TECHNICAL MEMORANDUM 001
1034-1042 Atlantic Avenue EAS
CEQR No. 21DCP170K

April 12, 2022

I. INTRODUCTION

The Applicant, EMP Capital Group, seeks a Zoning Map Amendment from M1-1 to C6-3A and R7A/C2-4 that would affect a portion of Block 1125 in the Crown Heights neighborhood of Brooklyn Community District 8. The "Rezoning Area" consists of Block 1125, Lots 29, 33, 40, 52, 53, 57, 59, and 61. The Zoning Map Amendment would rezone Block 1125, Lots 29, p/o 33, and p/o 40 (a rectangular area approximately of 31,500 sf bounded in part by Atlantic and Classon Avenues) from an M1-1 zoning district to a C6-3A zoning district and Block 1125, Lots p/o 33, p/o 40, 52, 53, 57, 59, and 61 (a rectangular area of approximately 31,500 sf bounded in part by Classon Avenue and Pacific Street) from an M1-1 zoning district to a R7A/C2-4 zoning district. The Applicant is also proposing a Zoning Text Amendment to Appendix F to add a Mandatory Inclusionary Housing (MIH) area coterminous with the proposed rezoning area, a Zoning Text Amendment to modify ZR 35-66 to allow a minimum 20-foot sidewalk along Atlantic Avenue, and a Special Permit pursuant to ZR 74-533 to reduce the number of required accessory parking spaces. The Zoning Map Amendment, Zoning Text Amendments, and Special Permit constitute the "Proposed Actions."

The Environmental Assessment Statement (EAS) for the Proposed Actions (CEQR No. 21DCP170K) was accepted as complete and a Negative Declaration was issued on September 17, 2021 by the New York City Department of City Planning (DCP) acting on behalf of the City Planning Commission (CPC) as lead agency.

Following the publication of the EAS, modifications to the proposed zoning map amendment (C210386ZMK), and zoning text amendment (N210387ZRK), have been identified, at the request of the New York City Council (the "Council Modifications"). These modifications are detailed 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 September 2021 EAS.

II. DESCRIPTION OF THE COUNCIL MODIFICATIONS

The Zoning Map Amendment, as evaluated in the September 2021 EAS, proposed to rezone Brooklyn Block 1125, Lots 29, p/o 33, and p/o 40 (a rectangular area approximately of 31,500 sf bounded in part by Atlantic and Classon Avenues) from an M1-1 zoning district to a C6-3A zoning district and Brooklyn Block 1125, Lots p/o 33, p/o 40, 52, 53, 57, 59, and 61 (a rectangular area of approximately 31,500 sf bounded in part by Classon Avenue and Pacific Street) from an M1-1 zoning district to a R7A/C2-4 zoning district. (*See* **Figure 1**, Previous Zoning Change Map, and **Figure 2**, Previous Site Location Map).

As listed below, under the Council Modifications, the proposed Rezoning Area would now cover only a portion of Lot 40 or approximately 4,156 sf of the 26,450 square foot corner lot (*See* **Figure 3** Revised Zoning Change Map, and **Figure 4**, Revised Site Location Map).

Council Proposed Zoning Map Change:

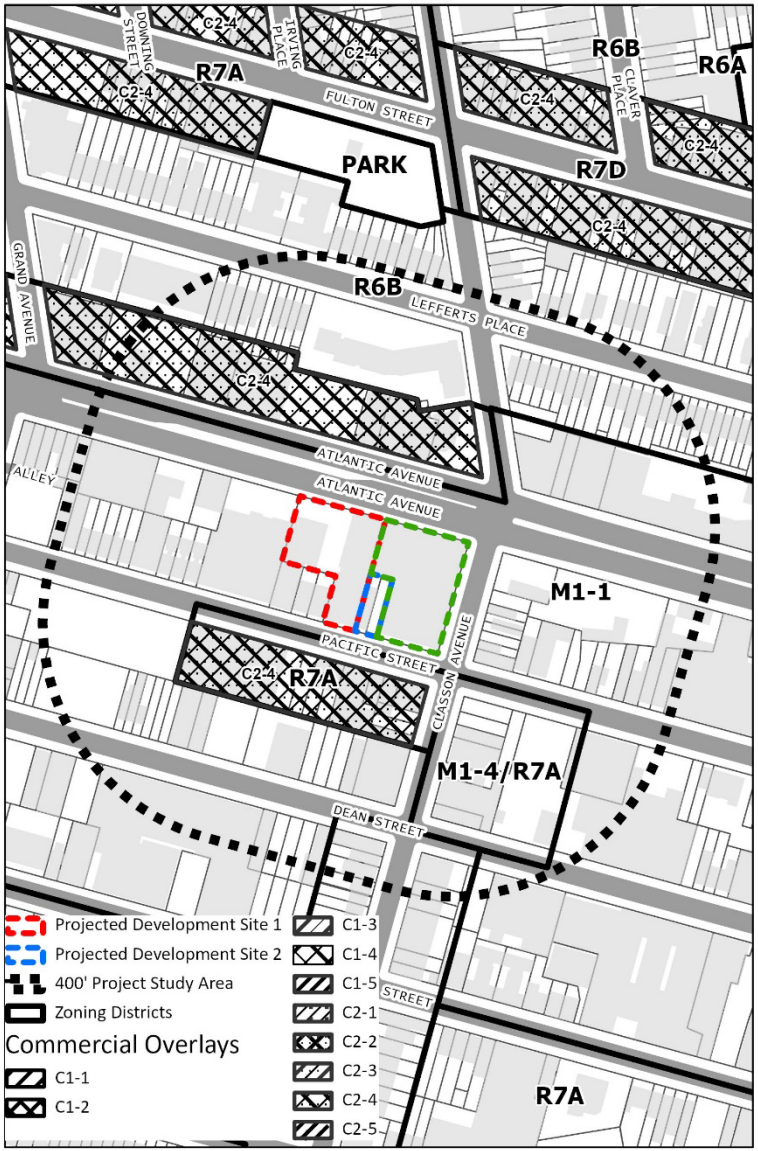
1. Changing from an M1-1 district to an R7A District property bounded by a line midway between Atlantic Avenue and Pacific Street, a line 150 feet northwesterly of Classon Avenue, Pacific Street, and a line 315 feet northwesterly of Classon Avenue.
2. Changing from an M1-1 District to a C6-3A District property bounded by the northeasterly boundary line of the Long Island Rail Road right-of-way (Atlantic Division), a line 150 feet northwesterly of Classon Avenue, a line midway between Atlantic Avenue and Pacific Street, and a line 315 feet northwesterly of Classon Avenue.
3. Establishing within the proposed R7A District a C2-4 District bounded by a line midway between Atlantic Avenue and Pacific Street, a line 150 feet northwesterly of Classon Avenue, Pacific Street, and a line 315 feet northwesterly of Classon Avenue.
   *Note, underlined portions have been added by the City Council

