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**IN THE MATTER OF** an application submitted by 385 Gold Property Investors IIA, LLC pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 16c:

1. changing from a C6-1 District to a C6-6 District property bounded by Willoughby Street, Gold Street, a line 200 feet northerly of Willoughby Street, and Flatbush Avenue Extension; and
2. changing from a C6-4 District to a C6-6 District property bounded by Gold Street and its northerly centerline prolongation, a line 320 feet northerly of Willoughby Street, Flatbush Avenue Extension, and a line 200 feet northerly of Willoughby Street;

Borough of Brooklyn, Community District 2, as shown on a diagram (for illustrative purposes only) dated May 9, 2016.

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The application for a zoning map amendment to change a C6-1 district and a C6-4 district to a C6-6 district was filed by 385 Gold Property Investors IIA, LLC, also known as Savanna Real Estate Fund, on August 13, 2015, to facilitate the construction of a new 49-story, 577-foot high, 372,078 square foot mixed-use development located at 141 Willoughby Street (Block 2060, Lots 1, 4 and 8) in Downtown Brooklyn, Community District 2. The proposed building would contain 29,923 square feet of retail space, 94,103 square feet of office space, and 248,052 square feet of residential floor area, including 74,416 square feet of affordable floor area pursuant to Mandatory Inclusionary Housing requirements, and approximately 2,400 square feet of at-grade, publicly accessible open space.

**RELATED ACTIONS**

In addition to the amendment of the zoning map, which is the subject of this report (C 160030 ZMK), implementation of the applicant's proposal also requires action by the City Planning Commission on the following applications, which are being considered concurrently:

N 160029 ZRK            Amendments to the Zoning Resolution by 385 Gold Property Investors IIA, LLC, modifying Article X, Chapter 1 (Special Downtown Brooklyn

District) to add a C6-6 District and update its bulk and envelope regulations, and modifying Appendix F (Inclusionary Housing Designated Areas) to add a Mandatory Inclusionary Housing Area to the proposed project area; and

C 160054 MMK      An amendment to the City Map by the NYC Department of Housing Preservation and Development and the NYC Economic Development Corporation to eliminate, discontinue, and close a portion of Flatbush Avenue Extension at its intersection with Gold Street.

## **BACKGROUND**

The application proposes a zoning map amendment to change a C6-1 district and a C6-4 district to a C6-6 district, to facilitate a new 49-story, 577-foot high, 372,078 square foot mixed-use development to be located at 141 Willoughby Street (Block 2060, Lots 1, 4, and 8). The project area is a 20,671 square foot triangular-shaped zoning lot bounded by Flatbush Avenue Extension, a 120-foot wide street to the east; Willoughby Street to the south; and Gold Street to the west.

The project area was previously proposed for rezoning from a C6-1 district to a C6-4 district in 2004, as part of the Downtown Brooklyn Plan (C 040171 ZMK, et al). The Plan modified the Special Downtown Brooklyn District (SDBD) and rezoned much of the neighborhood to high-density commercial and residential districts consistent with their location within Brooklyn's central business district. However, a portion of the project area (Lots 1 and 4) was removed from the rezoning in response to public testimony received by the site's then-owner, the Institute of Design and Construction (IDC), stating that it was unlikely that the site would be redeveloped since a private school on the site intended to remain there.

The northern portion of the project area (Lot 8) was acquired by HPD as part of the 1989 Metro Tech Center Urban Renewal Plan. It was designated for a street widening in conjunction with a proposed Flatbush Avenue Extension enlargement, and subsequently mapped as a street. In 2004, in actions related to the Downtown Brooklyn rezoning, the Urban Renewal Plan was modified to

designate Lot 8 as open space (C 040174 HUK) and the NYC Department of Housing Preservation and Development (HPD) was authorized to dispose of the site (C 040178 HDK).

The proposed development site (Lots 1 and 4) is controlled by the applicant and totals 18,020 square feet in area. It is currently improved with a 3-story, 40,000 square-foot private school, the Institute of Design and Construction and an accessory surface parking lot for 16 vehicles. The school would be demolished to facilitate the proposed development. The remainder of the project area (Lot 8) is a 2,651 square-foot lot controlled by HPD that is currently mapped as street, however most of the lot is public open space with planting and seating areas, while only a small portion (182 square feet) is an active roadbed.

Lots 1 and 4 are mapped within a C6-1 zoning district within the SDBD, which allows up to 6.00 FAR for commercial uses, 6.50 FAR for community facility uses, and has an R7 residential district equivalent which can achieve up to a 3.44 FAR (5.01 FAR for affordable independent residences for seniors). The C6-1 district's zoning envelope is governed by the SDBD's 'standard' or 'tower' regulations, which allow either a maximum base height of up to 150 feet and a maximum building height of 210 feet along wide streets, or a maximum base height of up to 85 feet and a maximum building height of 495 feet, respectively. Accessory parking requirements are also governed by the SDBD, which included a 20 percent requirement for dwelling units, with no minimum parking requirements for affordable units.

Lot 8 is mapped with a C6-4 zoning district which allows up to 10.00 FAR for commercial, community facility, and residential uses, bonusable to 12.00 FAR with either a public plaza, arcade, or subway stair improvement bonus. The bonus is also available for participation in the R10 Voluntary Inclusionary Housing program, which requires an approximate 4 percent affordable housing set-aside (which is significantly lower than the standard 20 percent Voluntary Inclusionary Housing program). Only a small portion of Lot 8 is improved as street and jurisdiction has never been transferred from HPD to the NYC Department of Transportation (DOT). In addition, Lot 8 is subject to specific land use controls as part of the Metro Tech Urban Renewal Plan, which designates use of the lot as open space (C 040174 HUK). The SDBD also includes mandatory plan

elements that influence the proposed project area, including a retail continuity requirement and curb cut prohibition along Willoughby Street, and a street wall continuity requirement along Flatbush Avenue Extension and Willoughby Street.

The applicant is proposing to change the existing C6-1 district on Lots 1 and 4, and a C6-4 district on Lot 8, to a C6-6 district.

The proposed actions would facilitate the development of a new 49-story, 577-foot high, 372,078 square foot mixed-use development (18.00 FAR) located at 141 Willoughby Street (Block 2060, Lots 1, 4 and 8) which would include 29,923 square feet (1.45 FAR) of retail space on the ground and second floors, 94,103 square feet (4.55 FAR) of office space on the third through ninth floors and 248,052 (12.00 FAR) square feet of residential floor area on floors ten through forty-nine, including 74,416 square feet of affordable floor area pursuant to Mandatory Inclusionary Housing requirements. The proposed development would also provide approximately 2,400 square feet of at-grade, publicly accessible open space. Pursuant to Zoning Resolution Section 101-51, accessory off-street parking would be provided for 20 percent of the market-rate units, off-site within the below-grade Willoughby Square parking garage. Two accessory off-street loading berths would be provided along the Gold Street frontage to accommodate the commercial uses within the proposed development. The proposed development also includes 47,718 square feet of development rights generated by the HPD-controlled Lot 8, which would be disposed by HPD and EDC to the applicant, pursuant to the 2004 approval (C 040178 HDK).

The proposed project would include one of the first private, speculative office developments in Downtown Brooklyn since 2004. With Brooklyn's Class-A office space at extremely low vacancy rates, the borough has seen a ripple effect of conversions to offices and expansion into other neighborhoods including Williamsburg, Bushwick, Gowanus, Crown Heights, Red Hook, and Sunset Park in order to meet this burgeoning demand. The applicant has stated that the proposed office space would target tenants in the technology, advertising, media, and information sectors consistent with their location within the larger Brooklyn Tech Triangle, a broad innovation ecosystem which includes the technology and design centers of DUMBO, the light industrial,

media, and fabrication centers in the Brooklyn Navy Yard, and the support services, government, and educational facilities of Downtown Brooklyn. However, new, ground-up office construction, as proposed by the private applicant, is still rare.

The proposed building would include seven stories of commercial office within its base, with 15-foot floor-to-floor heights and a typical 14,082 square-foot floorplate, supported by a dedicated office core and two accessory off-street loading bays accessed along Gold Street. In addition, the applicant is proposing to designate Downtown Brooklyn's first Mandatory Inclusionary Housing Area which would provide 74,416 square feet of on-site affordable floor area without public subsidies, pursuant to MIH Option 2: 30 percent set-aside at an average of 80 percent of the Area Median Income. This proportion of affordable floor area would be higher than the existing R10 Voluntary Inclusionary Housing program in Downtown Brooklyn which requires only an approximately 5 percent affordable housing square footage set-aside.

The surrounding area is mapped with C6-4 and C6-4.5 zoning districts which allow high density commercial, residential, and community facility uses up to 10.00 to 12.00 FAR depending on participation in the Inclusionary Housing program or for the creation of public plazas, arcades, or subway stair improvements. Pursuant to the SDBD tower regulations, buildings generally have 85-foot maximum base heights, with no maximum building heights. Across Flatbush Avenue Extension to the northeast, heights of towers are limited to 400 feet. Immediately south of the proposed project area is the approximately 1.9 million square-foot City Point mixed-use development is currently being built, with the final Phase III development (located immediately across Willoughby Street from the subject project site) to begin construction in 2017. To the southwest is the proposed one-acre Willoughby Square open space with a 694-space below-grade public parking garage (M 040181(A) ZSK), currently in site preparation, and directly west is 4 Metro Tech, a 25-story, approximately 1.3 million square-foot office building which includes Chase Bank as an anchor tenant. Across Flatbush Avenue Extension to the northeast, several new mixed-use towers have been constructed since 2009, including the Toren (240 units, 399 feet high), 86 Fleet Place (440 units, 346 feet high), and Avalon Fort Greene (630 unit, 393 feet high), among

others. To the east are two- to four-story shared office buildings, a one-story NYC Transit Authority substation, a one-story car wash, and a five-story NYC Department of Health office.

The greater Downtown Brooklyn area consists of high-density commercial, hotel, residential, and community facility uses including the 11-acre Metro Tech office and educational campus, the Fulton Mall retail corridor one block south, and numerous educational institutions including the Long Island University campus, New York University Polytech, Brooklyn Law School, and City of New York Citytech. Brooklyn Hospital and the 30-acre Fort Greene Park are approximately five blocks east of the proposed project area.

The area is extremely well-served by transit with the 2, 3, 4, 5, A, C, F, G, B, Q, and R subways stopping within a one- to six-block radius, and numerous bus lines running along proximate streets. Flatbush Avenue Extension provides direct access to the Manhattan Bridge approach, approximately six blocks to the north, and the Brooklyn-Queens Expressway (BQE) onramps approximately three blocks northeast. The Long Island Rail Road (LIRR) stops at Atlantic Terminal, approximately nine blocks to the south, located between the Brooklyn Cultural District and the Barclays Center arena.

To facilitate the proposed development, the applicant seeks a zoning map amendment and amendments to the Zoning Resolution, and concurrently, HPD and EDC seek a change to the City Map as described below:

**ZONING MAP AMENDMENT: FROM C6-1 AND C6-4 TO C6-6 (C 160030 ZMK)**

The zoning map amendment proposes to rezone the entirety of a triangular block (Block 2060) bound by Flatbush Avenue Extension, Willoughby Street, and Gold Street, from a C6-1 district and C6-4 district to a C6-6 district. Like the existing C6-4 and C6-4.5 districts which are adjacent, the proposed C6-6 district is a high-density commercial district allowing a wide range of uses including office, retail, hotel, residential and community facility uses, allowing up to a maximum 18.00 FAR for commercial and community facility uses.

## AMENDMENTS TO THE ZONING RESOLUTION TEXT (N 160029 ZRK)

The zoning text changes proposed by the private applicant would establish a C6-6 district within the Special Downtown Brooklyn District, update the Special District's bulk and envelope regulations to accommodate the addition of the C6-6, and designate a new Mandatory Inclusionary Housing Area across the proposed project area.

### Amendment to Article X, Chapter One: Special Downtown Brooklyn District

The proposed C6-6 district does not currently exist within the Special Downtown Brooklyn District, therefore Article X, Chapter 1 of the Zoning Resolution would need to be updated with the new C6-6 district's associated bulk and envelope regulations, as follows:

#### *ZR 101-21 – Special Floor Area and Lot Coverage Regulations*

The proposed C6-6 district would allow commercial and community facility uses to achieve a maximum permitted FAR of 18.00. Currently, the highest density district within Downtown Brooklyn allows commercial and community facility uses to achieve a maximum of 14.4 FAR pursuant to plaza, arcade, and subway station improvement bonuses. Within the proposed C6-6 district, residential uses would be allowed to achieve a maximum permitted FAR of 12.00, pursuant to the proposed designation of the area within a Mandatory Inclusionary Housing Area within Appendix F, described in more detail below. The current maximum allowable residential FAR in Downtown Brooklyn is 12.00, which can be achieved through plaza, arcade, or transit improvement bonuses, or through the existing R10-Voluntary Inclusionary Housing bonus.

#### *ZR 101-222 – Standard height and setback regulations*

Similar to most zoning districts within the Special District, the proposed C6-6 district would be subject to optional standard height and setback regulations, with a maximum base height of between 125 and 150 feet, and a maximum building height of 250 feet, identical to the existing C6-4.5 envelope regulations.

#### *ZR 101-223(b) and (d) – Tower regulations, height and setback*

The proposed C6-6 district would also be subject to the optional tower envelope regulations, for which two sub-paragraphs would be modified to accommodate the additional commercial or community facility bulk allowed by the new zoning district. The (b) paragraph text amendment proposes to exempt non-residential uses, specifically within the proposed project area, from the Special District's 85-foot setback requirements. This exemption is being requested to accommodate the additional office floor area generated by the new C6-6 District within a larger podium at the base of a mixed-use tower, and is similar to the previously-approved language created for the City Point mixed-use development across the street to the south, along Flatbush Avenue Extension. The (d) paragraph text proposes to add the new C6-6 District to the list of zoning districts without a maximum building height, which already include the C5-4 and C6-4 districts.

*ZR 101-41(d) – Special Street Wall Location Regulations*

Similar to the setback exemptions described above, this proposed amendment would exempt the specific development site from the Special District's minimum street wall height of 60 feet. This exemption is being requested to accommodate a larger office floorplate within the lower portion of the tower, which would begin at the third floor, after a setback at 40 feet and rise without further setback to 145 feet. The residential portion of the proposed tower would remain consistent with existing tower regulations.

