TECHNICAL MEMORANDUM 001
230 Kent Avenue Rezoning
CEQR No. 23DCP075K

March 1, 2024

I. INTRODUCTION

The Applicant, Kent Riverview LLC, seeks approval for two discretionary actions (the “Proposed Actions”) to facilitate development of the Applicant-owned site at 230 Kent Avenue (Block 2362, Lot 1; the “Applicant Site” or “Projected Development Site 1”) in the Williamsburg neighborhood of Brooklyn Community District (CD) 1. These actions are: (1) a zoning map amendment to rezone Block 2362 in its entirety, comprised of Lots 1 and 3, (“Rezoning Area” or "Project Area") from an M1-4 district to an M1-4/R7X district within Special Mixed-Use District 8 (MX-8); and (2) a concurrent zoning text amendment to amend Zoning Resolution (“ZR”) Appendix F to establish the Project Area within a Mandatory Inclusionary Housing (“MIH”) Area; and to amend the table in ZR § 123-63 to include R7X as a designated residence district in MX-8 in Community District 1, Brooklyn in which MIH is required. The area proposed for rezoning is comprised of Block 2362, Lots 1 and 3, and is bounded by River Street to the West, Kent Avenue to the east, North 1st Street to the south, and Metropolitan Avenue to the north. The entirety of the area being proposed to be rezoned (the "Project Area") is currently vacant land.

Approval of the Proposed Actions would facilitate the development of a new eight-story, approximately 43,095 gross square foot (gsf) mixed-use building on Lot 1, including approximately 37,036 gsf of residential floor area consisting of 40 dwelling units (DU) and 6,059 gsf of commercial local retail on the ground floor. The building would contain an approximately 5,742 gsf cellar split between residential storage area and back-of-house area for the building's retail use. Depending on the MIH Option selected during ULURP, either 25 percent (10 DUs) or 30 percent (12 DUs) of the residential floor area would be designated as affordable housing. It should be noted that although the Applicant plans to develop approximately 40 residential units, 44 units were assumed in the reasonable worst case development scenario (RWCDS) for conservative analysis purposes, with either 11 DUs (25 percent) or 13 DUs (30 percent) being permanently affordable pursuant to MIH. Although the proposed zoning district would allow a maximum building height of 145 feet, the proposed massing for the Applicant's building, which maximizes the allowable FAR, would be 105 feet tall; however, a height of 145 feet was conservatively assumed as a RWCDS where applicable.

As a RWCDS for CEQR analysis purposes, a second Projected Development Site was identified and analyzed, which is not owned or controlled by the Applicant (Brooklyn Block 2362, Lot 3 or "Projected Development Site 2"). The RWCDS for Projected Development Site 2 consists of a 14-story (145-foot-tall) approximately 94,670 gsf building, with an estimated 70,054 gsf of residential space (82 DUs including up to 25 affordable DUs), 13,765 gsf of local retail space and approximately 10,850 gsf of parking area in the cellar consisting of 29 non-attended accessory spaces. The RWCDS assumes a 2025 build year for analysis, which accounts for the development of both the Applicant Site and the non-Applicant Projected Development Site 2.

The Environmental Assessment Statement (EAS) for the Proposed Actions (CEQR No. 23DCP075K) was accepted as complete and a Negative Declaration was issued on August 21st, 2023, by the New York City Department of City Planning (DCP) acting on behalf of the City Planning Commission (CPC) as lead agency.

Following the certification of the EAS, modifications to the proposed Project Area have been identified, at the request of the Land Use Committee of the New York City Council (the "Council Modifications") on February 2nd, 2024. The modification is described in detail 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 August 2023 EAS.

II. DESCRIPTION OF COUNCIL MODIFICATIONS

The Proposed Actions consist of a zoning map amendment and a zoning text amendment. The Applicant was seeking a zoning map amendment, as evaluated in the August 2023 EAS, to rezone Brooklyn Block 2362 Lots 1 and 3 (the "Rezoning Area"), as shown in **Figure 1** "2023 Rezoning Area - Tax Map" and **Figure 2** "2023 Rezoning Area - Zoning Change Map", and a zoning text amendment to Appendix F to establish the Rezoning Area as a Mandatory Inclusionary Housing (MIH) area.

As listed below, the City Council seeks to modify the boundaries of the proposed zoning map amendment to remove Block 2362 Lot 3 from the Rezoning Area. (See **Figure 3 "**Revised Tax Map" and **Figure 4 "**Revised Zoning Change Map"). Under this modification, Block 2362, Lot 3 would not be mapped with MIH area. The City Council modification, as described below, would result in a portion of Block 2362, Lot 1 (the "Revised Rezoning Area") being within the boundaries of the zoning map amendment change.

Council Proposed Zoning Map Amendment Change:

The modification would be as follows:

> The Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended by changing the Zoning Map, Section No. 12c:
>
> 1. changing from an M1-4 District to an M1-4/R7X District property bounded by a line 120 feet southwesterly of Metropolitan Avenue, Kent Avenue, North 1st Street, and River Street; and
>
> 2. establishing a Special Mixed-Use District bounded by a line 120 feet southwesterly of Metropolitan Avenue, Kent Avenue, North 1st Street, and River Street;
>
> As shown in **Figure 4** dated August 21, 2023, and subject to the conditions of CEQR Declaration E-723, Brooklyn, Community Board 1.
>
> *Note: underlined portions have been added.

