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**IN THE MATTER OF** an application submitted by Merrick Capital Corp. pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, modifying Appendix F for the purpose of establishing a Mandatory Inclusionary Housing area, Borough of Brooklyn, Community District 3.

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This application for an amendment of the Zoning Resolution of the City of New York concerning modifications to Appendix F (Inclusionary Housing Designated Areas and Mandatory Inclusionary Housing Areas) was filed by Merrick Capital Corp. on March 21, 2018. This application, in conjunction with the related action (C 180292 ZMK), would facilitate the construction of a new six-story, approximately 36,000-square-foot, mixed-use building with 30 residential units and ground floor commercial space at 2 Howard Avenue (Block 1481, Lot 35) in the Bedford-Stuyvesant neighborhood of Brooklyn Community District 3.

#### **RELATED ACTION**

In addition to the zoning text amendment (N 180293 ZRK) that is the subject of this report, the proposed project also requires action by the City Planning Commission on the following application, which is being considered concurrently with this application:

**C 180292 ZMK**      Zoning map amendment to change an R6B/C2-4 zoning district to a C4-4L district

#### **BACKGROUND**

A full background discussion and description of this application appears in the report for the related zoning map amendment (C 180292 ZMK).

#### **ENVIRONMENTAL REVIEW**

This application (N 180293 ZRK), in conjunction with the applications for the related action (C 180292 ZMK), was reviewed pursuant to the New York State Environmental Quality Review Act (SEQRA) and the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and

Regulations, Section 617.00 et seq. and the City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The lead is the City Planning Commission. The designated CEQR number is 18DCP130K.

A summary of the environmental review appears in the report for the related zoning map amendment (C 180292 ZMK).

## **PUBLIC REVIEW**

This application (N 180293 ZRK) was duly referred to Brooklyn Community Board 3 and the Brooklyn Borough President on December 3, 2018 in accordance with the procedures for non-ULURP matters, along with the application for the related action (C 180292 ZMK), which was certified as complete by the Department of City Planning and duly referred in accordance with Title 62 of the rules of the City of New York, Section 2-02(b).

### **Community Board Public Hearing**

On February 4, 2019, Brooklyn Community Board 3 held a public hearing on this application (N 180293 ZRK) and on that date, by a vote of 30 in favor, none opposed, and one abstention, adopted a resolution recommending approval of the application with conditions. A summary of the Community Board's recommendations appear in the report for the related zoning map amendment (C 180292 ZMK).

### **Borough President Recommendation**

This application (N 180293 ZRK) was considered by the Brooklyn Borough President, who on March 7, 2019 issued a recommendation to approve the application with conditions. A summary of the Borough President's recommendation appears in the report for the related zoning map amendment (C 180292 ZMK).

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

On March 13, 2019 (Calendar No. 6), the City Planning Commission scheduled March 27, 2019 for a public hearing on this application (N 180293 ZRK) and the application for the related action (C 180292 ZMK). The hearing was duly held on March 27, 2019 (Calendar No. 30). One speaker testified in favor of the application, as described in the report for the related zoning map amendment (C 180292 ZMK), and the hearing was closed.

## CONSIDERATION

The Commission believes that the proposed zoning text amendment (N 180293 ZRK), in conjunction with the related action (C 180292 ZMK), is appropriate. A full consideration and analysis of the issues and the reasons for approving the application appear in the report for the related zoning map amendment (C 180292 ZMK).

## RESOLUTION

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

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

Matter underlined is new, to be added;

Matter ~~struck out~~ is to be deleted;

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

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

\* \* \*

## APPENDIX F

### Inclusionary Housing Designated Areas and Mandatory Inclusionary Housing Areas

\* \* \*

## BROOKLYN

\* \* \*

### Brooklyn Community District 3

\* \* \*

Map 6 - [date of adoption]

[PROPOSED MAP]



 Mandatory Inclusionary Housing Program Area see Section 23-154(d)(3)  
Area 4 — [date of adoption] — MIH Program Option 1 and Option 2

Portion of Community District 3, Brooklyn

\* \* \*

The above resolution (N 180293 ZRK), duly adopted by the City Planning Commission on April 24, 2019 (Calendar No. 11), is filed with the Office of the Speaker, City Council, and the Borough President, in accordance with the requirements of Section 197-d of the New York City Charter.

