CITY PLANNING COMMISSION

November 16, 2016 / Supplemental Calendar No. 2 N 160379 ZRK

IN THE MATTER OF an application submitted by 14-18 Carroll LLC pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, modifying Appendix F (Inclusionary Housing Designated Areas) for the purpose of establishing a Mandatory Inclusionary Housing area, Borough of Brooklyn, Community District 6.

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 14-18 Carroll LLC on June 9, 2016 to establish a Mandatory Inclusionary Housing Area (MIHA) on three vacant lots 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 (Block 352, Lots 16, 17, 18) in the Columbia Street Waterfront neighborhood in Community District 6, Brooklyn.

RELATED ACTIONS

In addition to the zoning text amendment (N 160379 ZRK) 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:

C 150360 ZMK	Zoning Map Amendment to change Block 352, Lots 16, 17, and 18 from an M1-1 District to an R6B District

BACKGROUND

A full background discussion and description of this application appears in the report of the related action for a zoning map amendment (C 150360 ZMK).

ENVIRONMENTAL REVIEW

This application (N 160379 ZRK), in conjunction with the application for the related action (C 150360 ZMK), was reviewed pursuant to the New York State Environmental Quality Review

Act (SEQRA) and the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 et seq. and the City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The lead agency is the City Planning Commission. The designated CEQR number is 16DCP100K.

A full background discussion and description of this application appears in the report of the related action for a zoning map amendment (C 150360 ZMK).

PUBLIC REVIEW

This application (N 160379 ZRK) 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, along with the related action, (C 150360 ZMK), which 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).

Community Board Public Hearing

Brooklyn Community Board 6 held a public hearing on this application (N 160379 ZRK) and the related action (C 150360 ZMK) 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 conditions. A summary of the vote and recommendations of Community Board 6 appears in the report of the related action for a zoning map amendment (C 150360 ZMK).

Borough President Recommendations

The Brooklyn Borough President held a public hearing on this application (N 160379 ZRK) and the related action (C 150360 ZMK) on July 28, 2016, and issued a recommendation on September 26, 2016 that the City Planning Commission and City Council approve this application with conditions. A summary of the Borough President's recommendation appears in the report of the related action for a zoning map amendment (C 150360 ZMK).

City Planning Commission Public Hearing

On September 21, 2016 (Calendar No. 2), the City Planning Commission scheduled October 5, 2016 for a public hearing on this application (N 160379 ZRK), in conjunction with the related application (C 150360 ZMK). The hearing was duly held on October 5, 2016 (Calendar No. 19). There were two speakers in favor of the application and none opposed as described in the report for the related application for a zoning map amendment (C 150360 ZMK), and the hearing was closed.

WATERFRONT REVITALIZATION PROGRAM CONSISTENCY REVIEW

This application (N 160379 ZRK), in conjunction with the related application (C 150360 ZMK), 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 Commission believes that this application for a zoning text amendment (N 160379 ZRK), submitted by 14-18 Carroll LLC, in conjunction with the related action for a zoning map amendment (C 150360 ZMK), is appropriate.

A full consideration and analysis of issues and the reasons for approving this application appear in the related report for the zoning map amendment (C 150360 ZMK).

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

Matter in <u>underline</u> is new, to be added;
Matter in ~~strikeout~~ 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

* * *

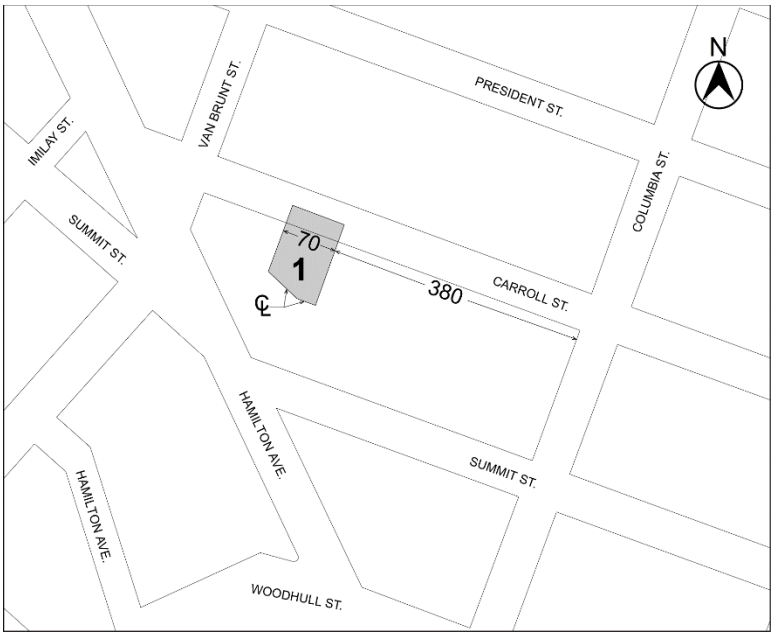
Brooklyn Community District 6

In the <u>R6B and</u> R7-2 District<u>s</u> within the areas shown on the following Map 1 <u>and Map 2</u>:

* * *

<u>Map 2 – (date of adoption)</u>

[PROPOSED MAP]



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

Area **1** (date of adoption) — MIH Program Option 1 and Option 2

Portion of Community District 6, Brooklyn

* * *

The above resolution (N 160379 ZRK), duly adopted by the City Planning Commission on November 16, 2016 (Supplemental Calendar No. 2), 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.

250 Baltic Street • Brooklyn, New York 11201-6401 • www.BrooklynCB6.org
t: (718) 643-3027 • f: (718) 624-8410 • e: info@BrooklynCB6.org

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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telephone: (718) 643-3027 • fax: (718) 624-8410 • email: info@brooklyncb6.org

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