TECHNICAL MEMORANDUM 001
103 Lee Avenue EAS
CEQR No. 20DCP144K

May 20, 2022

I. INTRODUCTION

The Applicant, Sbeny Holdings, LLC, is seeking the approval of a zoning map amendment to facilitate the development of 103 Lee Avenue (Block 2200, Lot 6) with an 8-story, 84-foot-tall plus cellar 57,418 gross square foot "GSF" or 52,925 zoning square foot "ZSF" mixed-use residential and commercial building. The building would consist of 45,139 ZSF of residential floor area and 7,786 ZSF of commercial floor area. The building would rise to a total height of approximately 84 feet. The proposed 52 dwelling units (16 affordable) would generate an off-street parking requirement of 11 spaces per ZR Section 25-241 for lots under 10,000 sf, where 15 are provided.

The zoning map amendment would rezone Block 2200, Lots 6 and p/o 4 and Block 2199, Lots 22, p/o 33, p/o 39, p/o 43, and p/o 44 (the "Affected Area") from R6 and R6/C1-3 to R7X/C2-4. Block 2200, Lots 6 and p/o 4 and Block 2199, Lots p/o 43 and p/o 44 in the Affected Area are currently zoned R6, while Block 2199, Lots 22, p/o 33, and p/o 39 are zoned R6/C1-3. In addition to the zoning map amendment, the Applicant is seeking a zoning text amendment to map an area coterminous with the Affected Area for Mandatory Inclusionary Housing (MIH). For maximum flexibility, the Applicant would be mapping the area for MIH options 1 and 2.

The Environmental Assessment Statement (EAS) for the Proposed Actions (CEQR No. 20DCP144K) was accepted as complete and a Negative Declaration was issued on November 15, 2021 by the New York City Department of City Planning (DCP) acting on behalf of the City Planning Commission (CPC) as lead agency.

Following the publication of the EAS, modification to the proposed Affected Area has been identified, at the request of the New York City Council (the "Council Modifications"). The modification is detailed in Section II below.

This technical memorandum examines whether the Council Modifications would result in any new or different significant adverse environmental impacts not already identified in the October 2021 EAS.

II. DESCRIPTION OF THE COUNCIL MODIFICATIONS

The Zoning Map Amendment, as evaluated in the October 2021 EAS, proposed to rezone Brooklyn Block 2200, Lots 6 and p/o 4 and Block 2199, Lots 22, p/o 33, p/o 39, p/o 43, and p/o 44 from R6 and R6/C1-3 to R7X/C2-4. (*See* **Figure 1** Previous Zoning Change Map and **Figure 2** Previous Site Location Map).

As listed below, under the Council Modifications, the proposed Affected Area would now only cover Lots 6 and p/o 4 on Block 2200 on the northern side of Lee Avenue (*See* **Figure 3** Revised Zoning Change Map, and **Figure 4** Revised Site Location Map).

Council Proposed Zoning Map Change:

1. ~~Eliminating from within an existing R6 District a C1-3 District bounded by Williamsburg Street East, Lee Avenue, and the southwesterly prolongation of a line midway between Keap Street and Hooper Street~~;

2. Changing from an R6 District to an R7X District property bounded by ~~Williamsburg Street East,~~ Keap Street and its southwesterly centerline prolongation, a line 100 feet northeasterly of Lee Avenue, ~~and~~ a line midway between Keap Street and Hooper Street and its southwesterly prolongation, and Lee Avenue; and

3. Establishing within the proposed R7X District a C2-4 District bounded by ~~Williamsburg Street East,~~ Keap Street and its southwesterly centerline prolongation, a line 100 feet northeasterly of Lee Avenue, ~~and~~ a line midway between Keap Street and Hooper Street and its southwesterly prolongation, and Lee Avenue.

   *Note: strikethrough portions have been deleted by the City Council and underlined portions have been added by the City Council

As shown in the below figures, Block 2199, Lot 22 was previously considered as a Projected Development Site. Block 2199, Lot 22 is an 8,200 SF corner lot improved with a 1-story, 15-foot-tall commercial building. The building includes 9,775 GSF of commercial floor area and was constructed in 1964. The triangular lot has 217 feet of frontage on Williamsburg Street East and 84 feet of frontage on Lee Avenue. There are currently 7 active businesses within the building with approximately 69 total employees. Given that Block 2199 Lot 22 would fall outside of the Affected Area after the Council Modifications and the site is developed with active businesses, the lot would no longer be considered as a Projected Development Site with the proposed zoning boundary change.

