOT), and the New York City Department of Parks and Recreation (NYC Parks) for consideration regarding the inclusion of a rain garden with integration of street trees as part of the Builders Pavement Plan. Where the agencies have interest in implementing an enhancement, consultation should be initiated with CB 2 and local elected officials prior to agreeing to take action.

In the October 25, 2018 letter to Borough President Adams, the applicant stated intent to include the following sustainability features at 570 Fulton Street: green roofs and landscaping, high-performance windows, insulated building walls, LED lighting, low-flow plumbing fixtures, low-VOC paints, and other measures. In addition, the applicant will explore the feasibility of using blue roofs, and seek to achieve many goals of the Enterprise Green Communities program.

Therefore, prior to considering the application, the City Council should obtain in writing from the applicant, 570 Fulton Street Property LLC and One Flatbush Avenue Property LLC, commitments that clarify how it would memorialize integrating resiliency and sustainability features. The City Council should further seek demonstration of 570 Fulton Street Property LLC and One Flatbush Avenue Property LLC's commitment to coordinate with DEP, DOT, and NYC Parks regarding the installation of DEP rain gardens and tree plantings, and/or the provision of sidewalk extensions, as part of the Builders Pavement Plan, for development site intersections in consultation with CB 2 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. 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 site provides opportunities for the developer to retain a Brooklyn-based contractor and subcontractor, especially those who 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).

At Borough President Adams' public hearing, a representative of 570 Fulton Street Property LLC and One Flatbush Avenue Property LLC stated intent to work with two compliance firms, By The Numbers (BTN) Consulting and Team Brown Consulting to ensure that 570 Fulton Street exceeds hiring goals for local and MWBE contractors.

Borough President Adams believes that prior to considering the application, the City Council should obtain commitments in writing from the applicant, 570 Fulton Street Property LLC and One Flatbush Avenue Property LLC, to memorialize retention of Brooklyn-based contractors and subcontractors, especially those who are designated LBEs consistent with Section 6-108.1 of the City's Administrative Code and MWBE 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.

### **Facilitating Loading on Fulton Street**

Borough President Adams acknowledges the concern held by several members of CB 2 regarding the applicant's intent to facilitate deliveries to the development's commercial tenants via street loading, as opposed to providing a loading berth. He is aware that CPC, pursuant to ZR Section 101-51, is enabled to authorize the allowance of a curb cut for loading berths provided the zoning lot does not have access or egress on another street, as long as such a curb cut would not unduly inhibit surface traffic or result in conflict between pedestrian and vehicular circulation. Current DOT regulations along this section of Fulton Street prohibit standing on weekdays from 7:00 AM to 7:00 PM. Moreover, Fulton Street is one of the busiest roadways in Downtown Brooklyn, and delivery trucks to a loading berth within 570 Fulton Street may impede through traffic. A loading berth would potentially reduce the amount of ground floor retail opportunity and present a hazard to pedestrians traversing Fulton Street. Therefore, even if the developer would have been open to pursuing a loading berth, there is no certainty that CPC would authorize such placement.

However, Borough President Adams feels it is important to address the need for servicing the building occupants in terms of deliveries and refuse removal. He believes that the applicant, 570 Fulton Street Property LLC and One Flatbush Avenue Property LLC should, at minimum, coordinate with DOT to evaluate curbside signage and determine to what extent this section of Fulton Street should be delineated as a loading zone during specific hours, including consideration for garbage pickup, in consultation with CB 2 and local elected officials.

### **Advancing Nevins Street Station Subway Station Improvement**

Borough President Adams recognizes that recent and future commercial and residential development in the SDBD presents a potential burden for the area's transit infrastructure, and supports improvements to Downtown Brooklyn's subway stations that significantly enhance accessibility and capacity for users. He also recognizes concerns expressed by CB 2 regarding the limited means of egress and ingress into the Nevins Street station, which results in overcrowding and poor circulation. Finally, he concurs that the Nevins Street station should be brought into compliance with ADA standards. As referenced above, Borough President Adams believes that a portion of the requested zoning should be dependent on a developer contribution toward realizing design development documents. Therefore, Borough President Adams calls on NYCT to utilize such funding to advance the design development documents toward the implementation of ADA enhancements connecting the Nevins Street Station at street level within Fox Square.



