TECHNICAL MEMORANDUM 001
29 JAY STREET
CEQR No. 18DCP150K
December 19, 2018

A. BACKGROUND

The Applicant (Forman Ferry, LLC) proposes to develop a commercial building (the "Proposed Project") at 29 Jay Street in the DUMBO neighborhood of Brooklyn Community District (CD) 2 (the "Development Site"). The Proposed Project would include 224,935 gross square feet (gsf) of commercial floor area, including approximately 212,710 gsf of office floor area and approximately 12,225 gsf of ground floor local retail. The Proposed Project would rise to a maximum height of 148 feet with no setback.

To facilitate the Proposed Project, the Applicant requested approval of the following discretionary actions (collectively, the "Proposed Actions"): (1) a zoning map amendment to rezone the Development Site and the adjacent Brooklyn Block 20, Lot 6 from M1-4/R8A to M1-6/R8X; (2) a zoning text amendment to Section 123-63 of the Zoning Resolution (ZR) to add R8X to the list of residential districts mapped within the MX-2 Special Mixed-Use District; and (3) a zoning text amendment to ZR Section 123-66 to allow streetwall heights of developments in the Rezoning Area to be increased based on the streetwall heights of buildings in the surrounding context. In addition, as the Development Site is located within a New York City Landmarks Preservation Commission (LPC) – designated historic district, the Proposed Project requires a Certificate of Appropriateness ("C of A") from LPC.

The Department of City Planning (DCP) on behalf of the City Planning Commission (CPC) determined that the Proposed Actions and associated reasonable worst-case development scenario (RWCDS) analyzed in an Environmental Assessment Statement (EAS) dated June 22, 2018 would not have the potential to result in a significant adverse impact on the environment and issued a Negative Declaration on June 22, 2018.

The RWCDS analyzed in the EAS consisted of a 155-foot-tall approximately 224,935 gross square foot (gsf) commercial building, comprising 212,710 gsf of office floor area and approximately 12,225 gsf of ground floor local retail. In addition, as the Proposed Actions would increase the maximum permitted residential building height (from 145 feet to 175 feet with the provision of Inclusionary Housing (IH) and a qualifying ground floor), for environmental review purposes, an alternate, 175-foot-tall residential RWCDS was also assessed for the massing-related technical areas of shadows, urban design and visual resources, and air quality.

During the Uniform Land Use Review Procedure (ULURP) process, the City Council proposed modifications to the proposed zoning text amendment to ZR Section 123-66 that would require a building that was not predominantly commercial and/or manufacturing to comply with height and setback requirements of an R8A district: this change, if adopted, would reduce the maximum building height of residential buildings in the proposed M1-6/R8X district from 175 feet to the 145 feet permitted under existing M1-4/R8A zoning (the "Potential City Council Modifications," refer to **Appendix A**). This Technical Memorandum (TM001) analyzes the Potential City Council Modifications to determine if they would result in any potential adverse environmental effects.

B. ASSESSMENT OF POTENTIAL CITY COUNCIL MODIFICATIONS

The Potential City Council Modifications would not affect the commercial RWCDS that was analyzed in the EAS. As such, the Potential City Council Modifications, like the Proposed Actions, would not result in significant adverse impacts in the areas of land use, zoning, and public policy; socioeconomic conditions; community facilities and services; open space; historic and cultural resources; natural resources; hazardous materials; water and sewer infrastructure; solid waste and sanitation services; energy; transportation; greenhouse gas emissions and climate change; noise; public health; neighborhood character; or construction.

As noted above, in addition to the commercial RWCDS, an alternate, 175-foot-tall residential RWCDS was assessed for the massing-related technical areas of shadows, urban design and visual resources, and air quality, as the Proposed Actions, while not increasing the maximum permitted residential FAR, would increase the maximum permitted residential building height. As outlined in the EAS, no significant adverse impacts were anticipated in these technical areas as a result of the alternate RWCDS. Under the Potential City Council Modifications, the maximum building height for residential buildings would remain unchanged from existing conditions (at 145 feet, with the provision of IH and a qualifying ground floor). Therefore, the 175-foot-tall alternate RWCDS analyzed in the shadows, urban design, and air quality analyses would not be permitted in the With-Action condition, as modified by the Potential City Council Modifications, the alternate 175-foot-tall building would be precluded, and any residential development would be limited to a maximum building height of 145 feet (as under existing conditions).

