Brooklyn Borough President Recommendation
CITY PLANNING COMMISSION
120 Broadway, 31st 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 #: 101 FLEET PLACE – C 180524 ZMK, C 180525 ZRK

Applications submitted by Fleet Center Inc., pursuant to Sections 197-c and 201 of the New York City Charter, for a zoning map amendment to rezone the property at 101 Fleet Place from an R6 district to a C6-4 district, with the extension of the Special Downtown Brooklyn District (SDBD) and a zoning text amendment to designate the project area a Mandatory Inclusionary Housing (MIH) area. Such actions would facilitate the development of a 14-story, 209,354 square-foot (sq. ft.) commercial and community facility building with a maximum height of 196 feet.

COMMUNITY DISTRICT NO. 2
BOROUGH OF BROOKLYN

RECOMMENDATION

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

SEE ATTACHED

BROOKLYN BOROUGH PRESIDENT

August 14, 2019

DATE
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On July 2, 2019, Brooklyn Borough President Eric L. Adams held a public hearing on this rezoning application. There were two speakers including a representative of 32BJ Service Employees International Union (SEIU), who spoke in support, citing a commitment to well-paying building service jobs at 101 Fleet Place, and a staff member of the Downtown Brooklyn Partnership, who expressed support for expanding the SDBD, and noted high demand for small floor plate office space in the area, which has a very low commercial vacancy rate.

In response to Borough President Adams’ inquiry regarding the displacement of an existing child care center at the site, and what consideration has been given to re-establishing affordable space for child care services within the proposed development, the applicant’s representative stated that the child care center’s lease is with Brooklyn Community Services (BCS), which is headquartered at 285 Schermerhorn Street. Families eligible for subsidies may have their children attend for free, while those who are not eligible pay tuition on a sliding scale. The child care center has been operating on year-to-year basis, and was aware of the possibility that the site could be redeveloped. The Leser Group (Fleet Center Inc.) has extended BCS’ lease for a year, to give the organization time to find another space. The applicant does not know where the child care center would relocate in the interim. However, the developer would be willing to accommodate BCS within the new development, and make arrangements to lease space at below-market rents.

In response to Borough President Adams’ inquiry as to what other community facility uses have been contemplated for the development, what consideration has been given to residents of Raymond V. Ingersoll and Walt Whitman houses in determining appropriate community facility use, and what percent of the building would be set aside for such uses, the representative stated that most of the applicant’s tenants are non-profit organizations, community facility uses, and the City of New York, who are likely to also occupy the proposed development. The applicant has met with the Ingersoll Houses Tenants Association (TA), which is concerned about medical facilities and social services. The applicant believes that it would be possible to accommodate such uses at 101 Fleet Place, and would continue discussions with Council Member Laurie A. Cumbo to determine other appropriate tenants.

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, New York City Department of Environmental (DEP) rain gardens, and/or solar panels, the representative stated that the site’s small footprint presents certain limitations, but also opportunities for a blue roof system and on-site water management, as well as green roofs on two lower terraces. The applicant is interested in incorporating rain gardens, and potentially a green wall on the building’s lower façade.

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 32 BJ will provide building services at 101 Fleet Place. The representative also provided evidence of engagement with Ingersoll Houses, and disclosed that an outside consultant will be hired to implement the applicant’s workforce development strategy, including LBE and MWBE hiring.
Consideration
On June 24, 2019, the Executive Committee of Brooklyn Community Board 2 (CB 2) voted to approve this application, on the condition that Fleet Center Inc. fulfills its commitment to pay prevailing wages to future building service employees at 101 Fleet Place.

The development site is a 20,536 sq. ft. irregular lot, with approximately 128 feet of frontage on Fleet Place. The majority of the lot, 19,388 sq. ft. is located within an R6 district, while the remaining 1,149 sq. ft. at the lot’s northern edge, lies within an R7-1/C2-4 district, as well as the SDBD. This district was established at the time of the Downtown Brooklyn Plan (DBP) in 2004. The DBP also effected a City Map change that extended Fleet Place north to intersect Myrtle Avenue, and expanded the street’s width to 60 feet.

The applicant’s lot is improved with a one-story, 1.0 FAR building of approximately 20,536 sq. ft. occupied entirely by a child care facility. The Duffield Children’s Center (DCC) is an EarlyLearn NYC program provider, operated by BCS under contract with the New York City Department of Education (DOE). As of August 2, 2019, there were a combined 70 toddlers and preschoolers enrolled at the program, which is contracted with DOE to provide services to 12 toddlers and 51 preschoolers. According to the provider, fully two thirds of the families at DCC come from the nearby New York City Housing Authority (NYCHA) developments. The child care center employs a staff of 36 people.

