



**IN THE MATTER OF** an application submitted by SUW 4 LLC pursuant to Sections 197-c and 201 of the New York City Charter for the amendment of the Zoning Map, Section No. 22d by:

1. changing from an R5 District to an R6 District property bounded by a line midway between 59th Street and 60th Street, Bay Parkway, 60th Street, and a line 100 feet northwesterly of Bay Parkway; and
2. establishing within the proposed R6 District a C2-4 District bounded by a line midway between 59th Street and 60th Street, Bay Parkway, 60th Street, and a line 100 feet northwesterly of Bay Parkway;

Borough of Brooklyn, Community District 12, as shown on a diagram (for illustrative purposes only) dated November 12, 2019 and subject to the conditions of CEQR Declaration E-554.

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This application for a zoning map amendment (C 190377 ZMK) was filed by SUW 4 LLC on April 11, 2019. This application, in conjunction with the related action (N 190378 ZRK), would facilitate the development of a nine-story, 47,500-square-foot mixed-use building with residential, commercial and community facility uses at 5914-5920 Bay Parkway in the Mapleton neighborhood of Brooklyn, Community District 12.

### **RELATED ACTIONS**

In addition to the zoning map amendment (C 190377 ZMK) that is the subject of this report, implementation of the proposed project also requires action by the City Planning Commission (CPC) on the following application, which is being considered concurrently with this application:

N 190378 ZRK            Zoning text amendment to designate a Mandatory Inclusionary Housing (MIH) area.

### **BACKGROUND**

The applicant seeks a zoning map amendment to change an R5 zoning district to an R6/C2-4 zoning district, and a zoning text amendment to establish an MIH area coterminous with the rezoning area. The development site, coterminous with the rezoning area, is located along Bay

Parkway between 59th and 60th streets, and consists of four vacant tax lots (Block 5515, Lots 43, 44, 45 and 46) totaling approximately 10,018 square feet of lot area.

The development site is located at the intersection of Bay Parkway and 60th Street, both major thoroughfares and wide streets. The applicant owns all four lots, each with approximately 2,500 square feet of lot area. The development site has approximately 100 feet of frontage on each street and a lot area of 10,018 square feet. It was previously improved with four single- and two-family homes, which were demolished in 2018. The site has been vacant since. The rest of the lots on this block contain two-to three-story detached and semi-detached one- and two-family homes. The development site is one block north of the area included in the 2005 Bensonhurst Rezoning (C 050296 ZMK). This 120-block rezoning was initiated by the Department of City Planning to preserve the existing scale and character of the predominantly low-rise residential community of Bensonhurst, which is bounded by Bay Parkway and 61st Street to the north, McDonald Avenue to the east, Avenue U to the south and Stillwell Avenue to the west. The rezoning replaced R5 and R6 residential districts with contextual zoning districts, including R4A, R4-1, R5B, R6A and R7A, replaced a C4-3 commercial district with a C4-2A contextual zoning district, and replaced C1-2, C1-3 and C2-2 commercial overlays with a C2-3 commercial overlay.

The area surrounding the development site is comprised of residential, commercial and community facility uses. The 100-acre Washington Cemetery is located two blocks to the north of the development site. The area to the north and west of the development site is predominantly comprised of two-story detached and semi-detached one- and two-family homes. Three-story multi-family walk-up buildings are located immediately adjacent to the development site along Bay Parkway, a 100-foot-wide corridor comprised of mixed-use buildings with ground floor retail and residences above, multi-family apartment buildings, one-story buildings with commercial uses and community facility buildings. The area to the east of the development site is predominantly comprised of one-story commercial buildings, which include auto body shops, showrooms, and building supply and wholesale establishments. Several community facilities are located to the south and east of the development site. A nine-story medical building is located immediately to the south across 60<sup>th</sup> Street. The Bishop Kearney High School and PS 226 are

located a block south of the development site. Saint Athanasius Church and Saint Athanasius Catholic Academy are located further south along Bay Parkway.

The development site is well served by public transit and located within the Transit Zone. The McDonald Avenue subway station is located a quarter-mile east of the development site and provides service to the F train, and the 63rd Street station is located half a mile to the southwest and provides service to the N train. The B6 bus, runs north-south along Bay Parkway and connects East New York and Bensonhurst. The B9 bus runs east-west along 60th Street and connects Bay Ridge to Marine Park. Both bus lines have stops across the street from the project area.

