CITY PLANNING COMMISSION

November 16, 2016 / Supplemental Calendar No. 1 C 150360 ZMK

IN THE MATTER OF an application submitted by 14-18 Carroll LLC pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 16a, changing from an M1-1 District to an R6B District property bounded by Carroll Street, a line 380 feet northwesterly of Columbia Street, a line midway between Carroll Street and Summit Street, a line midway between Carroll Street and Hamilton Avenue, and a line 450 feet northwesterly of Columbia Street, Borough of Brooklyn, Community District 6, as shown on a diagram (for illustrative purposes only) dated June 20, 2016 and subject to the conditions of CEQR Declaration E-382.

This application for an amendment of the Zoning Map, Section No. 16a, was filed by 14-18 Carroll LLC on May 7, 2015 to change an M1-1 zoning district to an R6B zoning district on three vacant lots (Block 352, Lots 16, 17, and 18) on the south side of Carroll Street between Columbia and Van Brunt Streets. This application, in conjunction with the related action, would facilitate a residential development at 14-18 Carroll Street in the Columbia Street Waterfront neighborhood of Community District 6, Brooklyn.

RELATED ACTIONS

In addition to the zoning map amendment (C 150360 ZMK) which 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:

N 160379 ZRK Zoning Text Amendment to Appendix F to designate a Mandatory Inclusionary Housing Area.

BACKGROUND

The project site is in an area of the Columbia Street Waterfront neighborhood that is generally bounded by the New York Harbor waterfront to the west, the Brooklyn–Queens Expressway to the east, the Toll Plaza and Portals to the Brooklyn–Battery Tunnel to the south, and Atlantic Avenue to the north.

The proposed development site, located at 14-18 Carroll Street (Block 352, Lots 16, 17 and 18), consists of three vacant lots that total 6,229 square feet of lot area. The site is an irregularly shaped property with a total of 70 feet of frontage on Carroll Street and lot depths which vary from 100 feet to 74.33 feet.

The area around the development site is characterized by a wide variety of land uses including both single- and multi-family residential, commercial, manufacturing, transportation/utilities, automotive/parking uses, as well as several parks, community gardens, and vacant lots. Residential building types include attached three- to four-story townhouses and larger, four- to seven-story apartment houses. The majority of the area's commercial uses line its principal retail street, Columbia Street. These are mostly ground floor retail uses in attached mixed use (residential–commercial) buildings three to four stories in height. Manufacturing, transportation/utility, and automotive-related uses are mostly located to the west of the development site. Such uses also dominate the area west side of Van Brunt Street along the area's waterfront and includes the Red Hook Container Terminal. This area is part of the Southwest Brooklyn Industrial Business Zone (IBZ).

The development site is currently zoned M1-1, which allows for a variety of light manufacturing uses up to 1.0 FAR, such as repair shops, wholesale service and storage facilities, as well as heavier industrial uses subject to stringent performance standards. The M1-1 district continues west of the development site with Van Brunt Street as the western border, and stretches north to Kane Street and south beyond the Battery Tunnel Toll Plaza and into the Red Hook neighborhood. This M1-1 district includes a number of nonconforming residential uses, including the properties directly to the west of the Development Site. The area surrounding the Development Site is predominantly zoned R6B, a medium-density residential zoning district that allows for buildings with up to 2.0 FAR (2.2 with MIH) and a 50 foot height limit. The C2-4 commercial overlay zoning districts, which allow commercial retail uses (Use Groups 5-9) on the ground floors of residential buildings at an FAR of 2.0, are located along Columbia Street and are mapped at a depth of 100 feet. An M2-1 district allowing an FAR of up to 2.0 is mapped on the west side of Van Brunt Street along the area's waterfront.

The development site is well-served by mass transit with the B61 bus running north–south along Columbia Street, connecting the area with the Downtown Brooklyn CBD to the north, and the

Red Hook neighborhood to the south. Five blocks to the east on Carroll Street at Smith Street is a subway station with service by the F and G trains, connecting the area to Manhattan, and points to the north and south within Brooklyn.

The development site is near a completed portion of the Brooklyn Waterfront Greenway, which runs along portions of Van Brunt Street near Carroll Street. The Brooklyn Waterfront Greenway is a partially completed fourteen-mile bicycle path with adjacent open space in select areas. When completed, the Greenway will run from the Greenpoint to Bay Ridge neighborhoods.