The facility has been at 101 Fleet Place for more than two decades, but for the last three years, has been operating on a year-to-year lease. BCS has been aware of the applicant’s intent to redevelop the site for some time. The Leser Group expects that DCC would relocate within Downtown Brooklyn prior to its deadline of May 2020. As part of its search, BCS had considered leasing space within Farragut Houses, a NYCHA development adjacent to Brooklyn Navy Yard. However, such space would require, at minimum, more than $1 million in renovations in order to accommodate the child care center.

The requested rezoning covers approximately 33,039 sq. ft., of a mid-block section of Fleet Place between Myrtle Avenue and Willoughby Street. It consists of the R6-zoned portion of the applicant’s lot, and parts of two adjacent lots, including a rear section of The Giovanni at 81 Fleet Place and the western lot of the University Towers campus, a Mitchell-Lama development constructed on this block in 1958. The Giovanni at 81 Fleet Place lot has a total area of 33,356 sq. ft., of which 2,130 sq. ft. falls within the rezoning area. This lot is improved with a 265,417 sq. ft. mixed commercial and residential building constructed in 2015. The affected University Towers lot has a total area of 78,478 sq. ft., of which 11,528 sq. ft. falls within the rezoning area. This lot is improved with a 15-story, 187,667 sq. ft. building. University Towers contains a total of 550 apartments in three buildings: 122 Ashland Place, 175 Willoughby Street, and 191 Willoughby Street.

It should be noted that, in 2013, The Giovanni at 81 Fleet Place, The Margo at 180 Myrtle Avenue, and The Andrea at 218 Myrtle Avenue, resulted from the merger of zoning rights that transferred unused floor area from all three University Towers properties to the developer Red Apple. In 2018, these properties went through the Uniform Land Use Review Procedure (ULURP) process to amend New York City Zoning Resolution (ZR) Special Ground Floor Use Regulations Within the Special Downtown Brooklyn District to allow ground-floor occupancy by community facility uses in these buildings.

The site’s current R6 zoning permits a maximum residential floor area ratio (FAR) of 2.43 and a maximum community facility FAR of 4.8. In order to realize the maximum residential FAR, a height factor 13 zoning calculation would be required, which can readily be achieved given the parcel size. Furthermore, with the ability to substantially set back the building from Fleet Place, it is possible to construct a slender tower that approaches 30 stories.
The requested C6-4 zoning district would allow an FAR of 10.0 for commercial or community facility, and 12.0 according to MIH residential use.

As proposed, 101 Fleet Place would have 14 stories, with a 17,650 sq. ft. ground floor. The building will have a street wall height of 84 feet with a 20 foot setback at the seventh story, and a maximum height of 196 feet. The development will utilize an existing curb cut to accommodate one loading berth. The applicant intends to file the ground floor as Use Group 6B (UG 6B) commercial space, which consists primarily of business and government offices.

The site's immediate surroundings include an array of dense residential and community facility development. The Raymond V. Ingersoll and Walt Whitman housing developments are located north of the block, across Myrtle Avenue. Ingersoll Houses is a complex of 21 six-story buildings with 1,826 apartments, while Whitman Houses consists of 15 six- and 13-story buildings with 1,652 apartments. The Long Island University (LIU) campus is located south of the block across Willoughby Street, and serves 18,500 students.

More broadly, the area is defined by a vibrant mix of historical office and retail uses, and an influx of hotel and residential development, with several towers ranging from 35 to 54 stories (including CityPoint at Willoughby Street between Albee Square and Flatbush Avenue Extension) and more expected to be complete by 2025. The context includes the Brooklyn Cultural District, anchored by the Brooklyn Academy of Music (BAM), and the nearby BAM and Fort Greene historic districts.

According to the application's accompanying Environmental Assessment Statement (EAS), the alternative residential Reasonable Worst Case Development Scenario (RWCDS) would result in a 34-story, 380-foot tall, predominantly residential building containing approximately 258,900 sq. ft. of residential floor area, with 25 or 30 percent of such floor area developed pursuant to MIH requirements. Such development would be as-of-right according to the requested rezoning.