**MARISA LAGO**, *Chair*

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

**ALLEN P. CAPPELLI, ESQ., ALFRED C. CERULLO III, MICHELLE de la UZ,**  
**JOSEPH DOUEK, HOPE KNIGHT, ANNA HAYES LEVIN, ORLANDO MARIN,**

**LARISA ORTIZ**, *Commissioners*

**RAJ RAMPERSHAD**, *Commissioner, Recused*



Application #: **C 180292 ZMK**

CEQR Number: 18DCP130K

Project Name: **2 Howard Avenue Rezoning**

Borough(s): Brooklyn

Community District Number(s): 3

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 Merrick Capital Corporation pursuant to Sections 197-c and 201 of the New York City Charter for the amendment of the Zoning Map, Section No. 17a:

- eliminating from within an existing R6B District a C2-4 District bounded by Monroe Street, Howard Avenue, Madison Street and line 100 feet westerly of Howard Avenue; and
- changing from an R6B District to a C4-4L District property bounded by Monroe Street, Howard Avenue, Madison Street and a line 100 feet westerly of Howard Avenue;

Borough of Brooklyn, Community District 3, as shown on a diagram (for illustrative purposes only) dated December 3, 2018, and subject to the conditions of CEQR Declaration E-513.

<b>Applicant(s):</b> Merrick Capital Corporation 215-54 Jamaica Avenue Queens Village NY 11428		<b>Applicant's Representative:</b> Lisa M. Orrantia, Esq. Akerman, LLP 666 Fifth Avenue, 20th Floor New York New York 10103	
<b>Recommendation submitted by:</b> Brooklyn Community Board 3			
<b>Date of public hearing:</b> 2/4/19		<b>Location:</b> 1360 Fulton Street 11216	
<b>Was a quorum present?</b> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>		<small>A public hearing requires a quorum of 20% of the appointed members of the board, but in no event fewer than seven such members.</small>	
<b>Date of Vote:</b> 2/4/19		<b>Location:</b> 1360 Fulton Street 11216	
<b>RECOMMENDATION</b> <input type="checkbox"/> Approve <input type="checkbox"/> Disapprove <input checked="" type="checkbox"/> Approve With Modifications/Conditions <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: 0    # Abstaining: 1    Total members appointed to the board: 48			
<b>Name of CB/BB officer completing this form</b> Henry L. Butler		<b>Title</b> District Manager	<b>Date</b> 2/11/19



The City of New York  
Community Board No. 3  
Bedford Stuyvesant Restoration Plaza  
1360 Fulton Street, 2<sup>nd</sup> Floor ■ Brooklyn, New York 11216

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718-622-6601 Phone ■ 718-857-5774 Fax ■ bk03@cb.nyc.gov E-mail

ERIC ADAMS  
BOROUGH PRESIDENT

RICHARD FLATEAU  
CHAIRPERSON

HENRY L. BUTLER  
DISTRICT MANAGER

### **Brooklyn Community Board 3 Stipulations for 2 Howard Avenue Rezoning Application**

1. We want the developer to go with Option 1, which will reduce the AMI from 80% to 60%.
2. We want a covenant restricting the maximum height to 65' on all 3 lots. This will keep it in compliance with R6B.
3. Include commercial tenant use that meets the needs of the community.
4. Utilize MWBE contractors, subcontractors, project managers, design professionals, and property managers.
5. Utilize environmentally and sustainable building techniques and materials.
6. Appoint a community non-profit partner for the marketing lottery process

**These stipulations apply for the entire re-zoning area**



## Brooklyn Borough President Recommendation

### CITY PLANNING COMMISSION

120 Broadway, 31<sup>st</sup> Floor, New York, NY 10271

calendaroffice@planning.nyc.gov



#### INSTRUCTIONS

1. Return this completed form with any attachments to the Calendar Information Office, City Planning Commission, Room 2E at the above address.
2. Send one copy with any attachments to the applicant's representatives as indicated on the Notice of Certification.

#### APPLICATION #: 2 HOWARD AVENUE REZONING – 180292 ZMK, 180293 ZRK

Applications submitted by Merrick Capital Corporation pursuant to Sections 197-c and 201 of the New York City Charter for zoning map and text amendments to rezone from R6B/C2-4 to C4-4L the west side of a block of Howard Avenue between Madison and Monroe streets to a depth of 100 feet, and designate the rezoning area as a Mandatory Inclusionary Housing (MIH) area. Such actions would facilitate the development of a six-story and cellar mixed-use building with approximately 30 dwelling units, with approximately nine affordable units to households at an average of 80 percent of Area Median Income (AMI), according to MIH Option 2, and 7,000 sq. ft. of commercial floor area, in Brooklyn Community District 3 (CD 3).

