



**IN THE MATTER OF** an application submitted by EMP Capital Group pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 16c:

1. changing from an M1-1 District to a R7D District property bounded by Grand Avenue, a line midway between Atlantic Avenue and Pacific Street, a line 100 feet southeasterly of Grand Avenue, and a line midway between Pacific Street and Dean Street; and
2. establishing within the proposed R7D District a C2-4 District bounded by Grand Avenue, a line midway between Atlantic Avenue and Pacific Street, a line 100 feet southeasterly of Grand Avenue, and a line midway between Pacific Street and Dean Street;

Borough of Brooklyn, Community District 8, as shown on a diagram (for illustrative purposes only) dated September 23, 2019, and subject to the conditions of CEQR Declaration E-550.

---

This application for a zoning map amendment was filed by EMP Capital Group on January 18, 2019. The applicant proposes to change an M1-1 zoning district to an R7D/C2-4 zoning district. This application, in conjunction with the related action (N 190257 ZRK), would facilitate a nine-story mixed-use development with 64 dwelling units and ground floor commercial space at 979 Pacific Street in the Crown Heights neighborhood of Brooklyn, Community District 8.

### **RELATED ACTIONS**

In addition to the zoning map amendment (C 190256 ZMK) that is the subject of this report, implementation of the proposed project also requires action by the City Planning Commission on the following application, which is being considered concurrently with this application:

**N 190257 ZRK**            Zoning text amendment to designate a Mandatory Inclusionary Housing (MIH) area.

### **BACKGROUND**

The applicant seeks a zoning map amendment to change an M1-1 district to an R7D/C2-4 district and a zoning text amendment to establish an MIH area coterminous with the area to be rezoned (project area). The project area consists of six tax lots (Block 1125, Lot 1, Block 1133, Lots 7, 10, 11, 12, and p/o 13) at both the north-east and south-east corners of Grand Avenue and Pacific

Street in the Crown Heights neighborhood of Brooklyn. It is currently developed with non-conforming residential open parking lots, and undeveloped vacant land. The development site at 979 Pacific Street (Block 1125, Lot 1) has 10,000 square feet of lot area with 100 feet of frontage along Pacific Street. Currently, the development site is an unimproved lot used for parking.

The project area is within an M1-1 zoning district that has remained unchanged since 1961. This manufacturing zone was established to reflect the land uses then existing from the early 1900s, when Atlantic Avenue served as a freight rail corridor. After freight service was discontinued and passenger rail service was moved below grade, the industrial buildings along Atlantic Avenue and on nearby blocks evolved into auto-oriented uses, as allowed within M1-1 zoning districts.

M1-1 districts have a maximum floor area ratio (FAR) of 1.0 for manufacturing and commercial uses, and 2.4 for certain community facility uses. M1-1 districts generally support low-rise, one-to two-story buildings and allow a range of light industrial uses, such as repair shops, wholesale service and storage facilities. Offices, retail and other commercial uses are also allowed as-of-right. Building heights are regulated by a sky exposure plane beginning at 30 feet above the street line. Off-street parking and loading facilities are required according to the type and size of the use. No new residential uses are permitted.

The project area is located within an area currently the subject of a land use study being conducted by the Department of City Planning (DCP), in partnership with Community Board 8. Commonly referred to as M-Crown, the study's core goals are to create opportunities for new housing, including affordable housing, and to foster the growth of job-generating uses. In 2018, DCP released a land use framework that identified sub-areas where a mix of new residential and non-residential uses would be appropriate. On September 12, 2019, Community Board 8 voted to support a resolution endorsing DCP's land use framework and requested that DCP move forward with an area-wide rezoning. Along Pacific Street and Grand Avenue south of Atlantic Avenue, the framework recommended moderate-density, mixed-use growth to reinforce the north-south connections of these corridors. The framework also recommended that the interior portions of

blocks be zoned to support mixed-use growth with an appropriate bulk envelope consistent with the scale of mid-block side streets. Community Board 8 has expressed a preference for light-manufacturing, community facility, arts, and repair-based uses in the study area. The project area is located within an area recommended for mixed-use growth, encompassing part of the Grand Avenue corridor. Grand Avenue and Pacific Street are both 70 feet in width.

The project area is well served by public transit. The Franklin Avenue subway station, located approximately one half of a mile northeast of the project area, provides access to the C subway line and the Franklin Avenue shuttle. Additionally, multiple bus lines nearby provide connections to Downtown Brooklyn. The B65 line runs east/west along Dean Street and Bergen Street and the B25 runs east/west along Fulton Street. The B48 line at Classon Avenue and the B45 at Washington Avenue provide north/south bus service. Dean Street and Bergen Street also have protected bicycle lanes and Atlantic Avenue serves as a major east-west connection for vehicular use.

The area surrounding the project area contains a mix of parking, commercial, industrial, auto-oriented, and residential uses. Franklin Avenue to the east and Washington Avenue to the west serve as local commercial corridors characterized by many mixed-use buildings with ground floor retail and residences above. Residential buildings are characterized by one- or two-family home and multi-family apartment buildings generally ranging from two to 12 stories. Industrial and commercial uses are characterized by one- to two-story warehouse-style buildings, along with lots used for open storage and parking.

New development in the surrounding area has been subject to several land use action approvals. The Crown Heights West Rezoning (C 130213 ZMK), initiated by DCP at the request of Community Board 8 and the local Council Member, was approved by the City Council on September 24, 2013. This initiative rezoned an approximately 55-block area south of the M1-1 zoning area with contextual residential zoning districts with the goals of maintaining the existing scale and character of the neighborhood; creating incentives for development of affordable housing by identifying areas that can accommodate modest growth for application of

Inclusionary Housing program; and matching commercial zoning to reflect existing retail character. As part of the area-wide zoning, R7A districts, which permit up to 4.6 FAR for residential use, were mapped extensively along Franklin Avenue and specific mid-block locations, while R7D districts, which permit up to 5.6 FAR for residential use, were mapped at three block frontages along the Bedford Avenue corridor.

The area one block north of the project area was contextually rezoned under the Fort Greene-Clinton Hill Rezoning (C 070430 ZMK) and Bedford-Stuyvesant South Rezoning (C 070447 ZMK) in 2007, while the area to the west was rezoned under the Prospect Heights Rezoning (C 930430 ZMK) in 1993. These rezonings sought to preserve the neighborhood character while encouraging growth and density along corridors.

On April 8, 2019, an application was approved for the 1010 Pacific Street Rezoning (C 180042 ZMK and N 180043 ZRK) to rezone the existing M1-1 zoning district to an R7A/C2-4 zoning district to facilitate the construction of a nine-story mixed residential, commercial, and community facility building. The 1010 Pacific Street rezoning is located less than one block from the project area.

On April 8, 2019, an application was approved for the 1050 Pacific Street Rezoning (C 160175 ZMK and N 160176 ZRK), which requested a zoning map amendment from an M1-1 zoning district to an MX (M1-4/R7A) zoning district and a text amendment to facilitate a new eight-story mixed use development on Pacific Street between Franklin and Classon Avenues. The 1050 Pacific Street rezoning is located less than one block from the project area.

The proposed actions would facilitate the development of a nine story, mixed-use building totaling 56,000 square feet of floor area (5.6 FAR) with 64 dwelling units and ground floor non-residential space, consisting of 8,400 square feet of commercial space with a qualifying ground floor height of 16 feet. Sixteen of the 64 dwelling units would be designated as permanently affordable pursuant to the regulations for Option 1 of the MIH program. The proposed development would rise to a base height of 60 feet, set back 10 feet, and then rise to an overall

building height of 100 feet. No off-street parking is proposed for the development as the zoning lot is considered a small zoning lot and thus is able to waive parking requirements.

To facilitate the proposed development, the applicant is seeking a zoning map amendment and a zoning text amendment. The applicant proposes a zoning map amendment to change the project area's zoning from an M1-1 zoning district to an R7D/C2-4 zoning district. R7D is a residential zoning district that allows a maximum FAR of 5.6 for residential uses (when mapped within an Inclusionary Housing area), a maximum base height of 95 feet, and a maximum building height of 115 feet. Residential buildings and portions of buildings must comply with Quality Housing program regulations. Off-street parking is generally required for 50% of the dwelling units and optional for income-restricted units within the Transit Zone.