Figure 1: Previous Zoning Change Map

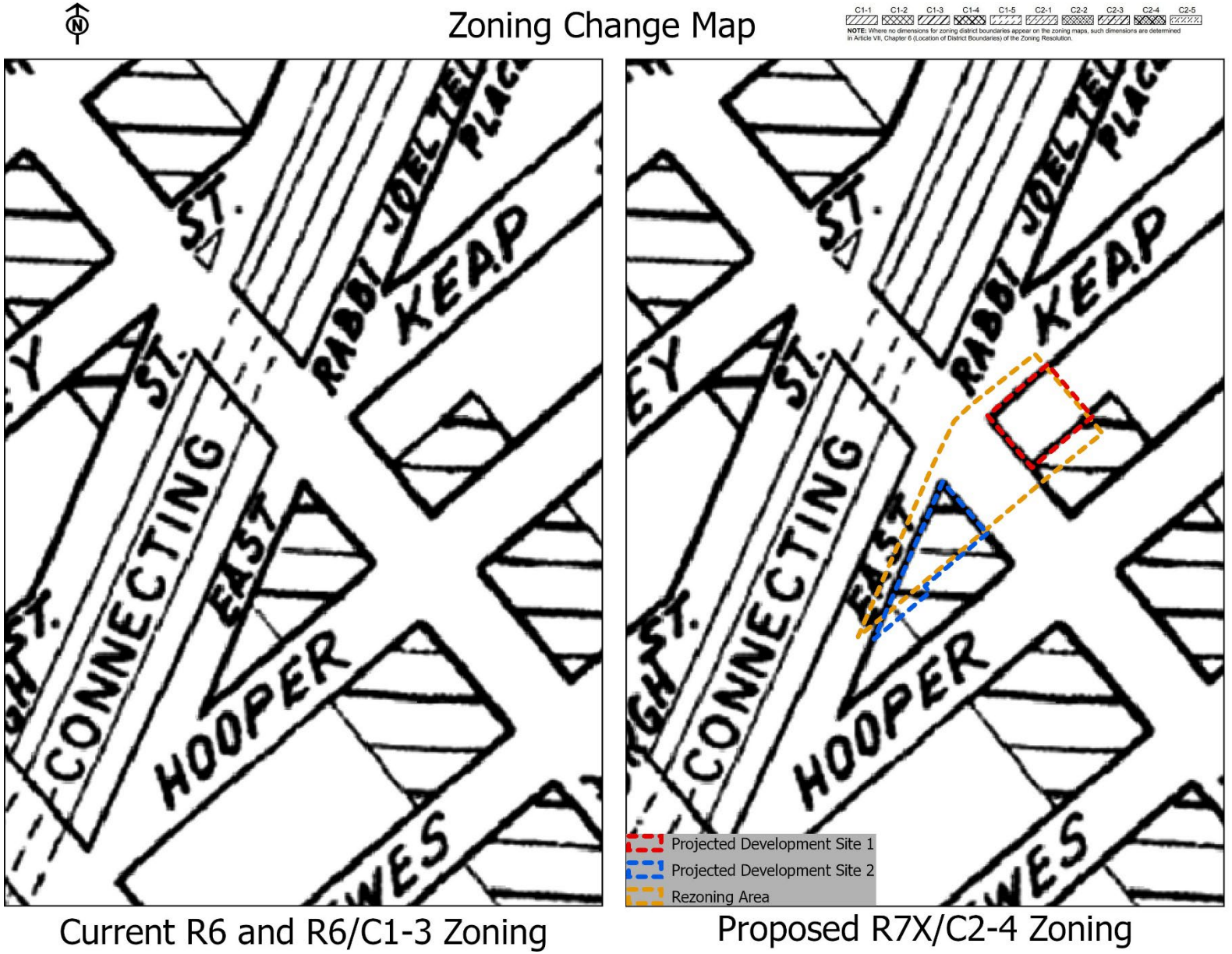


