

**Brooklyn Borough President Recommendation**

CITY PLANNING COMMISSION  
120 Broadway, 31<sup>st</sup> Floor, New York, NY 10271  
calendaroffice@planning.nyc.gov



**INSTRUCTIONS**

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

**APPLICATION**

55-63 SUMMIT STREET REZONING – 170046 ZRK, 170047 ZMK

Applications submitted by PHD Summit LLC for zoning map and text amendments to a portion of a block on the north side of Summit Street between Columbia Street and Hamilton Avenue, in the Columbia Street Waterfront District neighborhood of Brooklyn Community District 6 (CD 6). The amendments modify the M1-1/R6B district boundary line to place five lots within the R6B zoning district and establish a Mandatory Inclusionary Housing (MIH) area coterminous with the rezoning area. Such actions facilitate the development of a five-story, mixed-use building with 14 residential units and a community facility space on the ground floor. The development will also provide voluntary off-street parking for five cars.

BROOKLYN COMMUNITY DISTRICT NO. 6

BOROUGH OF BROOKLYN

**RECOMMENDATION**

- APPROVE  
 APPROVE WITH  
MODIFICATIONS/CONDITIONS

- DISAPPROVE  
 DISAPPROVE WITH  
MODIFICATIONS/CONDITIONS

SEE ATTACHED

Handwritten signature of Eric Adams, the Brooklyn Borough President.

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

June 15, 2018

\_\_\_\_\_  
DATE

**RECOMMENDATION FOR: 55-63 SUMMIT STREET REZONING – 170046 ZRK, 170047 ZMK**

PHD Summit LLC submitted applications for zoning map and text amendments for a portion of a block on the north side of Summit Street between Columbia Street and Hamilton Avenue, in the Columbia Street Waterfront District neighborhood of Brooklyn Community District 6 (CD 6). The amendments seek to modify the M1-1/R6B district boundary line to place five lots within the R6B zoning district and establish a Mandatory Inclusionary Housing (MIH) area coterminous with the rezoning area. Such actions facilitate the development of a five-story, mixed-use building with 14 residential units and a community facility space on the ground floor. The development will also provide voluntary off-street parking for five cars.

On April 17, 2018, Brooklyn Borough President Eric L. Adams held a public hearing on this acquisition request. There were two speakers in opposition to the item, representing residents of an adjacent building, who expressed concerns about the scale of the proposed development, the available transit infrastructure in the neighborhood, and current quality-of-life conditions at the site.

In response to Borough President Adams' inquiry regarding the qualifying income range for prospective households based on household size, the anticipated rents based on the number of bedrooms, and the distribution of units by bedroom size, the applicant's representative confirmed that 55-63 Summit Street would provide affordable housing pursuant to Mandatory Inclusionary Housing (MIH) Option 1. The representative also stated that according to 2017 data, at 60 percent Area Median Income (AMI), rents would be \$760 for a studio unit, \$962 for a one-bedroom unit, \$1,165 for a two-bedroom unit, and \$1,338 for a three-bedroom unit. At 40 percent AMI, as required for 10 percent of the total development's floor area, the rents would be \$475 for a studio unit, \$605 for a one-bedroom unit, \$736 for a two-bedroom unit, and \$843 for a three-bedroom unit.

The applicant is engaged in discussions with the New York City Department of Housing Preservation and Development (HPD) regarding the appropriate number of units and floor area configuration to satisfy MIH requirements. The developer has also agreed to enter into a community benefits agreement with the Brooklyn Community Foundation (BCF) in the event that MIH affordable housing is not provided on site. The agreement would require the applicant to contribute approximately three million dollars, based on current figures, as payment in lieu to an affordable housing fund. The representative stated intent to follow up with information regarding income levels by household size, and the unit distribution for the project.

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 6, the representative stated that the applicant is committed to working with a local non-profit, and has commenced talks with the Fifth Avenue Committee (FAC).

In response to Borough President Adams' inquiry regarding the incorporation of sustainable features such as blue, green, or white roof coverings, passive house design, permeable pavers, rain gardens, and/or solar panels, the representative stated that the developer has a history of constructing environmentally sensitive buildings. The applicant is open to incorporating sustainable features in the development.