Amendment to Appendix F: Inclusionary Housing Designated Areas

Modifying Appendix F within the Zoning Resolution in order to designate the proposed project area as Downtown Brooklyn's first Mandatory Inclusionary Housing Area, and require the development to set aside between 25 to 30 percent of the residential floor area for income-restricted tenants in perpetuity and without any public subsidies.

AMENDMENT TO THE CITY MAP: FLATBUSH AVENUE EXTENSION AND GOLD STREET (C 160054 MMK)

In a separate but concurrent action, the NYC Department of Housing Preservation and Development (HPD) and the NYC Economic Development Corporation (EDC) propose an



amendment to the City Map to eliminate, discontinue, and close a portion of Flatbush Avenue Extension at its intersection with Gold Street, also known as Block 2060, Lot 8. As described earlier, Lot 8 is currently mapped as street and controlled by HPD, with 2,469 square feet improved as public open space, while the remaining 182 square feet of tax lot area is approved as an active roadbed. Approval of the proposed City Map change would facilitate the sale of Lot 8 and its associated development rights so they might be disposed to the adjacent development site, as was previously-approved in 2004 (C 040178 HDK). This would include a total of 2,651 square feet of lot area and would generate 47,718 square feet of development rights, or about 13 percent of the total proposed development, if the C6-6 zoning map amendment is approved. A separate street easement would authorize the NYC Department of Transportation to continue operating the remaining active street, and the entirety of Lot 8 would be required to remain as accessible open space pursuant to both the previously-approved Metro Tech Urban Renewal Plan (C 040174 HUK) as well as any subsequent disposition agreement.

#### **ENVIRONMENTAL REVIEW**

This application (C 160030 ZMK), in conjunction with the applications for the related actions (N 160029 ZRK and C 160054 MMK), 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 designated CEQR number is 15DME003K. The lead agency is the Deputy Mayor for Housing and Economic Development.

After a study of the potential environmental impact of the proposed action, a Negative Declaration was issued on April 29, 2016.

The City Planning Commission has determined that the proposed action will have no significant effect on the environment.

#### **UNIFORM LAND USE REVIEW**

This application (C 160030 ZMK) was certified as complete by the Department of City Planning and was duly referred in conjunction with the related ULURP action (C 160054 MMK), to the Brooklyn Community Board 2 and to the Brooklyn Borough President on May 9, 2016, 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 160029 ZRK), which was referred for information and review in accordance with the procedures for non-ULURP matters.

### **Community Board Review**

Brooklyn Community Board 2 held a public hearing on this application (C 160030 ZMK) on May 18, 2016. On June 8, 2016, by a vote of 30 to 2, with 1 abstention, the Community Board voted to disapprove this application and the related zoning text amendment (N 160029 ZRK) without conditions. However, by a vote of 24 to 8, with 1 abstention, the Community Board voted to approve the application for the related City Map change (C 160054 MMK) without conditions.

### **Borough President Recommendation**

This application and its related actions (C 160030 ZMK, C 160054 MMK, and N 160029 ZRK) were considered by the Borough President of Brooklyn, who held a public hearing on June 13, 2016. On July 20, 2016, the Borough President issued recommendations to disapprove the zoning map amendment (C 160030 ZMK) with conditions, and to approve the City Map change and zoning text amendments (C 160054 MMK and N 160029 ZRK) with conditions, as follows:

1. That the requested C6-6 zoning be amended to C6-4.5, with its boundaries extended to include the New York City Department of Health and Mental Hygiene building, the block bounded by Flatbush Avenue Extension, and Fleet and Willoughby streets.
2. That the applicant pursue zoning text amendments as follow:
  - a. That in order to further commercial development within the Special Downtown Brooklyn District, the remaining development rights from the New York City Department of Health and Mental Hygiene building, located at 295 Flatbush Avenue Extension, shall be transferred to 141 Willoughby Street pursuant to the following amendments to the New York City Zoning Resolution:
    - i. Establish within the Special Downtown Brooklyn District a new special permit ZR 101-82 to facilitate a large scale general plan according to

modifications to its definition in ZR 12-10 and special permit according to ZR 74-74 as follows:

1. That when one of the zoning lots separated by a street is a City- owned property, for the purposes of determining contiguous zoning lots, ZR 12-10 is further modified to clarify that separation by a street shall also pertain to a property contiguous to the same street intersection
  2. That when one contiguous zoning lot is a City-owned lot separated by a street intersection, ZR 12-10(a) minimum area of 1.5 acres shall be reduced, to 20,500 square feet
  3. That where a City-owned lot contains an existing building, the provision of ZR 12-10, which otherwise precludes no bulk distribution from the zoning lot containing an existing building, would not apply
  4. That ZR 74-742 ownership as otherwise provided be further modified to permit at the time of filing and granting where such large scale general plan development includes partial ownership interest of the City of New York for one or more zoning lots, and
  5. That ZR 74-743(a) Special provisions for bulk modifications be further modified to permit the distribution of total allowable floor area without regard to zoning lot lines from a zoning lot that contains a City-owned building located at 295 Flatbush Avenue Extension
- b. That in order to further advance the accommodation of cultural uses in the Special Downtown Brooklyn District:
- i. ZR 101-20(c) Special Bulk Regulations shall be amended to permit the maximum floor area ratio to exceed floor area ratio of 12.0 according to modifying ZR 101-81 Special Permit for Use and Bulk Modifications for Cultural Use in Certain C6-2 districts, to enable the maximum community facility floor area ratio in C6-4 and C6-4.5 districts to be increased from 12.0 FAR to 13.0 FAR pursuant to an approved large scale general plan, and
  - ii. That the City and the applicant actively solicit cultural organizations as potential building occupants
  - iii. That the applicant shall provide, to the City Council, in writing, the extent of commitments to include cultural space within the building

- c. That in order to accommodate a Department of Education public school:
  - i. ZR 101-20 Special Bulk Regulations, be amended to exempt from the definition of floor area up to 50,000 square feet of floor space within a public school, constructed in whole or in part, pursuant to agreement with the New York City School Construction Authority and subject to the jurisdiction of the New York City Department of Education, and
  - ii. That New York City School Construction Authority re-evaluate the site for appropriateness of incorporating a school on site
3. That the land disposition agreement for Lot 8 set mandates for the Mandatory Inclusionary Housing floor area as follow:
  - a. Provide for a greater percentage of two- and three-bedroom units as compared to the market rate apartment mix, as a means to accommodate a greater percentage of families with children, consistent with ZR 23-96(c)(ii)
  - b. Provide for a segment of studio and one-bedroom units with rents set between 30 percent and 40 percent of Area Median Income, as a means to accommodate senior citizen households
  - c. That the applicant shall provide in writing to the City Council, its commitment to include as part of its compliance to Mandatory Inclusionary Housing, an increased number of family-oriented affordable housing unit mix and rental structure to accommodate senior households qualifying with household income between 30 to 40 percent of Area Median Income.
4. That the \$4.8 million proceeds from the disposition of Lot 8 be reallocated back to the project to accommodate one or more of the following objectives:
  - a. Modification of the development plans to enable a school to be accommodated within the building
  - b. Modification of the development plans to accommodate floor area for one or more cultural occupants
  - c. Modification of the development plans to accommodate more family-sized apartments, and
  - d. Modification of the rent structure of a number of studio apartments to facilitate rents affordable to one- or two-person households, ranging from 30 percent to 40

percent of Area Median Income, as a means to accommodate senior citizen households

The Borough President also recommended:

1. That the New York City Department of Education revisit existing outdated school zone boundaries for PS 287 Bailey K. Ashford and other nearby elementary schools in order to better serve the growing Downtown Brooklyn population, for School Districts 13 and 15 with Community Education Council Districts 13 and 15.
2. That in order to increase the supply of newly constructed affordable housing in the Special Downtown Brooklyn District, the New York City Department of City Planning should proceed with an application for zoning text amendments as follow:
  - a. Amend ZR 101-51(a) "Minimum Parking Requirements" to establish a requirement that 20 percent of the residential floor area would be developed pursuant to the Inclusionary Housing Program requirement of ZR 23-90, in order for the accessory parking space requirements of ZR 25-23 to be modified to reduce the required accessory off-street parking to at least 20 percent of newly developed non-affordable housing units, and
  - b. Establish a Voluntary Inclusionary Housing designated area for the existing C6-1, C6-1A, C6-2, R7-1/C2-4, R8A/C2-4, C5-2A, C5-4, C6-4, and C6-4.5 Zoning Districts within the Special Downtown Brooklyn District, pursuant to ZR 23-952
3. That in order to advance the supply of affordable cultural space:
  - a. The New York City Department of Citywide Administrative Services (DCAS), the New York City Department of Housing Preservation and Development (HPD), the New York City Economic Development Corporation (EDC), and the New York City Housing Authority (NYCHA) should initiate a review of vacant or underutilized City-/government-owned land and buildings, in each agency's portfolio, appropriate for accommodating artists and cultural institutions, and
  - b. HPD and EDC should incorporate into Request for Proposals a preference for the inclusion of space earmarked for affordable cultural and/or studio space, where appropriate
4. That, in collaboration with Borough President Adams, the New York City Council should take steps to introduce legislation mandating provision of prevailing wage salaries for building service workers where discretionary land use actions have realized an increase (e.g. of at least 100,000 square feet) of floor area without market restrictions

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

On July 13, 2016 (Calendar No. 4), the City Planning Commission scheduled July 27, 2016, for a public hearing on this application (C 160030 ZMK). The hearing was duly held on July 27, 2016 (Calendar No. 31). There were a total of 14 speakers, 9 in favor and 5 in opposition.

The applicant team, consisting of the project architects, consultants and attorneys for 385 Gold Property Investors IIA, LLC, as well as representatives of the NYC Economic Development Corporation, as applicants for the City Map change, testified in support of the applications. They described how the proposed actions would facilitate a significant amount of new office space in Downtown Brooklyn and permanently affordable housing in an appropriate and contextual bulk, and in a well-designed building. Being at such a prominent location, the applicants discussed the well-proportioned design and how the building would act as a gateway to Brooklyn and the rest of Flatbush Avenue.

The applicant also discussed school capacity needs in Downtown Brooklyn, including the publicly-stated commitment from the School Construction Authority to fund new school seats in the area, and explained why this specific site was not a suitable location for a school. The applicant representatives spoke about their design meetings with the SCA and testimony provided at the Community Board and Borough President Hearings about the limited floorplate size and irregular shape of the lot, which made siting at this location difficult.

The applicants also discussed their commitment to providing affordable housing pursuant to Mandatory Inclusionary Housing requirements and confirmed that they would work with the City Council and HPD to identify appropriate income bands and bedroom mix, as needed. The applicants discussed the site's zoning history in that it was originally proposed to have been mapped with a C6-4.5 district in 2004, but was removed from the rezoning at the request of the previous property owner, the Institute of Design and Construction, and that they are still able to build a development under the existing C6-1 district, albeit smaller, without office space and without any affordable housing. Regarding the proposed density of 18 FAR setting a precedent in Downtown Brooklyn, the applicant representatives stated that the Commission, and Department

of City Planning as staff to the Commission, review each application and site differently based on the merits of each proposal. The team stated that they believed that the unique characteristics of the subject site and mixed-use programming, including retail, office and housing, including affordable housing, would make the proposed bulk envelope uniquely appropriate at this location. This action is a single rezoning, and other sites in Downtown Brooklyn would need to be evaluated on an individual basis for whether the same density would be appropriate.

A representative of the NYC Housing Preservation and Development spoke in favor of the applications and reiterated the production of affordable housing at this site. In response to questions from the Commission, they stated that a bedroom mix or Area Median Income selection had not yet been finalized and that they would look towards the discussion with the local City Council Member to refine those numbers.

The Downtown Brooklyn Partnership spoke in favor of the proposal, stating that the project would achieve two major policy objectives of the City, to facilitate the development of permanently affordable housing, and to generate commercial office space in Downtown Brooklyn.

The Brooklyn Chamber of Commerce also spoke in favor of the proposal, highlighting the need for more commercial office space in Downtown Brooklyn and the ease with which, the Chamber believed, the applicants would be able to find tenants for this space. They were also supportive of the ability to bring both commercial space and permanently affordable housing to the area.

The Brooklyn Borough President's Director of Land Use spoke about the Borough President's conditional support for the proposal, stating the proposed development itself was generally appropriate and accomplished the City's goals. However, he raised concerns about the proposed mechanism in that it would set a new precedent in the area. To ameliorate this issue, he advocated for a framework that would enunciate the appropriateness of the site within the proposed text. In addition, the Borough President's representative requested that a school or school annex be located in the base of the building, stating that school space has been provided on small sites, and that the nearest under-capacity schools are too far from the existing development.

Representatives from the Cultural Museum of African Art and a representative from the Brooklyn Ballet both spoke in favor of the proposals, stating that developments like these can provide cultural and community facility spaces for their types of organizations.

Representatives of three State legislators submitted letters and spoke in opposition to the proposal stating that these actions would represent a major change in land use policy in Downtown Brooklyn, and that these changes would encourage significant new as-of-right development and would encourage area owners and developers to request similar rezonings. They requested that an environmental analysis be conducted to study the area-wide and cumulative impacts of such a potential rezoning and that there did not need to be any market support to develop affordable housing or commercial office space in Downtown Brooklyn.

A representative of the Service Employees International Union (SEIU) 32BJ spoke in opposition to the proposal stating that the developer had not yet committed to utilizing union labor for ongoing building maintenance.

A representative from the Brooklyn Heights Association also spoke in opposition of the proposal, stating concerns about the pace of development in Downtown Brooklyn and about traffic congestion issues in the area. They stated that the removal of height and setback regulations would have a significant impact on light, air, and quality of life, and that this should be considered a modern-day “Equitable Building” which triggered enactment of NYC’s first Zoning Resolution in response to concerns about height and density in Lower Manhattan.

There were no other speakers and the hearing was closed.

## **CONSIDERATION**

The Commission believes that the amendments to the Zoning Map, the City Map and to the Zoning Resolution (C 160030 ZMK, C 160054 MMK, N 160029 ZRK) are appropriate.