Council Proposed Zoning Text Amendment Change:

A Zoning Text Amendment to ZR Appendix F: Inclusionary Housing Designated Areas and Mandatory Inclusionary Housing Areas for Community District 1, Brooklyn, to establish the Revised Rezoning Area, as described above, as an MIH Area.

Projected Development Sites

As shown in the **Figure 5** below, Block 2362, Lot 3 was previously considered as Projected Development Site 2.

Controlled by the Applicant, Block 2362, Lot 1 (Projected Development Site 1) has a lot area of 5,472 square feet and is comprised of vacant land. Projected Development Site 1 was previously occupied by a two-story wood frame building with a partial basement, which had full lot coverage, that was demolished in 2019. Records indicate that the site was a paint and lacquer manufacturing facility (Fyn Paint & Lacquer Co., Inc.) from 1930 to 2010. The facility was a large hazardous waste generator with an assigned EPA number. The Applicant Site was accepted into the New York State Department of Environmental Conservation (NYSDEC) Voluntary Cleanup Program and Brownfield Cleanup Program (BCP), and all cleanup and remedial activities have been completed (V00380, BCP site C224154). Remedial action has successfully achieved a Track 4 restricted residential cleanup, and an environmental easement was granted for the site pursuant to ECL Article 71, title 36, which restricts the use of groundwater and requires compliance with a Site Management Plan (SMP). Restricted residential cleanup is intended for sites that are expected to be developed for residential uses, specifically, multi-family residential housing and other uses with potentially higher exposures than commercial and industrial uses, but with restrictions that prohibit single-family housing and vegetable gardens and use of on-site groundwater.

For the purpose of presenting a conservative analysis, the With-Action Condition for Projected Development Site 1 projected the development of an eight-story, 145-foot-tall building consisting of 44 dwelling units and 6,059 gsf of local ground floor retail. Under MIH Option 1 (25% of residential floor area), 11 affordable DUs would be provided. Under MIH Option 2 (30% of residential floor area), 13 affordable DUs would be provided.

Block 2363, Lot 3, which is not controlled by the Applicant, was identified in the August 2023 EAS as Projected Development Site 2. Projected Development Site 2 is owned by Con Edison and is currently vacant. For the purpose of presenting a conservative analysis, Projected Development Site 2 was projected to be developed as an eight-story, 145-foot-tall mixed-use building consisting of 82 DUs, with up to 25 DUs (30% of residential floor area) affordable pursuant to MIH Option 2.

Block 2362, Lot 3 would fall outside of the revised Rezoning Area after the Council Modifications, therefore, this lot would no longer be considered Projected Development Site 2 for the purposes of the reasonable worst case development scenario (RWCDS) analyzed in the August 2023 EAS.