Figure 2: Previous Site Location Map

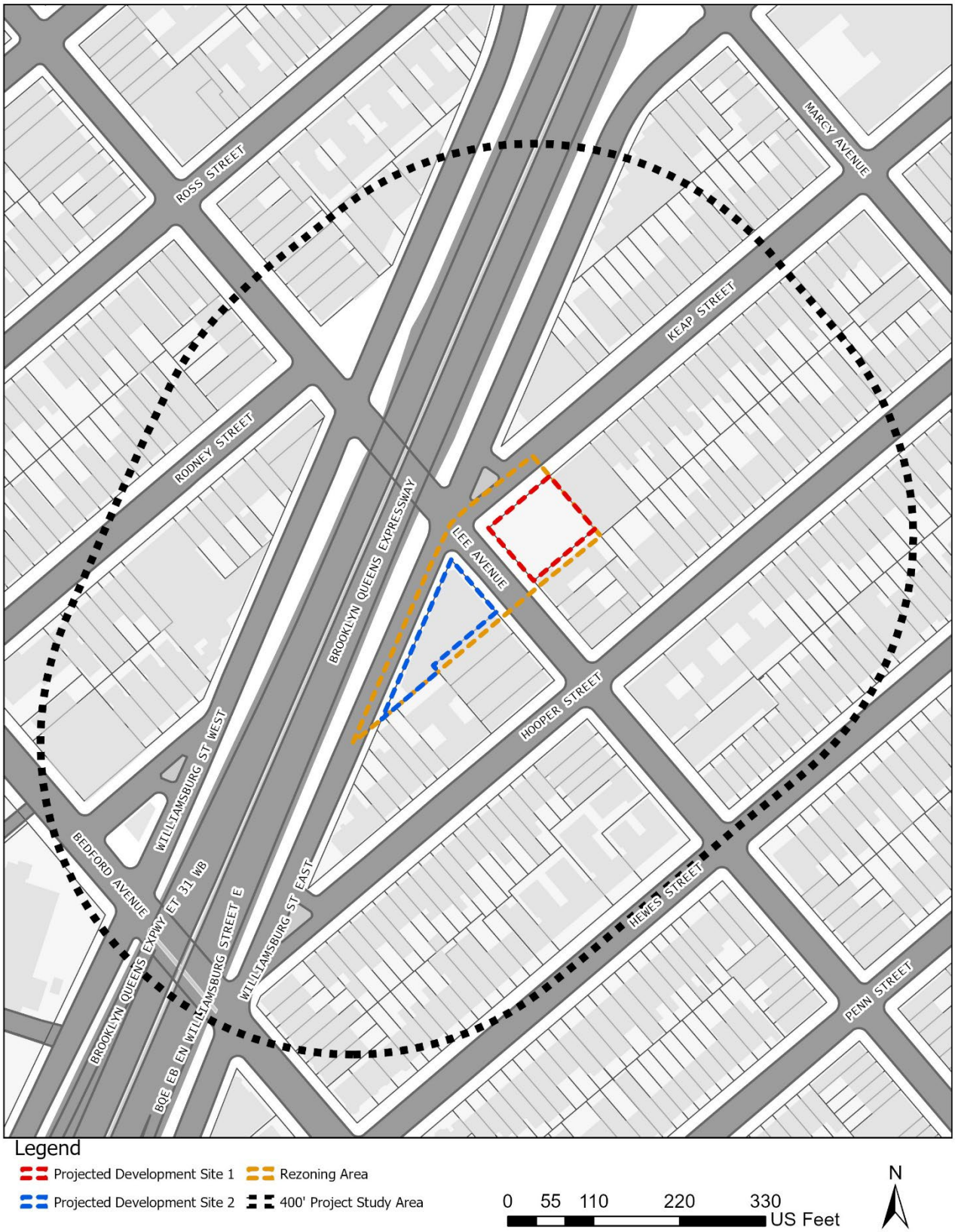


