CITY PLANNING COMMISSION
CITY OF NEW YORK

OFFICE OF THE CHAIR

September 5, 2012

NEGATIVE DECLARATION
Supersedes Negative Declaration Issued on May 7, 2012

Project Identification
CEQR No. 12DCP156Y
ULURP Nos. 120294ZMK,
N120295ZRK, & N120296ZRY
SEQRA Classification: Type I

Lead Agency
City Planning Commission
22 Reade Street
New York, NY 10007
Contact: Robert Dobruskin
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Name, Description and Location of Proposal:

Bedford Stuyvesant North Rezoning
The Negative Declaration originally issued on May 7, 2012, has been revised in order to take into account modifications to E-designation number E-285, as described further below.

The New York City Department of City Planning (DCP) is proposing zoning map and text amendments affecting all or portions of approximately 140 blocks and 5,911 lots, generally bounded by Lafayette Avenue and Quincy Street to the south, Classon and Franklin Avenues to the west, Broadway to the east, and Flushing Avenue to the north in the Bedford Stuyvesant neighborhood, of Brooklyn Community District 3.

The proposed action includes:

- A Zoning Map amendment to change all or portions of approximately 140 blocks currently zoned R5, R6, C4-3, and C8-2 districts to R6B, R6A, R7A, R7D, and C4-4L and to replace existing C1-2 and C1-3 overlay districts with C2-4 overlay districts, reduce overlay depth, and establish new C2-4 commercial overlay districts in order to reinforce established development patterns. This action would result in a modest increase in residential and commercial density along the area's main commercial corridors.

- A Zoning Text amendment to establish a new C4-4L regional commercial zoning district for medium-density residential and commercial development along major retail or transit corridors where elevated train tracks are present.

- A Zoning Text amendment to establish the Inclusionary Housing program in the proposed R7A, R7D and C4-4L districts within the rezoning area in Brooklyn Community District 3.

- A Zoning Text amendment to establish an Enhanced Commercial District in the rezoning area along Broadway between Flushing Avenue and Monroe Street.

Additionally, the project includes a Zoning Text amendment to require transparency on the ground floor in R7D districts mapped with a C2 commercial overlay, which would also apply to R9D districts mapped in conjunction with a C2 district, and in C4-5D districts. The text amendment would, additionally, modify regulations for R7D, R9D, C4-5D to allow elevators and stairs that provide access to residential portions of buildings in areas otherwise not allowed to contain residential uses. This proposal would affect currently mapped R7D zoning districts in Brooklyn Community Districts 3 and 13, and C4-5D zoning districts currently mapped in Bronx Community District 7.

It is the objective of the proposed actions to:

- Preserve the character of the moderate density residential core of the neighborhood while allowing for modest enlargements of existing homes through establishing contextual zoning districts with regulations reflective of established building patterns.

- Direct new residential and mixed-use development to major commercial corridors well-served by mass transit. The new R7A, R7D, and C4-4L districts, especially on Myrtle Avenue and Broadway, will support new mixed use, moderate density development along the rezoning area's major commercial corridors.

- Reinforce the commercial character of existing retail corridors and prevent commercial intrusions into side streets by tailoring commercial overlays to reflect existing development patterns and establishing regulations (new C4-4L district, enhanced commercial corridor, and transparency requirements) along major commercial corridors that seek to promote a vibrant pedestrian experience and continuous active use at street level.

- Create incentives and opportunities for creation of affordable housing on major corridors through the application of the Inclusionary Housing program in the rezoning areas R7A, R7D, and C4-4L districts.

The proposed actions seek to reinforce the character of the Bedford Stuyvesant neighborhood and ensure future development is consistent with the neighborhood's building patterns while creating growth opportunities and affordable housing development along the area's main commercial corridors and around nodes of mass transit.