Figure 1: 2023 Rezoning Area - Tax Map

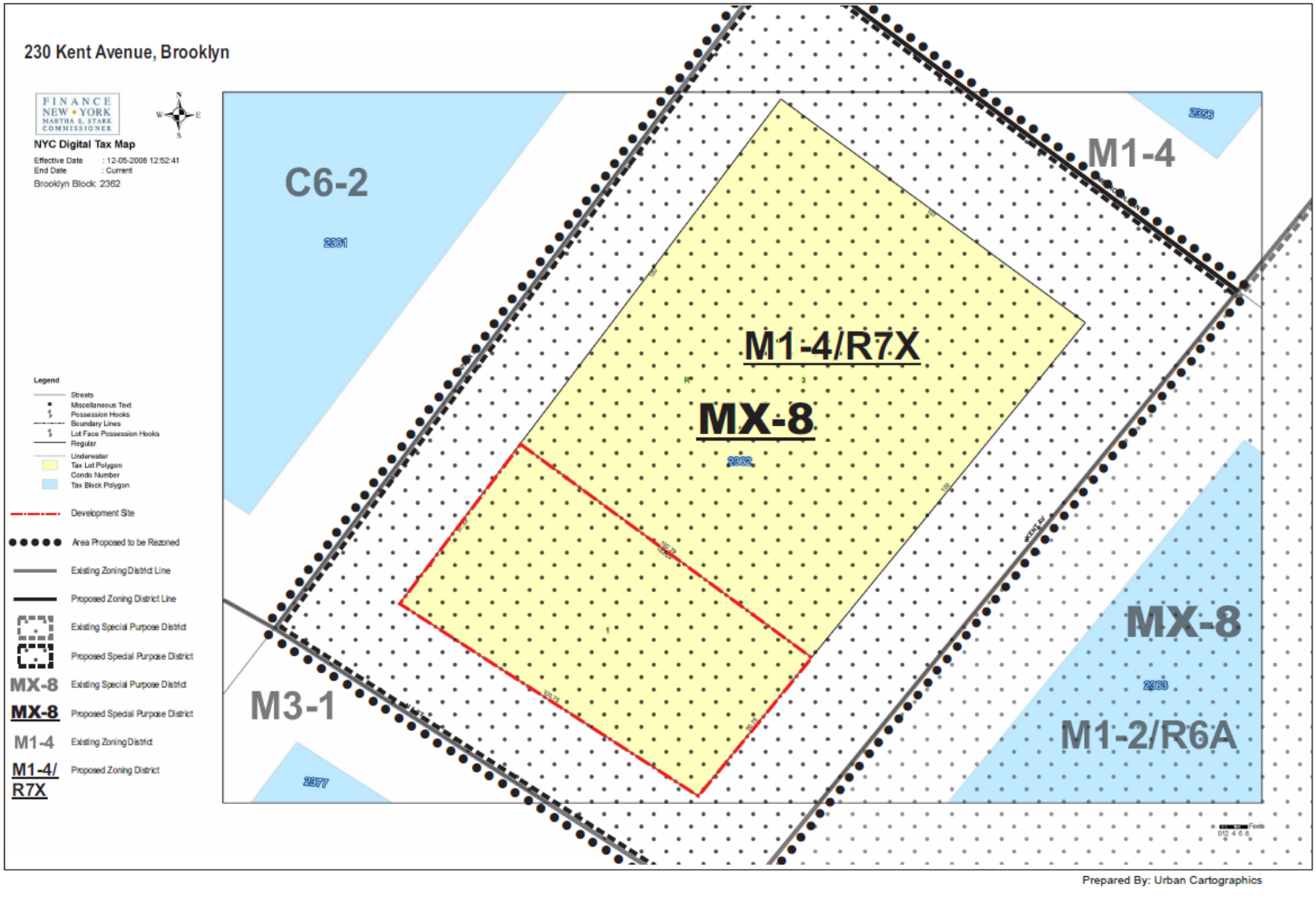
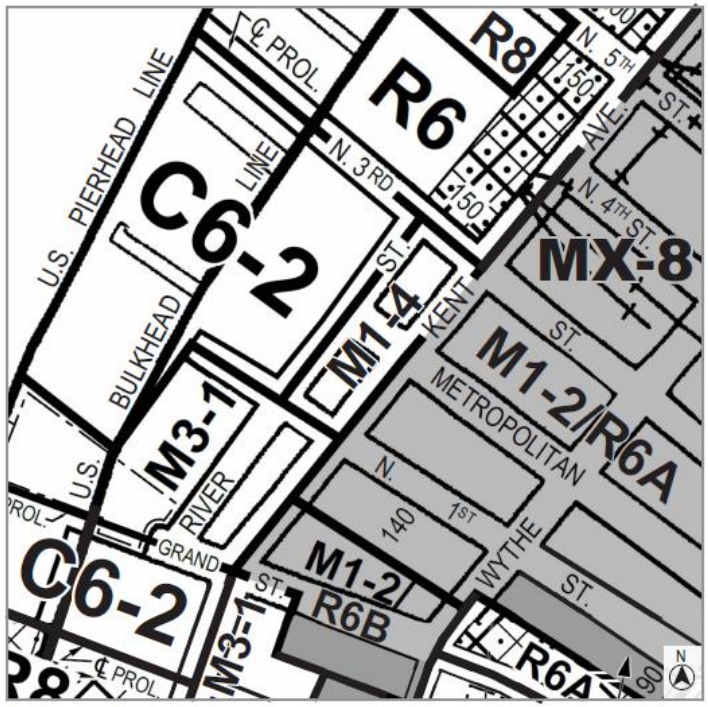
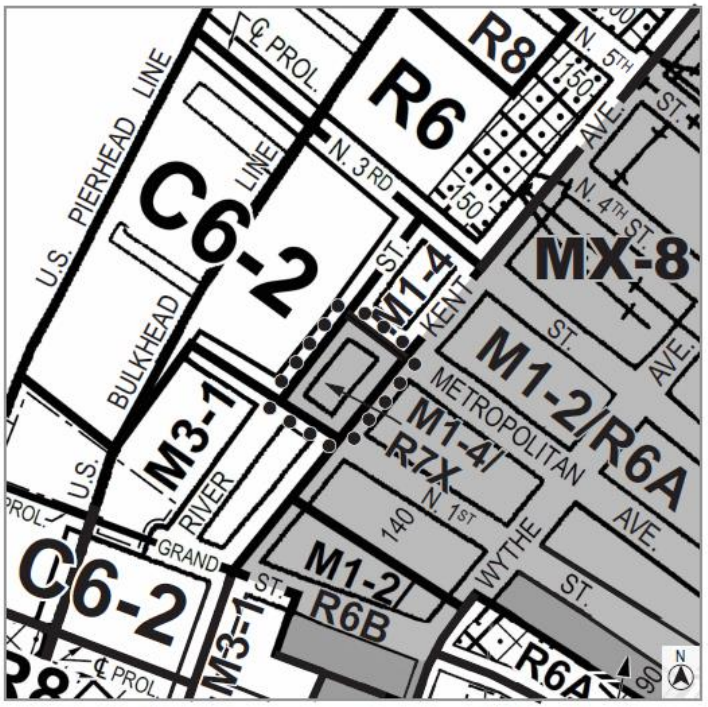


Figure 2: 2023 Rezoning Area - Zoning Change Map

Zoning Change Map



Current Zoning Map (12c & 12d)



Proposed Zoning Map (12c & 12d) - Area being rezoned is outlined with dotted lines

Rezoning from M1-4 to M1-4/R7X (MX-8)

C1-1 C1-2 C1-3 C1-4 C1-5 C2-1 C2-2 C2-3 C2-4 C2-5

NOTE: Where no dimensions for zoning district boundaries appear on the zoning maps, such dimensions are determined in accordance with Article VII, Chapter 6 (Location of District Boundaries) of the Zoning Resolution.