Scattered throughout the surrounding area are a number of community gardens and parks. A community garden known as "The Backyard" occupies a portion of the subject block fronting on Hamilton Avenue (Block 352, Lots 4–9). In the surrounding blocks are "The Amazing Garden," a community garden northeast of the subject block, the Summit Street Community Garden east of the subject block, the Harold Ickes Playground southwest of the subject block, and a park known as the "Urban Meadow" one block north of the site.

In October 2009, the Carroll Gardens/Columbia Street Rezoning was approved (C 090462 ZMK), which rezoned an approximately 86-block area of the Carroll Gardens and Columbia Street neighborhoods, including rezoning of the existing residential zones within blocks 347 and 352 from R6 to R6B to map contextual zoning districts that would better reflect the scale and character of the Carroll Gardens and Columbia Street neighborhoods. While this rezoning did not affect the development site, it created contextual districts in the surrounding area, and established R6B as the prevailing zoning district in the area.

The Columbia Street Urban Renewal Area (URA) (C 080115 HUK) has defined the surrounding area’s redevelopment in the past two decades. The Columbia Street URA is in close vicinity to the Proposed Development site but does not include the Proposed Development site.

Block 352, within which the development site is located, and Block 347, the block immediately to the north, have been the subject of a series of actions that have changed manufacturing zoning districts to residential zoning districts to permit residential development or BSA variances to permit non-conforming residential uses.

In March 2007, the R6 zoning district along the north side of Carroll Street was extended (C 060018 ZMK) to permit residential development of property previously zoned M1-1 at 37/9 Carroll Street (Block 347, Lots 48 and 49). In October 2007, the zoning along the north side of Summit Street (Block 352, Lot 53) was changed from M1-1 to R6 (C 060477 ZKK) to facilitate development of a four story 35-unit residential building at 45 Summit Street. In December 2007 the Board of Standards and Appeals granted a variance, pursuant to ZR §72-21 (BSA Cal. No.: 33-07-BZ), to permit the conversion of the upper floors of an existing five-story manufacturing building in an M1-1 zoning district to residential use, affecting the building at 25 Carroll Street (Block 347, Lot 54).

In April 2011, two zoning map amendments were approved affecting both the southerly and northerly sides of Carroll Street: 1) an extension of the R6B district on the north side of Carroll Street (C 090225 ZMK) to facilitate development of new residential buildings and bring an existing residential building into conformance; and 2) an extension of the R6B district along the south side of Carroll Street (C 110118 ZMK), facilitating development of a residential building at Block 352, Lot 21, and bringing the existing residential buildings along Carroll Street into conformance. The rezoning along the southerly side of Carroll Street brought the R6B zoning district boundary to the easterly end of the development site.

The applicants are proposing to develop a 10-unit residential building with a total of 12,450 square feet of residential floor area and 6 off-street parking spaces. In order to facilitate the proposed development, the applicants are proposing a Zoning Map Amendment to change the M1-1 zoning district to an R6B zoning district and an amendment to the Zoning Resolution to establish a Mandatory Inclusionary Housing Area coterminous with the area proposed to be rezoned.

Zoning Map Amendment (C 150360 ZMK)

The zoning map amendment would rezone a 6,229 square foot area (Block 352, Lots 16, 17, and 18) from an M1-1 district to an R6B district. The existing M1-1 district permits manufacturing, community facility, and commercial uses in Use Groups 4 through 14, 16, and 17. The bulk parameters of the district allow for buildings up to 1.0 FAR, built to the front and side lot lines, with a 20 foot rear yard. Building heights are regulated by a 1:1 sky exposure plane beginning at

30 feet (or two stories) above the street line. Off-street parking and loading facilities are required in M1-1 districts according to the type and size of the use on the property. Residential uses are not permitted. Certain community facility uses are allowed as-of-right (such as churches) or by special permit (such as hospitals).

The R6B district allows for buildings with up to 2.0 FAR (2.2 with MIH) and generally yields attached homes or small apartment houses. No front or side yards are required, but a rear yard of 30 feet is required. The maximum lot coverage is 60 percent for interior and through lots, and 80 percent for corner lots. Building heights are regulated by a required base height of 30–40 feet, followed by a mandatory 10 or 15 foot setback (for wide or narrow streets, respectively), and a maximum building height of 50 feet (55 feet with a qualifying ground floor). Off-street parking is required in R6B districts for 50 percent of all dwelling units, except for income-restricted housing units, for which there is no parking requirement in this area.