While no other development was assumed in the EAS, both Red Apple and University Towers would be able to sell air rights gained from increasing the FAR to 10.0 (12.0 with MIH). As a result of the proposed actions, more than 11,000 sq. ft. of University Towers would be rezoned from R6 to C6-4, generating more than 75,000 sq. ft. of commercial development rights or more than 95,000 sq. ft. of rights that only could be sold for residential development pursuant to MIH.

Borough President Adams generally supports land use actions that broaden opportunity for office development. According to DBP, the vacancy rate for commercial office space in Downtown Brooklyn has stayed between two and eight percent for the past five years. Granting approval of the requested actions would allow the developer to construct a mixed-use commercial building that would help meet demand for new office space in Downtown Brooklyn. Such office use would strengthen the SDBDB's business core, in keeping with the objectives of the 2004 rezoning. Borough President Adams also acknowledges the benefit of realizing commercial development in Downtown Brooklyn and its proximity to transit infrastructure.

Borough President Adams generally supports the redevelopment of underutilized land for productive uses that maximize opportunities for permanent jobs for Brooklyn residents. The project site is located within a Transit Zone. It is accessible via the B54 bus, which runs along Myrtle Avenue, and the DeKalb Avenue subway station, located two blocks south of the site, with service by the Central Park West Local/Sixth Avenue Express B, the Queens Boulevard/Broadway/Fourth Avenue Local R, and the Second Avenue/Broadway Express Q trains.

Borough President Adams is generally supportive of redevelopment at 101 Fleet Place. However, he has concerns regarding the requested density, including the extent of the requested zoning, in that
the requested zoning does not guarantee extensive commercial building, and that the proposed
development does not include beneficial community uses such as arts and cultural non-profits, child
care facilities, and/or affordable medical offices. In addition, he believes that a portion of school floor
area in the SDBD should be exempted from zoning floor area calculations.

Appropriate Density
The area requested to be zoned is on a section of Fleet Place mapped to a width of 60 feet, which,
according to the ZR, is a narrow street. Some block fronts within the neighboring SDBD have
properties with their sole frontage on narrow streets, though not on midblock sections where the
corners were in lesser density zoning districts. Myrtle Avenue to the north is zoned R7-1 while the
Willoughby Street frontage is within the same R6 district as 101 Fleet Place. The existing zoning on
this atypical deep site allows the developer a wide range of possible heights according to the ZR’s
sky exposure plane and alternative sky exposure plane. However, unlike the represented office
building, a residential as-of-right tower would need to be substantially set back from Fleet Place,
resulting in a design similar to University Towers, which retains light and air.

Justification for accepting such density is based on the fact that the represented development would
provide opportunities for commercial office tenants to secure space in Downtown Brooklyn. There is a
demonstrated need for such space in the district, based on its low commercial vacancy rate. However, the applicant’s proposal does not acknowledge the possibility of constructing a 50 percent
larger building based on commercial floor area rights that could be transferred to the development
site from the two other properties that would receive additional rights from the rezoning. These other
property owners recently engaged in the redistribution of unused zoning rights and, without
transferring such rights to 101 Fleet Place, would have little opportunity to capitalize on the rights.
Therefore the requested rezoning could essentially result in the development of a building that
approaches 15 FAR based on the size of the lot intended for redevelopment.

Beyond providing the opportunity to house commercial offices, the proposed development, as
represented by the applicant, does not include any additional public benefit. While commercial office
space is always welcome in Downtown Brooklyn given how disproportionately the area was
redeveloped for residential occupancy, the borough is growing commercial office hubs in nearby
neighborhoods. Recent examples include the 635,000 sq. ft. Brooklyn Panorama project, a five-
building, 700,000 sq. ft. commercial complex coming online in Columbia Heights, another five-
building complex in Dumbo Heights that will result in approximately 1.2 million sq. ft., and
approximately 400,000 sq. ft. that will be built as part of the Empire Stores redevelopment. In the
South of Navy Yard (SONY) area, approximately 600,000 sq. ft. is expected in a new building at 47
Hall Street. At the Brooklyn Navy Yard, the renovation of Building 77 will yield approximately one
million sq. ft. while the new Dock 72 building will have approximately 675,000 sq. ft. of commercial
floor area. Further from Downtown Brooklyn, in Williamsburg, there are projects such as the Domino
Sugar Refinery renovation and 25 Kent Avenue that will also add significant office and retail
inventory.