The development site is located within an R5 zoning district. R5 zoning districts are medium-density residential districts that allow residential and community facility uses. R5 zoning districts allow a maximum floor area ratio (FAR) of 1.25 for residential uses and 2.0 for community facility uses. In certain predominantly built-up R5 zoning districts, optional R5 infill regulations allow a maximum FAR of 1.65 on corner lots and a maximum FAR of 1.8 on interior and through lots for residential uses. For new buildings, R5 zoning districts allow a maximum street wall of 30 feet and a maximum building height of 40 feet after a setback of 15 feet.

The proposed actions would facilitate the development of a nine-story mixed-use building with 47,500 square feet of floor area with a total FAR of 4.75. This would include 6,200 square feet of commercial floor area (0.62 FAR) on the ground floor, 6,600 square feet of community facility floor area (0.66 FAR) on the second floor and 34,700 square feet of residential floor area (3.5 FAR) on the upper floors. The new building would contain 36 residential units, 11 of which would comply with Option 3 (Workforce Option) of the MIH program. The proposed development would have a base height of 65 feet, and rise to a total height of 95 feet after a 10-foot setback. There would be 25 enclosed parking spaces within the cellar. The curb cut for the parking facility would be located at the westernmost portion of the development site on 60th Street.

To facilitate the proposed development, the applicant is seeking a zoning map amendment and a zoning text amendment. The applicant seeks a zoning map amendment to change an R5 zoning district to an R6/C2-4 zoning district. R6 zoning districts are medium-density residential zoning districts that allow residential and community facility uses. R6 zoning districts allow a maximum FAR of 3.6 for residential uses and a maximum FAR of 4.8 for community facility (within developments complying with MIH). MIH buildings are required to comply with the quality housing requirements, which allow a maximum base height of 65 feet (six stories) and a total building height of 115 feet (11 stories). For quality housing developments, parking is required for 50 percent of market rate residential units and no parking is required for affordable units located within the Transit Zone.

A C2-4 district is a commercial overlay mapped with residential districts along streets that serve local retail needs. C2-4 districts allow a maximum FAR of 2.0 for a range of local retail and service-related uses, such as grocery stores, restaurants, beauty salons and laundromats. C2-4 commercial overlays require one parking space per 1,000 square feet of floor area. When mapped with residential zoning districts, commercial uses are limited to the first floor in mixed-use buildings.

The applicant also proposes a zoning text amendment to designate an MIH area coterminous with the development site. The MIH area would be mapped with Option 1, Option 2 and Option 3. Option 1 requires at least 25 percent of the residential floor area to be reserved for households with an average of 60 percent of the area median income (AMI) and no unit can be targeted to households exceeding 130 percent of the AMI. Option 2 requires at least 30 percent of the residential floor area to be reserved for households with an average of 80 percent of the AMI. No more than three income bands can be used to meet the required average of 80 percent of the AMI, and no income band can exceed 130 percent of the AMI. Option 3, the Workforce Option, requires 30 percent of the residential floor area to be reserved for households with an average of 115 percent of the AMI. No unit can be designated to residents with incomes above 135 percent of the AMI. At least five percent of the residential floor area must be used for households with an average income of 70 percent of the AMI, and an additional five percent of the residential

floor area must be used for households with an average income of 90 percent of the AMI. The applicant intends to pursue Option 3 for the proposed development.

### **ENVIRONMENTAL REVIEW**

This application (C 190377 ZMK), in conjunction with the application for the related action (N 190378 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 19DCP208K.

After a study of the potential environmental impact of the proposed actions, a Negative Declaration was issued on November 12, 2019.

### **UNIFORM LAND USE REVIEW**

In response to the COVID-19 pandemic, the Mayor issued Emergency Executive Order No. 100 on March 16, 2020 that suspended certain time requirements relating to the Uniform Land Use Review Procedure (ULURP) and other land use processes as of March 12, 2020. The suspension included portions of sections 195, 197-c and 197-d of the New York City Charter, as well as sections of the Administrative Code and the Rules of the City of New York, pertaining to time limitations. The CPC ceased meeting immediately after issuance of the Executive Order until August 3, 2020, when the regular schedule of meetings was resumed. The ULURP time requirements suspended by Emergency Executive Order No. 100 are expected to begin running by September 14, 2020.