COMMUNITY DISTRICT NO. 3

BOROUGH OF BROOKLYN

#### RECOMMENDATION

☐ APPROVE

☒ APPROVE WITH

MODIFICATIONS/CONDITIONS

☐ DISAPPROVE

☐ DISAPPROVE WITH

MODIFICATIONS/CONDITIONS

SEE ATTACHED

BROOKLYN BOROUGH PRESIDENT

March 7, 2019

DATE

**RECOMMENDATION FOR: 2 HOWARD AVENUE –190162 ZMK, 190163 ZRK**

Applications submitted by Merrick Capital Corporation pursuant to Sections 197-c and 201 of the New York City Charter for zoning map and text amendments to rezone from R6B/C2-4 to C4-4L the west side of a block of Howard Avenue, between Madison and Monroe streets to a depth of 100 feet, and designate the rezoning area as a Mandatory Inclusionary Housing (MIH) area. Such actions would facilitate the development of a six-story and cellar mixed-use building with approximately 30 dwelling units, with approximately nine affordable units to households at an average of 80 percent of Area Median Income (AMI), according to MIH Option 2, and 7,000 square feet (sq. ft.) of commercial floor area, in Brooklyn CD 3.

On January 23, 2019, Brooklyn Borough President Eric L. Adams held a public hearing on these zoning map and text amendments. There was one speaker on the item, who testified in support of the project – a local resident, who appeared as a member of the Brooklyn Community Board 3 (CB 3) Land Use Committee. The speaker commended the developer for working with the board to refine the parameters of the project and noted the importance of achieving deeper affordability at the site.

In response to Borough President Adams' inquiry regarding the qualifying income range for prospective households based on household size, the anticipated rents based on the number of bedrooms, and the distribution of units by bedroom size, the applicant's representative stated that at an average of 80 percent AMI, a studio would rent for up to \$1,200 per month, while a three-bedroom unit would rent for up to \$2,000 per month. The representative also noted that initial plans for the project have been revised to provide 11 affordable units, according to MIH Option 2. As currently envisioned, these would include two studios, three one-bedroom units, four two-bedroom units, and two three-bedroom units.

In response to Borough President Adams' inquiry as to whether one of the community's affordable housing administering agents would be used in the tenant selection process in order to ensure the highest level of participation from CD 3 residents, and whether the applicant's marketing strategy would include a financial literacy campaign to assist local residents in becoming lottery-eligible, the representative stated intent to identify a non-profit administering agent, and follow up with the Office of the Brooklyn Borough President with this information. The applicant would also partner with CB 3 to host informational sessions about the affordable housing lottery, including financial literacy courses.

In response to Borough President Adams' inquiry as to what consideration has been given to providing affordable retail or community facility space for local arts organizations or cultural non-profits, the representative expressed that the applicant is open to engaging with the Office of the Brooklyn Borough President as well as the office of Council Member Alicka Ampry-Samuel on the subject.

In response to Borough President Adams' inquiry regarding the incorporation of sustainable features such as blue, green, or white roof coverings, passive house design, permeable pavers, New York City Department of Environmental (DEP) rain gardens, and/or solar panels, the representative noted that the development would include energy-efficient appliances, green roofs, LED lighting and daylight sensors, low-flow plumbing fixtures, and solar panels, according to the energy code.

In response to Borough President Adams' inquiry regarding the inclusion and participation of minority- and women-owned business enterprises (MWBEs) and locally-owned business enterprises (LBEs) in the process of construction on this site, the representative expressed that LBE and MWBE hiring is a priority for the developer. The applicant would work with a non-profit organization and CB 3 to develop an outreach plan for LBE and MWBE firms.



Subsequent to the hearing, Borough President Adams received a message from the CB 3 district manager clarifying that the land use committee member was not authorized to speak on behalf of the board.

### **Consideration**

CB 3 approved this application on February 3, 2019, with the following conditions for the rezoning area: Apply MIH Option 1, binding commitment to restrict height to no more than 65 feet; provide a commercial use that addresses community needs; utilize design professionals, MWBE contractors and subcontractors, project managers, and property managers; utilize environmentally sustainable building techniques and materials, and appoint a community non-profit partner for the marketing lottery process.