Borough President Adams believes that without additional advancement of other public policies, the
quadrupling of floor area from a FAR of 2.43 to 10.0 is not justifiable density in itself and would be
further exacerbated if the significant air rights were incorporated. He is concerned that the proposal
seeks to realize a 300 percent increase in FAR on the site, without commensurate public benefit, or
adequate guarantees of what has been represented. Moreover, the granting of a C6-4 district would
result in a windfall of development rights that would enable and incentivize the construction of a
much taller tower with its only limitation of receiving transferred floor area being the area’s height
limit of 400 feet, with no ability to assure commercial development, as there is no mechanism to
preclude such an outcome directly through the requested land use actions.

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Borough President Adams believes that for a purely commercial development, C6-1 zoning would enable suitable commercial density based on a FAR of 6, with additional floor area available for community facility use that allows up to 6.5 FAR. Such district also permits residential development that would essentially be an extension of the R7-1 that exists along Myrtle Avenue. In order to minimize the amount of unused air rights that could be transferred to University Towers, Borough President Adams believes the requested rezoning area should be modified to align more closely with the dimensions of the development site. He believes that the proposed eastern and southern boundaries should be reduced by not less than 25 feet.

Such a reduction would render a small portion of the development site without commercial zoning rights where the parcel comes to a point east of the recommended modified boundary 175 feet from Fleet Place, as it would remain in the R6 district for a distance extending beyond 25 feet. However, the developer could regain such commercial rights by undertaking a tax lot modification in cooperation with University Towers to reapportion both lots, which would result in a more rectangular redevelopment site with more frontage along Fleet Place.

Should the developer commit to substantial incorporation of public benefit uses such as child care, school seats, affordable medical services and/or cultural uses, including dance, then the requested zoning should be given consideration based on the reduced rezoning boundaries.

Therefore, Borough President Adams believes that the proposed C6-4 should be modified to C6-1 while the boundaries of the proposed zoning, MIH area, and SDBD should be modified from 150 to 175 feet from Willoughby Avenue, and from 200 to 175 feet from Fleet Place. However, the City Council might consider C6-4 if, prior to its review period, the applicant, Fleet Center Inc. provides commitments in writing that clarify how it would address specific conditions in the following sections.

**Ensuring Commercial Development**

If developed as a commercial building, 101 Fleet Place would advance a legitimate public purpose of job creation while meeting demand for new office space in Downtown Brooklyn. However, the actions before Borough President Adams do not adequately ensure that 101 Fleet Place would be developed as proposed, as there is no mechanism in the ULURP process to preclude the provision of residential use in lieu of commercial space. Therefore, if the requested zoning actions are approved, there is a change in the applicant’s development philosophy, the owner would retain the right to advance a new design that would result in a 10 FAR building with approximately 30 residential stories, without commercial use. While entirely legal, this alternative development would substantially diminish the public policy benefit associated with the represented commercial office project. Such alternative development would provide affordable housing according to MIH in lieu of the proposed nearly 210,000 sq. ft. of commercial office space.

Borough President Adams believes that allowing a development site the dual benefit of exceeding the existing base FAR, and enabling significant market-rate residential floor area in lieu of exclusively commercial floor area, is not a desirable outcome for this section of CD 2. While market-rate residential development at this site would result in the creation of new affordable apartments according to MIH, it would not alleviate the low commercial vacancy rate and corresponding high rents in the SDBD.

Borough President Adams believes that it would be appropriate to utilize legal mechanisms in order to provide greater certainty that 101 Fleet Place would be constructed substantially as a commercial building. While he welcomes the addition of new commercial office floor area in Downtown Brooklyn, Borough President Adams seeks to ensure that commercial development is significantly included in the redevelopment of 101 Fleet Place. Without a sufficient guarantee, Borough President Adams believes that the requested zoning should be reduced from a C6-4 to a C6-1 district.
Therefore, Borough President Adams recommends that unless a legally binding mechanism is established to require only commercial and/or community facility development, in lieu of approving the requested C6-4 zoning, the City Council should seek public benefits such as space set aside for a child care facility, local arts and cultural groups, and/or affordable medical services for the designation of not less than 15 percent of the zoning floor area for community facility use and the remaining floor area for commercial use.

**Engage Residents of Nearby NYCHA Developments to Determine Appropriate Community Benefit Uses for Commercially Permitted Floor Area**

As noted above, the redevelopment of 101 Fleet Place could facilitate space for beneficial uses such as a child care facility, local arts and cultural groups, and/or affordable medical services. Given the site's proximity to the Raymond V. Ingersoll and Walt Whitman houses, the potential development presents significant opportunities to realize needed services for this community. In a 2017 ULURP application for a mixed-use project at 202-208 Tillary Street, the developer engaged the Ingersoll Houses TA to determine potential uses for more than 13,000 sq. ft. of community facility space. The TA identified affordable child care and medical care as the highest priorities for NYCHA residents. Market research in the nearby Myrtle Avenue Business Improvement District (BID) confirms unmet demand for child care and health care services in the area.

