Department of
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March 21, 2024

# NEGATIVE DECLARATION

**Project Identification**

Name/Location: **Brownsville FAC**
Block 3743, Lot 12; Block 3518, Lot 63; Block 1455, Lots 65, 66 & 79
Brooklyn, NY
Brooklyn, Community District 16
CEQR No. 22HPD065K
SEQRA Classification: Unlisted
ULURP No.: TBD

**Name and Description of Proposed Action**

Brownsville FAC:

FAC Brownsville Apartments LP (the 'Project Sponsor') is requesting approval of discretionary actions to facilitate a new affordable housing development consisting of 61 units and local retail space (the 'Proposed Project'), on three sites (Development Sites A, B, and C). Development Site A would be re-developed with a four-story, mixed residential/commercial building containing six affordable dwelling units (DUs) and ground-floor restaurant space, Development Site B would be redeveloped with a six-story residential building containing 21 affordable DUs and Development Site C would be redeveloped with a nine-story residential building containing 34 affordable DUs located at 425 Mother Gaston Blvd (Development Site A - Block 3743, Lot 12), 546 Thomas S. Boyland St (Development Site B - Block 3518, Lot 63), 1733 St Marks Ave (Development Site C - Block 1455, Lots 65, 66, 79) in the Brownsville neighborhood of Brooklyn Community District (CD) 16 (the 'Project Site').

To facilitate the Proposed Project, the Project Sponsor is seeking the following discretionary approvals: (i) A zoning map amendment to rezone a portion of Block 1455, including Lots 65, 66, and 79, which comprise Site C, and Lots 46, 50, 56, 60, 61, 62, and 64, and part of Lots 39, 41 to 44, 58 and 67 (the 'Proposed Rezoning Area') from M1-1 to R7A with a C2-4 commercial overlay mapped to a depth of 100 feet along Saint Marks Avenue, East New York Avenue, and Mother Gaston Boulevard; (ii) A zoning text amendment to Appendix F of the New York City Zoning Resolution (ZR) to map a Mandatory Inclusionary Housing (MIH) area over the Proposed Rezoning Area; (iii) Disposition of City-owned property, including Lot 12 on Block 3743 (Development Site A); Lot 63 on Block 3518 (Development Site B); and Lots 65, 66, and 79 on Block 1455 (Development Site C) through Urban Development Action Area Project (UDAAP) designation and project approval; and (iv) Provision of public financing via HPD Neighborhood Construction Program (NCP) (collectively, the 'Proposed Actions'). In addition, the proposed zoning changes are expected to facilitate the redevelopment of another projected development site (Projected Development Site 1; Block 1455, Lots 46 and 50). In total, the Proposed Actions would facilitate the development of up to approximately 146 DUs, including 83 affordable DUs, and 11,270 gsf of commercial space at Development Sites A, B, and C, and Projected Development Site 1. A single potential development site (Potential Development Site 1; Block 1455, Lots 56 and 58) has also been identified.

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Brownsville FAC

Development Site A is a 2,500-square foot (sf) vacant City-owned lot that would be redeveloped with a four-story, 9,650-gross square foot (gsf) mixed residential/commercial building containing six affordable dwelling units and 2,500 sf of ground-floor restaurant space. Development Site B is a 6,000-sf vacant City-owned lot that would be redeveloped with a six-story, 23,662-gsf residential building containing 21 affordable dwelling units. Development Site C is a 6,558-sf vacant City-owned property that would be redeveloped with a nine-story, 32,285- gsf residential building containing 34 affordable dwelling units.

Development Sites A, B, and C consist of five, vacant, City-owned tax lots located at three separate sites in the Brownsville neighborhood of Brooklyn CD 16. Development Site A is a rectangular-shaped tax lot located at 425 Mother Gaston Boulevard. The undeveloped site occupies approximately 2,500 sf and has approximately 25 feet of frontage on the east side of Mother Gaston Boulevard between Belmont and Sutter Avenues. Carter G. Woodson Children's Park abuts the site to the east. Development Site A is zoned R6 with a C1-3 commercial overlay. Development Site B is a rectangular-shaped tax lot located at 546 Thomas S Boyland Street. The undeveloped site occupies approximately 6,000 sf and has approximately 60 feet of frontage on the west side of Thomas S. Boyland Street between Pitkin and Sutter Avenues. The site is zoned R6. Development Site C is comprised of three narrow rectangular-shaped tax lots at 1733 St. Marks Avenue. Together, the three lots occupy approximately 6,558 sf of lot area and have approximately 51 feet of frontage on the north side of Saint Marks Avenue between East New York Avenue and Eastern Parkway. The site is zoned M1-1, which would be rezoned as a part of the Proposed Project.