Shadows

With the elimination of the alternate, 175-foot-tall RWCDS, the maximum building height in the future with the Proposed Actions would be the 155-foot-tall commercial RWCDS, reducing the maximum shadow radius from the 752.5 feet analyzed in the EAS to 666.5 feet. With a maximum streetwall and building height of 145 feet for any residential development under the Potential City Council Modification, the 155-foot-tall commercial RWCDS (with a 153.5' streetwall) would represent the worst-case for shadow analysis purposes. As the 155-foot-tall commercial RWCDS would have a smaller shadow radius than that analyzed in the EAS, the Potential City Council Modifications would result in less incremental shadow coverage than the RWCDS analyzed for the Proposed Actions. Therefore, the Potential City Council Modifications, like the Proposed Actions, would not result in any new significant adverse shadow impacts, and the conclusions presented in the EAS remain unchanged.

Urban Design and Visual Resources

The urban design and visual resources assessment provided in the EAS analyzed both the 155-foot-tall commercial RWCDS and the alternate, 175-foot-tall residential RWCDS and concluded that neither scenario would result in significant adverse impacts. The commercial RWCDS would continue to not result in significant adverse impacts on urban design and visual resources. In addition, the reduction in the permitted residential building height from 175 feet to 145 feet would not result in a significant adverse impact on urban design and visual resources, as, under the RWCDS, a 145-foot-tall building would similarly be constructed on the Development Site in the No-Action condition. Therefore, the conclusions presented in the EAS remain unchanged.

Air Quality

The air quality analysis provided in the EAS analyzed both the commercial RWCDS and the alternate, 175-foot-tall residential RWCDS and concluded that neither scenario would result in significant adverse impacts. With the reduction in height of the alternate, 175-foot-tall RWCDS under the Potential City Council Modifications, the commercial RWCDS conclusions are unaffected.

As presented in the air quality attachment of the EAS, based on the height of the Proposed Project (148 feet) and the distance between the Development Site and the nearest building of equal or greater height (20 Jay Street, approximately 58'-5" to the west), a detailed analysis of the potential for significant adverse impacts from the Proposed Project's heating, ventilation, and air conditioning (HVAC) on 20 Jay Street was prepared. As the commercial RWCDS (with a maximum height of 155 feet) and the alternate, 175-foot-tall residential RWCDS would be located further from the nearest building of equal or greater height, the 148-foot-tall Proposed Project was the worst-case scenario analyzed for HVAC impact purposes.

The air quality analysis determined the need to assign an (E) designation to the Development Site to avoid significant adverse HVAC air quality impacts, which included (1) restrictions on the location and a minimum stack height for any commercial development; and (2) a minimum stack height for the alternate, 175-foot-tall residential RWCDS. Under the Potential City Council Modifications, the maximum height, in addition to the maximum permitted FAR for residential developments would remain unchanged from that which was analyzed in the 2009 *DUMBO Rezoning EAS* (i.e., unchanged from existing conditions). As the 2009 *DUMBO Rezoning EAS* determined that no significant adverse HVAC impacts would occur with the construction of a 145-foot-tall predominantly residential building, these conclusions would remain unchanged under the Potential City Council Modifications. Therefore, the minimum stack height restrictions previously included for the alternate, 175-foot-tall residential RWCDS would be eliminated under the Potential City Council Modifications, and the language of the (E) designation would be amended to apply to all new development on Block 20, Lot 1, as follows:

> **Any new development on Block 20, Lot 1 must exclusively use natural gas as the type of fuel for HVAC systems, and ensure that the heating, ventilating and air conditioning stack(s) is located at the height highest tier or at least 151 feet above grade and at least 20 feet from the lot line facing Jay Street to avoid any potential significant adverse air quality impacts.**

As all future development on the Development Site would be required to comply with the (E) designation as amended above, no significant adverse air quality impacts would result, and the conclusions of the EAS otherwise remain unchanged.