In order to determine the extent that it might be appropriate to rezone to C6-4 as opposed to C6-1, Borough President Adams encourages Fleet Center Inc. to engage residents of nearby NYCHA developments to determine what beneficial uses should be prioritized at 101 Fleet Place in order to fulfill the communities' various needs. His office is available to assist in opening dialogue with the TAs of Ingersoll and Whitman Houses, in consultation with CB 2 and local elected officials.

**Ensure Retention of Affordable Child Care Services in this Section of CD 2**

As more areas of Brooklyn become magnets for real estate development, Borough President Adams remains concerned that landlords might elect to pursue more lucrative uses for their properties, potentially discontinuing child care services.

Borough President Adams recognizes that affordable child care facilities are a vital asset for Brooklyn families with qualifying incomes. Such facilities, often referred to as EarlyLearn NYC Centers, are run by private operators under a contract with DOE. In order to qualify, children must have a parent or guardian with an income of no more than 200 percent of the Federal poverty level and a reason for care, which includes working, being in school or at a job training program, seeking work for up to six months, or not having a permanent home.

Borough President Adams recognizes the importance of proximate access to affordable child care facilities for the residents of Ingersoll and Whitman houses, as well as neighboring families in Fort Greene. He acknowledges that even temporary displacement of such facilities can pose a significant burden to families that rely on subsidized child care. He also notes that while CD 2 has a substantial concentration of child care facilities, they are largely located west of Flatbush Avenue, and/or are not subsidized by the City.

In a 2017 ULURP application for a proposed development at 202-208 Tillary Street, Borough President Adams noted that the recent closure of a nearby child care center left the DCC as the only subsidized EarlyLearn NYC facility near the Raymond V. Ingersoll and Walt Whitman houses, which together house more than 2,000 families. BCS has expressed that it was aware of the applicant's plans to redevelop the site, and is working to secure affordable space in Downtown Brooklyn. However, given the organization's limited resources, the high commercial rents in Downtown Brooklyn, and the lack of available alternative space, there is a risk that the organization may be unable to relocate its subsidized child care services within this area.
Earlier this year, DOE put out Requests for Proposals (RFPs) to secure child care services for infants, toddlers, and preschoolers across New York City. One of the prerequisites for child care providers is "site control" or a secure leasehold on the space where services are provided. As DCC will have to leave its location to enable the proposed development, it is unclear whether the child care center would be able to continue its contract with DOE. Borough President Adams is therefore, concerned that the requested zoning actions may lead to the permanent loss of subsidized child care seats within this section of CD 2.

Given the extent of development rights being requested to facilitate 101 Fleet Place, Borough President Adams believes that optimum consideration should be given to retaining subsidized child care services in proximity to this site. The provision of child care services at 101 Fleet Place through a lease on behalf of such a provider, would be consistent with his policy to promote greater access to child care for low and moderate-income families. Furthermore, he seeks to minimize the disruption of child care services for families whose children attend DCC. One means to ensure continuous provision of such services is through developer-subsidized efforts to secure an alternative location for at least temporary operation by BCS or other qualified child care provider.

Borough President Adams believes that Fleet Center, Inc. should work with CB 2 and local elected officials to identify interim or permanent space for occupancy by BCS or other qualified EarlyLearn NYC operators designated by DOE. Such facility would be situated in this section of CD 2, financed by the developer, and subject to reporting by DOE.

Borough President Adams believes that in lieu of a long-term commitment to retain subsidized child care in this section of CD 2, the developer should prioritize floor area at 101 Fleet Place for the provision of child care services. Therefore, Fleet Center Inc. should provide representation that it would commit to filing a portion of the represented commercial space (either at or above the ground floor) as community facility occupancy, to be leased to DCAS and DOE on behalf of a designated child care operator, based on reasonable lease terms.

In order to secure occupancy by such provider, Fleet Center Inc. should offer community facility space to DOE, before targeting other uses. DOE should respond to Fleet Center Inc. within 90 days to express its interest in leasing such space for child care services. The developer should also commit to engaging private child care providers in the CD 2 area with a view toward affordability. To ensure that these services are accessible to residents of Raymond V. Ingersoll Houses, Walt Whitman Houses, and University Towers, the selected operator should be an EarlyLearn NYC provider, contracted to serve households with incomes within 200 percent of the Federal poverty level. Borough President Adams’ office is available to help connect the application to qualified child care providers seeking space in Downtown Brooklyn.