As shown in the below figures, Lot 40 was previously considered as a Potential Development Site. Lot 40 is improved with a 50,550 GSF self-storage facility. The building was originally constructed in 1930 but was then significantly renovated in 2014 . The current owner, Cubesmart, L.P., is a Real Estate Investment Trust (REIT) that owns and operates self-storage facilities throughout the United States. Given that only a small rectangular portion of Lot 40 would fall within the Modified Rezoning Area, and the Site is developed with an active business, Lot 40 would no longer be considered as a Potential Development Site with the proposed zoning boundary change.

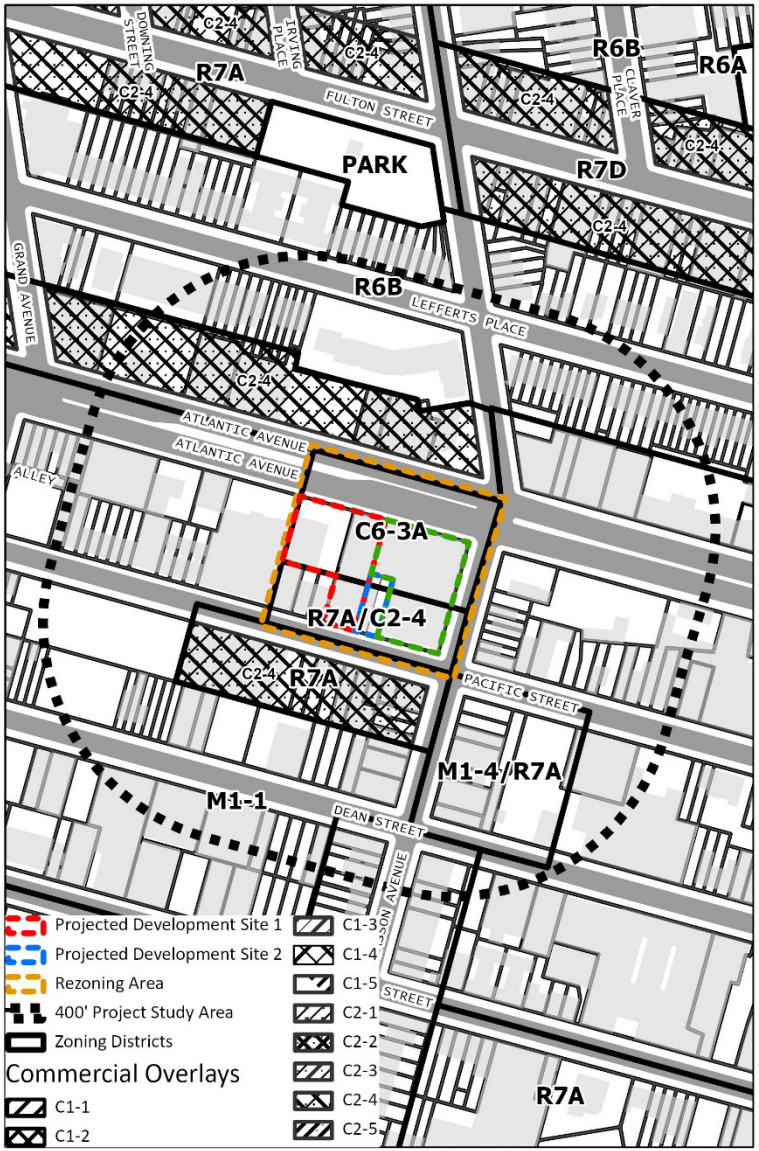
Council Proposed Zoning Text Change:

In addition, affordability was modified from MIH Options 1 and 2 to MIH Option 1 and Deep Affordable.

