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**IN THE MATTER OF** an application submitted by 1640 Flatbush Owner LLC pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, modifying Appendix F for the purpose of establishing a Mandatory Inclusionary Housing area, Borough of Brooklyn, Community District 14.

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This application for an amendment of the Zoning Resolution of the City of New York concerning modifications to Appendix F (Inclusionary Housing Designated Areas and Mandatory Inclusionary Housing Areas) was filed by 1640 Flatbush Owner LLC on August 15, 2018. This application, in conjunction with the related action (C 190053 ZMK), would facilitate the construction of a new, approximately 130,000-square-foot mixed-use development with two floors of commercial space and approximately 114 residential units at 1640 Flatbush Avenue in the Flatbush neighborhood of Brooklyn Community District 14.

### **RELATED ACTION**

In addition to the zoning text amendment (N 190054 ZRK) that is the subject of this report, the proposed project also requires action by the City Planning Commission on the following application, which is being considered concurrently with this application:

**C 190053 ZMK**      Zoning map amendment to change C8-2 and R6 zoning districts to C4-4D and R6 districts

### **BACKGROUND**

A full background discussion and description of this application appears in the report for the related zoning map amendment (C 190053 ZMK).

### **ENVIRONMENTAL REVIEW**

This application (N 190054 ZRK), in conjunction with the applications for the related action (C 190053 ZMK), was reviewed pursuant to the New York State Environmental Quality Review Act

(SEQRA) and the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 et seq. and the City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The lead is the City Planning Commission. The designated CEQR number is 19DCP028K.

A summary of the environmental review appears in the report for the related zoning map amendment (C 190053 ZMK).

## **PUBLIC REVIEW**

This application (N 190054 ZRK) was duly referred to Brooklyn Community Board 14 and the Brooklyn Borough President on October 29, 2018 in accordance with the procedures for non-ULURP matters, along with the applications for the related action (C 190053 ZMK), which was certified as complete by the Department of City Planning and duly referred in accordance with Title 62 of the rules of the City of New York, Section 2-02(b).

### **Community Board Public Hearing**

On December 5, 2018, Brooklyn Community Board 14 held a public hearing on this application (N 190054 ZRK) and on December 10, 2018, by a vote of 26 in favor, none opposed, and two abstention, adopted a resolution recommending approval of the application with conditions. A summary of the Community Board's recommendations appear in the report for the related zoning map amendment (C 190053 ZMK).

### **Borough President Recommendation**

This application (N 190054 ZRK) was considered by the Brooklyn Borough President, who on January 22, 2019 issued a recommendation to approve the application with conditions. A summary of the Borough President's recommendation appears in the report for the related zoning map amendment (C 190053 ZMK).

### **City Planning Commission Public Hearing**

On January 30, 2019 (Calendar No. 4), the City Planning Commission scheduled February 13, 2019 for a public hearing on this application (N 190054 ZRK) and the application for the related action (C 190053 ZMK). The hearing was duly held on February 13, 2019 (Calendar No. 37).

Seven speakers testified in favor of the application, as described in the report for the related zoning map amendment (C 190053 ZMK), and the hearing was closed.

## **CONSIDERATION**

The Commission believes that the proposed zoning text amendment (N 190054 ZRK), in conjunction with the related action (C 190053 ZMK), is appropriate. A full consideration and analysis of the issues and the reasons for approving the application appear in the report for the related zoning map amendment (C 190053 ZMK).

## **RESOLUTION**

**RESOLVED**, that the City Planning Commission finds that the action described herein will have no significant impact on the environment; and be it further

**RESOLVED**, by the City Planning Commission, pursuant to Section 200 of the New York City Charter, that based on the environmental determination and the consideration described in this report, the Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended as follows:

Matter underlined is new, to be added;

Matter ~~struck out~~ is to be deleted;

Matter within # # is defined in Section 12-10;

\* \* \* indicates where unchanged text appears in the Zoning Resolution

\* \* \*

## **APPENDIX F**

### **Inclusionary Housing Designated Areas and Mandatory Inclusionary Housing Areas**

\* \* \*

## **BROOKLYN**

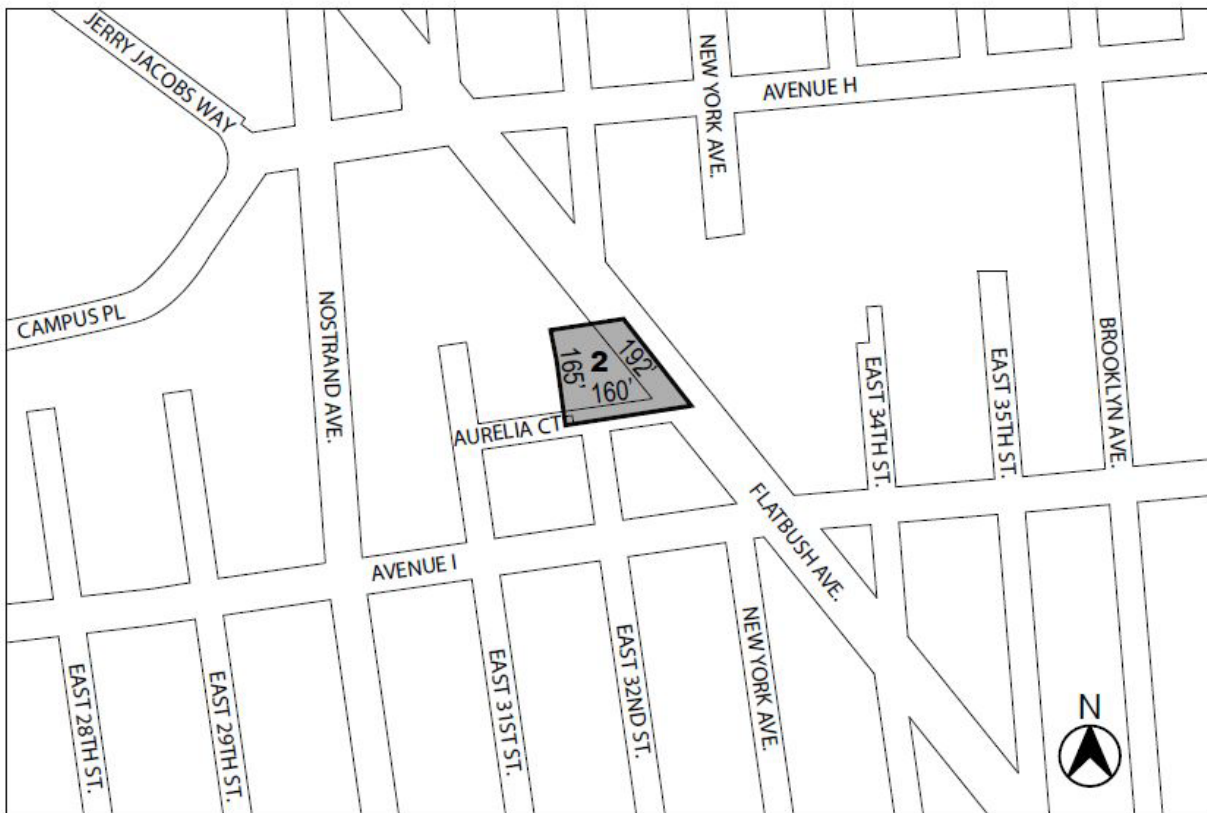
\* \* \*

### **Brooklyn Community District 14**

\* \* \*

Map [ ] – (date of adoption)

[PROPOSED MAP]



Mandatory Inclusionary Housing Area (see Section 23-154 (d) (3))

Area 2 — mm/dd/yy, MIH Program Option 2

Portion of Community District 14, Brooklyn

\* \* \*

The above resolution (N 190054 ZRK), duly adopted by the City Planning Commission on March 13, 2019 (Calendar No. 18), is filed with the Office of the Speaker, City Council, and the Borough President, in accordance with the requirements of Section 197-d of the New York City Charter.

**MARISA LAGO**, *Chair*

**KENNETH J. KNUCKLES, ESQ.**, *Vice Chairman*

**ALFRED C. CERULLO III, JOSEPH DOUEK, RICHARD W. EADDY, HOPE KNIGHT,  
ANNA HAYES LEVIN, ORLANDO MARIN, LARISA ORTIZ, RAJ RAMPERSHAD,**  
*Commissioners*



Application #: **C 190053 ZMK**

Project Name: **1640 Flatbush Avenue Rezoning**

CEQR Number: **19DCP028K**

Borough(s): **Brooklyn**

Community District Number(s): **14**

Please use the above application number on all correspondence concerning this application

### SUBMISSION INSTRUCTIONS

- Complete this form and return to the Department of City Planning by one of the following options:
  - EMAIL (recommended):** Send email to [CalendarOffice@planning.nyc.gov](mailto:CalendarOffice@planning.nyc.gov) and include the following subject line: (CB or BP) Recommendation + (6-digit application number), e.g., "CB Recommendation #C100000ZSQ"
  - MAIL:** Calendar Information Office, City Planning Commission, 120 Broadway, 31<sup>st</sup> Floor, New York, NY 10271
  - FAX:** to (212) 720-3488 and note "Attention of the Calendar Office"
- Send one copy of the completed form with any attachments to the applicant's representative at the address listed below, one copy to the Borough President, and one copy to the Borough Board, when applicable.

#### Docket Description:

**IN THE MATTER OF** an application submitted by 1640 Flatbush Owner LLC pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 23a:

- changing from a C8-2 District to an R6 District property bounded by the southerly boundary line of a former public place, a line 200 feet easterly of East 31<sup>st</sup> Street, a line 100 feet northerly of Aurelia Court and its westerly prolongation, and a line midway between East 31<sup>st</sup> Street and Nostrand Avenue;
- changing from an R6 District to a C4-4D District property bounded by a line 100 feet northerly of Aurelia Court, the northerly centerline prolongation of East 32<sup>nd</sup> Street, Aurelia Court, and a line 200 feet easterly of East 31<sup>st</sup> Street; and
- changing from a C8-2 District to a C4-4D District property bounded by the southerly boundary line of a former public place and its easterly prolongation, Flatbush Avenue, Aurelia Court, the northerly centerline prolongation of East 32<sup>nd</sup> Street, a line 100 feet northerly of Aurelia Court, and a line 200 feet easterly of East 31<sup>st</sup> Street;

Borough of Brooklyn, Community District 14, as shown on a diagram (for illustrative purposes only) dated October 29, 2018 and subject to the conditions of CEQR Declaration E-506.

<b>Applicant(s):</b>  1640 Flatbush Owner LLC c/o SL Green Realty Corp. 420 Lexington Avenue New York, NY 10170	<b>Applicant's Representative:</b>  Jay A. Segal, Esq. Greenberg Traurig, LLP 200 Park Avenue New York, NY 10166
<b>Recommendation submitted by:</b> Brooklyn      Community Board 14	
<b>Date of public hearing:</b> <b>Location:</b>	
Was a quorum present?   YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> <small>A public hearing requires a quorum of 20% of the appointed members of the board, but in no event fewer than seven such members.</small>	
<b>Date of Vote:</b> <i>December 10, 2018</i> <b>Location:</b> <i>P.S. 249 18 Marlborough Rd Brooklyn 11226</i>	
<b>RECOMMENDATION</b> <div style="display: flex; justify-content: space-between;"> <div> <input type="checkbox"/> Approve  <input type="checkbox"/> Disapprove         </div> <div> <input checked="" type="checkbox"/> Approve With Modifications/Conditions  <input type="checkbox"/> Disapprove With Modifications/Conditions         </div> </div> <p><b><u>Please attach any further explanation of the recommendation on additional sheets, as necessary.</u></b></p>	
<b>Voting</b> # In Favor: <i>26</i> # Against: <i>0</i> # Abstaining: <i>2</i> Total members appointed to the board: <i>47</i>	
<b>Name of CB/BB officer completing this form</b> <i>Shawn Campbell</i>	<div style="display: flex; justify-content: space-between;"> <div> <b>Title</b>  <i>District Manager</i> </div> <div> <b>Date</b>  <i>12/18/18</i> </div> </div>

ULURP Application Nos. C 190053 ZMK and N 190054 ZRK

1640 Flatbush Avenue Rezoning and Text Amendment

Brooklyn Community Board 14 recommends approval of these applications with the following conditions:

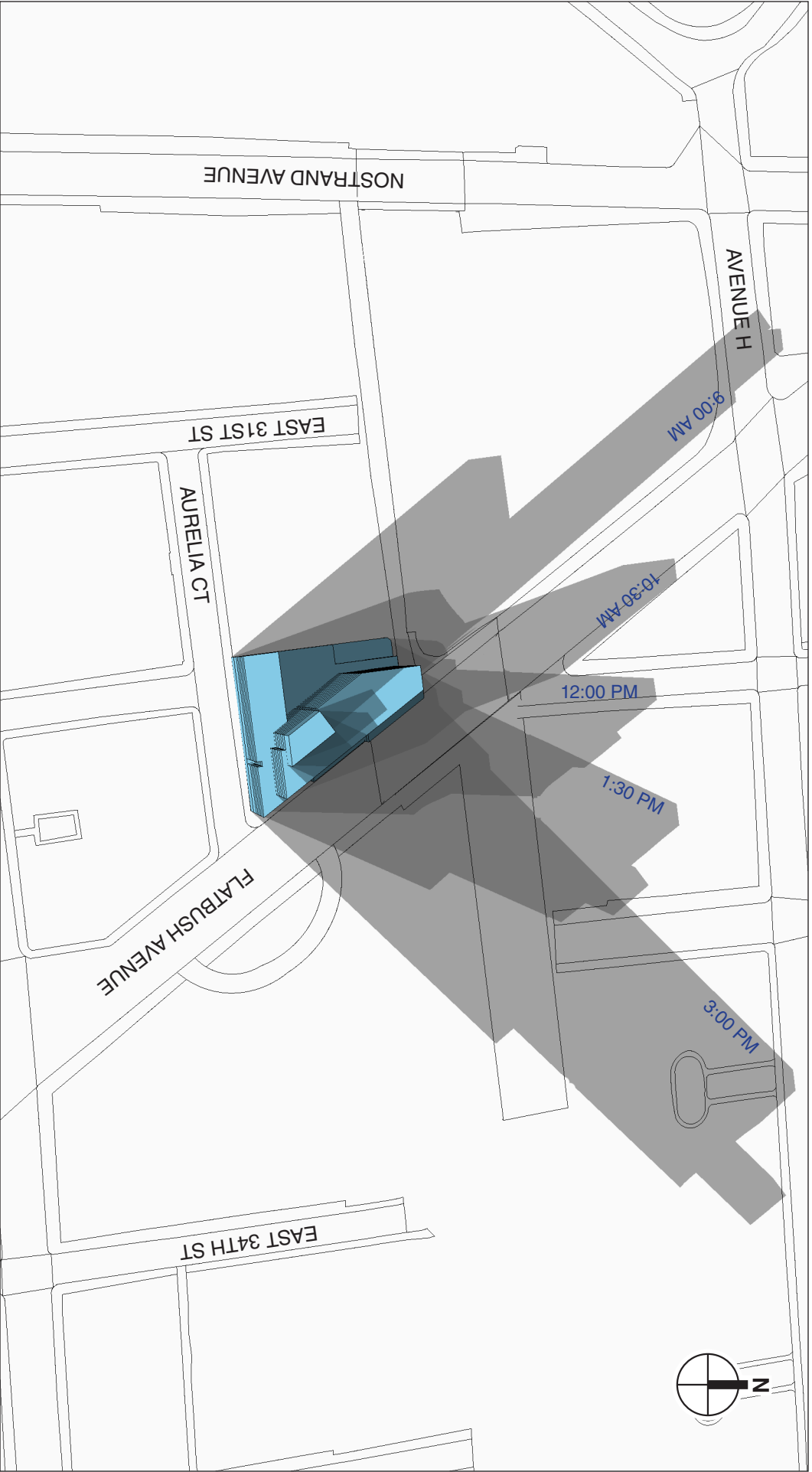
1. Applicant will provide evidence of a shadow study (satisfied on 12/13/18 and attached).
2. Applicant will consult with NYC DOT to evaluate feasibility of relocating the entrances dedicated to residential areas, retail and/or medical space, and associated loading/unloading areas, to Flatbush Avenue, from their current planned locations on Aurelia Court.
3. Applicant will reach agreement with Councilmember Jumaane Williams on MIH Affordability Option I, which sets aside 25% of the residential space for tenants earning no more than 60% of Area Median Income (average), including 10% at 40% of AMI.

