CITY PLANNING COMMISSION
CITY OF NEW YORK

OFFICE OF THE CHAIR

June 5, 2017

NEGATIVE DECLARATION

Project Identification
CEQR No. 16DCP177K
ULURP Nos. 170025ZMK, N170026ZRK
SEQRA Classification: Unlisted

Lead Agency
City Planning Commission
120 Broadway, 31st Floor
New York, NY 10271
Contact: Robert Dobruskin
(212) 720-3423

Name, Description and Location of Proposal:

723-733 Myrtle Avenue Rezoning
The Applicant, JMS Realty Corporation, is seeking a Zoning Map Amendment from an M1-1 district to an R7D/C2-4 district, and from an M1-2 district to an R6A/C2-4 zoning district affecting 22 lots (Block 1736, Lots 35, 37, 137, 38 and 39; Block 1737, Lots 35, 40, 41 and 42; Block 1752, Lots 18, 19, 20 and 21; and Block 1753, Lots 21, 22, 23, 24, 25, 26, 27, 28 and 30, the "Project Area") located in the Bedford-Stuyvesant neighborhood of Brooklyn Community District 3. The applicant also seeks a zoning text amendment to Appendix F of the New York City Zoning Resolution ("ZR") to establish a Mandatory Inclusionary Housing Area ("MIHA") coterminous with the Project Area. The proposed actions would facilitate a proposal by the Applicant to develop an 8-story, mixed-use residential, commercial and community facility building at 723-733 Myrtle Avenue (Block 1736, Lots 35, 37, 137, 38 and 39, "Projected Development Site 1"). The proposed development would include approximately 75 dwelling units (19 of which would be affordable pursuant to the MIH program), 14,640 gsf of retail space, and 14,640 gsf of community facility space. The proposed development includes a 68 space accessory parking garage with one new curb cut located on Myrtle Avenue. The proposed actions would also facilitate affordable residential, commercial, and community facility development on the remainder of the Project Area, and bring into conformance existing non-complying residential buildings.

The Applicant proposes to map Option 1 and Option 2 of the MIH program. MIH Option 1 requires at least 25% of residential units for persons with incomes averaging 60% Area Median Income ("AMI") (including 10% of residential units intended for persons with incomes averaging 40%

AMI); and MIH Option 2 requires at least 30% of residential units for persons with incomes averaging 80% AMI.

The Project Area is comprised of three block fronts to a depth of 100 feet from Myrtle Avenue between Walworth Street and Nostrand Avenue. The portion of the Project Area north of Myrtle Avenue (portions of Block 1736 and 1737), currently within an M1-1 zoning district, is proposed to be mapped R7D/C2-4; the portion of the Project Area south of Myrtle Avenue (part of Block 1753), currently an M1-2 district, is proposed to be mapped R6A/C2-4. M1-1 and M1-2 zoning districts allow for manufacturing and certain commercial uses up to 1.0 Floor Area Ratio (FAR) and 2.0 FAR, respectively. New residential uses are not permitted in these zoning districts. The Applicant-owned Project Site is currently used as a surface parking lot for commercial vehicle storage. The remaining sites are occupied by mixed use commercial and non-conforming residences, as well as industrial and manufacturing uses.

The proposed R7D district would permit residential uses up to 5.6 FAR, assuming inclusionary housing is provided pursuant to the MIH program, and community facility uses up to 4.2 FAR. The maximum allowable building height in R7D districts is 115 feet, with qualifying ground floors. The proposed R6A district would permit residential uses up to 3.6 FAR (with inclusionary housing) and community facility uses up to 3.0 FAR. The maximum allowable building height in R6A districts is 85 feet, with qualifying ground floors. Within the "Transit Zone," parking is not required for affordable dwelling units in R7D and R6A zoning districts; parking is required for 50 percent of market rate dwelling units. The proposed C2-4 commercial overlay, which would be mapped over the entire rezoning area, would allow commercial uses at a maximum FAR of 2.0.