The development site, at the southwest corner of the intersection of Howard Avenue and Monroe Street, consists of 8,000 sq. ft. of unimproved land. The remaining 12,000 sq. ft. of the area proposed for rezoning consists of an 8,660 sq. ft. section of property developed with a former Scottish Rite Hall and a corner lot at Madison Street, consisting of 3,340 sq. ft., occupied by a four-story, eight-unit building. The hall is estimated to contain 17,840 sq. ft. of floor area as part of a zoning lot containing 17,300 sq. ft. and would likely be redeveloped if the zoning were adopted as proposed. The corner building contains approximately 12,800 sq. ft. of floor area and has been in zoning non-compliance since the establishment of the 1961 New York City Zoning Resolution (ZR). Though approximately 2,560 sq. ft. of zoning rights would be available through the utilization of the MIH regulations, such floor area utilization is not likely.

The remainder block is predominantly low-rise two- to four-story residential structures. The surrounding context includes the six-story Brooklyn High School of Law and Technology on the west side of Howard Avenue, commercial retail along Broadway, and six- and seven-story residential buildings fronting Madison between Broadway and Howard Avenue as well as the north side of Monroe Street west of Broadway. The property directly north of the applicant's site, though presently occupied by a drive-through restaurant, is an expected development site that would be expected to contain at least nine stories and is permitted to contain 11 stories.

The rezoning would increase the permitted floor area ratio (FAR) on the site from 2.0 to 4.6, while also expanding the type of commercial uses to include larger-scale entertainment and retail establishments, and allow building height to be increased from 50 feet to up to 115 feet, but for the section of lot area within 25 feet of the proposed C4-4L/R6B zoning district boundary. That strip of land would limit height to 65 feet as a means to achieve transition between the buildings in the R6B district to the taller height permitted. For residential development, there is no parking requirement for the permanently affordable housing floor area due to the area's location within a ZR-designated Transit Zone. In addition, the ZR allows the otherwise required residential parking obligation to be waived for the C4-4L district if such non-income restricted residential units do not exceed 30 units, as compared to the existing R6B district, where developments in excess of 10 units would require parking to be provided.

The proposed development's bulk was represented to maintain the height of 65 feet, though beyond the 25 foot-wide section in proximity to the R6B district, such representation is not binding. The combination of represented income-restricted and non-restricted apartments would allow the development to not provide accessory parking. The representation of ground floor retail space is not binding. The ZR allows for that floor area to be developed for community facility and/or residential occupancy. In addition, the requested zoning allows for substantially more commercial and/or community facility occupancy throughout a resulting development.

Borough President Adams supports the development of underutilized land for productive uses that address the City's need for additional affordable housing. The land use actions would be consistent with Mayor Bill de Blasio's goal of achieving 300,000 affordable housing units over the next decade, according to "Housing New York: A Five-Borough, Ten-Year Plan," through the development of affordable and supportive housing for the city's most vulnerable residents.

According to MIH Option 2, the development rights generated would result in, at minimum, 30 percent of the residential zoning floor area made permanently affordable according to MIH, resulting in approximately nine to 11 permanently affordable housing units. Development adhering to the MIH program is consistent with Borough President Adams' policy for affordable housing developments to remain permanently affordable.

Borough President Adams supports developments that provide housing opportunities to a diverse array of household incomes, allowing a wide range of families to qualify for affordable housing through the City's affordable housing lottery. The affordability options of the MIH program provide a variety of opportunities to address the need for housing that serves diverse incomes, consistent with Borough President Adams' objectives to provide affordable housing to households through various income band targets. As a result, the redevelopment of 2 Howard Avenue would target units to households at multiple income tiers through the affordable housing lottery.

Borough President believes the requested zoning and distribution of its represented density is appropriate. The site is well-served by the Broadway public transit corridor, including the Nassau Street Express J and Z trains at Gates Avenue, and the Q24 bus line. Nearby, bus service is provided by the B47 and B52 lines.

Borough President Adams is generally supportive of expanding the C4-4L zoning district, though he has concerns regarding the potential for out-of-context development. Additionally, he seeks for designating an MIH option that targets very low-income households; memorializing a percentage of apartment types suited to families; maximizing community participation to obtain the affordable units; setting aside a portion of the commercial space for community and cultural uses at affordable rents; advancing Vision Zero policies to improve pedestrian safety; incorporating resilient and sustainable energy and stormwater practices, and achieving a high level of local hiring for the project's construction.