The proposed development will comply with R6B zoning regulations. The building will be 40 feet tall, and consist of 10 residential units with a total of 12,450.16 square feet of residential floor area for an FAR of 2.0. Six off-street parking spaces will be provided. Should MIH be applied, the building will have a base height of 40 feet, and will reach a maximum height of 50 feet to accommodate the addition of a partial fifth floor, which will be set back 15 feet. This development would have a total of 13,703 square feet of residential floor area for an FAR of 2.2.

Zoning Text Amendment (N 160379 ZRK)

The amendment to the Zoning Resolution would modify Appendix F (Inclusionary Housing Designated Areas and Mandatory Inclusionary Housing Areas) to apply Inclusionary Housing regulations to an area coterminous with the rezoning area, in accordance with the City's Mandatory Inclusionary Housing program. All residential development, enlargements, and conversions of over 12,500 square feet or 10 units within the rezoning area would be required to comply with the requirements of Option 1 or Option 2 of the MIH program, described below:

- Option 1: 25 percent of residential floor area must be for affordable housing units for residents with incomes averaging 60 percent AMI, with a minimum of 10 percent of housing to be affordable at 40 percent AMI.

- Option 2: 30 percent of residential floor area must be for affordable housing units for residents with incomes averaging 80 percent AMI.

Developments, enlargements, and conversions of less than 25,000 square feet and fewer than 25 dwelling units have the option of paying a fee in lieu of providing affordable units directly.

ENVIRONMENTAL REVIEW

This application (C 150360 ZMK), in conjunction with the application for the related action (N 160379 ZRK), was reviewed pursuant to the New York State Environmental Quality Review Act (SEQRA) and the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 et seq. and the City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The lead agency is the City Planning Commission. The designated CEQR number is 16DCP100K.

After a study of the potential environmental impact of the proposed action, a Conditional Negative Declaration, signed by the applicant, was issued on June 17, 2016. The Conditional Negative Declaration included (E) designations to avoid the potential for significant adverse impacts related to air quality, noise and hazardous materials (E-382), as described below:

The (E) designation text related to air quality is as follows:

Any new residential development on Block 352, Lots 16, 17 and 18 must ensure that fossil fuel-fired heating and hot water equipment utilize only natural gas to avoid any potential significant air quality impacts.

With the assignment of the (E) designation on the project site, no significant air quality impacts would be expected to result from the proposed actions.

The City Planning Commission has determined that the proposed action will have no significant effect on the quality of the environment, once it is modified as follows:

1. By letter dated January 26, 2015, LPC determined that the site may be archaeologically significant and that further testing would be required in order to determine if there are remains from 19th Century occupation on the project site. As such, the applicant has entered into a Restrictive Declaration which requires that prescribed archaeological work be conducted in accordance with CEQR Technical Manual and LPC Guidelines for Archaeological Work in New York City.

   The Restrictive Declaration is binding upon the property's successors and assigns. The declaration serves as a mechanism to assure the archaeological testing be conducted and that any necessary mitigation measures be undertaken prior to any site disturbance (i.e., site grading, excavation, demolition, or building construction). The restrictive declaration was prepared in a form acceptable to the LPC and the Restrictive Declaration was executed on June 16, 2015 and recorded with the City's Department of Finance on May 5, 2016.

2. The (E) designation (E-382) for air quality on the project site (Block 352, Lots 16, 17, and 18), would ensure that the proposed action would not result in significant adverse impacts related to air quality.

The applicant signed the Conditional Negative Declaration on June 17, 2016. The Conditional Negative Declaration was published in the City Record on July 1, 2016 and in the New York State Environmental Notice Bulletin on July 6, 2016. Pursuant to the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 et seq., a 30-day comment period followed. No comments were received and the Conditional Negative Declaration was issued on November 14, 2016.

UNIFORM LAND USE REVIEW

This application (C 150360 ZMK) was certified as complete by the Department of City Planning (DCP) on June 20, 2016, and was duly referred to Brooklyn Community Board 6 and the Brooklyn Borough President, in accordance with Title 62 of the rules of the City of New York,

Section 2-02(b), along with the related action, N 160379 ZRK, which was duly referred to Brooklyn Community Board 6 and the Brooklyn Borough President on June 20, 2016, in accordance with the procedures for non-ULURP matters.