C2-4 is a commercial overlay that permits a maximum FAR of 2.0 for commercial uses and permits a range of local retail and service-related uses, such as grocery stores, restaurants, beauty salons, and laundromats. When the R7D district is paired with a C2-4 commercial overlay, the ground floor is required to contain non-residential uses to a depth of 30 feet, excluding residential lobbies and accessory parking entrances.

The rezoning boundary encompasses both corners of the intersection, covering underutilized lots and currently non-conforming housing. Extending the zoning boundary south of Pacific Street would bring the non-conforming housing into conformance and could result in appropriate mixed-use development with permanently affordable housing.

The applicant also proposes a zoning text amendment to designate an MIH area coterminous with the project area. The proposed text amendment would Map MIH Options 1 and 2. Option 1 requires that at least 25 percent of the residential floor area be provided as housing permanently affordable to households with incomes at an average of 60 percent of the AMI. Within that 25 percent, at least 10 percent of the square footage must be used for units affordable to residents with household incomes at an average of 40 percent of the AMI, with no unit targeted to households with incomes exceeding 130 percent of the AMI. Option 2 requires that 30 percent of

residential floor area be set aside for affordable housing units for residents with incomes averaging 80 percent of the area median income (AMI). No more than three income bands can be used to average out to 80 percent, and no income band can exceed 130 percent of the AMI. The applicant intends to pursue MIH Option 1.

## **ENVIRONMENTAL REVIEW**

This application (C 190256 ZMK), in conjunction with the application for the related action (N 190257 ZRK), was reviewed pursuant to the New York State Environmental Quality Review Act (SEQRA) and the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 et seq. and the City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The lead is the City Planning Commission. The designated CEQR number is 19DCP114K.

After a study of the potential environmental impact of the proposed action, a Negative Declaration was issued on September 23, 2019. The Negative Declaration included (E) designations to avoid the potential for significant adverse impacts related to hazardous materials and noise (E-550). The requirements of the (E) designation are described in the Environmental Assessment Statement and Negative Declaration.

## **UNIFORM LAND USE REVIEW**

This application (C 190256 ZMK) was certified as complete by the Department of City Planning on September 23, 2019, and was duly referred to Community Board 8 and the Brooklyn Borough President in accordance with Title 62 of the Rules of the City of New York, Section 2-02(b), along with the related application for a zoning text amendment action (N 190257 ZRK), which was referred in accordance with the procedures for non-ULURP actions.

## **Community Board Public Hearing**

Brooklyn Community Board 8 (CB 8) held a public hearing on this application (C 190256 ZMK) on November 7, 2019 and, on November 14, 2019, by a vote of 27 in favor, one opposed, and none abstaining, adopted a recommendation to withhold its support of the application pending

the following conditions:

1. "that the boundary of the area to be rezoned be limited to Block 1125, Lot 1, and if that is not possible, that the area to be rezoned south of Pacific Street be zoned to R7A/C2-4;
2. that the applicant make a binding commitment to allocate at least 0.25 FAR of the commercial ground floor to uses identified by CB 8 as "M-CROWN uses," specifically, Use Groups 3, 4, 7B, 8B, 9A (limited to caterers, laboratories, printers, studios), 10A (limited to photographic or motion picture production studios, and radio or television studios), 11, 12B (limited to commercial art galleries), 16B, 16D (excluding self-service storage facilities), 17A, 17B, and 18A (limited to beverages, alcoholic or breweries); said commitment taking a form that provides for monitoring and enforcement, and survives transfer of ownership of the subject property; and
3. that the applicant further commit to limiting the height of the proposed development to nine (9) stories.

Should the conditions stated in this resolution not be met, CB 8 recommends the rezoning be amended to R7A/C2-4.

Further, CB 8 states that its action on the above applications shall not be construed as precedent for densities to be determined for any future rezonings of Grand Avenue and Classon Avenue that may transpire as part of its M-CROWN initiative."

### **Borough President Recommendation**

This application (C 190256 ZMK) was considered by the Brooklyn Borough President, who on January 2, 2020 issued a recommendation to disapprove the application with the following conditions:

1. "that in lieu of the proposed R7D district, the City Council and/or CPC either change the existing M1-1 to R7A/C2-4, though the City Council may consider approving an R7D district for the proposed rezoning area north of Pacific Street, provided that the applicant, EMP Capital Group, provides commitments, in writing, clarifying how it would: make a binding commitment to allocate a floor area ratio (FAR) of at least 0.25 for the commercial ground floor to uses identified by CB 8 as M-CROWN uses, specifically, use

groups 3, 4, 7B, 7D, 8B, 9A (limited to caterers, laboratories, printers, studios), 10A (limited to photographic or motion picture production studios, and radio or television studios), 11, 12B (limited to commercial art galleries), 16B, 16D (excluding self-service storage facilities), 17A, 17B, and 18A (limited to beverages, alcoholic or breweries);

- a. that said commitment would include mechanisms for monitoring and enforcement; and
  - b. that said commitment would survive any transfer of ownership for the subject property;
2. that the applicant commit to limiting the height of the proposed development to nine (9) stories;
  3. that prior to considering the application, the City Council obtain commitments in writing from the applicant, EMP Capital Group, that clarify how it would:
    - a. 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, but for accounting for studios serving households at 40 percent AMI;
    - b. Implement outreach efforts to assist senior households earning up to 40 percent AMI for single-person households, and 50 percent AMI for two-person households, as a means to maximize participation in the affordable housing lottery;
    - c. 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;
    - d. Explore the incorporation of additional resiliency and sustainability measures such as passive house design, rain gardens, and/or wind turbines;
    - e. Commit to constructing curb extensions as part of the Builders Pavement Plan in coordination with the New York City Department of Transportation (DOT) or, if technically infeasible, commit to enter into a standard DOT maintenance agreement for protected painted treated roadbed sidewalk extensions, for the intersection of Grand Avenue and Pacific Street with the understanding that DOT

implementation would not proceed prior to consultation with CB 8 and local elected officials;

- f. Implement a rat baiting plan prior to and during demolition including site excavation and foundation preparation, in consultation with CB 8 and local elected officials;
- g. Retain Brooklyn-based contractors and subcontractors, especially those who are designated local business enterprises (LBEs) consistent with Section 6-108.1 of the City's Administrative Code, and minority- and women-owned business enterprises (MWBEs) as a means to meet or exceed standards per Local Law 1 (no less than 20 percent participation), as well as coordinate the oversight of such participation by an appropriate monitoring agency.

Be it further resolved:

- 1. That EMP Capital Group commit to a building service workforce that is recruited from the local population and paid prevailing wages, with appropriate benefits.”

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

On December 18, 2019 (Calendar No. 4), the City Planning Commission scheduled January 8, 2020 for a public hearing on this application (C 190256 ZMK) and the related action (N 190257 ZRK). The hearing was duly held on January 8, 2020 (Calendar No. 30).

An applicant team, consisting of the land use attorney, project architect, and developer, spoke in favor of the application, describing the development, requested actions, and surrounding context, noting the recent 1010 and 1050 Pacific Street rezonings in the area. The land use attorney stated that an R7D district paired with a C2-4 overlay requires non-residential ground floor uses, adding that the Community Board has discussed requiring a subset of commercial and industrial uses described as “M-Crown uses”. Of these uses, he stated that the applicant team envisions use groups 3 and 4 (community facilities), specifically a pre-kindergarten facility, to occupy the ground floor commercial space. He stated that while the submitted rendering of the proposed

building depicts nine stories, the applicant would like to have the option to add an additional floor while keeping the overall height of the building at the proposed 100 to 105 feet.

The project architect described the proposed massing and design principles, noting that the team chose to incorporate an industrial aesthetic for the base of the building in order to better reflect the neighborhood character.

The developer described his involvement with CB 8 and the M-Crown study and stated that the proposed development took the Community Board's vision into consideration. He noted that, due to the proposed project's proximity to Atlantic Avenue, it would serve as a gateway into the M-Crown neighborhood and a transition from the higher-density corridor to the rest of the neighborhood. For this reason, he stated that the applicant team was in discussion with local artists and considering holding a competition to create a mural that would be located on the north side of the building, facing Atlantic Avenue.

A representative from the 32BJ property service workers' union expressed support for the proposed development, stating that the applicant had made a credible commitment to providing prevailing wages for the building service workers.

The Chair of Community Board 8 spoke in opposition to the proposed development. She noted that the creation of jobs, potential for residents to be able to walk to work, and support for small business opportunities are goals that the Borough President and Community Board share.