Together these actions would facilitate the development of a new 372,078 square foot, 49-story, 577-foot high, mixed-use project including 29,923 square feet of retail, 94,103 square feet of office space, and 248,052 square feet of residential floor area, including 74,416 square feet of permanently affordable floor area pursuant to a proposed Mandatory Inclusionary Housing designation. The Commission believes that this proposed development would meet several of the City's policy objectives – mandating affordable housing, new office space and active ground floor uses – and achieve a number of goals of the original 2004 Downtown Brooklyn Plan which sought to promote the growth of Downtown Brooklyn and reinforce its role as a regional business district, create a 24/7 community with new commercial, residential, academic, and cultural development, provide viable development sites for future market cycles, and capture regional growth opportunities.

The Commission also believes that the proposed building and its program are in context to its surroundings: directly north of the 1.8 million square foot City Point development and its final, 59-story, 705,000 square-foot, 712-foot high Phase III tower; directly east of 4 Metro Tech, a 25-story, 1.3 million square foot office building; and directly northeast from the one-acre Willoughby Square public open space and 694-space below-grade parking garage, currently under construction. The site is also extremely well-served by transit, with the 2, 3, 4, 5, A, C, F, G, B, Q, and R subways stopping within a one- to six-block radius, and numerous bus lines running on proximate streets. In addition, the two closest subway entrances to the proposed development, which provide access to the B, Q, and R lines, have been recently renovated and expanded, and have opened this summer. This unique combination of transit access, adjacent uses, densities, and heights, and the amount of street frontages and adjacent street-widths allows the building to remain in context, both in bulk and height.

The Commission also believes it advances the goals of the original Downtown Brooklyn Plan, by facilitating an additional 94,103 square feet of office space and 74,416 square feet of permanently affordable housing at this extremely prominent location along Flatbush Avenue Extension and pivotal gateway to the Borough of Brooklyn. In addition, the existing 2,469 square foot open space to the north of the proposed development site would be improved and maintained as publicly-

accessible open space, enhancing a small but unique open area that is in-line with the ongoing public investments to the Flatbush Avenue streetscape. The Commission believes that the proposed C6-6 zoning map amendment is being applied at an appropriate site, in context with its surrounding uses, heights, and densities, and applied in a way that facilitates a complex mixed-use program and can garner a significant amount of permanently affordable housing and new, unsubsidized office space. While Downtown Brooklyn is undergoing a renaissance and has been a success in many ways, market-driven office construction has not occurred en masse and there has been limited generation of permanently affordable housing outside of city-owned sites.

In response to testimony received in writing that this proposal is in some way incongruous or is a departure from the land use policies set in the Downtown Brooklyn Plan, the Commission notes that 2004 rezoning widely increased densities in the neighborhood, with maximum allowable FAR's of 12 to 14.4 FAR, achievable for a variety of residential, commercial, and community facility uses.

The Commission also believes that the proposed project has an important location in the center of Downtown Brooklyn, the City's third largest central business district, and within Brooklyn's burgeoning "Tech Triangle," an economic cluster which includes Downtown Brooklyn, DUMBO, and the Brooklyn Navy Yard. The Commission also believes that this proposal is a continued evolution of Downtown Brooklyn's growth trajectory, from the historic 1920's "Skyscraper Row" of 20 to 23 FAR office buildings lining Court Street, to the expansion of the 4 million square-foot MetroTech campus in the 1990's, and continuing through the 2004 Downtown Brooklyn Plan which widely increased the neighborhood's densities to between 12 to 14.4 FAR. Today, Downtown Brooklyn is a 21<sup>st</sup>-century urban success story: between 2000 and 2014, nearly 800 new businesses have opened and almost 8,000 new jobs have been created, and during the same time period, approximately 4,500 new apartments have been built, 1,500 new hotel rooms have opened, and almost half a million square feet of cultural space is now accessible, helping the area evolve into a vibrant, 24/7 neighborhood and achieve one of the 2004 Downtown Brooklyn Plan's prime objectives. All of this new development is occurring in an area that had only approximately 1,000 units in 2004, is outside of a flood zone, and is at the intersection of 11 subway lines and a

regional railroad, arguably one of the most transit-connected neighborhoods in New York City. The Commission believes that as the Borough of Brooklyn continues to flourish, Downtown Brooklyn remains well-suited to capture and concentrate growth. The 141 Willoughby Street mixed-use proposal seeks to build on these trends by adding additional density at an appropriate, yet currently underbuilt location within the core of Downtown Brooklyn. In addition, the Commission believes that the proposal would meet two significant citywide policy objectives by designating the first Mandatory Inclusionary Housing Area in Downtown Brooklyn and producing more than 94,000 square feet of unsubsidized, speculative office space, something the private market has been as yet unable to achieve in this area in significant numbers since the 2004 rezoning.

Regarding the recommendations of the Brooklyn Borough President, the Commission notes the Borough President's general support for the proposed development and its potential to broaden economic opportunity for much-needed office space and affordable housing. Regarding the recommendation of the Borough President that the proposed C6-6 zoning district, which would facilitate the proposed development, if applied as-of-right across Downtown Brooklyn, could induce the demolition of existing office buildings and replacement with mixed-use buildings with a net loss of office space, the Commission notes that any such changes would require public review for each proposal, such as this subject proposal, by both the Borough President and the Commission, as well as the City Council, for its appropriateness. Furthermore, there are currently only nine office developments with an FAR greater than 6 within the Special Downtown Brooklyn District, most of which are either on the Metro Tech campus, government and municipal buildings, or related to the Macy's department store and thus the Borough President's concerns would likely be unfounded.

Regarding the Borough President's recommendation for an alternative zoning mechanism that would achieve the same, if not greater, allowable FAR for the proposed development site, the recommendation is outside the scope of the proposed actions. That approach would require an entirely new process of devising zoning text, environmental review, and public review, and thus would likely jeopardize the financial feasibility and policy goals of this proposed development

without changing the ultimate result. The Commission notes that the Borough President's recommendations regarding the sale prices of City-owned property and distribution of its proceeds are outside the purview of the Commission.

In response to public testimony received in writing and at the public hearing that the proposed zoning district would be precedent-setting, the Commission notes that any future proposed zoning change would always need to be evaluated for its own appropriateness based on a sound land use rationale, site conditions and neighborhood context, and the unique merits of each application. The Commission believes that the proposed development site's location, on a triangular block with three street frontages, along the 120-foot wide Flatbush Avenue Extension, the 75-foot wide Willoughby Street, and the 60-foot wide Gold Street, would allow this site to accommodate the proposed amount of bulk within an appropriate envelope and building form.

The Commission recognizes the concerns raised by the Brooklyn Borough President and the testimony raised at the City Planning Commission's public hearing regarding school capacity in School Districts 13 and 15, the two school districts that split the greater Downtown Brooklyn area. Given the current and projected population growth within School Districts 13 and 15, the NYC Department of Education and School Construction Authority have committed to funding more than 3,200 additional school seats for the DUMBO/Navy Yard/Fort Greene and the Carroll Gardens/Gowanus/Red Hook Sub-districts, and the NYC Educational Construction Fund has released at least one proposal to leverage a DOE property at 362 Schermerhorn Street, aiming to bring online hundreds of additional seats. Specifically related to this proposed project site, 141 Willoughby Street is located within School District 13, Sub-district 2. Across the entirety of Sub-district 2, elementary schools are operating at 108 percent utilization and have an elementary school seat shortage. However, within Sub-district 2, the two closest elementary schools to the proposed development site at 141 Willoughby Street, PS 67 and PS 287, are both operating at utilization rates of 74 percent and 58 percent, respectively, both showing seat capacity. Additionally, as was discussed by the applicants during the public hearing, this proposed development site is not an ideal location for a new school to meet the demands of the broader School District. It is a relatively small, irregular site, which results in an approximately 14,000

square foot usable floorplate, which would likely result in a multi-story elementary school with significant inefficiencies related to effective monitoring of stairwells and difficulty accommodating a double-height gym, cafeteria, or other congregation spaces. The suggested use would ultimately leave little or no available floor area left for office or ground-floor retail uses within the podium of the development. Recognizing the ongoing school seat shortage, the Commission fully supports the Department of Education and School Construction Authority and their stated commitment of allocating additional school resources to School Districts 13 and 15, and recommends that the Department of City Planning continue to assist the agencies in locating appropriate and efficient school siting opportunities throughout Downtown Brooklyn and surrounding neighborhoods as needed.

The Commission encourages the private applicant and EDC to reach out to the arts and cultural groups within the local community and work with them to determine the feasibility of including any of these community-based activities within the program mix of the proposed development, on a rotating or permanent basis. The Commission recognizes the success of the Brooklyn Cultural District, which has cultivated locally-based arts, dance, and other creative sectors, adding a unique vibrancy and vitality to Downtown Brooklyn and setting it apart from other urban centers across the country.

#### ZONING MAP AMENDMENT: FROM C6-1 AND C6-4 TO C6-6 (C 160030 ZMK)

The applicant proposes to map the entirety of Block 2060 with a new C6-6 district, which would allow commercial and community facility uses to achieve up to 18.00 FAR and residential uses to achieve up to 12.00 FAR, pursuant to the Special Downtown Brooklyn District text amendments described below. The Commission believes that the proposed C6-6 zoning district would allow an appropriate and necessary density to facilitate the construction of a new mixed use development that provides both commercial office space as well as residential space, including affordable housing. The new building would be consistent with the form and height of adjacent uses and this location would sit at a prominent gateway to a vibrant and growing central business district. Under existing zoning, development in the area has yet to result in the creation of any ground-up, unsubsidized office space, even though Downtown Brooklyn's office vacancy rates hover near 3

percent and office space conversions or enlargements ripple outward across the borough's less-expensive, industrial neighborhoods. The Commission believes that the amendment to the zoning map is appropriate in order to encourage new commercial office and residential construction at this prominent location within Downtown Brooklyn.

#### AMENDMENTS TO THE SPECIAL DOWNTOWN BROOKLYN DISTRICT AND APPENDIX F OF THE ZONING RESOLUTION (N 160029 ZRK)

A C6-6 zoning district does not currently exist in Downtown Brooklyn and would therefore have to be added to the Zoning Resolution's Special Downtown Brooklyn District text. The Commission believes that the proposed amendments to the Special District would suit the proposed C6-6 district's maximum allowable floor area and lot coverage regulations, standard height and setback regulations, tower regulations, and street wall location regulations. In addition, the applicant has proposed to designate the project area as a Mandatory Inclusionary Housing Area within Appendix F of the Zoning Resolution.

#### Amendment to Article X, Chapter One: Special Downtown Brooklyn District

As described below, the Commission supports the floor area regulations and additional envelope flexibility proposed as part of the amendments to the Special Downtown Brooklyn District zoning resolution, as it would facilitate the creation of new commercial space and allow for a more-efficient and viable commercial podium within a larger, mixed-use development program.

#### *ZR 101-21 – Special Floor Area and Lot Coverage Regulations*

The Commission believes that the maximum allowable FAR of 18.00 for commercial and community facilities is appropriate. This amendment would establish the proposed C6-6 district's maximum permitted floor area ratio for commercial or community facility uses as 18.00 within the Special Downtown Brooklyn District. Residential floor area continues to be limited to 12.00 FAR pursuant to New York State's Multiple Dwelling Laws. This is consistent with the underlying C6-6 district regulations, which allows a maximum permitted FAR of up to 18.00, pursuant to urban design bonuses. This district further reinforces the mixed commercial-residential character

of Downtown Brooklyn while allowing the market to deliver both new, unsubsidized office space as well as unsubsidized, permanently affordable housing, atop active ground-floor retail.

*ZR 101-222 – Standard height and setback regulations*

This amendment would add the proposed C6-6 district to the Special Downtown Brooklyn District’s standard height and setback regulations, currently only applicable to C6-4.5 districts, allowing a maximum base height of between 125 feet to 150 feet, depending on street-width, and a maximum building height of 250 feet.

*ZR 101-223(a), (c), and (d) – Tower regulations, height and setback*

This amendment would add the proposed C6-6 district to the Special Downtown Brooklyn District’s tower regulations. Section 101-223(a), (c), and (d), regarding residential tower setback requirements of 10 to 15 feet, lot coverage requirements of 40 to 65 percent, and no maximum building heights, would apply to the C6-6 district exactly as they are currently applied to existing C5-4, C6-1, and C6-4 districts within the Special District. The Commission believes that, given the proposed project area’s lot size, irregular shape, and number of street frontages, the underlying C6-6 tower regulations would limit any tower footprint on this site to extremely narrow, inefficient floorplates after any required setbacks.

*ZR 101-223(b) – Tower regulations, height and setback*

This amendment would waive the street wall regulations that allow a maximum base height of up to 85 feet for commercial or community facility uses and would only apply to the proposed development site. The Commission believes that this amendment is necessary to accommodate the additional 6 FAR of commercial uses in the base of the building, especially given the relatively small and irregular shape of the lot. Commercial office uses often necessitate an efficient, large open floorplan, and generally utilize larger floor-to-floor heights. To accommodate the additional commercial bulk provided by the C6-6 district, the taller office ceiling heights, and to achieve the most efficient floorplate possible for this site, the applicant is proposing to develop to a base height of 145 feet for the commercial-portion of the podium, resulting in seven stories of office space, spread across floors three through nine, with typical usable floorplates of approximately 14,082

square feet and a core utilizing only 1,553 square feet, resulting in a usable floorplate efficiency of more than 90 percent.

*ZR 101-41(d) – Special Street Wall Location Regulations*

This amendment would waive the street wall regulations requiring a minimum base height of 60 feet and would only apply to the proposed development site. The Commission notes that, given the irregular shape of the proposed development site and to accommodate an efficient commercial podium, the applicant has proposed to provide an initial setback at 40 feet, after the second story of proposed retail uses, and then rise to 145 feet, before setting back again to meet the tower regulations for the residential portion of the development.

Amendment to Appendix F: Inclusionary Housing Designated Areas

The Commission is pleased to support the designation of the project area as a Mandatory Inclusionary Housing Area, the first designation within Downtown Brooklyn and Community District 2. Currently, there is no voluntary or mandatory affordable housing set-aside associated with the existing C6-1 zoning district or proposed development site. While there is an existing R10 Voluntary Inclusionary Housing program associated with R10 districts and Commercial districts with an R10 residential equivalent, applicable to some portions of the Special Downtown Brooklyn District, the voluntary bonus requires only an approximate 5 percent affordable housing set-aside in order to achieve a 20 percent residential bonus. In contrast, the designation of the proposed project area as an MIHA will require any future development at this site to set aside 25 to 30 percent of the residential floor area for income-restricted tenants in perpetuity and without any public subsidies. The applicant has selected to apply Option 2 to the proposed project area which requires a 30 percent set-aside, or at least 74,416 square feet (an estimated 81 dwelling units), at an average of 80 percent of the Area Median Income.

