712 Myrtle Avenue Rezoning
Myrtle Avenue Brooklyn
February 16, 2023

1. Introduction

Joel Berkowitz (the "Applicant") proposes a zoning map amendment and a zoning text amendment to facilitate the development of a nine-story mixed–use building (the "Proposed Development") maintaining approximately 62 units, including 15 permanently affordable housing units, pursuant to Mandatory Inclusionary Housing ("MIH") Option 1 and Option 2, in the Bedford-Stuyvesant neighborhood of Brooklyn within Community District 3.

The proposed zoning map amendment would rezone approximately 22,843 square feet of the northern portion of Block 1751, which is located on the south side of Myrtle Avenue between Spencer Street and Walworth Street (Part of Lots 20, 21, 23, 24, and 25) (collectively the "Project Area") from an M1-2 district to an R7D/C2-4 district).

The proposed text amendment of Zoning Resolution ("ZR") Appendix F: Inclusionary Housing Designated Areas and Mandatory Inclusionary Housing Areas for Community District 3, Brooklyn would establish the Project Area as an MIH Area under Options 1 and 2 (collectively the "Proposed Actions").

2. Background

The surrounding area has been the subject of a number of land use approvals initiated by the NYC Department of City Planning ("DCP") and by private applicants.

Land use actions initiated by DCP in the surrounding area include the Flushing/Bedford Rezoning (C 000109 ZMK, effective May 9, 2001) and the North Bedford-Stuyvesant Rezoning (C 120294 ZMK, effective October 11, 2012). The Flushing/Bedford Rezoning, west of the Project Area, rezoned approximately 15 blocks in Community District 1 and Community District 3 from M1-2 and M3-1 districts to an R7-1 district and from M1-1 and M1-2 districts to an M1-4/R6A district, creating a new Special Mixed Use (MX-4) District (N 000110 ZRK).

The Bedford-Stuyvesant North Rezoning, east of the Project Area, rezoned an approximately 140-block area to incentivize the development of affordable housing and map contextual residential zoning districts. This rezoning mapped an R7D/C2-4 zoning district on portions of Myrtle Avenue directly to the east of the Project Area extending east from Nostrand Avenue for several blocks. This rezoning also mapped an R7A/C2-4 zoning district on Myrtle Avenue two blocks west of the Project Area, extending west from Bedford Avenue for several blocks to facilitate mixed-use medium density housing and to strengthen commercial activities.

The Rose Castle Rezoning (C 160221 ZMK; effective March 8, 2017) rezoned an M1-2 zoning district on portions of two blocks to an R7A/C2-4 district (Block 1884, Lots 40, 48, 7501, 53 and part of 57) and an M1-2/R6A (MX-4) district (Block 1885, Lots 15 and 20) at 376-378 Flushing Avenue and 43 Franklin Avenue.

More recently, the City Council approved a rezoning adjacent to the Project Area at 723 Myrtle Avenue (C 170025 ZMK, effective November 30, 2017), which rezoned three blocks fronting on Myrtle Avenue, between Walworth Street and Nostrand Avenue to the same zoning district proposed here, with R7D/C2-4 mapped on the northern portion of Myrtle Avenue and R6B/C2-4 on the southern portion. The City Planning Commission report noted that the R7D/C2-4 density was consistent with the existing Myrtle Avenue corridor and would bring existing nonconforming residential and mixed-use buildings into conformance, similar to what is proposed. Myrtle Avenue is a busy street with a variety of mixed-use buildings and commercial uses.

<u>Other Land Use Actions</u>

In addition, the Board of Standards and Appeals (the "BSA") has issued land use approvals in the surrounding area. On March 16, 2012, the BSA granted a special permit pursuant to Zoning Resolution ("ZR") § 73-19 to allow the legalization of an existing school located at 84 Sandford

Street between Park Avenue and Myrtle Avenue (Block 1736, Lot 14) in an M1-1 district (BSA Cal. No. 97-08-BZ). On November 15, 2012, the BSA granted a variance pursuant to ZR § 72-21 to allow for the enlargement and conversion of an existing manufacturing building located at 118 Sandford Street between Park Avenue and Myrtle Avenue (Block 1736, Lot 32) within an M1-1 district to residential and commercial uses, a total floor area of 12,566.5 (3.33 FAR) with 12 residential units (BSA Cal No. 187-11-BZ). Most recently, on January 14, 2014, the BSA granted a special permit pursuant to ZR § 73-19 to allow a school use located at 184 Nostrand Avenue between Vernon Avenue and Willoughby Avenue (Block 1753, Lots 42, 43) in an M1-2 district (BSA Cal. No. 16-12-BZ).