Prepared By: Urban Cartographics

Figure 3: Revised Tax Map

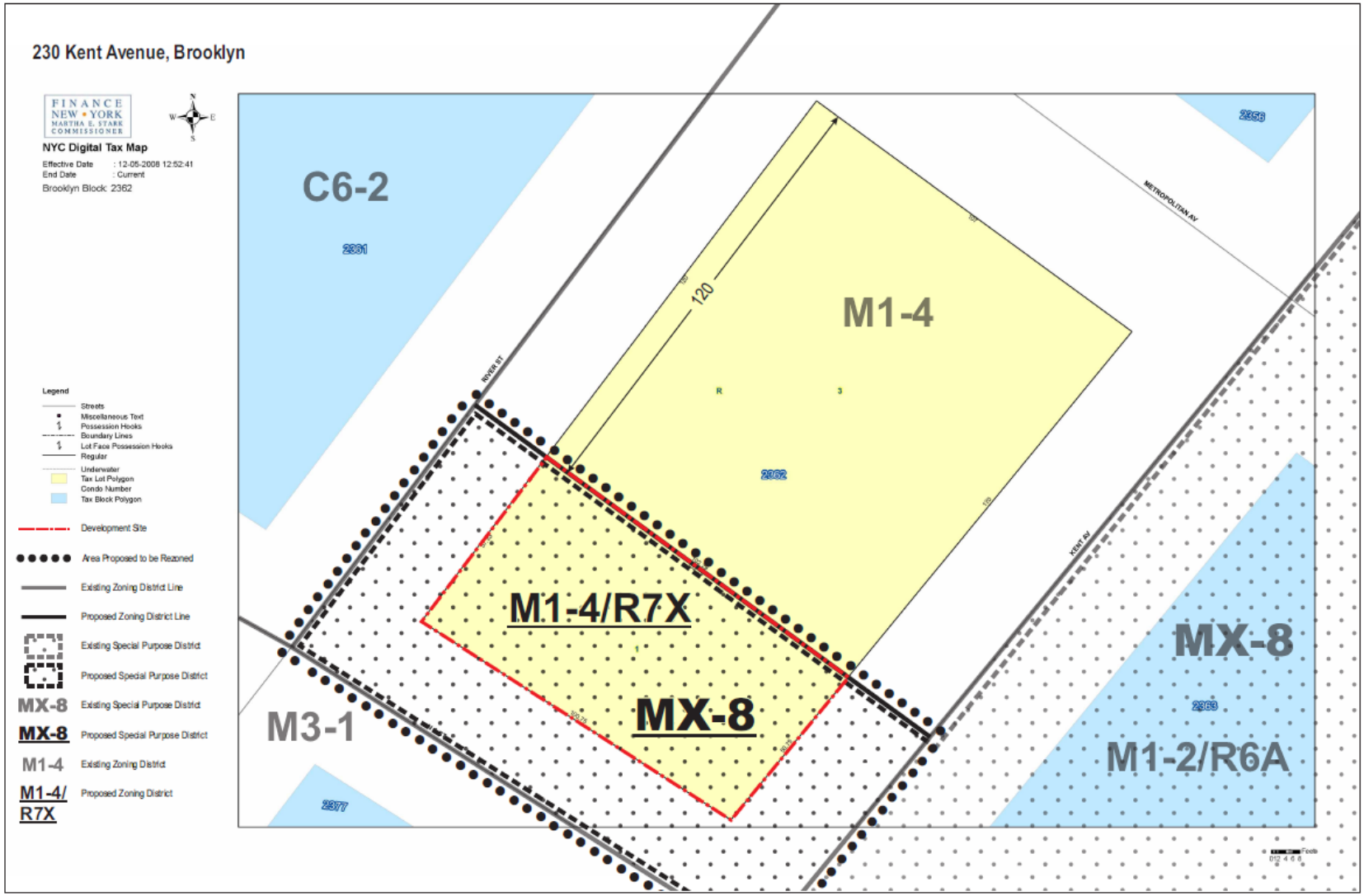
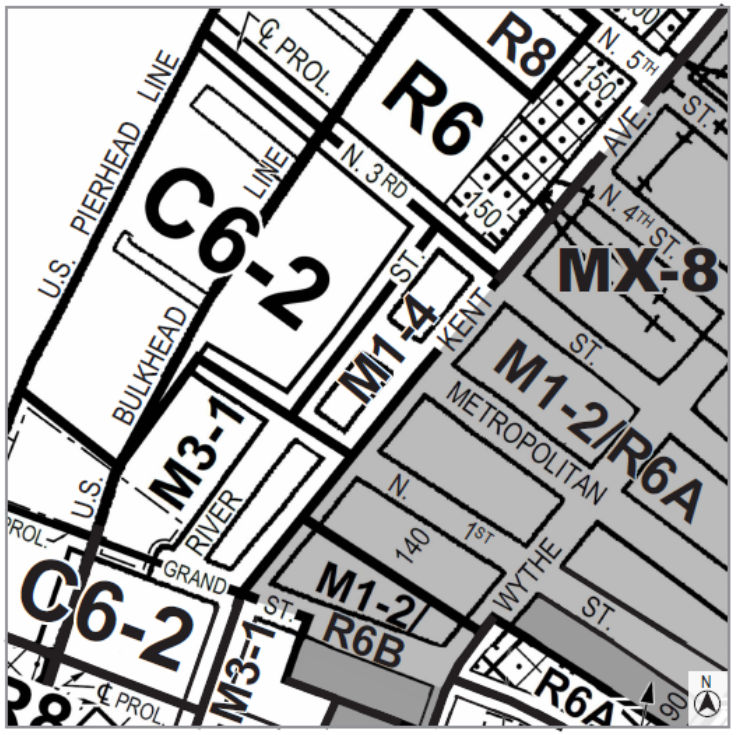
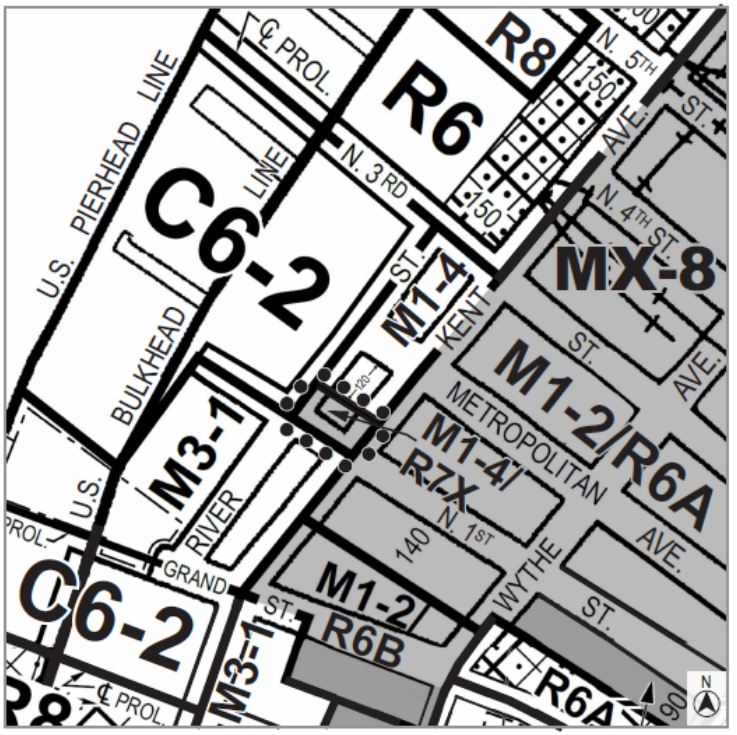