A representative from Community Board 8 spoke in opposition to the proposed development. He elaborated on the Community Board's stance and shared additional background on the M-Crown study, noting that the proposed density is comparatively high for the avenues in this sub-area of the M-Crown framework.

There were no other speakers, and the hearing was closed.

## **CONSIDERATION**

The Commission believes that this application for a zoning map amendment (C 190256 ZMK), in conjunction with the related application for zoning text amendment (N 190257 ZRK), is appropriate

Together these actions will facilitate a mixed-use development with 64 residential units and active non-residential ground floor space, and allow one non-applicant-owned residential property to be in conformance with zoning. The project area, along with the neighboring blocks within the M1-1 zoning district, is substantially underdeveloped. Unchanged since 1961, the M1-1 zoning is a remnant of a past era and does not reflect current neighborhood conditions and needs, particularly the burgeoning residential demand and need for affordable housing. While Crown Heights and nearby areas have experienced a resurgence of activity and growth, the M1-1 zoning has directly constrained new development by limiting density to 1.0 FAR for commercial and industrial uses with a high parking requirement that is incongruous with a transit-accessible area. Moreover, numerous lots within the project area and immediately adjacent are either vacant or used as open parking and storage, contributing to an unattractive streetscape.

The Commission commends the efforts by Community Board 8 to lead the M-Crown study in partnership with DCP. Further, the Commission notes DCP's ongoing engagement with the Community Board, to develop a shared vision and land use framework to guide future growth within the area. The land use framework, developed in response to the Community Board's goals and vision, encourages mixed use residential, commercial and community facility uses within the M-Crown study area. DCP's framework responds to the Community Board's goals of providing additional housing, including permanently affordable housing, space for walk-to-work jobs, and an active ground floor streetscape.

The proposed R7D/C2-4 zoning district is appropriate. The density of the proposed district is appropriate along the ends of the blocks fronting on Grand Avenue, a major street connecting Crown Heights with Fort Greene to the north. Further, the project area is near transit and in close proximity to job centers in Downtown Brooklyn. When mapped with a commercial overlay, non-

residential uses, such as community facility and commercial uses, are required on the ground floors of new buildings. This requirement would ensure that Grand Avenue would be lined by active ground floor uses and would be consistent with other existing buildings along the street that also contain commercial, community facility and light industrial uses at the ground floors.

The proposed R7D/C2-4 district would be consistent with DCP's M-Crown study land use framework, which envisions mid-density, mixed-use zoning with a provision for non-residential ground floors of buildings to achieve the community's goal of ensuring an active streetscape. R7D districts allow an appropriate minimum amount of density that facilitates limiting ground floor uses of buildings to community facility and commercial uses without unduly affecting the feasibility of new building construction. The zoning boundary is rational as it encompasses both corners of the intersection, covering underutilized lots and currently non-conforming housing. The boundary could result in appropriate mixed-use development with permanently affordable housing, and is in line with the M-Crown study land use framework.

Regarding the recommendation of the Community Board and the Borough President to mandate a set aside for a specific subset of community facility, arts and industrial uses, the Commission is concerned that such a requirement would inappropriately limit commercial uses that would be compatible with surrounding uses, serve the surrounding neighborhood, and are appropriate on the ground floor. Such narrow use restrictions would be inflexible and restrictive, unduly preventing ground floor uses from being able to change in the future to respond to changing needs of the community and local economy. As such, the Commission does not find a land use rationale to such restrictions, and furthermore believes that limiting ground floor uses would not support the Community Board's and DCP's goals of ensuring active ground floor spaces along Grand Avenue, but rather could undermine the viability of such spaces. The Commission also notes that several of the Community Board's proposed uses, particularly industrial uses, would not be permitted under the proposed zoning district.

The Commission acknowledges the Brooklyn Borough President's recommendation that the developer increase the proportion of two- and three-bedroom units, support outreach efforts to

assist senior households earning up to 50 percent of the AMI, use locally based non-profits to serve as the administering agent, incorporate resiliency and sustainability measures, work with DOT for safety improvements along the adjacent sidewalk, and retain Brooklyn based MWBEs, but notes that these recommendations are outside the scope of these applications. Regarding the Borough President's request to explore the creation of rain gardens, such programing in the mapped street is outside the scope of the proposed actions, however the CPC supports the efforts of the private applicant to coordinate their proposal with DEP, DOT, and DPR to promote storm water management within the public right-of-way.

The proposed zoning text amendment (N 190257 ZRK) is appropriate. The action will designate a new MIH area coterminous with the rezoning area, supporting the creation of sorely needed affordable housing for Crown Heights, consistent with the goals of *Housing New York*. The text amendment will map MIH Options 1 and 2, and the applicant intends to use Option 1 for the proposed development, ensuring that 16 of the newly-created units remain permanently affordable.

## **RESOLUTION**

**RESOLVED**, that having considered the Environmental Assessment Statement (EAS) for which a Negative Declaration was issued on September 23, 2019 with respect to this application (CEQR No. 19DCP114K), 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 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 16c:

1. changing from an M1-1 District to a R7D District property bounded by Grand Avenue, a line midway between Atlantic Avenue and Pacific Street, a line 100 feet southeasterly of Grand Avenue, and a line midway between Pacific Street and Dean Street; and

2. establishing within the proposed R7D District a C2-4 District bounded by Grand Avenue, a line midway between Atlantic Avenue and Pacific Street, a line 100 feet southeasterly of Grand Avenue, and a line midway between Pacific Street and Dean Street;

Borough of Brooklyn, Community District 8, as shown on a diagram (for illustrative purposes only) dated September 23, 2019 , and subject to the conditions of CEQR Declaration E-550, is approved

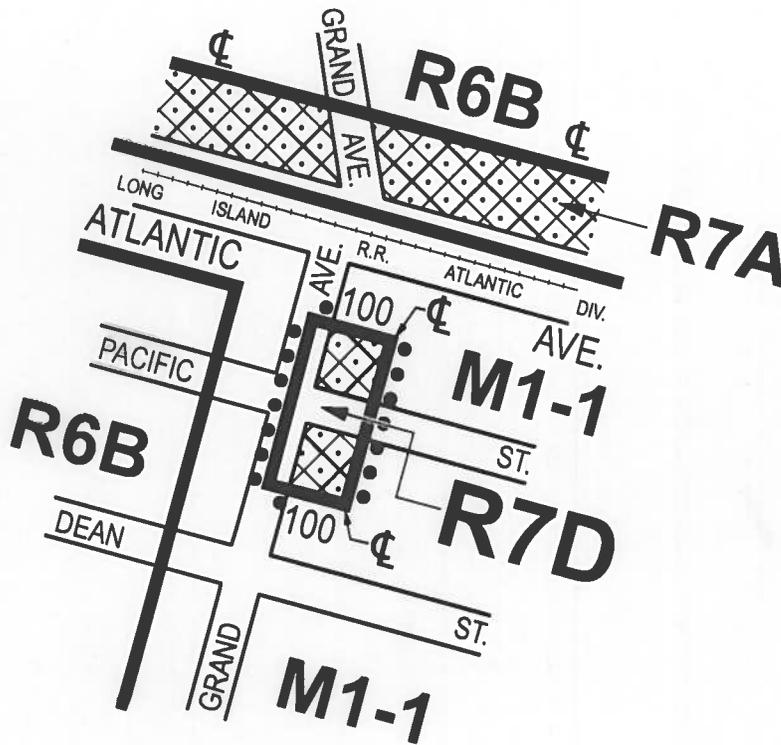
The above resolution (C 190256 ZMK), duly adopted by the City Planning Commission on February 5, 2020 (Calendar No. 10, is filed with the Office of the Speaker, City Council, and the Borough President together with a copy of the plans of the development, in accordance with the requirements of Section 197-d of the New York City Charter.

**MARISA LAGO**, *Chair*

**KENNETH J. KNUCKES, Esq.**, *Vice Chairman*

**DAVID BURNEY, ALLEN P. CAPPELLI, Esq., ALFRED C. CERULLO, III, JOSEPH I. DOUEK, RICHARD W. EADDY, HOPE KNIGHT, ANNA HAYES LEVIN, ORLANDO MARÍN, LARISA ORTIZ, RAJ RAMPERSHAD**, *Commissioners*

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



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

**16c**

**BOROUGH OF  
 BROOKLYN**



New York, Certification Date:  
 September 23, 2019

S. Lenard, Director  
 Technical Review Division

SCALE IN FEET



**NOTE:**

- Indicates Zoning District Boundary
- The area enclosed by the dotted line is proposed to be rezoned by changing an existing M1-1 District to an R7D District and establishing a C2-4 District within the proposed R7D District.
- Indicates a C2-4 District

NOTE: THIS DIAGRAM IS FOR ILLUSTRATIVE PURPOSES ONLY.