In response to Borough President Adams' inquiry regarding the inclusion and participation of Minority- and Women-owned Business Enterprises (MWBES) and Locally-owned Business Enterprises (LBEs) in the construction process, the representative stated that the developer has a history of working with local contractors and is open to ideas from the borough president's office to conduct outreach to MWBE and LBE firms.

## **Consideration**

Brooklyn Community Board 6 (CB 6) approved this application on April 24, 2018 with the conditions that the applicant would not include Summit Street-fronting balconies in the final design, and would indicate whether utilities will be placed on the roof in updated schematic drawings to the board.

The proposed actions would affect four lots, with a total area of 8,000 square feet (sq. ft.) and an additional 2,000 sq. ft. lot not owned by the applicant. The resulting project will comprise approximately 17,600 sq. ft. with 14 residential units, community facility space, and bicycle and vehicle parking. The development will utilize MIH Option 1 to provide approximately four affordable units to households at an average 60 percent AMI.

The site is currently zoned M1-1, and was most recently occupied by a manufacturing use. The five zoning lots were removed from a prior rezoning of Summit Street properties to the west. The proposed rezoning area is adjacent to the Carroll Gardens/Columbia Street rezoning, adopted in 2009, which mapped R6A and R6B contextual districts over 86 blocks of CD 6. The rezoning was intended to prevent out-of-scale development by limiting height and bulk in a predominantly low-rise neighborhood.

Under the current zoning, residential development is not permitted on the site. If approved, the proposed R6B/MIH rezoning would permit a residential Floor Area Ratio (FAR) of 2.2. Development on the 55-63 Summit Street site would be permitted to rise to a height of 50 feet, the maximum permitted in an R6B district. The proposed development would be required to provide a setback of 15 feet from the street line at the fifth story, though the New York City Zoning Resolution's (ZR) dormer provision would allow a portion of the setback area to be built to the full building height at the building line.

The project site is located on the southern edge of the Columbia Street Waterfront District, which is bounded by Hamilton Avenue. The neighborhood is defined by a mix of residential and commercial uses, with some extant warehousing activity. In recent years, the area has transitioned from light manufacturing to residential use.

The residential fabric is generally older row houses with some new contextual development, generally built to three stories. Higher-density buildings of five stories and above have been built along the Brooklyn-Queens Expressway to the east. There are a number of underutilized and vacant lots in the neighborhood, some of which are owned and designated for affordable housing development by HPD.

The area is not well-served by public transportation. The closest subway stop is at Smith-9<sup>th</sup> Street, served by the 6<sup>th</sup> Avenue Local F and the Brooklyn-Queens Crosstown Local G trains. Local residents rely on the B61 bus, which runs along Columbia Street and provides connections to Downtown Brooklyn. The major roadways in the neighborhood, including Columbia Street, Hamilton Avenue, Hicks Street, and Van Brunt Street, are all designated truck routes by the New York City Department of Transportation (DOT).

Borough President Adams supports the development of underutilized land and vacant properties for productive uses that address the City's need for additional affordable housing. Borough President Adams supports rezoning when paired with the ZR MIH program as a means to achieve permanently affordable housing units. The affordability options of the MIH program extend housing opportunities to a broad range of incomes, consistent with Borough President Adams' objective to target affordable housing to households at various AMI bands.

This proposed development would result in some permanent affordable housing according to MIH. The rezoning 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.

Borough President Adams is generally supportive of the proposed development. However, he believes that there are opportunities to improve the proposal by ensuring participation in the MIH program, or payment in lieu into an affordable housing fund that would support affordable housing development on City-owned sites in the neighborhood. The development could also further a range of his policies, which include maximizing community participation in the affordable housing lottery, advancing resiliency, sustainability, and stormwater management, and promoting job creation through MWBE and local hiring.

### **Ensuring Participation in MIH and Establishing the Value of the MIH Funding Contribution**

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

While the amount that would be contributed to the affordable housing fund in lieu of providing affordable housing on site has not yet been worked out with the City, it is important to be cognizant of the existing strong market in the neighborhood in the determination of such an amount. The proposed rezoning would change the permitted use from commercial and manufacturing to residential development, allowing the applicant to take advantage of the neighborhood's strong real estate market. Therefore, the developer's contribution into the City's affordable housing fund should be reflective of such value.