Community Board Public Hearing

Brooklyn Community Board 6 held a public hearing on this application (C 150360 ZMK) and the related action (N 160379 ZRK) on June 23, 2016. On August 8, 2016, the Executive Committee, acting on behalf of the full Community Board which was on summer hiatus, voted unanimously to conditionally approve the application with the following conditions:

- That the building retain the configuration and appearance as presented to the committee
- That to the extent permitted, the funds paid into the affordable housing fund be used towards additional affordable units or levels of affordability of housing within Brooklyn Community District 6
- That the amount the developer will be expected to pay under the City's Mandatory Inclusionary Housing should be proportional to the building size and/or number of units, whichever is greater, even if it falls below the 11 unit minimum threshold that they understand is the trigger that would allow the development of off-site affordable units

Borough President Recommendation

The Brooklyn Borough President held a public hearing on this application (C 150360 ZMK) and the related action (N 160379 ZRK) on July 28, 2016, and issued a recommendation on September 26, 2016 as follows.

Be it resolved that the Borough President of Brooklyn, pursuant to section 201 of the New York City Charter, recommends that the City Planning Commission and City Council approve this application with the following conditions:

1. That the development be pursuant to the MIH program, and
2. That the established value of the MIH funds be reflective of the most recent residential sales prices in the Columbia Street Waterfront District

Be it further resolved that the New York City Department of Housing Preservation and Development mandate:

1. That the MIH funds be applied to the Columbia Street NIHOP sites cluster, and

2. That the Columbia Street NIHOP sites cluster be developed as a shared equity permanently affordable development

City Planning Commission Public Hearing

On September 21, 2016 (Calendar No. 1), the City Planning Commission scheduled October 5, 2016 for a public hearing on this application (C 150360 ZMK), in conjunction with the related application (N 160379 ZRK). The hearing was duly held on October 5, 2016 (Calendar No. 18). There were two speakers in favor of the application and none in opposition.

The applicant's representative described and spoke in favor of the application. He summarized the proposed development. He also stated that the applicant would be willing to participate in the MIH program, likely through an in-lieu payment.

The Council Member for the 39th District spoke in favor of the application, but stated that he would prefer that the project participate in the MIH program, most likely through a payment-in-lieu. He requested that the Commission help identify a legally-enforceable way to encourage the applicant to participate in the MIH program, even if the development is below the threshold 12,500 square feet and 11 units.

There were no other speakers and the hearing was closed.

WATERFRONT REVITALIZATION PROGRAM CONSISTENCY REVIEW

This application (C 150360 ZMK), in conjunction with the related application (N 160379 ZRK), was reviewed by the City Coastal Commission for consistency with the policies of the New York City Waterfront Revitalization Program (WRP), as amended, approved by the New York City Council on October 30, 2013 and by the New York State Department of State on February 3, 2016, pursuant to the New York State Waterfront Revitalization and Coastal Resources Act of 1981, (New York State Executive Law, Section 910 *et seq.*). The designated WRP number is 13-093.

This action was determined to be consistent with the policies of the New York City Waterfront Revitalization Program.

CONSIDERATION

The City Planning Commission believes that this application for a zoning map amendment (C 150360 ZMK) to rezone three lots on the south side of Carroll Street between Van Brunt and Columbia Streets from M1-1 to R6B, in conjunction with the related action for a zoning text amendment (N 160379 ZRK) to establish a Mandatory Inclusionary Housing area coterminous with the rezoning area, is appropriate.

The proposed zoning change would extend the existing R6B zoning district boundary on Carroll Street westward by 70 feet to facilitate the redevelopment of long-standing vacant lots with a residential building. The lots had been developed with residential buildings in the late 1800s, but the buildings were demolished during the middle of the 20th century and have been vacant for several decades. The small size and irregular shape of the lots do not easily allow for the construction of modern, efficient light industrial or commercial buildings under the existing M1-1 light manufacturing zoning and would be out of character with the remaining residential buildings of the block. The proposed zoning map amendment would be an extension of the Carroll Gardens/Columbia Street rezoning, which was approved in 2009. The Carroll Gardens/Columbia Street rezoning changed the prior light manufacturing zoning and residential districts without height limits to contextual residential zoning districts with height limits to recognize the predominant low- to mid-rise residential character of the area, as well as to facilitate new residential buildings in character with existing buildings. The proposed development would be consistent with the goals of the Carroll Gardens/Columbia Street rezoning, and would be in context with the surrounding built residential neighborhood character.

The zoning text amendment to Appendix F (Inclusionary Housing Designated Areas and Mandatory Inclusionary Housing Areas) would map a Mandatory Inclusionary Housing Area (MIHA) coterminous with the rezoning area. This action is aligned with one of the key initiatives of Housing New York, Mayor de Blasio's housing plan, to require that a share of new housing be permanently affordable when land use actions substantially increase permitted density for

residential development. As applied here, any residential developments, enlargements, and conversions of over 12,500 square feet or 10 units within the MIHA must comply with the requirements of Option 1 or Option 2. Option 1 requires that 25 percent of all residential floor area be affordable to households that average 60 percent of the Area Median Income (AMI), with a minimum of 10 percent of all residential floor area affordable to households at 40 percent AMI. Option 2 requires that 30 percent of all residential floor area be affordable to households that average 80 percent of AMI. Developments of less than 25,000 square feet and fewer than 25 dwelling units have the option of paying a fee in lieu of providing affordable units directly.

