



CITY PLANNING COMMISSION
CITY OF NEW YORK
OFFICE OF THE CHAIR

July 9, 2007

CONDITIONAL NEGATIVE DECLARATION

Project Identification

CEQR No. 04DCP041K
ULURP Nos. N040161 ZMK, 040162 ZSK
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:

Kings Material Supply Company

The applicant, Kings Material Supply Company, Inc., is seeking a Zoning Map amendment to change an M1-2 zoning district to an R6 zoning district. The area to be rezoned is located on the west side of 15th Avenue between 37th and 38th streets (Block 5348, Lots 20, 41, 42, 44, 45, 46, 47, 48) in the Borough Park section of Brooklyn Community District 2. In addition, the applicant is requesting a zoning special permit pursuant to Section 74-681(a)(2) of the Zoning Resolution to allow a residential development in a portion of a permanently discontinued railroad right-of-way.

The area to be rezoned is almost entirely being used by the Kings Material Supply Company as a material supply yard. The proposed authorization and special permit would facilitate the construction of a six-story, 35-unit residential building, with a 30-space accessory parking lot, on the site of the existing material supply yard. Access to the parking area would be from a curb cut on 37th Street. Directly to the south of the development site is a non-conforming residential building (Lot 48) that is being used as a parsonage. This use would become conforming under the proposed R6 district. The rezoning area is contiguous to an existing R6 zoning district to the south and east.

The area to be rezoned includes property that was part of the former Culver El elevated rail line and the South Brooklyn Railroad at ground level. Train service on the el was discontinued in 1975, and the railroad line ceased operations in the 1980's. A special permit pursuant to Section 74-681(a)(2) of the Zoning Resolution is being requested to allow the residential development on that portion of the site.

To avoid any potential impacts associated with noise, the proposed action would place an (E) designation for noise on the development site, consisting of Block 4348, Lots 41, 42, 44, 45, 46, 47:

The text of the (E) designation (E-176) for noise for the above properties is as follows:

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 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 or air conditioning sleeves containing air conditioners or HUD-approved fans.

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 March 18, 2007, prepared in connection with the ULURP Application (Nos. N040161 ZMK, 040162 ZSK). 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:

1. The applicant agrees via a restrictive declaration to prepare a hazardous materials sampling protocol including a health and safety plan, 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 protocol 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 plan.

The restrictive declaration also restricts the manner in which the property may be developed or redeveloped, by requiring the sampling protocol and remediation measures to serve as a condition precedent to any change of use in any such development or redevelopment of the property.

Supporting Statement:

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

1. A Phase I Environmental Site Assessment (ESA) and a limited Phase II ESA, available in the proposal's CEQR file, was prepared in February, 2004 for the project site. The Phase I ESA was reviewed by DEP's Office of Environmental Planning and Assessment, and a restrictive declaration was recommended by DEP, due to the potential presence of hazardous materials on the site as a result of past and present land uses. The declaration requires that detailed Phase II testing would occur 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 sub-surface soils and groundwater on the project site would be characterized prior to any site disturbance (i.e., site grading, excavation, demolition, or building construction).

With the implementation of the condition described above, no significant adverse impact related to hazardous materials would occur.

2. 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.

Should you have any questions pertaining to this Conditional Negative Declaration, you may contact James Merani at (212) 720-3628.

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

[Handwritten Signature]
Signature of Authorized Representative

Date: 3/22/07

[Handwritten Name]
Name of the applicant or Authorized Representative
(Print)

Date: 3/22/07

[Handwritten Signature]
James P. Merani, R.A., Deputy Director
Environmental Assessment & Review Division
Department of City Planning

Date: 3/23/07

[Handwritten Signature]
Amanda M. Burden, AICP, Chair
City Planning Commission

Date: 7/9/07