# COMMUNITY BOARD NO. 8

1291 ST. MARKS AVENUE • BROOKLYN, NEW YORK 11213

TEL.: (718) 467-5620 • FAX: (718) 778-2979

**Ethel Tyus, Esq.**  
*Chairperson*

**Robert Matthews**  
*Chairperson Emeritus*

**Michelle T. George**  
*District Manager*

**Eric Adams**  
*Borough President*

December 2, 2019

Ms. Marisa Lago, Chairperson  
City Planning Commission  
120 Broadway  
New York, NY 10271

Honorable Laurie Cumbo  
Council Majority Leader  
55 Hanson Place  
Brooklyn, NY 11217

Dear Chairperson Lago and Majority Leader Cumbo,

At the November 14, 2019 Community Board 8 general meeting, members voted 27 in favor, 1 opposed, with 0 abstentions to support the following resolution pertaining to the Grand/Pacific Re-zoning proposal:

**RESOLVED, that Brooklyn Community Board 8 withholds its support of the Grand/Pacific Rezoning (ULURP applications 190256ZMK and N190257ZRK), pending the following conditions being met:**

1. That the boundary of the area to be rezoned be limited to block 1125, lot 1, and if that is not possible, that the area to be rezoned south of Pacific Street be zoned to R7A/C2-4;
2. That the applicant make a binding commitment to allocate at least 0.25 FAR of the commercial ground floor to uses identified by Community Board 8 as "M-CROWN uses," specifically, use groups 3, 4, 7B, 7D, 8B, 9A (limited to caterers, laboratories, printers, studios), 10A (limited to photographic or motion picture production studios, and radio or television studios), 11, 12B (limited to commercial art galleries), 16B, 16D (excluding self-service storage facilities), 17A, 17B, and 18A (limited to beverages, alcoholic or breweries); said commitment

**taking a form that provides for monitoring and enforcement, and survives transfer of ownership of the subject property; and**

**3. That the applicant further commit to limiting the height of the proposed development to nine (9) stories.**

**Should the conditions stated in this resolution not be met, Brooklyn Community Board 8 recommends the rezoning be amended to R7A/C2-4.**

**Further, Brooklyn Community Board 8 states that its action on the above applications shall not be construed as precedent for densities to be determined for any future re-zonings of Grand Avenue and Classon Avenue that may transpire as part of its M-CROWN initiative.**

Please note that the Board voted on the resolution at the general meeting following a discussion of the project at the Land Use Committee meeting. It was at the Land Use Committee meeting that questions of substantial weight were asked, primarily around enforceability of requirements beyond those included in existing zoning regulations for elements like the manufacturing space proposed for the ground floor of this site. While we understand that this application does fit within the M-CROWN framework presented to the Dept. of City Planning by 1) bringing 16 units of affordable housing to the area, and 2) committing to providing space for designated M-CROWN type uses, we have potential concerns with the application, specifically that R7D zoning permits buildings larger than the M-CROWN proposal for the designated Mixed Use Subzone, and also the lack of oversight to enforce the developers' intention to devote up to 25% of the ground floor commercial space to M-CROWN uses. Out of such concerns came the aforementioned resolution in an effort to create a firm and durable restrictive covenant to hold the developer accountable should they decide to rescind their promises.

It is necessary to detail that while the Board's appointed members supported the resolution at the meeting, there were a number of community residents that asked that their reservations regarding the project be put into the Board's official letter. Their hesitancy is due to concerns that the Board is not receiving firm, required, and durable assurances and sufficient benefits to support such a large up-zoning, especially considering that the M-CROWN subcommittee recently reduced the bulk zoning of the M-CROWN proposal from R7D as presented in this plan to a lower FAR envelope of R7A. It was explicitly stated that this application and any subsequent approval is antithetical to the specific parameters of the zoning requested by Brooklyn CB 8 and its MCROWN subcommittee, and consequently can have much broader long-term negative impacts that might not have been fully evaluated in the short turn-around between the Land Use Committee meeting and the Board meeting, at which time the resolution was presented.

As such, we are hopeful that, should the ULURP Application be approved, Majority Leader Cumbo and the City Planning Commission will write the resolution into their determinations to add the restrictive covenant that will provide baseline protections for the Board as it relates to this project. We believe that should this be written into the determination, it will send the message to this and future developers that BK CB 8 is aware of potential deleterious changes in the name of progress in our community, but that we are willing to negotiate in the best interests of our residents

provided we have assurances that agreements made during presentations remain in effect in perpetuity.

We thank you for the opportunity review the application as our residents will have to contend with any ramifications of the re-zoning. If you have any questions, comments, or concerns, please do not hesitate to contact us.

Sincerely,

A handwritten signature in black ink, appearing to read "Ethel Tyus". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Ethel Tyus  
Chairperson

cc: Borough President Eric Adams

---



### Email/Fax Transmittal

|  |   |
|--|---|
| <b>TO:</b><br>Brooklyn Community District 8 Distribution   | <b>FROM:</b><br>Brooklyn Borough President Eric Adams   |
| <b>DATE: January 2, 2020</b>   | <b>CONTACT:</b><br>Inna Guzenfeld – Land Use Coordinator<br>Phone: (718) 802-3754<br>Email: inna.guzenfeld@brooklynbp.nyc.gov |
| <b>ULURP Recommendation:</b><br>GRAND AVENUE AND PACIFIC STREET REZONING –<br>190256 ZMK, 190257 ZRK | <b>NO. Pages, Including Cover: 15</b>   |

Attached is the recommendation report for ULURP application 190256 ZMK, 190257 ZRK. If you have any questions, please contact Inna Guzenfeld at (718) 802-3754.

#### Distribution

| NAME                     | TITLE   | OFFICE         | EMAIL                          |
|--------------------------|---|----------------|--------------------------------|
| <b>Marisa Lago</b>       | Chair, City Planning Commission (CPC)                               | (212) 720-3356 | ygruel@planning.nyc.gov        |
| <b>Corey Johnson</b>     | Speaker, City Council   | (212) 564-7557 | speakerjohnson@council.nyc.gov |
| <b>Winston Von Engel</b> | Director, Brooklyn, New York City Department of City Planning (DCP) | (718) 780-8280 | wvoneng@planning.nyc.gov       |
| <b>Alex Sommer</b>       | Deputy Director, Brooklyn, DCP                                      | (718) 780-8271 | asommer@planning.nyc.gov       |
| <b>James Merani</b>      | Director, Land Use Review, DCP                                      | (212) 720-3356 | jmerani@planning.nyc.gov       |
| <b>Raju Mann</b>         | Director, Land Use Division, City Council                           | (212) 788-7207 | rmann@council.nyc.gov          |
| <b>Amy Levitan</b>       | Land Use Division, City Council                                     | (212) 788-7207 | alevitan@council.nyc.gov       |
| <b>Laurie Cumbo</b>      | Council Member, District 35   | (718) 260-9191 | lcumbo@council.nyc.gov         |
| <b>Ethyl Tyus</b>        | Chair, Brooklyn Community Board 8 (CB 8)                            | (718) 467-5574 | brooklyncb8@gmail.com          |
| <b>Michelle George</b>   | District Manager, CB 8  | (718) 467-5574 | brooklyncb8@gmail.com          |
| <b>Richard Lobel</b>     | Applicant's Representative, Sheldon Lobel, P.C.                     | (212) 725-2727 | rlobel@sheldonlobelpc.com      |
| <b>Richard Bearak</b>    | Director, Land Use, BBPO  | (718) 802-4057 | rbearak@brooklynbp.nyc.gov     |

**Brooklyn Borough President Recommendation**  
CITY PLANNING COMMISSION  
120 Broadway, 31<sup>st</sup> Floor, New York, NY 10271  
[calendaroffice@planning.nyc.gov](mailto: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 #:** GRAND AVENUE AND PACIFIC STREET REZONING – 190256 ZMK, 190257 ZRK

An application submitted by EMP Capital Group pursuant to Sections 197-c and 201 of the New York City Charter for the following actions: A zoning map amendment to change corner portions of two blocks fronting Grand Avenue and both sides of Pacific Street from M1-1 to R7D, and establish a C2-4 commercial overlay within the proposed rezoning area, and a zoning text amendment to establish a Mandatory Inclusionary Housing (MIH) area contiguous with the rezoning boundaries, in Brooklyn Community District 8 (CD 8). Such actions would facilitate the development of 979-985 Pacific Street, a nine-story, approximately 56,000 square-foot (sq. ft.) mixed commercial and residential building with 64 dwelling units, of which 16 would be permanently affordable to households at an average of 60 percent Area Median Income (AMI), pursuant to MIH Option 1.