Figure 4: Revised Zoning Change Map

Zoning Change Map



Current Zoning Map (12c & 12d)



Proposed Zoning Map (12c & 12d) - Area being rezoned is outlined with dotted lines

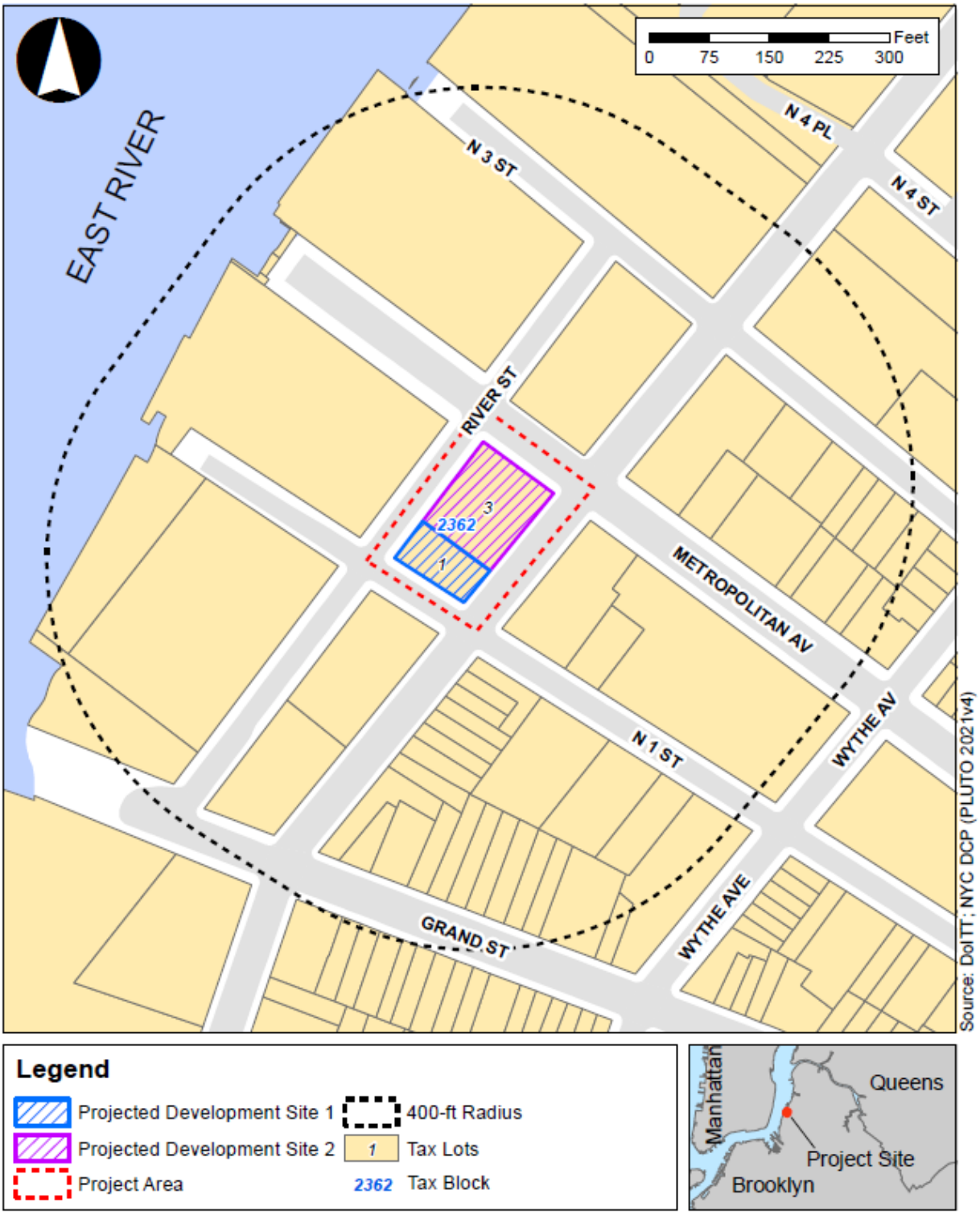
Rezoning from M1-4 to M1-4/R7X (MX-8)