Figure 1: Previous Zoning Change Map



Existing M1-1 Zoning District



Proposed C6-3A Zoning District
Proposed R7A/C2-4 Zoning District

Figure 2: Previous Site Location Map

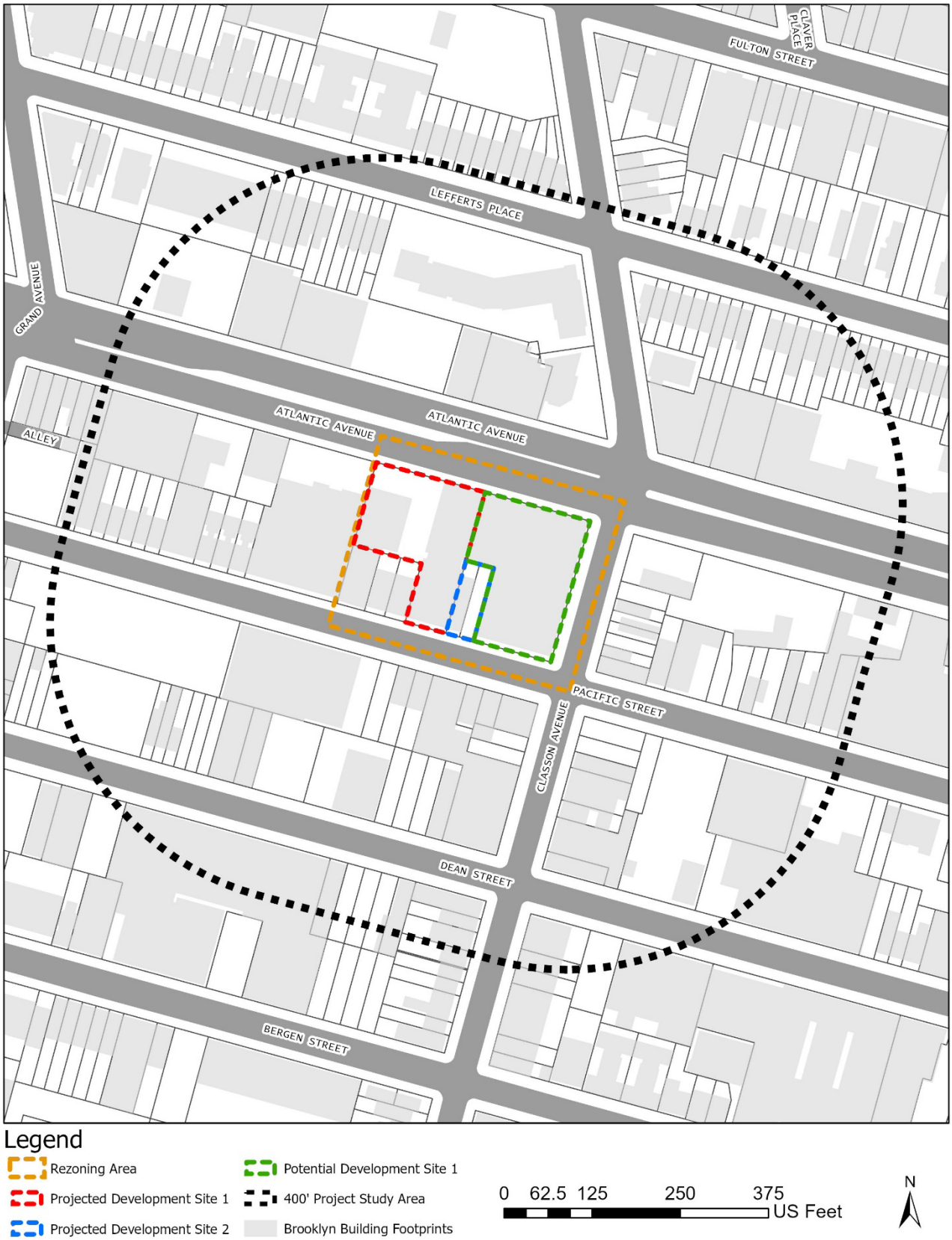
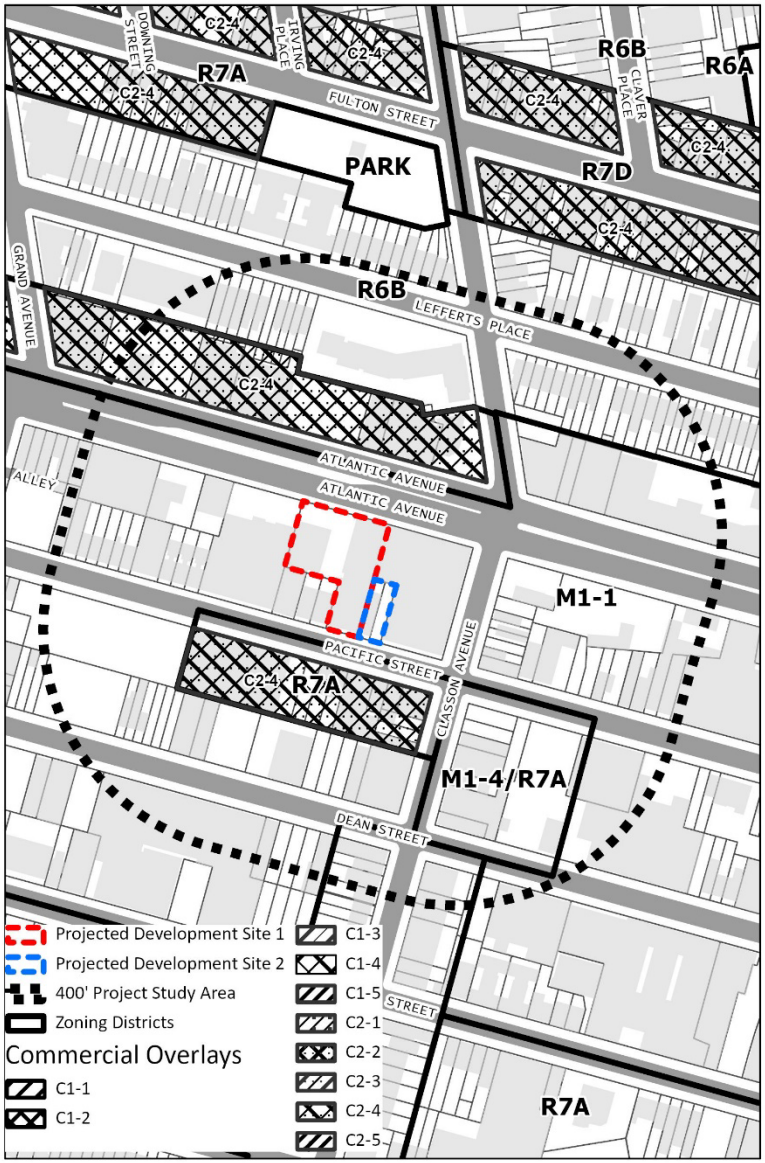
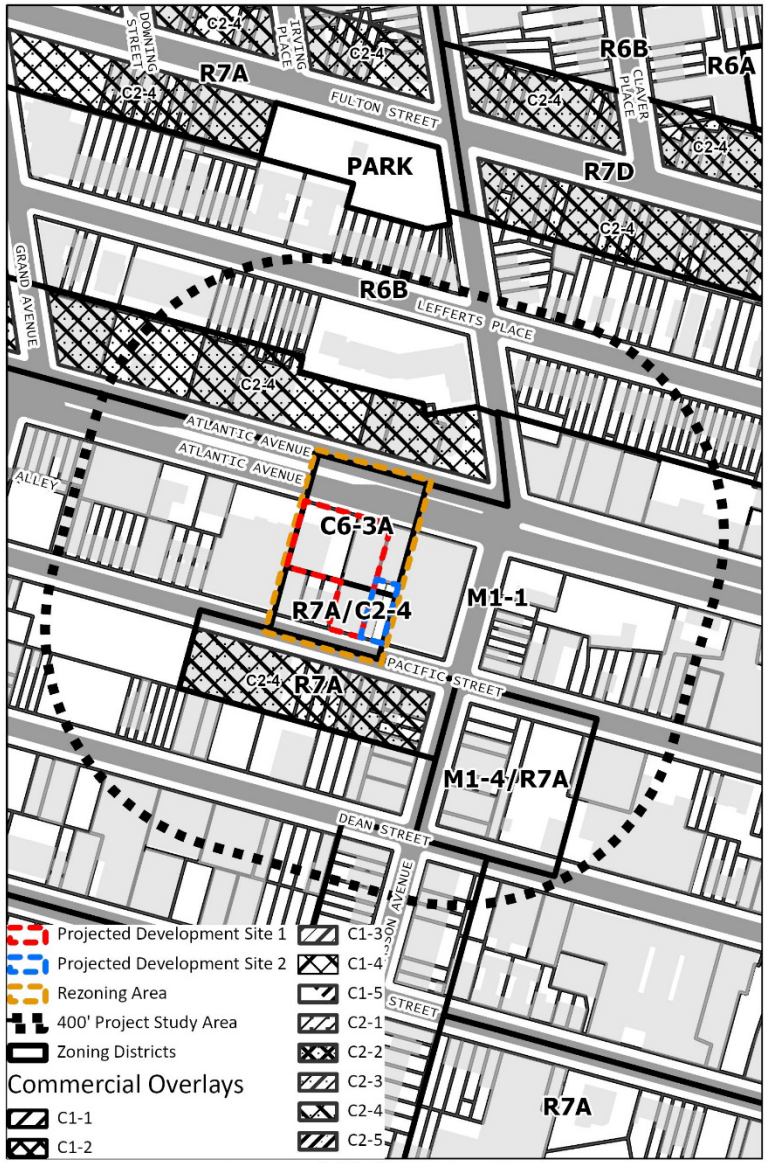