# **1640 FLATBUSH AVENUE SHADOW STUDY**

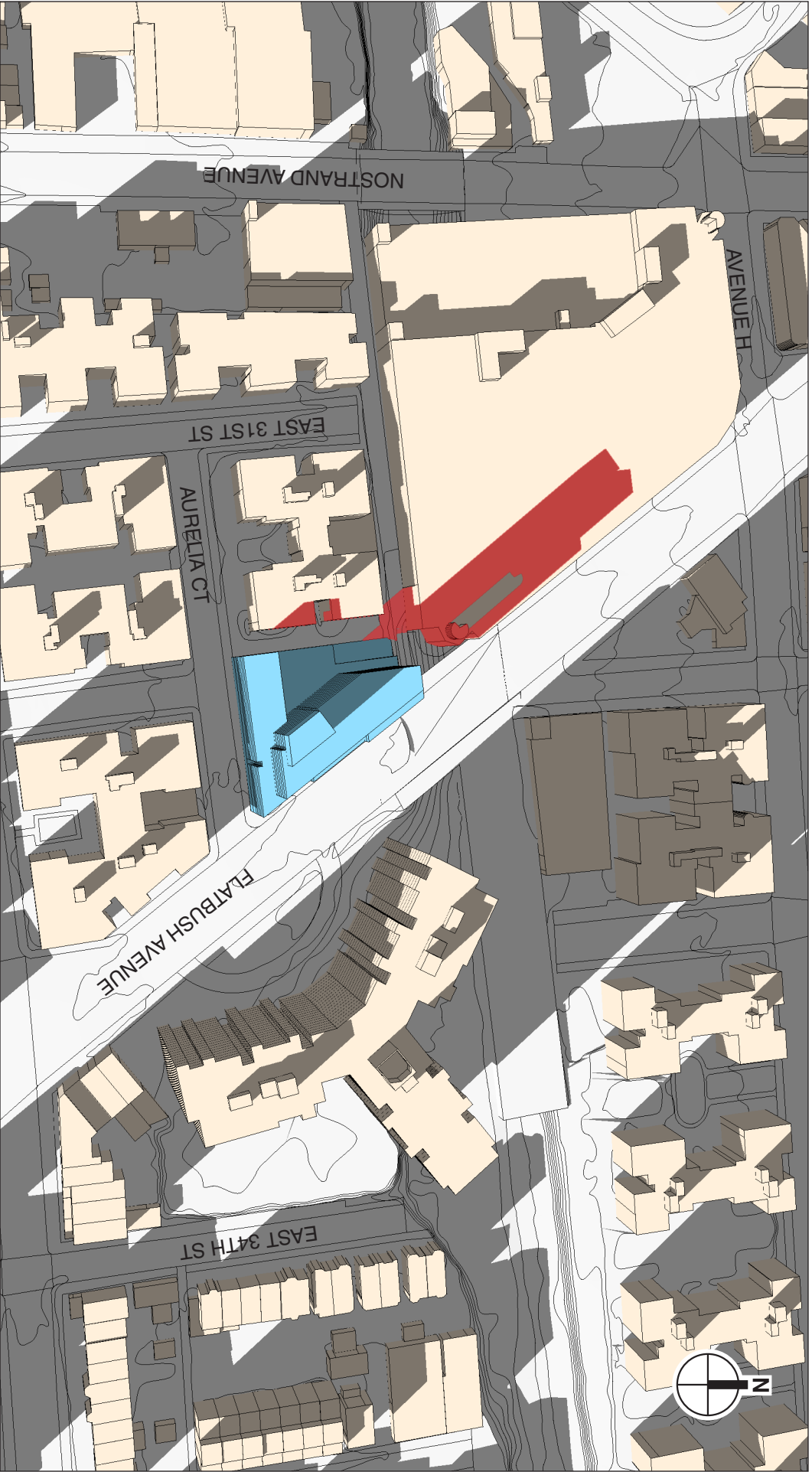
Prepared on Dec.13, 2018 by



**WINTER SOLSTICE: DECEMBER 21**

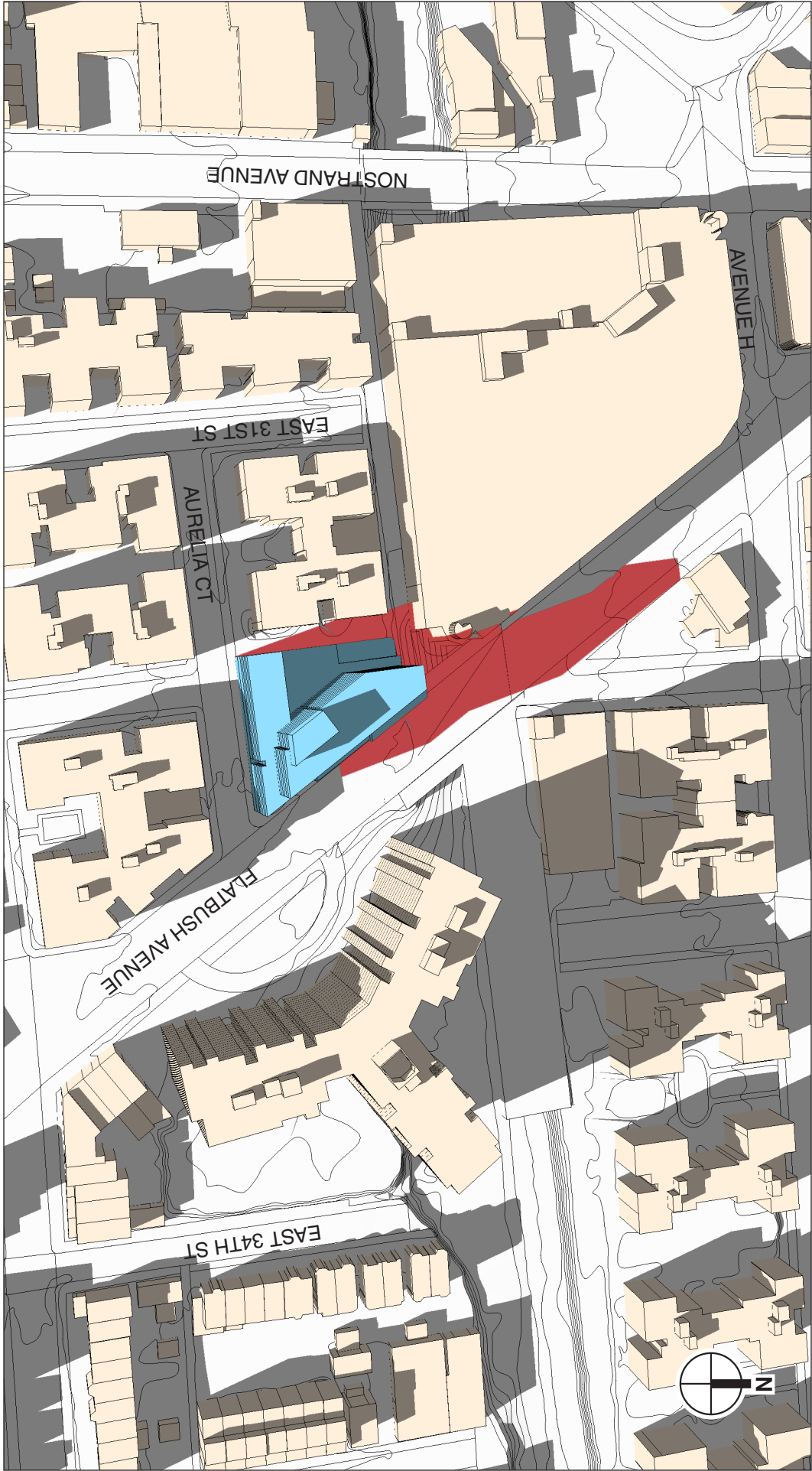


This figure illustrates the daily path or “sweep” of shadows that would occur, absent intervening structures, from the proposed project on the winter solstice analysis day. The shadows are shown at 90-minute intervals from approximately 90 minutes after sunrise until 90 minutes before sunset, following New York City Technical Manual methodology. Times are given in Eastern Standard Time. On December 21, shadows are longer than at any other time of year.

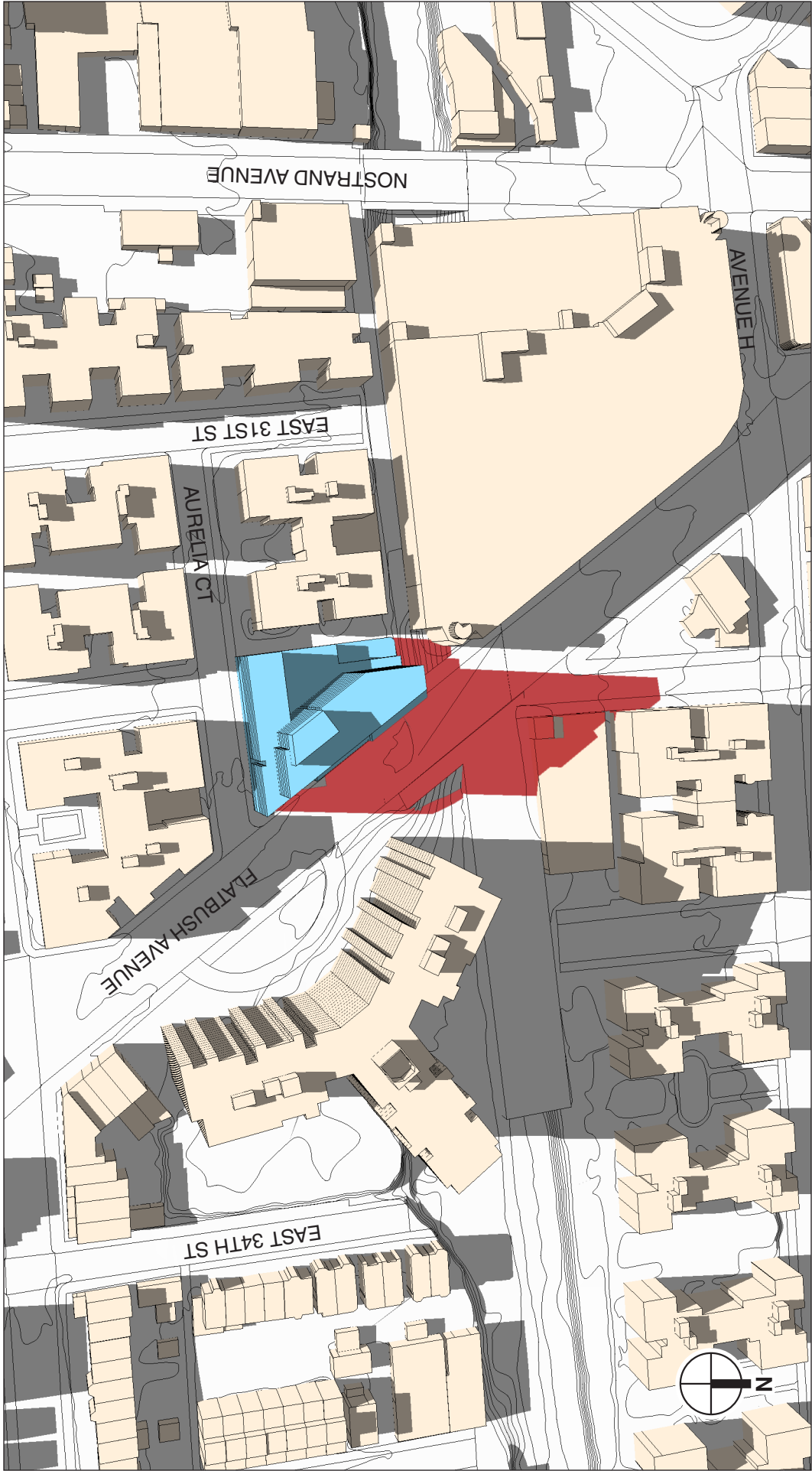


 *Incremental Shadow*

Detailed topographic information and existing buildings and structures were modeled to account for baseline shadows. Incremental shadows (new shadows that would be generated by the proposed project and that would not overlap with existing shadows) are highlighted in red. Existing shadows (in gray) and remaining areas of sunlight are also shown.