Therefore, prior to considering this application for C6-4 rezoning in lieu of the recommended C6-1, the City Council should seek a commitment from Fleet Center Inc. to finance the lease of an interim or permanent location, subject to DOE space requirements, for a child care provider, and in lieu thereof, to filing a portion of the represented commercial space (either at or above the ground floor) as community facility occupancy, to be leased by DCAS and DOE on behalf of a designated child care operator, based on reasonable lease terms — provided that DOE responds to Fleet Center Inc. within 90 days to express its interest in leasing such space for child care services.

**Set Aside Portion of Commercial Space for a Public School**

Downtown Brooklyn has a large number of new developments, recently completed, in the planning stages, or under construction, estimated to accumulatively produce more than 3,000 public elementary school students. Without proper mitigation, it is possible that the surge of residential and
mixed-use development will result in significant adverse impacts on school capacity in Community School District (CSD) 13.

Borough President Adams’ policy is to review discretionary land use actions for their appropriateness to promote the incorporation of public school space, particularly in the SDBD. As a fully commercial development, 101 Fleet Place would not generate any students. Nevertheless, Borough President Adams believes that serious consideration should be given to providing school seats within the development. Furthermore, while there has been discussion regarding several residential projects that might help address the school capacity crisis, there are no guarantees that enough school seats would be produced or that those sites would be well-dimensioned for public school layout.

Borough President Adams acknowledges New York City School Construction Authority (SCA) standards for public school construction, both built and in the pipeline, that are of a smaller lot area than 101 Fleet Place. In other parts of Brooklyn, public schools have been accommodated on lots of 12,000 sq. ft. and in buildings of 42,000 sq. ft. It was reported that the developer of 101 Fleet Place had been engaged in discussions with DOE and SCA regarding the incorporation of a school in the intended commercial development. Unfortunately, that conversation did not result in a school as part of the certified ULURP application. Moreover, it was reported that the New York City Department of City Planning (DCP) had objected to a public school on a narrow street.

Borough President Adams is concerned about demand for school seats in Brooklyn, and the city as a whole is outpacing school capacity. He is aware that SCA is seeking 70 sites to accommodate a five-year projected need of approximately 45,000 seats. Moreover, it appears that few City-owned sites are suited to school occupancy, which means that the City will look to private developers to create such space. In light of pressing need for greater school capacity, Borough President Adams believes that the inclusion of a school within 101 Fleet Place merits re-evaluation as part of the proposed redevelopment. As 101 Fleet Place would provide a ground floor of at least 17,000 sq. ft. in a building of more than 200,000 sq. ft. (according to the proposed C6-4 zoning), Borough President Adams believes DOE and/or SCA should be asked to re-evaluate the appropriateness of this site for the incorporation of a public school.

Borough President Adams believes that in order to alleviate some of the future school capacity needs in Downtown Brooklyn, plans for 101 Fleet Place should be required to incorporate classroom space on the ground floor and/or lower floors. Borough President Adams also believes that DOE and/or SCA, in coordination with Community Education Council (CEC) District 13, CB 2, and local elected officials, should seek to secure sufficient floor area for a public school as part of the proposed redevelopment.

Therefore, prior to considering this application for C6-4 rezoning in lieu of the recommended C6-1, the City Council should obtain commitments, in writing, from the developer, Fleet Center Inc., to file a portion of the represented commercial space (either at or above the ground floor) as community facility occupancy, to be leased by DOE and/or SCA for occupany by a public school based on reasonable lease terms, provided that DOE and/or SCA respond to Fleet Center Inc. within 90 days to express interest in leasing such space as a public school.

**Set Aside Portion of Commercial Space for Affordable Medical Care Facilities**

Borough President Adams also recognizes that not all Brooklyn neighborhoods have adequate access to health care services. Among his greatest priorities is to expand accessible, affordable, and state-of-the-art medical services to all communities in the borough. Borough President Adams believes that this consolidated model of medical services represents the future under the Affordable Care Act (ACA). The provision of affordable medical services at 101 Fleet Place through a lease to a medical care provider would be consistent with his policy of increasing access to affordable health care.
Therefore, prior to prior to considering this application for C6-4 rezoning in lieu of the recommended C6-1, the City Council should obtain commitments in writing from the developer, Fleet Center Inc., clarifying how it would memorialize the extent that it would set aside a portion of the zoning floor area designated as community facility for affordable medical services, in consultation with CB 2 and local elected officials.