Figure 3: Proposed Zoning Change Map

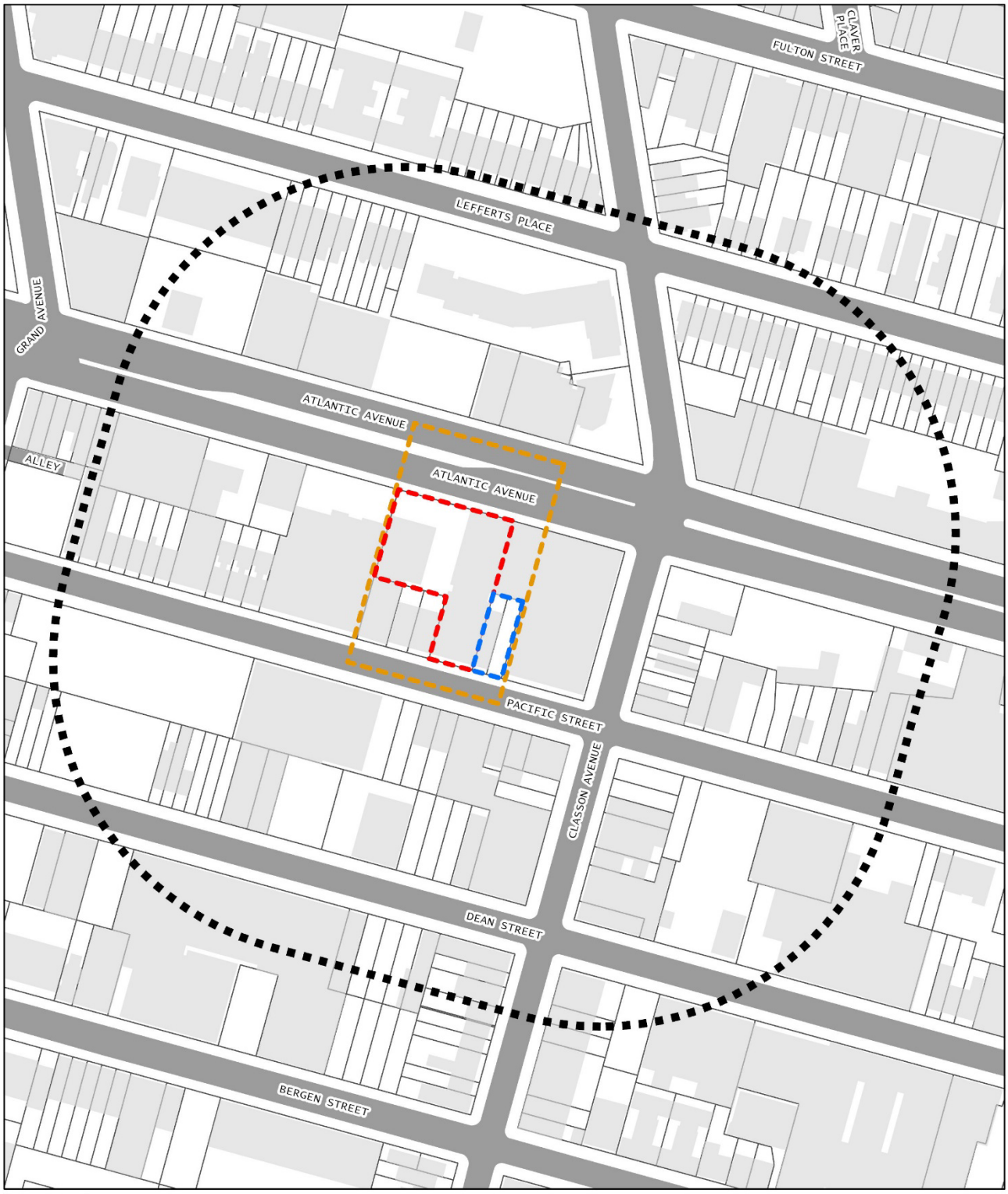


Existing M1-1 Zoning District



Proposed C6-3A Zoning District
Proposed R7A/C2-4 Zoning District

Figure 4: Proposed Site Location Map



III. ANALYSIS FRAMEWORK

Pursuant to the Reasonable Worst-Case Development Scenario (RWCDS) analyzed for the Proposed Actions, the 2021 EAS did not identify any significant adverse impacts. The RWCDS analyzed in the EAS consisted of the following:

Future Without the Proposed Actions (No-Action Scenario)

The No-Action Scenario for the Project Area would be the same as existing conditions. Redevelopment is not considered likely in the No-Action Scenario because of the bulk permitted under the current M1-1 district (1.00 commercial and manufacturing; 2.40 community facility) and significant parking requirement (1 space per 300 sf of uses).

