



DEPARTMENT OF CITY PLANNING
CITY OF NEW YORK

OFFICE OF THE CHAIR

CONDITIONAL NEGATIVE DECLARATION

Project Identification

CEQR No. 07DCP056K
ULURP No.070396 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:

308-366 Clarkson Avenue Zoning Map Amendment

The applicant, ESP Group of NY, Inc., is seeking a zoning map amendment from M1-1 and R7-1/C2-3 to R7A/C2-4 for a portion of the block bounded by Nostrand, Clarkson, and New York Avenues, and Lenox Road, in the Rugby/Flatbush section of Brooklyn. The project site includes properties at 308, 312 (312-330), 318 (318-320), 324 (322-328), 326, 350 and 354 (354-366) Clarkson Street (Block 4837, Lots 21, 22, 23, 27, 29, 31, 33, 38, 44 and 52), and is currently comprised of a variety of uses including public parking garages and lots and a manufacturing facility. The proposed re-zoning would facilitate a proposal by the applicant to construct three seven-story mixed-use residential, commercial and community facility structures, including a medical facility and lab, with private open space, accessory and public garages.

The proposed rezoning includes (E) designations for noise and air quality on the project site (Block 4837, Lots 22, 23, 27, 29, 31, 33, and 38) and (E) designations for noise, air quality, and hazardous materials on an adjacent lot (Block 4837, Lot 44) , as described below. In addition, the applicant has entered into a restrictive declaration for the project site to ensure that the appropriate hazardous materials sampling protocols, including health and safety plans, will occur prior to construction, which would be submitted to the Department of Environmental Protection (DEP) for approval.

The (E) designation for noise would be mapped on Block 4837, Lots 22, 23, 27, 29, 31, 33, 38 and 44. The text of the (E) designation is as follows:

In order to ensure an acceptable interior noise environment, future residential uses must provide a closed window condition with a minimum of 30 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

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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.

With the implementation of the above (E) designation, no significant adverse impacts related to noise would occur.

The (E) designation for hazardous materials would be placed on Block 4837, Lot 44. The (E) designation would require that the fee owner of the sites conduct a testing and sampling protocol, and remediation where appropriate, to the satisfaction of the NYCDEP before the issuance of a building permit by the Department of Buildings pursuant to the provisions of Section 11-15 of the Zoning Resolution (Environmental Requirements). The (E) designation will also include a mandatory construction-related health and safety plan which must be approved by NYCDEP. The text of the (E) designation is as follows:

Task 1

The fee owner(s) of the lot(s) restricted by this (E) designation will be required to prepare a scope of work for any soil, gas, or groundwater sampling and testing needed to determine if contamination exists, the extent of the contamination, 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 DEP 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.

No sampling program may begin until written approval of a work plan and sampling protocol is received from DEP. The number and location of sample sites should be selected to adequately characterize the type and extent of the contamination, and the condition of the remainder of the site. The characterization should be complete enough to determine what remediation strategy (if any) is necessary after review of the sampling data. Guidelines and criteria for choosing sampling sites and performing sampling will be provided by DEP upon request.

Task 2

A written report with findings and a summary of the data must be presented to DEP after completion of the testing phase and laboratory analysis for review and approval. After receiving such test results, a determination will be provided by DEP if the results indicate that remediation is necessary.

If DEP determines that no remediation is necessary, written notice shall be given by DEP.

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If remediation is necessary according to test results, a proposed remediation plan must be submitted to DEP for review and approval. The fee owner(s) of the lot(s) restricted by this (E) designation must perform such remediation as determined necessary by DEP. After completing the remediation, the fee owner(s) of the lot restricted by this (E) designation should provide proof that the work has been satisfactorily completed.

A DEP-approved construction-related health and safety plan would be implemented during excavation and construction activities to protect workers and the community from potentially significant adverse impacts associated with contaminated soil and/or groundwater. This Plan would be submitted to DEP for review and approval prior to implementation.

With the implementation of the above (E) designation, no significant adverse impacts related to hazardous materials would occur.

The project also includes (E) designation for air quality on Block 4837, Lots 22, 23, 27, 29, 31, 33, 38 and 44. The text of the (E) designation is as follows:

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

With the implementation of the above (E) designation, no significant adverse impacts related to air quality would occur.

Statement of No Significant Effect:

The Environmental Assessment and Review Division of the Department of City Planning, on behalf of the City Planning Commission (CPC), has completed its technical review of the Environmental Assessment Statement on November 17, 2008, prepared in connection with the ULURP Application (No.070396 ZMK). 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 restrictive declarations to prepare hazardous materials sampling protocols, including a 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 hazardous material remediation plans including health and safety plans to DEP for approval. If necessary, remediation measures would be undertaken pursuant to the remediation plans.

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Supporting Statement:

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

1. A Phase I Environmental Site Assessment (ESA) dated August 2006, available in the proposal's CEQR file, was prepared for the project site (Block 4837, Lots 22, 23, 27, 29, 31, 33, and 38). The Phase I ESA was reviewed by DEP's Office of Environmental Planning and Assessment, and pursuant to a letter dated May 18, 2007, Phase II testing was recommended by DEP due to the potential presence of hazardous materials on the site as a result of past and present adjacent land uses. As such, the restrictive declarations require that detailed Phase II testing would occur and is binding upon the property's successors and assigns. The declarations serve 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).

The restrictive declarations that have been prepared require the preparation of a hazardous materials sampling protocol, including a health and safety plan, which would be submitted to the Department of Environmental Protection (DEP) for approval. A restrictive declaration has been executed and recorded against the property.

The recorded declarations establish an agreement to test and identify any potential hazardous materials impacts pursuant to the approved sampling protocol and, if any such impact is found, submit a hazardous material remediation plan, including an health and safety plan, to DEP for approval. If necessary, remediation measures would be undertaken pursuant to the remediation plan. The restrictive declarations also restrict 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. These measures would ensure that no significant adverse impacts 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 Celeste Evans at (212) 720-3321.

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

Edward Esposito
Signature of Authorized Representative

Date: 11/17/08

ESP GROUP LLC

by: Edward Esposito, Partner
Name of the applicant or Authorized Representative (Print)

Date: 11/17/08

Robert Dobruskin

Date: 11/17/08

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

Amanda M. Burden

Date: 3/16/09

Amanda M. Burden, FAICP, Chair
City Planning Commission