This application (C 190377 ZMK) was certified as complete by the Department of City Planning on November 12, 2019 and was duly referred to Brooklyn Community Board 12 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 190378 ZRK), which was referred in accordance with the procedures for non-ULURP matters.

### **Community Board Public Hearing**

Community Board 12 held a public hearing on this application (C 190377 ZMK) on January 23, 2020 and, on January 28, 2020, by a vote of 29 in favor, one opposed and none abstaining, recommended approval with the condition “that the applicant provide additional parking spaces.” In response to Community Board's request, the applicant has proposed to provide 25 parking spaces, which is 10 spaces more than what is required by zoning.

### **Borough President Recommendation**

The Brooklyn Borough President held a public hearing on this application (C 190377 ZMK) on January 29, 2020, and on February 19, 2020, recommended approval with the following conditions:

“That prior to considering application, City Council obtain commitments in writing from the applicant, clarifying how it would:

- a. Memorialize a bedroom mix having at least 50 % two- or three-bedroom affordable housing units, and at least 75 % one or more one-bedroom affordable housing units
- b. Utilize a combination of locally-based affordable housing development non-profits to serve as administering agent, and having one or more such entities play a role in promoting affordable housing readiness
- c. Set aside a portion of non-residential space for arts/cultural entities and non-profit organizations at below market- lease terms, as warranted
- d. Memorialize the incorporation of resilience and sustainability measures, such as blue roofs, passive house design, and/or wind-turbines
- e. Retain Brooklyn-based contractors and subcontractors, especially those that are designated local business enterprises (LBEs) consistent with Section 6-108.1 of the City's Administrative Code, and MWBEs as means to meet or exceed standards per Local Law 1 (no less than 20% participation), as well as coordinate the oversight of such participation by an appropriate monitoring agency.”

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

On February 19, 2020 (Calendar No. 2), the CPC scheduled March 4, 2020 for a public hearing on this application (C 190377 ZMK) and the related action (N 190378 ZRK). The hearing was duly held on March 4, 2020 (Calendar No. 15). One speaker testified in favor of the application and none in opposition.

The applicant's land use attorney and the developer spoke in favor of the application. The land use attorney described the requested actions, the proposed development, and the surrounding area, including the retail and medical offices near the development site along Bay Parkway. There were no other speakers and the hearing was closed.

### **CONSIDERATION**

The CPC believes that this application for a zoning map amendment (C 190377 ZMK), in conjunction with the related application for a zoning text amendment (N 190378 ZRK), is appropriate.

Together the requested actions would facilitate a nine-story, 47,500-square-foot mixed-use building with 36 residential units, 11 of which would be permanently affordable, retail uses on the ground floor and community facility uses on the second floor.

The proposed rezoning to an R6/C2-4 zoning district would facilitate the redevelopment of a vacant site with a building that includes residential, commercial and community facility uses. The project area is located at the intersection of Bay Parkway and 60th Street, both major thoroughfares. The CPC notes that the existing zoning and land uses at the intersection of Bay Parkway and 60th Street are compatible with the proposed zoning district. The rezoning would facilitate extension of the existing R6 zoning district, currently south of 60<sup>th</sup> Street, across 60th Street. The CPC believes mapping a C2-4 commercial overlay rather than extending the adjacent C1-3 commercial overlay is appropriate. C2-4 commercial overlays have a lower parking requirement and allow a wider variety of local commercial uses than permitted in the C1-3 commercial overlay. The CPC believes that the proposed density is appropriate at the development site, as it is located at the intersection of two wide corridors, and is also well served by public transit.

The proposed rezoning would allow the development of new housing, commercial and community facility uses. The CPC notes that the proposed development would include local retail uses on the ground floor and community facility uses on the second floor. The CPC believes that a mixed-use building is appropriate for this location and encourages the applicant to explore potential tenants for the community facility space that would serve the needs of building residents and the surrounding community.