#### **Appropriate Extent of Enlarging the Existing C4-4L Zoning District**

According to ZR Section 35-654, for developments inclusive of mandatory affordable housing floor area in a C4-4L zoning district, a building height of up to 115 feet is permitted. The applicant has expressed intention to construct a six-story building, a height that is acceptable to CB 3 and is respectful to the adjacent low-rise context extended along Monroe Street within the area that would remain in the R6B zoned area. The six-story context is strongly defined along the east side of Howard Avenue by the Brooklyn High School of Law and Technology. The environmental assessment statement (EAS) discloses the probability of an additional development site, inclusive of the former Scottish Rite Hall, with frontage along Howard Avenue that would be redeveloped subsequent to the establishment of the proposed C4-4L district, which would be without means to know to what extent development would exceed six stories. As an interior zoning lot, it would more likely be developed as an eight- or nine-story building, though the eventual developer would have the right to develop as an 11-story building. Any height above six stories would be out-of-context, especially in light of the 2013 Bedford-Stuyvesant North Rezoning that established this area as R6B as a means to preserve the built context, including the low-rise context along Madison Street. Borough President Adams believes that without suitable means to assure that redevelopment of the former Scottish Rite Hall, it would be inappropriate to consider rezoning the southern half of the Howard Avenue frontage as part of the requested rezoning.

Therefore, the City Planning Commission (CPC) or the City Council should limit the enlargement of the C4-4L zoning district to the mid-block between Monroe and Madison streets.

### **Memorializing Appropriate Height**

The designation of a C4-4L zoning district provides no mechanism to ensure that the represented six-story building would be developed as illustrated. Borough President Adams acknowledges that a six-story building does represent a more efficient floor plan in proportion to living areas in relation to space required for elevator and stairs. However, given the extent of the surrounding area that is developed with low-rise buildings, a taller building would provide for extensive views and often such views realize a return in investment that can be more compelling than building the most efficient floor plan. Given that the development proposal has been generally well-received based on its represented height, it is important that such representation is generally what would be constructed.

The ZR provides such a guarantee for merely the first 25 feet of building frontage extending from the proposed C4-4L/R6B zoning district boundary line. For the remainder of building frontage, the proposal is absent of means to provide assurances of what has been represented. Borough President Adams believes that such representation should be memorialized by a legally-binding instrument.

Therefore, prior to considering the application, the City Council should obtain commitments in writing from the applicant, Merrick Capital Corporation, that clarify how it would provide a binding commitment that building height would be compliant with ZR Section 23-693 (65 feet) for the entire development site.

### **Designating an MIH Option that Provides for Very Low-Income Households**

The ZR specifies four options for new construction subject to MIH regulations. The option initially proposed for 2 Howard Street is one of two that does not require making any units available to very low-income households. However, such households are more likely to be in need of affordable housing as they tend to have a higher segment of rent-burdened tenants. Furthermore, targeting apartments to very low-income households allows seniors, especially one-person households, to qualify for affordable housing lotteries. Borough President Adams believes that providing affordable housing opportunities for some very low-income households serves a reasonable public purpose for those constituents.

MIH Option 1 requires that 40 percent of the MIH residential floor area be marketed at rents affordable to households at 40 percent AMI. Since MIH Option 1 applies to 25 percent of the residential floor area, approximately 10 percent of the units at 2 Howard Avenue would be affordable to such households. As compared to MIH Option 2, MIH Option 1 reduces the amount of legally permanent affordable housing floor area. However, he believes that designating MIH Option 1 at 2 Howard Avenue would provide project enhancements for very low-income constituents in need of affordable housing.

Therefore, prior to considering the application, the City Council should obtain commitments, in writing, from the developer, Merrick Capital Corporation, to provide permanently affordable housing according to MIH Option 1.

### **Bedroom Mix**

A recent report found that rent-burdened households, which typically represent those applying to the City's affordable housing lotteries, are more likely to require family-sized units. Therefore, Borough President Adams seeks for proposed developments to achieve an affordable unit mix that would adequately reflect the needs of low- to middle-income rent-burdened families. Borough

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

The proposed rezoning presents an opportunity to ensure that such representation of accommodations for family-sized apartments is consistent with Borough President Adams' policy for advocating for having at least 50 percent two- or three-bedroom affordable housing units and at least 75 percent one- or more bedroom affordable housing units, consistent with the zoning text for MIH floor area, pursuant to ZR Section 23-96(c)(1)(ii).

If the project were approved with MIH Option 1, the represented two studios, three one-bedroom units, four two-bedroom units, and two three-bedroom units would change due to the reduction of affordable housing floor area from 30 percent to 25 percent of the residential floor area. While the MIH Option 2 affordable housing bedroom mix is family-oriented, retaining a similar ratio of smaller units to larger units would be consistent with Borough President Adams' policies, though any representation would not be legally binding.