In order to assess the impacts associated with the proposed action, a Reasonable Worst Case Development Scenario was established. Thirty-one projected development sites were identified as most likely to be developed in the future with the proposed action. As a result of the proposed action, it is anticipated that new development on those sites would consist of a net increase of 790 dwelling units and 135,964 square feet of retail space, 28,182 square feet of office space and net decrease of 291,775 square feet of community facility space. Absent the proposed action, new development would occur as-of-right and consist of an increase in 1,198 dwelling units, 170,399 square feet of commercial retail space, 28,666 square feet office space and 380,826 square feet of community facility space. Additionally, 33 potential development sites were identified as less likely to be developed in the future with the proposed action. The affected area is currently zoned R5, R6, C4-3, and C8-2. The build year is 2022.

The proposed rezoning includes (E) designations on selected development sites in order to preclude future air quality, noise and hazardous materials impacts, which could occur as a result of the proposed action. The (E) designation number is E-285.

Since the original EAS was finalized on May 4, 2012, it was determined that all environmental restrictions for city-owned properties would be identified in the future before redevelopment or disposition and, therefore, no E-designations are necessary. Additionally, typographical errors in the original Negative Declaration and EAS have been corrected. A Technical Memorandum was issued September 5, 2012 in response to the above changes, which finds that they would not alter the conclusions of the May 7, 2012 Negative Declaration. The corrected E-designations are listed below.

The proposed action includes two types of Air Quality (E) designations required. The first (E) designation requirements related to air quality would apply to the following development sites:

Projected Development Sites

~~Block 1912, Lot 3~~
Block 1900, Lots 67, 68, 69, 70
Block 1928, Lot 34
Block 1788, Lots 2,4, 5
Block 1954, Lot 22
Block 1754, Lots ~~24, 25, 26, 27, 28, 29, 30, 31,~~ 32, 33, 34, 35
Block 1747, Lot 1
~~Block 1740, Lot 1~~
Block 1756, Lots 33, 37, 42
Block 1585, Lots 31, 32, 33
Block 1759, Lots 2, 3, 4
Block 1785, Lot 1, 3, 5
Block 1609, Lot 5
Block 1971, Lot 28
Block 1578, Lot 5
Block 1578, Lot 14
Block 1579, Lots 50, 51, 53
Block 1582, Lot 15
Block 1584, Lots 1, 4
Block 1584, Lot 11
Block 1586, Lots 12, 14, 24, 27, 51, 52, 53, 56.

Block 1586, Lots 8, 10, 11
Block 1593, Lot 23
Block 1600, Lot 1 28
Block 1613, Lot 9
Block 1618, Lot 35
Block 1623, Lot 70 73
Block 1628, Lots 21, 22, 23
Block 1628, Lot 30
Block 1605, Lots 23, 24, 25, 26
~~Block 1791, Lots 17, 18, 19.~~

~~Block 1580, Lot 1~~
Block 1759, Lot 7
Block 1771, Lot 5, 7, 8
Block 1578, Lot 17
Block 1579, Lot 22, 25
Block 1586, Lot 31
Block 1586, Lot 6

Block 1586, Lot 3
Block 1618, Lot 40
Block 1600, Lot 13, 14, 15
Block 1608, Lot 27, 34
Block 1613, Lot 16, 17, 23
Block 1618, Lot 22
Block 1623, Lot 25
Block 1623, Lot 41, 42, 53
Block 1623, Lot 57
Block 1628, Lot 34, 38, 42
Block 1479, Lot 8, 11
Block 1480, Lot 16, 17
Block 1480, Lots 34, 36, 38, 40, 41, 42
Block 1791, Lots 42, 43, 44, 45, 47, 48, 51, 52, 53, 54

Potential Development Sites
Block 1910, Lots 23, 24, 25
Block 1914, Lot 22
Block 1926, Lots 1, 77, 78, 79, 80
Block 1926, Lots 74, 75, 76
Block 1778, Lot 9
Block 1783, Lots 8 9
Block 1950, Lots 30, 31, 33
Block 1747, Lot 34
Block 1756, Lots 23, 24, 25
Block 1757, Lots 27, 33, 34, 35, 134

The text for the Air Quality E-designation for the above sites is as follows:

"Any new residential and/or commercial development on the above-referenced properties must ensure that the heating, ventilating and air conditioning stack(s) will use exclusively natural gas as the type of fuel for space heating and hot water (HVAC) systems to avoid any potential significant adverse air quality impacts."

