



DEPARTMENT OF CITY PLANNING
CITY OF NEW YORK

OFFICE OF THE CHAIR

NEGATIVE DECLARATION

February 17, 2009

Project Identification

CEQR No. 09DCP053K
ULURP No. 090309ZRK; 090310ZMK
SEQRA Classification: Type I

Lead Agency

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

Name, Description, and Location of Proposal:

DUMBO Rezoning

The New York City Department of City Planning (DCP) proposes zoning map and zoning text amendments for an approximately 12-block area in the eastern section of the DUMBO neighborhood of Brooklyn Community District 2. The proposed zoning map amendment would rezone this area from M1-2 and M3-1 to M1-4/R7A and M1-4/R8A and expand the boundaries of the Special Mixed-Use District (MX-2, Fulton Ferry). The proposed action also includes a zoning text amendment to Zoning Resolution (ZR) sections 23-922 and 123-63 to make the provisions of Inclusionary Housing applicable in the rezoning area and rename the Special Mixed-Use District from Fulton Ferry to DUMBO. The proposed rezoning area lies within the State and National Register listed (S/NR) DUMBO Industrial District and the New York City Landmarks Preservation Commission (NYCLPC) designated DUMBO Historic District.

The current zoning of M1-2 and M3-1 permits a maximum FAR of 2.0 for limited commercial and industrial uses. Residential use is not currently permitted. The proposed M1-4/R7A and M1-4/R8A districts would permit residential use and prohibit certain industrial uses. The proposed M1-4/R8A zoning would permit a base residential FAR of 5.4 bonusable to 7.2 FAR with Inclusionary Housing. The proposed M1-4/R7A zoning would permit a base residential FAR of 3.45 bonusable to 4.6 FAR with Inclusionary Housing. The proposed M1-4/R7A and M1-4/R8A retain a maximum FAR of 2.0 for commercial and industrial uses.

The proposed action would facilitate residential conversion of existing buildings and new development in the rezoning area. DCP has identified 23 development sites (17 Projected and 6 Potential) associated with the Proposed Action. Compared to future conditions without the Proposed Action, the reasonable worst case development scenario (RWCDs) anticipates that the development of 17 projected sites would result in a net increase of 891 dwelling units (approximately 1,008,394 gsf), 289 required accessory parking spaces, and 14,665 gsf of vehicle/open storage uses, and a decrease of 346,787 gsf of commercial floor area and 93,934 gsf industrial and warehouse uses. The RWCDs assumes that

approximately 99 of the 891 net incremental dwelling units would be affordable, developed pursuant to the proposed Inclusionary Housing bonus.

The proposed zoning map and text amendments would reflect changes in the area's land use, which no longer conforms to existing zoning, and would allow for the conversion of underutilized buildings in the neighbourhood to residential use, which is currently not permitted. The proposed action would preserve neighbourhood character while allowing for residential growth with opportunities for the creation of affordable housing that conforms to the existing scale and built form of the neighborhood. In summary, the proposed zoning map and text amendments would:

- Allow for the residential conversion of existing loft buildings at appropriate densities.
- Protect and preserve neighbourhood scale and character in the NYC Landmarks Preservation Commission (LPC) designated DUMBO Historic District through mapping contextual zoning districts.
- Provide opportunities and incentives for affordable housing development through the application of the Inclusionary Housing program.
- Reinforce the Jay Street corridor as a public transit connection and gateway to a reactivated waterfront.

The analysis year for the proposed action is 2018.

As part of the proposed rezoning, (E) designations (E-231) would be mapped on selected development sites in order to preclude the potential for significant adverse hazardous materials, air quality and noise impacts.

To avoid potential impacts associated with hazardous materials an (E) designation for hazardous materials would be placed on the following properties:

<u>Block</u>	<u>Lots</u>
1	50
18	1
19	1
20	1, 12, 14, 21, 29
29	16
30	1, 4, 6, 7, 19, 20, 22, 23, 24
31	1, 14, 30
32	1, 55, 56
40	1, 13
41	1, 2, 5, 13, 42, 44
42	1

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 for the (E) designation is as follows:

Task 1-Sampling Protocol

A. Petroleum

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.

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.

With the placement of the (E) designations on the above block and lots, no significant adverse impacts related to hazardous materials are anticipated.

To preclude the potential for significant adverse air quality impacts related to HVAC emissions, an (E) designation would be placed the following properties:

<u>Block</u>	<u>Lots</u>
20	12, 14, 21, 29
30	1, 4, 21
31	1, 14
41	1, 2, 13, 42, 44

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

Block 20, Lot 12 (Projected Development Site 4): Any new residential and/or commercial development on the above-referenced properties must ensure that the heating, ventilating and air conditioning stack(s) are located at least 12 feet for Oil No. 2 from the lot line facing Bridge Street or 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.

Block 20, Lot 14 (Projected Development Site 5): Any new residential and/or commercial development on the above-referenced properties must ensure that the heating, ventilating and air conditioning stack(s) are located at least 16 feet for Oil No. 2 from the lot line facing Bridge Street and the lot line facing Plymouth Street or 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.