**AMENDMENT TO THE CITY MAP: FLATBUSH AVENUE EXTENSION AND GOLD STREET (C 160054 MMK)**

The proposed City Map change would facilitate the sale of Lot 8 and its associated development rights so they might be disposed to the adjacent development site, as was previously-approved in



2004 (C 040178 HDK). This would include a total of 2,651 square feet of lot area and would generate 47,718 square feet of development rights, or about 13 percent of the total proposed development, pursuant to the new C6-6 district. A separate street easement would authorize the NYC Department of Transportation to continue operating the remaining active street, and the entirety of Lot 8 would be required to remain as accessible open space pursuant to both the previously-approved Metro Tech Urban Renewal Plan (C 040174 HUK) as well as any subsequent disposition agreement. The Commission notes that there are no intentions of widening this street at this location and believes that Lot 8 is too small and irregular for HPD to develop any meaningful housing project at this location without any further assemblage.

## **RESOLUTION**

Therefore, the City Planning Commission, deeming the actions described herein to be appropriate, adopts the following resolution:

**RESOLVED**, by the City Planning Commission, pursuant to Section 200 of the New York City Charter, that based on the environmental determination and consideration described in this report, and be it further

**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 described in this report, the Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended by changing the Zoning Map, Section No. 16c:

1. changing from a C6-1 District to a C6-6 District property bounded by Willoughby Street, Gold Street, a line 200 feet northerly of Willoughby Street, and Flatbush Avenue Extension; and
2. changing from a C6-4 District to a C6-6 District property bounded by Gold Street and its northerly centerline prolongation, a line 320 feet northerly of Willoughby Street, Flatbush Avenue Extension, and a line 200 feet northerly of Willoughby Street;

Borough of Brooklyn, Community District 2, as shown on a diagram (for illustrative purposes only) dated May 9, 2016.

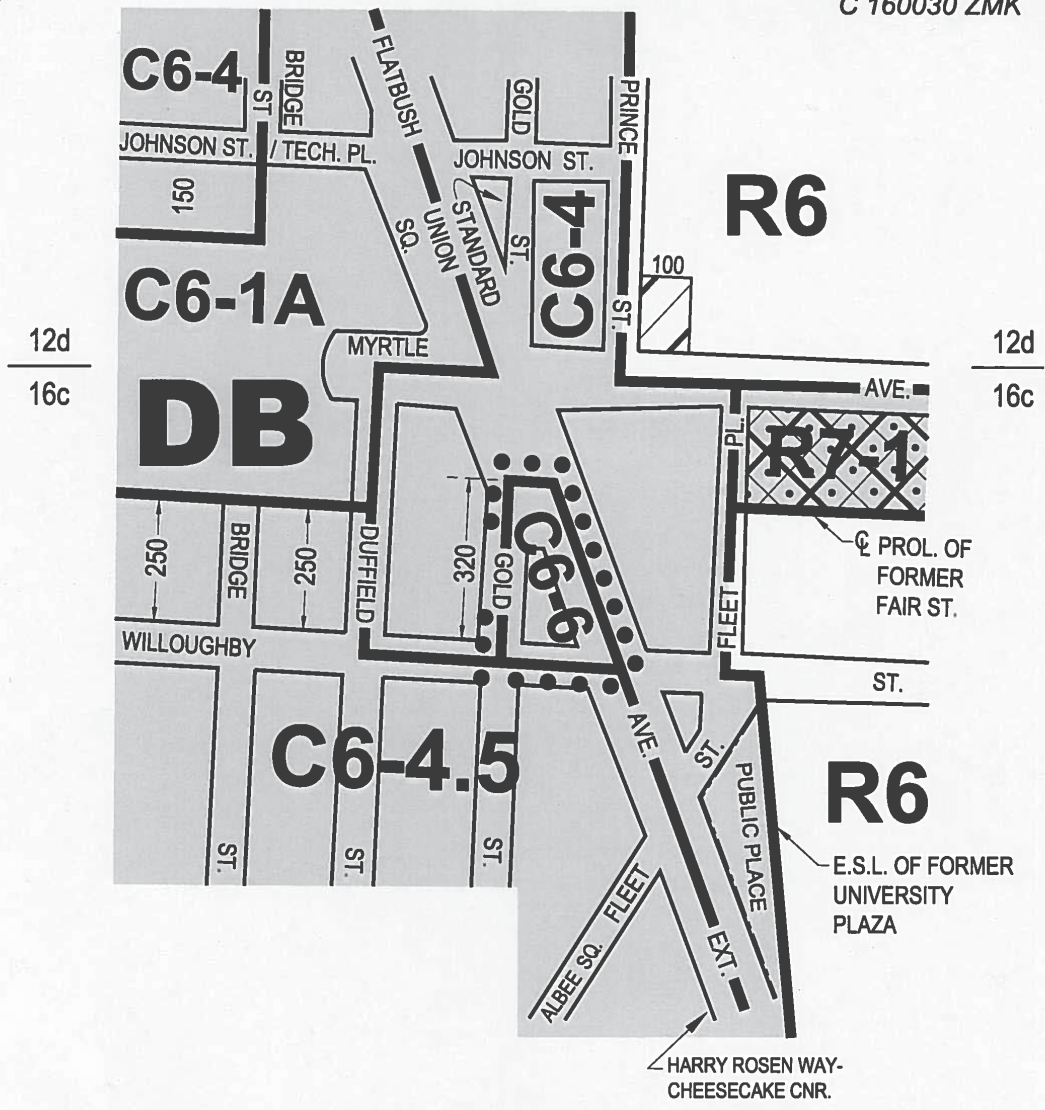
The above resolution (C 160030 ZMK), duly adopted by the City Planning Commission on September 7, 2016 (Calendar No. 12), is filed with the Office of the Speaker, City Council, and the Borough President in accordance with the requirements of Section 197-d of the New York City Charter.

**CARL WEISBROD**, Chairman

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

**RAYANN BESSER, IRWIN G. CANTOR, P.E., ALFRED C. CERULLO, III, JOSEPH I. DOUEK, CHERYL COHEN EFFRON, ANNA HAYES LEVIN, ORLANDO MARIN, LARISA ORTIZ**, Commissioners

**MICHELLE R. DE LA UZ**, Commissioner, Abstained



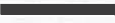




CITY PLANNING COMMISSION  
 CITY OF NEW YORK  
 DIAGRAM SHOWING PROPOSED  
**ZONING CHANGE**  
 ON SECTIONAL MAP  
**16c**

BOROUGH OF  
**BROOKLYN**

New York, Certification Date  
 MAY 09, 2016

*J. Miraglia*  
 J. Miraglia, Director  
 Technical Review Division



- NOTE:**
-  Indicates Zoning District Boundary.
  -  The area enclosed by the dotted line is proposed to be rezoned by changing from C6-1 and C6-4 Districts to a C6-6 District.
  -  Indicates a C1-3 District.
  -  Indicates a C2-4 District.
  -  Indicates a Special Downtown Brooklyn District.



**Community/Borough Board Recommendation**  
Pursuant to the Uniform Land Use Review Procedure

Application #: <b>C 160030 ZMK</b>	Project Name: <b>141 Willoughby Street</b>
CEQR Number: 15DME003K	Borough(s): Brooklyn Community District Number(s): 2
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 #C100000ZSQ"
  - MAIL:** Calendar Information Office, City Planning Commission, 120 Broadway, 31<sup>st</sup> 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 385 Gold Property Investors IIA, 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 a C6-1 District to a C6-6 District property bounded by Willoughby Street, Gold Street, a line 200 feet northerly of Willoughby Street, and Flatbush Avenue Extension; and
- changing from a C6-4 to a C6-6 District property bounded by Gold Street and its northerly prolongation, a line 320 feet northerly of Willoughby Street, Flatbush Avenue Extension, and a line 200 feet northerly of Willoughby Street;

Borough of Brooklyn, Community District 2, as shown on a diagram (for illustrative purposes only) dated May 9, 2016.

**RECOMMENDATION ALSO APPLIES TO APPLICATION N 160029 ZRK.**

<b>Applicant(s):</b> 385 Gold Property Investors IIA, LLC c/o Savanna 430 Park Avenue, 12th Floor New York, NY 10022		<b>Applicant's Representative:</b> Jay A. Segal, Esq. Greenberg Traurig, LLP 200 Park Avenue New York, NY 10166	
<b>Recommendation submitted by:</b> Brooklyn                      Community Board 2			
<b>Date of public hearing:</b> May 18, 2016		<b>Location:</b> NYU Tandon School, 5 Metrotech Center, Brooklyn NY	
<b>Was a quorum present?</b> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>		<i>A public hearing requires a quorum of 20% of the appointed members of the board, but in no event fewer than seven such members.</i>	
<b>Date of Vote:</b> June 8, 2016		<b>Location:</b> St. Ann's Warehouse, 45 Water Street, Brooklyn NY	
<b>RECOMMENDATION</b>			
<input type="checkbox"/> Approve		<input type="checkbox"/> Approve With Modifications/Conditions	
<input checked="" type="checkbox"/> Disapprove		<input type="checkbox"/> Disapprove With Modifications/Conditions	
<b>Please attach any further explanation of the recommendation on additional sheets, as necessary.</b>			
<b>Voting</b>			
# In Favor: 30		# Against: 2	
# Abstaining: 1		Total members appointed to the board: 45	
<b>Name of CB/BB officer completing this form</b> Shirley A. McRae		<b>Title</b> Chairperson	<b>Date</b> 6/20/2016

**Brooklyn Borough President Recommendation**

CITY PLANNING COMMISSION  
22 Reade Street, New York, NY 10007  
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**

141 WILLOUGHBY STREET – 160029 ZRK, 160030 ZMK, 160054 MMK

In the matter of the applications submitted by 385 Gold Property Investors, LLC, pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 16c, which includes changing from C6-1 and C6-4 districts to a C6-6 district, the property bounded by Willoughby Street, Gold Street, and Flatbush Avenue Extension, and adjacent City-owned property, in the Downtown Brooklyn central business district, in Brooklyn Community District 2 (CD 2). Additionally, a mapping application submitted by the New York City Department of Housing Preservation and Development (HPD) and the New York City Economic Development Corporation (EDC), pursuant to Sections 197-c and 199 of the New York City Charter, and Section 5-430 *et seq.* of the New York City Administrative Code for an amendment to the City Map involving the elimination, discontinuance, and closing of a portion of Flatbush Avenue Extension at its intersection with Gold Street, including authorization for any acquisition or disposition of related real property. Such actions would facilitate the development of a 372,000 square-foot, 49-story residential/commercial mixed-use tower, including approximately 94,000 square feet of office space and 30,000 square feet of retail space. Additionally, the development will include 270 dwelling units, of which approximately 80 units would be permanently affordable, in accordance with the Mandatory Inclusionary Housing (MIH) program.

COMMUNITY DISTRICT NO. 2

BOROUGH OF BROOKLYN

**RECOMMENDATION**

APPROVE

APPROVE WITH (160029 ZRK & 160054 MMK)  
MODIFICATIONS/CONDITIONS

DISAPPROVE

DISAPPROVE WITH (160030 ZMK)  
MODIFICATIONS/CONDITIONS

SEE ATTACHED

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

July 20, 2016

\_\_\_\_\_  
DATE

**RECOMMENDATION FOR: 141 WILLOUGHBY STREET 160029 ZRK, 160030 ZMK,  
160054 MMK**

The applicants, 385 Gold Property Investors, LLC, New York City Department of Housing Preservation and Development (HPD), and New York City Economic Development Corporation (EDC), seek a zoning map change from C6-1 and C6-4 districts to a C6-6 district, a zoning text amendment to designate a new MIH area, and a city map change to eliminate, discontinue, and close a portion of Flatbush Avenue Extension, at its intersection with Gold Street, which includes authorization for disposition of related real property, in the Downtown Brooklyn section of Community District 2 (CD 2). Such actions would facilitate the development of a 372,000 square-foot, 49-story residential/commercial mixed-use tower, including approximately 94,000 square feet of office space and 30,000 zoning square feet of retail space. Additionally, the development would include 270 dwelling units, of which approximately 80 units would be permanently affordable, in accordance with the MIH program.

On June 13, 2016, Brooklyn Borough President Eric L. Adams held a public hearing on this application. There were four speakers for this item, three speakers in support, and one speaker in opposition. The speakers represented Brooklyn Community Board 2 (CB 2), Downtown Brooklyn Partnership (DBP), Brooklyn Chamber of Commerce, and Service Employees International Union, Local 32BJ. The speaker in opposition voiced concerns over existing limited infrastructure capacities for elementary schools, transit, and sewage, and the lack of investment in such infrastructure improvements despite the rapid population growth in this community. Speakers in support of the project expressed the proposed development's contribution toward the continued growth of Downtown Brooklyn, as well as provision of community improvements, affordable housing, office space, and ground floor retail space, which will help to activate this section of Flatbush Avenue Extension, and the potential for local jobs in building maintenance.

In response to Deputy Brooklyn Borough President Diana Reyna's inquiry regarding the inclusion of language in any signed agreements to ensure the provision of office space in perpetuity, the representative for the applicant stated that the existing agreements outline restrictions that prevent the office space from being converted into hotel use. The representative expressed the applicant's intention and commitment to building the proposed office space. The developer stated that because the project is still in preliminary stages, they have not yet reached out to potential tenants. However, because of high demand in this area, the developer expects that a variety of tenants, possibly even City agencies, will be interested in the newly created office space.

In response to Borough President Adams' concern regarding school seat shortage and the possibility of including a school within the new development, to accommodate future growth of this school zone and district, the representative for EDC stated that their primary objective for this site, through the transaction of selling City-owned land, was to accomplish two policy goals: the creation of affordable housing and office space. The representative for EDC also stated that they are aware of the need for school seats and that the New York City School Construction Authority (SCA) has been actively working with developers in this community, as well as the DBP, to identify sites that could accommodate a school within new development. However, according to SCA, the site's irregular shape and limited size create physical constraints in the development of a required school floor plate. Additional challenges are presented as the general guidelines call for a minimum of approximately 70,000 square feet, including additional considerations for a cafeteria, dedicated entrance, elevator core, gymnasium, and secure open space. The representative stated that even if it was possible to include a school on site, it would have to be incorporated vertically. The representative stated

that due to community and Borough President Adams' continued concerns, they will continue to research and look into the possibility of providing a school on this site.