As a result of the proposed actions, several sites were identified as likely to be redeveloped in the future. In addition to the applicant's proposed project, three additional projected development sites were identified in the Environmental Assessment Statement prepared in connection with the proposed actions: Block 1737, Lot 35 (Projected Development Site 2); Block 1737, Lot 41 (Projected Development Site 3); Block 1737, Lot 42 (Projected Development Site 4). It was assumed as part of a Reasonable Worst Case Development Scenario (RWCDS) that in the future with the proposed actions, the four projected development sites would be developed with mixed-use buildings similar to the applicant's proposed project. Projected Development Site 2 was assumed to be developed with 17, 353 gsf of commercial area, 17,353 gsf of community facility use and 62,469 gsf of residential use (73 dwelling units, of which 14 would be affordable). Projected Development Site 3 would be redeveloped with 3,556 gsf of commercial area, 3,556 gsf of community facility use and 12,803 gsf of residential use (15 dwelling units, of which 3 would be affordable). Projected Development Site 4 would be redeveloped with 4,812 gsf of commercial area, 4,812 gsf of community facility use, and 17,325 gsf of residential use (20 units, 4 of which would be affordable). Each development would reach the maximum allowable building height of 115 feet in R7D districts. In total, the four projected development sites would include a total of 182,964 gsf of residential uses (including 195 residential dwelling units, 59 of which would be affordable pursuant to the MIH program), 25,721 gsf of ground floor commercial uses, and 41,858 gsf of community facility uses.

Two potential development sites could be developed in the future with the proposed actions, but were determined to have less development potential than the projected development sites sites based on observed market conditions and site configurations: Block 1753, Lots 21 and 22 (Potential Development Site 1); and Block 1753, Lots 28 and 30 (Potential Development Site 2). Potential Development Site 1 could be developed with a 22,140 gsf commercial, community facility and residential mixed-use building comprised of 10 dwelling units (three of which would be affordable). Potential Development Site 2 could be developed with a 18,453 gsf commercial, community facility and residential mixed-use building comprised of 9 dwelling units (two of which would be affordable). Each building would be developed to the maximum allowable building height of 85 feet in R6A districts.

The remaining ten lots (Block 1736, Lots 14, 34 and 43; Block 1737, Lots 40 and 45; and Block 1753, Lots 23, 24, 25, 26 and 27) with existing commercial uses and non-conforming residential uses would be brought into conformance with zoning upon approval of the proposed actions.

Absent the proposed actions, it is expected that all sites within the rezoning area would remain in their existing condition.

The analysis year for the proposed actions is 2023.

To avoid the potential for significant adverse impacts related to hazardous materials, air quality and noise, an (E) designation (E-433) has been incorporated into the proposed actions, as described below.

The (E) designation requirements related to hazardous materials would apply to the following sites:

Block 1736, Lots 35, 37, 137, 38 and 39 (Projected Development Site 1)
Block 1737, Lot 35 (Projected Development Site 2)
Block 1737, Lot 41 (Projected Development Site 3)
Block 1737, Lot 42 (Projected Development Site 4)
Block 1753, Lots 21 and 22 (Potential Development Site 1)
Block 1753, Lots 28 and 30 (Potential Development Site 2)

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

Task 1-Sampling Protocol

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.

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.

The (E) designation requirements related to air quality would apply to the following sites:

Block 1736, Lots 35, 37, 137, 38 and 39 (Projected Development Site 1)
Block 1737, Lot 35 (Projected Development Site 2)
Block 1737, Lot 41 (Projected Development Site 3)
Block 1737, Lot 42 (Projected Development Site 4)
Block 1753, Lots 21 and 22 (Potential Development Site 1)
Block 1753, Lots 28 and 30 (Potential Development Site 2)

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

Block 1736, Lots 35, 37, 137, 38 and 39 (Projected Development Site 1)
Any new commercial or residential development on the above referenced property must exclusively use natural gas as the type of fuel for heating, ventilating, air conditioning (HVAC) and hot water systems to avoid any potential significant adverse air quality impacts. Stack shall be located at a minimum of 128 feet above grade.

Block 1737, Lot 35 (Projected Development Site 2)
Any new commercial or residential development on the above referenced property must exclusively use natural gas as the type of fuel for heating, ventilating, air conditioning (HVAC) and hot water systems to avoid any potential significant adverse air quality impacts. Stack shall be located at a minimum of 128 feet above grade.