The following properties require both natural gas and setbacks in order to avoid the potential for significant adverse impacts related to Air Quality. The following block and lots encompass two (2) projected and two (2) potential development sites:

Projected Development Sites
Block 1747, Lots 7, 10, 19, 20, 21, 22, 23, 24, 51, 53a
Block 1747, Lots 53b, 62, 64, 67

Potential Development Sites
Block 1584, Lots 39, 50, 51

Block 1480, Lots 23, 55, 56

The text for the Air Quality E-designation for the above sites is as follows:

- Block 1747, Lots 7, 10, 19, 20, 21, 22, 23, 24, 51, and 53a (Projected Development Site G): Any new residential and/or commercial development on the above-referenced properties must ensure that the heating, ventilating and air conditioning stack(s) are located at least 13 feet from the lot line facing Myrtle Avenue and will use exclusively natural gas as the type of fuel for space heating and hot water (HVAC) systems to avoid any potential significant adverse air quality impacts.

- Block 1747, Lots 53b, 62, 64, and 67 (Projected Development Site G): Any new residential and/or commercial development on the above-referenced properties must ensure that the heating, ventilating and air conditioning stack(s) are located at least 15 feet from the lot line facing Stockton Street and will use exclusively natural gas as the type of fuel for space heating and hot water (HVAC) systems to avoid any potential significant adverse air quality impacts.

- Block 1584, Lot 39, 50, and 51 (Potential Development Site 16): Any new residential and/or commercial development on the above-referenced properties must ensure that the heating, ventilating and air conditioning stack(s) are located at least 12 feet from the lot line facing Myrtle Avenue and will use exclusively natural gas as the type of fuel for space heating and hot water (HVAC) systems to avoid any potential significant adverse air quality impacts.

- Block 1480, Lot 23, 55, and 56 (Potential Development Site 31): Any new residential and/or commercial development on the above-referenced properties must ensure that the heating, ventilating and air conditioning stack(s) are located at least 12 feet from the lot line facing Gates Avenue and will use exclusively natural gas as the type of fuel for space heating and hot water (HVAC) systems to avoid any potential significant adverse air quality impacts.

With the placement of the (E) designations on the above blocks and lots, no significant air quality impacts related to HVAC emissions would be expected as the result of the proposed action.

There are four levels of required noise attenuation. Depending on the ambient noise levels they would require 28, 31, 37/34, and 41/38 dBA of window/wall attenuation.

The following properties require 28 dBA of noise attenuation in order to avoid the potential for significant adverse impacts related to noise. The proposed action includes (E) designations on the following block and lots which encompass eleven (11) projected and ten (10) potential development sites:

Projected Development Sites

~~Block 1912, Lot 3~~
Block 1900, Lot 67
Block 1900, Lots 68, 69, 70
Block 1928, Lot 34
Block 1788, Lots 2, 4, 5
Block 1954, Lot 22
Block 1754, Lots ~~24, 25, 26, 27, 28, 29, 30 ,31,~~ 32, 33, 34, 35
Block 1747, Lots 7, 10, 19, 20, 21, 22, 23, 24, 51, 53A
Block 1747, Lots 53B, 62, 64, 67
Block 1747, Lot 1
~~Block 1740, Lot 1~~
Block 1756, Lots 33, 37
Block 1756, Lot 42
Block 1609, Lot 5
Block 1971, Lot 28

Potential Development Sites
Block 1910, Lots 23, 24, 25
Block 1914, Lot 22
Block 1926, Lots 1, 77, 78, 79, 80
Block 1926, Lots 74, 75, 76
Block 1778, Lot 9
Block 1783, Lots 8, 9
Block 1950, Lots 30, 31, 33
Block 1747, Lot 34
Block 1756, Lots 23, 24, 25
Block 1791, Lots 42, 43, 44, 45, 47, 48, 51, 52, 53, 54

The text for the E-designation for sites requiring 28 dBA is as follows:

> **"To ensure an acceptable interior noise environment, future residential/commercial uses must provide a closed window condition with a minimum of 28 dBA window/wall attenuation on all façades to maintain an interior noise level of 45 dBA. 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."**