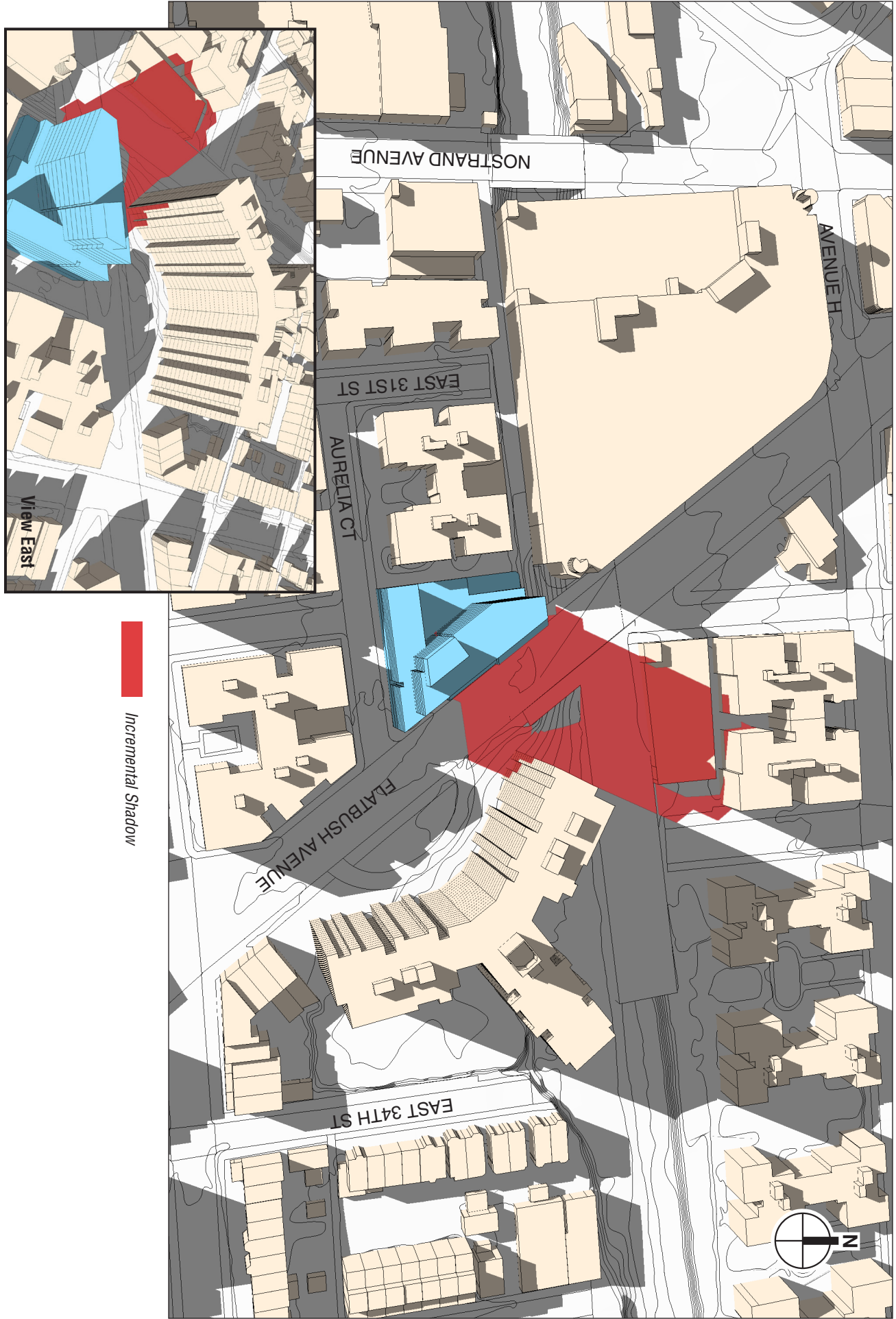


*Incremental Shadow*



*Incremental Shadow*





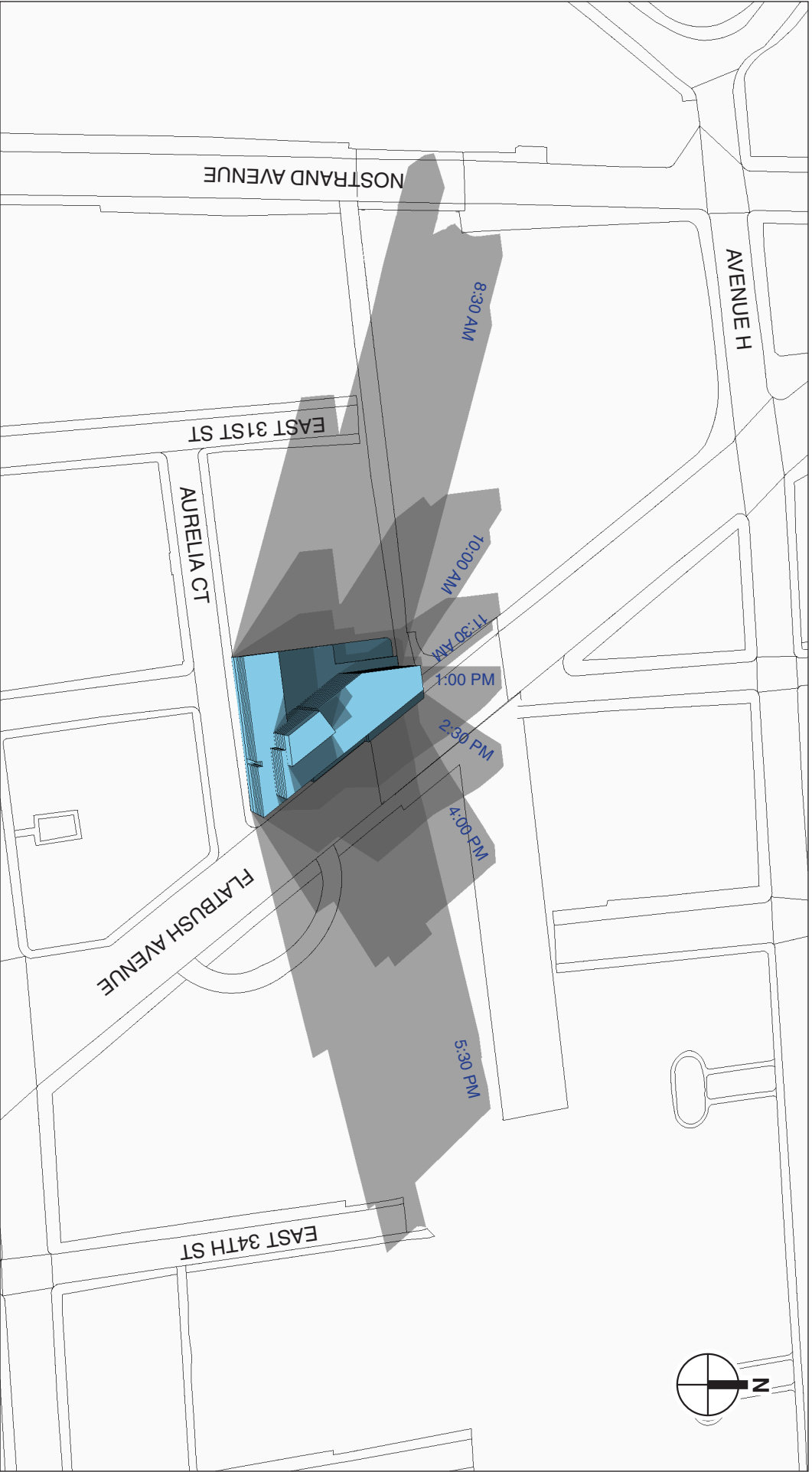
1640 FLATBUSH AVENUE SHADOW STUDY

December 21 - 1:30 PM EST  
Figure 5



Incremental Shadow

**SPRING AND FALL EQUINOXES: MARCH 21 AND SEPTEMBER 21**



March 21 and September 21 represent the mid-points between the summer and winter solstices, and shadows on March 21 and September 21 are approximately the same in terms of length, angle and daily pattern. Times are given in Eastern Daylight Time.