COMMUNITY DISTRICT NO. 8

BOROUGH OF BROOKLYN

**RECOMMENDATION**

APPROVE  
 APPROVE WITH  
MODIFICATIONS/CONDITIONS

DISAPPROVE  
 DISAPPROVE WITH  
MODIFICATIONS/CONDITIONS

SEE ATTACHED

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

January 2, 2020

\_\_\_\_\_  
DATE

**RECOMMENDATION FOR: GRAND AVENUE AND PACIFIC STREET REZONING – 190256 ZMK, 190257 ZRK**

EMP Capital Group submitted applications pursuant to Sections 197-c and 201 of the New York City Charter for the following actions: A zoning map amendment to change corner portions of two blocks fronting the east side of Grand Avenue and both sides of Pacific Street from M1-1 to R7D, and establish a C2-4 commercial overlay within the proposed rezoning area, and a zoning text amendment to establish a Mandatory Inclusionary Housing (MIH) area contiguous with the rezoning boundaries, in Brooklyn Community District 8 (CD 8). Such actions would facilitate the development at the northeast corner of Grand Avenue at Pacific Street, with a nine-story, approximately 56,000 square-foot (sq. ft.) mixed commercial and residential building with 64 dwelling units, of which 16 would be permanently affordable to households at an average household income of 60 percent Area Median Income (AMI), pursuant to MIH Option 1.

On November 13, 2019, Brooklyn Borough President Eric Adams held a public hearing on these applications. There were two speakers on the item, both in opposition, including a representative of 32BJ Service Employees International Union (SEIU) who asked that Borough President Adams urge the applicant to commit to providing prevailing-wage jobs, and an affordable housing activist who argued that the project would be beyond the reach of households at lower AMIs, while citing a need to house the homeless and working class families.

Representatives of Borough President Adams noted that Brooklyn Community Board 8 (CB 8) has updated its M-Crown zoning recommendations for the M1-1 district, based on the New York City Department of City Planning (DCP) M-Crown framework, which contains the proposed rezoning.

In response to Borough President Adams' inquiry regarding CB 8's recommendations for the M-Crown area, and how the requested zoning district and extent of the envisioned use are consistent with the board's vision, the representative stated that the M-Crown subcommittee has designated this block south of Atlantic Avenue along Grand Avenue as mixed-use sub-area, and called out the following priorities in its resolution: ground-floor commercial use, bulk floor area ratio (FAR) between 4.0 and 5.0, and affordability in accordance with MIH guidelines. The representative noted that the requested zoning, which pairs an R7D district with a C2-4 overlay, would mandate a non-residential ground floor, that more than 2,000 sq. ft. of the proposed 8,000 sq. ft. ground floor would be reserved for M-Crown uses, and that such set aside is above what the CB 8 Land Use Committee has sought to require for Grand Avenue properties. The representative reiterated that the project would be using MIH Option 1, which provides for deeper affordability.

Borough President Adams noted that last year, CB 8 disapproved the ULURP application for 1010 Pacific Street, which proposed an upzoning from M1-1 to R7D on the grounds that such height and bulk was excessive for the area. Furthermore, the City Planning Commission (CPC) and, ultimately, the City Council, modified the requested R7D district to R7A.

In response to Borough President Adams' inquiry as to why, given the board's position, it was deemed appropriate to seek R7D zoning for this development, the representative clarified that 1010 Pacific Street's location mid-block and within a mixed-use sub-area merited a lower-density district. The representative noted that the M-Crown subcommittee's recommendations attached higher potential FAR to properties along Grand Avenue. The representative further argued that the proposed development's corner location on Grand Avenue and Pacific Street and strong visual connection to Atlantic Avenue imply a certain prominence that justifies additional bulk.

In response to Borough President Adams' inquiry as to what guarantees that the represented building height, ground-floor occupancy, and the allowable uses in the 2,000 sq. ft. of dedicated

space intended for M-CROWN uses, the representative expressed awareness of the different mechanisms proposed by CB 8's Land Use Committee. The applicant noted that it would be possible to record a restrictive declaration and that tenants being contemplated for the commercial ground floor fit the board's definition of M-Crown uses.

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 the development would contain 13 studios, 35 one-bedroom units, and 16 two-bedroom units. At 60 percent AMI, the qualifying incomes would range from \$44,820 for a studio, to \$57,660 for a two-bedroom unit, with rents ranging from \$856 for a studio to \$1,309 for a two-bedroom apartment. The representative noted that under MIH Option 1, 10 percent of units are required to be affordable at 40 percent AMI, with qualifying incomes of \$29,880 (for a studio) to \$38,440 (for a two-bedroom unit), and rents of \$535 to \$828 for the same.

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 8, and whether the applicant's marketing strategy would include a financial literacy campaign to assist local residents in becoming lottery-eligible, the representative stated that following discussions with City Council Member and Majority Leader Laurie A. Cumbo, the applicant has begun outreach to IMPACCT Brooklyn and NHS Brooklyn. Once the administering agent has been selected, the applicant would discuss strategies to attract rent-burdened households and maximize the percentage of CB 8 residents, as well as financial literacy and lottery eligibility.

In response to Borough President Adams' inquiry regarding the incorporation of sustainable features such as passive house design, New York City Department of Environmental (DEP) rain gardens, and wind turbines, the representative stated that the building would have an extensive high-performance roof with water detention capabilities, and referenced new legislation that will require green roofs and/or solar panels on new developments. The representative expressed willingness to study installing rain gardens in the building's sidewalks.

In response to Borough President Adams' inquiry regarding the inclusion and participation of locally-owned business enterprises (LBEs) and women-owned business enterprises (MWBEs) in the construction process, the representative stated that the applicant looks forward to engaging LBE and MWBE firms to maximize their involvement in the development. The representative noted that the applicant's previous projects have had a high percentage of such contracts, and that, as the developer, intends to seek 421-a relief, which will carry additional stipulations for MWBE hiring.

### **Consideration**

On November 14, 2019, CB 8 disapproved this application with the following conditions: That the rezoning area be limited to the applicant's property, and if not possible, that the non-applicant lots be zoned to R7A/C2-4, and that the applicant make a binding commitment to: 1) allocate a FAR of at least 0.25 FAR in the commercial ground floor to M-Crown uses, in perpetuity, and 2) limit the proposed development's height to nine stories. The board also expressed concern about the inability to enforce the provision of the represented 0.25 FAR of manufacturing space.

The applicant's property consists of an unimproved 10,000 sq. ft. corner lot, with approximately 100 feet of frontage along Grand Avenue and 100 feet of frontage on Pacific Street. The property is currently utilized as a parking lot. The applicant seeks to rezone this lot, along with four others and part of a fifth located across Pacific Street, from M1-1 to an R7D/C2-4 district, and establish

an MIH area coterminous with the rezoning boundary. The non-applicant properties, which together comprise approximately 10,000 sq. ft., consist of three vacant lots ranging in size from 1,031 to 5,500 sq. ft., part of an adjacent 33,415 sq. ft. lot, and two residential buildings, 958 Pacific Street, which contains three dwelling units, and 960 Pacific Street, which is vacant. With the exception of the 5,500 sq. ft. lot, all of the properties have frontage on Pacific Street.

The surrounding context includes a vibrant mix of commercial, industrial, and residential uses, located within an M1-1 zone bordered by Atlantic Avenue to the north and Bergen Street to the south. 1000 Dean Street, a 150,000 sq. ft. historic building that was renovated in 2014 to house a mix of commercial uses and a ground-floor food hall, is located two blocks away from the project site. Most buildings in the M1-1 zone range from one to four stories and typical uses include offices and warehouses. There are numerous unimproved lots, utilized primarily for open storage.