The proposed zoning text amendment (N 190378 ZRK) is appropriate. The action will designate a new MIH area coterminous with the rezoning area, supporting the creation of new affordable housing in a community district where the median income is \$47,294. It is consistent with the goals of *Housing New York* to promote the development of affordable housing across the city, particularly in areas well served by transit. The text amendment will map an MIH area with Options 1, 2 and 3, and the applicant intends to use Option 3 for the proposed development in order to create 11 affordable housing units that will remain permanently affordable.

Regarding feasibility of the proposed MIH Option 3, the CPC notes that in a letter dated March 16, 2020, the applicant states that they believe that there is demand for rent-stabilized, middle-income affordable housing within the neighborhood, and that they would be able to successfully rent out the units in the 115% to 135% AMI range.

The CPC recognizes the Brooklyn Borough President's conditions, but notes that these recommendations are outside the scope of the proposed actions.

## **RESOLUTION**

**RESOLVED**, that having considered the Environmental Assessment Statement, for which Negative Declaration was issued on November 12, 2019 with respect to this application (CEQR No. 19DCP208K), the City Planning Commission finds that the actions 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 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 No. 22d,

1. changing from an R5 District to an R6 District property bounded by a line midway between 59th Street and 60th Street, Bay Parkway, 60th Street, and a line 100 feet northwesterly of Bay Parkway; and
2. establishing within the proposed R6 District a C2-4 District bounded by a line midway between 59th Street and 60th Street, Bay Parkway, 60th Street, and a line 100 feet northwesterly of Bay Parkway;

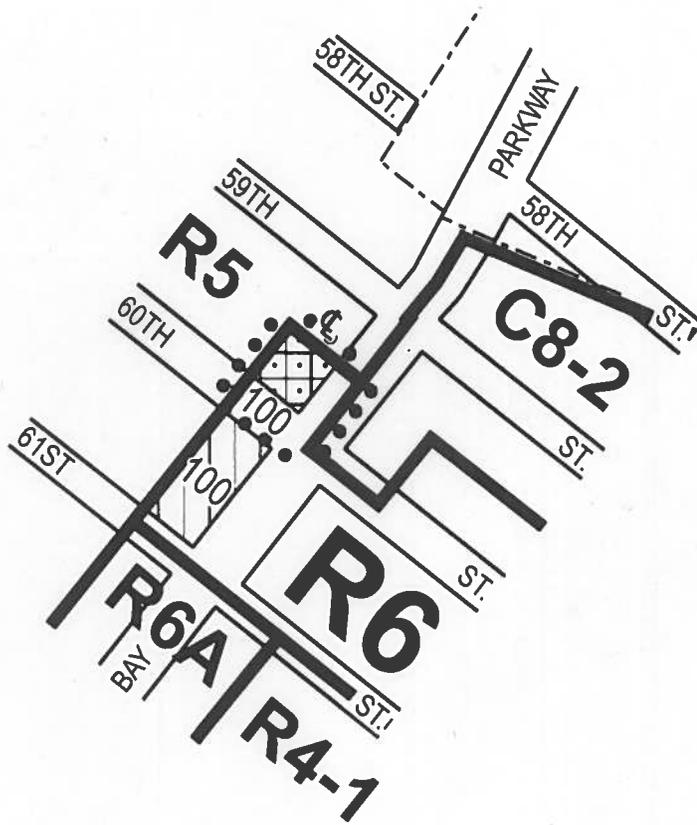
Borough of Brooklyn, Community District 12, as shown on a diagram (for illustrative purposes only) dated November 12, 2019 and subject to the conditions of CEQR Declaration E-554.

The above resolution (C 190377 ZMK), duly adopted by the City Planning Commission on August 19, 2020 (Calendar No. 11), is filed with the Office of the Speaker, City Council, and the Borough President, in accordance with the requirements of Section 197-d of the New York City Charter.