## **Recommendation**

Be it resolved that the Brooklyn borough president, pursuant to Section 201 of the New York City Charter, recommends that the City Planning Commission (CPC) and City Council approve this application with the following conditions:

1. That New York City Zoning Resolution (ZR) Section 101-223(d) Tower regulations, to not apply a height limit, shall be modified to require development subsequent to September 26, 2018, in excess of 250 feet to be pursuant to ZR Section 101-82 Modification of Bulk regulations for Certain Buildings on Irregularly Shaped Sites
2. That the proposed modification of ZR Section 101-21(e) Special Floor Area and Lot Coverage Regulations for C6-9 Districts shall be further modified to exceed 12.0 FAR through applied floor area bonuses permitted to not exceed 18.0 FAR
3. That the proposed establishment of ZR Section 101-82 Modification of Bulk Regulations for Certain Buildings on Irregularly Shaped Lots shall be further modified to allow the City Planning Commission (CPC), in lieu of not being able to modify FAR, exceed the as-of-right 12.0 FAR up to 18.0 FAR, as follows:
  - a. Based on 20 percent (2.4 FAR) additional floor area for contributions to advance the design development documents toward the implementation of Americans with Disabilities Act (ADA) enhancements connecting the MTA-New York City Transit (NYCT) Nevins Street Station at street level within Fox Square
  - b. Based on 20 percent (2.4 FAR) additional floor area, at a rate of one square foot of non-commercial art galleries, non-profit performing or visual arts, and/or other cultural use space, per each additional four feet of bonused zoning floor area
  - c. Based on 10 percent (1.2 FAR) additional floor area for permitted commercial use where residential floor area is pursuant to ZR 23-154(a) R10 districts and (commercial equivalents) outside of Inclusionary Housing designated areas, is provided for not less than 11.5 FAR, where such floor area is pursuant to Option A of the New York State Affordable New York Housing Program
4. That prior to considering any modified zoning action, the City Council shall obtain commitments in writing from the developer, 570 Fulton Street Property LLC and One Flatbush Avenue Property LLC, that clarify how it would memorialize the extent that it would:
  - a. Memorialize a bedroom mix with an increase in the number of family-sized affordable housing units
  - b. Set aside a portion of the units equal to or greater than 50 percent for studio and one-bedroom units and target those units affordable to households at 40 percent AMI to seniors, including those who are formerly homeless
  - c. Utilize any combination of locally-based affordable housing development non-profits to serve as the administering agent, and have one or more such entities play a role in promoting affordable housing lottery readiness
  - d. Integrate additional resiliency and sustainability measures such as incorporating rain gardens, blue/green/white roof treatment, and/or solar panels

- e. 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 570 Fulton Street Property LLC and One Flatbush Avenue Property LLC coordinate with the New York City Department of Transportation (DOT) to evaluate curbside signage and determine to what extent this section of Fulton Street should be delineated as a loading zone during specific hours, including consideration for garbage pickup, in consultation with Brooklyn Community Board 2 (CB 2) and local elected officials
2. That New York City Transit (NYCT) advance the design development documents toward the implementation of Americans with Disabilities Act (ADA) enhancements connecting the MTA-New York City Transit (NYCT) Nevins Street Station at street level within Fox Square



October 25, 2018

Richard Bearak  
Director of Land Use  
Office of the Brooklyn Borough President  
206 Joralemon Street  
Brooklyn, NY 11201

Via Email: [rbearak@brooklynbp.nyc.gov](mailto:rbearak@brooklynbp.nyc.gov)

**RE: 570 Fulton ULURP Follow-Up**

During the October 11th Uniform Land Use Review Procedure Public Hearing related to 570 Fulton Street (180459 ZMK, 180457 ZRK, 180458 ZSK), there were questions posed about the project's environmental sustainability strategy and proposed affordable housing program, which we understand are important priorities for Brooklyn Borough President Eric Adams. They are important priorities for us as well.

Sustainability is a guiding tenet of our site planning, design, and construction strategy. In addition to achieving many goals for Enterprise Green Communities, as well as ENERGY STAR® Multifamily High Rise criteria, our plan achieves several objectives of the Mayor's Housing New York Plan and supports the program's water, transportation, energy, air, and climate change goals through its promotion of energy efficiency, resiliency, a healthy indoor living environment, and recreation. As a best practice on all of our developments we incorporate a full complement of sustainability strategies to achieve site, water, energy efficiency, material selection and indoor environmental quality objectives. For example, our neighboring development 1 Flatbush utilizes Energy Star fixtures and appliances, low flow plumbing and LED lighting with daylight, vacancy and occupancy sensors. Enclosed with this letter you will find a detailed summary of the sustainably initiatives planned for this building.

We also share the Borough President's passion related to the development of affordable housing that meets the needs of a wide-range of Brooklyn families. 570 Fulton Street Property, LLC intends to utilize the Affordable New York Housing Program. The program provides developers with several options that set-aside between 25% and 30% of the project's housing units as income restricted units for households with incomes ranging from 40% up to 130% of New York City Area Median Income. The project is expected to provide 138 units of housing, which would mean approximately 34 to 42 units of affordable housing. Units will be a mix of studios, 1-bedroom, and 2-bedroom apartments. Enclosed with this letter you will find a brief summary outlining the options available to this project, unit breakdown and average unit sizes.