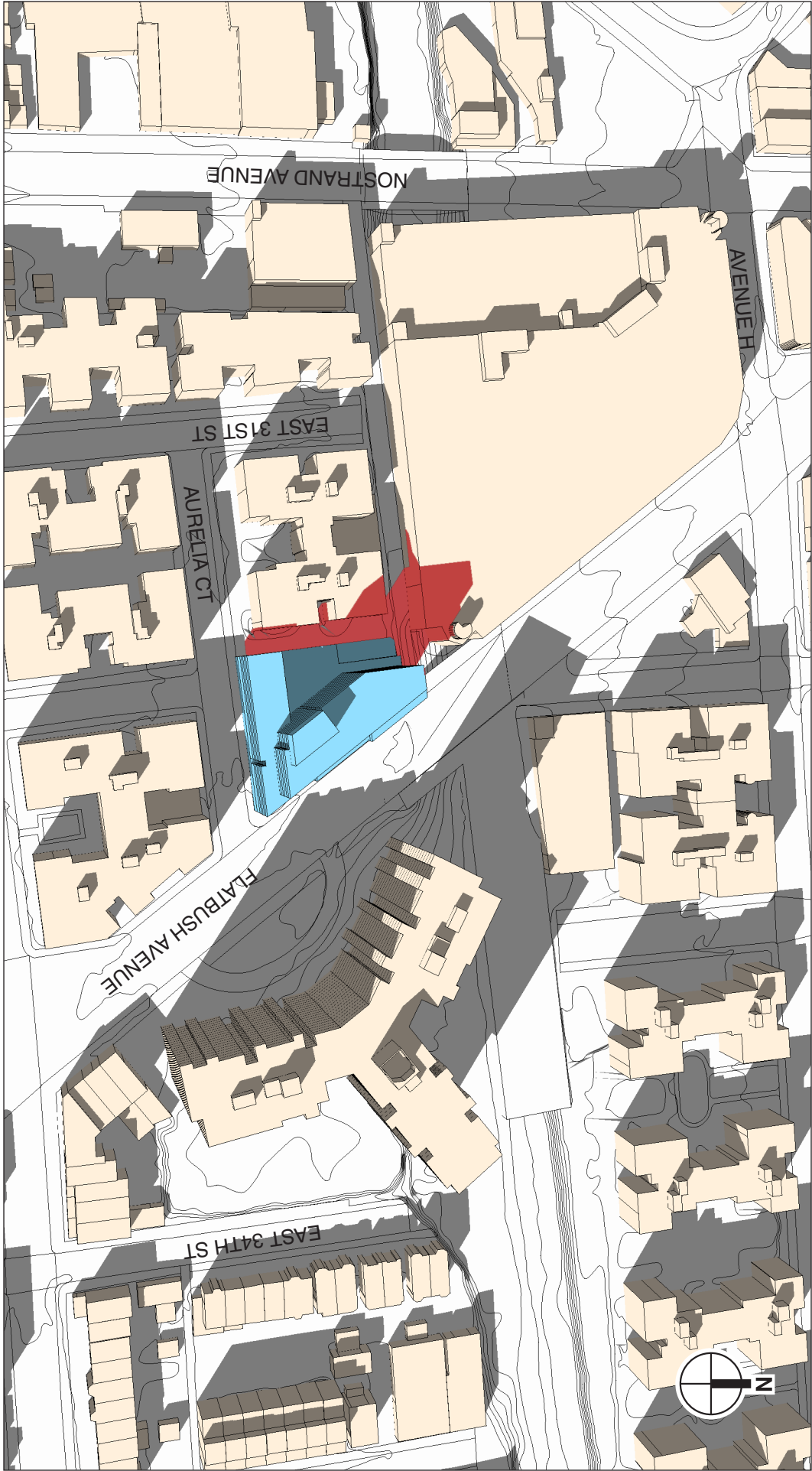
*Incremental Shadow*

**1640 FLATBUSH AVENUE SHADOW STUDY**

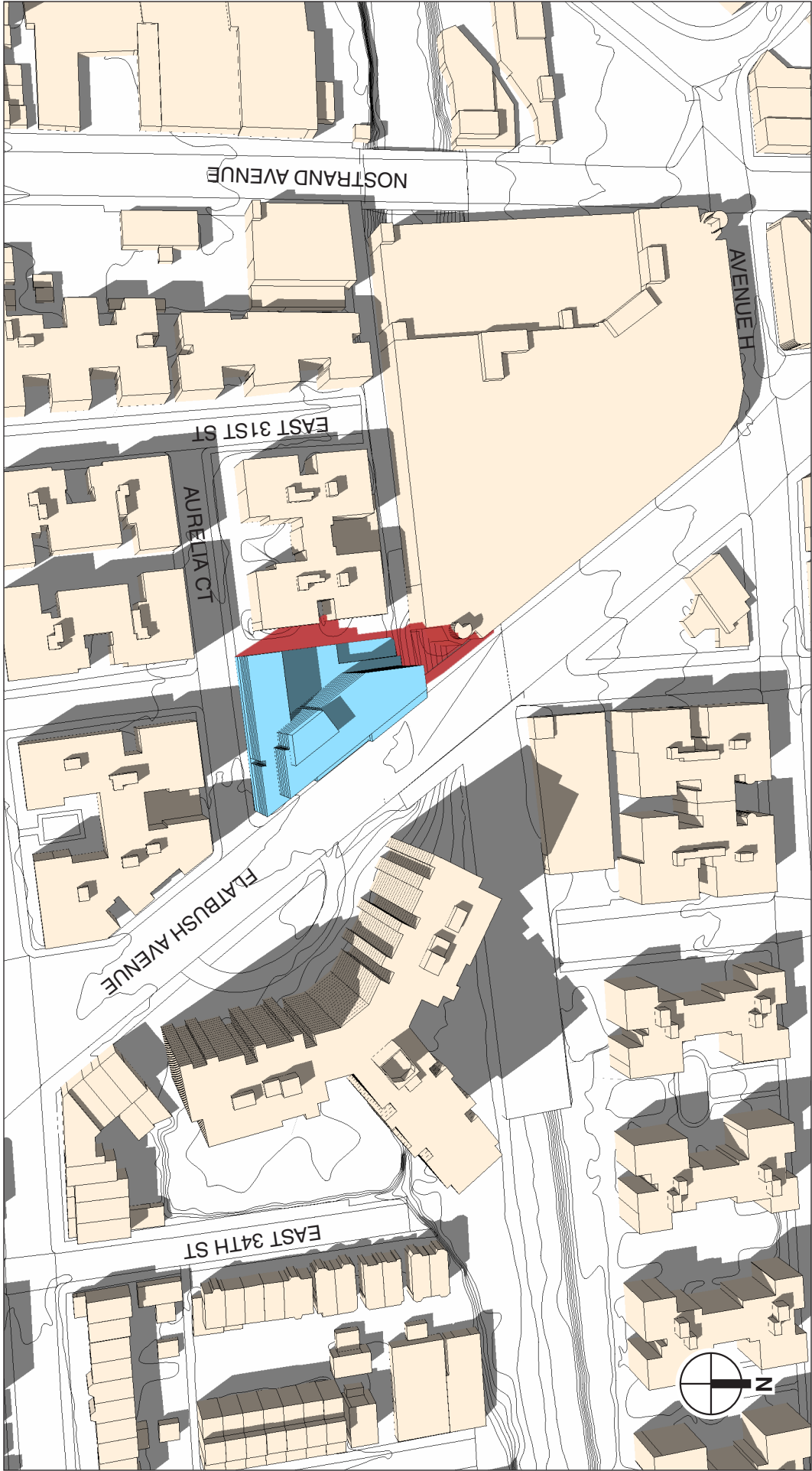
March 21/Sept. 21 - 8:30 AM EDT

**Figure 8**

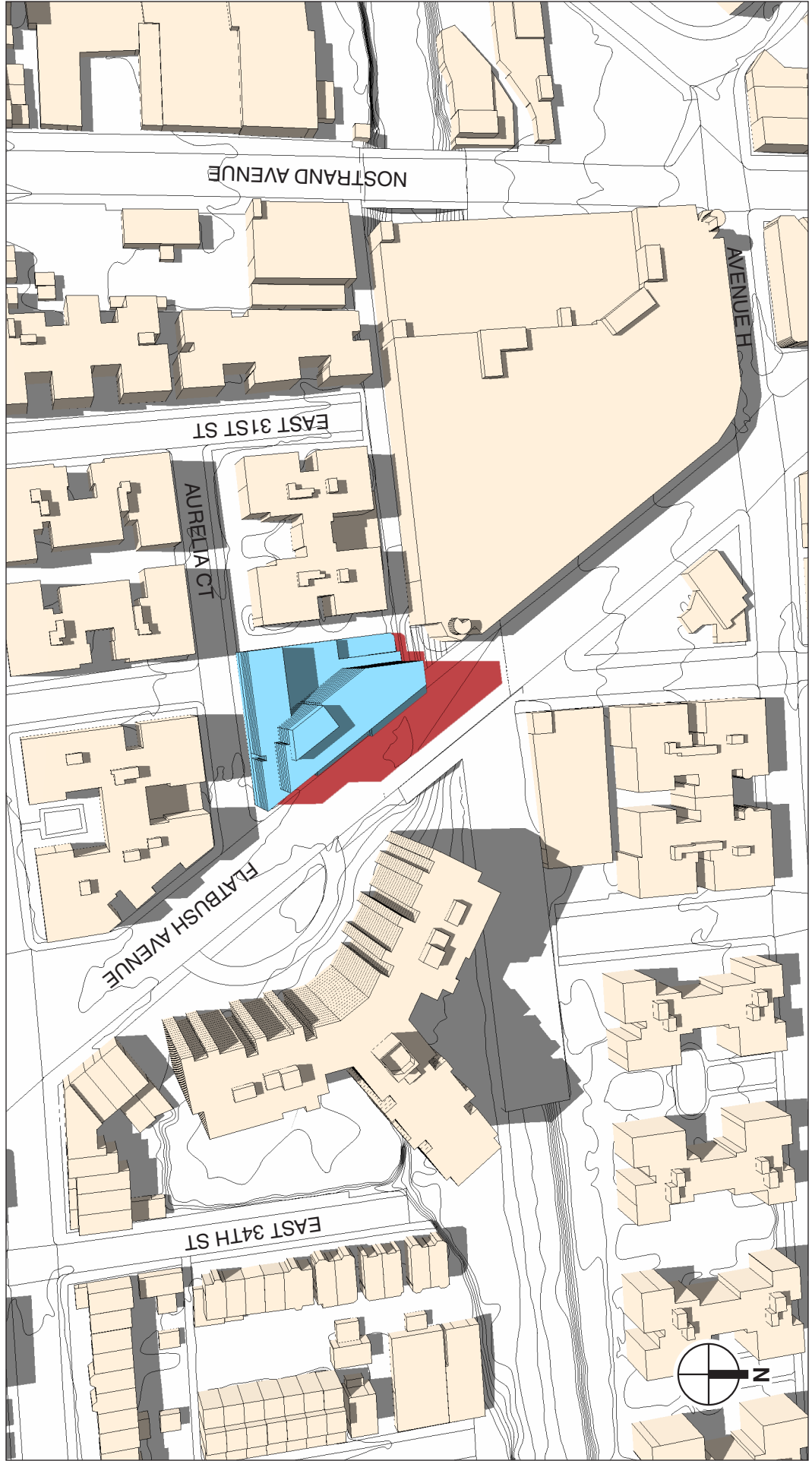




 Incremental Shadow

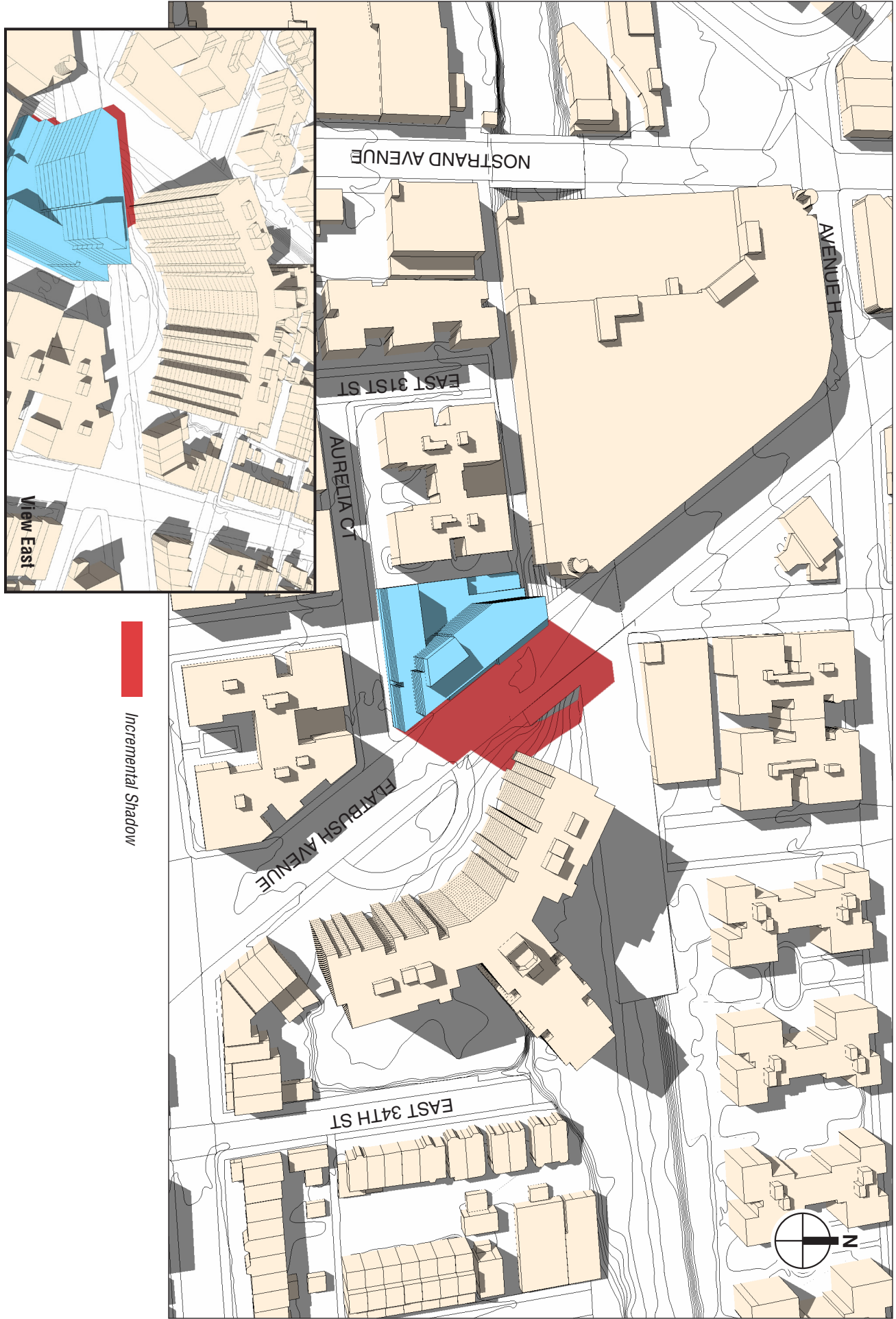


*Incremental Shadow*

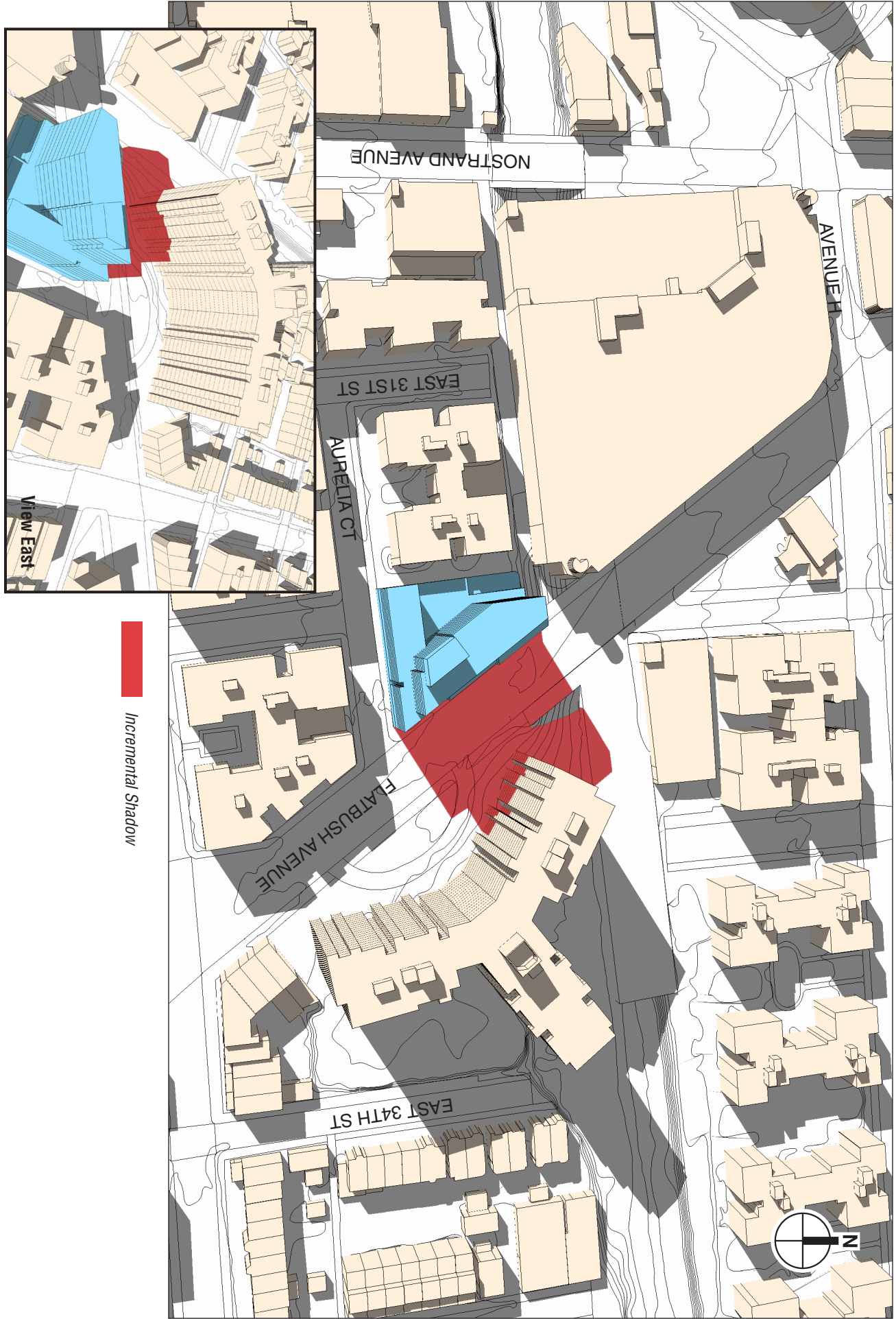


*Incremental Shadow*



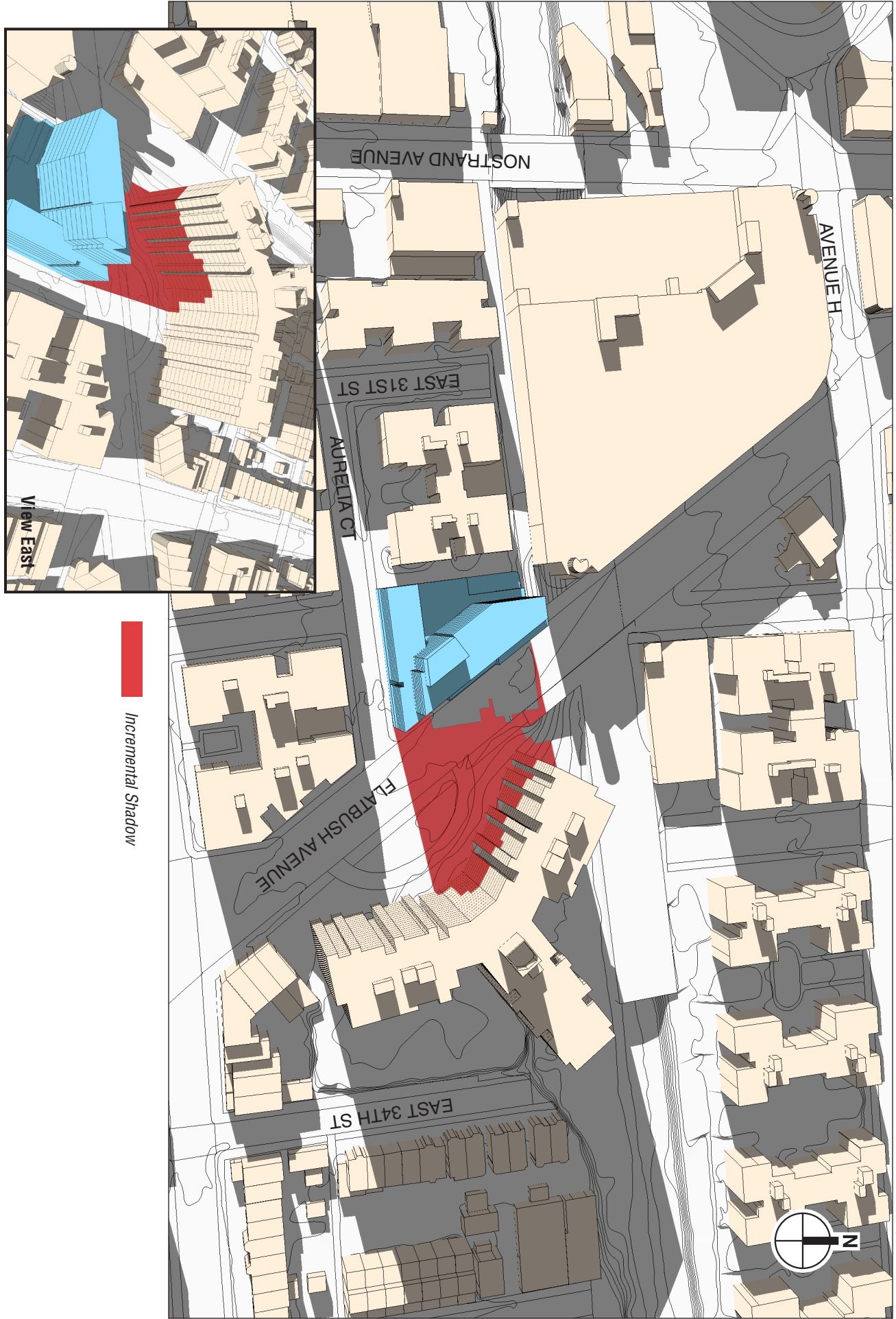


Incremental Shadow



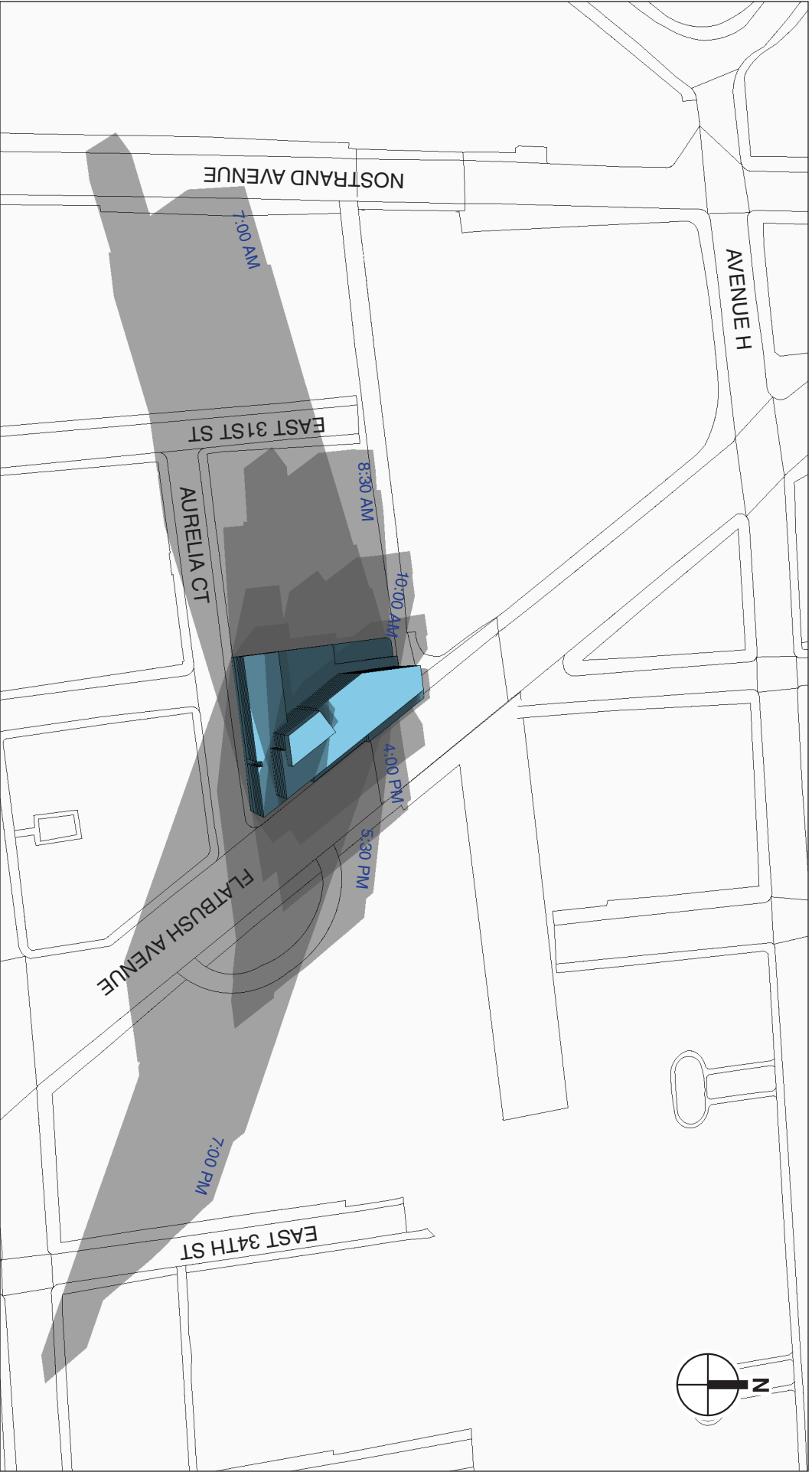
Incremental Shadow

View East



Incremental Shadow

**SUMMER SOLSTICE: JUNE 21**



On June 21, shadows through the middle of the day are shorter than at any other time of year. Morning and late afternoon shadows fall further south than on any other day. Times are given in Eastern Daylight Time.





