

E-259



CITY PLANNING COMMISSION  
CITY OF NEW YORK

OFFICE OF THE CHAIR

September 13, 2010

**CONDITIONAL NEGATIVE DECLARATION**

**Project Identification**

CEQR No. 08DCP022X  
ULURP No. 080129ZMX  
SEQRA Classification: Unlisted

**Lead Agency**

City Planning Commission  
22 Reade Street  
New York, NY 10007  
Contact: Robert Dobruskin  
(212) 720-3423

**Name, Description and Location of Proposal**

3500 Park Avenue Rezoning

The applicant, 3500 Park Avenue LLC, is proposing a zoning map amendment to rezone the southern block-front of East 168<sup>th</sup> Street between Park Avenue and Washington Avenue in the Bronx, Community District 3. The proposed action would rezone one lot (Block 2389, Lot 20) from M1-1 to R7-1 with a C2-4 overlay and extend the C2-4 overlay onto six adjacent lots (Block 2389, Lots 26, 27, 28, 31, 32 and p/o 33) already zoned R7-1. Since the applicant is seeking financing with the New York City Housing Development Corporation (NYCHDC), a coordinated review was conducted with NYCHDC.

The proposed action would facilitate a proposal by the applicant to develop, under the Quality Housing provisions of the Zoning Resolution, an eight-story, 58, 221 sq. ft residential building (containing 61 low-income dwelling units) with ground floor retail and/or community facility use, and a twenty below-grade parking space garage at 3500 Park Avenue (Block 2389, Lot 20). In addition the proposed action could result in the development of a property located at 1217 Washington Avenue (Block 2389, Lot 28) with a 3,900 sq. ft commercial building. This property is not under the control of the applicant.

The projected development site (Block 2389, Lot 20), currently developed with an automobile parking lot, is zoned M1-1, which allows Use Groups 5 through 14, 16, 17 at an FAR of 1.0, and Use Group 4 at an FAR of 2.4. The proposed rezoning would establish an R7-1 zone over the site, permitting residential uses with an FAR of 3.44 (4.0 under the Quality Housing Option if situated on a wide street) and community facility uses with an FAR of 4.8. In addition, the proposed C2-4 zone would allow commercial uses to occupy the ground floor of a mixed-use building.

The adjacent sites contain three-story residential buildings with nonconforming ground floor retail uses (Block 2389, Lots 26 and 27), four-story residential buildings (Block 2389, Lots 31 and 32) and a nonconforming parking lot (Block 2389, Lot 28). These sites are currently zoned R7-1, which allows residential uses with an FAR of 4.0 (under the Quality Housing provisions of the

Zoning Resolution) and community facility uses at an FAR of 4.8. The proposed rezoning would map a C2-4 overlay on the entire blockfront, permitting local service commercial uses (Use Groups 5 through 9) at an FAR of 2.0.

To avoid any potential significant adverse impacts, the applicant has entered into a Restrictive Declaration for hazardous materials, and an (E) designation (E-259) for air quality and noise would be mapped as part of the rezoning, as described below.

To avoid any potential significant adverse air quality impacts, an (E) designation for air quality would be mapped on Block 2389, Lot 28. The text of the (E) designation for air quality is as follows:

**Bronx Block 2389, Lot 28**

**Any new commercial development on the above-referenced property must ensure that the heating, ventilation and air conditioning stack(s) are located at least 30 feet from the lot lines facing East 167<sup>th</sup> Street, and at least 30 feet from the lot line facing Park Avenue, regardless of fuel type, to avoid any potential significant adverse air quality impacts.**

With the placement of the (E) designation for air quality, no impacts related to air quality are expected and no further assessment is warranted.

To avoid any potential significant adverse noise impacts, an (E) designation for noise would be mapped on Block 2389, Lot 20. The text of the (E) designation for noise is as follows:

**Bronx Block 2389, Lot 20**

**In order to ensure an acceptable interior noise environment, future residential/commercial uses must provide a closed window condition with a minimum of 35 dB(A) window/wall attenuation on all facades in order to maintain an interior noise level of 45 dB(A). In order to maintain a closed-window condition, an alternate means of ventilation must also be provided. Alternate means of ventilation includes, but is not limited to, central air conditioning.**

With the placement of the (E) designation for noise, no impacts related to noise are expected and no further assessment is warranted.

**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 June 4, 2010, prepared in connection with the ULURP Application (No. 08DCP022X). The City Planning Commission has determined that the proposed action will have no significant effect on the quality of the environment, once it is modified as follows:

**3500 Park Avenue Rezoning**  
**CEQR No. 08DCP022X**  
*Conditional Negative Declaration*

1. The applicant agrees via a restrictive declaration to prepare a Phase II Environmental Assessment Statement (ESA), hazardous materials sampling protocol and health and safety plans, which would be submitted to the Department of Environmental Protection (DEP) for approval. The applicant agrees to test and identify any potential hazardous material impact pursuant to the approved sampling protocols and, if any such impact is found, submit a hazardous material remediation plan including a health and safety plan to DEP for approval. If necessary, remediation measures would be undertaken pursuant to the remediation plans.

**Supporting Statement:**

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

1. A Phase I Environmental Site Assessment (ESA) was prepared for the project site. The Phase I ESA was reviewed by DEP's Office of Environmental Planning and Assessment, and pursuant to a letter dated April 30, 2009 a Phase II Environmental Assessment Statement (ESA), hazardous materials sampling protocol and health and safety plan were recommended due to the potential presence of hazardous materials on the site as a result of past on-site and/or surrounding area land uses. As such, the applicant has entered into a restrictive declaration to ensure that a detailed Phase II testing would occur, and hazardous materials sampling protocol including a health and safety plan would be prepared, and is binding upon the property's successors and assigns. The declaration serves as a mechanism to assure the potential for hazardous material contamination that may exist in the subsurface soils and groundwater on the project site would be characterized prior to any site disturbance (i.e., site grading, excavation, demolition, or building construction). The restrictive declaration was executed on December 17, 2009 and submitted for recording on January 22, 2010. Pursuant to a letter from DEP dated January 28, 2010, DEP is in receipt of a signed copy of a DEP-approved restrictive declaration with proof of recording for the site. Consequently, no significant adverse impacts related to hazardous materials will occur.
2. The (E) designation for air quality would ensure that the proposed action would not result in significant adverse impacts due to air quality.
3. The (E) designation for noise would ensure that the proposed action would not result in significant adverse impacts due to noise.
4. No other significant adverse effects on the environment which would require an Environmental Impact Statement are foreseeable.

It is fully agreed and understood that if the foregoing conditions, modification, and alterations are not fully incorporated into the proposed action, this Conditional Negative Declaration shall become null and void. In such event, the applicant shall be required to prepare a Draft Environmental Impact Statement before proceeding further with said proposal.

This Conditional Negative Declaration has been prepared in accordance with Article 8 of the Environmental Conservation Law 6NYCRR part 617.

I, the Undersigned, as the applicant or authorized representative for this proposal, hereby affix my signature in acceptance of the above conditions to the proposed action.

Judith M. Gallent, Esq.  
Signature of Applicant or Authorized Representative

Date: June 4, 2010

Judith M. Gallent, Esq.  
Name of Applicant or Authorized Representative

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

Date: 6/4/2010

Amanda M. Burden  
Amanda M. Burden, FAICP, Chair  
City Planning Commission

Date: 9/13/10