Absent the Proposed Project, it is assumed that the Project Site would retain the existing uses for each Development Site. Development Sites A, B, and C would remain vacant lots, while existing uses within the boundary of the Proposed Rezoning Area would also remain. There are no projects currently under construction within the 400 feet of the Development Site A or B, or within 400 feet of the Proposed Rezoning Area.

According to the EAS dated March 20, 2024, the analysis year established for this project is 2026, the year when the Proposed Project is expected to be completed and fully operational.

**Statement of No Significant Effect:**

Pursuant to the CEQR rules adopted on June 6, 1991, Executive Order 91, HPD has completed its technical review of an Environmental Assessment Statement (EAS) dated March 20, 2024, and has determined that the Proposed Actions will have no significant effect on the quality of the environment.

**Supporting Statement:**

The above determination is based on an EAS dated March 20, 2024, which finds that the Proposed Action would not have a significant adverse impact on the environment. Reasons supporting these determinations are noted below:

Hazardous Materials

*Development Sites A, B, and C*

*Development Site A (Block 3743, Lot 12):* According to the June 2020 Phase I ESA, Development Site A, a 2,500-sf vacant parcel, there was no evidence of Recognized Environmental Conditions

(RECs) found on the site. Therefore, the Phase I did not recommend any further investigation for Site A and there will be no significant adverse Hazardous Materials impact on the site.

*Development Site B (Block 3518, Lot 63):* According to the May 2020 Phase I ESA, Development Site B, a 6,000-sf vacant parcel, there was no evidence of Recognized Environmental Conditions (RECs) found on the site. Therefore, the Phase I did not recommend any further investigation for Site B and there will be no significant adverse Hazardous Materials impact on the site.

*Development Site C (Block 1455, Lots 65, 66, and 79):* According to the Phase I ESA, based upon the field inspection and pertinent information reviewed, the Phase I could not rule out a vapor encroachment condition at the site. Since the former property at the site is listed as manufacturing, the Phase I recommended that a Phase II ESA investigation be conducted for the site. Prior to starting excavation, subsurface characterization and testing would be performed for Development Site C. All activities involving disturbance of existing soil would be conducted in accordance with the March 4, 2024, DEP approval letter of the Remedial Action Plan (RAP) and Construction Health and Safety Plan (CHASP). Upon completion of the project, Professional Engineer (P.E.) certified Remedial Closure Report should be submitted for DEP review and approval for the proposed project. The P.E. certified Remedial Closure Report should indicate that all remedial requirements have been properly implemented (i.e., transportation/disposal manifests for removal and disposal of soil in accordance with applicable local, state, and federal laws and regulations; installation of vapor barrier system; two feet of DEP approved certified clean fill/topsoil capping requirement in any landscaped/grass covered areas not capped with concrete/asphalt, etc.).

With these measures included as part of the proposed development and required through the Land Disposition Agreement and/or Regulatory Agreement between HPD and the Project Sponsor for Development Site C, as outlined in the March 4, 2024, NYC Department of Environmental Protection ("DEP") letter to HPD, there would be no significant adverse impacts related to Hazardous Materials.

*Projected Development Site 1 and Potential Development Site 1*

To ensure that the Proposed Actions would not result in significant adverse impacts related to Hazardous Materials an (E) Designation (E-736) would be established as part of approval of the proposed actions on Projected Development Site 1 and Potential Development Site 1 (Block 1455, Lots 46, 50, 56, and 58) based on historic manufacturing and automotive-related uses on the subject block, and to ensure the sites are properly remediated before any development and/or site disturbance as a result of the proposed zoning change.

The requirements for (E) Designation related to Hazardous Materials, are as follows:

**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 he 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.**

With the requirements of the (E) Designation to be met before any construction activity or new development could occur on the Projected Development Site 1 and Potential Development Site 1, there would be no impact from the potential presence of Hazardous Materials. The (E) Designation will ensure that testing and remediation will be provided as necessary before any future development and/or soil disturbance on Projected Development Site 1 and Potential Development Site 1.

Air Quality

*Development Site C*

*Development Site C (Block 1455, Lots 65, 66, and 79):* To ensure that the City-owned Development Site C (1733 Saint Marks Avenue) would be in full compliance with CEQR significant impact criteria, future residential development on Development Site C (Block 1455, Lots 65, 66, and 79) must use natural gas as the type of fuel for its HVAC system and ensure that the building's HVAC stack would be located at a height of 94 feet above grade, to avoid any potential significant adverse stationary source Air Quality impacts. If the application for the approval of construction documents for these lots are past the applicable date noted under Article 506 of Local Law 154, the buildings(s)

must abide by the restrictions of Local Law 154 and will use electric power for the HVAC system(s).