C. CONCLUSION

The Potential City Council Modifications would not result in any new or different environmental impacts than those disclosed in the EAS, and further analysis not warranted.

APPENDIX A

POTENTIAL CITY COUNCIL MODIFICATIONS

THE COUNCIL
THE CITY OF NEW YORK
LAND USE DIVISION
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December 18, 2018

Honorable Marisa Lago, Chair
City Planning Commission
120 Broadway, 31st Floor
New York, NY 10271

Re: Application No.: N 180345 ZRK (L.U. No. 281)
Related Application No. C 180344 ZMK (L.U. No. 280)

29 Jay Street Rezoning

Dear Chair Lago:

On December 18, 2018, the Land Use Committee of the City Council, by vote of 17-0-0, recommended modifications of the City Planning Commission's decisions in the above-referenced matters.

Pursuant to Section 197-d(d) of the City Charter and Section 11.70 of the Rules of the Council, I hereby file the proposed modifications with the Commission:

N 180345 ZRK (L.U. No. 281)

Matter underlined is new, to be added;
Matter ~~struck out~~ is to be deleted;
Matter within # # is defined in Section 12-10;
Matter ~~double struck out~~ is old, deleted by the City Council;
Matter double-underlined is new, added by the City Council
* * * indicates where unchanged text appears in the Zoning Resolution.

Article XII - Special Purpose Districts

Chapter 3
Special Mixed Use District

* * *

123-63
Maximum Floor Area Ratio and Lot Coverage Requirements for Zoning Lots Containing Only Residential Buildings in R6, R7, R8 and R9 Districts

Where the designated #Residence District# is an R6, R7, R8 or R9 District, the minimum required #open space ratio# and maximum #floor area ratio# provisions of Section 23-151 (Basic regulations for R6 through R9 Districts) shall not apply. In lieu thereof, all #residential buildings#, regardless of whether they are required to be #developed# or #enlarged# pursuant to the Quality Housing Program, shall comply with the maximum #floor area ratio# and #lot coverage# requirements set forth for the designated district in Sections 23-153 (For Quality Housing buildings) or 23-155 (Affordable independent residences for seniors), as applicable.

Where the designated district is an R7-3 District, the maximum #floor area ratio# shall be 5.0 and the maximum #lot coverage# shall be 70 percent on an #interior# or #through lot# and 100 percent on a #corner lot#.

Where the designated district is an R9-1 District, the maximum #floor area ratio# shall be 9.0, and the maximum #lot coverage# shall be 70 percent on an #interior# or #through lot# and 100 percent on a #corner lot#.

The provisions of this Section shall not apply on #waterfront blocks#, as defined in Section 62-11. In lieu thereof, the applicable maximum #floor area ratio# and #lot coverage# requirements set forth for #residential uses# in Sections 62-30 (SPECIAL BULK REGULATIONS) through 62-32 (Maximum Floor Area Ratio and Lot Coverage on Waterfront Blocks), inclusive, shall apply.

However, in #Inclusionary Housing designated areas# and #Mandatory Inclusionary Housing areas#, as listed in the table in this Section, the maximum permitted #floor area ratio# shall be as set forth in Section 23-154 (Inclusionary Housing). The locations of such districts are specified in APPENDIX F of this Resolution.