Figure 3: Proposed Zoning Change Map

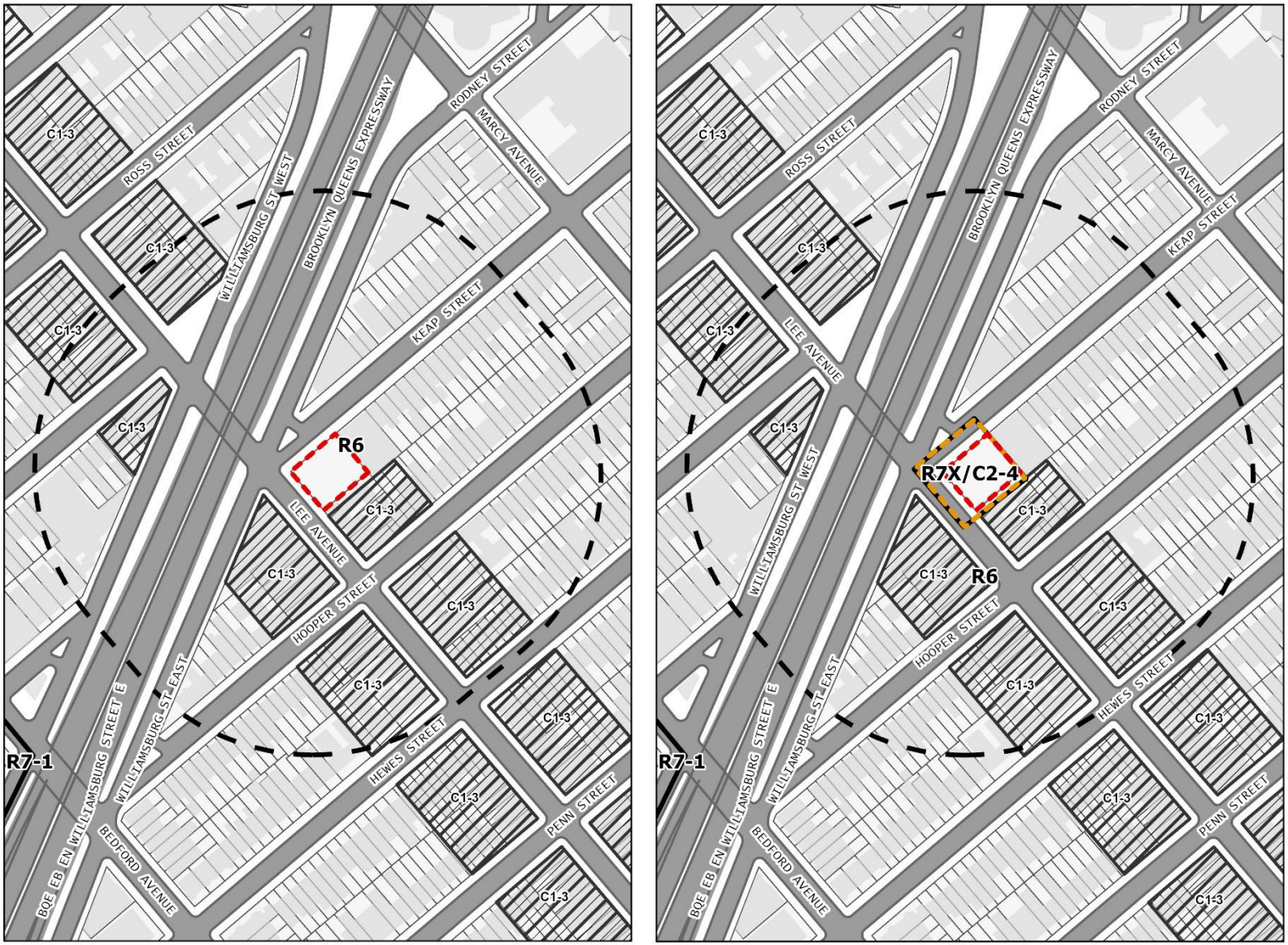
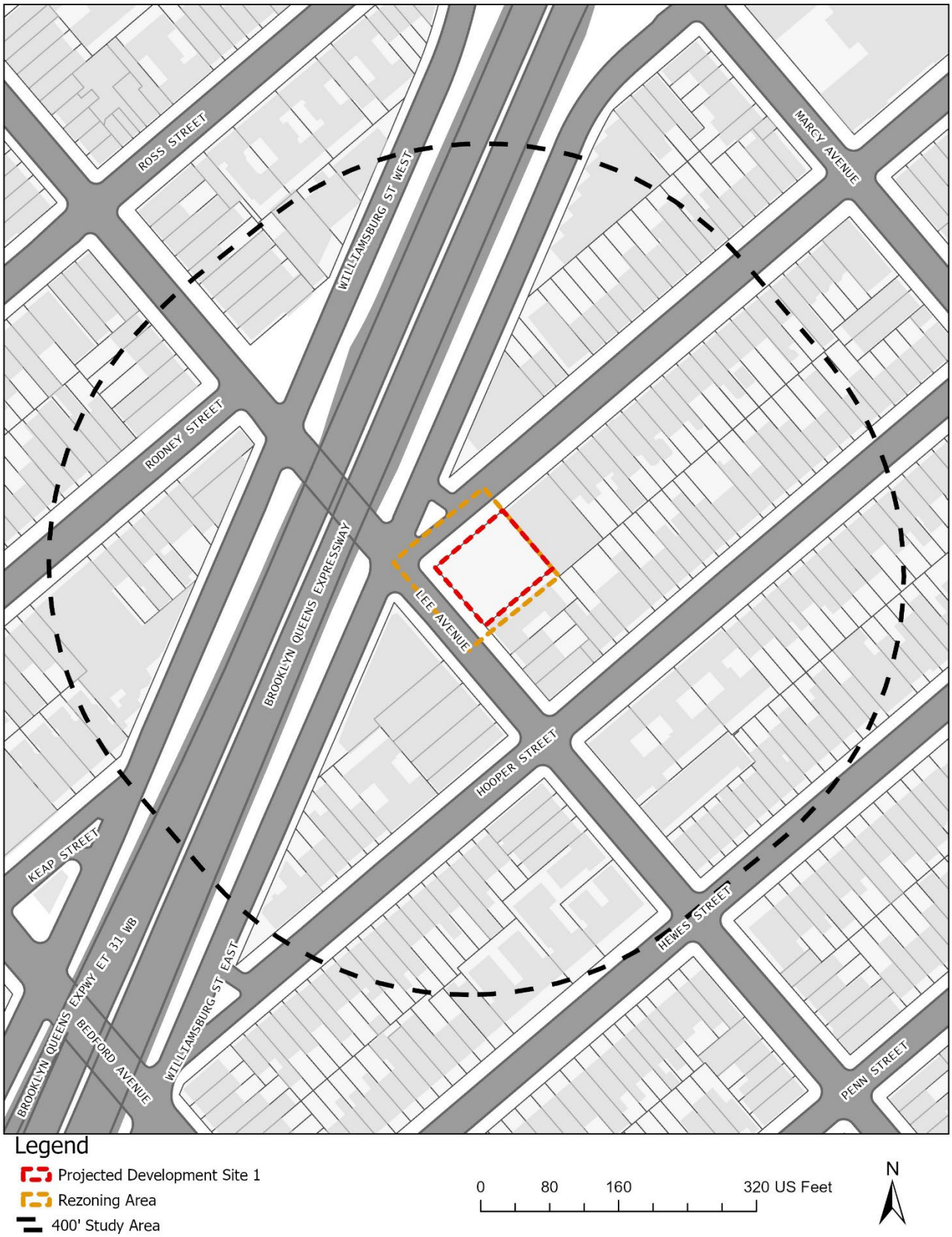