3. Description of the Surrounding Area

The Project Area is located in the Bedford-Stuyvesant neighborhood in the Borough of Brooklyn within Community District 3. The Project Area is near the borders of Community District 1, which has a district boundary two blocks north along Flushing Avenue, and Community District 2, which has a district boundary running along Classon Avenue. Myrtle Avenue, a wide street at 75 feet, is the area's most significant east-west commercial street, with medium and high-density apartment buildings, including New York City Housing Authority ("NYCHA") developments, and significant ground floor retail activity. Bedford Avenue and Nostrand Avenue, the 80-foot wide streets that run perpendicular to Myrtle Avenue, are respectively northbound and southbound transit corridors, well-served by bus lines.

The area surrounding the Project Area is characterized by a variety of warehouse/distribution, commercial, mixed-use buildings, community facility, and conforming and nonconforming residential uses. The predominant uses in the M1-2 district south of Myrtle Avenue are industrial-related and residential.

The prevailing built form of the area, described below, is a mix of mid-rise, residential buildings and a mix of low- and mid-rise commercial buildings. The buildings in the immediate surrounding area are typically 2-3 stories in height. Located three blocks east of the Project Area sits a NYCHA housing complex (111 Nostrand Avenue), which contains 12 six-story buildings. In addition, Marcy Playground, maintained by the NYC Department of Parks and Recreation, is located on Myrtle Avenue between Nostrand Avenue and Marcy Avenue. The playground includes benches, game tables, a baseball diamond, spray showers, playground equipment, and basketball courts.

Existing Zoning Districts

The existing zoning districts in the surrounding area include residential, commercial, and manufacturing designations.

M1-1

The existing M1-1 zoning district north of the Project area permits light industrial uses (Use groups 4-14,16,17) such as woodworking shops, repair shops, wholesale service, storage facilities, limited community facility uses, and commercial uses. The maximum FAR for permitted manufacturing and commercial uses within the M1-1 district is 1.0 and 2.4 for permitted community facility uses.

M1-2

The Project Area is located in an M1-2 district that extends south from Myrtle Avenue to Willoughby Avenue and from Bedford Avenue to the west to Nostrand Avenue to the east. There is also an M1-2 zoning district one block to the north of the Project Area that extends south from Flushing Avenue to Park Avenue, generally from Cumberland Avenue to the west to Franklin Avenue and Skillman Street to the east. The M1-2 zoning district permits light manufacturing, commercial and limited community facility uses. The maximum FAR for permitted manufacturing and commercial uses within the M1-2 district is 2.0 and 4.8 for community facility uses. In the M1-2 district north of Park Avenue the predominant land use is industrial-related.

MX-4

There is an MX-4 zoning district with an M1-2/R6A designation located to the north and west of the Project Area extending south from Flushing Avenue to Myrtle Avenue, generally bounded by Franklin Avenue and Spencer Avenue. The MX-4 zoning district permits residential, commercial, and light manufacturing uses with a maximum FAR of 3.6 under the Inclusionary Housing ("IH") program. Above a base height of 40 to 60 feet (65 feet with IH), the building must set back to a depth of 10 feet on a wide street and 15 feet on a narrow street before rising to a maximum height of 70 feet (75 feet with IH). The predominant land use is in the MX-4 district is residential.

R6

Mapped to the north and east of the Project Area, there is an R6 zoning district that extends south from Flushing Avenue to Myrtle Avenue and from Nostrand Avenue to the west and Marcy Avenue to the east. R6 districts allow all housing types at a maximum FAR of up to 2.42 is allowed for residential uses and up to 4.8 FAR is allowed for buildings containing community facility uses. R6 is a height factor district where residential and community facility uses are permitted with no fixed height limits and building envelopes are regulated by a sky exposure plane and open space ratio after a maximum base height of 60 feet. Residential development under the optional Quality Housing Program has a maximum FAR of 2.2 on narrow streets with a 55-foot building height limit and a maximum of 3.0 FAR on wide streets with a height limit of 70 feet. Off-street parking is required for 70 percent of the dwelling units. This requirement is lowered to 50 percent of the units if the lot area is less than 10,000 square feet or if Quality Housing provisions are used. In R6 districts, if fewer than five spaces are required, the off-street parking requirement is waived.