Regarding the recommendation of the Community Board concerning the building's configuration and appearance, the applicant representative has stated the applicant's intention to maintain the building configuration as presented. Regarding the recommendation that any fee in lieu be used for affordable housing within Brooklyn Community District 6, the Commission notes that such a requirement already exists as part of the MIH program. Under the terms of the program, any funds collected would be reserved for use within Community District 6.

The Community Board also recommended that the Commission require the developer to pay into an affordable housing fund even if the development falls below the 12,500 square feet and 10-unit applicability threshold. The Commission notes that such a requirement is not authorized by the MIH program as adopted earlier this year, based on judgments about its practical and consistent implementation around the city and on the legal foundations of the program as a land use regulation. Efforts to negotiate the program's applicability on a case-by-case basis would undermine the validity of the parameters established at adoption and expose the MIH program to legal risk.

The Borough President requests that the applicant develop the site pursuant to the MIH program. The Commission notes that the applicant's representative has stated the applicant's intention to do so. The Commission further notes that the Department of Housing Preservation and Development (HPD) is currently formulating a fee schedule that is responsive to the Borough President's recommendation that the fee reflect housing costs in the area. The Borough

President's recommendations on specific uses of a fee-in-lieu go beyond the scope of the actions before the Commission.

The Commission acknowledges the considered testimony of the Council Member from the 39th District, who shared concerns similar to those expressed by the Community Board and Borough President. In particular, the Council Member asked the Commission to require the applicant to construct a development above the MIH applicability threshold or to pay an affordable housing fee even if the development falls below the MIH applicability threshold. While the Commission finds it appropriate to apply MIH in conjunction with the zoning map amendment before it, the choice of how or whether to develop the site within the strictures of the applicable zoning lies ultimately with the applicant.

In response to questions by the Commission, a representative of the applicant, on October 5, 2016, submitted a letter to the Commission clarifying a misstatement regarding the square footage of the proposed development; the applicant representative mistakenly stated that the development would include 12,540 square feet of residential area, while the proposed development would actually contain 12,450 square feet of residential area. The letter also included documentation that indicated that the subject properties were once in residential use, and likely demolished in the years between 1943 and 2005.

RESOLUTION

RESOLVED, that having considered the Environmental Assessment Statement (EAS), for which a Conditional Negative Declaration was issued on October 31, 2016 with respect to this application (CEQR No. 16DCP100K), the City Planning Commission finds that the action described herein will have no significant impact on the environment; and be it further

RESOLVED, the City Coastal Commission finds that the action will not substantially hinder the achievement of any WRP policy and hereby determines that this action is consistent with WRP policies; 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 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 by changing the Zoning Map, Section 16a, changing from an M1-1 District to an R6B District property bounded by Carroll Street, a line 380 feet northwesterly of Columbia Street, a line midway between Carroll Street and Summit Street, a line midway between Carroll Street and Hamilton Avenue, and a line 450 feet northwesterly of Columbia Street, as shown on a diagram (for illustrative purposes only) dated June 20, 2016 and subject to the conditions of CEQR Declaration E 382.

The above resolution (C 150360 ZMK), duly adopted by the City Planning Commission on November 16, 2016 (Supplemental Calendar No. 1), 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.

KENNETH J. KNUCKLES, *Esq., Vice Chairman*
RAYANN BESSER, ALFRED C. CERULLO, III, IRWIN G. CANTOR, P.E., JOSEPH DOUEK, RICHARD W. EADDY, CHERYL COHEN EFFRON, HOPE KNIGHT, ANNA HAYES LEVIN, ORLANDO MARIN, LARISSA ORTIZ, *Commissioners*

MICHELLE DE LA UZ, *Commissioner*, Abstaining

THE CITY OF NEW YORK
COMMUNITY BOARD SIX

Eric Adams
Borough President

Sayar Lonial
Chairperson

Craig Hammerman
District Manager

September 22, 2016

Carl Weisbrod
Chairperson
City Planning Commission
120 Broadway, 31st floor
New York, New York 10271

Re: 14-18 Carroll Street, Brooklyn, NY 11231
ULURP Nos. N150360ZMK, N160379ZRK

Dear Chairperson Weisbrod:

I am writing to advise you that at its August 8, 2016 meeting our Executive Committee, acting on behalf of the full Community Board which was on summer hiatus, voted unanimously to conditionally approve the above-referenced matter.