**Set Aside Portion of Commercial Space for Local Cultural Entities**

It is one of Borough President Adams’ policies to assist community-based non-profit organizations with securing affordable space. These organizations play an important role in the neighborhoods they serve, though it is too often a challenge to secure sufficient affordable space to grow and maintain their operations. Many cultural organizations have contacted Borough President Adams seeking assistance in securing space to expand and sustain their programming. In response to those concerns, Borough President Adams’ policy is to review discretionary land use actions for their appropriateness to promote cultural activities.

In June 2016, Borough President Adams released “All the Right Moves: Advancing Dance and the Arts in Brooklyn,” a report examining the challenges facing artists in the borough, along with accompanying recommendations. The report highlighted the benefits of arts and dance, including maintaining physical fitness and enjoying creative self-expression, as well as contributions to the vibrant culture of Brooklyn. Borough President Adams finds many challenges facing the local arts community, such as an absence of diversity — fewer than half of the individuals working in dance in Brooklyn are people of color based on 2000 United States Census data. Additionally, funding for the arts has decreased dramatically in New York City in recent years, including by 37 percent from the New York State Council of the Arts (NYSCA), 15 percent from the National Endowment for the Arts (NEA), and 16 percent from the New York City Department of Cultural Affairs (DCLA).

Data show that such cultural activities create a variety of positive contributions, including combating the borough’s high rate of obesity — as of 2016, 61 percent of adults are overweight or obese, according to the New York State Department of Health (NYSDOH) — and helping children succeed in school, a finding supported by research released by the Citizens’ Committee for Children of New York, Inc. Demand for cultural programs continues to grow across Brooklyn. A 2015 report from the Center for an Urban Future found a 20 percent increase in attendance at events organized by local cultural institutions since 2006.

Many cultural and dance organizations have contacted Borough President Adams seeking assistance with securing space to grow and sustain their programming. In response to those concerns, Borough President Adams’ policy is to review discretionary land use actions for their appropriateness to promote cultural and dance activities.

Borough President Adams believes that the location of the proposed development is well-suited for inclusion of cultural activities and other community uses given the site’s accessibility and its proximity to the Brooklyn Cultural District.

Borough President Adams believes that, given the developer’s stated interest in providing space for both commercial and non-profit tenants, a portion of the 101 Fleet Place floor area could be marketed to local arts and cultural groups, and/or community organizations. However, he is aware that such uses cannot afford to compete with rents that retail uses would likely pay at this location.

Therefore, prior to considering this application for C6-4 rezoning in lieu of the recommended C6-1, the City Council should obtain commitments in writing from the developer, Fleet Center Inc., clarifying how it would memorialize the extent that it would set aside a portion of the commercial
space for local non-profit organizations such as arts and/or cultural entities at below-market lease terms, as warranted.

To the extent that the City Council seeks to provide below-market rents to accommodate such arts and/or cultural organizations, Fleet Center Inc. should actively solicit such organizations, based on reasonable lease terms, as determined in consultation with CB 2 and local elected officials.

**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.

Furthermore, as part of his flood resiliency policy, Borough President Adams also encourages developers to incorporate permeable pavers and/or establish rain gardens that advance the DEP green infrastructure strategy. Blue/green roofs, permeable pavers, and rain gardens would deflect stormwater from the City’s water pollution control plants. According to the “New York City Green Infrastructure 2017 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, NYPA, and/or NYSERDA 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.

The proposed development offers opportunities to explore resiliency and sustainability measures in the development such as incorporating blue/green/white roof finishes, passive house construction principles, and solar panels. The required Builders Pavement Plan provides an opportunity to incorporate a DEP rain garden along Fleet Place, in front of the development. Such efforts could help advance DEP green water/stormwater strategies, enhancing the operation of the Red Hook Waste Water Treatment Plant (WWTP) during wet weather. Such rain gardens have the added benefit of serving as a streetscape improvement.

Therefore, prior to considering the application, the City Council should obtain in writing from the applicant, Fleet Center Inc., commitments that clarify how it would memorialize integrating resiliency and sustainability features at 101 Fleet Place.

**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
locally-owned business enterprises (LBEs) and minority- and women-owned business enterprises (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 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 developer, Fleet Center Inc., that clarify its intent to memorialize retention of Brooklyn-based contractors and subcontractors, especially those who are designated LBE 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.