R7A/C2-4

There is an R7A/C2-4 zoning district mapped to the west of the Project Area along Myrtle Avenue generally between Bedford Avenue and Washington Park. The R7A zoning district permits a maximum FAR of 4.6 under the IH program. Above a base height of 40 to 65 feet (75 feet with IH), the building must set back to a depth of 10 feet on a wide street and 15 feet on a narrow street before rising to a maximum height of 80 feet (up to 95 feet with IH). The predominant land use in the R7A/C2-4 district is mixed residential and commercial.

R7D/C2-4

There is an R7D/C2-4 zoning district mapped immediately to the north and east of the Project Area along Myrtle Avenue generally between Walworth street and Nostrand Avenue. The R7D zoning district permits a maximum FAR of 5.6 under the IH program. Above a base height of 60 to 85 feet (95 feet with IH), the building must set back to a depth of 10 feet on a wide street and 15 feet on a narrow street before rising to a maximum height of 105 feet (up to 115 feet with IH). R7D/C2-4 districts require that ground-floor uses be non-residential, promoting mixed-use buildings which are predominate in the area.

R6A

There is an R6A zoning district mapped to the east and south of the Project Area generally along Nostrand Avenue from 100 ft. south of Myrtle Avenue to Macon Street. Portions of this district are mapped with C2-4 commercial overlays. The R6A zoning district permits a maximum FAR of 3.6 under the IH program. Above a base height of 40 to 60 feet (65 feet with IH), the building must set back to a depth of 10 feet on a wide street and 15 feet on a narrow street before rising to a maximum height of 70 feet (up to 85 feet with IH). The predominant land use in the R6A district is residential.

R6B

There are R6B zoning districts mapped to the west and the south of the Project Area. To the south, there is an R6B zoning district mapped generally from Willoughby Avenue to

just north of Dekalb Avenue and extending east from 100 ft. east of Bedford Avenue to Walworth Street. To the west, there is an R6B zoning district mapped generally from 100 ft. south of Myrtle Avenue to 100 ft. north of Dekalb Avenue and extending from approximately 100 ft. west of Bedford Avenue to 100 ft east of Kent Avenue. The R6B zoning district permits residential and community facility uses with a maximum FAR of 2.2 under the IH program. Above a base height of 30 to 40 feet, the building must set back to a depth of 10 feet on a wide street and 15 feet on a narrow street before rising to a maximum height of 50 feet. The predominant land use in the R6B district is residential.

M1-5

There is an M1-5 zoning district mapped to the south of the Project Area generally between Willoughby Avenue to the north and Dekalb Avenue to the south, and between Walworth and Sandford Streets in the northern portion of the district and Spencer Street and Nostrand Avenue in the southern portion of the district. The M1-5 zoning district permits an FAR up to 5.0 and building height and setbacks are controlled by a sky exposure plane. The predominant land use in the M1-5 district is industrial-related.

Public Transit

The Project Area is within the Transit Zone, and there are multiple public transit options, including MTA subway and bus service. The B54 line runs east/west from downtown Brooklyn to Ridgewood along Myrtle Avenue. The B44 line at Flushing Avenue and Nostrand Avenue provides additional north/south bus service from Sheepshead Bay to Williamsburg. In addition, the Myrtle-Willoughby MTA subway station with G line service is located at the intersection of Myrtle Avenue and Marcy Avenue, several blocks east of the Project Area.

Other Zoning Designations

There are Inclusionary Housing Designated Areas ("IHDA") mapped near the Project Area. To the east of the Project Area, an IHDA is mapped generally along Myrtle Avenue from Nostrand Avenue to Marcus Garvey Boulevard to the east, and along Marcy Avenue from Stockton Street to just north of Lafayette Avenue. To the west of the Project Area, an IHDA is mapped generally along Myrtle Avenue from Bedford Avenue to Classon Avenue, and extending further west to Washington Park. To the south of the Project Area, an IHDA is mapped generally along Bedford Avenue to Quincy Street, and portions of Classon Avenue, Kent Avenue, and Dekalb Avenue.

