CITY PLANNING COMMISSION
CITY OF NEW YORK

OFFICE OF THE CHAIR

September 18, 2017

REVISED CONDITIONAL NEGATIVE DECLARATION[1]
Supersedes the Conditional Negative Declaration Issued on June 16, 2017

Project Identification
CEQR No. 17DCP176K
ULURP Nos. 170400ZMK, 170401ZRK
SEQRA Classification: Unlisted

Lead Agency
City Planning Commission
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New York, NY 10217
Contact: Robert Dobruskin
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Name, Description and Location of Proposal:

Tillary and Prince Streets Rezoning
The Applicant, YYY Brooklyn NY LLC., proposes a zoning map amendment from an R6 district to a C6-4 district, and a zoning text amendment to Zoning Resolution (ZR) Section 23-933 (Inclusionary Housing) Appendix F to establish a Mandatory Inclusionary Housing (MIH) area affecting a portion of a block (Block 2050, p/o Lot 1, Lot 100, and 104, the "Rezoning Area") in the Downtown Brooklyn neighborhood of Brooklyn Community District 2. In addition, the Applicant is seeking a zoning text amendment to ZR Appendix E (Special Downtown Brooklyn District) to extend the Special Downtown Brooklyn District and the Flatbush Avenue Extension height Limitation Area over the Rezoning Area. The proposed zoning and text amendments (collectively the "Proposed Actions") would facilitate a proposal by the Applicant to construct two attached predominantly residential buildings at 202-208 Tillary Street (Building A) and 67-73 Prince Street (Building B), collectively, Lot 100, the "Project Site," comprising a combined total of 266,542 gross square feet (gsf) of Use Group (UG) 2 residential use, including approximately 262 dwelling units, of which 79 would be affordable, 13,723 gsf of UG 6 local retail space, and 44 vehicular accessory parking spaces and 132 bicycle parking spaces in a cellar-level garage (the "Proposed Development"). The Rezoning Area is located at the corner of Tillary Street and Prince Street.

The Rezoning Area is currently zoned R6. R6 zoning districts allow for two sets of bulk regulations: "Height Factor" regulations, which produce small multi-family buildings on small zoning lots and, on larger lots,

[1] This revised Conditional Negative Declaration (CND) supersedes the CND issued on June 16, 2017. The revised CND incorporates changes to the (E) designation (E-437) for air quality, described in the Supporting Statement of this document. The changes to the (E) designation reflect revised air quality analyses performed after the issuance of the CND on June 16, 2017. The revised (E) designation for air quality incorporates modified stack height restrictions applicable to Building B.

tall buildings set back from the street; and "Quality Housing" regulations, which produce high lot coverage buildings with height limits that often reflect the scale of pre-1961 apartment buildings. Under Height Factor regulations, the maximum permitted residential FAR (UG 1 and 2) ranges from 0.78 to 2.43. Under Quality Housing regulations, the maximum permitted residential FAR is 3.0 on wide streets outside of the Manhattan Core (i.e. the area outside of Manhattan Community Districts 1, 2, 3, 4, 5, 6, 7 and 8) and 2.2 on narrow streets. Community facility uses (UG 3 and 4) are permitted up to 4.8 FAR in R6 districts.

The Project Site is currently developed with a 114,500 gsf, five-story UG 16 self-storage building. The remainder of the Rezoning Area is developed with a 65,645 gsf, eight-story UG 3 women's and men's homeless shelter (Lot 104), which includes 200 beds operated by the Institute for Community Living ("ICL") and 62 beds operated by Church Avenue Merchant block Association ("CAMBA"). Both ICL and CAMBA are operating under a 20-year lease with the building owner, and a 9-year funding agreement with New York City Department of Homeless Services and the New York City Human Resources Administration. The Rezoning Area also includes 13,700 square feet of New York City Housing Authority's Ingersoll Houses campus (p/o Lot 1), which is currently used as surface loading area by the storage facility on the Project Site under a licensing agreement with NYCHA, and a fenced-off open space. The Ingersoll Houses campus consists of 12 residential buildings ranging from 6-to-11 stories, totaling 1,840 dwelling units.