This M1-1 district contains CB 8's M-Crown study area, which emerged from the 2013 Crown Heights West rezoning and a 2015 CB 8 resolution calling on the DCP to establish a zoning framework for the area. The board found an urgent need for affordable housing and jobs within CD 8, coupled with a high rate of underutilized and vacant properties in the M1-1 zone. The M-Crown plan treats the M1-1 district as an opportunity zone and seeks to increase available density for commercial/manufacturing uses, mixed with residential floor area on certain blocks. Its strategies include using market rate office, residential, and retail development to cross-subsidize affordable housing and creative artisanal and maker economy work spaces. It also seeks affordability levels based on the median income for CD 8 and maximizing potential for living wage jobs. With regard to job creation, the M-Crown planning framework seeks to grow and retain creative artisanal and maker economy jobs, while fostering a wide range of employment categories, including eating and drinking establishments, entertainment, hotels, medical, office, and retail uses.

In 2018, Borough President Adams reviewed two Uniform Land Use Review Procedure (ULURP) applications within the M-Crown area: 1010 and 1050 Pacific Street. 1010 Pacific Street sought a similar rezoning from M1-1 to R7D/C2-4 to enable a mixed-use, 11-story building with 154 dwelling units and affordability pursuant to MIH Option 1. Borough President Adams disapproved the application and recommended that CPC and/or the City Council modify the zoning to R7A. The application was ultimately approved with that reduction in bulk and height. 1050 Pacific Street sought a rezoning from M1-1 to M1-4/R7A to enable an eight-story mixed-use building with 103 dwelling units and affordability pursuant to MIH Option 2. CB 8 approved the application with conditions, and Borough President Adams concurred. The City council adopted the rezoning as proposed.

The intended development on the north side of Pacific Street at 979-985 Pacific Street was represented to have a total floor area of approximately 56,000 sq. ft., including 47,600 sq. ft. of residential use and an 8,400 sq. ft. commercial ground floor. While R7D zoning permits up to 11 stories, the applicant seeks to construct an eight-story building, with a base height of 60 feet, a maximum height of 100 feet, and a 10-foot setback at the sixth floor.

Borough President Adams supports the development of underutilized land for productive uses that address the City's need for additional affordable housing. The proposed development 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," as modified in 2017. It is Borough President Adams' policy to support the development of affordable housing and seek for such housing to remain "affordable forever," wherever feasible.

According to MIH Option 1, the development rights generated from the R7D section of the site would result in, at minimum, 25 percent of the residential zoning floor area made permanently affordable according to MIH, resulting in approximately 16 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.

The MIH program provides opportunities to address the need for housing targeted to a broad range of incomes, consistent with Borough President Adams' objective to ensure affordable housing for households at various AMI tiers. Borough President Adams supports developments that allow low- and middle-income households to qualify for units through the City's affordable housing lottery. The redevelopment of 979-985 Pacific Street would target apartments to households at multiple income tiers, which would remain affordable in perpetuity according to MIH.

Borough President Adams believes that it is appropriate to zone for increased density in proximity to public transportation. The development site would be accessible via the Long Island Rail Road (LIRR), New York City Transit (NYCT) subways, and several bus lines. The closest subway station, Franklin Avenue, is served by the Eighth Avenue Express A and Local C trains, as well as the Franklin Avenue Shuttle. The LIRR stops at Nostrand Avenue, approximately five blocks east of the site. Nearby buses include the B48, which travels along Classon Avenue, and the B65, which runs along Bergen and Dean streets.

Borough President Adams is generally supportive of the proposed development at 979-985 Pacific Street. However, he believes that the proposed rezoning would result in excessive density and height in the district. While the applicant has stated intent to build nine stories, there is currently no mechanism to ensure that the development conforms to such expressed height. Moreover, if the non-applicant properties fronting Pacific Street are rezoned to R7D MIH, future buildings on these sites could rise to 11 stories, as-of-right. In addition to appropriate zoning and density, Borough President Adams supports the interest of CB 8 to: secure a portion of the ground floor for mid-block M-Crown uses; memorialize a percentage of apartment types suited to families; maximize community participation to obtain the affordable units, including senior households; incorporate resilient and sustainable measures; advance Vision Zero policies to improve pedestrian safety; incorporate rat baiting measures; and achieve a high level of local hiring for the project's construction. Finally, he calls on the applicant to provide high-quality building service jobs at 979-985 Pacific Street.

### **Appropriate Zoning and Density**

The proposed R7D/C2-4 MIH zoning permits development of up to 5.6 FAR. When paired with commercial overlays, R7D districts mandate the provision of non-residential uses on the ground floor. As a result, up to 5.0 FAR could be set aside as residential floor area with the requirement that much of the floor area within 30 feet of the street wall be reserved for non-residential use. The R7D FAR would exceed CB 8's M-Crown floor area guidelines, which envision greater residential density along the north-south corridors, as opposed to the mid-blocks, though with a total FAR of 5.0, which breaks down to 4.6 residential FAR, with an additional 0.4 preferential FAR made available for the provision of required non-residential ground floor use. This would be achieved with R7A MIH zoning, which permits a maximum of 4.6 FAR for residential use, and a maximum height of 95 feet (nine stories).

The M-Crown framework seeks to encourage and/or mandate non-residential use, based on a list of defined M-Crown uses, through a combination of preferential FAR and mandatory ground floor area placement, tied to various sub-areas in the district. Where the sub-areas would allow residential use, such development would be pursuant to MIH, and incorporate ground-floor non-residential use consistent with a Special Enhanced Commercial Districts (SECD). For mixed-use area mid-blocks, the framework mandates the provision of M-Crown required uses, though restrictions on permitted

uses within a specific distance from the building's street wall (also consistent with SECDs). These guidelines would yield mid-block ground-floor uses with one or more of the following: arts and cultural uses, community facilities such as medical offices, light industrial applications, and studios for the creative arts. For the ground-floor use along the avenues, the guidelines stipulate permitted uses in commercial overlay districts (other than residential use), while also allowing specific commercial and manufacturing uses.

The proposed R7D zoning would exceed both M-Crown bulk and residential floor area guidelines, and result in the possibility of a taller than envisioned structure at the intersection of two narrow streets. Though the non-binding height represented is generally consistent with that allowed according to an R7A district MIH, as zoning in itself does not mandate a commitment that the developer would not exceed the represented nine stories. R7D MIH zoning permits up to 11 stories, and a maximum height of 115 feet with a qualifying ground floor. Furthermore, if the requested zoning were approved for the lots on the south side of Pacific Street, the applicant would have no means or mechanism to bind these properties to not exceed nine stories.

The R7D MIH district and its Voluntary Inclusionary Housing (VIH) density equivalent, has been typically established concurrently with transit corridors and wide streets in Brooklyn. R7D zoning has been mapped along the Fulton Street subway corridor, the Myrtle Avenue bus corridor, and in proximity to subway service in CD 3, as part of the Special Coney Island District (SCID) in CD 13, and in proximity to the Broadway Junction and New Lots Avenue stations, as well as opposite the Brownsville Recreation Center in CD 16. More recently, an R7D district was established along a very wide section of Park Avenue in CD 2. At a width of 70 feet, both Grand Avenue and Pacific Street are defined in the New York City Zoning Resolution (ZR) as narrow streets, and are not located in proximity to subway service (though the site is in a ZR-defined transit zone). Therefore, Borough President Adams believes that the proposed density and height, pursuant to R7D zoning, are not generally appropriate for this block without compelling additional benefit.

Borough President Adams generally concurs with CB 8's recommendation that R7A MIH would be more appropriate zoning for these block corners at Grand Avenue and Pacific Street. An R7A MIH district would ensure that appropriate height, with up to 4.6 FAR in a configuration not exceeding nine stories (95 feet). However, he acknowledges that without subsequent application of zoning tools consistent with the M-Crown framework for short end-of-the-block sections, an R7A/C2-4 MIH zoning district would not ensure the inclusion of non-residential floor area in subsequent development. Unlike R7D districts, R7A districts overlaid with commercial zones do not require non-residential use on the ground floor.