There are several Mandatory Inclusionary Housing ("MIH") Program Areas mapped near the Project Area. Immediately to the east, an MIH Program Option 1 area is mapped along Myrtle Avenue between Walworth Street and Nostrand Avenue. To the south, an MIH Program Option 1 and 2 Area is mapped along Willoughby Avenue between Spencer Street and Bedford Avenue. To the northwest, an MIH Program Option 1, Option 2, and Workforce Option area is mapped in an area between Flushing Avenue, Little Nassau Street, Franklin Avenue, and Kent Avenue. An MIH Program Option 1 and 2 area is mapped in an area midblock between Flushing Avenue, Park Avenue, Franklin Avenue, and Skillman Street to the northwest.

The Project Area is also located within a FRESH Program area that provides zoning and discretionary tax incentives.

4. Description of the Proposed Project Area

The proposed Project Area is located in the Bedford-Stuyvesant neighborhood of Brooklyn within Community District 3. The Project Area includes 5 tax lots on the northern side of Block 1751 between Spencer and Walworth Streets which are currently zoned M1-2. The boundary of the rezoning will reach 100 ft of depth from Myrtle Avenue.

The proposed Project Area is primarily developed with three-story, mixed-use buildings, residential buildings, commercial, light-manufacturing, and industrial uses with surface accessory parking lots. While the Project Area is currently within M1-2, mixed-use and residential development are the most common land uses within the proposed rezoning boundaries. Residential development accounts for nearly 50 percent of the 600 feet of Myrtle Avenue frontage

within the proposed Project Area. The existing conditions of the properties within the Project Area are as follows:

Block 1751, part of Lot 20 (706 Myrtle Avenue) is an approximately 2,796 square foot, corner lot on Myrtle Avenue, and is currently improved with a three-story mixed residential and commercial building of approximately 7,075 square feet and an FAR of approximately 2.5. The building was built in 1931.

Block 1751, part of Lot 21 (708 Myrtle Avenue) is an approximately 4,529 square foot, interior lot on Myrtle Avenue, and is currently improved with a one-story restaurant of approximately 4,000 square feet and an FAR of approximately 0.8. The building was built in 1931.

Block 1751, part of Lot 23 (712 Myrtle Avenue) is an approximately 2,181 square foot, interior lot on Myrtle Avenue, and is currently improved with a three-story mixed residential and commercial building of approximately 2,940 square feet and an FAR of approximately 1.35. The building was built in 1931.

Block 1751, part of Lot 24 (714 Myrtle Avenue) is an approximately 2,237 square foot, interior lot on Myrtle Avenue, and is currently improved with a three-story mixed residential and commercial building of approximately 3,240 square feet and an FAR of approximately 1.45. The building was built in 1931.

Block 1751, part of Lot 25 (716 Myrtle Avenue) is an approximately 20,550 square foot, corner lot on Myrtle Avenue, and is currently improved with a three-story public health facility of approximately 45,939 square feet and an FAR of approximately 2.24. The building was altered in 2019. Less than half of the lot area is within the area of the proposed rezoning.

5. Description of the Proposed Development Site

The proposed Development Site consists of three tax lots, Block 1751 Lots 21, 23, and 24 in the Bedford-Stuyvesant neighborhood of Brooklyn within Community District 3. It is an approximately 8,947 square feet lot on the southeast portion of Spencer Street and Myrtle Avenue. Lot 21 is a 4,529 SF interior lot with 40.5 feet of frontage on Myrtle Avenue. Lot 23 is a 2,181 SF interior lot with 19.5 feet of frontage on Myrtle Avenue. Lot 24 is a 2,237 SF interior lot with 20 ft of frontage on Myrtle Avenue.

6. Description of the Proposed Development

As indicated above, the proposed building will consist of a new, 9-story plus cellar, mixed-use residential and commercial building measuring approximately 49,847.9 square feet with an FAR of 5.57. The proposed building will provide about 62 dwelling units of various sizes, of which approximately 16 would be MIH units, with 7,918, square feet of ground floor retail. The building will be 90 feet tall and will have terraces and balconies in some of the units. The Proposed Development will also provide 31 bicycle parking spaces. The Applicant plans to pursue MIH Options 1 and 2 to provide maximum flexibility.