Future With the Proposed Actions (With-Action Scenario)

Projected Development Site 1 (Block 1125, Lots 29 and 33; Applicant-Owned Lots)

The Applicant-Owned lots would assemble with 16,000 sf within the proposed C6-3A district and 8,000 sf within the proposed R7A/C2-4 district. The site would be developed with two separate mixed-use commercial, community facility, and residential building towers totaling 238,873 GSF (172,800 ZSF; 7.20 FAR). Tower 1 would be built within the C6-3A (Atlantic Avenue) portion of the rezoning area and would rise to a height of 17 stories at 175 feet tall. Tower 2 would be built within the R7A/C2-4 (Pacific Street) portion of the rezoning area and would rise to a height of 9 stories at 95 feet tall. The Proposed Development would include a 6,940 GSF parking garage at the cellar level with 20 residential accessory parking spaces. There would be a total of 12,850 GSF (11,900 ZSF, 0.50 FAR) UG 6 commercial space (local retail) and a total of 12,730 GSF (2,580 ZSF, 0.11 FAR) general community facility space between the shared ground floor and cellar floor on the bottom of the two towers. Beginning from the second floor of each tower, a total of 206,353 GSF (158,320 ZSF, 6.60 FAR) residential floor area would be developed. There would be 210 dwelling units within the Proposed Development, with 42 affordable units permanently set aside at or below 80% AMI, which would make up 20% of the total residential units provided on the Development Site.

The Applicant's proposed building is assumed to be the RWCDS in terms of bulk, height, and uses (12,850 GSF of UG 6 commercial uses, 12,730 GSF of general community facility uses, and 206,353 GSF of residential uses) for Projected Development Site 1. For the purposes of a conservative shadow analysis, a 15-foot-tall bulkhead is assumed and the full lot area will be blocked out.

Projected Development Site 2 (Block 1125, Lots 52 and 53; Non-Applicant Lots)

The lots would assemble with a merged lot area of 4,000 sf and be developed with a 21,816 GSF (18,400 ZSF; 4.60 FAR) 9-story mixed-use residential and commercial building that rises to a height of 95 feet tall. The ground floor would contain 2,704 GSF (2,600 ZSF, 0.65 FAR) of local retail (UG 6) space. Floors two through nine would contain 17,064 GSF (15,800 ZSF, 3.95 FAR) of residential uses, with 17 total dwelling units (3 of which would be permanently affordable at or below 80% AMI). Seven residential accessory parking spaces would be required, and would be provided at cellar level within a 2,048 GSF parking garage.

Projected Development Site 2 was assumed to maximize development within the new zoning district and provide ground floor commercial space to meet the qualifying ground floor requirement and to provide a conservative build scenario. The dwelling units were assumed to be an average of 1,000 GSF, and MIH units were assumed to be set aside for 20% of the residential floor area. Similar to Projected Development

Site 1, a 15-foot-tall bulkhead will be assumed for shadows analysis.

Potential Development Site (Block 1125, Lot 40; Non-Applicant Lot)

The lot could be developed with a 17-story mixed-use residential and commercial building at 175 feet tall with 232,046 GSF of floor area (188,853 ZSF; 7.14 FAR). The building could include 26,408 GSF of ground floor commercial (local retail) uses and floors 2 through 17 would contain 176,538 GSF of residential floor area with 177 total dwelling units, 35 of which could be permanently set aside as affordable. Parking could be provided at cellar level in a 29,100 GSF garage with 71 residential accessory spaces and 26 commercial spaces.

Because only Projected Development Sites are considered in the increment between the No-Action and With-Action, the Potential Development Site was not considered in the analysis of density-related aspects of the environmental review (such as open space, traffic, and socioeconomic conditions).

As discussed above, under the Council Modifications, the Rezoning Area would now only cover a portion of Lot 40. Therefore, as discussed above, Lot 40 would no longer be considered as a Potential Development Site.

For environmental analysis purposes, this Technical Memorandum will compare the RWCDS program analyzed for the Development Sites in the September 2021 EAS with the future conditions under the Council Modifications. Table 1 provides a comparison of the RWCDS development programs currently proposed in the EAS and the development programs under the Council Modifications.

As shown in Table 1, under the Council Modifications the changes to the proposed project include the removal of Projected Development Site 1, and changes to affordability options (previously Options 1 and 2, now proposed as Options 1 and Deep Affordable).

While the EAS previously screened 20% of total DU's as affordable at or below 80% AMI on Projected Development Sites 1 and 2, this screening conservatively assumes 35% of all units would be Deep Affordable (at or below 40% AMI)[1]. This would result in changes to the number of affordable units screened under CEQR to determine if further analysis is warranted for community facilities, specifically publicly funded child care. Additionally, when compared to the affordability assumptions screened as part of this technical memorandum, the socioeconomic analysis completed as part of the September 2021 EAS would be more conservative as the analysis considered 45 affordable units at or below 80% AMI.

With the exception of community facilities and socioeconomic conditions, there would be no change to any other density related impact categories (e.g., open space and transportation), and therefore the Council Modifications would not result in any new impacts in those technical areas.

For site specific impacts related to hazardous materials, air quality and noise, the same (E) designation requirements identified for Projected Development Sites 1 and 2 would be warranted. However, the (E) designations for these sections would not longer include Potential Development Site 1.