C1-1 C1-2 C1-3 C1-4 C1-5 C2-1 C2-2 C2-3 C2-4 C2-5

NOTE: Where no dimensions for zoning district boundaries appear on the zoning maps, such dimensions are determined in Article VII, Chapter 6 (Location of District Boundaries) of the Zoning Resolution.

Prepared By: Urban Cartographics

Figure 5: Projected Development Sites from 2023 EAS



III. PREVIOUS ANALYSIS FRAMEWORK

The Reasonable Worst-Case Development Scenario (RWCDS) analyzed in the August 2023 EAS for the previous Proposed Actions consisted of the following:

Future Without the Proposed Actions (No-Action Condition)

Under the No-Action Condition, it was projected that Projected Development Site 1 (Block 2362, Lot 1) would be developed on an as-of-right basis in accordance with the existing M1-4 zoning. Projected Development Site 1 was identified as a projected development site in the Environmental Impact Statement (EIS) for the River Ring rezoning (CEQR No. 21DCP157K), which previously rezoned Projected Development Site 1 from M3-1 to M1-4. Projected Development Site 1 was assumed to be developed with a 3-story mixed-use building with approximately 20,223 gsf (17,586 zsf) consisting of approximately 6,741 gsf of commercial space (local retail), 6,741 gsf of light industrial space (warehouse), and approximately 6,741 gsf of community facility space (medical office).

Projected Development Site 2 was also rezoned from M3-1 to M1-4 as part of the River Ring rezoning. As Projected Development Site 2 (Block 2362, Lot 3) is owned by Con Edison, and would continue to be zoned for manufacturing use in absence of the proposed actions, it was projected to remain in its existing conditions in the No-Action Condition presented in the August 2023 EAS.

Future With the Proposed Actions (With-Action Condition)

Projected Development Site 1 (Block 2362, Lot 1; Applicant-Owned Site)

The With-Action Condition for Projected Development Site 1 projected the development of a new mixed-use building consisting of 44 residential dwelling units and 6,059 gsf of ground floor local retail. Under MIH Option 1 (25% of residential floor area), 11 affordable DUs would be provided. For the purpose of providing a conservative CEQR analysis, the proposed district's maximum allowable height of 145 feet was analyzed for shadows and urban design. The air quality assessment assumes the lower height of 105 feet, as that would be more conservative. Parking would be waived for Projected Development Site 1 as per ZR 24-241, parking is required for 30 percent of market-rate units because the lot is less than 10,000 sf. Per ZR 25-251, parking is not required for the 10 or 12-income restricted units as the site is located within the Transit Zone. As less than 15 spaces would be required, pursuant to ZR 25-261, no accessory parking would be required to be provided at the site.

Projected Development Site 2 (Block 2362, Lot 3; Non-Applicant-Owned Site)

The With-Action Condition for Projected Development Site 2 was projected to be developed as a 94,670 gsf building with a 70,054 gsf of residential space and 13,765 gsf of local retail space and approximately 10,850 gsf of parking area in the cellar. Projected Development Site 2 was analyzed as an eight-story, 145-foot-tall mixed-use building consisting of 82 dwelling units with up to 25 dwelling units (30% of residential floor area) permanently affordable pursuant to MIH.

IV. MODIFIED ANALYSIS FRAMEWORK

As discussed above, under the Council Modifications, the updated Zoning Map Amendment would only apply to Block 2362, Lot 1 (the "Updated Rezoning Area"), removing the previously included Projected Development Site 2 on Block 2362, Lot 3 as it would now be located outside of the Updated Rezoning Area. The updated Zoning Text Amendment would establish an MIH area over the Updated Rezoning Area.

