



DEPARTMENT OF CITY PLANNING
CITY OF NEW YORK

OFFICE OF THE CHAIR

CONDITIONAL NEGATIVE DECLARATION

Project Identification

CEQR No. 06DCP007K
ULURP No. 060377 ZMK
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

Wallabout Street Rezoning

The applicant, Thomas Klein, proposes an amendment to the zoning map to change the zoning designation of the eastern half of the block bounded by Wallabout Street to the north, Flushing Avenue to the south, Bedford Avenue to the west, and Lee Avenue to the east (Block 2263, Lots 30, 31, 37, 43, 46, 47, 52, 54-65 and 67) in the South Williamsburg/Bedford Stuyvesant neighborhoods of Brooklyn Community District 1. The proposed zoning map amendment would change an M1-2 district to an R7-1 zoning district with a C2-4 commercial overlay along Flushing Avenue. The proposed rezoning covers an approximately 81,667 square foot area containing a mix of commercial, residential, and vacant industrial/warehouse buildings.

The proposed action would facilitate a proposal by the applicant to develop two 6-story mixed-use buildings on a property located at 194-216 Wallabout Street (Block 2263, Lots 30, 31, 37, 62, 63, 64, 65, and 67), which is a through-lot site with frontages on both Wallabout Street and Flushing Avenue. The proposed buildings would both be approximately 60 feet in height and would contain a total of approximately 172,000 gross square feet (gsf) of floor area. The buildings would be separated by a 60 foot wide open space area and are planned to contain a total of 143 residential units, 9,350 sf of commercial space, 9,350 sf of community facility space and 72 accessory parking spaces in a below-grade garage. Construction of the proposed project is expected to take approximately 18 months.

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In addition, eight other sites (Block 2263, Lots 46 and 47, Lot 52, Lots 56 and 57, Lot 58, Lot 59, Lots 60 and 61, Lot 43 and Lot 44) are projected as a result of the proposed action, resulting in 87 dwelling units, a 7,047 sf decrease in commercial space, a 7,553 sf increase in community facility space and an increase of 46 parking spaces.

The project site owned by the applicant is currently developed with several vacant warehouse buildings, which would be demolished in order to enable the redevelopment of the site. The remainder of the proposed rezoning area is developed with six residential buildings, three of which include ground floor retail, two vacant warehouse buildings, and two commercial buildings.

(E) Designations

The environmental analysis includes an (E) designation for hazardous materials, air quality and noise. The placement of the (E) designation E-199 would eliminate the potential for significant adverse impact on those sites and would ensure that appropriate testing and/or remediation, if needed, would be undertaken.

To avoid the potential impacts associated with hazardous materials, as part of the proposed rezoning, an (E) designation for hazardous materials will be placed on Block 2263, Lots 43, 44, 46, 47, 52, 56, 57, 58, 59, 60 and 61.

The text of the (E) designation for hazardous materials is as follows:

Task 1-Sampling Protocol

A. Petroleum

A soil, soil gas, and groundwater testing protocol (including a description of methods), and a site map with all sampling location represented clearly and precisely, must be submitted to the NYCDEP by the fee owner(s) of the lot which is restricted by this (E) designation, for review and approval.

A site map with the sampling locations clearly identified and a testing protocol with a description of methods, for soil, soil gas, and groundwater, must be submitted by the fee owner(s), of the lot which is restricted by the (E) designation, to the NYCDEP for review and approval.

B. Non-Petroleum

The fee owner(s) of the lot restricted by this (E) designation will be required to prepare a scope of work for any sampling and testing needed to determine if contamination exists and to what extent remediation may be required. The scope of work will include all relevant supporting

documentation, including site plans and sampling locations. This scope of work will be submitted to NYCDEP for review and approval prior to implementation. It will be reviewed to ensure that an adequate number of samples will be collected and that appropriate parameters are selected for laboratory analysis. For all non-petroleum (E) designated sites, the three generic NYCDEP soil and ground-water sampling protocols should be followed.