In response to Borough President Adams' inquiry regarding the consideration given to directing the proposed \$4.8 million payment for the City-owned lot toward providing deeper affordability, addressing school overcrowding, or providing cultural space, the representative for EDC stated that the aforementioned amount reflects the provision of affordable housing, the creation of office space, and the obligation of public plaza maintenance by the developer. According to the executed contract, the sale price of the City-owned lot will reflect market conditions at the time of appraisal.

In response to Borough President Adams' concern regarding the provision of required parking off-site and accessibility to the new residents, the representative for the developer stated that there is a contract with the operator of Willoughby Square municipal parking garage to ensure the garage will, at all times, accommodate 38 spaces for the residents of 141 Willoughby Street. However, it will be up to the residents to make financial arrangements with the garage operator in order to be able to park in the garage.

In response to Borough President Adams' concern that majority of the proposed development will consist of studio and one-bedroom apartments, which do not support his policy in promoting family-sized affordable housing units, the representative stated that the unit mix has not been finalized at this time. The developer also stated that there are regulations that will bind them to the provision of certain Area Median Income (AMI) levels and unit mix. The developer stated that they are completely open to providing the unit mix that will best suit the community. The representative for EDC stated that the unit size and distribution will be addressed in the regulatory agreement. The representative also stated that subject to discussion with the council member, the developer will be open to discussion regarding ensuring studio unit affordability for seniors.

In response to Borough President Adams' policy to promote the use of renewable and sustainable energy resources, as well as promoting practices to retain stormwater runoff, the applicant's representative noted that they seek to provide what makes the most sense for the building and the environment, in the long term. The developer is committed to providing blue and green roofs, and utilizing greywater systems. Construction will involve regionally sourced materials, as well as construction waste management. The architect stated that the building will be designed along the standards of LEED practices, regardless of designation, with air quality in mind, as well as generally promoting sustainability and a healthy lifestyle. The architect also stated that their firm is aware of and is currently working with Passive House design standards for other projects.

In response to Borough President Adams' policy to maximize job opportunities for Brooklynites, the representative noted that the developer's contract with EDC outlines obligations requiring the developer to commit to the inclusion of 20 percent Minority- and Women-Owned Business Enterprises (MWBE), as well as Local Business Enterprises (LBE), in the construction of the new building and open space. The contract also requires the developer to provide quarterly reports to EDC, throughout the construction process, in order to show advancement toward the realization of such goals. The developer has already engaged with a company that specializes in MWBE and LBE outreach, and intends to also utilize EDC and New York City Department of Small Business Services (SBS) databases in such outreach.

Subsequent to the hearing, Borough President Adams received a letter from 52<sup>nd</sup> District Assembly Member Jo Anne Simon seeking rejection of the establishment of the requested C6-6 zoning district

on the basis of it being a radical departure from the established zoning bulk and its potential implication beyond the 141 Willoughby Street site.

**Consideration**

CB 2 disapproved this application without conditions.

The development site is within the Special Downtown Brooklyn District (SDBD), which was established to facilitate office development and permit the as-of-right development of mixed-uses appropriate for a central business district. It has flexible height and setback regulations for a range of moderate- to high-density residential and commercial zoning districts to facilitate development on even small, irregularly-shaped lots that exist in Downtown Brooklyn.

The proposed development involves a triangular-shaped site located within the C6-1 and C6-4 districts of the SDBD. The C6-1 district, consisting of the Institute of Design and Construction (IDC) building and its accessory parking lot, has a maximum floor area ratio (FAR) of 6.0 for commercial uses, which can be increased to 7.2 through plaza or arcade bonuses, and 6.5 FAR when incorporating community facility use, which can be increased to 7.8 through plaza or arcade bonuses. In this district, residential high-rises are limited to 3.44 FAR for residential use. The C6-4 district, consisting of a City-owned lot, public open space plaza, and a section of sidewalk and roadbed, has a maximum FAR of 10.0 for commercial and community facility use, which can be increased to 12.0 through plaza or arcade bonuses. In this district, the permitted FAR for residential uses is 10.0, which can be increased to 12.0 through the provision of floor area according to the City's Inclusionary Housing Program (IHP).

The private applicant seeks a zoning text amendment to establish MIH program-compliant zoning and a zoning map change to create Brooklyn's first C6-6 zoning district (18.0 FAR) within the SDBD. The zoning map amendment would rezone the C6-1 zoned IDC lots and the abutting 2,651 square-foot City-owned lot, zoned as C6-4, to a C6-6 zoning district. The City-owned lot would remain an open space plaza (2,480 square feet)/sidewalk segment and partial roadbed (171 square feet). Additional zoning text amendments would establish the maximum permitted FAR for commercial or community facility uses in C6-6 districts within the SDBD; make the SDBD's height and setback regulations applicable to C6-6 districts; and make the SDBD's tower regulations applicable to C6-6 districts and modify setback and street wall location regulations as applicable to the site.

HPD, which has jurisdiction over the City-owned lot, and EDC seek to change the City map to eliminate, discontinue, and close the portion of Flatbush Avenue Extension that comprises an open space plaza, sidewalk segment, and partial roadbed, to allow the transfer of the City-owned lot to the developer, so that its C6-6 zoned development rights of 47,718 square feet can be used as a combined development site.

These actions would facilitate the development of a 372,000 square-foot, 49-story residential/commercial mixed-use tower. The proposed development will contain approximately 43,300 square feet of (30,000 square feet of zoning floor area) retail space, in the cellar and on the first and second floors; 94,000 square feet of office space, on the third through ninth floors, and residential use above, rising to a height of 577 feet. The office space would be expected to target emerging and growing technology/media tenants in the context of the Brooklyn Tech Triangle.

Residential use, in accordance with MIH, would include 270 dwelling units, of which approximately 80 units would be permanently affordable. The proposed breakdown for the 30 percent affordable component might consist of: 20 percent occupied by households having income less than or equal to 60 percent of AMI, and 10 percent occupied by households having income less than or equal to 125 percent of AMI; or households with incomes averaging 80 percent of AMI (Option Two as set



forth in the MIH program), in line with the requirements of Section 23-90 of the New York City Zoning Resolution (Zoning Resolution/ZR). The units will not be constructed with public funding. The bedroom mix of the affordable housing units would be proportional to the bedroom mix of the dwelling units in the overall proposed development. The bedroom mix is approximately 30 percent studios, 46 percent one-bedrooms, 15 percent two-bedrooms, and nine percent three-bedrooms.

The developer would upgrade the open space plaza, at the developer's cost, with new landscaping and seating, including plants, trees, and benches. Through public access agreement, land disposition agreement, and deed restrictions, the developer will be responsible for the improvement and maintenance of this lot, for the benefit of the community, as an open space/sidewalk segment and partial roadbed. The developer will be required to submit schematic designs for the open space plaza to EDC for its review and approval.

The surrounding area has recently experienced, and continues to experience, a significant increase in residential and hotel development. Diagonally southwest across Willoughby Street is the proposed Willoughby Square public space, a one-acre space that would have an approximately 700-space parking garage beneath, providing parking for nearby uses as well as for 141 Willoughby Street. The parking requirement, 38 accessory parking spaces, for 141 Willoughby, will be satisfied through the Willoughby Square garage, in accordance to ZR 101-56 of the SDBD regulations, which permit accessory parking space to be located up to 2,500 square feet from the zoning lot occupied by the residences to which they are accessory.

Borough President Adams generally supports land use actions that broaden economic opportunity for office development and affordable housing. Granting approval of the proposed actions would allow the developer to create a mixed-use commercial and residential tower that will include much-needed office space and affordable housing in Downtown Brooklyn. Additionally, the proposed development will meet the goals of the SDBD by providing higher density. Borough President Adams also supports the designating of rezoned areas that would result in more residential floor area to be designated as MIH. He believes that the building massing is appropriate to its built context.

The development of this entire city block would transform substantially underutilized land to facilitate a mix of commercial and residential uses that would support the economy and create a substantial number of construction and permanent jobs while providing a significant number of affordable housing units.

It is Borough President Adams' sustainable energy policy to promote opportunities that utilize solar panels and/or blue/green/white roofs, as well as Passive House construction. He encourages developers to coordinate with the Mayor's Office of Sustainability, New York State Energy Research and Development Authority (NYSERDA), and/or New York Power Authority (NYPA) at each project site. Such modifications would reduce the development's carbon footprint and increase energy efficiency. Furthermore, as part of his flood resiliency policy, Borough President Adams also encourages developers to incorporate permeable pavers and/or establish bioswales that advance the Department of Environmental Protection's (DEP) green water/stormwater strategies. Blue/green roofs, permeable pavers, and bioswales would deflect stormwater from entering the City's water pollution control plants. According to the "New York City Green Infrastructure 2014 Annual Report," green infrastructure has a critical role in addressing water quality challenges and provides numerous environmental, social, and economic co-benefits.

The development is consistent with Borough President Adams' policy regarding sustainability design. Borough President Adams acknowledges the applicant's pursuit of sustainable and resilient rooftop and plaza features. This includes using the building's roof for a combination of

blue, green, and/or white roof improvements. The required Builders Pavement Plan and the site's paved open space plaza surface provide opportunities to incorporate permeable pavers and bioswales. Such efforts could help advance DEP green water/stormwater strategies, enhancing the operation of the Red Hook Water Pollution Control Plant during wet weather. Such bioswales have the added benefit of serving as a streetscape improvement.

It is also 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 programs and grants 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 opening dialogue with the aforementioned agencies and further coordinating on this matter.

As further clarified in the June 30, 2016 letter from the applicant's representative, it is the applicant's intent that the proposed building be developed and operated in an environmentally sustainable manner. The measures being considered include stormwater retention and reduction of cooling and heat loss. Blue roofs would provide stormwater retention through the capturing and timed-release of rainwater. Vegetative green roof systems would both block a portion of the stormwater from entering the sewer system and defer the flow of stormwater not absorbed as well as serve to diminish cooling and heat gain/loss. The green roof would be irrigated with grey water generated by building occupants. The developer is committed to achieving the maximum sustainability practicable by reducing the consumption of energy throughout the building, achieving either LEED-quality or certification, and researching feasibility of utilizing Passive House design concept.

Borough President Adams is concerned that too many Brooklyn residents are currently unemployed or underemployed. It is his policy to promote economic development that will create more employment opportunities. According to averaged data from 2008 to 2012, double-digit unemployment remains a pervasive reality in many of Brooklyn's neighborhoods, with more than half of our community districts experiencing poverty rates of 25 percent or greater. Prioritizing local hiring would assist in addressing this employment crisis. Additionally, promoting Brooklyn-based businesses and including those that qualify as MWBE and LBE is central to Borough President Adams' economic development agenda. This site provides opportunities for the developer to retain 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 establishments, as a means to meet or exceed standards per Local Law 1 (no less than 20 percent participation).

Borough President Adams encourages responsible development and good practices by contractors and subcontractors. He believes that workers should be able to work in a non-threatening environment while promoting his agenda for achieving employment for Brooklynites through discretionary land use actions.

Borough President Adams believes that such standards would be met by the developer of 141 Willoughby Street, according to the clarification in the June 30, 2016 letter from the applicant's representative. It is the applicant's intent to seek the construction workforce for this project in conformance with the standards set forth by Local Law One. It is the applicant's intent to seek a goal of 20 percent for MWBE involvement and put forth commercially reasonable efforts to hire Brooklyn residents and Brooklyn-based subcontractors. MWBE hiring efforts will include outreach to local businesses utilizing databases from EDC, HireNYC, and SBS, including the

provision of quarterly reports to EDC during the constructions process to evidence compliance with program requirements.

Though Borough President Adams is generally supportive of the proposed MIH zoning text amendment and street demapping, he has concerns regarding setting a precedent through the introduction of C6-6 zoning and the possibility of unintended side effects. Introducing such a rezoning to the SDBD could actually incentivize the loss of an existing supply of office space. Borough President Adams believes that through alternative zoning mechanisms, such as transferring additional development rights from the adjacent New York City Department of Health and Mental Hygiene (DOHMH) site, a comparable development could be achieved. In addition, the proposed land use actions do not result in any space for cultural use and do not address the challenges of providing adequate capacity for schools. Furthermore, the affordable housing component lacks commitment to addressing the shortage of family-sized units and affordability for senior citizen households, and there is no commitment to direct proceeds from the purchase price, for the development rights of the City-owned lot, toward community benefit.

Borough President Adams has additional recommendations pertaining to the need for the New York City Department of Education (DOE) to review school zone and district boundaries; the New York City Department of City Planning (DCP) to explore additional mechanisms to prompt the development of affordable housing in the SDBD, and various City agencies and entities to advance the development of more cultural space throughout Brooklyn.

#### **Appropriate Zoning**

Borough President Adams recognizes that there is continued demand for office space in Downtown Brooklyn. He recognizes that the proposed upzoning, from the existing C6-1 and C6-4 districts to a C6-6 district, reflects the developer's need for a financially feasible development and provides a mechanism to achieve nearly 100,000 square feet of commercial office space. Though achieving office development is a stated goal, the C6-6 zoning district does not mandate office development, as it allows other potentially more lucrative opportunities for retail and hotel use. In the case of these discretionary land use applications to develop 141 Willoughby Street, the disposition of street bed and open space development rights, resulting from the demapping and upzoning of the City-owned lot, provides an opportunity to assure that commercial office space is developed according to the illustrative plans per disposition agreements.

However, the proposed 18.0 FAR does not automatically create office space and instead has the potential to set a precedent, that could have unintended consequences. This would include the risk of losing much needed office space in the SDBD, which could result in a net loss of office space. Should other property owners within the SDBD subsequently pursue rezoning to C6-6, it is not apparent that each rezoning would have similar legal mechanism opportunities as is the case with 141 Willoughby Street.

In addition, as became apparent with the upzoning when the SDBD was established, increasing development rights could result in the loss of existing commercial office development, provision of any office floor area would not be guaranteed in a new mixed used redevelopment. For example, 625 Fulton Street, which prior to the rezoning was a C6-1 zoned block, is now zoned C6-4. Until recently the site contained 353,000 square feet of commercial development, now demolished, reportedly to be replaced by residential development.