In a letter to Borough President Adams dated May 18, 2018, the applicant, PHD Summit LLC, expressed intent to provide affordable housing on-site, pursuant to MIH Option 1. In the event that 55-63 Summit Street does not meet the threshold for MIH, the applicant would enter into an agreement with BCF to make payment in lieu, toward the provision of affordable housing in CD 6.

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

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

The ZR requires the affordable housing units to be overseen by a non-profit administering agent, unaffiliated with the for-profit developing entity, except when otherwise approved by HPD. Such administering non-profit becomes responsible for ensuring that the affordable housing remains in accordance with its regulatory agreement, which governs the development's affordable housing

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

Various non-profits have proven track records of successfully marketing affordable housing units within the host community of this development, as well as promoting affordable housing lottery readiness through educational initiatives. It is Borough President Adams' policy to advocate for affordable housing non-profits to play a contributing role in maximizing community participation in neighborhood affordable housing opportunities, including serving as non-profit administering agents for new developments involving affordable housing. Borough President Adams recognizes that CD 6 is served by non-profit housing advocates, including FAC, and by the developer as an entity it had contacted to serve in such a role. FAC has a proven record of marketing affordable housing units and promoting lottery readiness through educational initiatives.

Borough President Adams believes that prior to considering the application, the City Council should obtain in writing from the developer, PHD Summit LLC, commitments that clarify how it would memorialize utilizing one or more locally-based affordable housing development non-profits to serve as the administering agent, and how it would 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 (Mayor's Office of Sustainability), the New York State Energy Research and Development Authority (NYSERDA), and/or the New York Power Authority (NYPA) at each project site. Such modifications tend to increase energy efficiency and reduce a development's carbon footprint. Furthermore, as part of his flood resiliency policy, Borough President Adams also encourages developers to incorporate permeable pavers and/or establish bioswales that advance the New York City Department of Environmental Protection's (DEP) green infrastructure strategy. Bioswales, blue/green roofs, and permeable pavers would deflect stormwater from the City's water pollution control plants. According to the "New York City Green Infrastructure 2016 Annual Report," green infrastructure plays a critical role in addressing water quality challenges and provides numerous economic, environmental, and social co-benefits.

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

The proposed development offers opportunities to explore resiliency and sustainability measures such as incorporating blue/green/white roof finishes, passive house construction principles, and solar panels in the development.

In a letter to Borough President Adams dated May 18, 2018, the applicant, PHD Summit LLC, expressed intent to explore and incorporate sustainable design elements such energy-efficient windows, high-efficiency mechanical equipment, and LED light fixtures.

Borough President Adams believes that prior to considering the application, the City Council should obtain commitments, in writing, from PHD Summit LLC, to memorialize exploration of additional resiliency and sustainability measures such as incorporating bioswales, blue/green/white roof treatment, passive house construction principles, and solar panels in the development.

### **Jobs**

Borough President Adams is concerned that too many Brooklyn residents are currently unemployed or underemployed. It is his policy to promote economic development that creates more employment opportunities. According to the Furman Center's "State of New York City's Housing and Neighborhoods in 2015," double-digit unemployment remains a pervasive reality for several of Brooklyn's neighborhoods, with more than half of the borough's community districts experiencing poverty rates of nearly 25 percent or greater. Prioritizing local hiring would assist in addressing this employment crisis. Additionally, promoting Brooklyn-based businesses including those that qualify as LBE and MWBE 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 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, PHD Summit 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 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.

### **Applying the MIH Funds to the Columbia Street New Infill Homeownership Opportunities Program (NIHOP) Cluster and Developing the Columbia Street NIHOP Cluster as Shared-Equity Permanently Affordable Housing**

Borough President Adams' office has identified several HPD sites within the NIHOP program in close proximity to the proposed development site. These NIHOP sites have a designated developer though the status of appropriate funding. In order to move forward, it is necessary to secure residential zoning for one or more of the sites in this cluster. The aforementioned amount that would be allocated by the applicant to either BCF or the City's affordable housing fund could potentially help to improve the level of affordability for future units at these NIHOP sites. At minimum, the funds could help realize the financing sooner so that these sites are completed in a timely manner in order to meet the City's growing housing needs.