Future With the Proposed Actions (With-Action Scenario)

Projected Development Site 1 (Block 2362, Lot 1; Applicant-Owned Site)

In the Updated Rezoning Area, the With-Action Condition for Projected Development Site 1 would continue to project the development of a new mixed-use building consisting of 44 dwelling units and 6,059 gsf of ground floor local retail. Under MIH Option 1 (25% of residential floor area), 11 affordable DUs would be provided. For the purpose of providing a conservative CEQR analysis, the maximum allowable height of 145 feet would continue to be analyzed for shadows and urban design. The air quality assessment would continue to analyze the height of 105 feet. Parking would continue to be waived for Projected Development Site 1 as, per ZR 24-241, parking is required for 30 percent of market-rate units because the lot is less than 10,000 sf (approximately 8 or 9 spaces). Per ZR 25-251, parking is not required for the 10 or 12-income restricted units as the site is located within the Transit Zone. As less than 15 spaces would be required, pursuant to ZR 25-261, no accessory parking would be required to be provided at this site.

V. ANALYSIS FRAMEWORK COMPARISON

For environmental analysis purposes, this Technical Memorandum compares the RWCDS program analyzed for the Projected Development Sites in the August 2023 EAS with the future conditions under the proposed City Council Modifications.

The change to the Analysis Framework is the removal of Projected Development Site 2 (Block 2362, Lot 3) from the August 2023 EAS.

Since the number of incremental dwelling units and commercial floor area would decrease with the Council Modifications and thus introduce less residents and workers into the area, the analysis in the August 2023 EAS would be more conservative for the density related impact categories (Community Facilities, Open Space, Socioeconomic Conditions, and Transportation), and therefore the proposed City Council Modifications would not result in any impacts in those technical areas.

In addition, as the previous Projected Development Site 2 would not be included in the Updated Rezoning Area, the analysis in the August 2023 EAS would be more conservative for the shadows and urban design analyses.

For site specific conditions related to air quality, revised (E) designation requirements identified for Projected Development Site 1 would be warranted and are detailed within the following sections. (E) designation requirements related to Hazardous Materials on Projected Development Site 1 would not change. The lot that was previously identified as Projected Development Site 2 would no longer require the (E) designations proposed in the August 2023 EAS.

VI. ASSESSMENT OF POTENTIAL IMPACTS

The proposed City Council Modifications would not result in significant adverse impacts. No known circumstances have occurred since the publication of the EAS, such as proposed background developments that would create the potential for significant adverse impacts as a result of the Proposed Actions, that were not previously identified within the August 2023 EAS.

The RWCDS was assessed for the site-specific technical areas of Shadows, Urban Design and Visual Resources, Hazardous Materials, Air Quality, and Noise. As outlined in the August 2023 EAS, no significant adverse impacts would occur in these technical areas as a result of the Proposed Actions.

An (E) Designation (E-723) was assigned to the previous Projected Development Site 2 (Block 2362, Lot 3) that would mandate the fuel type for the building's heating, ventilation, and air conditioning (HVAC) system, the building's stack height, and hazardous materials requirements. Under the proposed Council Modifications, the previous Projected Development Site 2 (Block 2362, Lot 3) would no longer be included in the (E) Designations for hazardous materials or air quality.

Shadows

The shadows analysis in the August 2023 EAS analyzed incremental shadows resulting from the development of Projected Development Sites 1 and 2. Each building was analyzed with a maximum building height of 145 feet which is the maximum allowable height under the proposed zoning district. With the proposed City Council Modifications, the Revised Rezoning Area would contain Projected Development Site 1, however, Projected Development Site 2 (Block 2362, Lot 3) would no longer be included within the Shadows analysis. With the removal of Projected Development Site 2, the incremental shadows that could be cast on sunlight-sensitive resources in the future with the proposed Modifications would likely be of shorter durations and smaller coverage compared to those disclosed in the August 2023 EAS. Specifically, incremental shadows cast on the East River and the River Ring Open Space would be less with the proposed Modifications.

Urban Design and Visual Resources

The urban design and visual resources assessment in the August 2023 EAS analyzed Projected Development Sites 1 and 2. With the proposed City Council Modifications, Projected Development Site 2 (Block 2362, Lot 3) would no longer be considered in the urban design and visual resources analysis. The urban design and visual resources assessment in the August 2023 EAS analyzed Projected Development Sites 1 and 2. With the Council Modifications, Projected Development Site 2 (Block 2362, Lot 3) would no longer be considered in the urban design and visual resources analysis. With the removal of Projected Development Site 2 from the rezoning area, Block 2362, Lot 3 would be expected to remain in its current condition. Accordingly, the modifications would not result in a greater change to urban design or visual resources relative to the analysis presented in the August 2023 EAS. Therefore, the conclusion presented in the August 2023 EAS would not change.

Hazardous Materials

The hazardous materials analysis concluded that an (E) Designation (E-723) would be required for Projected Development Sites 1 and 2. With the proposed City Council Modifications, Projected Development Site 2 (Block 2362, Lot 3) would no longer be included as a projected development site where development would potentially be induced pursuant to the Proposed Actions.

Accordingly, the (E) Designation language related to Hazardous Materials would no longer be applicable for Projected Development Site 2 and no (E) designation for Projected Development Site 2 would be proposed.

The (E) designation requirements for Projected Development Site 1 would remain as presented within the August 2023 EAS and are detailed in the following section.