The Proposed Development would not be possible under the existing M1-2 zoning regulations, which do not permit residential use. The Applicant believes that the increased bulk that would be permitted under the proposed R7D/C2-4 zoning district is appropriate for the area based on recent land use trends in the surrounding area and the underutilization of the Development Site. The R7D district would permit residential development up to 5.6 FAR with Mandatory Inclusionary Housing, and mapping a C2-4 district would permit the continuation of ground floor locally serving retail along Myrtle Avenue, which is a wide street at 75 feet and appropriate for such development and uses.

7. Actions Necessary to Facilitate the Proposal

The actions necessary to facilitate the proposal are: 1) a zoning map amendment to map an R7D/C2-4 zoning district coterminous with the Project Area currently zoned as M1-2 (the Proposed Zoning Map Amendment); and 2) a zoning text amendment to ZR Appendix F: Inclusionary Housing Designated Areas & Mandatory Inclusionary Housing Areas for Community District 3, Brooklyn to establish the Project Area as an MIH Area (Proposed Text Amendment).

Proposed Zoning Map Amendment

The Proposed Zoning Map Amendment would promote the development of a new mixed-use medium density building at the Development Site, including affordable housing, in an under-utilized M1-2 zoned area where new residential development is not permitted. Along Myrtle Avenue, the existing M1-2 zoning district within the Project Area is characterized by predominately residential and mixed use development. The M1-2 zoning district has remained since 1961, and many of the existing uses are non-conforming. The proposed R7D/C2-4 zoning district would allow for residential development compatible with the existing land use patterns and zoning in the area. The proposed R7D/C2-4 commercial district would be mapped to a depth of 100 feet from Myrtle Avenue. Existing development along Myrtle Avenue, including a number of buildings recently developed under the R7D/C2-4 district to the east, is characterized by multi-family apartment buildings with ground floor commercial space for local retail. The proposed rezoning would benefit the community by enhancing the underutilized Development Site with new mixed-use development inclusive of affordable housing units.

The R7D/C2-4 zoning district proposed for the Project Area, on the south side of Myrtle Avenue between Spencer Street and Walworth Street, would allow medium-density apartment buildings at a maximum FAR of 5.6 for developments that provide affordable housing pursuant to the MIH program requirements. The maximum building height for eligible MIH program buildings with qualifying ground floors is 115 feet or 11 stories. Buildings must set back above a maximum base height of 95 feet or 9 stories to a depth of 10 feet on a wide street and 15 feet on a narrow street before rising up to the maximum building height. Off-street parking is required for 50 percent of the residential dwelling units but is not required for affordable housing units within the Transit Zone. The proposed C2-4 commercial overlay mapped with the R7D district requires non-residential ground floor uses. The proposed C2-4 district permits Use Groups 5 through 9 and 14, allowing commercial development with up to 2.0 FAR. However, Use Group 5 uses would not be permitted at this site because of its distance from a limited access highway. The proposed C2-4 overlay district requires one accessory parking space per 1,000 sq. ft. of commercial floor area for general retail or service uses. Mapping an R7D/C2-4 in this area provides opportunities for medium-density housing development under the MIH program while allowing for active commercial uses on the ground floor. The proposed C2-4 overlay would support the development of mixed residential and commercial uses and would strengthen Myrtle Avenue as a retail and service corridor. Currently, Myrtle Avenue has pockets of C2-4 overlays both to the east and west of the Project Area. This rezoning would bridge the gap and create more continuity between the commercial overlays to the east of Walworth Street and the west of Bedford Avenue.

The increase in density to the proposed R7D/C2-4 district would facilitate the development of greatly needed housing, including affordable housing in Community District 3. The proposed R7D/C2-4 zoning district would promote the development of underused sites and strengthen the commercial character of Myrtle Avenue with both the addition of new commercial space and new residential consumers. Extending the R7D/C2-4 to the Project Area would create a cohesive continuation of conforming uses on Myrtle Avenue.