**MARISA LAGO**, *Chair*

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

**DAVID J. BURNEY, ALLEN P. CAPPELLI, ESQ., ALFRED C. CERULLO III,  
MICHELLE DE LA UZ, JOSEPH I. DOUEK, RICHARD W. EADDY, HOPE KNIGHT,  
ANNA HAYES LEVIN, ORLANDO MARIN, LARISA ORTIZ, RAJ RAMPERSHAD**  
*Commissioners*



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

22d

BOROUGH OF  
**BROOKLYN**



New York, Certification Date:  
 November 12, 2019

S. Lenard, Director  
 Technical Review Division



**NOTE:**

- Indicates Zoning District Boundary
- The area enclosed by the dotted line is proposed to be rezoned by changing from an R5 District to an R6 District and by establishing a C2-4 District within the proposed R6 District.
- Indicates a C1-3 District
- Indicates a C2-4 District

NOTE: THIS DIAGRAM IS FOR ILLUSTRATIVE PURPOSES ONLY.



**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 #:** 5914 BAY PARKWAY REZONING – 190377 ZMK, 190378 ZRK

An application submitted by SUW 4 LLC pursuant to Sections 197-c and 201 of the New York City Charter for a zoning map amendment to change four tax lots at the southwest corner of Bay Parkway and 60<sup>th</sup> Streets from an R5 district to R6, and establish a C2-4 overlay within the rezoning area, as well as a zoning text amendment to designate the development site as a Mandatory Inclusionary Housing (MIH) area. Such action would facilitate the development of a nine-story, mixed-use building with a 6,200 square-foot (sq. ft.) commercial ground floor, 6,600 sq. ft. of community facilities above, and 36 dwelling units, of which approximately 11 would be affordable to households earning between 70 and 135 percent of Area Median Income (AMI), according to the MIH Workforce Option (a modification of MIH Option 2). The building would provide 24 accessory parking spaces in the cellar.

BROOKLYN COMMUNITY DISTRICT NO. 12

BOROUGH OF BROOKLYN

**RECOMMENDATION**

APPROVE  
 APPROVE WITH  
MODIFICATIONS/CONDITIONS

DISAPPROVE  
 DISAPPROVE WITH  
MODIFICATIONS/CONDITIONS

SEE ATTACHED

BROOKLYN BOROUGH PRESIDENT

February 19, 2020

DATE

**RECOMMENDATION FOR 5914 BAY PARKWAY REZONING – 190377 ZMK, 190378 ZRK**

An application submitted by SUW 4 LLC pursuant to Sections 197-c and 201 of the New York City Charter for a zoning map amendment to change four tax lots at the southwest corner of Bay Parkway and 60<sup>th</sup> Street from an R5 district to R6, and establish a C2-4 overlay within the rezoning area, as well as a zoning text amendment to designate the development site as a Mandatory Inclusionary Housing (MIH) area. Such action would facilitate the development of a nine-story, mixed-use building with a 6,200 square-foot (sq. ft.) commercial ground floor, 6,600 sq. ft. of community facilities above, and 36 dwelling units, of which approximately 11 would be affordable to households earning between 70 and 135 percent of Area Median Income (AMI), according to the MIH Workforce Option. The building would provide 24 accessory parking spaces in the cellar.

On January 29, 2020, Brooklyn Borough President Eric Adams held a public hearing on this application. There were no speakers on the item.

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 clarified that the development is proposed with one-, two-, and three-bedroom units. Pursuant to the MIH Workforce Option, the average AMI cannot exceed 115 percent, which would be approximately \$123,000 for a family of four; the maximum income bracket cannot exceed 135 percent AMI, or approximately \$144,000 for a family of four; five percent of the residential floor area must be reserved for households at 70 percent AMI, or approximately \$75,000 for a family of four, and five percent must be reserved for households at 90 percent AMI, or approximately \$96,000 for a family of four. The representative noted that the bedroom mix has not yet been finalized, and that the MIH unit rents will be determined in consultation with the New York City Department of Housing Preservation and Development (HPD).

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 Brooklyn Community District 12 (CD 12), 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 the developer has begun to work with outside organizations that are experienced in the administration of affordable housing lotteries. The representative also expressed willingness to work with Brooklyn Community Board 12 (CB 12), and New York City Council Member Kalman Yeger's office to identify potential administering agents.

In response to Borough President Adams' inquiry as to what consideration has been given to providing space for local arts, cultural, and/or non-profit organizations, the representative stated that the represented community facility space is envisioned for medical office use. However, the developer would be willing to consider cultural and non-profit organizations seeking such space.