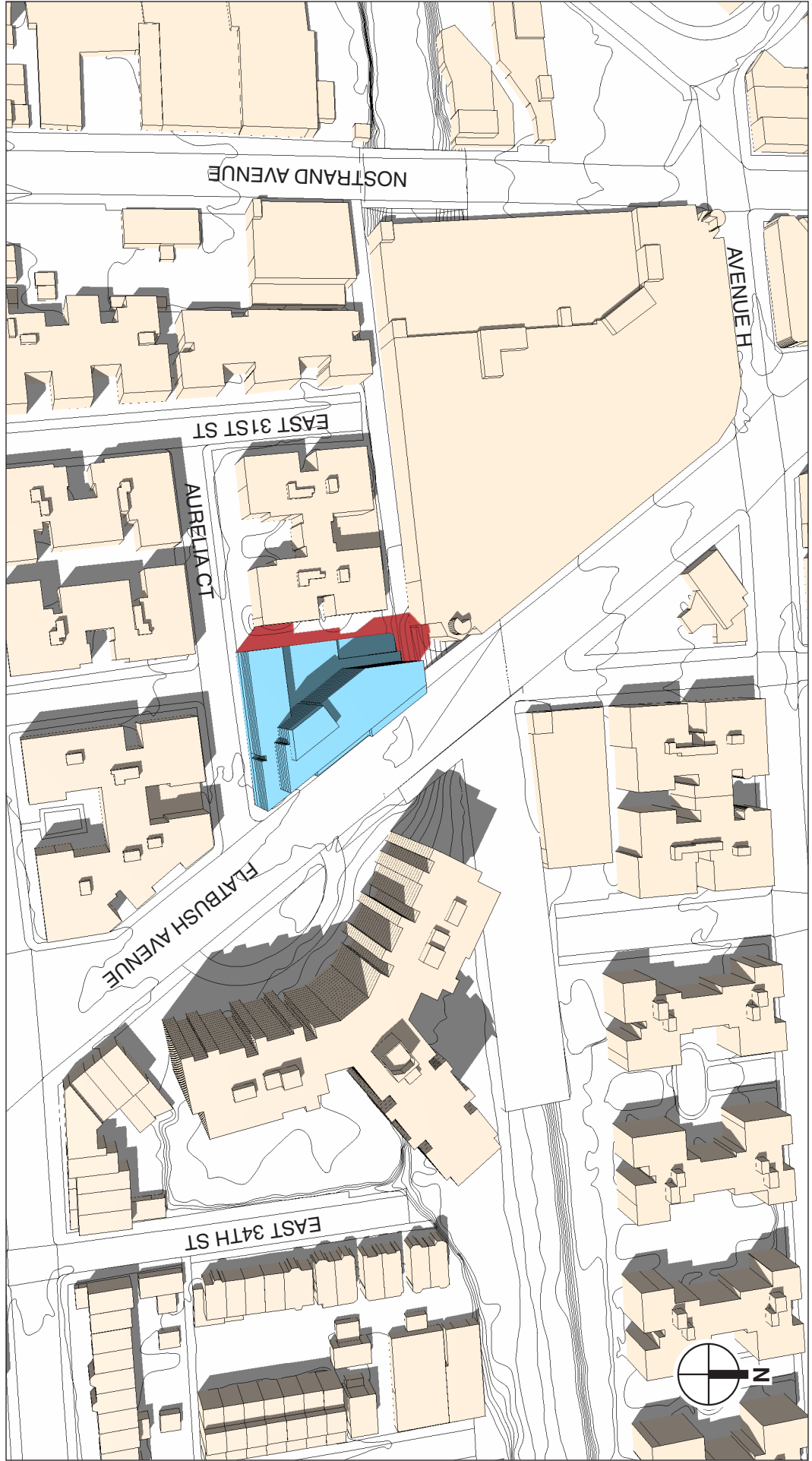
*Incremental Shadow*



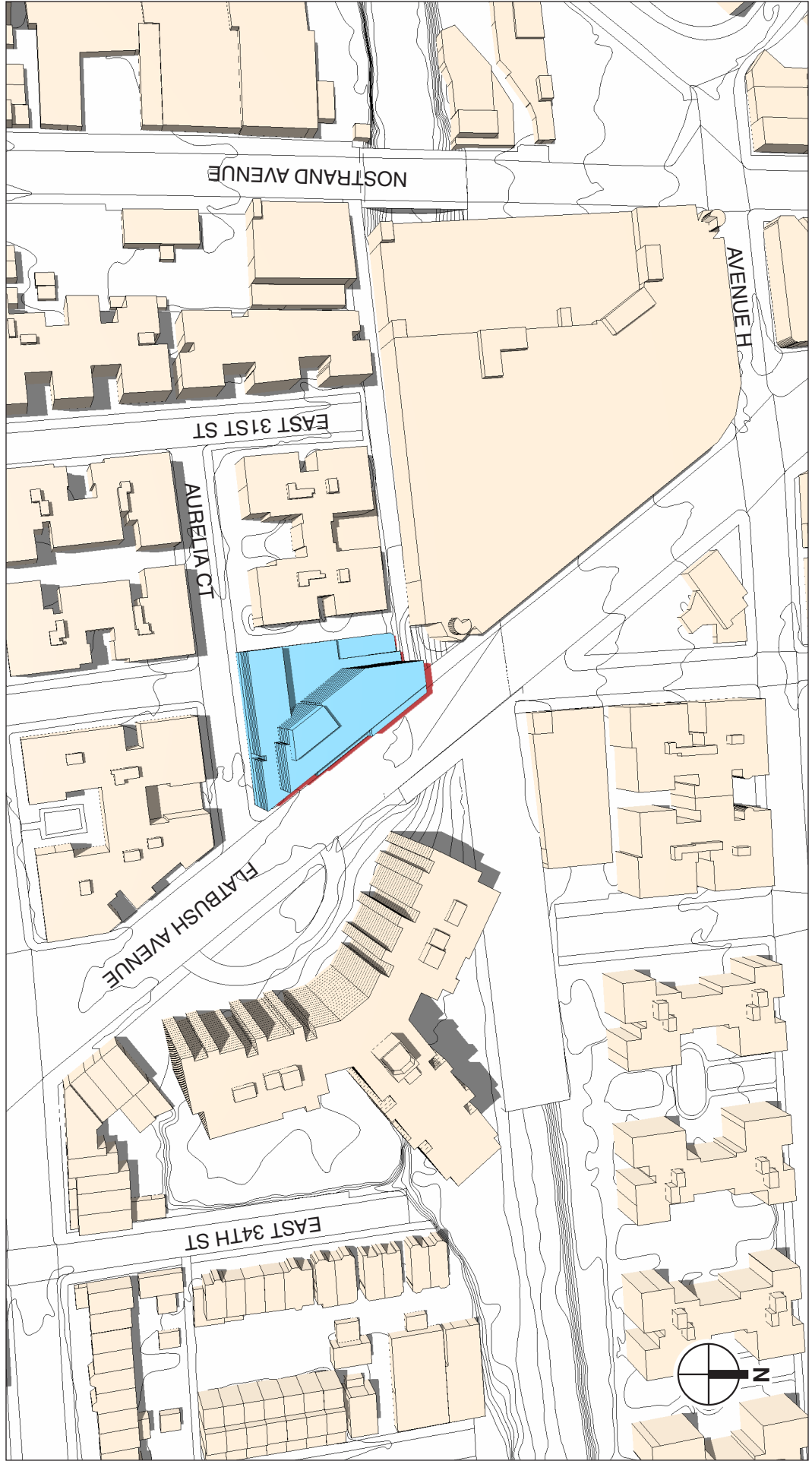


*Incremental Shadow*

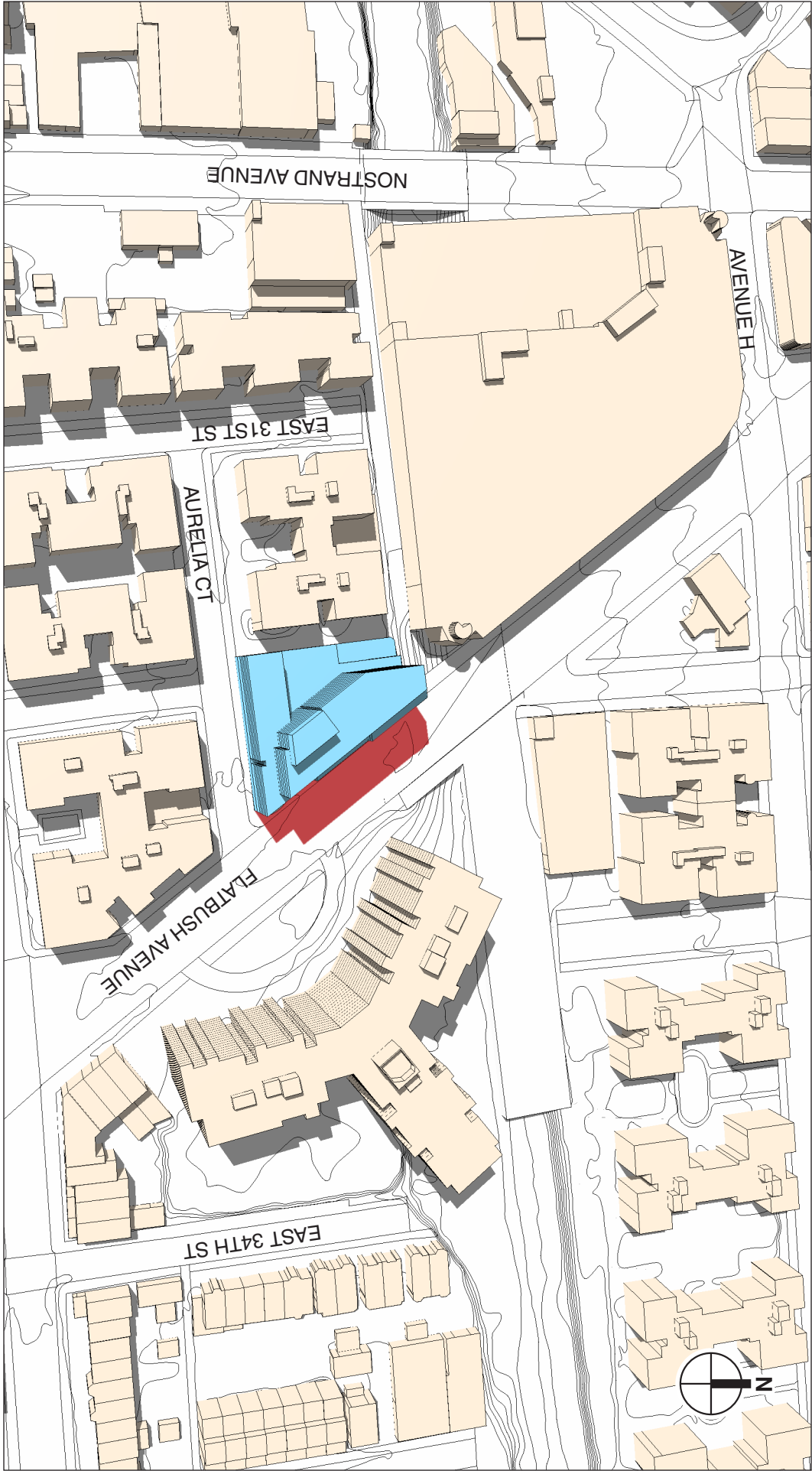




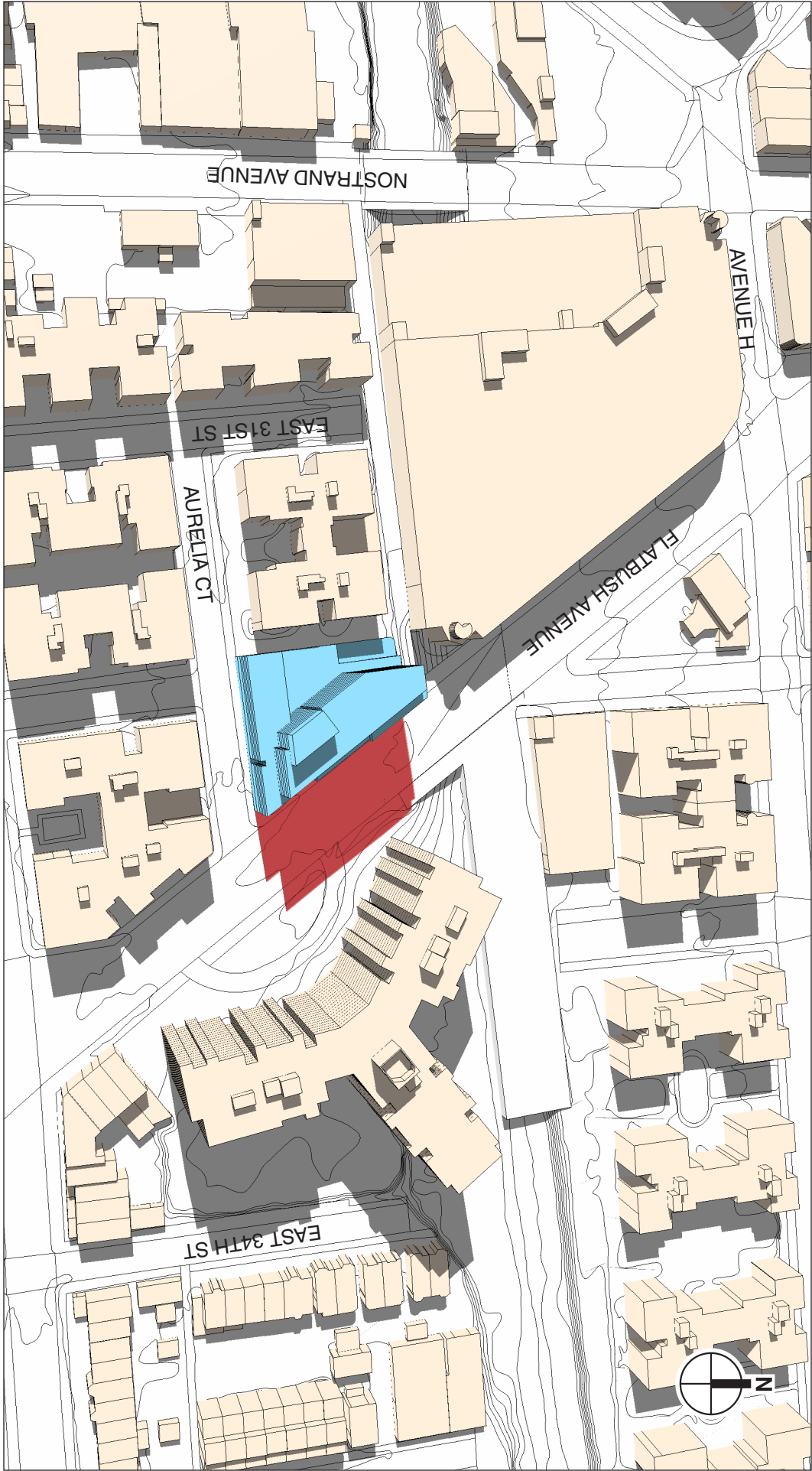
 Incremental Shadow



 Incremental Shadow



Incremental Shadow



 Incremental Shadow



1640 FLATBUSH AVENUE SHADOW STUDY

June 21 - 5:30 PM EDT  
Figure 23





Incremental Shadow

**Brooklyn Borough President Recommendation**

CITY PLANNING COMMISSION

120 Broadway, 31<sup>st</sup> Floor, New York, NY 10271

CalendarOffice@planning.nyc.gov



**INSTRUCTIONS**

1. Return this completed form with any attachments to the Calendar Information Office, City Planning Commission, Room 2E at the above address.
2. Send one copy with any attachments to the applicant's representatives as indicated on the Notice of Certification.

**APPLICATION**

1640 FLATBUSH AVENUE – 190053 ZMK, 190054 ZRK

Applications submitted by 1640 Flatbush Owner LLC pursuant to Sections 197-c and 201 of the New York City Charter for zoning map amendments to rezone from C8-2 and R6 to C4-4D the northwest corner of a property at the intersection of Aurelia Court and Flatbush Avenue to within 200 feet of East 31<sup>st</sup> Street, and rezone part of a C8-2 district to R6 on portions of two blocks bordering the Long Island Rail Road (LIRR) Bay Ridge Division between Nostrand Avenue and East 31<sup>st</sup> Street. The applicant also seeks a zoning text amendment to designate the site as a Mandatory Inclusionary Housing (MIH) area. Such actions would facilitate the development of a 13-story mixed-use building containing 114 dwelling units, with approximately 34 affordable households at an average of 80 percent of Area Median Income (AMI) according to MIH Option 2, approximately 30,000 sq. ft. of commercial uses on the first two floors, and accessory parking for 40 vehicles in Brooklyn Community District 14 (CD 14).

BROOKLYN COMMUNITY DISTRICT NO. 14

BOROUGH OF BROOKLYN

**RECOMMENDATION**

☐ APPROVE

☒ APPROVE WITH  
MODIFICATIONS/CONDITIONS

☐ DISAPPROVE

☐ DISAPPROVE WITH  
MODIFICATIONS/CONDITIONS

SEE ATTACHED

*Eric L. Adams*

BROOKLYN BOROUGH PRESIDENT

January 22, 2018

DATE

**RECOMMENDATION FOR: 1640 FLATBUSH AVENUE – 190053 ZMK, 190054 ZRK**

1640 Flatbush Owner LLC submitted applications pursuant to Sections 197-c and 201 of the New York City Charter for zoning map amendments to rezone from C8-2 and R6 to C4-4D the northwest corner of a property at the intersection of Aurelia Court and Flatbush Avenue to within 200 feet of East 31<sup>st</sup> Street, and rezone part of a C8-2 district to R6 on portions of two blocks bordering the Long Island Rail Road (LIRR) Bay Ridge Division between Nostrand Avenue and East 31<sup>st</sup> Street. The applicant also seeks a zoning text amendment to designate the site as a Mandatory Inclusionary Housing (MIH) area. Such actions would facilitate the development of a 13-story mixed-use building containing 114 dwelling units, with approximately 34 affordable households at an average of 80 percent of Area Median Income (AMI) according to MIH Option 2, approximately 30,000 square feet (sq. ft.) of commercial uses on the first two floors, and accessory parking for 40 vehicles in Brooklyn Community District 14 (CD 14).