After hearing a thorough presentation from the applicant and conducting a Public Hearing on the matter at our June 23, 2016 Landmarks/Land Use Committee meeting it was our committee's recommendation that we approve the zoning map amendment which proposes to change the existing M1-1 zoning designation to R6B for the properties at 14-18 Carroll Street (Block 352, Lots 16, 17 and 18) between Columbia and Van Brunt Streets (N 150360 ZMK), and a zoning text amendment to establish a Mandatory Inclusionary Housing Area coterminous with the rezoning area in accordance with the City's Mandatory Inclusionary Housing policy (N 160379 ZRK).

Our committee conditioned their approval upon the building retaining the configuration and appearance as presented to the committee, and that to the extent permitted that the funds paid into the affordable housing fund be used towards additional affordable units or levels of affordability of housing within Brooklyn Community District 6.

At our Executive Committee we added a further condition which suggested that the amount the developer will be expected to pay under the City's Mandatory Inclusionary Housing should be proportional to the building size and/or number of units, whichever is greater, even if it falls below the 11 unit minimum we understand is the trigger that would allow the development of off-site affordable units.

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I should also add that our Community Board stands ready at any time in the future to continue to offer our input on the design of the building which is extremely important to us as we would like it to conform as closely as possible to the preliminary designs that were shared with us.

Thank you for the opportunity to comment in this matter.

Sincerely,

Sayar Lonial
Chairperson

Cc: Hon. Eric Adams
Hon. Brad Lander
Hon. Steve Levin
Hon. Carlos Menchaca

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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

14 – 18 CARROLL STREET REZONING – 150360 ZMK, 160379 ZRK

In the matter of the application submitted by 14 – 18 Carroll LLC, pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 16a, changing from an M1-1 district to an R6B district, the property at 14 – 18 Carroll Street, in the Columbia Street Waterfront District neighborhood in Brooklyn Community District 6 (CD 6). Such actions would extend an existing neighboring R6B district for an envisioned new 10-unit, four-story residential development, of a currently vacant site, and establish a Mandatory Inclusionary Housing (MIH) area coterminous with the rezoning area, with payment into the City's affordable housing fund for intended use in CD 6.

COMMUNITY DISTRICT NO. 6 BOROUGH OF BROOKLYN

RECOMMENDATION

☐ APPROVE
☒ APPROVE WITH MODIFICATIONS/CONDITIONS
☐ DISAPPROVE
☐ DISAPPROVE WITH MODIFICATIONS/CONDITIONS

SEE ATTACHED

BROOKLYN BOROUGH PRESIDENT

September 26, 2016
DATE

The applicant, 14 – 18 Carroll LLC, seeks an amendment of the New York City Zoning Map, Section No. 16a, pursuant to Sections 197-c and 201 of the New York City Charter, to change from an M1-1 district to an R6B district, the property at 14 – 18 Carroll Street, in the Columbia Street Waterfront District neighborhood in Brooklyn Community District 6 (CD 6). Such actions would extend an existing neighboring R6B district for an envisioned new 10-unit, four-story residential development, of a currently vacant site, and establish a Mandatory Inclusionary Housing (MIH) area coterminous with the rezoning area, with payment into the City's affordable housing fund for intended use in CD 6.

On July 28, 2016, Brooklyn Borough President Eric L. Adams held a public hearing on this application. There was one speaker for this item. The speaker was in support of the development.

Borough President Adams' representative noted the preference of the Brooklyn Community Board 6 (CB 6) Land Use Committee to see the project developed consistent with the presented design and height of the building. In response to being questioned on whether the built structure would remain consistent with what is being presented, the representative for the applicant noted the extent of time and work placed and expressed the intent to keep the proposed building design with the possible exception of including the additional 0.2 floor area ratio (FAR) attributed to participating in MIH. Should the bonus be taken, the development would contain a partial floor on top of the existing proposed design, set back so it is not visible from the street.

In response to Borough President Adams' interest regarding the distribution of the developer's financial contribution into the City's affordable housing fund, pursuant to MIH, the representative expressed full support for the funds going toward development of affordable housing within CD 6, especially those sites within the Department of Housing Preservation and Development's (HPD) New Infill Housing Opportunities Program (NIHOP) program, in the neighborhood of the proposed development site.