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 noted that the width of development's sidewalks might permit the installation of rain gardens, and acknowledged the possibility of incorporating resiliency features on the building's roof.

In response to Borough President Adams' inquiry regarding the inclusion and participation of locally-owned business enterprises (LBEs) and minority and women-owned business enterprises (MWBEs) in the construction process, the representative stated that such firms will have the first opportunity to bid on the contracts for this project.

Subsequent to the hearing, Borough President Adams received a letter from the applicant dated February 6, 2020, with additional information pertinent to Borough President Adams' questions.

### **Consideration**

CB 12 voted to approve this application on January 28, 2020 on the condition that the developer provide 25 accessory parking spaces.

The proposed actions would affect an assemblage of four tax lots on the northwest corner of Bay Parkway and 60<sup>th</sup> Street that were previously improved with one-and two-family homes. The site has a total lot area of approximately 10,018 sq. ft., extending 100 feet along each frontage. It should be noted that both Bay Parkway, which has a width of 100 feet, and 60<sup>th</sup> Street, which has a width of 60 feet, are designated wide streets by the New York City Zoning Resolution (ZR).

The site is zoned R5, a non-contextual medium-density district with a maximum residential floor area ratio (FAR) of 1.25, a community facility FAR of up to 2.0, and a maximum height of 40 feet. In this area of Brooklyn, the underlying zoning would permit 1.65 residential FAR according to the ZR's predominantly built-up area definition.

In order to enable the proposed development, the applicant is seeking an R6 MIH district with a C2-4 commercial overlay, which would permit a total FAR of 4.8 (including up to 3.6 FAR of residential use pursuant to MIH), and two stories of commercial/community facility use.

If approved, the proposed rezoning would create a small enlargement of the nearby R6 district across 60<sup>th</sup> Street through amending the existing R5 zone at the southeast corner of the block fronting both Bay Parkway and 60<sup>th</sup> Street. As such, the proposed development would be subject to various setback regulations according to the ZR. Specifically, the building would be required to provide an eight-foot side yard along each of its lot lines, and set back a total of 25 feet from the adjacent R5 district after reaching a height of 45 feet. There is an additional 10-foot setback above a base height of 65 feet. In order to comply with such massing requirements, 5914 Bay Parkway would mass one story along its western lot line, four stories along its northern lot line, and six stories along its two frontages. In addition, the development would have a 30-foot open area above the first story to provide legal light and air to living spaces within the intended apartments. In all, the proposed development would have approximately 65 percent lot coverage. The applicant has presented architectural drawings indicating non-binding intent to cap the building height at 95 feet (rather than the maximum permitted 115 feet) in order to achieve more practical larger floorplates.

The surrounding context is strongly mixed-use, owing to the variety of zoning districts along Bay Parkway, such as C4-2, C8-2, R6, and R6A. The residential districts are paired with sporadic C1-3 and C2-3 overlays. The corridor hosts a variety of commercial uses including auto body shops, banks, funeral homes, retail stores, and showrooms. Nearby community facility uses include Bishop Kearney High School, St. Athanasius Church and Catholic Academy, and an outpatient medical center. One-and two-family homes, as well as three-family walkups comprise the majority of the housing stock, with some six-story elevator apartment buildings along and east of Bay Parkway. Washington Cemetery, the major open space resource in the area, is located approximately 300 feet north of the development site.

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.

The affordability program at 5914 Bay Parkway would be according to the MIH Workforce Option, which stipulates that 30 percent of the residential floor area be affordable, on average, to households earning 115 percent AMI. As stated during the hearing, five percent would be set aside for households at 70 percent AMI, with an additional five percent reserved for households at 90 percent AMI.

The various MIH program options target a broad range of incomes, consistent with Borough President Adams' objective to provide affordable housing at various AMI tiers. The development rights generated on the site would yield approximately 11 permanently affordable units. Development adhering to the MIH program is consistent with Borough President Adams' policy for new residential developments to produce housing that remains affordable in perpetuity.