On December 17, 2018, Brooklyn Borough President Eric L. Adams held a public hearing on these zoning map and text amendments. There were three speakers on this item, including a representative from 32BJ Service Employees International Union (SEIU) who spoke in support of the proposal, citing a commitment to well-paying building service jobs at 895 Bedford Avenue; a local block association member who spoke in opposition, citing strain on existing transportation infrastructure including lack of parking in the area, the regular occurrence of traffic accidents, and overcrowding on the local subway line, as well as a resident of Phillip Howard Houses who noted vehicular conflicts between local residents and people from outside the community who patronize the stores at the Triangle Junction shopping mall.

In response to Borough President Adams' inquiry regarding concerns raised at Brooklyn Community Board 14 (CB 14)'s public hearing about possible traffic congestion resulting from uses that would occupy the commercial floors, as well as shadows stemming from the proposed height of the building, which might adversely impact residents of Phillip Howard Houses across Flatbush Avenue, the applicant's representative expressed that the intended commercial uses are not envisioned as destination retail and therefore are not expected to draw patrons from beyond the community.

The representative also presented the findings of a shadow study that was provided to the community board subsequent to its hearing on the application. According to the study, both Phillip Howard Houses across the street on Flatbush Avenue and an apartment building across the street on Aurelia Court would be affected by incremental shadows. In the spring and fall, the lower corner of Phillip Howard Houses' west façade would receive incremental shadows in the afternoon and early evening. The building on Aurelia Court would receive morning shadows on portions of its east- and south-facing façades and a portion of the south-facing façade for most of the year.

In response to Borough President Adams' inquiry regarding the qualifying income range for prospective households based on household size, the anticipated rents based on the number of bedrooms, and the distribution of units by bedroom size, the applicant's representative stated if MIH Option 1 were applied to this development, 25 percent of the floor area would be affordable to households at an average of 60 AMI, while 10 percent of all the units would be affordable to households averaging 40 percent AMI. The applicant has not defined a bedroom mix but is exploring a mix of 25 percent one-bedroom units, 50 percent two-bedroom units, and 25 percent three-bedroom units.

In response to Borough President Adams' inquiry as to whether one of the community's affordable housing administering agents would be used in the tenant selection process in order to ensure the highest level of participation from CD 14, and whether the applicant's marketing strategy would



include a financial literacy campaign to assist local residents in becoming lottery-eligible, the representative affirmed that the applicant intends to work with an administering agent to conduct the affordable housing lottery as well as a financial literacy campaign. The applicant has engaged in discussions with a locally-based entity that has experience serving as an affordable housing administering agent.

In response to Borough President Adams' inquiry as to what consideration has been given to providing affordable community facility space for local arts and cultural nonprofit organizations, the representative noted that the applicant has the process of identifying retailers and users for the first and second-floor space. The applicant is prepared to work with the community to identify appropriate tenants, and has reached out to Brooklyn College and the local Business Improvement District (BID) for recommendations.

In response to Borough President Adams' inquiry regarding the incorporation of sustainable features such as blue, green, or white roof coverings, passive house design, permeable pavers, New York City Department of Environmental Protection (DEP) rain gardens, solar panels, and/or wind turbines, the representative expressed intent to design an energy-efficient building envelope, utilize high-efficiency water fixtures, and implement water retention measures in the development.

In response to Borough President Adams' inquiry regarding the inclusion and participation of locally-owned business enterprises (LBEs) as well as minority- and women-owned business enterprises (MWBEs) in the construction process, the representative stated an intent to set and fulfill MWBE targets for the project. The representative also noted that the applicant has committed to working with 32BJ SEIU.

Subsequent to the hearing, Borough President Adams received a letter from the applicant's representative, dated January 3, 2019, affirming the developer's intentions regarding the affordable housing mix under MIH Option 1, community participation in the affordable housing lottery process, local hiring for construction jobs, incorporation of sustainable design elements, and provision of community or cultural space within the development.

### **Consideration**

On December 10, 2018, CB 14 approved this application on the conditions that the applicant provide a shadow study showing impacts on nearby residential properties, and that the New York City Department of Transportation (DOT) evaluate the appropriateness of Aurelia Court as an access street for the proposed loading dock and parking garage.

The applicant's property consists of an 18,213 sq. ft. irregular lot with frontage on Aurelia Court and Flatbush Avenue, as well as along the LIRR Bay Ridge Division, which has been decked over as part of the Triangle Junction shopping mall. A 3,000 sq. ft. portion of the lot falls into an R6 district, while the remaining 15,213 sq. ft. is governed by a C8-2 district that does not permit residential development. The applicant seeks to rezone this lot from C8-2 and R6 districts to C4-4D, a commercial district with an R8A residential equivalent, and establish an MIH area on the lot. In addition to the applicant's property, the rezoning area includes portions of two lots; one adjacent to the development site, and one located across East 31<sup>st</sup> Street. These lots are zoned C8-2 but improved with residential uses so the proposed change to R6 would achieve conformance with zoning regulations.

The development site has a long history of automotive service and is presently occupied by a disused gas station and associated parking. Its immediate context includes a vibrant mix of

commercial, institutional, and residential uses, anchored by the Flatbush Avenue – Brooklyn College subway terminus. Commercial uses are found primarily along Avenue H, and the corridors of Flatbush and Nostrand avenues. There is a high concentration of retail stores, anchored by the Triangle Junction shopping mall. The Brooklyn College campus, located northwest of the site, is the major institutional organization in the area, and draws students from across New York City. Residential uses in the vicinity of the site are typified by six-story apartment buildings, consistent with the larger R6 district. The tallest residential development in the area is Phillip Howard Houses, located across Flatbush Avenue, which contains 20 stories and 634 apartments. Beyond this dense mixed-use area, the neighborhood transitions to blocks of older, two-story single-family homes.

The proposed development would be built to the maximum allowable floor area ratio (FAR), with approximately 30,000 sq. ft. (1.7 FAR) of commercial use, and 100,000 sq. ft. (5.4 FAR) of residential use. The building would rise to the maximum permitted base height of 105 feet, for a development inclusive of a qualifying ground floor (with a height of at least 13 feet). It would provide setbacks from Aurelia Court and Flatbush Avenue at the eighth story, and rise to a maximum height of 145 feet. The building would mass its full 13 stories on Flatbush Avenue, while reducing its frontage to seven stories along Aurelia Court. The development would meet or exceed the minimum required number of 40 parking spaces per the 80 proposed market-rate units. There is no parking requirement for the residential units resulting from the affordable housing floor area, based on the property's location within the New York City Zoning Resolution's (ZR) Transit Zone. There is no commercial parking requirement for the proposed commercial floor area pursuant to the proposed C4-4D district as the intended floor area is within the amount that allows any commercial parking requirement to be waived.

Borough President Adams supports the development of underutilized land for productive uses that address the City's need for additional affordable housing. The proposed development would be consistent with Mayor Bill de Blasio's goal of achieving 300,000 affordable housing units over the next decade according to "Housing New York: A Five-Borough, Ten-Year Plan," as modified in 2017. It is Borough President Adams' policy to support the development of affordable housing and seek for such housing to remain "affordable forever," wherever feasible.

According to MIH Option 2, the development rights generated from the C4-4D section of the site would result in, at minimum, 30 percent of the residential zoning floor area made permanently affordable according to MIH, resulting in approximately 34 permanently affordable housing units. Development adhering to the MIH program is consistent with Borough President Adams' policy for affordable housing developments to remain permanently affordable.

Brooklyn is one of the fastest-growing communities in the New York metropolitan area, and the ongoing Brooklyn renaissance has ushered in extraordinary changes that were virtually unimaginable even a decade ago. Unfortunately, Brooklyn's success has led to the displacement of longtime residents who can no longer afford to live in their neighborhoods. Borough President Adams is committed to addressing the borough's affordable housing crisis through the creation and preservation of much-needed affordable housing units for very low- to middle-income Brooklynites. Borough President Adams, therefore, supports developments that provide housing opportunities to a diverse range of household incomes, allowing a wide range of households to qualify for affordable housing through the City's affordable housing lottery.

The affordability options of the MIH program provide a range of opportunities to address the need for housing that serves a broad range of diverse incomes, consistent with Borough President Adams' objectives to provide affordable housing to households through various income band

targets. As a result, the redevelopment of 1640 Flatbush Avenue would target units to households at multiple income tiers through the affordable housing lottery.

Borough President Adams believes that zoning to increase density is appropriate in proximity to rapid transportation. Nearby transportation includes the Seventh Avenue Express 2 train and the Lexington Avenue Express 4 and 5 trains at the Flatbush Avenue – Brooklyn College subway station, which serves as the terminus for these trains. The highly-trafficked area is also served by numerous bus lines, including the BM2, B11, B41, B44, and B103 buses. In recognition of this transportation hub, in his 2014 report, *Housing Brooklyn - A Real Plan for Affordability*, he had identified the section of the Nostrand Avenue corridor south of Flatbush Junction as appropriate for rezonings that result in density increases and housing opportunities.

Borough President Adams is generally supportive of the proposed development at 1640 Flatbush Avenue. However, he believes that provision of affordable housing also enable very low-income households an opportunity to secure such apartments, and that in order to support the extent of requested density, that even with the accommodation of such lower income households, the ratio of affordable housing should remain the same. In addition, there are opportunities to better address traffic congestion, memorialize the family-oriented bedroom mix, maximize community participation to obtain the affordable units, set aside a portion of the commercial space for cultural and community uses at affordable rents, advance Vision Zero policies to improve pedestrian safety, promote access to car-share vehicles, incorporate resilient and sustainable energy and stormwater practices, and promote a high level of local hiring for the project's construction. With regard to the affordable housing lottery, Borough President Adams believes that HPD should modify its community preference standards to include the local homeless student population, and for this project, extend local preference for the affordable housing lottery to residents of Brooklyn Community Districts 17 and 18 (CDs 17 and 18). Additionally, he calls on the City Planning Commission (CPC) and City Council to modify MIH regulations so as to qualify rent-burdened households for affordable housing developed pursuant to MIH. Finally, he encourages the applicant to provide high-quality building service jobs at 1640 Flatbush Avenue.

#### **Designating an MIH Option that Provides for Very Low-Income Households**

The ZR specifies four options for new construction subject to MIH regulations. The option initially proposed for 1640 Flatbush Avenue is one of two that does not require making any units available to very low-income households. However, such households are more likely to be in need of affordable housing as they tend to have a higher segment of rent-burdened tenants. Furthermore, targeting apartments to very low-income households allows seniors, especially one-person households, to qualify for affordable housing lotteries. Borough President Adams believes that providing affordable housing opportunities for some very low-income households serves a reasonable public purpose for those constituents.

MIH Option 1 requires that 40 percent of the MIH residential floor area be marketed at rents affordable to households at 40 percent AMI. Since MIH Option 1 applies to 25 percent of the residential floor area, approximately 10 percent of the units at 1640 Flatbush Avenue would be affordable to such households. As compared to MIH Option 2, MIH Option 1 reduces the amount of legally permanent affordable housing floor area. However, Borough President Adams believes that designating MIH Option 1 at 1640 Flatbush Avenue would provide project enhancements for very low-income constituents in need of affordable housing.

Therefore, prior to considering the application, the City Council should obtain commitments, in writing, from the developer, 1640 Flatbush Owner LLC to provide permanently affordable housing according to MIH Option 1.

### **Appropriate Amount of Affordable Housing**

In order to have MIH withstand constitutional challenges, it must have consistency for advancing a public purpose. However, in doing so, the proposed MIH rezoning falls well short of capturing the added value of the increase in floor area that results from converting non-residential land to residential use. In this case, the applicant is seeking an upzoning from a C8-2 district, which does not permit residential development to a C4-4D district with a maximum residential FAR of 7.2 with affordable housing. The resulting windfall of development rights exceeds the commensurate value of public benefits attributed to MIH, while incentivizing significant market-rate development as opposed to what is permitted as-of-right. There is thus a significant difference between drastic upzonings, such as what is proposed in this application, and more modest upzonings, such as changing from R6A (3.6 FAR) to R7A (4.6 FAR). Additionally, any zoning district proposed for the C8-2 district in excess of R7A lacks leverage through MIH to induce a sufficient amount of affordable housing floor area as a corresponding public benefit, proportionate to the increase in floor area. As such, the proposed rezoning would substantially enrich the development site with market-rate floor area without the public benefit of additional affordable housing, compared to an upzoning that provides for less development opportunity.

Borough President Adams believes that significant upzonings should yield any combination of more affordable housing and/or where appropriate, deeper levels of affordability than upzonings that do not provide a comparable increase in density. As this inequity cannot be rectified directly through MIH, Borough President Adams believes that maximizing the number of affordable units while lowering the levels of household affordability could be achieved by blending what is required, according to the proposed MIH option, with the establishment of a voluntary special bulk permit. However, in the absence of such a special permit within the ZR, he believes that applicants could achieve such policy through a legally binding mechanism.

Borough President Adams believes that such mechanism is justified by the extent of private benefits derived from rezoning the site to C4-4D, with its residential FAR equivalent of R8A, in comparison to what would be achieved by rezoning to R7A/C2-4, where he deems the MIH requirement of 25 percent of the residential floor area to be an appropriate public benefit. With C4-4D MIH enabling more than 47,000 sq. ft. of additional floor area, Borough President Adams believes that justification of floor area in excess of R7A MIH should be based on the inclusion of affordable housing floor area at a rate of 40 percent in lieu of the MIH standard of 25 percent, resulting in approximately 7,000 sq. ft. of floor area earmarked for affordable housing.

Therefore, in addition to designating MIH Option 1 to promote deeper affordability at 1640 Flatbush Avenue, and in order to be supportive of the requested C4-4D zoning district, he seeks to retain the MIH Option 2 rate of 30 percent of the development's residential floor area being permanently affordable while targeting households at an average of 60 percent AMI.

Therefore, prior to considering the application, the City Council should obtain commitments, in writing, from the developer, 1640 Flatbush Owner LLC, to provide permanently affordable housing according to the floor area requirements of MIH Option 2, otherwise, the City Council should consider limiting the approval to a R7A residential equivalent.

### **Advancing Affordable Housing While Reducing Congestion**

As proposed, 1640 Flatbush Avenue would contain two floors of commercial space. Such utilization would be permitted as-of-right according to the existing C8-2 zoning district. However, that zoning

district would have required the proposed 30,000 sq. ft. to provide parking at a rate of one space per 400 sq. ft., (or one space per 300 sq. ft. for food stores), resulting in a requirement of 75 parking spaces. This requirement exceeds the number of spaces that can be waived, which has led to

community concerns about traffic congestion. The developer anticipates that the commercial and medical services tenants at 1640 Flatbush Avenue would serve local patrons who would not rely on vehicles to arrive and/or depart from the building. The applicant believes that patrons who choose to drive would find ample parking within the Triangle Junction garage. However, such an outcome would be highly speculative, even under the best circumstances.

The adjacent blocks are already improved with a substantial commercial presence, including the adjacent multi-story Triangle Junction and the retail hub extending along Flatbush and Nostrand avenues from Flatbush Junction. Therefore, having a second commercial floor is not a necessity for this community. As noted during Borough President Adams' hearing, the high-density commercial district results in significant congestion along this part of Flatbush Avenue, which creates an unsafe environment for drivers and pedestrians. While medical uses are often beneficial, some tend to induce ambulance trips, which can result in double parking when no proximate curbside parking is available. Therefore, the addition of 30,000 new sq. ft. of commercial space on the development site could potentially exacerbate these conditions and adversely impact quality-of-life for local residents.

While Borough President Adams believes that the commercial ground floor is complementary to existing uses along the Flatbush Avenue corridor, he believes that the project would be better served by limiting such use to the ground floor. The resulting reduction of commercial floor area would then be fully available for residential use, including additional affordable housing, in line with Borough President Adams' recommendations above.

Borough President Adams believes that reducing the amount of commercial floor area at 1640 Flatbush Avenue, to provide more residential floor area, including affordable housing units, would partially address local residents' concerns about congestion, while increasing the project's public benefit. Therefore, he calls on the City Council to limit commercial uses at 1640 Flatbush Avenue to the development's ground floor.