Figure 4: Proposed Site Location Map



III. ANALYSIS FRAMEWORK

Pursuant to the Reasonable Worst-Case Development Scenario (RWCDS) analyzed for the Proposed Actions, the 2021 EAS did not identify any significant adverse impacts. The RWCDS analyzed in the EAS consisted of the following:

Future Without the Proposed Actions (No-Action Scenario)

The No-Action Scenario for the Affected Area would be the same as existing conditions except for the Applicant-owned site (Block 2200, Lot 6). Plans have been filed with the DOB (DOB Job # 321286791) for the as-of-right construction of a 5-story, 54-foot-tall 43,137 GSF building with 29,985 GSF of residential floor area and 13,152 GSF of ground floor community facility floor area. The building would include 27 dwelling units and 14 parking spaces.

No other development is expected without the Proposed Actions as the other lots within the Affected Area would continue their longstanding uses.

Future With the Proposed Actions (With-Action Scenario)

Projected Development Site 1 (Block 2200, Lot 6; Applicant-Owned Lots)

103 Lee Avenue (Block 2200, Lot 6) would be developed with a 57,316 GSF (53,400 ZSF; 6.00 FAR) 14-story[1], 145-foot-tall building. 48,060 GSF (44,500 ZSF; 5.00 FAR) of residential floor area on floors 2 through 14 would contain 52 dwelling units. The Applicant has selected MIH Option 2, pursuant to §123-154(d). Under Option 2, all residential developments, enlargements, and conversions within this MIH, that meet the criteria set forth in the MIH program, must comply with the requirements of Option 2. Option 2 requires that 30% of residential floor area must be for affordable housing units for residents with incomes averaging 80% AMI. Because the Applicant's proposed building would set aside 30% affordable units, 16 of the dwelling units would be considered affordable for purposes of a more conservative analysis in terms of publicly funded childcare (Brooklyn's childcare threshold for analysis is 110 dwelling units). 9,256 GSF (8,900 ZSF; 1.00 FAR) of ground floor commercial retail space would be provided. 11 residential parking spaces would be required. The 9 required parking spaces for the commercial use would be waived pursuant to Section 36-21 of the Zoning Resolution of the City of New York.

Projected Development Site 1 maximizes bulk and height within the proposed R7X/C2-4 zoning district. The Applicant's proposed 868 GSF average dwelling unit size was utilized for a more conservative analysis.

Projected Development Site 2 (Block 2199, Lot 22; Non-Applicant Lots)

100 Lee Avenue (Block 2199, Lot 22), which is not controlled by the Applicant, would be demolished in place and redeveloped with a 52,808 GSF (49,200; 6.00 FAR) 14-story, 145-foot-tall building. 44,280 GSF (41,000 ZSF; 5.00 FAR) of residential floor area on floors 2 through 14 would contain 44 dwelling units, 30% of which (13 units) would be permanently affordable at or below 80% AMI. 8,528 GSF (8,200 ZSF; 1.00 FAR) of ground floor commercial retail space would be provided. 10 residential parking spaces must be provided per ZR Section 25-241 for lots under 10,000 sf. The 9 required parking spaces for the commercial use would be waived pursuant to Section 36-21 of the Zoning Resolution of the City of New York.

[1] While the buildings assumed to be developed on the Projected Development Sites are anticipated to max out at 8 stories, 14 stories were conservatively evaluated for the purposes of the RWCDS.

Projected Development Site 2 maximizes available bulk and height for the proposed zoning district and assumes an average dwelling unit size of 1,000 GSF with 25-30% of the available residential floor area set aside for MIH. For the purposes of a conservative analysis, 30% affordable units were analyzed.

Under the Council Modifications, the Affected Area would now only cover Lots 6 and p/o 4 on Block 2200 on the northern side of Lee Avenue. Therefore, as discussed above, Block 2199 Lot 22 would no longer be considered as a Projected Development Site, given that the lot would fall outside of the Affected Area after the Council Modifications and the site is developed with active businesses.

For environmental analysis purposes, this Technical Memorandum will compare the RWCDS program analyzed for the Projected Development Sites in the October 2021 EAS with the future conditions under the Council Modifications. **Table 1** provides a comparison of the RWCDS development programs currently proposed in the EAS and the development programs under the Council Modifications.

As shown in **Table 1**, under the Council Modifications, the only change to the Proposed Development is the removal of Projected Development Site 2.

Since the number of incremental dwelling units and commercial floor area would drop with the Council Modifications, which would remove Projected Development Site 2 and thus introduce less residents and workers into the area, the analysis in the 2021 EAS would be more conservative and no change to any density related impact categories is expected, and therefore the Council Modifications would not result in any new impacts in those technical areas.

In addition, as Projected Development Site 2 would not be included in the Affected Area and the lot would remain as existing conditions with the Council Modifications, the analysis in the 2021 EAS would be more conservative for shadow and urban design sections. For site specific impacts related to hazardous materials, air quality and noise, the same (E) designation requirements identified for Projected Development Site 1 would be warranted. However, the (E) designations for these sections would no longer include Projected Development Site 2.