As proposed, the property at the northeast corner of Grand Avenue and Pacific Street would provide approximately 8,400 sq. ft. of commercial ground floor. Though the applicant has stated intent to lease one quarter of such space to uses consistent with the M-Crown framework for mid-block required floor area, such representation has not been memorialized. R7D zoning in itself merely requires ground-floor non-residential occupancy along the Grand Avenue and Pacific Street frontages. While such non-residential floor area would be consistent with the M-Crown framework along the avenues, provision of non-residential uses permitted in C2-4 zoning districts would not, in itself, warrant an exception to the framework's floor area and height guidelines.

However, with the applicant's representation of providing M-Crown mid-block mandated uses for a significant portion of the ground floor, such non-residential floor area could be used to realize additional public benefit through the accommodation of local non-profit organizations, including

arts and cultural groups. Such entities require affordable space to grow their operations, but often cannot compete with retail tenants who would pay higher rents at this location, and/or other M-Crown mid-block desired commercial uses.

CB 8 has deemed R7D appropriate for the block portion north of Pacific Street if the height would not exceed nine stories and ground floor would include 0.25 FAR for M-Crown mid-block required use. In this scenario, of the additional 1.0 FAR that R7D MIH allows over R7A MIH, according to MIH Option 1, a total of 0.5 FAR would be realized as a public benefit, including 0.25 through the provision of affordable housing, and 0.25 FAR reserved for M-Crown use through a binding commitment. While such density, height, and public benefit were envisioned at this location, Borough President Adams believes that if the property owner provided a binding commitment to not exceed R7A MIH height and guarantee provision of M-Crown floor area, the proposed R7D/C2-4 district would merit further consideration. As it is not possible to secure such public benefit for the block corner south of Pacific Street, R7A/C2-4 zoning for the non-applicant lots would be more in keeping with the M-Crown framework, despite lacking the tools to mandate non-residential ground-floor use along the Grand Avenue and/or Pacific Street frontage. Nevertheless, Borough President Adams believes that there can be means to ensure a commercial ground floor, including M-Crown uses, with a more appropriate, lower-density district than what has been proposed.

Therefore, in lieu of the proposed R7D district, the CPC and/or the City Council should not consider changing the existing M1-1 to R7D/C2-4 as R7A/C2-4 would be more appropriate. However, should the City Council be provided with adequate documentation that the applicant, EMP Capital Group, has made a binding commitment subject to the establishment of R7D zoning, in writing, to allocate the following: At least 0.25 FAR for the commercial ground floor to CB 8-identified "M-CROWN framework uses," specifically, UGs 3, 4, 7B, 7D, 8B, 9A (limited to caterers, laboratories, printers, studios), 10A (limited to photographic or motion picture production studios, and radio or television studios), 11, 12B (limited to commercial art galleries), 16B, 16D (excluding self-service storage facilities), 17A, 17B, and 18A (limited to beverages, alcoholic or breweries) where such commitment includes mechanisms for monitoring and enforcement, survives any transfer of ownership for the subject property, and further commits the EMP Capital Group to limit the proposed development's height to nine stories, it should consider approving an R7D district for the proposed rezoning area north of Pacific Street.

### **Bedroom Mix**

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

979-985 Pacific Street would contain 64 dwelling units, of which 16 would be affordable to households earning an average income of 60 percent AMI. However, with 75 percent of the units planned as studio and one-bedroom apartments, the development's bedroom mix is too heavily weighted toward non family-sized units.

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

Borough President Adams also believes that discretionary land use actions are appropriate opportunities to advance policies that constrain what would otherwise be permitted as-of-right.

The ZR allows for at least 50 percent of the affordable housing units to contain two or more bedrooms, and at least 75 percent of the affordable housing units to contain one or more bedrooms. For this building it is important to mandate, based on the average rent set as affordable to households earning 60 percent AMI, that the developer provide affordable housing pursuant to ZR 23-96(c)(1)(ii). This would require at least 50 percent of the units to be two- or three-bedrooms and at least 75 percent of the units to be one or more bedrooms.

Therefore, prior to considering the application, the City Council should obtain commitments, in writing, from the developer, EMP Capital Group, that clarify how it would memorialize a bedroom mix that is at least 50 percent two- or three-bedroom affordable housing units, and at least 75 percent affordable housing units with one or more bedrooms, but for studios targeted to households at up to 40 percent AMI.

### **Achieving Deeper Affordability for Senior Households**

In addition to addressing the need for family-sized units, there is a pressing need for affordable apartments for the aging population, many of whom have limited financial means. Older New Yorkers are a rapidly growing segment of the city's population, with more than 300,000 seniors residing in Brooklyn alone. As noted in DCP's "Zoning for Quality and Affordability" (ZQA) study, New York's senior population is expected to grow 40 percent by 2040. According to the study, there were 60 applicants for every apartment in lotteries conducted by the New York City Department of Housing Preservation and Development (HPD) for senior housing developments. A recent study by LiveOn NY found that there are 200,000 New Yorkers aged 62 and older on the City's affordable housing waiting lists, with an average wait of seven years.

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

While Borough President Adams typically seeks a 50/50 blend of studios, one-bedrooms, two-bedrooms, and three-bedrooms, he believes that when studio and one-bedroom apartments are rented at 40 percent AMI or below, such apartments might be more affordable to senior households. Therefore, it is acceptable to set aside a portion of the units equal to or greater than 50 percent for studios and one-bedrooms. Additionally, Borough President Adams believes that there are appropriate means to assist senior citizen households in becoming eligible for the affordable housing lottery. With such efforts, it is reasonable to expect that a greater share of such apartments would be awarded to senior households.

Therefore, prior to considering the application, the City Council should obtain commitments in writing from EMP Capital Group clarifying the extent that it would conduct outreach as a means to maximize participation in the affordable housing lottery and provide opportunities for senior households, including those that are formerly homeless.

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

The ZR requires inclusionary housing units to be overseen by a non-profit administering agent, unaffiliated with the for-profit developing entity, except when otherwise approved by HPD. Such administering non-profit becomes responsible for ensuring that the affordable housing remains in

accordance with its regulatory agreement, which governs the development's affordable housing plan. These tasks include verifying a prospective tenant household's qualifying income, and approving the rents of such affordable housing units. The administering non-profit is responsible for submitting an affidavit to HPD attesting that the initial lease-up of the affordable housing units is consistent with the income requirements, as well as following up with annual affidavits to ensure compliance.

It is Borough President Adams' policy to advocate for affordable housing non-profits to play a contributing role in maximizing community participation in neighborhood affordable housing opportunities, including serving as non-profit administering agents for new developments involving affordable housing. Borough President Adams recognizes that CD 8 is served by several non-profit housing advocates such as the Fifth Avenue Committee (FAC), IMPACCT Brooklyn, the Mutual Housing Association of New York (MHANY), and NHS Brooklyn, all of which have proven track records of marketing affordable housing units and promoting affordable housing lottery readiness through educational initiatives.

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

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

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

In the fall of 2019, the City Council passed Local Laws 92 and 94, which require that newly constructed roofs, as well as existing roofs undergoing renovation (with some exceptions) incorporate a green roof and/or a solar installation. The laws further stipulate 100 percent roof coverage for such systems, and expand the City's highly reflective (white) roof mandate.

Furthermore, Borough President Adams believes it is appropriate for the developer to engage 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.

As part of his flood resiliency policy, Borough President Adams 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. He 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. Where it is not advisable to remove existing street trees, there would be opportunity for street tree pit enhancements to realize enhanced stormwater retention benefits while including more plantings, which would increase infiltration at this location and also make the site more pleasant for its users. In addition, blue/green roofs, permeable pavers, and rain gardens (including street tree pit enhancements) would help divert stormwater from the City's water pollution control plants.

The required Builders Pavement Plan for the proposed development provides an opportunity to incorporate DEP rain gardens along the site's Grand Avenue and Pacific Street frontages. The ZR requirement to plant street trees results in the provision of shade on days of excessive heat, as well as other aesthetic, air quality, and enhanced stormwater retention benefits. It should be noted that a rain garden would require a maintenance commitment and attention from the landlord. Maintenance includes cleaning out debris and litter that can clog the inlet/outlet and prevent proper water collection, regular inspection to prevent soil erosion, watering during dry and hot periods, and weeding to keep the plants healthy and uncongested for proper water absorption. However, the implementation of rain gardens could help advance DEP green water/stormwater strategies, enhancing the operation of the Red Hook Wastewater Treatment Plant during wet weather. Such rain gardens have the added benefit of serving as a streetscape improvement.