### **Bedroom Mix**

A recent report found that rent-burdened households, which typically represent those applying to the City's affordable housing lotteries, are more likely to require family-sized units. Therefore, Borough President Adams seeks for proposed developments to achieve an affordable unit mix that would adequately reflect the needs of low- to middle-income rent-burdened families. Borough President Adams believes that right-sizing the bedroom distribution should be a higher priority than maximizing the number of affordable housing units, and that land use actions are appropriate opportunities to advance policies that constrain what would otherwise be permitted as-of-right.

The proposed rezoning presents an opportunity to ensure that such representation of accommodations for family-sized apartments is consistent with Borough President Adams' policy for advocating for having at least 50 percent two- or three-bedroom affordable housing units and at least 75 percent one- or more bedroom affordable housing units, consistent with the zoning text for MIH floor area, pursuant to ZR Section 23-96(c)(1)(ii).

In the letter to Borough President Adams dated January 3, 2019, the applicant proposed the following bedroom mix: 26 one-bedroom units, 43 two-bedroom units, and 15 three-bedroom units. If the project were approved with MIH Option 1, it would provide approximately 30 affordable housing units, including eight one-bedroom apartments, 16 two-bedroom apartments, and six three-bedroom apartments. While this family-oriented affordable housing bedroom mix is consistent with Borough President Adams' policies, such representation is not legally binding.

Therefore, in order to ensure that the envisioned family-sized units are provided in the development, Borough President Adams believes that prior to considering the application, the City Council obtain commitments in writing from the developer, 1640 Flatbush Owner LLC, that clarify how it would memorialize a bedroom mix having at least 50 percent two- or three-bedroom affordable housing units and at least 75 percent one- or more bedroom affordable housing units.

### **Maximizing Community Participation of the MIH Affordable Housing**

The ZR requires the affordable housing units to be overseen by a non-profit administering agent, unaffiliated with the for-profit developing entity, except when otherwise approved by the New York City Department of Housing Preservation and Development (HPD). Such administering non-profit becomes responsible for ensuring that the affordable housing remains in accordance with its regulatory agreement, which governs the development's affordable housing plan. These tasks include verifying a prospective tenant household's qualifying income, and approving the rents of such affordable housing units. The administering non-profit is responsible for submitting an affidavit to HPD attesting that the initial lease-up of the affordable housing units is consistent with the income requirements, and for following up with annual affidavits to ensure conformity.

Various non-profits have proven track records of successfully marketing affordable housing units, as well as promoting affordable housing lottery readiness through educational initiatives. It is Borough President Adams' policy to advocate for affordable housing non-profits to play a contributing role in maximizing community participation in neighborhood affordable housing opportunities, including serving as non-profit administering agents for new developments involving affordable housing.

In the letter to Borough President Adams dated January 3, 2019, the applicant stated intent to work with a nonprofit administering agent and implement a financial literacy campaign to lease at least 50 percent of the affordable housing units to CD 14 residents.

Borough President Adams believes that prior to considering the application, the City Council should obtain commitments in writing from the developer, 1640 Flatbush Owner LLC, that clarify how it would memorialize utilizing one or more such locally-based affordable housing development non-profits to serve as the administering agent and have such entities play a role in promoting affordable housing lottery readiness.

### **Relocating Loading Zone to Triangle Junction Service Drive**

Borough President Adams acknowledges concerns expressed by local residents regarding pedestrian safety at the corner of Aurelia Court and Flatbush Avenue. As proposed, 1640 Flatbush Avenue would provide a loading dock along Aurelia Court, a narrow residential street that extends for two blocks between East 31<sup>st</sup> Street and Flatbush Avenue. Vehicular traffic from Flatbush Avenue would head westbound along Aurelia Court to the loading berth, though at the "T" intersection with East 32<sup>nd</sup> Street, traffic is required to traverse East 32<sup>nd</sup> Street towards Avenue I to connect with primary traffic corridors such as Flatbush and Nostrand avenues. While the former gas station did permit egress to Aurelia Court, Flatbush Avenue would more likely have been the primary means of egress.

The proposed development assumes 30,000 square feet of commercial use, and 114 apartments, would result in a number of deliveries, which could have significant quality-of-life impacts for Aurelia Court residents. The north side of the building shares a property boundary with the Triangle Junction shopping mall. Along this boundary is a truck service corridor. If truck deliveries were to be shifted from the Aurelia Court frontage to the Triangle Junction service drive, it would be possible to reduce the number of delivery trucks on Aurelia Court and East 32<sup>nd</sup> Street. As there appears to be an opportunity to secure a more appropriate location for the loading dock along the Triangle Junction service drive,

Borough President Adams believes that the applicant should engage in negotiations with the owner(s) of the Triangle Junction to obtain easement rights to secure access for a re-oriented service entrance.

Borough President Adams believes that prior to considering the application, the City Council should obtain commitments in writing from the developer, 1640 Flatbush Owner LLC, that clarify how it would relocate the loading dock so as to avoid adversely impacting residents along Aurelia Court.

### **Set Aside Portion of Commercial Space for Local Cultural Entities**

It is one of Borough President Adams' policies to assist community-based non-profit organizations with securing affordable space. These organizations play an important role in the neighborhoods they serve, though it is too often a challenge to secure sufficient affordable space to grow and maintain their operations. Many cultural organizations have contacted Borough President Adams seeking assistance in securing space to expand and sustain their programming. In response to those concerns, Borough President Adams' policy is to review discretionary land use actions for their appropriateness to promote cultural activities.

In June 2016, Borough President Adams released "All the Right Moves: Advancing Dance and the Arts in Brooklyn," a report examining the challenges facing artists in the borough, along with accompanying recommendations. The report highlighted the benefits of arts and dance, including maintaining physical fitness and enjoying creative self-expression, as well as contributions to the vibrant culture of Brooklyn. Borough President Adams finds many challenges facing the local arts community, such as an absence of diversity — fewer than half of the individuals working in dance in Brooklyn are people of color based on 2000 United States Census data. Additionally, funding for the arts has decreased dramatically in New York City in recent years, including by 37 percent from the New York State Council of the Arts (NYSCA), 15 percent from the National Endowment for the Arts (NEA), and 16 percent from the New York City Department of Cultural Affairs (DCLA).

Data show that such cultural activities create a variety of positive contributions, including combating the borough's high rate of obesity — as of 2016, 61 percent of adults are overweight or obese, according to the New York State Department of Health (NYSDOH) — and helping children succeed in school, a finding supported by research released by the Citizens' Committee for Children of New York, Inc. Demand for cultural programs continues to grow across Brooklyn. A 2015 report from the Center for an Urban Future found a 20 percent increase in attendance at events organized by local cultural institutions since 2006.

Many cultural and dance organizations have contacted Borough President Adams seeking assistance with securing space to grow and sustain their programming. In response to those concerns, Borough President Adams' policy is to review discretionary land use actions for their appropriateness to promote cultural and dance activities.

Borough President Adams believes that the location of the proposed development is well-suited for inclusion of cultural activities and other community uses given the site's accessibility and its proximity to Brooklyn College.

As proposed, 1640 Flatbush Avenue would contain approximately 30,000 sq. ft. of commercial floor area. Should the City Council seek a limitation on the commercial space to the ground floor, Borough President Adams still believes that a portion of such space could be marketed to local arts or cultural groups, and/or locally-based community organizations. However, he is aware that such uses cannot afford to compete with the rent that retail uses would likely pay to lease at this location.



In the letter to Borough President Adams dated January 3, 2019, the applicant stated intent to consider renting a portion of the commercial space to a non-profit community or cultural organization. The applicant will seek recommendations from the borough president, the council member, and the larger community to identify appropriate tenants.

Therefore, prior to considering the application, the City Council should obtain commitments, in writing, from the developer, 1640 Flatbush Owner LLC, clarifying how it would memorialize the extent that it would set aside a portion of the commercial space for local non-profit organizations such as arts and/or cultural entities at below-market lease terms, as warranted.

To the extent that the City Council seeks to provide below-market rents to accommodate such arts and/or cultural organizations, 1640 Flatbush Owner LLC should actively solicit such organizations, based on reasonable lease terms, as determined in consultation with CB 14 and local elected officials.

### **Advancing Vision Zero Policies**

Borough President Adams is a supporter of Vision Zero policies, one of which is to extend sidewalks into the roadway as a means of shortening the path where pedestrians cross in front of traffic lanes. These sidewalk extensions, also known as bulbouts or neckdowns, make drivers more aware of pedestrian crossings and encourage them to slow down.

In 2015, Borough President Adams also launched his own initiative, Connecting Residents on Safer Streets (CROSS) Brooklyn. This program supports the creation of bulbouts or curb extensions at dangerous intersections in Brooklyn. During the program's first year, \$1 million was allocated to fund five dangerous intersections in Brooklyn. By installing more curb extensions, seniors will benefit because more of their commutes will be spent on sidewalks, especially near dangerous intersections. At the same time, all users of the roadways will benefit from safer streets.

Flatbush Avenue is a designated New York City through truck route with multiple intersections lacking traffic controls such as stop signs or traffic lights. Given the mixed commercial, manufacturing, and residential character of Flatbush Avenue, the foot traffic stemming from the Triangle Junction shopping center and Flatbush Avenue – Brooklyn College subway station, the residents expected to occupy the proposed development, and the potential users of its retail establishments, it would be prudent to advance pedestrian safety improvements along Flatbush Avenue.

Borough President Adams believes there is an opportunity to implement the provision of a curb extension, either as a raised extension of the sidewalk or as a protected area as defined by the installation of temporary perimeter bollards bordering a section of roadbed where gravel and/or paint is applied, per his CROSS Brooklyn initiative, at the intersection of Aurelia Court and Flatbush Avenue. Any design of such curb extension would need to be reviewed and signed off by the New York City Department of Transportation (DOT) as part of the Builders Pavement Plan, in which the developer's consultant would need to work with DOT on the change alignment as DOT would need to finalize a curb alignment waiver. It would be expected that DOT would work with the New York City Department of Buildings (DOB) to alert them to this request before DOB would issue any signoff.

Borough President Adams recognizes that the costs associated with construction of sidewalk extensions can be exacerbated by the need to modify infrastructure and/or utilities. Therefore, where such consideration might compromise feasibility, Borough President Adams urges DOT to explore the implementation of either protected painted sidewalk extensions defined by a roadbed surface treatment or sidewalk extensions as part of the Builders Pavement Plan. If the implementation meets DOT's criteria, the agency should enable 1640 Flatbush Owner LLC to undertake such improvements after

consultation with CB 14, as well as local elected officials, as part of its Builders Pavement Plan. If that is not feasible, Borough President Adams would expect 1640 Flatbush Owner LLC to commit to such maintenance as an ongoing obligation including the implementation of a sidewalk extension through roadbed treatment, which requires a maintenance agreement that indemnifies the City from liability, contains a requirement for insurance, and details the responsibilities of the maintenance partner.

Therefore, prior to considering any rezoning, the City Council should seek a demonstration from 1640 Flatbush Owner LLC of their implementation of CROSS Brooklyn in coordination with the New York City Department of Environmental Protection (DEP) and DOT to install curb extensions either as part of a Builders Pavement Plan or as treated roadbed sidewalk extensions. The City Council should further seek demonstration of the developer's commitment to enter into a standard DOT maintenance agreement for the intersection of Aurelia Court and Flatbush Avenue. Furthermore, DOT should confirm that implementation will not proceed prior to consultation with CB 14 and local elected officials.

### **Staging Car-Share Operations Within the Parking Garage**

Borough President Adams supports the establishment of Transit Zones in the ZR for the purpose of enabling construction of affordable housing developments without a requirement to provide car-parking accommodations. However, he acknowledges that access to automobiles would enhance mobility for the lives of the area's residents. The costs associated with individual car ownership can be very challenging for households of limited financial means, particularly in instances in which such vehicles are not used on a daily basis for commuting to places of employment. However, there can be moments throughout the year when affordable access to automobiles would be considered a quality-of-life enhancement based on the type of mobility that an automobile can provide. While the proposed development site is located in a Transit Zone, access to motor vehicles could be a valuable benefit for current and future residents.

To some extent, a rental car can enhance mobility for certain trips, though it is not as flexible as having direct access to a car for a set amount of time and can be expensive for longer trips. Car rental requires, at minimum, a full-day reservation as well as time and effort to access such facilities. In addition, research suggests that car-share availability reduces automobile use for individuals who already own cars, creating environmental benefits and reducing congestion. Given that a percentage of households that would be residing at 1640 Flatbush Avenue are less likely to own cars, and that parking is already a challenge for residents of Flatbush, Borough President Adams believes that a subset of the parking spaces in the 1640 Flatbush Avenue parking garage could be set aside for a limited number of car-sharing vehicles. The staging of these vehicles within the garage should be pursued through dialogue with car-sharing companies.

According to ZR Section 36-46(a)(1), car-sharing entity parking is permitted to occupy up to five parking spaces though not more than 20 percent of all parking spaces, in group parking facilities. The proposed off-street parking facility at 1640 Flatbush Avenue provides an opportunity for such rentals from car-share operators (based on reasonable pricing) to facilitate utilization of its parking spaces.

Borough President Adams believes that prior to consideration by the City Council, the developer, 1640 Flatbush Owner LLC, should engage car-sharing companies to lease multiple spaces within the garage, in consultation with CB 14, DOT, and local elected officials.

### **Advancing Resilient and Sustainable Energy and Stormwater Management Policies**

It is Borough President Adams' sustainable energy policy to promote opportunities that utilize blue/green/white roofs, solar panels, and/or wind turbines, as well as passive house construction. He encourages developers to coordinate with the New York City Mayor's Office of Sustainability, the New York State Energy Research and Development Authority (NYSERDA), and/or the New York Power

Authority (NYPA) at each project site. Such modifications tend to increase energy efficiency and reduce a development's carbon footprint.

Furthermore, as part of his flood resiliency policy, Borough President Adams also encourages developers to incorporate permeable pavers and/or establish rain gardens that advance the DEP green infrastructure strategy. Blue/green roofs, permeable pavers, and rain gardens would deflect stormwater from the City's water pollution control plants. According to the "New York City Green Infrastructure 2017 Annual Report," green infrastructure plays a critical role in addressing water quality challenges and provides numerous economic, environmental, and social co-benefits.

Borough President Adams believes it is appropriate for the developer to engage government agencies, such as the Mayor's Office of Sustainability, NYPA, and/or NYSERDA to give consideration to government grants and programs that might offset costs associated with enhancing the resiliency and sustainability of this development site. One such program is the City's Green Roof Tax Abatement (GRTA), which provides a reduction of City property taxes by \$4.50 per square-foot of green roof, up to \$100,000. The DEP Office of Green Infrastructure advises property owners and their design professionals through the GRTA application process. Borough President Adams encourages the developer to reach out to his office for any help in opening dialogue with the aforementioned agencies and further coordination on this matter.

The proposed development offers opportunities to explore resiliency and sustainability measures in the development such as incorporating blue/green/white roof finishes, passive house construction principles, and solar panels. The required Builders Pavement Plan provides an opportunity to incorporate a DEP rain garden along the development's Aurelia Court or Flatbush Avenue frontage. Such efforts could help advance DEP green water/stormwater strategies, enhancing the operation of the Coney Island Waste Water Treatment Plant (WWTP) during wet weather. Such rain gardens have the added benefit of serving as a streetscape improvement.

In the letter to Borough President Adams dated January 3, 2019, the applicant stated an intent to explore implementation of the following sustainability elements: building commissioning, resource conservation, low-emissions materials, regionally-sourced construction materials, and energy efficiency measures. The applicant will also seek to exceed New York City Energy Conservation Code (NYCECC) requirements.

Therefore, prior to considering the application, the City Council should obtain in writing from the applicant, 1640 Flatbush Owner LLC, commitments that clarify how it would memorialize integrating resiliency and sustainability features at 1640 Flatbush Avenue.