Table 1: Comparison of Development Sites – Proposed in EAS vs. Council Modifications

Use	WITH ACTION PROPOSED IN EAS	COUNCIL MODIFICATIONS	NET DIFFERENCE
Projected Development Site 1			
Residential (Total)	52 DUs (48,060 gsf)	52 DUs (48,060 gsf)	**No change**
Market-Rate	36 DUs	36 DUs[2]	**No change**
Affordable[2]	16 DUs	16 DUs	**No change**
Commercial	9,256 gsf	9,256 gsf	**No change**
Parking	11 spaces	11 spaces	**No change**
Projected Development Site 2[1]			
Residential (Total)	44 DUs (44,280 gsf)	NA	**Removed from Analysis**
Market-Rate	31 DUs	NA	**Removed from Analysis**
Affordable[2]	13 DUs	NA	**Removed from Analysis**
Commercial	8,528 gsf	NA	**Removed from Analysis**
Parking	10 spaces	NA	**Removed from Analysis**
Total Projected Development Site 1 and 2[1]			
Residential (Total)	96 DUs (92,340 gsf)	52 DUs (48,060 gsf)	**-44 DUs (-44,280 gsf)**
Market-Rate	67 DUs	36 DUs[2]	**-31 DUs**
Affordable[2]	29 DUs	16 DUs	**-13 DUs**
Commercial	17,784 gsf	9,256 gsf	**-8,528 gsf**
Parking	21 spaces	11 spaces	**-10 spaces**

Note: All the numbers are rounded.
1. Projected Development Site 2 is removed from the analysis as it falls outside of the revised Affected Area.
2. Within the Applicant's Proposed Development, MIH Option 2 would be mapped over the Affected Area. Conservatively assumes 30% of total DU for purposes of screening

The assessment in Section IV below focuses on the technical areas with the greatest potential for new impacts or changes as a result of the Council Modifications.

IV. ASSESSMENT OF POTENTIAL IMPACTS

As described below, the Council Modifications would not result in any significant adverse impact. Nor have any circumstances changed since publication of the EAS, such as proposed background developments, that would create the potential for significant impacts as a result of the Proposed Actions that were not previously identified.

The RWCDS was assessed for the massing-related technical areas of shadows, urban design and visual resources, and air quality. As outlined in the EAS, no significant adverse impacts were anticipated in these technical areas as a result of the Proposed Development; however, for the Proposed Development, an (E) designation (E-638) would be assigned to Projected Development Site 1 (Block 2200, Lot 6) and Projected Development Site 2 (Block 2199, Lot 22), which would mandate the stack height and setback for heating, ventilation, and air conditioning (HVAC) systems, noise attenuation requirements, and hazardous materials requirements. Under the Council Modifications, Projected Development Site 2 (Block 2199, Lot 22) would no longer be included in the E-Designations for hazardous materials, air quality, or noise.

Shadows

The shadows analysis in the October 2021 EAS analyzed Projected Development Sites 1 and 2. With the Council Modifications, Projected Development Site 2 would no longer be considered in the shadows analysis. Accordingly, the modifications would not result in a greater impact to shadows when compared to the October 2021 EAS. Therefore, the conclusions presented in the October 2021 EAS remain unchanged.

Urban Design and Visual Resources

The urban design and visual resources assessment in the October 2021 EAS analyzed Projected Development Sites 1 and 2. With the Council Modifications, Projected Development Site 2 would no longer be considered in the urban design and visual resources analysis. Accordingly, the modifications would not result in a greater impact to urban design or visual resources when compared to the October 2021 EAS. Therefore, the conclusions presented in the October 2021 EAS remain unchanged.

Hazardous Materials

The hazardous materials analysis concluded that an E-Designation (E-638) would be required for Projected Development Sites 1 and 2. With the Council Modifications, Projected Development Site 2 is no longer included as a site where development would potentially be induced pursuant to the Proposed Actions.