**Provide Zoning Incentives for the Inclusion of a Public School**

Borough President Adams is concerned that without zoning incentives, private developers are too often unlikely to accommodate space for a public school when development is as-of-right, as doing so would displace more profitable commercial or residential floor area. For the SDBD, he has been on record that there needs to be an amendment to the ZR that would provide developers with additional floor area for the inclusion of a public school, without diminishing zoning development rights for more lucrative uses. There already is such a precedent in the ZR associated with the Greenpoint Landing development and more recently as part of the 80 Flatbush ULURP approval based on being an Educational Construction Fund project. In these instances, building space to be used as a school would be exempt from the definition of floor area, resulting in no loss of square footage that would otherwise bring financial gain to the developer.

Borough President Adams calls on DCP to undertake a zoning text amendment to enable the SDBD Special Bulk Regulations to include a sub-section pursuant to C6-4 and C6-4.5 districts, for 101 Fleet Place, to be exempt from the definition of floor area up to 50,000 sq. ft. of floor space within a public school, constructed in whole or in part pursuant to agreement with the SCA and subject to the jurisdiction of the DOE. In addition, that maximum community facility FAR in C6-4 be increased by 1.0 FAR to enable community and cultural facility uses such as public schools to be facilitated by such development.

**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 the proposed C6-4 district be modified to C6-1 and the boundaries of the proposed zoning, Mandatory Inclusionary Housing (MIH) area, and Special Downtown Brooklyn District (SDBD) be modified as follows: to 175 feet rather than 150 feet from Willoughby Avenue and to 175 feet rather 200 feet from Fleet Place

2. That, as a means to realize public benefit such as space set aside for any combination of a child care facility, local arts and cultural groups, and/or affordable medical services, the City Council might consider a C6-4 district if, prior to considering the application, Fleet Center Inc. provides commitments, in writing, that if the C6-4 is adopted, a legally binding mechanism will be established to ensure only commercial and/or community facility development. Furthermore, the issuance of a Certificate of Occupancy (C of O) in response to an application filing with the New York City Department of Buildings (DOB), should be conditioned on the designation of no less than 15 percent of the zoning floor area for community facility use with the remaining floor area reserved for commercial use.
3. That in seeking City Council approval, Fleet Center Inc. shall clarify how it would:

a. Engage residents of nearby New York City Housing Authority (NYCHA) developments to expand on a vision of desired community beneficial uses to occupy 101 Fleet Place that would fulfill various needs for their communities in an open dialogue with the tenant associations of Raymond V. Ingersoll and Walt Whitman houses, in consultation CB 2 and local elected officials.

b. Subject to New York City Department of Education (DOE) space requirements, lease a nearby location for interim or ongoing use as a child care center by a DOE-designated operator.

c. In lieu of ongoing use, commit to filing a portion of the represented commercial space, either on or above the ground floor as community facility, leased through coordination with the New York City Department of Citywide Administrative Services (DCAS) and DOE on behalf of such designated child care operator, based on reasonable lease terms, provided that DOE responds to Fleet Center Inc. to express its interest in leasing such space for child care services within 90 days.

d. Commit to filing a portion of the represented commercial space (either at or above the ground floor) as community facility occupancy, to be leased by DOE and/or SCA for occupancy by a public school based on reasonable lease terms, provided that DOE and/or SCA respond to Fleet Center Inc. to express interest in leasing such space as a public school within 90 days.

e. Set aside a portion of the zoning floor area designated as community facility for affordable medical services, in consultation with CB 2 and local elected officials.

f. Set aside a portion of the commercial space for one or more local non-profit organizations such as arts and/or cultural entities at below-market lease terms, as warranted.

g. Explore additional resiliency and sustainability measures such as incorporating blue/green/white roof treatment, rain gardens, and/or solar panels.

h. 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 the New York City Department of City Planning (DCP) undertake a zoning text amendment to enable the SDBD Special Bulk Regulations to include a subsection pursuant to C6-4 and C6-4.5 districts, for 101 Fleet Place, to be exempt from the definition of floor area up to 50,000 square feet (sq. ft.) of floor space within a public school, constructed in whole or in part pursuant to agreement with the SCA and subject to the jurisdiction of the DOE. In addition, that maximum community facility FAR in C6-4 should be increased by 1.0 FAR to enable cultural and other community facility uses such as public schools to be facilitated by such development.