### **Jobs**

Borough President Adams is concerned that too many Brooklyn residents are currently unemployed or underemployed. It is his policy to promote economic development that creates more employment opportunities. According to the Furman Center's "State of New York City's Housing and Neighborhoods in 2015," double-digit unemployment remains a pervasive reality for several of Brooklyn's neighborhoods, with more than half of the borough's community districts experiencing poverty rates of nearly 25 percent or greater. Prioritizing local hiring would assist in addressing this employment crisis. Additionally, promoting Brooklyn-based businesses including those that qualify as locally-owned business enterprises (LBEs) and minority- and women-owned business enterprises (MWBEs) is central to Borough President Adams' economic development agenda. This site provides opportunities for the developer to retain a Brooklyn-based contractor and subcontractor, especially those who are designated LBEs consistent with Section 6-108.1 of the City's Administrative Code, and MWBEs that meet or exceed standards per Local Law 1 (no less than 20 percent participation).

In the letter to Borough President Adams dated January 3, 2019, the applicant stated intent to prioritize and pursue retention of LBE subcontractors who are also MWBE-designated.

Borough President Adams believes that prior to considering the application, the City Council should obtain commitments in writing from the developer, 1640 Flatbush Owner LLC, that clarify its intent to memorialize retention of Brooklyn-based contractors and subcontractors, especially those who are designated LBEs consistent with Section 6-108.1 of the City's Administrative Code and MWBEs as a means to meet or exceed standards per Local Law 1 (no less than 20 percent participation), as well as coordinate the oversight of such participation by an appropriate monitoring agency.

**Community Preference: Inclusion of Homeless Shelter Student Population by School Zone**

New York City's community preference policy for affordable housing lotteries provides a pathway for reaching 50 percent or more of applicants residing in the community district where affordable housing is built. There are additional pathways for priority lottery selection such as United States Armed Forces veteran status, certain disabilities, and other categories. Given the significant increase in the number of homeless families with school-aged children entering the public shelter system, Borough President Adams believes it is appropriate for HPD to extend local lottery preference to include the school zone attended by children of households residing at immediate and neighboring City-funded or -operated homeless shelters.

This is especially important given the number of students living in homeless shelters. The New York City Independent Budget Office (IBO) recently produced a report analyzing homeless rates in schools. School student registration data identifies those residing in public shelters as Students in Temporary Housing (STH). Using data from the 2014-2015 school year, a review of the 50 schools in Brooklyn with the highest percentage of STH enrollment identifies approximately 4,300 students attending such schools with more than 18 percent of the enrollment categorized as STH.

Research indicates that students living in temporary accommodations are most challenged in attaining academic success. These students are more likely to lack access to technology such as computers that would aid with homework and research assignments, as well as access to a quiet space to complete assignments and study for exams. In addition, commuting between a school and shelter requires significantly more time for many students. These commutes often make it difficult to participate in extracurricular school activities, which might otherwise enhance the students' academic and community experiences.

Many parents and students find it important to maintain school continuity despite the circumstances faced by households dependent on the City's homeless shelter system. Borough President Adams believes that it should be the City's responsibility to take action that would eliminate or reduce such hardships. One such action would be to enable economically-challenged households with children in public schools to qualify for community local preference based on where the children attend school.

According to the Institute for Children, Poverty, and Homelessness (ICPH), there are multiple public schools within several blocks of the proposed development in Community School District (CSD) 22 where the proportion of homeless students is eight to 20 percent. Should the City Council obligate 1640 Flatbush Owner LLC, to provide units according to MIH Option 1, Borough President Adams believes it would be appropriate for such students and their families to be considered part of the 50 percent local preference for the 1640 Flatbush Avenue housing lottery.

Borough President Adams believes that HPD should modify its affordable housing lottery community preference standards to include the school zone attended by a child of a household residing at a City-funded or -operated homeless shelter.

### **Community Preference: Extend to Brooklyn Community District 17 and 18 Residents Residing within the Shared Zip Code**

City local preference policy is at times unfair to community residents who live just beyond the border of a community district. The proposed development is located at the intersection of CDs 14, 17, and 18. Community members living on nearby blocks east of Flatbush Avenue are also in need of quality affordable housing, and the new development would not only be apparent, but consequential for residents of all three districts. Given the site's proximity to the border shared with CDs 17 and 18, Borough President Adams believes that HPD should extend the local preference to portions of both community districts that fall within the shared zip code of 11210, which also includes most of CD 14. This is particularly important given that the residential neighborhoods within all three districts include small buildings that are not subject to rent protection laws. Borough President Adams believes that, in tandem with his recommendations for deeper affordability, 1640 Flatbush Avenue could serve as a relocation resource to those at risk for displacement. Therefore, prior to the vote of the City Council, HPD should provide a written commitment advising that in addition to residents of CD 14, local preference be given to residents of CD 17 and 18 who live within the zip code 11210.

### **Accommodating Rent-Burdened Households in Lieu of Strict Area Median Income Standards**

Borough President Adams supports Mayor de Blasio's goal of achieving 200,000 affordable housing units over the next decade. Brooklyn is one of the fastest-growing communities in the New York City metropolitan area and the ongoing Brooklyn renaissance has ushered in extraordinary changes that were virtually unimaginable even a decade ago. Unfortunately, Brooklyn's success has led to the displacement of longtime residents who can no longer afford to live in their own neighborhoods. Borough President Adams is committed to addressing the borough's affordable housing crisis through the creation and preservation of much-needed affordable housing units for very low- to middle-income Brooklynites. Among numerous approaches and strategies, Borough President Adams is committed to advancing his affordable housing policy through his role in the ULURP process. The development of much-needed affordable housing provides opportunities for existing neighborhood residents at risk for displacement or increased degree of being rent-burdened.

Data shows that more than 80 percent of those making 50 percent of AMI or less are rent-burdened. The crisis is even worse among the lowest income citizens, those making 30 percent of AMI or less, currently \$23,310 for a family of three. Among this population, well over 50 percent pay more than half of their income toward rent. More than one-fifth of New York City households — over two million people — earn less than \$25,000 a year and almost one-third earn less than \$35,000. As the City's housing crisis grows worse, the burden falls most heavily on these low-income households, many of them senior citizens.

There are residents living in rented apartments within CD 2 who reside in unregulated housing, or regulated apartments subjected to a legal regulated rent increase in which landlords have been renting below the legally-permitted regulatory rent (preferential rent) and have been seeking to increase rent at lease renewal according to the legal amount permitted.

For ZIP code 11210, disclosed data from the New York City Rent Guidelines Board (RGB) dated June 1, 2017 lists 1,139 such units, representing 16 percent of all rent-stabilized units. The continued significant increase in rents has resulted in an increased rent burden and/or residential displacement. Therefore, there is a pressing need to provide more affordable housing units in this area.

In this section of CD 14, too many households fall into low- and very low-income categories and are often rent-burdened. Given the risk for displacement, the City should take steps to increase the probability that rent-burdened households qualify for as many affordable housing lotteries as possible.

A strict rent-to-income requirement of not exceeding 30 percent of income for yearly rent payment ends up disqualifying many income-challenged households from the affordable housing lotteries. As a result, these rent-burdened households do not meet the affordable housing lottery's minimum household earnings because too often they are already paying the same rent, or are in excess of the rent stated for the affordable housing unit. Thus, the requirement to pay no more than 30 percent of household income is actually hurting people who are already living in substandard housing and are paying more than 30 percent of their income toward housing.

As first noted in his East New York Community Plan ULURP response, Borough President Adams believes that it is time to break the mold in which families that are already paying too much rent for substandard housing are disqualified. Borough President Adams seeks to qualify rent-burdened households to be eligible for selection through the affordable housing lottery process. Such eligibility would ensure rent-burdened households receive the maximum opportunity to secure regulated affordable housing units, expanding the number of eligible households for government-regulated affordable housing lotteries.

One means to address rent burden should be achieved by amending the ZR to adjust the AMI qualifications so they include such households that would maintain or reduce their rent burden. For such lotteries resulting from MIH affordable housing lottery offerings, DCP needs to amend the ZR to allow for exceptions to the 30 percent of income threshold so that households that are burdened, though paying the same or more rent than the lottery unit rent, would be eligible to live in affordable, newly-produced, and quality housing accommodations.

Borough President Adams believes that the CPC and/or the City Council should echo his call to seek the modification of the MIH section of the ZR pertaining to MIH-designated areas to be adopted with a requirement that permits households with rent-burdened status to qualify for such affordable housing units pursuant to MIH.

### **Recommendation**

Be it resolved that the Brooklyn borough president, pursuant to Section 201 of the New York City Charter, recommends that the City Planning Commission (CPC) and City Council approve this application with the following conditions:

1. That prior to considering the application, the City Council obtain commitments in writing from the applicant, 1640 Flatbush Owner LLC, that clarify how it would:
  - a. Provide permanently affordable housing according to Mandatory Inclusionary Housing (MIH) Option 1, while retaining 30 percent of the residential floor area as permanently affordable to households at an average of 60 percent of Area Median Income (AMI), otherwise, if the applicant does not agree to exceed 25 percent, in lieu of the proposed C4-4D, the City Council should approved a commercial district with a R7A residential equivalent.
  - b. Provide greater residential floor area including additional affordable housing by limiting non-residential floor area to the development's ground floor



- c. Memorialize a bedroom mix having at least 50 percent two- or three-bedroom affordable housing units and at least 75 percent one or more one-bedroom affordable housing units
- d. Utilize a combination of locally-based affordable housing development non-profits to serve as the administering agent, and having one or more such entities play a role in promoting affordable housing lottery readiness
- e. Relocate the 1640 Flatbush Avenue loading dock from Aurelia Court to the Triangle Junction service drive
- f. Set aside a portion of the commercial space for one or more local non-profit organizations such as arts and/or cultural entities at below-market lease terms, as warranted
- g. Engage car-sharing companies to lease multiple spaces within the garage, in consultation with Brooklyn Community Board 14 (CB 14), the New York City Department of Transportation (DOT), and local elected officials
- h. Commit to constructing curb extensions as part of the Builders Pavement Plan in coordination with the New York City Department of Environmental Protection (DEP) and DOT or if technically infeasible, to commitment to enter into a standard DOT maintenance agreement for an agency-implemented protected, painted, and treated roadbed sidewalk extensions, for the intersection of Aurelia Court and Flatbush Avenue with the understanding that DOT implementation would not proceed prior to consultation with Brooklyn Community Board 14 (CB 14) and local elected officials
- i. Explore additional resiliency and sustainability measures such as incorporating blue/green/white roof treatment, rain gardens, and/or solar panels
- j. Retain Brooklyn-based contractors and subcontractors, especially those who are designated local business enterprises (LBEs) consistent with Section 6-108.1 of the City's Administrative code and minority- and women-owned business enterprises (MWBs) as a means to meet or exceed standards per Local Law 1 (no less than 20 percent participation), as well as coordinate the oversight of such participation by an appropriate monitoring agency

Be it further resolved:

1. Should the City Council determination result in the project proceeding according to MIH Option 1, that the New York City Department of Housing Preservation and Development (HPD) modify its affordable housing lottery community preference standards to include the school zone, thus capturing the population of public school children residing at City-funded or -operated shelters
2. That HPD extend local preference to include residents of zip code 11210, encompassing portions of Brooklyn Community Districts 17 and 18 (CDs 17 and 18), in writing, to the City Council
3. That the CPC and/or the City Council call for the modification of the Mandatory Inclusionary Housing (MIH) section of the New York City Zoning Resolution (ZR) pertaining to MIH-designated areas to be adopted with a requirement that permits households with rent-burdened status (allow for exceptions to the 30 percent of income threshold for households paying the

same or more rent than what the affordable housing lottery offers) to qualify for such affordable housing units pursuant to MIH

1640 FLATBUSH OWNER LLC  
C/O SL GREEN REALTY CORP.  
420 LEXINGTON AVENUE, 19TH FLOOR  
NEW YORK, NEW YORK 10170

January 3, 2019

Hon. Eric L. Adams, Brooklyn Borough President  
Borough Hall  
209 Joralemon Street  
Brooklyn, NY 11201

Re: 1640 Flatbush Avenue Rezoning - (Brooklyn Block 7577, Lot 60) (the "Property")  
Application Nos: 190053ZMK, 190054ZRK (the "Application")  
CEQR No. 19DCP028K

Dear Borough President Adams:

This letter summarizes the information provided by the applicant team during the public hearing on the Application held on December 17, 2018, and amplifies some of that information.

1640 Flatbush Owner LLC (the "Applicant"), owner of the Property, has filed the Application for (i) a zoning map amendment to rezone the Property from C8-2 and R6 districts to a C4-4D district, and a portion of Block 7577, Lot 25 and Block 7576, Lot 69 from a C8-2 to an R6 district, and (ii) an amendment to the text of the New York City Zoning Resolution to designate the Property as a Mandatory Inclusionary Housing Area (Appendix F), to facilitate the development of a 13-story, approximately 130,000 square foot mixed-use development, including approximately 30,000 square feet of commercial space, and approximately 114 dwelling units, including up to approximately 34 affordable units (collectively, the "Project").

## **1. Affordable Housing**

The ULURP application proposes that "MIH Option 2" be applied to the Project. Per the Council Member's preference, if "MIH Option 1" is applied to the Project, approximately 30 units of affordable housing would be provided. This option requires that 25% of the residential floor area be provided as permanently affordable housing for households with a weighted average of 60% AMI. Within this 25%, 10% of the total residential floor area in the development must be affordable for households at 40% AMI. There can be no more than 3 income bands and no band can exceed 130% AMI. The income bands have not yet been selected but, for instance, there could be 10% (or 12 units) at 40% of AMI; an additional 10% (12 units) at 60% of AMI; and an additional 5% (6 units) at 130% of AMI (the weighted average of the floor area distribution would equal 60% AMI). Below is a preliminary unit mix under this scenario. This information is subject to change as apartment layouts are finalized and as the result of the Applicant's negotiation of a regulatory agreement with HPD.

<b>Affordable Units Bedrooms</b>	<b># of units</b>	<b>%</b>		<b>Market Units Bedrooms</b>	<b># of units</b>	<b>%</b>	<b>Total Units</b>
0	0	0.00%		0	0	0.00%	0
1	8	26.67%		1	26	30.95%	34
2	16	53.33%		2	43	51.19%	59
3	6	20.00%		3	15	17.86%	21
<b>Total</b>	<b>30</b>	<b>100.00%</b>			<b>84</b>	<b>100.00%</b>	<b>114</b>

The Applicant intends to work with its affordable housing administering agent, which has not yet been selected, to make best efforts to lease at least 50% of the affordable housing units to residents of the community, to the extent permitted by HPD guidelines (and the pending federal lawsuit), and to engage the community in a financial literacy campaign regarding the availability and process of applying for the affordable housing units. We have had discussions with a few Brooklyn-based organizations about serving as the project's administering agent.

## **2. M/WBE and LBE Participation**

The Applicant has company-wide goals regarding participation of minority-owned and women-owned business enterprises ("M/WBEs") and locally-based enterprises ("LBEs"). We will use commercially reasonable efforts to pursue the hiring of and prioritize retaining LBEs as subcontractors, especially those that are designated as M/WBE, to meet or exceed standards per Local Law 1 of 2013 (not less than twenty percent participation).

## **3. Sustainability**

It is the Applicant's intention that the Project be developed and operated in an environmentally sustainable manner. Because of the Mandatory Inclusionary Housing component, the Enterprise Green Communities Criteria and Certification will likely apply. Measures being considered include: full building commissioning to ensure all equipment and controls are operating as designed and as efficiently as possible; resource conservation (capturing rainwater, low-flow plumbing fixtures); designing the Project with materials to reduce carbon emissions; implementation of a construction waste management program; regionally-sourced construction materials; and energy efficiency (utilization of Energy Star appliances and a more energy-efficient exterior envelope than required by the New York City Energy Conservation Code).

## **4. Cultural/Community Use**

The Applicant will give serious consideration to renting a portion of the commercial space for a community-beneficial use, such as a not-for-profit or cultural/artistic use. The Applicant looks forward to hearing from your office, the Council Member, and the community at large as to what uses they would prefer for such space and/or if any specific organizations of those types are currently seeking space.

Borough President Eric Adams  
January 3, 2019

With this statement of the Applicant's plans regarding the Project, we respectfully request a favorable recommendation of the Applications to the City Planning Commission. Thank you for your attention and consideration.

Sincerely,

1640 FLATBUSH OWNER LLC

By:   
Name:  
Title:

cc: Richard Bearak, Land Use Director (via e-mail)  
Inna Guzenfeld, Land Use Coordinator (via e-mail)  
Jay A. Segal, Esq. (via e-mail)