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

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

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

Permanent affordability would help address these issues. As New York State law does not allow condominium units to remain permanently affordable, cooperative ownership would be necessary to realize permanent affordability. For NIHOP sites, HPD should be using the land disposition agreement to require that the resale price be affordable to a household with a similar income. Original purchasers would not need to reimburse the City for the subsidies and lien on the land. These subsidies would be retained in perpetuity.

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

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

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

### **Recommendation**

Be it resolved that the Brooklyn borough president, pursuant to sections 197-c and 201 of the New York City Charter, recommends that the City Planning Commission (CPC) and City Council approve this application with the following conditions:

1. That the 55-63 Summit Street development be pursuant to the MIH program, and that the established value of the MIH funds reflect the most recent residential sales prices in the Columbia Street Waterfront District.
2. That prior to considering the application, the City Council obtain commitments, in writing, from the developer, PHD Summit LLC, that clarify how it would memorialize the extent that it would:
  - a. Commit to utilizing one or more locally-based housing development non-profits to serve as the administering agent, and play a role in promoting affordable housing lottery readiness
  - b. Continue to explore additional resiliency and sustainability measures such as incorporating bioswales, blue/green/white roof treatment, Passive House construction principles, and solar panels in the development

- c. 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 (MBWEs) 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 the New York City Department of Housing Preservation and Development (HPD) mandate that the MIH funds for this project be applied to the Columbia Street New Infill Homeownership Opportunities Program (NIHOP) sites cluster and that the cluster be developed as a shared-equity permanently affordable development.



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NEAL S. FRIEDMAN  
TODD DALE

May 18, 2018

Borough President Eric L. Adams  
Office of the Brooklyn Borough President  
Borough Hall  
209 Joralemon Street  
Brooklyn, NY 11201

Re: App. Nos. N 170047 ZMK and N 170046 ZRK  
55/63 Summit Street  
Brooklyn

Dear Borough President Adams:

Reference is made to the above applications filed by PHD Summit LLC, the owner of the subject site, seeking a zoning map amendment to change the zoning designation of the subject site to R6B from the existing M1-1 designation (N 170047 ZMK), and for a corresponding zoning text amendment to establish a Mandatory Inclusionary Housing Area coterminous with the rezoning area in accordance with the City's Mandatory Inclusionary Housing policy (N 170046 ZRK)

At the hearing conducted by your office, representatives of your office raised issues pertaining to sustainability measures and local and MWBE hiring, and affordable housing. In response to the issues raised, please be advised that PHD Summit LLC is committed to exploring and incorporating sustainable design elements as appropriate, including:

- LED light fixtures
- High recycled content finishes for woodwork, floors and wall coverings
- Energy efficient windows and doors
- High efficiency appliances and mechanical equipment (including hot water heaters, boilers and kitchen appliances.
- Low voc content adhesives and paints
- No use of rainforest wood

Chris Horrigan, principal of PHD Summit is a resident of Park Slope and has used local Brooklyn material suppliers and sub-contractors, including MWBE companies, including the project architect, Christa Horrigan, who is principal of a MWBE firm. Local subcontractors they have used

## ROTHKRUG·ROTHKRUG & SPECTOR, LLP

for past projects in Brooklyn include their cabinet maker in South Slope and an Iron Shop in Sunset Park and many other local subcontractors and employees.

Finally, we are in the process of entering into an agreement with the Brooklyn Community Foundation, which will insure that in the event PHD Summit elects to proceed with construction of a project that is exempt from the provisions of the MIH program, that they will be obligated to make a payment in lieu to the Foundation, to be used toward providing affordable housing within Community Board #6. Notwithstanding the proposed agreement, PHD Summit has repeatedly announced their intention to provide on-site affordable housing, in compliance with Option 1 (25%) of the MIH program, and they are currently in discussions with HPD with respect to enrolment and application of the program.

Should any additional information be required, please contact our office accordingly.

Yours truly,



ADAM W. ROTHKRUG