The proposed C6-4 zoning district and MIH text amendment would allow a maximum FAR of 12 for residential uses (UG 1 and 2), a maximum FAR of 10 for community facility uses (UG 3 and 4), and a maximum FAR of 10 for commercial uses (UG 5-12). The extension of the Special Downtown Brooklyn District, which provides special height and setback regulations and urban design guidelines, and extension of the Flatbush Avenue Extension Height Limitation Area, would establish a height restriction of 400 feet over the Rezoning Area. Upon approval of the Proposed Actions, the Applicant intends to develop two attached 23- and 21-story buildings ("Building A" and "Building B") totaling 266,042 gsf, with 262 dwelling units, of which 79 would be affordable, 13,723 gsf of UG 6 local retail space, and 44 vehicular accessory parking spaces and 132 bicycle parking spaces in a cellar-level garage. With the proposed MIH text amendment, Option 1 would be mapped coterminous with the Rezoning Area. Under Option 1, 25 percent of residential floor area would be affordable for residents with incomes averaging 60% AMI (of which 10% would be affordable at 40% AMI).

For the purposes of presenting a conservative analysis, the Environmental Assessment Statement prepared in connection with the Proposed Actions analyzed two development scenarios. The first scenario, used to analyze density- and bulk-related impacts, assumes 162,634 sf of air rights transfer from the portion of the NYCHA property (p/o Lot 1) within the Rezoning Area to the Project Site, which would require additional discretionary actions. This scenario also assumes 21,991 sf of air rights transfer from the homeless shelter building (Lot 104) to the Project Site. Under this scenario, the Proposed Development would consist of two attached 42-story buildings totaling 441,363 gsf, with 435 dwelling units, of which 109 units would be affordable at or below 80% of Area Median Income ("AMI"), 13,721 gsf of UG 6 retail use, and a 21,991 gsf of UG 6 health and physical culture facility. For purposes of a more conservative analysis for the HVAC air quality impact assessment, a second scenario was developed and assumes the Proposed Development, which would be built up to 23 stories. In both scenarios, it is assumed that the homeless shelter building on Lot 104 would remain.

The Proposed Development is expected to be completed in 2020. Absent the Proposed Actions, the Project Site would remain as the existing conditions.

In connection with the Proposed Actions, an (E) designation (E-437) would be assigned to the project site (Block 2050, Lot 100) to avoid potential significant adverse impacts related to hazardous materials, air quality, and noise. The (E) designation text related to hazardous materials is as follows:

> **Task 1-Sampling Protocol**
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> **The applicant submits to OER, for review and approval, a Phase I 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.**
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> **Task 2-Remediation Determination and Protocol**
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> **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.**
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> **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.**
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> **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 measures specified above, the Proposed Actions would not result in any significant adverse impacts related to hazardous materials.

The (E) designation text related to air quality is as follows:

> **Building A (Block 2050, Lot 100): Any new residential and/or commercial development on the above-referenced properties must use natural gas for HVAC systems and ensure that the heating, ventilating and air conditioning stack is located at the highest tier or at least 238 feet above grade to avoid any potential significant adverse air quality impacts.**
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> **Building B (Block 2050, Lot 100): Any new residential and/or commercial development on the above-referenced properties must use natural gas for HVAC systems and ensure that the heating, ventilating and air conditioning stack is located at the highest tier or at least 218 feet above grade and the stack is located at 41 feet from the lot line facing Prince Street and at**

least 42 feet from lot line facing Tillary Street to avoid any potential significant adverse air quality impacts.

With the measures specified above, the Proposed Actions would not result in any significant adverse impacts related to air quality.

The (E) designation text related to noise is as follows:

In order to ensure an acceptable interior noise environment, future residential/commercial uses must provide a closed window condition with minimum of 31 dB(A) window/wall attenuation along northern and western facades, in order to maintain an interior noise level of 45 dB(A). In order 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, central air conditioning.

With the attenuation measures specified above, the Proposed Actions would not result in any significant adverse impacts related to noise.

Statement of No Significant Effect:
The Environmental Assessment and Review Division of the Department of City Planning, on behalf of the City Planning Commission, has completed its technical review of the Environmental Assessment Statement, dated June 16, 2017, prepared in connection with the ULURP Application (Nos. 170400ZMK and 170401ZRK). The City Planning Commission has determined that the Proposed Actions will have no significant effect on the quality of the environment, once it is modified as follows:

The Applicant agrees to contact the New York City Department of Transportation, prior to the issuance of the first temporary or permanent certificate of occupancy for any portion of the Proposed Development, to inform them of the need to implement the following traffic mitigation measures:

a) Transferring one second of green time at the intersection of Tillary Street and Flatbush Avenue from the northbound/southbound signal phase to the eastbound/westbound through-right phase in the weekday AM and PM peak hours;

b) Transferring one second of green time at the intersection of Tillary Street and Prince Street from the eastbound phase to the northbound phase in the weekday AM hour; and

c) Transferring one second of green time at the intersection of Tillary Street and Gold Street, which operates on the same signal controller as the Tillary Street and Prince Street intersection, from the eastbound/westbound phase to the southbound phase in the weekday AM hour.