Accordingly, the revised E-Designation language related to Hazardous Materials is as follows:

E-Designation (E-638)

Projected Development Site 1: Block 2200, Lot 6

Task 1-Sampling Protocol

The applicant submits to OER, for review and approval, a Phase I and Phase II of the site along with a soil, groundwater, and soil vapor testing protocol, including a description of methods and a site map with all sampling locations clearly and precisely represented. If site sampling is necessary, no sampling should begin until written approval of a protocol is received from OER. The number and location of samples should be selected to adequately characterize the site, specific sources of suspected contamination (i.e., petroleum-based contamination and non-petroleum-based contamination), and the remainder of the site's condition. The characterization should be complete enough to determine what remediation strategy (if any) is necessary after review of sampling data. Guidelines and criteria for selecting sampling locations and collecting samples are provided by OER upon request.

Task 2-Remediation Determination and Protocol

A written report with findings and a summary of the data must be submitted to OER after completion of the testing phase and laboratory analysis for review and approval. After receiving such results, a determination is made by OER if the results indicate that remediation is necessary. If OER determines that no remediation is necessary, written notice shall be given by OER.

If remediation is indicated from test results, a proposed remediation plan must be submitted to OER for review and approval. The Applicant must complete such remediation as determined necessary by OER. The Applicant should then provide proper documentation that the work has been satisfactorily completed.

A construction-related health and safety plan should be submitted to OER and would be implemented during excavation and construction activities to protect workers and the community from potentially significant adverse impacts associated with contaminated soil, groundwater and/or soil vapor. This plan would be submitted to OER prior to implementation.

As all future development anticipated pursuant to the Proposed Actions would be required to comply with the revised (E) designation above, no significant adverse hazardous materials impacts would result, and the conclusions of the October 2021 EAS would otherwise remain unchanged.

Air Quality

The air quality analysis provided in the October 2021 EAS analyzed the potential for significant adverse HVAC emissions impact related to Projected Development Sites 1 and 2 on existing buildings. The EAS determined that the Projected Development Sites would not result in significant adverse impacts associated with building HVAC emissions on existing land uses.

The HVAC analysis also considered the potential for significant adverse impact related to the Projected Development Sites on each other. As such, a detailed analysis was conducted for the Projected Development Sites and an (E) designation that required a minimum stack height and setback in the HVAC systems was imposed on the Projected Development Sites.

As the Council Modifications would result in Projected Development Site 2 no longer being considered as a site where development would potentially be induced pursuant to the Proposed Actions, the (E) designation will no longer include restrictions on the minimum stack height and setback for Projected Development Site 2.

The revised language of the (E) designation is as follows:

(E) Designation (E-638)

Block 2200, Lot 6 (Projected Development Site 1): Any new residential and/or commercial development on the above-referenced property must ensure the heating, ventilating and air conditioning (HVAC) systems and hot water equipment stack is located at the highest tier and at least 148 feet above grade, and at least 15.5 feet away from the southwestern lot line facing Lee Avenue to avoid any potential significant air quality impacts

As all future development anticipated pursuant to the Proposed Actions would be required to comply with the revised (E) designation above, no significant adverse air quality impacts would result, and the conclusions of the October 2021 EAS would otherwise remain unchanged.

Noise

The noise analysis prepared in the October 2021 EAS analyzed the potential for significant adverse noise impacts on Projected Development Sites 1 and 2 as a result of ambient external noise exposure. Based on the noise monitoring completed at the Affected Area as part of the October 2021 EAS, the noise analysis specified the required building attenuation to achieve marginally acceptable interior noise levels at the Projected Development Sites. As the Council Modifications would result in Projected Development Site 2 no longer being considered, the (E) designation specifying the required noise attenuation will no longer include Projected Development Site 2.

E-638

Projected Development Site 1 (Block 2200 / Lot 6): To ensure an acceptable interior noise environment, future residential uses must provide a closed-window condition with a minimum of 33 dBA window/wall attenuation on the facades facing Keap Street and the facades facing Marcy Avenue within 50 feet of Keap Street and 28 dBA of attenuation on the facades facing Lee Avenue and the facades facing Hooper Street within 50 feet of Lee Avenue to maintain an interior noise level not greater than 45 dBA for residential uses as illustrated in the EAS. To maintain a closed-window condition, an alternate means of ventilation must also be provided. Alternate means of ventilation includes, but is not limited to, air conditioning.

As all future development anticipated pursuant to the Proposed Actions would be required to comply with the revised (E) designation above, no significant adverse noise impacts would result, and the conclusions of the October 2021 EAS would otherwise remain unchanged.