A scope of work for any sampling and testing to be completed, which will determine the extent of on-site contamination and the required remediation, must be prepared by the fee owner(s) of the lot restricted by this (E) designation. The scope of work will include the following: site plans, sampling locations, and all other relevant supporting documentation. The scope of work must be submitted to the NYCDEP for review and confirmation that an adequate testing protocol (i.e., number of samples collected, appropriate parameters for laboratory analysis) has been prepared. The NYCDEP must approve the scope of work before it can be implemented.

For non-petroleum (E) designated sites, one of the three generic soil and groundwater sampling protocols prepared by the NYCDEP should be followed.

The protocols are based on three types of releases to soil and groundwater sampling protocols prepared by the NYCDEP should be followed.

The protocols are based on three types of releases to soil and groundwater, including: the release of a solid hazardous material to ground surface; the release of a liquid hazardous material to the ground surface; and the release of a hazardous material to the subsurface (i.e., storage tank or piping). The type of release defines the areas of soil to be sampled from surface, near-surface, to subsurface. Additionally, it determines the need for groundwater sampling.

A written approval of the sampling protocol must be received from the NYCDEP before commencement of sampling activities. Sample site quantity and location should be determined so as to adequately characterize the site, the source of contamination, and the condition of the remainder of the site. After review of the sampling data, the characterization should have been complete enough to adequately determine what remediation strategy (if any) is necessary. Upon request, NYCDEP will provide guidelines and criteria for choosing sampling sites and performing sampling.

Finally, a Health and Safety Plan must be devised and approved by the NYCDEP before the commencement on any on-site activities.

Task 2-Remediation Determination and Protocol

After sample collection and laboratory analysis have been completed on the soil and/or groundwater samples collected in Task 1, a summary of the data and findings in the form of a written report must be presented to the NYCDEP for review and approval. The NYCDEP will provide a determination as to whether remediation is necessary.

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If it is determined that no remediation activities are necessary, a written notice will be released to that effect. However, if it is the NYCDEP's determination that remediation is necessary the fee owner(s) of the lot restricted by the (E) designation must submit a proposed remediation plan to the NYCDEP for review and approval. Once approval has been obtain, and the work completed, the fee owner(s) of the lot restricted by the (E) designation must provide proof to the NYCDEP that the work has been completed satisfactorily.

To avoid any potential for impacts associated with air quality, as part of the proposed rezoning an (E) designation for air quality will be placed on Block 2263, Lots 30, 31, 37, 43, 44, 46, 47, 52, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65 and 67.

The text for the (E) designation is as follows:

Any new residential and/or commercial development on the above-referenced property must use natural gas as the type of fuel for HVAC systems.

To avoid any potential for impacts associated with noise, as part of the proposed rezoning an (E) designation for noise will be placed on Block 2263, Lots 30, 31, 37, 43, 44, 46, 47, 52, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65 and 67

The text for the (E) designation for these 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 45dB(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.

The (E) designation will ensure that the proposed action would not result in significant adverse noise impacts.

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 August 2, 2007, prepared in connection with the ULURP Application (No. 06DCP007K). 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, Thomas Klein, 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.

Supporting Statement:

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

1. A Phase I Environmental Site Assessment (ESA) was prepared in May, 2006, and is available in the proposal's CEQR file, for the properties located at 194-216 Wallabout Street (499-515 Flushing Avenue) in Brooklyn (Block 2263, Lots 30, 31, 37, 62, 63, 64, 65 and 67) for the project site. The Phase I ESA was reviewed by DEP's Office of Environmental Planning and Assessment, and Phase II testing was recommended by DEP, due to the presence of hazardous materials on the site as a result of past and present on-site land uses.
2. The declaration, binding on all successors and assigns of the applicant, requires that Phase II testing be prepared, including a sampling protocol and a health and safety plan for DEP's review and approval. If hazardous materials impacts exist, the declaration requires that the applicant submit a remediation plan for DEP's review and approval and provide for such remediation. 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 applicant's property would be characterized prior to any site disturbance.
3. No other significant adverse effects on the environment which would require an Environmental Impact Statement are foreseeable.

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

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.



Signature of Applicant or Authorized Representative

Date: 9/4/07

MARK. A. LEVINE

Name of Applicant or Authorized Representative



Robert Dobruskin, Director
Environmental Assessment & Review Division
Department of City Planning

Date: 9/14/07



Amanda M. Burden, AICP, Chair
City Planning Commission

Date: 2/11/08