Block 1737, Lot 41 (Projected Development Site 3)
Any new commercial or residential development on the above referenced property must exclusively use natural gas as the type of fuel for heating, ventilating, air conditioning (HVAC) and hot water systems to avoid any potential significant adverse air quality impacts. Stack shall be located at a minimum of 128 feet above grade.

Block 1737, Lot 42 (Projected Development Site 4)
Any new commercial or residential development on the above referenced property must exclusively use natural gas as the type of fuel for heating, ventilating, air conditioning (HVAC) and hot water systems to avoid any potential significant adverse air quality impacts. Stack shall be located at a minimum of 128 feet above grade.

Block 1753, Lots 21 and 22 (Potential Development Site 1)
Any new commercial or residential development on the above referenced property must exclusively use natural gas as the type of fuel for heating, ventilating, air conditioning (HVAC) and hot water systems to avoid any potential significant adverse air quality impacts. Stack shall be located at a minimum of 88 feet above grade.

Block 1753, Lots 28 and 30 (Potential Development Site 2)
Any new commercial or residential development on the above referenced property must exclusively use natural gas as the type of fuel for heating, ventilating, air conditioning (HVAC) and hot water systems to avoid any potential significant adverse air quality impacts. Stack shall be located at a minimum of 88 feet above grade.

The (E) designation requirements related to noise would apply to the following sites:

Block 1736, Lots 35, 37, 137, 38 and 39 (Projected Development Site 1)
Block 1737, Lot 35 (Projected Development Site 2)
Block 1737, Lot 41 (Projected Development Site 3)
Block 1737, Lot 42 (Projected Development Site 4)
Block 1753, Lots 21 and 22 (Potential Development Site 1)
Block 1753, Lots 28 and 30 (Potential Development Site 2)

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

Block 1736, Lots 35, 37, 137, 38 and 39 (Projected Development Site 1)
In order to ensure an acceptable interior noise environment, future residential/commercial uses must provide a closed window condition with a minimum of 31 dBA window/wall attenuation on all façades in order to maintain an interior noise level of 45 dBA. 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.

Block 1737, Lot 35 (Projected Development Site 2)
In order to ensure an acceptable interior noise environment, future residential/commercial uses must provide a closed window condition with a minimum of 33 dBA window/wall attenuation along the eastern façade and a minimum of 31 dBA on all other façades to maintain an interior noise level of 45 dBA. In order to maintain a closed-window condition, an alternate means of ventilation must also be provided.

Block 1737, Lot 41 (Projected Development Site 3)
In order to ensure an acceptable interior noise environment, future residential/commercial uses must provide a closed window condition with a minimum of 31 dBA window/wall attenuation on all façades in order to maintain an interior noise level of 45 dBA. 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.

Block 1737, Lot 42 (Projected Development Site 4)
In order to ensure an acceptable interior noise environment, future residential/commercial uses must provide a closed window condition with a minimum of 31 dBA window/wall attenuation on all façades in order to maintain an interior noise level of 45 dBA. 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.

Block 1753, Lots 21 and 22 (Potential Development Site 1)
In order to ensure an acceptable interior noise environment, future residential/commercial uses must provide a closed window condition with a minimum of 31 dBA window/wall attenuation on all façades in order to maintain an interior noise level of 45 dBA. 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.

Block 1753, Lots 28 and 30 (Potential Development Site 2)
In order to ensure an acceptable interior noise environment, future residential/commercial uses must provide a closed window condition with a minimum of 33 dBA window/wall attenuation along the eastern façade and a minimum of 31 dBA on all other façades to maintain an interior noise level of 45 dBA. 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.

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 (EAS), dated June 2, 2017, prepared in connection with the ULURP Application (Nos. 170025ZMK, N170026ZRK). The City Planning Commission has determined that the proposed action will have no significant effect on the quality of the environment.

Supporting Statement:

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

1. The (E) designation (E-433) for hazardous materials, air quality and noise would ensure that the proposed actions would not result in significant adverse impacts.

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

This 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 Negative Declaration, you may contact Stephanie Shellooe at (212) 720-3328.

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

Date: June 2, 2017

Marisa Lago, Chair
City Planning Commission

Date: June 5, 2017