(E) Designation (E-723):

The (E) designation (E-723) requirements applicable to ***Projected Development Site 1*** *for hazardous materials would apply as follows:*

Task 1- Sampling Protocol

Prior to construction, the Applicant must submit to the New York City Mayor's Office of Environmental Remediation (OER), for review and approval, a Phase II Investigation protocol, including a description of methods and a site map with all sampling locations clearly and precisely represented. No sampling should begin until written approval of a protocol is received by OER. The number and location of sample sites should be selected to adequately characterize the site, the specific source 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 the 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 for the test results, a proposed remedial action plan (RAP) must be submitted by 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. An OER-approved construction-related health and safety plan (CHASP) would be implemented during excavation and construction activities to protect workers and the community from potentially significant adverse impacts associated with contaminated soil and/or groundwater. This plan would be submitted to OER for review and approval prior to implementation.

Air Quality
The air quality analysis presented in the August 2023 EAS analyzed the potential for significant adverse HVAC emissions impact related to Projected Development Sites 1 and 2 on existing buildings and an analysis of a Title V Emission Source, the New York Power Authority (NYPA) 1st Street Power Plant located approximately 350 feet from Projected Development Site 1. An analysis was conducted in the August 2023 EAS to determine whether the NYPA stack emissions, together with the boiler emissions, could potentially impact both the Applicant and Non-Applicant buildings because of their proximity to the NYPA facility and because both buildings would be as tall as or taller than the NYPA stack.

As presented within the August 2023 EAS, 24-hour/annual NYPA PM2.5, 1-hour/annual NO_2, PM_{10}, SO_2, and CO impacts on either Projected Development Site 1 or Projected Development Site 2 buildings are

less than the CEQR de minimis criteria and all estimated total pollutant concentrations are less than applicable standards.

As the proposed City Council Modifications would result in Projected Development Site 2 (Block 2362, Lot 3) would be removed from the rezoning Area, the (E) Designation proposed in the August 2023 EAS will no longer be applicable. In addition, because the original stack location for Projected Development Site 1 was to avoid a HVAC source impact on Projected Development Site 2, the stack setback required in the August 2023 EAS is revised as detailed below.

(E) Designation (E-723)

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

Applicant-Owned Building – Block 2362, Lot 1 (Projected Development Site 1)

Any new development on the above-referenced property on Lot 1 must use natural gas as the type of fuel for heating, ventilating, and air conditioning (HVAC) system and hot water equipment and ensure that the HVAC system and hot water equipment stack on the building is located at the highest tier and at least 108 feet above grade to avoid any potential significant adverse air quality impacts.

Noise

The noise analysis presented in the August 2023 EAS analyzed the potential for significant adverse noise impacts on Projected Development Sites 1 and 2 as a result of ambient external noise exposure. The applicant-owned site ("Projected Development Site 1" in the August 2023 EAS) was analyzed as part of the River Ring FEIS' (21DCP157K) detailed noise analysis. As Receptor Locations 1 and 5 from the River Ring FEIS were located adjacent to the Project Area analyzed within the August 2023 EAS, it was therefore considered appropriate to use noise data from the River Ring FEIS to determine whether attenuation would be required at Projected Development Sites 1 or 2 as analyzed in the August 2023 EAS.

As a result of the analysis of the applicant-owned site in the 2021 River Ring FEIS (CEQR No. 21DCP157K), an (E) designation was placed on the lot located at 230 Kent Avenue (Projected Development Site 1 in the August 2023 EAS) to create a mechanism for requiring sufficient building noise attenuation. Specifically, the following requirement was included in the noise (E) designation (E-636): "*To ensure an acceptable interior noise environment, future community facility uses must provide a closed-window condition with a minimum of 31 dBA window/wall attenuation on all facades facing Kent Avenue and the facades facing North 1st Street within 50 feet of Kent Avenue and the facades facing Metropolitan Avenue within 50 feet of Kent Avenue to maintain an interior noise level not greater than 45 dBA for community facility uses, as illustrated in the EIS. 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*."

Pursuant to ZR §123-32, in Special Mixed-Use Districts, all new dwelling units shall be provided with a minimum 35 dBA of window wall attenuation to maintain an interior noise level of 45 dBA or less, with windows closed, and shall provide an alternate means of ventilation. However, upon application to the OER by the owner of the affected building, OER may modify the requirements of this Section, based upon new information, additional facts or updated standards, as applicable, provided that such modification is equally protective. In such instances, OER shall provide the Department of Buildings with notice of such modification, stating that it does not object to the issuance of a building permit, or temporary or final certificate of occupancy. As the Proposed Actions would map the Project Area as a Special Mixed-Use

District, any development within the Project Area must comply with the window wall attenuation requirement of 35 dBA pursuant to ZR §123-32. Based on the noise levels shown in Table B-2 of the August 2023 EAS and comparing the building attenuation requirements pursuant to CEQR and ZR §123-32, the 35 dBA of attenuation required by the proposed special district pursuant to ZR §123-32 would ensure that the development within the Project Area would have interior noise levels of 45 dBA or less for residential uses, and would effectively satisfy any building attenuation requirement pursuant to CEQR. With these attenuation measures in place, there would be no potential for significant adverse noise impacts.

No (E) Designation for Noise was proposed in the August 2023 EAS for Projected Development Site 1 nor Projected Development Site 2, and the proposed Modifications would not change the conclusions of the August 2023 EAS. Therefore, the (E) Designation specifying the required noise attenuation presented in the August 2023 EAS via the River Ring EIS remains unchanged.