[1] The Deep Affordability Option requires 20% at or below 40% AMI

Table 1: Comparison of Development Sites – Proposed in EAS vs. Council Modifications

Use	WITH ACTION PROPOSED IN EAS	COUNCIL MODIFICATIONS	NET DIFFERENCE
Projected Development Site 1			
Residential (Total)	210 DUs (206,353 gsf)	210 DUs (206,353 gsf)	**No change**
Market-Rate	168 Dus	136 DUs[2]	**-32**
Affordable	42 DUs	74 Dus	**32**
Commercial	12,850 gsf	12,850 gsf	**No change**
Community Facility	12,730 gsf	12,730 gsf	**No change**
Parking	20 spaces	20 spaces	**No change**
Projected Development Site 2			
Residential (Total)	17 DUs (17,064 gsf)	17 DUs (17,064 gsf)	**No change**
Market-Rate	14 Dus	11 DUs[2]	**-3**
Affordable	3 Dus	6 DUs	**3**
Commercial	2,704 gsf	2,704 gsf	**No change**
Community Facility	0 gsf	0 gsf	**No change**
Parking	7 spaces	7 spaces	**No change**
Potential Development Site 1			
Residential (Total)	177 DUs (176,538 gsf)	NA	**Removed from Analysis**
Market-Rate	142 DUs	NA	**Removed from Analysis**
Affordable	35 DUs	NA	**Removed from Analysis**
Commercial	26,408 gsf	NA	**Removed from Analysis**
Community Facility	0 gsf	NA	**Removed from Analysis**
Parking	97 spaces	NA	**Removed from Analysis**
Total Projected Development Site 1 and 2[1]			
Residential (Total)	227 DUs (233,417 gsf)	227 DUs (233,417 gsf)	**No change**
Market-Rate	182 Dus	147 DUs	**-35**
Affordable	45 DUs	80 DUs	**35**
Commercial	15,554 gsf	15,554 gsf	**No change**
Community Facility	12,730 gsf	12,730 gsf	**No change**
Parking	27 spaces	27 spaces	**No change**

1. Potential Development Sites are not considered in the analysis of density-related aspects of the environmental review (such as open space, traffic, and socioeconomic conditions) and are therefore not included in the totals
2. Under Council Modifications, MIH Option 1 and Deep Affordable would be mapped over the Rezoning Area. Conservatively assumes 35% of total DU under Deep Affordable Option for purposes of screening

The assessment in Section IV below focuses on the technical areas with the greatest potential for new impacts or changes as a result of the Council Modifications.

IV. ASSESSMENT OF POTENTIAL IMPACTS

As described below, the Council Modifications would not result in any significant adverse impacts beyond those disclosed in the EAS. Nor have any circumstances changed since publication of the EAS, such as proposed background developments, that would create the potential for additional significant impacts as a result of the Proposed Actions that were not previously identified.

The RWCDS was assessed for the massing-related technical areas of shadows, urban design and visual resources, and air quality. As outlined in the EAS, no significant adverse impacts were anticipated in these technical areas as a result of the Proposed Project; however, for the Proposed Project, an (E) designation (E-637) would be assigned to Block 1125, Lots 29, 33, 52, 53, and 40, which would mandate the fuel type and stack location for heating, ventilation, and air conditioning (HVAC) systems, noise attenuation requirements, and hazardous materials requirements. Under the Council Modifications, Potential Development Site 1 (Lot 40) would no longer be included in the E-Designations for hazardous materials, air quality, or noise.

Community Facilities Screening

The 2021 EAS was below the development thresholds related to affordable units requiring an assessment of publicly funded child care analysis. As discussed above under Section III, the Council Modifications include changes to the MIH affordability options (previously Options 1 and 2, now proposed as Options 1 and Deep Affordable).

While the EAS previously screened 20% of total DU's as affordable at or below 80% AMI on Projected Development Sites 1 and 2, the screening analysis prepared as part of this technical memorandum conservatively assumes 35% of all units (or a total of 80 units) would be Deep Affordable (at or below 40% AMI)[2]. As the threshold for Brooklyn warranting further child care analysis is 110 affordable units, no significant adverse impacts to Community Facilities would result, and the conclusions of the September 2021 EAS would remain unchanged.

Socioeconomic Conditions

The September 2021 EAS screened 20% of total DU's as affordable permanently set aside at or below 80% AMI on Projected Development Sites 1 and 2. This resulted in 45 affordable units at or below 80% AMI. With the Council Modifications, MIH Option 1 and Deep Affordability would be mapped over the Rezoning Area. While the Deep Affordability option requires 20% at or below 40% AMI, this screening conservatively assumes 35% of all units would be Deep Affordable at or below 40% AMI. This would result in an increase of 35 total affordable units compared to the previously considered 45, all at or below 40% AMI.

The socioeconomic analysis completed as part of the September 2021 EAS would therefore be more conservative as the analysis, as the rents for the project-generated DUs assumed under the September 2021 EAS would be higher.

[2] The Deep Affordability Option requires 20% at or below 40% AMI

Shadows

The shadows analysis in the September 2021 EAS analyzed Projected Development Sites 1 and 2 as well as Potential Development Site 1. With the Council Modifications, Projected Development Site 1 would no longer be considered in the shadows analysis. Accordingly, the modifications would not result in a greater impact to shadows when compared to the September 2021 EAS. Therefore, the conclusions presented in the September 2021 EAS remain unchanged.

Urban Design and Visual Resources

The urban design and visual resources assessment in the September 2021 EAS analyzed Projected Development Sites 1 and 2 as well as Potential Development Site 1. With the Council Modifications, Projected Development Site 1 would no longer be considered in the urban design and visual resources analysis. Accordingly, the modifications would not result in a greater impact to urban design or visual resources when compared to the September 2021 EAS. Therefore, the conclusions presented in the September 2021 EAS remain unchanged.