Borough President Adams' office identified 60 existing office buildings that would be at risk to be demolished, should other property owners seek upzoning to C6-6, without sufficient

safeguards. Such risk arises because these buildings would be considered significantly underbuilt, according to development rights that would become available through C6-6 zoning, and 18.0 FAR. As the zoning permits two-third of the floor area to be for residential development, demolition of office development would more than likely make way for predominantly residential development. Such development would result in no or significantly less office space than already exists in those buildings. When combined with the unrestricted opportunity to utilize the remaining commercial floor area for retail and/or hotel use, new development would not necessarily result in creation, or even retention, of office space.

In addition, if the recent interest in removing the residential floor area cap were to resume, it could eventually result in a zoning text amendment that might not even require commercial development beyond the SDBD's mandated ground floor retail streetscape requirements. The existing FAR cap of 12.0 for residential developments is in place to prevent massive residential development in high-density areas and discourage out of context rezonings. Without the cap, the highest and best developer-selected strategy is expected to be one that maximizes residential development. However, such a strategy would adversely impact this neighborhood as it is already strained by the unplanned wave of luxury residential developments without adequate provision of infrastructure, such as school seats and open space. Should it ever be combined with removal of the residential floor area cap, setting the expectation that C6-6 is an appropriate district for mapping in the SDBD, would be further devastating than what could happen to the existing office supply by merely mapping C6-6 under present residential floor area caps.

Therefore, Borough President Adams believes that it is in the interest of the SDBD, as Brooklyn's primary hub of office development, to not exceed the current C6-4.5 as the maximum zoning as a way to avoid unintended precedent setting. In lieu of such a significant upzoning, which would introduce an 18 FAR permitting district, Borough President Adams believes that the proposed development at 141 Willoughby Street should instead apply creative ways to accomplish the proposed development goals.

While Borough President Adams is sympathetic to the objectives dependent on floor area achieved according to a zoning district that achieves a floor area ratio of 18.0, he feels strongly that the objectives would be equally supported by making use of excess municipal development rights from the DOHMH building, located at 295 Flatbush Avenue Extension, in conjunction with the proposed development of 141 Willoughby Street. By extending the adjacent C6-4.5 district to the proposed site and to the DOHMH building, which is currently located within a C6-4 district, it would increase the building's excess development rights by 17 percent. Extending the adjacent C6-4.5 district, in combination with additional mechanisms to permit the transfer of the increased excess development rights to the proposed 141 Willoughby Street development, would provide the potential to yield a similar floor area as the proposed floor area, which would otherwise have resulted from the proposed 18.0 FAR. In addition, Borough President Adams believes that any remaining loss of floor area to the proposed development could be balanced by the additional zoning FAR increase from the inclusion of cultural use on the lower levels of the new building as well as exempt floor area for inclusion of public school space.

Therefore, Borough President Adams believes that the requested C6-6 zoning should be amended to C6-4.5, with its boundaries extended to include the DOHMH site on the block bounded by Flatbush Avenue Extension and Fleet and Willoughby streets.

### **Utilization of Unused Development Rights**

As opposed to altering the zoning map to the extent proposed by the applicant, setting a precedent that could have unforeseen consequences, Borough President Adams believes that similar goals could be achieved utilizing excess municipal development rights as an alternative to the proposed extent of upzoning. By itself, the DOHMH building located at 295 Flatbush Avenue Extension presents challenging lot dimensions to utilize the existing zoning floor area rights. Borough President Adams also believes that there are opportunities to use these excess municipal development rights to address various municipal needs. Located diagonally across the street, the 141 Willoughby Street site would provide a reasonable location to transfer the DOHMH building's excess development rights. Such actions would need to be accomplished by revisions to the zoning text pertaining to the SDBD.

The DOHMH building currently contains approximately 74,750 square feet of excess development rights, in accordance with the C6-4 zoning. If the adjacent C6-4.5 zoning was extended to include this DOHMH site, the excess development rights increase to approximately 95,750 square feet. This floor area could be earmarked for commercial development within the proposed development at 141 Willoughby Street.

Borough President Adams envisions transferring the excess air rights through a Uniform Land Use Review Procedure (ULURP) action that introduces a large scale general plan in tandem with zoning text amendments to remove impediments to the large scale general plan regulations, upzoning of 295 Flatbush Avenue Extension to C6-4.5, and a text change to expand the MIH to the DOHMH site. A disposition action would be required to permit the sale of the development rights. In order to permit a large scale general plan to accomplish the transfer, the following would need to be addressed through zoning text amendments: adjacencies, minimum size of the development site, bulk distribution from site with an existing building to remain, and ownership interest.

Large scale general plans require for lots to be contiguous or contiguous but separated by a street. Though the DOHMH building is located diagonally across the street from 141 Willoughby Street, these properties share a contiguous intersection. This condition could be permitted if the zoning text for the SDBD were amended to account for such configuration. To qualify for a large scale general plan the lot area needs to be at least 1.5 acres. This would need to be reduced to approximately 20,500 square feet. A large scale general plan precludes bulk distribution from a zoning lot containing an existing building. This provision would need to be removed to allow for the transfer of the excess rights for the DOHMH site. Finally, an ownership exception at the time of filing and adopting the large scale general plan would need to be altered to qualify lots where there exists interest of the City of New York for one or more zoning lots. The referenced ownership exception appears to be generally consistent with a provision that qualifies ownership when property is partially under City ownership, within the former Washington Square Southeast Urban Renewal Area, within Manhattan Community District 2, provided that the exception to the ownership requirements set forth herein shall apply only to tracts of land in City ownership and such exception is limited to the City-owned land at the time the application is adopted.

Recognizing that the proposed 18.0 FAR would yield the proposed development of approximately 372,080 square feet, Borough President Adams believes that the combination of the aforementioned land use actions would yield a similar square-footage. Upzoned to C6-4.5 (12.0 FAR), developer's site yields 216,241 square feet, and leaving the City's lot 8 in a C6-4.5 district results in 31,812 square feet. When combined with 95,750 square feet from the DOHMH site, this yields a potential development of 343,803 square feet.

Therefore, in order to further commercial development within the SDBD, through the remaining development rights from the DOHMH building being transferred to 141 Willoughby Street, the applicant shall pursue amendments to the SDBD of the New York City Zoning Resolution as follows:

Establish a new special permit ZR 101-82 to facilitate a large scale general plan according to modifications to its definition in ZR 12-10 and special permit according to ZR 74-74, which, for the purposes of determining contiguous zoning lots, allows for a City-owned property that is contiguous to the same street intersection as the site receiving the redistributed zoning floor area

Establish that for where one contiguous zoning lot is a City-owned lot separated by a street intersection, minimum area of 1.5 acres is reduced to 20,500 square feet

Establish that for where a City-owned lot contains an existing building, the provision of ZR 12-10, which otherwise precludes no bulk distribution from the zoning lot containing an existing building, does not apply

Establish that for where there is partial ownership interest of the City of New York for one or more zoning lots, ZR 74-742 is superseded to established such an additional exception to ownership at the time of filing and granting a large scale general plan development, and

Establish that for where a zoning lot that contains a City-owned building located at 295 Flatbush Avenue Extension, ZR 74-743(a) *Special provisions for bulk modifications* is further modified to permit the distribution of total allowable floor area without regard to zoning lot lines.

#### **Advancing Cultural Space in the SDBD**

On June 17, 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 highlights the benefits of arts and dance on maintaining physical fitness and enjoying creative self-expression, as well as contributions to the vibrant culture of Brooklyn.

Data shows that such cultural activities create a variety of positive contributions, including combating the borough's high rate of obesity — 59 percent of adults as of 2013, 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. Moreover, dance has been a significant part of the impact that the arts have had on economic development in Brooklyn; a 2015 report from the Center for an Urban Future found a 20 percent increase since 2006 in attendance at events organized by local cultural institutions, benefitting the borough's business community. Borough President Adams' findings also detail 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).

There are many cultural and dance organizations that have contacted Borough President Adams seeking assistance 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. The location for the proposed development at 141 Willoughby Street is well-suited for inclusion of cultural and/or dance activities given proximity to the many subway and bus lines that serve Downtown Brooklyn as well as the BAM Cultural District, though such uses cannot afford to compete with the rent that retail and office uses would likely pay to lease at this location. There is also no zoning incentive for the developer to provide cultural use at either the requested C6-6 zoning district or the C6-4.5 as recommended by Borough President Adams.

To overcome these obstacles without diminishing zoning development rights for more lucrative uses, Borough President Adams believes there needs to be an amendment to the New York City Zoning Resolution to provide the developer with an enhanced FAR for including community facility use, such as space set aside for cultural and dance activities. There already is such precedent in the SDBD in the case of actions that enabled 286 Ashland Place to include BAM's Hamm Archives Center (theater), 651 ARTS (studios), and a new branch for the Brooklyn Public Library. In that instance a special bulk permit was established to enable the maximum community facility FAR in C6-2 districts to be increased from 6.5 to 7.0 FAR.

Borough President Adams believes that it would be appropriate for the applicant to file for a zoning text amendment to enable that section of the Zoning Resolution to be pursuant to C6-4 and C6-4.5 districts, with the maximum community facility floor area ratio increased from 12.0 FAR to 13.0 FAR. This would also necessitate an amendment to ZR 101-20(c) *Special Bulk Regulations* to permit the maximum FAR to exceed 12.0 FAR in accordance with the granting of the special permit.

Buildings plans for 141 Willoughby Street should be amended to incorporate the fullest extent of the floor area as is feasible, which would be realized through this zoning text amendment. In concert with the zoning text change application, Borough President Adams believes that the City and the applicant should actively solicit cultural and dance organizations as potential building occupants, and that the applicant should provide, to the City Council, in writing, the extent of commitments to include cultural space within the building.

#### **Need for Accommodating a DOE Public School**

Based on information provided in the Environmental Assessment Statement, the proposed project would not displace or otherwise directly impact any schools. However, Downtown Brooklyn has a large number of new developments, either recently developed, in the planning stages, or under construction, estimated to accumulatively produce more than 1,500 public elementary school students. On its own, the new development at 141 Willoughby Street is estimated to generate approximately 58 additional elementary school students. While PS 287 Bailey K. Ashford is currently at approximately 60 percent, all known development for this school zone would easily overwhelm this school. Such developments include 420 and 436 Albee Square; the Avalon Willoughby; City Point's 7 and 9 Dekalb Avenue and its phase III building; 237 Duffield Street; 200 Nassau; Offerman at 248 Duffield Street, and 74 Willoughby Street, following on the heels of recently completed or nearly completed Bell-Tel Lofts, Brooklyner, 388 Bridge Street, and 60 Duffield Street, which would be joined by 141 Willoughby Street. Without proper mitigation, the anticipated development at 141 Willoughby Street, in combination with other current developments in the area, would result in a significantly adverse impact on the nearby PS 287 Bailey K. Ashford, as well as Community School District (CSD) 13 overall.

In response to those concerns, Borough President Adams' policy is to review discretionary land use actions for their appropriateness to promote the incorporation of public school space. Though conversations continue with regard to consideration of incorporating schools as part of

the former Long Island College Hospital campus and other sites that might come forth as part of addressing the Downtown Brooklyn residential housing boom, there are no guarantees that enough school seats would be produced or that those sites would be better dimensioned for a public school layout than 141 Willoughby Street. Therefore, serious consideration should be given to providing school seats within the 141 Willoughby Street development as a severe lack of capacity crisis is looming.

Borough President Adams acknowledges the standards of the SCA and concerns over the limitations set forth by this site's size and layout, as presented during the public hearing by the representative for EDC. However, Borough President Adams also understands that there are examples of existing schools, built and still in the pipeline, that are of a smaller lot area and building area than suggested by the SCA standards. For example, the school site being considered by SCA of the former 72<sup>nd</sup> Police Precinct, known to the Sunset Park community as the Castle, at 43<sup>rd</sup> Street and Fourth Avenue, would only have a lot of approximately 12,000 square feet. Additionally, PS 971 School of Math, Science, and Healthy Living, located at 63<sup>rd</sup> Street and Fourth Avenue, also has a lot area of approximately 12,000 square feet, with a total building area of approximately 42,000 square feet. Therefore, Borough President Adams believes that SCA should re-evaluate this site for appropriateness of incorporating a school, as 141 Willoughby Street would present a viable opportunity for provision of much needed classroom space. A review of the schematic building plans reveals a possibility for several alternatives to incorporate additional classroom space, for CSD 13, above the ground floor retail, at the floor levels depicted for office use, with a larger cafeteria, and gymnasium space that could be integrated into the retail space.

As with his consideration to provide for cultural and dance space, without diminishing zoning development rights for more lucrative uses, Borough President Adams believes there needs to be an amendment to the New York City Zoning Resolution to provide the developer with additional floor area for including space for a public school. There already is such a precedent in the Zoning Resolution associated with the Greenpoint Landing development. In that instant, the floor space used by the school was exempt from the definition of floor area, resulting in no loss of the floor area that would otherwise bring financial gain to the developer.

Borough President Adams believes that it would be appropriate for the applicant to file for a zoning text amendment to enable the SDBD Special Bulk Regulations to include a sub-section pursuant to C6-4 and C6-4.5 districts, for 141 Willoughby Street, to be exempt from the definition of floor area up to 50,000 square feet of floor space within a public school, constructed in whole or in part pursuant to agreement with the SCA and subject to the jurisdiction of the DOE.

Borough President Adams believes that in order to alleviate some of the future school capacity needs by providing classroom space within the new building, plans for 141 Willoughby Street should be amended to incorporate the fullest extent of the floor area as is feasible that could be realized through this zoning text amendment. In concert with the zoning text change application, Borough President Adams believes that the DOE and/or SCA, in coordination with CSD 13, CB 2, and local elected officials, should secure sufficient floor area, as part of subsequent redevelopment of this site, requiring the developer to incorporate a public school.

#### **Utilizing the MIH Floor Area to Further Affordable Housing Agenda**

Borough President Adams supports the Mayor's goal to achieve 200,000 affordable housing units over the next decade. Brooklyn is one of the fastest growing communities in the New York metropolitan area and the ongoing Brooklyn renaissance has ushered in extraordinary changes that were virtually unimaginable even a decade ago. Unfortunately, Brooklyn's success



has led to the displacement of long-time residents who can no longer afford to live in their own neighborhoods. Borough President Adams is committed to addressing the borough's affordable housing crisis through creation and preservation of much-needed affordable housing units for very low- to middle-income Brooklynites. Among numerous strategies and approaches, Borough President Adams is committed to advancing his affordable housing policy through his role in the ULURP. The development of much needed affordable housing provides opportunities to existing neighborhood residents at risk for displacement. Many residents within CD 2 live in unregulated housing and the continued significant increase in rents has resulted in residential displacement. Therefore, there is a pressing need to provide affordable housing units in this area.