To preclude the potential for significant adverse impacts, the above-mentioned measures would be memorialized and enforced through a Land Disposition Agreement and/or Regulatory Agreement between the Project Sponsor and HPD that would stipulate the necessary heating, ventilating, and air conditioning (HVAC) system requirements for the site.

*Projected Development Site 1 and Potential Development Site 1*

In addition, the following development sites are mapped with an (E) Designation (E-736) for Air Quality. The requirements for the (E) Designation are as follows:

- *Potential Development Site 1 (Block 1455, Lots 56, 58):* Any new commercial or residential development on Block 1455, Lots 56 and 58 must use natural gas as the type of fuel for heating, ventilating, and air conditioning (HVAC) system and ensure that the HVAC stack is located at a height of 98 feet above grade, to avoid any potential significant adverse air quality impacts. If the application for the approval of construction documents for these lots are past the applicable date noted under Article 506 of Local Law 154, the buildings(s) must abide by the restrictions of Local Law 154 and will use electric power for the HVAC system(s).

- *Projected Development Site 1 (Block 1455, Lots 46 and 50:* Any new commercial or residential development on Block 1455, Lots 46 and 50 must use natural gas as the type of fuel for heating, ventilating, and air conditioning (HVAC) system and ensure that the HVAC stack is located at a height of 98 feet above grade, to avoid any potential significant adverse air quality impacts. If the application for the approval of construction documents for these lots are past the applicable date noted under Article 506 of Local Law 154, the buildings(s) must abide by the restrictions of Local Law 154 and will use electric power for the HVAC system(s).

With the implementation of the Air Quality requirements at Development Site C, pursuant to the Land Disposition Agreement and/or Regulatory Agreement between HPD and the Project Sponsor, and the (E) Designation (E-736) for Projected Development Site 1 and Potential Development Site 1, the Proposed Actions would be in full compliance with CEQR significant impact criteria. Therefore, the Proposed Actions would not result in any significant adverse impacts related to Air Quality.

Noise

*Development Site A (Block 3743, Lot 1):* In order to ensure an acceptable interior noise environment, future residential/community facility uses must provide a closed window condition of a minimum of 31 dBA for the western facade on Development Site A (Block 3743, Lot 12; Mother Gaston Boulevard frontage) to achieve interior noise levels of 45 dBA or lower for the proposed residential uses. For all other facades, no additional noise attenuation above standard

construction practices would be required to achieve interior noise levels of 45 dBA at Development Site A.

To preclude the potential for significant adverse impacts, the above-mentioned measures would be memorialized and enforced through the Land Disposition Agreement and/or Regulatory Agreement between the New York City Department of Housing Preservation and Development (HPD) and the Project Sponsor.

*Projected Development Site 1 and Potential Development Site 1*

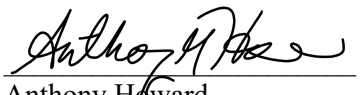
In addition, the following development sites are mapped with an (E) Designation for Noise (E-736). The requirements for the (E) Designation (E-736) are as follows:

*Projected Development Site* 1 (Block 1455, Lots 46 and 50): In order to ensure an acceptable interior noise environment, future residential/community facility uses must provide a closed window condition of a minimum of 28 dBA window/wall attenuation on the facades facing Bergen Street, Mother Gaston Boulevard, and East New York Avenue in order to ensure an interior noise level not greater than 45 dBA for residential and community facility uses. To maintain a closed-window condition, an alternate means of ventilation must also be provided. Alternate means of ventilation include but is not limited to central air conditioning.

*Potential Development Site* 1 (Block 1455, Lots 56 and 58): In order to ensure an acceptable interior noise environment, future residential/community facility uses must provide a closed window condition of a minimum of 28 dBA window/wall attenuation on the facades facing East New York Avenue in order to ensure an interior noise level not greater than 45 dBA for residential and community facility uses. To maintain a closed-window condition, an alternate means of ventilation must also be provided. Alternate means of ventilation include but is not limited to central air conditioning.

With the implementation of the attenuation requirements at Development Site A, pursuant to the Land Disposition Agreement and/or Regulatory Agreement between HPD and the Project Sponsor, and the (E) Designation (E-736) for Projected Development Site 1 and Potential Development Site 1, the Proposed Actions would provide sufficient attenuation to achieve the CEQR Technical Manual interior noise level guidelines. Therefore, the Proposed Actions would not result in any significant adverse impacts related to noise.

The EAS is on file with HPD and available for public review. This Negative Declaration has been prepared in accordance with Article 8 of the Environmental Conservation Law 6NYCRR Part 617.



3/21/2024
Date

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