In order to ensure that the envisioned family-sized units are provided in the development, Borough President Adams believes that prior to considering the application, the City Council should obtain commitments in writing from the developer, Merrick Capital Corporation, that clarify how it would memorialize a bedroom mix having at least 50 percent two- or three-bedroom affordable housing units and at least 75 percent one- or more bedroom affordable housing units.

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

The ZR requires the affordable housing units to be overseen by a non-profit administering agent, unaffiliated with the for-profit developing entity, except when otherwise approved by the New York City Department of Housing Preservation and Development (HPD). Such administering non-profit becomes responsible for ensuring that the affordable housing remains in accordance with its regulatory agreement, which governs the development's affordable housing plan. These tasks include verifying a prospective tenant household's qualifying income, and approving the rents of such affordable housing units. The administering non-profit is responsible for submitting an affidavit to HPD attesting that the initial lease-up of the affordable housing units is consistent with the income requirements, and for following up with annual affidavits to ensure conformity.

Various non-profits have proven track records of successfully marketing affordable housing units, as well as promoting affordable housing lottery readiness through educational initiatives. It is Borough President Adams' policy to advocate for affordable housing non-profits to play a contributing role in maximizing community participation in neighborhood affordable housing opportunities, including serving as non-profit administering agents for new developments involving affordable housing. Borough President Adams recognizes that CD 3 is served by several non-profit housing advocates, such as Bridge Street Development Corporation (BSDC), Neighborhood Housing Services of Bedford-Stuyvesant, Inc. (NHSBS), and Northeast Brooklyn Housing Development Corporation (NEBHDC). In addition, organizations nearby include Riseboro [Community Partnership](#) and the St. Nicks Alliance.

Borough President Adams believes that prior to considering the application, the City Council should obtain commitments in writing from the developer, Merrick Capital Corporation, that clarify how it would memorialize utilizing one or more such locally-based affordable housing development non-profits to serve as the administering agent and have such entities play a role in promoting affordable housing lottery readiness.

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

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

In June 2016, Borough President Adams released "All the Right Moves: Advancing Dance and the Arts in Brooklyn," a report examining the challenges facing artists in the borough, along with accompanying recommendations. The report highlighted the benefits of arts and dance, including maintaining physical fitness and enjoying creative self-expression, as well as contributions to the vibrant culture of Brooklyn. Borough President Adams finds many challenges facing the local arts community, such as an absence of diversity — fewer than half of the individuals working in dance in Brooklyn are people of color based on 2000 United States Census data. Additionally, funding for the arts has decreased dramatically in New York City in recent years, including by 37 percent from the New York State Council of the Arts (NYSCA), 15 percent from the National Endowment for the Arts (NEA), and 16 percent from the New York City Department of Cultural Affairs (DCLA).

Data show that such cultural activities create a variety of positive contributions, including combating the borough's high rate of obesity — as of 2016, 61 percent of adults are overweight or obese, according to the New York State Department of Health (NYSDOH) — and helping children succeed in school, a finding supported by research released by the Citizens' Committee for Children of New York, Inc. Demand for cultural programs continues to grow across Brooklyn. A 2015 report from the Center for an Urban Future found a 20 percent increase in attendance at events organized by local cultural institutions since 2006.

Many cultural and dance organizations have contacted Borough President Adams seeking assistance with securing space to grow and sustain their programming. In response to those concerns, Borough President Adams' policy is to review discretionary land use actions for their appropriateness to promote cultural and dance activities. Borough President Adams believes that the location of the proposed development is well-suited for inclusion of cultural activities and other community uses given the site's accessibility.

As proposed, 2 Howard Avenue would contain approximately 7,000 sq. ft. of commercial floor area. Borough President Adams believes that a portion of such space could be marketed to local arts or cultural groups, and/or locally-based community organizations. However, he is aware that such uses cannot afford to compete with the rent that retail uses would likely pay to lease at this location.

Therefore, prior to considering the application, the City Council should obtain commitments, in writing, from the developer, Merrick Capital Corporation, clarifying how it would memorialize the extent that it would set aside a portion of the commercial space for local non-profit organizations such as arts and/or cultural entities at below-market lease terms, as warranted.

To the extent that the City Council seeks to provide below-market rents to accommodate such arts and/or cultural organizations, Merrick Capital Corporation should actively solicit such organizations, based on reasonable lease terms, as determined in consultation with CB 3 and local elected officials.