In response to Borough President Adams' inquiry as to why the remaining non-conforming residential buildings on this block, next to the proposed rezoning, were excluded from the application, the representative stated that the decision was made in conjunction with the New York City Department of City Planning (DCP). The representative pointed out that when the block was previously rezoned in 2011 these particular properties were also left out, even though they were vacant.

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 representative stated that the developer has made efforts to explore sustainable practices that would be feasible for a development of this size, such as high efficiency appliances; white, green, or blue roof, and high-efficiency windows. It was suggested that the developer explore Passive House design, bioswales, permeable pavers, and a possible stormwater run-off system that could help contribute a water supply to the adjacent Backyard Garden.

In response to Borough President Adams' policy to maximize job opportunities for Brooklynites, the representative noted that due to such early stages of the proposed development, the developer has not yet reached out to any contractors. The developer is affiliated with Stryker

Construction, which has, in the past, subcontracted Minority- and Women-Owned Business Enterprises (MWBE), as well as Local Business Enterprises (LBE).

Subsequent to the hearing, the developer provided a letter dated August 14, 2016 committing to the inclusion of sustainability measures, as well as LBE and MWBE hiring practices for this site.

Consideration

CB 6 voted to approve this application with conditions. The board also stipulated that any money contributed by the developer to the affordable housing fund be used within CD 6, that the amount be proportional to the size of the development and/or number of units, whichever is greater, even if it falls below the 11 unit minimum we understand is the trigger that would allow the development of off-site affordable units, and that the developer retain the proposed building configuration.

The proposed zoning map amendment would extend an existing neighboring R6B district to include the development site, which is currently vacant and zoned M1-1. The change from M1-1 to R6B with MIH will serve to increase the permitted non-community facility bulk from 1.0 to 2.2. No other properties, aside from the development site, would be affected. The proposed rezoning is consistent with several recent rezonings in the Columbia Street Waterfront District that also expanded the R6B district to promote residential development.

The site, consisting of 6,229 square feet in lot area, previously contained three-story townhouse residential/mixed-use buildings, which likely were demolished several decades ago. Adoption of the proposed rezoning will result in a residential building totaling 12,450 square feet of residential floor area (2.0 FAR) with six off-street parking spaces. In conjunction with the MIH program, should the floor area bonus be taken, approximately 1,200 square feet would be added to the development.

Borough President Adams is generally supportive of the proposed zoning map amendment as it would reestablish residential use in an area historically developed with residential properties and is compatible with the prevailing built character of the surrounding area. It would facilitate the redevelopment of three vacant lots that have been underutilized for several decades since the prior residential structures were demolished.

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 New York City Department of Environmental Protection's (DEP) green water/stormwater strategies. Blue/green roofs, bioswales, and permeable pavers 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 water retention measures. This includes using the building's roof for a

combination of blue, green, and/or white roof improvements, using high efficiency appliances and mechanical equipment, and implementing stormwater runoff retention measures, including possible use by the adjacent Backyard Garden. The required Builders Pavement Plan and the site's paved parking lot surface and street front 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.

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 LBE and MWBE 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 good practices and responsible development 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 14 – 18 Carroll Street, according to the clarification in the August 14, 2016 letter from the applicant's representative. It is the applicant's intent to seek commercially reasonable efforts to pursue hiring of Brooklyn residents and prioritize retention of Brooklyn-based sub-contractors, especially those designated as MWBE. Although no contractors have yet been selected, the property owner is affiliated with Oestreicher Construction, a firm that has a history of using MWBE sub-contractors in the past and is open to utilizing MWBE sub-contractors on this particular project as well.

However, Borough President Adams has concerns regarding the possibility that the development could go forward without making a contribution to the MIH fund as well as the undetermined status of the amount of funds in lieu of providing affordable housing on site. In addition, he believes the funds should be used locally to advanced shared-equity homeownership housing.

Participation in MIH

According to MIH, developments with at least 12,500 square feet must comply by either providing new affordable housing units or making payment to a yet-to-be established fund. Though the as-of-right zoning does not automatically trigger an obligation to participate in MIH, the Brooklyn Borough Board Resolution regarding MIH had called for financial participation for developments with as few as three units. Therefore, Borough President Adams' support for this rezoning is contingent on participation in MIH. Given the nominal scale of the development, Borough President Adams believes that a contribution to the fund would be appropriate. He calls on the City Council to obtain a legally-enforceable commitment from the applicant that the development be pursuant to MIH.