#Special Mixed Use District#	Designated #Residence District#
MX 2 – Community District 2, Brooklyn	R7A R8A R8X
MX 4 – Community District 3, Brooklyn	R6A
MX 8 – Community District 1, Brooklyn	R6 R6A R6B R7A
MX 11 – Community District 6, Brooklyn	R7-2
MX 13 – Community District 1, The Bronx	R6A R7A R7X R8A
MX 14 – Community District 6, The Bronx	R7A R7X
MX 16 – Community Districts 5 and 16 Brooklyn	R6A R7A R7D R8A

* * *

123-66
Height and Setback Regulations

The height of all #buildings or other structures# in #Special Mixed Use Districts# shall be measured from the #base plane#.

The following modifications of height and setback regulations set forth in paragraphs (a) and (b) apply in Historic Districts designated by the Landmarks Preservation Commission:

(a) For any #zoning lot# located in a Historic District designated by the Landmarks Preservation Commission, the minimum base height of a #street wall# may vary between the height of the #street wall# of an adjacent #building# before setback, if such height is lower than the minimum base height required, up to the minimum base height requirements of this Chapter.

(b) In #Special Mixed Use District# 2 in the Borough of Brooklyn, where the designated #Residence District# is an R8X District, the maximum base height of a #street wall# may vary between the maximum base height set forth in this Chapter, and the height of the

#street wall# of an adjacent #building# before setback, if such height is higher than the maximum base height set forth in this Chapter. For the purposes of this paragraph (b), a #building# situated directly across a #street# from a #development# shall be considered an adjacent #building#.

On #waterfront blocks#, as defined in Section 62-11, where the designated #Residence District# is R3, R4 or R5, the height and setback regulations of Section 62-34, inclusive, shall apply to #buildings and other structures#, except that for #mixed use buildings#, the height and setback regulations set forth in Section 123-661 (Mixed use buildings in Special Mixed Use Districts with R3, R4 or R5 District designations) shall apply.

* * *

123-662
All buildings in Special Mixed Use Districts with R6, R7, R8, R9 and R10 District designations

In #Special Mixed Use Districts# where the designated #Residence District# is an R6, R7, R8, R9 or R10 District, the height and setback regulations of Sections 23-60 and 43-40 shall not apply. In lieu thereof, all #buildings or other structures# shall comply with the height and setback regulations of this Section.

* * *

(b) Medium and high density contextual districts

In #Special Mixed Use Districts# where the #Residence District# designation is an R6A, R6B, R7A, R7B, R7D, R7X, R8A, R8B, R8X, R9A, R9X, R10A or R10X District, the height and setback provisions of Section 23-662 shall apply. However, where the #Residence District# designation is an R6A, R6B, R7A, R7D, R8A or R8X District located outside the #Manhattan Core#, for #buildings# with #qualifying ground floors# utilizing the additional heights set forth in paragraph (b) of Section 23-662, the supplemental ground floor provisions set forth in paragraph (b)(2) of such Section shall be modified so that any permitted non- #residential use# in the #Manufacturing District# that is paired with such #Residence District# may be utilized to satisfy the ground floor #use# and depth requirements of Section 26-52 (Ground Floor Use and Depth Requirements). Where the #Residence District# designation is an R10X District, a tower may be provided in accordance with the provisions of Section 23-663. In addition, in all applicable districts, for #buildings# meeting the criteria set forth in paragraph (a) of Section 23-664 (Modified height and setback regulations for certain Inclusionary Housing buildings or affordable independent residences for seniors), the height and setback provisions of paragraph (b) of Section 23-664 shall apply. Separate maximum #building# heights are set forth within

Sections 23-662 and 23-664 for #Quality Housing buildings# with #qualifying ground floors# as well as for those with #non-qualifying ground floors#. In R8X districts in Special Mixed-Use District MX-2, the maximum #building# height for any #development# or #enlargement# that is not predominantly #commercial#, #manufacturing#, or a combination of #commercial# and #manufacturing#, shall be governed by the maximum #building# height and setback regulations applicable to an R8A district. For purposes of this provision, "predominantly" shall mean at least 75 percent of the #floor area# of a #building#.

* * *

Please feel free to contact me at (212) 482-5185 if you or your staff have any questions in this regard.

Sincerely,

Julie Lubin
General Counsel

JL:mcs

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