#### **Advancing Vision Zero Policies**

Borough President Adams supports Vision Zero policies, including practices that extend sidewalks into the roadway as a means of shortening the path where pedestrians cross in front of traffic



lanes. These sidewalk extensions, also known as bulbouts or neckdowns, make drivers more aware of pedestrian crossings and encourage them to slow down.

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

In the vicinity of 2 Howard Avenue, Broadway is a designated New York City through truck route with multiple intersections lacking traffic controls such as stop signs or traffic lights. Though the proposed development does not border Broadway, eastbound vehicles from this roadway are routed via Monroe Street, while northbound vehicles use Howard Avenue to merge onto Broadway. Given the mixed commercial and residential character of Broadway, as well as the foot traffic generated by the Gates Avenue subway station, consideration for future residents of the proposed development, together with potential users of its commercial establishments, and the location of a high school across the street, warrants the advancement of pedestrian safety improvements at the intersection of Howard Avenue and Monroe Street.

Borough President Adams believes there is an opportunity to implement the provision of a curb extension, either as a raised extension of the sidewalk or as a protected area as defined by the installation of temporary perimeter bollards bordering a section of roadbed where gravel and/or paint is applied, per his CROSS Brooklyn initiative at the intersection of Howard Avenue and Monroe Street.

Borough President Adams recognizes that the costs associated with the construction of sidewalk extensions can be exacerbated by the need to modify infrastructure and/or utilities. Therefore, where such consideration might compromise feasibility, Borough President Adams urges the New York City Department of Transportation (DOT) to explore the implementation of either protected painted sidewalk extensions defined by a roadbed surface treatment or sidewalk extensions as part of a Builders Pavement Plan. If the implementation meets DOT's criteria, the agency should enable Merrick Capital Corporation to undertake such improvements after consultation with CB 3, as well as local elected officials, as part of its Builders Pavement Plan. Where that is not feasible, implementation of a sidewalk extension through roadbed treatment requires a maintenance agreement that indemnifies the City from liability, contains a requirement for insurance, and details the responsibilities of the maintenance partner. Borough President Adams would expect Merrick Capital Corporation to commit to such maintenance as an ongoing obligation.

Therefore, prior to considering any rezoning, the City Council should seek a demonstration from Merrick Capital Corporation of CROSS Brooklyn implementation in coordination with the New York City Department of Environmental Protection (DEP) and DOT to install curb extensions either as part of a Builders Pavement Plan or as treated roadbed sidewalk extensions. The City Council should further seek demonstration of the developer's commitment to enter into a standard DOT maintenance agreement for the intersections of Howard Avenue and Monroe Street. Furthermore, DOT should confirm that implementation would not proceed prior to consultation with CB 3 and local elected officials.

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

It is Borough President Adams' sustainable energy policy to promote opportunities that utilize blue/green/white roofs, solar panels, and/or wind turbines, as well as passive house construction. He encourages developers to coordinate with the New York City Mayor's Office of Sustainability, the

New York State Energy Research and Development Authority (NYSERDA), and/or the New York Power Authority (NYPA) at each project site. Such modifications tend to increase energy efficiency and reduce a development's carbon footprint.

Furthermore, as part of his flood resiliency policy, Borough President Adams also encourages developers to introduce best practices to manage stormwater runoff such as incorporating permeable pavers and/or establishing rain gardens that advance DEP's green infrastructure strategy. Borough President Adams believes that sidewalks with nominal landscaping and/or adjacent roadway surfaces are potential resources that could be transformed through the incorporation of rain gardens, which provide tangible environmental benefits through rainwater collection, improved air quality, and streetscape beautification. Tree plantings can be consolidated with rain gardens as part of a more comprehensive green infrastructure strategy. In addition, blue/green roofs, permeable pavers, and rain gardens would divert stormwater from the City's water pollution control plants.

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

The proposed development offers opportunities to explore resiliency and sustainability measures such as incorporating blue/green/white roof finishes, passive house construction principles, solar panels, and wind turbines in the development. The required Builders Pavement Plan provides an opportunity to incorporate DEP rain gardens along the site's Howard Avenue and Monroe Street frontages. Planting street trees would provide shade on days of excessive heat, as well as other aesthetic, air quality, and enhanced stormwater retention benefits. It should be noted that a rain garden would require a maintenance commitment and attention from the landlord. Maintenance includes cleaning out debris and litter that can clog the inlet/outlet and prevent proper water collection, regular inspection to prevent soil erosion, watering during dry and hot periods, and weeding to keep the plants healthy and uncongested for proper water absorption. However, the implementation of rain gardens could help advance DEP green water/stormwater strategies, enhancing the operation of the Newtown Creek Water Pollution Control Plant during wet weather. Such rain gardens have the added benefit of serving as a streetscape improvement.