Borough President Adams believes that EMP Capital Group should consult with DEP, the New York City Department of Transportation (DOT), and the New York City Department of Parks and Recreation (NYC Parks) for consideration regarding the inclusion of a rain garden with integration of street trees as part of a Builders Pavement Plan. Where the agencies have interest in implementing an enhancement, consultation should be initiated with CB 8 and local elected officials prior to agreeing to take action.

Therefore, prior to considering the application, the City Council should obtain commitments, in writing, from the applicant, EMP Capital Group, clarifying how it would memorialize integrating resiliency and sustainability features. The City Council should further seek demonstration of EMP Capital Group's commitment to coordinate with DEP, DOT, and NYC Parks regarding the installation of DEP rain gardens as part of a Builders Pavement Plan, for development site intersections in consultation with CB 8 and local elected officials.

### **Advancing Vision Zero Policies**

Borough President Adams is a supporter of Vision Zero strategies, which includes extending sidewalks into the roadway to shorten 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 in Brooklyn. 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.

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 northeast corner of intersection of Grand Avenue and Pacific Street. Any design of such curb extension would need to be reviewed and signed off by the DOT as part of the Builders Pavement Plan. The developer's consultant would need to work with the agency on the change alignment to finalize a curb alignment waiver. It would be expected that DOT would work with the New York City Department of Buildings (DOB) to alert them to this request before DOB would issue any signoff.

Borough President Adams recognizes that the costs associated with 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 DOT to explore the implementation of either protected painted sidewalk extensions defined by a roadbed surface treatment or sidewalk extensions as part of the Builders Pavement Plan. If the implementation meets DOT's criteria, the agency should enable EMP Capital Group to undertake such improvements after consultation with CB 8, as well as local elected officials, as part of its Builders Pavement Plan. Where that is not feasible, as the 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 EMP Capital Group to commit to such maintenance as an ongoing obligation.

Therefore, prior to considering any rezoning, the City Council should seek a demonstration from EMP Capital Group of their implementation of CROSS Brooklyn in coordination with 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 intersection of Grand Avenue and Pacific Street. Furthermore, DOT should confirm that implementation will not proceed prior to consultation with CB 8 and local elected officials.

**Implementing a Rat Mitigation Plan in and Around the Development Site to Address Known Infestation Issues in Crown Heights North**

In Crown Heights North and surrounding neighborhoods, new construction has disturbed rat colonies and dens, creating a public health and quality-of-life issue for local residents. In recent months, Borough President Adams met with those living in the vicinity of the nearby Pacific Park development to observe the problem firsthand. He has since engaged City Council representatives on proposed legislation that would enforce rat abatement standards during construction phases when rat colonies and their dens are most likely to be disturbed. These include site preparation activities such as borings and drilling followed by excavation, underpinning, and preparation for pouring concrete foundations and footings. Borough President Adams hopes that City Council involvement will lead to certification of rat abatement mitigation procedures at multiple stages of development projects.

However, as such standards are not in place today, Borough President Adams believes that it is appropriate to utilize his advisory role in the ULURP process to secure rat abatement mitigation procedures in order to minimize quality-of-life issues for the development's Crown Heights North and Prospect Heights neighbors. Without adequate abatement and mitigation measures, demolition and excavation at 979-985 Pacific Street may create ground disturbances that exacerbate existing rodent problems in the area. Therefore, Borough President Adams urges the developers to create a rat mitigation strategy including, but not limited to, a robust baiting plan, rat-related enforcement measures, and other pest control measures in and around the proposed development site.

Borough President Adams believes that EMP Capital Group should commit to a rat mitigation plan implemented prior to and during demolition that includes site excavation and foundation preparation, in consultation with CB 8 and local elected officials.

### **Jobs**

Borough President Adams is concerned that too many Brooklyn residents are currently unemployed or underemployed. It is his policy to promote economic development that creates more employment opportunities. According to the Furman Center's "State of New York City's Housing and Neighborhoods in 2017," double-digit unemployment remains a pervasive reality for several of Brooklyn's neighborhoods, with more than half of the borough's community districts experiencing poverty rates of nearly 20 percent or greater. Prioritizing local hiring would assist in addressing this employment crisis. Additionally, promoting Brooklyn-based businesses, including those that qualify as LBEs and MWBEs, is central to Borough President Adams' economic development agenda. This site provides opportunities for the developer to retain a Brooklyn-based contractor and subcontractor, especially those who are designated LBEs consistent with Section 6-108.1 of the City's Administrative Code, and MWBEs who meet or exceed standards per Local Law 1 (no less than 20 percent participation).

Borough President Adams believes that prior to considering the application, the City Council should obtain commitments in writing from the applicant, EMP Capital Group, to memorialize retention of Brooklyn-based contractors and subcontractors, especially those who are designated LBEs consistent with Section 6-108.1 of the City's Administrative Code and 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.

### **Prevailing Wages and Local Hiring for Building Service Workers**

Jobs within the building service and industrial sector have long served as a pathway to middle-class living for lower-income individuals, including immigrants and people of color. Like industrial jobs, building service jobs have low barriers to entry and real career prospects. When compensated at prevailing wage standards, such jobs provide average wages twice that of the retail sector. Additionally, building service opportunities are often filled through local hiring.

Borough President Adams believes that it is appropriate to advocate for economic opportunities that allow families to remain in their neighborhoods, by securing sufficient income to alleviate their rent burdens. He further believes that building service positions often result in locally-based employment. Therefore, Borough President Adams strongly encourages EMP Capital Group to commit to hiring locally for building service jobs and paying prevailing wages to this workforce.

### **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 disapprove this application with the following conditions:

1. That in lieu of the proposed R7D district, the City Council and/or CPC either:
  - a. Change the existing M1-1 to R7A/C2-4, though the City Council may consider approving an R7D district for the proposed rezoning area north of Pacific Street, provided that the applicant, EMP Capital Group, provides commitments, in writing, clarifying how it would:

Make a binding commitment to allocate a floor area ratio (FAR) of at least 0.25 for the commercial ground floor to uses identified by Brooklyn Community Board 8 (CB 8) as "M-CROWN uses," specifically, use groups (UGs) 3, 4, 7B, 7D, 8B, 9A (limited to caterers, laboratories, printers, studios), 10A (limited to photographic or motion picture production studios, and radio or television studios), 11, 12B (limited to commercial art galleries), 16B, 16D (excluding self-service storage facilities), 17A, 17B, and 18A (limited to beverages, alcoholic or breweries)

- i. That said commitment would include mechanisms for monitoring and enforcement, and
  - ii. That said commitment would survive any transfer of ownership for the subject property
  - iii. Commit to limiting the height of the proposed development to nine (9) stories
2. That prior to considering the application, the City Council obtain commitments in writing from the applicant, EMP Capital Group, that clarify how it would:
- a. Memorialize a bedroom mix having at least 50 percent two- or three-bedroom affordable housing units, and at least 75 percent affordable housing units with one or more bedrooms, but for studios targeted to households at 40 percent AMI
  - b. Implement outreach efforts to assist senior households earning up to 40 percent AMI for single-person households, and 50 percent AMI for two-person households, as a means to maximize participation in the affordable housing lottery
  - c. 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
  - d. Explore the incorporation of additional resiliency and sustainability measures such as passive house design, rain gardens, and/or wind-turbines
  - e. Commit to constructing curb extensions as part of the Builders Pavement Plan in coordination with the New York City Department of Environmental Protection (DEP) and New York City Department of Transportation (DOT) or, if technically infeasible, commit to enter into a standard DOT maintenance agreement for protected painted treated roadbed sidewalk extensions, for the intersection of Grand Avenue and Pacific Street with the understanding that DOT implementation would not proceed prior to consultation with Brooklyn Community Board 8 (CB 8) and local elected officials
  - f. Implement a rat baiting plan prior to and during demolition including site excavation and foundation preparation, in consultation with CB 8 and local elected officials
  - g. Retain Brooklyn-based contractors and subcontractors, especially those who are designated local business enterprises (LBEs) consistent with Section 6-108.1 of the City's Administrative Code, and minority- and women-owned business enterprises

(MWBEs) as a means to meet or exceed standards per Local Law 1 (no less than 20 percent participation), as well as coordinate the oversight of such participation by an appropriate monitoring agency

Be it further resolved:

1. That EMP Capital Group commit to a building service workforce that is recruited from the local population and paid prevailing wages, with appropriate benefits.