According to the application documents, 141 Willoughby Street would consist of 30 percent studio apartments, 46 percent one-bedroom apartments, 15 percent two-bedroom apartments, and nine percent three-bedroom apartments. The developer is prepared to provide affordable housing pursuant to the MIH regulations, consistent with Zoning Resolution section 23-96(c)(1)(i), bedroom mix for affordable housing units, which allows the affordable housing bedroom mix to be consistent with the mix for the market rate housing units.

#### Achieving a Family-Sized Affordable Housing Unit Mix

A recent report identified that the rent-burdened households, which typically represent those households applying to the City's affordable housing lotteries, are more likely to require family-sized unit types. Therefore, Borough President Adams is concerned that the mix of the proposed affordable housing units would not reflect the unique needs of CD 2 is low- to middle-income rent-burdened communities, not seeking senior housing units.

Borough President Adams believes that using the affordable housing floor area for right-sizing the bedroom distribution is more important than maximizing the number of affordable housing units. Though pursuant to MIH in and of itself, there is not sufficient leverage to provide for a greater number of bedrooms for the affordable units as part of 141 Willoughby Street.

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. He believes that 141 Willoughby Street presents an opportunity to achieve family-sized units for the non-elderly. Borough President Adams seeks to require a minimum threshold for non-independent residences for seniors housing to accommodate family-sized apartments. The existing zoning text stipulates that at least 50 percent of the affordable housing units contain two or more bedrooms, and that at least 75 percent of the affordable housing units contain one or more bedrooms. For this building, it is important to mandate, based on the average rent being set as affordable to households earning 80 percent of AMI, the developer provide affordable housing pursuant to ZR 23-96(c)(1)(ii). This would require at least 50 percent of the units to be two- or three-bedroom units and at least 75 percent of the units to be one or more bedrooms. This provision should be memorialized in the land disposition or regulatory agreement between the developer and the City, with regard to the site disposition of the City-owned lot, as a means to guarantee more family-oriented apartments.

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

In addition to addressing the need for family-sized units, there is a pressing need for affordable apartments for the aging population with limited financial means. Older New Yorkers are a rapidly growing segment of the City's population, with more than 300,000 individuals residing in Brooklyn. As noted in DCP's Zoning for Quality and Affordable Housing study, senior population is expected to grow by 40 percent by 2040. The study noted that for housing lotteries conducted by the New York City Department of Housing Preservation and

Development (HPD) for senior housing developments, there were 60 applicants for every senior apartment. As a significant number of elderly households have negligible income, providing a means for area seniors in need of quality affordable housing to have a maximum opportunity to secure homes so that they may remain in their community in comfortable and safe housing 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. There remains a tremendous demand in Brooklyn for age-based affordable housing.

As 141 Willoughby Street contains a high percentage of studio and one-bedroom apartments, such units are properly-sized to accommodate one- and two-person senior citizen households. If rent levels were established in the 30 to 40 percent of AMI range, such apartments would provide for much needed opportunities for low-income senior citizens, who are in need of affordable housing, to obtain quality affordable rental accommodations.

Elderly residents living without rent stabilization protection in the surrounding Boerum Hill, Brooklyn Heights, Bridge Plaza, Clinton Hill, DUMBO, Fort Greene, Vinegar Hill, and Wallabout neighborhoods, have not been immune to the rise in real estate prices as more people discover that these communities are great places to live. 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.

Low-income seniors often have some form of disability, so living in an accessible location such as 141 Willoughby Street would increase their ability to maintain an independent lifestyle. Developing this site with very affordable studio and one-bedroom units would provide an opportunity for low income elderly residents, who are most at risk of being displaced, to attain access to safe, decent, and affordable housing with access to a wide network of public transportation, nearby to shopping and cultural amenities that promote an enriching lifestyle. It appears that the regulations of MIH provide an adequate opportunity to create studio and one-bedroom apartments affordable to senior households, at 30 to 40 percent AMI, as long as the average rent character is 80 percent AMI. Borough President Adams believes that having a number of the other apartments exceed 80 percent AMI is an appropriate means to set-aside a number of apartments that would allow a significant number of senior citizen households to be eligible through the lottery and subsequent opportunities to re-occupy such units.

Therefore, Borough President Adams seeks for the land disposition agreement or regulatory agreement for the City-owned lot to mandate that affordable housing floor area be provided for a greater percentage of two- and three-bedroom units, to accommodate more family-sized apartments, as compared to the market rate apartment mix as a means to accommodate a greater percentage of families with children. In addition, such agreement should establish rent structure for a number of studio and one-bedroom apartments to rents affordable to one- or two-person households ranging from 30 percent to 40 percent of AMI as a means to qualify senior citizen households. The applicant should provide in writing to the City Council, its commitment to include as part of its compliance to MIH, an increased number of family-oriented affordable unit mix and rental structure to accommodate senior households qualifying with household income between 30 percent to 40 percent of AMI.

#### **Allocation of the Proceeds for the Sale of City-Owned Lot 8**

In standard practice, the proceeds from the disposition of City-owned property are applied to the City's General Fund. According to this application, the City would be receiving \$4.8 million for the sale of the City-owned Lot 8, based on a rezoning to C6-6. Borough President Adams

believes that the example set by the Administration with regard to the Brooklyn Heights Library, where the funding for the site's excess development rights was directed to the Brooklyn Public Library, is appropriate for consideration of proceeds obtained for the disposition of the City-owned lot. Borough President Adams recognizes that should the requested rezoning be modified as adopted, the amount of funds would be reduced generally in proportion to the available development rights. He believes that reallocating the proceeds from the disposition of the City-owned lot back into the project would allow the project to accommodate school and/or cultural space, family-sized unit mix, and very low-rent apartments.

Enabling a school and/or cultural occupant/s within the building would utilize space that might otherwise have accommodated high-value retail floor area, as well as result in added structural framing considerations or an additional dedicated elevator. Reallocating such funds provides an opportunity to economically justify such modifications of the development plans. Funds used to reduce the construction loan would enable the developer to reduce rents of space set aside for cultural organizations. Borough President Adams recognizes that floor plan alterations may be necessary in order for the developer to provide a fair opportunity for families with children to have appropriately-sized affordable units. Should such alterations result in increased development costs, such funds being attributed to the construction budget would adequately compensate the developer. Using such funds to reduce the construction financing would further enable the developer to accommodate an affordable housing rent structure that would be suitable for one- or two-person senior citizen households, ranging from 30 percent to 40 percent of AMI for studio and one-bedroom apartments.

Therefore, Borough President Adams urges the Administration to direct the proceeds of the sale of the City-owned Lot 8 to fund one or more of these objectives at 141 Willoughby Street.

#### **Need to Update/Reconcile School Zones**

Downtown Brooklyn is experiencing a large number of new residential development, either recently developed, in the planning stages, or under construction, estimated to accumulatively produce over 1,500 public elementary school students. Complicating the solution to this seating shortfall is that Downtown Brooklyn is split across two districts: CSD 13, which covers most of Brooklyn Heights, Clinton Hill, Fort Greene, DUMBO, Vinegar Hill and points further east, and CSD 15, which extends through a part of the southeast corner of Brooklyn Heights, Cobble Hill, Boerum Hill, and extending further south. The road dividing CSDs 13 and 15 through Downtown Brooklyn is Fulton Street/Fulton Mall.

In reviewing the existing public school zoning maps, Borough President Adams' office concluded that the decades-old zones are not well-suited to the wave of residential development in Downtown Brooklyn and that zoned schools are in various stages of inundation. The highest concentration of new residential development in Downtown Brooklyn is in CSD 13. Most of Downtown Brooklyn is zoned for PS 287 Bailey K. Ashford, which is located in Vinegar Hill on the north side of the Brooklyn Queens Expressway (BQE) viaduct, next to the Brooklyn Navy Yard. Developments east of Flatbush Avenue between Fulton Street and Myrtle Avenue are zoned for PS 20 the Clinton Hill School in Fort Greene. The Bridge Plaza section (east of Concord Village) is newly-zoned for PS 307 Daniel Hale Williams in Vinegar Hill. The CSD 15 section is zoned for Boerum Hill's PS 261 Phillip Livingston west of Bond Street to PS 38 the Pacific School to the east of Bond Street (including the new developments in the BAM cultural district). There is currently no zoned public elementary or middle school actually located in Downtown Brooklyn. Without new school capacity, these schools would all have a significant shortage of seats as the residential units in development, pipeline, or sites that could be developed are all occupied.

As a result of school locations and zoned boundaries, the school-age children living in apartments in the Downtown Brooklyn core are required to cross heavily trafficked Atlantic Avenue if zoned to PS 38 the Pacific School or PS 261 Phillip Livingston, or Flatbush Avenue, Tillary Street, and under the viaduct of the BQE to reach PS 287 Bailey K. Ashford. PS 307 Daniel Hale Williams requires crossing heavily trafficked Sands Street and going under the BQE viaduct. PS 20 the Clinton Hill School merely poses a long walk.

As for Downtown Brooklyn north of Fulton Street, as there were few residents remaining after the development of MetroTech, it almost did not matter which blocks were placed in a particular school district or school zone. The CSD 13/15 boundary line has southern sections of Brooklyn Heights heading to PS 8 the Robert Fulton School in lieu of shorter distances to PS 29 John M. Harrigan School or PS 261 Phillip Livingston. Blocks near PS 29 John M. Harrigan School are zoned for PS 261 Phillip Livingston. The blocks just east of PS 261 Phillip Livingston are zoned to PS 38 the Pacific School. As conversations continue to consider schools as part of the former Long Island College Hospital campus and other sites that might come forth as part of addressing the Downtown Brooklyn residential housing boom, a comprehensive revision of the DOE's public elementary school zones and district boundaries warrants consideration. As one or more pending schools would dictate new lines, it is critical that the community and its elected officials engage in a timely dialogue with the DOE and the Community Education Councils (CEC) so the community has sufficient time to provide meaningful input. New school capacity is long overdue and is extremely vital in ensuring adequate education for existing and future students.

As more clarity comes forth for exact location of new schools, the DOE should revisit existing outdated school zone boundaries for PS 287 Bailey K. Ashford and other nearby elementary schools in order to better serve the growing Downtown Brooklyn population, for CSDs 13 and 15 with CEC Districts 13 and 15.

#### **Zoning Text Amendments to Promote More Affordable Housing in the Special Downtown Brooklyn District**

In response to Mayor de Blasio's 2014 announcement of his 10-year plan to build and preserve 200,000 units of affordable housing across New York City, Borough President Adams issued his report, "Housing Brooklyn: A Road Map to Real Affordability for Brooklynites," which discussed key opportunities for affordable housing development throughout Brooklyn, which would help achieve the Mayor's development goals. Included in what was identified in the report were two possible zoning text changes that can assist in facilitating the much needed development of affordable housing in Downtown Brooklyn.

#### **Promoting Affordable Housing Through Reduction of Parking Requirements**

Borough President Adams believes there was a missed opportunity when the Bloomberg Administration put forth a zoning text amendment to achieve a 50 percent reduction in required parking in the SDBD. This action could be used to leverage the regulatory change as an incentive to ensure the development of affordable housing. The City should revisit this recently enacted text change and condition the parking requirement reduction on participation in the Inclusionary Housing Zoning Resolution's floor area incentive program. In doing so, the City can exert powerful leverage to assure the development of affordable housing in Downtown Brooklyn. This needs to be achieved before every last site in the SDBD is developed and the opportunity is lost.

Borough President Adams believes that DCP should revisit the minimum parking requirements in Downtown Brooklyn and require developers to make use of the affordable housing bonus, resulting in 20 percent of the residential floor area being developed pursuant to the

Inclusionary Housing requirement of Zoning Resolution 23-90, to qualify for the reduction in the parking requirements.

Expansion of the Inclusionary Housing Program

Despite the density of Downtown Brooklyn's zoning districts, only the highest density districts provide the opportunity to participate in the City's IHP. In addition, these qualifying districts apply an older set of rules that require less affordable housing than the newer regulations. Allowing development with little to no affordable housing is not an outcome that should be accepted when there are opportunities to change business as usual for the better.

Borough President Adams believes that the consideration of 141 Willoughby Street is an appropriate opportunity to advocate for improving and expanding the IHP in the SDBD. Modifying the affordability bonus formula and expanding the area of eligibility presents an opportunity in Downtown Brooklyn that would allow for a substantial increase in the number of affordable housing units on privately-developed sites. Revising the formula would increase the number of affordable units from, at best, 13 percent, pursuant to ZR 23-951, to 20 percent. Opportunities to expand the IHP in the SDBD are represented by C6-1, C6-1A, R7-1/C2-4, and R8A/C2-4 zoning district designations.

Borough President Adams fully understands that simply re-establishing these districts as Inclusionary Housing designated areas slightly decreases the as-of-right floor area. However, he believes if developers utilize the IHP, they would incur minimal financial implications. Though the prior City administration had been reluctant to retroactively reduce as-of-right floor area, Borough President Adams believes that a shift in City policy would be consistent with Mayor de Blasio's affordable housing objectives. Many sites in the SDBD experienced at least a doubling of residential development rights. In essence, the upzoning provided the opportunity for substantial financial gain when selling or redeveloping properties.

If the City would be receptive to designating the C5-2A, C5-4, C6-4, and C6-4.5 zoning districts as IHP areas, there would still be a substantial amount of development potential than what it was prior to the 2004 rezoning. Pursuant to ZR 23-952, the base FAR for R-10 districts and its commercial equivalents would drop to 9.0 FAR, which essentially is an as-of-right downzoning of 10 percent, though with 33 percent bonus, the market-rate floor area would return to 96 percent of what it is according to existing zoning.

By utilizing the IHP, 20 percent of the floor area derived from the bonus can be used for market rate development, yielding a sum of 9.6 FAR (96 percent), a negligible reduction as compared to the existing 10.0 FAR. Meanwhile, with 12.0 FAR achievable, the results would increase the supply of permanent affordable housing while having an almost identical outcome of market-rate units. In addition, developments would be eligible for both government financing and subsidies, along with the additional reduction in required parking for market-rate units as recommended by Borough President Adams as part of a revisiting of the Downtown Brooklyn Parking Text Amendment.