Borough President Adams believes that it is appropriate to zone for increased density in proximity to public transportation. The proposed development would be accessible via multiple buses and subways. The B6 bus, which is routed along Bay Parkway, and the B9 bus, which travels on 60<sup>th</sup> Street, both stop in front of the site. The closest subway stations are the Sixth Avenue local F train, which stops at Avenue N, three blocks to the east, and the Broadway express N train, which stops at 20<sup>th</sup> Avenue, six blocks southwest of the site. Because of its location in a Transit Zone, the development would only be required to provide parking for 50 percent of the market-rate units, or 15 parking spaces. Such accessory parking would be located in the cellar, and accessed via a curb cut on 60<sup>th</sup> Street.

Borough President Adams is generally supportive of the proposed development at 5914 Bay Parkway. However, he calls on the applicant to memorialize a percentage of apartment types suited to families, maximize community participation to obtain the affordable units, set aside a portion of the non-residential space for arts, cultural, and/or non-profit organizations, incorporate resilient and sustainable features in the development, and achieve a high level of local hiring for the project's construction.

### **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.

5914 Bay Parkway would contain 36 dwelling units, of which 11 would be affordable to households earning 70 to 135 percent AMI, pursuant to the MIH Workforce Option. While the applicant has disclosed the exact bedroom mix, Borough President Adams was assured that the development would contain one-, two-, and three-bedroom units.

Borough President Adams believes that using the affordable housing floor area for right-sizing the bedroom distribution is more important than maximizing the number of affordable housing units. Though the applicant expressed intent to have larger size units, development pursuant to MIH does not provide any leverage to bind a developer to provide for such family-oriented, larger apartments with multiple bedrooms for the affordable units as part of this development. As such, Borough President Adams believes that discretionary land use actions are appropriate opportunities to advance policies that constrain what would otherwise be permitted as-of-right.

The ZR allows for at least 50 percent of the MIH 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 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 contain one or more bedrooms.

Therefore, prior to considering the application, the New York City Council (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 one or more one-bedroom affordable housing units.

**Maximizing Community Participation in 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 for housing non-profits to play a role in maximizing community participation in neighborhood affordable housing opportunities. He encourages developers of new buildings that include affordable units to partner with local non-profit administering agents. Borough President Adams calls on the developer to seek out organizations with proven track records of marketing affordable housing units and promoting housing lottery readiness, in consultation with his office, CB 12, and/or local elected officials.

In the February 6, 2020 letter to Borough President Adams, the applicant clarified that it is in the process of selecting an affordable housing administrator that specializes in working with middle-income households, has experience working with CB 12 to meet community preference goals, and would incorporate a financial literacy program into its marketing strategy.

Borough President Adams believes that prior to considering the application, the City Council should obtain commitments in writing from the applicant, SUW 4 LLC, 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.

**Set Aside a Portion of Commercial Space for Local Arts/Cultural and Non-Profit Organizations**

It is one of Borough President Adams' policies to assist community-based non-profit organizations with securing affordable space in the borough. These organizations play an important role in the neighborhoods they serve but often struggle to secure the necessary space to expand and sustain their programs. Many cultural entities have contacted the Office of the Brooklyn Borough President with these concerns. It has been Borough President Adams' policy to review discretionary land use actions for opportunities to promote cultural and non-profit uses.

In June 2016, Borough President Adams released "All the Right Moves: Advancing Dance and the Arts in Brooklyn," a report examining challenges for artists in the borough, with accompanying recommendations. The report highlighted the benefits of arts and dance, which include maintaining physical fitness, promoting creative self-expression, and making significant contributions to the vibrant culture of Brooklyn. Among the difficulties faced by the Brooklyn arts community is an absence of diversity — according to 2000 United States Census data, fewer than half the individuals working in dance are people of color. Additionally, public funding for the arts in New York City has shrunk dramatically in recent years: by 37

percent from the New York State Council of the Arts (NYSCA), by 15 percent from the National Endowment for the Arts (NEA), and by 16 percent from the New York City Department of Cultural Affairs (DCLA).

Data shows that cultural programs generate a variety of positive effects, which include combating the borough's high rate of obesity. As of 2016, 61 percent of Brooklyn adults are overweight or obese, according to the New York State Department of Health (NYSDOH). Research by the Citizens' Committee for Children of New York has found that such activities also help children succeed in school. Moreover, demand for cultural programs continues to grow across Brooklyn. A 2015 report by the Center for an Urban Future found a 20 percent increase in attendance at events organized by local cultural institutions since 2006.