The City confirmed the appropriateness of R7D zoning near wide, busy streets and transit in the 2012 Bedford-Stuyvesant North Rezoning (C 120294 ZMK) mapped immediately to the east along Myrtle Avenue. The proposed zoning map amendment is consistent with the City's policy goals outlined in the 2012 Bedford-Stuyvesant North Rezoning, providing opportunities for housing development, including affordable housing, and strengthening Myrtle Avenue as a retail and service corridor. The proposed rezoning responds to the increased demand for new housing by permitting mixed development on Myrtle Avenue pursuant to the same bulk regulations approved in the Bedford-Stuyvesant North Rezoning and the 723 Myrtle Avenue Rezoning adjacent to the Project Area. The proposed extension of the R7D/C2-4 zoning district from Nostrand Avenue directly to the east of the Project Area creates consistency with the existing zoning along Myrtle Avenue. The proposed actions would activate and enliven Myrtle Avenue and benefit businesses and the community by creating a more engaging experience for pedestrians. New commercial and community facility uses would enhance the existing ground floor character of Myrtle Avenue.

The proposed development fully complies and conforms with the proposed zoning districts. On the Development Site, the proposed building complies with the bulk regulations of the proposed R7D/C2-4 zoning district. Similarly, the proposed residential and commercial uses conform with

the use provisions of the proposed R7D/C2-4 zoning district. The proposed R7D/C2-4 zoning district would bring the existing nonconforming residential uses on Block 1751 into conformance with the use provisions of the Zoning Resolution.

Proposed Text Amendment

The Proposed Text Amendment would require the Applicant to develop the Development Site in accordance the amendment of Zoning Resolution ("ZR") Appendix F: Inclusionary Housing Designated Areas and Mandatory Inclusionary Housing Areas for Community District 3, Brooklyn. Pursuant to the MIH program, a percentage of the new dwelling units in the proposed development must be affordable units, resulting in an affordable housing set-aside for either 25 percent of the residential floor area at an average of 60 percent of AMI (Option 1) or 30 percent of the residential floor area at an average of 80 percent AMI (Option 2). The Applicant proposes mapping both MIH Option 1 and Option 2 within the Project Area to provide maximum flexibility for non-Applicant controlled properties. The MIH program ensures that new development within the Project Area would address the need for housing that serves low-income levels. These permanent income-restricted dwelling units are a demonstrated need in Bedford-Stuyvesant, providing 16 to 19 affordable dwelling units.

The applicant will seek additional input from Brooklyn Community Board 3 and the Council Member regarding the level of affordability for the Development Site. The proposed affordable housing set asides would ensure that development within the Project Area would address the critical need for new affordable housing in Brooklyn Community District 3. The proposed MIH Area would address the City's Housing New York: A Five-Borough, Ten-Year Plan goals by increasing affordable housing to help ensure the community remains economically diverse in the face of increasing pressure for market-rate development.

Furthermore, new affordable housing is a critical need in Brooklyn Community District 3, where nearly half of the households are rent burdened. According to the U.S. Census Bureau, ACS 2020 Five Year Estimates for Public Use Microdata Area (PUMA) (which approximates Brooklyn Community District 3), 39.7 percent of households spend 35 percent or more of their income on rent.

8. Conclusion

As discussed above, the Applicant proposes a zoning map amendment and text amendment to facilitate the development of a mixed residential, commercial, and community facility building in the Bedford-Stuyvesant neighborhood of Brooklyn within Community District 3. The proposed zoning map amendment to establish an R7D/C2-4 zoning district would allow residential development, which is not permitted within the current M1-2 zoning district. The proposed text amendment to ZR Appendix F would establish the Project Area as an MIH Area. Furthermore, the Proposed Actions would improve the Project Area's conformance and compliance with zoning, while also increasing housing capacity and requiring new affordable dwelling units.

The proposed actions directly address the City's Housing New York: A Five-Borough, Ten-Year Plan objectives by facilitating this development. The rezoning would strengthen the commercial character and urban fabric of Myrtle Avenue while providing increased opportunities for housing development, including mandatory affordable housing. The Applicant would develop the Development Site with productive uses that address the City's need for additional housing. The development would create new dwelling units while supporting the shift from underutilized sites to mixed-use residential. The proposed actions would provide increased opportunities for housing development, mandatory affordable housing, and local retail on underutilized sites.