Borough President Adams believes that Merrick Capital Corporation should consult with DEP, DOT, and the New York City Department of Parks and Recreation (NYC Parks) for consideration regarding the inclusion of a rain garden with integration of street trees as part of a Builders Pavement Plan. Where the agencies have interest in implementing an enhancement, consultation should be initiated with CB 3 and local elected officials prior to agreeing to take action.

Therefore, prior to considering the application, the City Council should obtain in writing from the applicant, Merrick Capital Corporation, commitments that clarify how it would memorialize integrating resiliency and sustainability features. The City Council should further seek demonstration of Merrick Capital Corporation's commitment to coordinate with DEP, DOT, and NYC Parks regarding the installation of DEP rain gardens and tree plantings, and/or the provision of sidewalk extensions, as part of a Builders Pavement Plan for development site intersections in consultation with CB 3 and local elected officials.

## **Jobs**

Borough President Adams is concerned that too many Brooklyn residents are currently unemployed or underemployed. It is his policy to promote economic development that creates more employment opportunities. According to the Furman Center's "State of New York City's Housing and Neighborhoods in 2015," double-digit unemployment remains a pervasive reality for several of Brooklyn's neighborhoods, with more than half of the borough's community districts experiencing poverty rates of nearly 25 percent or greater. Prioritizing local hiring would assist in addressing this employment crisis. Additionally, promoting Brooklyn-based businesses including those that qualify as LBEs and MWBEs is central to Borough President Adams' economic development agenda. This site provides opportunities for the developer to retain a Brooklyn-based contractor and subcontractor, especially those who are designated LBEs consistent with Section 6-108.1 of the City's Administrative Code, and MWBEs that meet or exceed standards per Local Law 1 (no less than 20 percent participation).

Borough President Adams believes that prior to considering the application, the City Council should obtain commitments in writing from the developer, Merrick Capital Corporation, that clarify its intent to memorialize retention of Brooklyn-based contractors and subcontractors, especially those who are designated LBE consistent with Section 6-108.1 of the City's Administrative Code and MWBE as a means to meet or exceed standards per Local Law 1 (no less than 20 percent participation), as well as coordinate the oversight of such participation by an appropriate monitoring agency.

## **Recommendation**

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

1. That the City Planning Commission (CPC) and the City Council limit the enlargement of the C4-4L zoning district to the mid-block between Monroe and Madison streets
2. That prior to considering the application, the City Council obtain commitments in writing from the applicant, Merrick Capital Corporation, that clarify how it would:
  - a. Provide a binding commitment that building height would be compliant with New York City Zoning Resolution (ZR) Section 23-693 (65 feet) for the entire development site
  - b. Provide permanently affordable housing according to Mandatory Inclusionary Housing (MIH) Option 1
  - c. Memorialize a bedroom mix having at least 50 percent two- or three-bedroom affordable housing units and at least 75 percent one or more one-bedroom affordable housing units
  - d. Utilize a combination of locally-based affordable housing development non-profits to serve as the administering agent, and having one or more such entities play a role in promoting affordable housing lottery readiness
  - e. Set aside a portion of the commercial space for one or more local non-profit organizations such as arts and/or cultural entities at below-market lease terms, as warranted
  - f. Commit to Connecting Residents on Safer Streets (CROSS) Brooklyn coordination with the New York City Department of Transportation (DOT) and the New York City Department of Environmental Protection (DEP) to implement curb extensions as part of a Builders Pavement Plan and/or as treated roadbed sidewalk extensions, with a

developer commitment to enter into a standard DOT maintenance agreement for the intersection of Howard Avenue and Monroe Street with the understanding that DOT implementation would not proceed prior to consultation with Brooklyn Community Board 3 (CB 3) and local elected officials

- g. Explore additional resiliency and sustainability measures such as incorporating blue/green/white roof treatment, rain gardens, and/or solar panels
- h. Retain Brooklyn-based contractors and subcontractors, especially those who are designated local business enterprises (LBEs), consistent with Section 6-108.1 of the City's Administrative Code, and minority- and women-owned business enterprises (MWBEs) as a means to meet or exceed standards per Local Law 1 (no less than 20 percent participation), as well as coordinate the oversight of such participation by an appropriate monitoring agency