Hazardous Materials

The hazardous materials analysis concluded that an E-Designation (E-637) would be required for Projected Development Sites 1 and 2 as well as Potential Development Site 1. With the Council Modifications, Projected Development Site 1 is no longer included as a site where development would potentially be induced pursuant to the Proposed Actions.

Accordingly, the revised E-Designation language related to Hazardous Materials is as follows:

E-Designation (E-637)

Projected Development Site 1: Block 1125, Lots 29 and 33 (Site under the control or ownership of the applicant) and Projected Development Site 2: Block 1125, Lots 52 and 53

E-637 Requirements

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 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 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.

As all future development anticipated pursuant to the Proposed Actions would be required to comply with the revised (E) designation above, no significant adverse hazardous materials impacts would result, and the conclusions of the September 2021 EAS would otherwise remain unchanged.

Air Quality

The air quality analysis provided in the September 2021 EAS analyzed the potential for significant adverse HVAC emissions impact related to Projected Development Sites 1 and 2 and Potential Development Site 1 on existing buildings. The EAS determined that the Projected and Potential Development Sites would not result in significant adverse impacts associated with building HVAC emissions on existing land uses.

The HVAC analysis also considered the potential for significant adverse impact related to the Projected and Potential Development Sites on each other. As such, a detailed analysis was conducted for the Potential and Projected Development Sites and an (E) designation that required a stack setback and the exclusive use of natural gas in the HVAC systems was imposed on the Projected and Potential Development Sites.

As the Council Modifications would result in Potential Development Site 1 no longer being considered as a site where development would potentially be induced pursuant to the Proposed Actions, the (E) designation will no longer include restrictions on the location of stacks and minimum stack heights for Potential Development Site 1.

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

(E) Designation (E-637)

Block 1125 Lot 29 and 33 (Projected Development Site 1 Tower 1): ***Any new residential, commercial, or community facility 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 system(s) and must be fitted with low NOx (30 ppm) burners, ensure that the stack is located at the building's highest level or at least 178 feet above grade, and that the stack is located at least 140 feet from the eastern lot line of Lot 33 facing Classon Avenue to avoid any potential significant adverse air quality impacts.***

Block 1125 Lot 29 and 33 (Projected Development Site 1 Tower 2): ***Any new residential, commercial, or community facility 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 system(s) and must be fitted with low NOx (30 ppm) burners, ensure that the stack is located at the building's highest level or at least 98 feet above grade, and that the stack is located at least 45 feet from the eastern lot line of Lot 33 facing Classon Avenue and at least 135 feet from the northern lot line of Lot 33 facing Atlantic Avenue to avoid any potential significant adverse air quality impacts.***

Block 1125 Lots 52 and 53 (Projected Development Site 2): ***Any new residential or commercial 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 system(s) and must be fitted with low NOx (30 ppm) burners, ensure that the HVAC equipment energy intensity is no greater than 0.35 million Btu, the stack is located at the building's highest level or at least 98 feet above grade, and that the stack is located at least 30 feet from the eastern lot line of Lot 52 facing Classon Avenue and at least 40 feet from the northern lot line of Lot 52 or Lot 53 facing Atlantic Avenue to avoid any potential significant adverse air quality impacts.***

As all future development anticipated pursuant to the Proposed Actions would be required to comply with the revised (E) designation above, no significant adverse air quality impacts would result, and the conclusions of the September 2021 EAS would otherwise remain unchanged.

Noise

The noise analysis prepared in the September 2021 EAS analyzed the potential for significant adverse noise impacts on Projected Development Sites 1 and 2 and Potential Development Site 1 as a result of ambient external noise exposure. Based on the noise monitoring completed at the Affected Area as part of the September 2021 EAS, the noise analysis specified the required building attenuation to achieve marginally acceptable interior noise levels at the Projected and Potential Development Sites. As the Council Modifications would result in Potential Development Site 1 no longer being considered, the (E) designation specifying the required noise attenuation will no longer include Potential Development Site 1.

E-637

Projected Development Site 1 (Block 1125 / Lots 29 and 33): In order to ensure an acceptable interior noise environment, future residential/community facility uses must provide a closed-window condition with a minimum of 31 dBA window/wall attenuation on the facades facing Atlantic Avenue and the facades facing Classon Avenue within 50 feet of Atlantic Avenue and the facades facing Grand Avenue within 50 feet of Atlantic Avenue and 28 dBA of attenuation on all other facades to maintain an interior noise level not greater than 45 dBA for residential and community facility uses as illustrated in the EAS. 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.

Projected Development Site 2 (Block 1125 / Lot 52 and 53): In order to ensure an acceptable interior noise environment, future residential uses must provide a closed-window condition with a minimum of 28 dBA of attenuation on all facades to maintain an interior noise level not greater than 45 dBA for residential uses as illustrated in the EAS. 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.

As all future development anticipated pursuant to the Proposed Actions would be required to comply with the revised (E) designation above, no significant adverse noise impacts would result, and the conclusions of the September 2021 EAS would otherwise remain unchanged.