Supporting Statement:
The above determination is based on an environmental assessment which finds that:

1. An Environmental Assessment Statement (EAS) was completed on June 16, 2017 and a Conditional Negative Declaration (CND) was issued on June 16, 2017. A revised EAS, dated September 15, 2017, reflects revisions to the air quality mobile source and stationary source analyses completed after the issuance of the CND on June 16, 2017. The revised air quality analyses resulted in a modification to the (E) designation as it relates to heating, ventilating and air conditioning (HVAC) stack location requirements on Building B. The additional restrictions have

been incorporated into the (E) designation for air quality. The proposed project as described and illustrated in the Revised EAS, would comply with the new restriction. As described in the Revised EAS, it was determined that the revised air quality analyses would not otherwise alter the conclusions of the previous EAS and CND.

2. The (E) designation (E-437) for hazardous materials, air quality, and noise would ensure that the Proposed Actions would not result in significant adverse impacts.

3. For purposes of presenting a conservative analysis, the Environmental Assessment Statement analyzed a development scenario which assumes the transfer of development rights from the portion of the NYCHA property within the Rezoning Area (p/o Lot 1) and homeless shelter building (Lot 104). The traffic analysis under this scenario concluded that project-generated traffic has the potential to result in significant adverse impacts, during the AM peak hours, at the intersection of Tillary Street and Flatbush Avenue, on the eastbound through movement, westbound through movement, and westbound right-turn movement. Average delays are projected to increase on all three movements (respectively, 5.3 seconds, 7.9 seconds, and 9.1 seconds), under Level of Service ("LOS") F. During the PM peak hour, there would be significant adverse impacts at this intersection on the eastbound through movement, eastbound right-turn movement, and westbound through movement. Average delays are projected to increase on all three movements (respectively, 13 seconds, 3.2 seconds, and 5 seconds) under LOS F. The traffic analysis also found that project-generated traffic has the potential to result in significant adverse impact, during the AM peak hour, at the intersection of Tillary Street and Prince Street on the northbound right-turn movement, with an increase in average delays of 5.3 seconds under LOS D.

   The provision of the traffic mitigation measures has been incorporated into a restrictive declaration (the "Restrictive Declaration") that was excuted on August 3rd, 2017 and recorded against the Project Site on August 23rd, 2017. The Restrictive Declaration restricts the manner in which the Project Site may be developed or redeveloped by requiring the Declarant to notify the New York City Department of Transportation ("DOT") prior to filing any builder's pavement plan with the New York City Department of Buildings in connection with an application for a permit for the Proposed Development. The Restrictive Declaration also requires that Declarant notify DOT prior to issuance of the first temporary or permanent certificate of occupancy for any portion of the Proposed Development. In consultation with DOT, the proposed traffic mitigation measures were deemed to be reasonable and appropriate. Consequently, no significant adverse impacts related to traffic would occur.

4. No other significant effects on the environment which would require an Environmental Impact Statement are foreseeable.

It is fully agreed and understood that if the foregoing conditions, modification, and alterations are not fully incorporated into the Proposed Actions, this revised Conditional Negative Declaration shall become null and void. In such event, the Applicant shall be required to prepare a Draft Environmental Impact Statement before proceeding further with said proposal.

This revised Conditional Negative Declaration has been prepared in accordance with Article 8 of the Environmental Conservation Law 6NYCRR part 617.

Should you have any questions pertaining to this revised Conditional Negative Declaration, you may contact Christopher Lee of the Department of City Planning at (212) 720-3429.

I, the Undersigned, as the Applicant or authorized representative for this proposal, hereby affix my signature in acceptance of the above conditions to the Proposed Actions.

Signature of Applicant or Authorized Representative

Date: September 15, 2017

Olga Abinader, Deputy Director
Environmental Assessment & Review Division
Department of City Planning

Date: September 15, 2017

Marisa Lago, Chair
City Planning Commission

Date: September 18, 2017