The following properties require 31 dBA of noise attenuation in order to avoid the potential for significant adverse impacts related to noise. The proposed action includes (E) designations on the following block and lots which encompass nine (9) projected and nine (9) potential development sites:

Projected Development Sites
Block 1585, Lots 31, 32, 33
Block 1579, Lots 50, 51, 53
Block 1584, Lots 1, 4
Block 1586, Lots 8, 10, 11
Block 1600, Lots 1, 28
Block 1618, Lot 35
Block 1623, Lots 70, 73
Block 1628, Lots 21, 22, 23
Block 1628, Lot 30

Potential Development Sites
Block 1757, Lots 27, 33, 34, 35, 134
~~Block 1580, Lot 1~~
Block 1584, Lots 39, 50, 51
Block 1586, Lot 6
Block 1586, Lot 3
Block 1618, Lot 40
Block 1623, Lot 25
Block 1623, Lot 57
Block 1480, Lots 16, 17

For sites requiring 31 dBA noise attenuation, the following E-designation noise text would apply:

> **"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 to maintain an interior noise level of 45 dBA. 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."**

The following property requires 37/34 dBA of noise attenuation in order to avoid the potential for significant adverse impacts related to noise. The proposed action includes (E) designations on the following block and lot which encompass one (1) projected site and eight (8) potential development sites:

Projected Development Site
Block 1613, Lot 9

Potential Development Sites
Block 1608, Lots 27, 34

Block 1613, Lots 16, 17, 23
Block 1618, Lot 22
Block 1623, Lots 41, 42, 53
Block 1628, Lots 34, 38, 42
Block 1479, Lots 8, 11
Block 1480, Lots 23, 55, 56
Block 1480, Lots 34, 36, 38, 40, 41, 42

For sites requiring 37/34 dBA noise attenuation, the following E-designation noise text would apply:

> **"To ensure an acceptable interior noise environment, future residential/commercial uses must provide a closed window condition with a minimum of 37 dBA window/wall attenuation on all façades below the elevated train and 34 dBA above the elevated train to maintain an interior noise level of 45 dBA. 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."**

The following property requires 41/38 dBA of noise attenuation in order to avoid the potential for significant adverse impacts related to noise. The proposed action includes (E) designations on the following block and lot which encompass six (6) projected sites and four (4) potential development sites:

Projected Development Sites
Block 1578, Lot 5
Block 1578, Lot 14
Block 1582, Lot 15
Block 1584, Lot 11
Block 1586, Lot 12
Block 1586, Lot 14
Block 1586, Lots 24, 27
Block 1586, Lots 51, 52, 53, 56
Block 1593, Lot 23

Potential Development Sites
Block 1578, Lot 17
Block 1579, Lots 22, 25
Block 1586, Lot 31
Block 1600, Lots 13, 14, 15

For sites requiring 41/38 dBA noise attenuation, the following E-designation noise text would apply:

> **"To ensure an acceptable interior noise environment, future residential/commercial uses must provide a closed window condition with a minimum**

of 41 dBA window/wall attenuation on all façades below the elevated train and 38 dBA above the elevated train to maintain an interior noise level of 45 dBA. To achieve 41 dBA of building attenuation, special design features that go beyond the normal double-glazed windows are necessary and may include using specially designed windows (i.e., windows with small sizes, windows with air gaps, windows with thicker glazing, etc.), and additional building attenuation. 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 measure specified above, the proposed action would not result in any significant adverse noise impacts, and would meet CEQR guidelines.

By placing (E) designations on sites where there is a known or suspected environmental concern the potential for an adverse impact to human health and the environment resulting from the proposed action may be avoided.