Borough President Adams believes that the inclusion of arts and cultural entities and non-profit organizations at 5914 Bay Parkway would provide benefits and enrichment to the community. The development's location is advantageous given existing foot traffic along the Bay Parkway corridor, the area's considerable residential density, and the high proportion of youth in CD 12.

If the proposed rezoning is approved, 5914 Bay Parkway would provide approximately 12,800 sq. ft. of commercial and community facility floor area. Borough President Adams believes that a portion of such non-residential space could be marketed to local arts or cultural groups, and/or locally-based community organizations. However, he is aware that such uses cannot afford to compete with the rent that retail users would likely pay to lease at this location.

In the February 6, 2020 letter to Borough President Adams, the applicant expressed intent to reach out to CB 12 and Council Member Kalman Yeger for information regarding local arts or non-profit organizations that are seeking space in the area and that would be a good fit for the proposed development.

Therefore, prior to considering this application, the City Council should obtain commitments, in writing, from the developer, SUW 4 LLC, clarifying how it would memorialize setting aside a portion of the non-residential space for non-profit and/or arts and cultural organizations at below-market lease terms, as warranted.

Furthermore, to the extent that the City Council seeks to provide below-market rents to accommodate such non-profit and/or arts and cultural organizations, SUW 4 LLC should actively solicit such entities, based on reasonable lease terms, as determined in consultation with CB 12 and local elected officials.

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

It is Borough President Adams' policy to advocate for promoting environmentally-sustainable development that integrates blue/green/white roofs, solar panels, and/or wind turbines, as well as passive house construction. Such measures tend to increase energy efficiency and reduce a building's carbon footprint.

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.

Borough President Adams recognizes that the applicant has elected to pursue passive house design standards for the proposed development at 5914 Bay Parkway. He believes it is appropriate for SUW 4 LLC, to engage the Mayor's Office of Sustainability, the New York State Energy Research and Development Authority (NYSERDA), and/or the New York Power Authority (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 New York City Department of Environmental Protection (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 permeable pavers and/or DEP rain gardens. He generally seeks to consolidate the provision of such rain gardens when the planting of street trees is required by the ZR as part of the Builders Pavement Plan. In this case, there does not appear to be any requirement for street trees, and no street trees exist. In addition, the proposed development site may preclude any installation of rain gardens, as both its Bay Parkway and 60<sup>th</sup> Street frontages contain bus stops.

In the February 6, 2020 letter to Borough President Adams, the applicant expressed belief that DEP rain gardens could be integrated with tree pits along the site's sidewalks, which are considerably wide. The applicant reiterated intent to study the feasibility of installing such rain gardens, as well as solar panels on the proposed development's roof.

Therefore, prior to considering the application, the City Council should obtain commitments, in writing, from the applicant, SUW 4 LLC, clarifying how it would memorialize integrating resiliency and sustainability features at 5914 Bay Parkway.

### **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 that are designated LBEs consistent with Section 6-108.1 of the City's Administrative Code, and MWBEs that meet or exceed standards per Local Law 1 (no less than 20 percent participation).

Borough President Adams believes that prior to considering the application, the City Council should obtain commitments in writing from the applicant, SUW 4 LLC, to memorialize retention of Brooklyn-based contractors and subcontractors, especially those that are designated LBEs, consistent with Section 6-108.1 of the City's Administrative Code and MWBE as a means to meet or exceed standards per Local Law 1 (no less than 20 percent participation), as well as coordinate the oversight of such participation by an appropriate monitoring agency.

### **Recommendation**

Be it resolved that the Brooklyn borough president, pursuant to Section 197-c of the New York City Charter, recommends that the City Planning Commission and City Council approve this application with the following conditions:

1. That prior to considering the application, the City Council obtain commitments in writing from the applicant, SUW 4 LLC, clarifying 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
- b. 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
- c. Set aside a portion of the non-residential space for arts/cultural entities and non-profit organizations at below-market lease terms, as warranted
- d. Memorialize the incorporation of resiliency and sustainability measures, such as blue roofs, passive house design, and/or wind-turbines
- e. Retain Brooklyn-based contractors and subcontractors, especially those that 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