Block 20, Lot 21 (Projected Development Site 6): Any new residential and/or commercial development on the above-referenced properties must ensure that the heating, ventilating and air conditioning stack(s) are located at least 12 feet for Oil No. 2 from the lot line facing Jay Street and the lot line facing Plymouth Street or 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.

Block 30, Lots 1, 4, 21 (Projected Development Site 9): Any new residential and/or commercial development on the above-referenced properties must ensure that the heating, ventilating and air conditioning stack(s) are located at least 18 feet for Oil No. 2 from the lot line facing Plymouth Street and 20 feet for the lot line facing Jay Street or 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.

Block 31, Lot 14 (Projected Development Site 11): Any new residential and/or commercial development on the above-referenced properties must ensure that the heating, ventilating and air conditioning stack(s) are located at least 21 feet for Oil No. 2 from the lot line facing Bridge Street or 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.

Block 41, Lots 1, 2 (Projected Development Site 16): Any new residential and/or commercial development on the above-referenced properties must ensure that the heating, ventilating and air conditioning stack(s) are located at least 14 feet for Oil No. 2 from the lot line facing Water Street or 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.

Block 20, Lot 29 (Potential Development Site B): Any new residential and/or commercial development on the above-referenced properties must ensure that the heating, ventilating and air conditioning stack(s) are located at least 19 feet for Oil No. 2 from the lot line facing John Street and 20 feet for Oil No. 4 from the lot line facing Jay Street or 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.

Block 31, Lots 1 (Potential Development Site E): Any new residential and/or commercial development on the above-referenced properties must ensure that the heating, ventilating and air conditioning stack(s) are located at least 21 feet for Oil No. 2 from the lot line facing Bridge Street or 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.

Block 41, Lots 13, 42, 44 (Potential Development Site G): Any new residential and/or commercial development on the above-referenced properties must ensure that the heating, ventilating and air conditioning stack(s) are located at least 26 feet for Oil No. 2 from the lot line facing Water Street and 24 feet for Oil No. 4 from the lot line facing Jay Street or 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 placement of the (E) designations on the above blocks and lots, no significant adverse impacts related to stationary source air quality are expected.

To avoid the potential for significant adverse impacts associated with noise, the proposed action would map (E) designations for noise requiring a minimum of either 40 dBA or 45 dBA of window/wall attenuation for all new dwelling units. An (E) designation requiring a minimum of 40 dBA of window/wall attenuation for all new dwelling units would be placed on the following properties:

<u>Block</u>	<u>Lots</u>
1	50
19	1
30	6, 7, 19, 20, 22, 23
41	1, 2, 5, 13, 42, 44

The text of the (E) designation 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 40 dBA window/wall attenuation in order to maintain an interior noise level of 45 dBA. To achieve 40 dBA of building attenuation, special design features that go beyond the normal double-glazed windows are necessary and may include using specially designed windows (i.e., windows with small sizes,

windows with air gaps, windows with thicker glazing, etc.), and additional building attenuation. 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. The required degree of window/wall attenuation would require added project costs and could limit the range of design options. The City has not made any determination that cost-effective attenuation measures are available for this site. Commercial uses must provide a closed window condition with a minimum of 35 dBA window/wall attenuation in order to maintain an interior noise level of 50 dBA.

An (E) designation for noise requiring a minimum of 45 dBA of window/wall attenuation for all new dwelling units would be placed on the following properties:

<u>Block</u>	<u>Lots</u>
18	1
29	16
30	1, 4, 24
40	1

The text of the (E) designation 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 45 dBA window/wall attenuation in order to maintain an interior noise level of 45 dBA. To achieve 45 dBA of building attenuation, special design features that go beyond the normal double-glazed windows are necessary and may include using specially designed windows (i.e., windows with small sizes, windows with air gaps, windows with thicker glazing, etc.), and additional building attenuation. 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. The required degree of window/wall attenuation would require added project costs and could limit the range of design options. The City has not made any determination that cost-effective attenuation measures are available for this site. Commercial uses must provide a closed window condition with a minimum of 40 dBA window/wall attenuation in order to maintain an interior noise level of 50 dBA.

With the placement of the (E) designation for noise, no significant adverse impacts related to noise are expected.

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 February 13, 2009, prepared in connection with the ULURP Application (ULURP number 090309ZRK; 090310ZMK).

The City Planning Commission has determined that the proposed action will have no significant effect on the quality of the environment.

Supporting Statement:

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

1. The (E) designation for hazardous materials would ensure that the proposed action would not result in significant adverse impacts due to hazardous materials.
2. The (E) designations for air quality would ensure that the proposed action would not result in significant adverse impacts due to air quality.
3. The proposed DUMBO Special Mixed-Use District (MX-2) requires a minimum 35 dBA of window/wall attenuation for all new dwelling units. For development sites which would require higher levels of noise attenuation, (E) designations for noise would mandate a minimum of 40 dBA or 45dBA of window/wall attenuation, ensuring 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.

This 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 Negative Declaration, you may contact Justin Jarboe at (212) 720-3567.



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

Date: February 13, 2009



Amanda M. Burden, FAICP, Chair
City Planning Commission

Date: February 17, 2009