Establishing the Value of the MIH Funding Contribution

While the amount that would be contributed to the affordable housing fund, in lieu of providing affordable housing on site, has not yet been worked out with the City, it is important to be cognizant of the existing strong market in the neighborhood in the determination of such an amount. The developer would be benefiting from the change of permitted use and a more than doubling of the permitted commercial/manufacturing floor area to be in position to take advantage of reflecting the value of the strong market of the neighborhood, therefore the developer's contribution into the City's affordable housing fund should be reflective of such value.

Looking at property sale prices within the Columbia Street Waterfront Neighborhood, the office of Borough President Adams was able to calculate that similar types of residential units sell, on average, for approximately $350,000 each, with an approximate range between $250,000 and $500,000, within the last year. Borough President Adams believes such estimates should be considered as evidence of value in the consideration of the MIH funds allocation, further adjusted to reflect the most recent market of the neighborhood. He calls on HPD to establish the City's affordable housing fund as an amount reflective of the most recent residential sales prices in the Columbia Street Waterfront District.

Applying the MIH Funds to the Columbia Street NIHOP Cluster

Borough President Adams' office has identified several HPD sites within the NIHOP program in close proximity to the proposed development site. These NIHOP sites have a designated developer though still lack the appropriate funding and proper zoning in order to move forward. The aforementioned amount that would be allocated by the applicant to the City's affordable housing fund could potentially help to improve the level of affordability for future units within these NIHOP sites. At minimum, the funds could help the financing happen sooner so that these sites are completed in a timely manner in order to meet the City's growing housing needs.

Borough President Adams believes that the MIH funds allocation should be specifically designated to these currently vacant NIHOP sites, in order to move forward with development and potentially increase the affordability. He calls on the City Council to obtain a commitment from HPD to designate the applicant's contribution to the City's affordable housing fund toward development of affordable housing within CD 6's Columbia Street Waterfront Ditrict.

Developing the Columbia Street NIHOP Cluster as Shared-Equity Permanently Affordable Housing

Creating affordable housing units is only part of the citywide initiative. Maintaining these units as affordable must be a part of our collective efforts or these gains will be short-lived. It should be the policy of the City to minimize the loss of affordable housing by requiring that such units remain affordable housing in perpetuity. Given the scarcity of government-owned land, it is important for HPD to not only adopt a policy of "affordable forever" but to also

ensure that such policy is implemented toward ownership units. Otherwise, the accomplishments of today are lost before future generations get to share in the benefit of housing affordability. Without being affordable in perpetuity, ownership unit developments provide merely one household with affordability before becoming market-rate housing. Once sold, these units are no longer subsidized as purchasers pay whatever the market demands.

Permanent affordability would help address these issues. For homeownership units, including condominiums, HPD should be using the land disposition agreement as a mechanism to obligate resale price to a household with similar family incomes. Original purchasers would not need to reimburse the City for the subsidies and lien on the land. These subsidies would stay with the property in perpetuity.

Permanently affordable homeownership housing, known as "shared equity," provides the benefits of building wealth for the homeowner while assuring that the home remains an affordable housing resource when sold. Resale restrictions could be based on several existing models such as subsequent resales of the homeownership unit being indexed to standards as defined by the City's voluntary Inclusionary Housing Program (IHP). Other methods are noted in documents produced by the Center for Housing Policy, including the Consumer Price Index. Establishing permanent affordable homeownership housing would recycle initial subsidies, while resulting in these housing units being affordable for future generations of Brooklynites.

Typical terms of disposition call for full repayment of government subsidies (including the assessed value of the land) for sales within the first five years of initial occupancy, with the amount being reduced in 10 percent increments over years six through 15. The combination of owing a lesser amount of subsidy and increased market value, create an incentive for the initial occupant to obtain substantial equity at the cost of eliminating the unit as part of the city's affordable housing stock.

Borough President Adams believes that HPD should mandate that the Columbia Street NIHOP cluster be developed as a shared equity permanently affordable development.

Recommendation

Be it resolved that the Borough President of Brooklyn, pursuant to section 201 of the New York City Charter, recommends that the City Planning Commission and City Council approve this application with the following conditions:

1. That the development be pursuant to the MIH program, and
2. That the established value of the MIH funds be reflective of the most recent residential sales prices in the Columbia Street Waterfront District

Be it further resolved that the New York City Department of Housing Preservation and Development mandate:

1. That the MIH funds be applied to the Columbia Street NIHOP sites cluster, and
2. That the Columbia Street NIHOP sites cluster be developed as a shared equity permanently affordable development