Borough President Adams believes that DCP should proceed with an application for a zoning text amendment to establish Inclusionary Housing designated areas for the existing C6-1, C6-1A, C6-2, R7-1/C2-4, R8A/C2-4, C5-2A, C5-4, C6-4, and C6-4.5 Zoning Districts within the SDBD, pursuant to the base floor area standards and maximum floor area standards of ZR 23-952.

### **Advancing the Supply of Affordable Cultural Space**

In addition to Borough President Adams' recommendation pertaining to 141 Willoughby Street, his report, "All the Right Moves: Advancing Dance and the Arts in Brooklyn," sets forth for the City to develop a comprehensive plan that will create affordable spaces for artists and promote diversity in the arts. The report outlines the following recommendations: designating vacant or City-owned properties as affordable spaces for artists and cultural institutions; including provisions for studio and other cultural spaces in EDC and HPD projects; identifying non-traditional areas for studio and work spaces, including schools and libraries, and enhancing training for dance organizations to focus on anti-racism and diversity. Furthermore, Borough President Adams expressed his intent to establish an arts task force as a venue for artists to collaborate and discuss cross-sector issues.

Borough President Adams urges the New York City Departments of Citywide Administrative Services (DCAS), EDC, HPD, and the New York City Housing Authority (NYCHA) to initiate a review of vacant or underutilized City-government-owned land and buildings in each agency's portfolio that could be appropriate for accommodating artists and cultural institutions. In addition, where appropriate, EDC and HPD should incorporate into Request for Proposals a preference for the inclusion of space earmarked for affordable cultural and/or studio space.

### **Prevailing Wages for Permanent Jobs for Building Service Workers**

Jobs within the building service sector serve as a pathway for lower-income earning individuals toward middle class living. With low barriers to entry and real career pathways, building service jobs, according to prevailing wage standards, often provide average wages twice that of the retail sector, and often result in locally-based employment. Such jobs are crucial avenues of opportunity and equitable economic development for those having to manage households based on very low- and low-income wages.

Borough President Adams believes that it is appropriate to leverage public discretionary actions that result in significantly increased economic potential to create pathways toward securing sufficient income-enabling families to remain in their neighborhoods and lead an adequate quality of life, without rent burden. He also believes that whenever there is increased increment of development rights — significantly improving the economic viability of a property — it is appropriate to link prevailing wages to discretionary approvals. Borough President Adams envisions a legislative approach to achieve the triggering of prevailing wage requirements for building service workers when a significant amount of increased floor area results from a rezoning as might be determined to be the case for the rezoning of this block from C6-1 to even the C6-4.5.

Therefore, Borough President Adams has initiated a dialogue with representatives of the New York City Council in order to introduce legislation mandating the provision of prevailing wage salaries for building service workers where discretionary land use actions have realized an increase (e.g. of at least 100,000 square feet) of floor area without market restrictions. He calls on the New York City Council to take steps, in collaboration with his office, toward furthering this vision into legislation.

### **Recommendation**

Be it resolved that the Borough President of Brooklyn, pursuant to sections 197-c, 199, and 201 of the New York City Charter, and Section 5-430 *et seq.* of the New York Administrative Code, recommends that the City Planning Commission and City Council disapprove 160030 ZMK and approve 160029 ZRK AND 160054 MMK with the following conditions:

1. That the requested C6-6 zoning be amended to C6-4.5, with its boundaries extended to include the New York City Department of Health and Mental Hygiene building, the block bounded by Flatbush Avenue Extension, and Fleet and Willoughby streets.
2. That the applicant pursue zoning text amendments as follow:
  - a. That in order to further commercial development within the Special Downtown Brooklyn District, the remaining development rights from the New York City Department of Health and Mental Hygiene building, located at 295 Flatbush Avenue Extension, shall be transferred to 141 Willoughby Street pursuant to the following amendments to the New York City Zoning Resolution:
    - i. Establish within the Special Downtown Brooklyn District a new special permit ZR 101-82 to facilitate a large scale general plan according to modifications to its definition in ZR 12-10 and special permit according to ZR 74-74 as follows:
      - 1) That when one of the zoning lots separated by a street is a City-owned property, for the purposes of determining contiguous zoning lots, ZR 12-10 is further modified to clarify that separation by a street shall also pertain to a property contiguous to the same street intersection
      - 2) That when one contiguous zoning lot is a City-owned lot separated by a street intersection, ZR 12-10(a) minimum area of 1.5 acres shall be reduced, to 20,500 square feet
      - 3) That where a City-owned lot contains an existing building, the provision of ZR 12-10, which otherwise precludes no bulk distribution from the zoning lot containing an existing building, would not apply
      - 4) That ZR 74-742 ownership as otherwise provided be further modified to permit at the time of filing and granting where such large scale general plan development includes partial ownership interest of the City of New York for one or more zoning lots, and
      - 5) That ZR 74-743(a) Special provisions for bulk modifications be further modified to permit the distribution of total allowable floor area without regard to zoning lot lines from a zoning lot that contains a City-owned building located at 295 Flatbush Avenue Extension
  - b. That in order to further advance the accommodation of cultural uses in the Special Downtown Brooklyn District:
    - i. ZR 101-20(c) Special Bulk Regulations shall be amended to permit the maximum floor area ratio to exceed floor area ratio of 12.0 according to modifying ZR 101-81 Special Permit for Use and Bulk Modifications for Cultural Use in Certain C6-2 districts, to enable the maximum community facility floor area ratio in C6-4 and C6-4.5 districts to be increased from 12.0 FAR to 13.0 FAR pursuant to an approved large scale general plan, and

- ii. That the City and the applicant actively solicit cultural organizations as potential building occupants
    - iii. That the applicant shall provide, to the City Council, in writing, the extent of commitments to include cultural space within the building
  - c. That in order to accommodate a Department of Education public school:
    - i. ZR 101-20 Special Bulk Regulations, be amended to exempt from the definition of floor area up to 50,000 square feet of floor space within a public school, constructed in whole or in part, pursuant to agreement with the New York City School Construction Authority and subject to the jurisdiction of the New York City Department of Education, and
    - ii. That New York City School Construction Authority re-evaluate the site for appropriateness of incorporating a school on site
- 3. That the land disposition agreement for Lot 8 set mandates for the Mandatory Inclusionary Housing floor area as follow:
  - a. Provide for a greater percentage of two- and three-bedroom units as compared to the market rate apartment mix, as a means to accommodate a greater percentage of families with children, consistent with ZR 23-96(c)(ii)
  - b. Provide for a segment of studio and one-bedroom units with rents set between 30 percent and 40 percent of Area Median Income, as a means to accommodate senior citizen households
  - c. That the applicant shall provide in writing to the City Council, its commitment to include as part of its compliance to Mandatory Inclusionary Housing, an increased number of family-oriented affordable housing unit mix and rental structure to accommodate senior households qualifying with household income between 30 to 40 percent of Area Median Income.
- 4. That the \$4.8 million proceeds from the disposition of Lot 8 be reallocated back to the project to accommodate one or more of the following objectives:
  - a. Modification of the development plans to enable a school to be accommodated within the building
  - b. Modification of the development plans to accommodate floor area for one or more cultural occupants
  - c. Modification of the development plans to accommodate more family-sized apartments, and
  - d. Modification of the rent structure of a number of studio apartments to facilitate rents affordable to one- or two-person households, ranging from 30 percent to 40 percent of Area Median Income, as a means to accommodate senior citizen households



**Be It Further Resolved**

1. That the New York City Department of Education revisit existing outdated school zone boundaries for PS 287 Bailey K. Ashford and other nearby elementary schools in order to better serve the growing Downtown Brooklyn population, for School Districts 13 and 15 with Community Education Council Districts 13 and 15.
2. That in order to increase the supply of newly constructed affordable housing in the Special Downtown Brooklyn District, the New York City Department of City Planning should proceed with an application for zoning text amendments as follow:
  - a. Amend ZR 101-51(a) "Minimum Parking Requirements" to establish a requirement that 20 percent of the residential floor area would be developed pursuant to the Inclusionary Housing Program requirement of ZR 23-90, in order for the accessory parking space requirements of ZR 25-23 to be modified to reduce the required accessory off-street parking to at least 20 percent of newly developed non-affordable housing units, and
  - b. Establish a Voluntary Inclusionary Housing designated area for the existing C6-1, C6-1A, C6-2, R7-1/C2-4, R8A/C2-4, C5-2A, C5-4, C6-4, and C6-4.5 Zoning Districts within the Special Downtown Brooklyn District, pursuant to ZR 23-952
3. That in order to advance the supply of affordable cultural space:
  - a. The New York City Department of Citywide Administrative Services (DCAS), the New York City Department of Housing Preservation and Development (HPD), the New York City Economic Development Corporation (EDC), and the New York City Housing Authority (NYCHA) should initiate a review of vacant or underutilized City-/government-owned land and buildings, in each agency's portfolio, appropriate for accommodating artists and cultural institutions, and
  - b. HPD and EDC should incorporate into Request for Proposals a preference for the inclusion of space earmarked for affordable cultural and/or studio space, where appropriate
4. That, in collaboration with Borough President Adams, the New York City Council should take steps to introduce legislation mandating provision of prevailing wage salaries for building service workers where discretionary land use actions have realized an increase (e.g. of at least 100,000 square feet) of floor area without market restrictions

385 GOLD PROPERTY INVESTORS IIA, LLC  
C/O SAVANNA  
430 PARK AVENUE, 12<sup>TH</sup> FLOOR  
NEW YORK, NEW YORK 10022

June 30, 2016

Hon. Eric L. Adams, Brooklyn Borough President  
Borough Hall  
209 Joralemon Street  
Brooklyn, NY 11201

Re: 141 Willoughby Street (Brooklyn Block 2060, Lots 1 & 4) (the "Development Site")  
Application Nos. N160029ZRK; N160030ZMK (the "Rezoning Application")  
242-246 Flatbush Avenue Extension (Block 2060, Lot 8) (the "City Lot")  
Application No. 160054MMK (the "Demapping Application," and together with the  
Rezoning Application, the "Applications")

Dear Borough President Adams:

This letter responds to a request from your staff relating to certain questions posed by Deputy Borough President Diana Reyna at the public hearing on the Applications held on June 13, 2016.

385 Gold Property Investors IIA, LLC, owner of the Development Site ("Savanna"), has filed the Rezoning Application for (i) a zoning map amendment to rezone the Development Site in a C6-1 district and the City Lot in a C6-4 district within the Special Downtown Brooklyn District (the "Special District") to a C6-6 district and (ii) related Zoning Text Amendments with respect to (a) designating a Mandatory Inclusionary Housing Area, (b) establishing the maximum permitted floor area ratio for commercial or community facility uses as 18.0 in C6-6 districts in the Special District and (c) having the Special District's height, setback and tower regulations apply to C6-6 districts and modifying the setback and street wall location regulations as applicable to the Development Site, in connection with the Demapping Application filed by the New York City Department of Housing Preservation and Development, the owner of the City Lot, and the New York City Economic Development Corporation ("EDC"), to change the City Map to demap a portion of the Flatbush Avenue Extension to allow the transfer of the City Lot in fee to Savanna together with 47,718 square feet of development rights. The Applications would facilitate the development of an approximately 49-story, 372,078 square foot mixed-use development, including approximately 124,000 square feet of retail and office space, and 270 dwelling units, including approximately 81 affordable units (the "Proposed Building"). The City Lot is a public open space with benches and planting, and Savanna has agreed to improve and maintain it in perpetuity as open space for the benefit of the community (the "Open Space").

Pursuant to the Contract of Sale with EDC for the City Lot, dated May 6, 2016 (the "Contract"), Savanna has committed to using good faith efforts to reach goals of 20% participation by minority-owned and women-owned business enterprises ("M/WBEs") in design and construction work for the Proposed Building and the Open Space, which would meet the standards set forth in Local Law 1. Savanna's M/WBE Participation Proposal attached to the Contract and approved

Borough President Eric Adams  
June 30, 2016

by EDC was prepared by NobleStrategy, a Harlem-based certified MBE firm providing construction management, community outreach and technical assistance on projects throughout the metropolitan area. M/WBE hiring efforts would include outreach to local businesses, utilizing databases from EDC and the Department of Small Business Services ("SBS"). Pursuant to the Contract, Savanna must provide quarterly reports to EDC during the construction process to evidence compliance with the M/WBE program's requirements. We are willing to provide your office with copies of these reports if requested.

Savanna has also committed, pursuant to the Contract, to the performance of the requirements of the HireNYC program with respect to the Open Space, which seeks to match local residents with job opportunities, among other initiatives. The HireNYC Construction Program applies to construction activities with a value of \$1,000,000 or more, and the HireNYC Permanent Program applies to projects with five (5) or more permanent jobs available. Savanna will enroll in and post job opportunities to the HireNYC database maintained by SBS, whereby Savanna will interview qualified applicants screened and referred by SBS. For permanent jobs created in connection with the Open Space, Savanna will use good faith efforts to achieve the program's goals for target population hiring, retention, and advancement, as applicable.

It is Savanna's intention that the Proposed Building be developed and operated in an environmentally sustainable manner. Measures being considered include: "blue roofs" to capture and slowly release rainwater to mitigate runoff impact; vegetative "green roofs" to absorb rainwater and provide insulation, to be irrigated with "grey water" (i.e., non-toilet wastewater) reused from the Proposed Building; regionally-sourced construction materials; implementation of a construction waste management program; designing the Proposed Building with materials to reduce carbon emissions; and achieving either LEED-quality or certification. Savanna will also look into the feasibility of utilizing the "passive house" design concept to maximize the Proposed Building's energy efficiency.

With this statement of Savanna's plans regarding the Proposed Building and Open Space, we respectfully request a favorable recommendation of the Applications to the City Planning Commission. Thank you for your attention and consideration.

Sincerely,

385 GOLD PROPERTY INVESTORS IIA, LLC

By: 

Name: Christopher Schunk

Title: Managing Partner

cc: Hon. Diana Reyna, Deputy Borough President  
Richard Bearak, Land Use Director (via e-mail)  
Olga Chernomorets, Land Use Coordinator (via e-mail)  
Jay A. Segal, Esq. (via e-mail)