If you have any additional questions, please do not hesitate to reach out.

Very truly yours,

John Valladares  
Vice President  
Slate Property Group

## 570 Fulton Street Sustainability Program

Sustainability is a guiding tenet of our site planning, design, and construction strategy. Our proposal is focused on pragmatic, cost-effective design solutions to further reduce energy consumption, improve office tenant and resident health and comfort, address resiliency, and create connections to the surrounding environment.

In addition to achieving many goals for Enterprise Green Communities, as well as ENERGY STAR® Multifamily High Rise criteria, our plan achieves several objectives of the Mayor's *Housing New York Plan* and supports the program's water, transportation, energy, air, and climate change goals through its promotion of energy efficiency, resiliency, a healthy indoor living environment, and recreation. The development will employ a full complement of sustainability strategies to achieve the site, water, energy efficiency, material selection and indoor environmental quality objectives.

Below are highlights of sustainability initiatives planned for the development:

### BUILDING MASSING AND BUILDING ENVELOPE

- All building wall systems will contain continuous exterior insulation and in some cases, mineral wool at the interior. All walls will meet or exceed the soon to be approved 2019 NYC energy code and will be designed to reduce thermal bridging and infiltration.
- High performance window systems will limit heat gain and reduce noise transmission.
- Green roofs and landscaping will be integrated with amenity spaces on setback roofs and terraces.

### MEP BUILDING SYSTEMS

- With the use of efficient building systems and a carefully designed building envelope, it is anticipated that the proposed buildings will use 15-20% less energy than a typical building.
- Fresh air for common area spaces will utilize energy recovery.
- Lighting systems will be optimized to exceed energy code lighting power densities. All fixtures will be ENERGY STAR or use LED lamps and include a full suite of sensors (daylight, vacancy, and occupancy) and time clocks.
- Appliances throughout the building will be Energy Star rated.

### POTABLE WATER AND STORMWATER MANAGEMENT

- Watersense-labeled, low-flow plumbing fixtures will be utilized throughout the building.
- In the event of a power outage, potable water will be available to residents.
- Blue Roofs will be evaluated for storm water detention on the roof below pedestal roof pavers.

### INDOOR ENVIRONMENTAL QUALITY

- Smoking will be prohibited.
- The use of no-VOC or low-VOC paints, sealants and coating will improve indoor air quality.
- To the extent possible the project will utilize asthmagen-free building materials.

- All apartments will be compartmentalized using best practices of air-sealing during construction. Blower-door testing will be employed to ensure tightness requirements are met per ENERGY STAR multifamily high-rise standards.
- All ventilation grilles serving apartments and corridors will utilize integrated CARs to ensure balanced air flows throughout the building.

#### ACTIVE DESIGN

- Bicycle storage will be provided for residents. The project is well-situated for biking with access to bike lanes on Schermerhorn Street, Vanderbilt Ave, Jay Street, and Adams Street for connections to Prospect Park and the Brooklyn Bridge.
- The development will include dedicated indoor and outdoor spaces that are programmed for physical activity and recreation.

#### GREEN OPERATIONS

- Green cleaning materials will be used by property management staff throughout the building.
- As previously noted, smoking will not be permitted in the building.

## 570 Fulton Street Affordable Housing Program

570 Fulton Street Property, LLC intends to utilize the Affordable New York Housing Program, also known as 421-a. The program provides developers with several options including the following;

### Option A

- 25% of the units must be affordable: at least 10% at up to 40% of AMI, 10% at up to 60% of AMI, and 5% at up to 130% of AMI; and
- the project cannot receive any government subsidies other than tax-exempt bond proceeds and 4% tax credits.

### Option B

- 30% of the units must be affordable: at least 10% at up to 70% of AMI and 20% at up to 130% of AMI;

### Option C

- at least 30% of the units must be affordable at up to 130% of AMI; and
- the project cannot receive any government subsidies;

The Project's preliminary unit configuration is outlined below. Affordable New York Housing Program requires that affordable unit mix is proportional to the market rate units. The affordable units will share the same building entrance and amenities.

Type <sup>1</sup>	0 BR	1 BR	2 BR	Total
<b>Count</b>	69	46	23	138
<b>Average</b>	440 SF	733 SF	988 SF	629
<b>% of total</b>	50%	33%	17%	100%

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<sup>1</sup> The following table is based on preliminary design and is subject to change.