The (E) designation requirements related to hazardous materials would apply to 30 of the 31 projected development sites and each of the 33 potential development sites:

Projected Development Sites
~~Block 1912, Lot 3~~
Block 1900, Lots 67, 68, 69, 70
Block 1928, Lot 34
Block 1788, Lots 2, 4, 5
Block 1954, Lot 22
Block 1754, Lots ~~24, 25, 26, 27, 28, 29, 30, 31,~~ 32, 33, 34, 35
Block 1747, Lots 7, 10, 19, 20, 21, 22, 23, 24, 51, 53A, 53B, 62, 64, 67, 1
~~Block 1740, Lot 1~~
Block 1756, Lots 33, 37, 42
Block 1585, Lots 31, 32, 33
Block 1759, Lots 2, 3, 4
Block 1785, Lots 1, 3, 5
Block 1971, Lot 28
Block 1578, Lot 5
Block 1578, Lot 14
Block 1579, Lots 50, 51, 53
Block 1582, Lot 15
Block 1584, Lots 1, 4
Block 1584, Lot 11
Block 1586, Lots 12, 14, 24, 27, 51, 52, 53, 56
Block 1586, Lots 8, 10, 11
Block 1593, Lot 23
Block 1600, Lots 1, 28
Block 1613, Lot 9
Block 1618, Lot 35
Block 1623, Lots 73, 70
Block 1628, Lots 21, 22, 23
Block 1628, Lot 30
Block 1605, Lots 23, 24, 25, 26
~~Block 1791, Lots 17, 18, 19~~

Potential Development Sites
Block 1910, Lots 23, 24, 25
Block 1914, Lot 22
Block 1926, Lots 1, 7, 77, 78, 79, 80
Block 1926, Lots 74, 75, 76
Block 1778, Lot 9

Block 1783, Lots 8, 9
Block 1950, Lots 30, 31, 33
Block 1747, Lot 34
Block 1756, Lots 23, 24, 25
Block 1757, Lots 27, 33, 34, 134, 35
~~Block 1580, Lot 1~~
Block 1759, Lot 7
Block 1771, Lots 5, 7, 8
Block 1578, Lot 17
Block 1579, Lots 22, 25
Block 1584, Lots 39, 50, 51
Block 1586, Lot 31

Block 1586, Lot 6
Block 1586, Lot 3
Block 1618, Lot 40
Block 1600, Lots 13, 14, 15
Block 1608, Lots 27, 34
Block 1613, Lots 16, 17, 23
Block 1618, Lot 22
Block 1623, Lot 25
Block 1623, Lots 41, 42, 53
Block 1623, Lot 57
Block 1628, Lots 34, 38, 42
Block 1479, Lots 8, 11
Block 1480, Lots 16, 17
Block 1480, Lots 23, 55, 56
Block 1480, Lots 34, 36, 38, 40, 41, 42
Block 1791, Lots 42, 43, 44, 45, 47, 48, 51, 52, 53, 54

The text for the (E) designations related to hazardous materials is as follows:

Task 1-Sampling Protocol

The applicant submits to OER, for review and approval, a Phase 1A of the site along with a soil and groundwater 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 sample sites should be selected to adequately characterize the site, the specific source 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 the 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 OER-approved construction-related health and safety plan would be implemented during evacuation and construction and activities to protect workers and the community from potentially significant adverse impacts associated with contaminated soil and/or groundwater. This plan would be submitted to OER for review and approval prior to implementation.

All demolition or rehabilitation would be conducted in accordance with applicable requirements for disturbance, handling and disposal of suspect lead-paint and asbestos-containing materials. For all projected and potential development sites where no E-designation is recommended, in addition to the requirements for lead-based paint and asbestos, requirements (including those of NYSDEC) should petroleum tanks and/or spills be identified and for off-site disposal of soil/fill would need to be followed.

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 May 4, 2012, prepared in connection with the ULURP Application (Nos. 120294ZMK, N120295ZRK, & N120296ZRY). 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 for air quality, noise and hazardous materials 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.

Bedford Stuyvesant North Rezoning
CEQR No. 12DCP156Y
Negative Declaration

Should you have any questions pertaining to this Revised Negative Declaration, you may contact Jonathan Keller at (212) 720-3419.

Celeste Evans

Date: September 4, 2012

Celeste Evans, Deputy Director
Environmental Assessment & Review Division
Department of City Planning

Date: September 5, 2012

Amanda M. Burden, FAICP, Chair
City Planning Commission