



CITY PLANNING COMMISSION  
CITY OF NEW YORK  
OFFICE OF THE CHAIR

March 22, 2004

**NEGATIVE DECLARATION**

**Project Identification**

CEQR No. 04DCP038M  
ULURP Nos. 040331 ZMM, 040332 ZRM,  
040333 ZSM and 040334 ZSM  
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:**

Ladies' Mile Rezoning:

The New York City Department of City Planning, in association with Richard Chapman Associates, the "co-applicants," propose to rezone approximately 5 ½ blocks in the Ladies' Mile Historic District in Community District 5, Manhattan. The proposed zoning map amendment would change an existing M1-6M zoning district to a C6-4A zoning district, and would affect the midblocks generally bounded by Fifth and Sixth Avenues, between West 16<sup>th</sup> and West 22<sup>nd</sup> Streets.

Concurrent with the zoning map amendment, the co-applicants are seeking a zoning text amendment to modify Zoning Resolution Sections 11-44, 23-633, 23-663 and 35-24. The proposed change to Section 11-44 would grandfather a recently approved Special Permit for a project at 38-42 West 18<sup>th</sup> Street for bulk and use modifications within the rezoning area. The proposed change to Section 23-663 is an administrative correction that would clarify the zoning text. The proposed amendment to Sections 23-633 and 35-24 would permit, within the rezoning area, an increase in the maximum permitted street wall height from 125 feet to the lessor of 150 feet or the height of an adjacent building.

The proposed special permits, together with the proposed zoning map and text amendments, would facilitate a proposal by Richard Chapman and Associates to construct two residential buildings with public parking garages on two sites in the proposed rezoning area. One of the two buildings, to be constructed on a through-block site at 7-13 West 21<sup>st</sup> Street (Block 823, Lot 31),

Amanda M. Burden, AICP, *Chair*  
22 Reade Street, New York, N.Y. 10007-1216  
(212) 720-3200 FAX (212) 720-3219  
nyc.gov/planning



Ladies' Mile Rezoning  
CEQR No. 04DCP038M

would be approximately 18 stories tall and contain approximately 311 dwelling units; 24,000 square feet of ground floor retail space; and a 363-space attended public parking garage. The proposed garage would be located on a portion of the ground floor and on two below-grade levels (cellar and sub-cellar) and be accessed by two curb cuts: one on West 21<sup>st</sup> Street and the other on West 22<sup>nd</sup> Street. The proposed building would replace an existing 180-space at-grade public parking lot with two curb cuts on West 21<sup>st</sup> Street and two curb cuts on West 22<sup>nd</sup> Street.

The other building, which would be approximately 17 stories in height, would be located at 4 West 21<sup>st</sup> Street (Block 822, Lot 45) and would contain approximately 99 dwelling units; 9,300 square feet of ground floor retail space; and a 105-space public parking garage. The proposed garage would be located on a portion of the ground floor and below-grade on the cellar and sub-cellar levels of the building and would be accessed via a curb cut on West 21<sup>st</sup> Street. The proposed building would replace an existing 100-space at-grade public parking lot with two curb cuts on West 21<sup>st</sup> Street and a small commercial building.

Although it is not intended to facilitate any specific development projects other than the buildings described above, the proposed action could result in additional residential buildings with ground floor commercial uses and residential conversions and enlargements on several projected and potential development sites within the proposed rezoning area. Development is expected to occur on sites occupied primarily by parking lots and commercial buildings. Development on these sites could result in a net increase of approximately 521 dwelling units (including 467 new dwelling units and 54 dwelling units generated as a result of conversions/enlargements); 1,335 square feet of retail space; and 103 accessory parking spaces. Including the development projected to occur on the sites proposed for redevelopment by Richard Chapman and Associates, the proposed action could result in a net increase of 931 dwelling units, 34,715 square feet of retail uses and 103 accessory parking spaces. For purposes of the environmental review, the EAS assumes that development facilitated by the proposed action would occur by 2013.

To avoid the potential for significant, adverse impacts related to hazardous materials, air quality and noise, the proposed rezoning includes (E) designations.

To avoid the potential for hazardous materials impacts, (E) designations for hazardous materials will be mapped on the following parcels:

- Block 818, Lot 56
- Block 819, Lots 6, 14, 15, 26, 32, 59 and 66
- Block 821, Lots 24 and 58
- Block 822, Lots 45 and 51 and the eastern p/o Lot 19
- Block 823, Lots 16, 17 and 64

The (E) designation would require that the fee owner of an (E) designated site conduct a testing and sampling protocol, and remediation where appropriate, to the satisfaction of the DEP before the issuance of a building permit by the Department of Buildings (pursuant to Section 11-15 of the Zoning Resolution-Environmental Requirements). The (E) designations also include mandatory construction-related health and safety plans which must also be approved by the DEP. The (E) designations would ensure that future redevelopment of these sites would not result in hazardous materials impacts.

Contamination on (E) designated sites can be classified as "petroleum based" or "non-petroleum based." The New York City Department of Environmental Protection (NYCDEP) has developed protocols for (E) designated sites that are required to be followed in order to address possible contamination.

#### **(E) Designations for Petroleum Based Contamination**

Leakage of underground storage tanks containing petroleum products requires a specific protocol and may contain parts of the near surface and subsurface protocols. To determine if contamination exists on the petroleum (E) designated sites, and to determine and perform any appropriate remediation, the following tasks must be undertaken by the fee owners of the lot restricted by this (E) designation prior to any demolition or excavation on the lot prior to development.

- Task 1 – The fee owner(s) of the lot restricted by this (E) designation must submit to the NYCDEP, for review and approval, a soil, soil gas, and ground water testing protocol, including a description of methods, and a site map with all sampling locations clearly and precisely represented.

No sampling program should begin until written approval of a protocol is received from the NYCDEP. The number and location of sample sites should be selected to adequately characterize the site, the specific source of suspected 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 the NYCDEP upon request.

- Task 2 – A written report with findings and a summary of the data must be presented to the NYCDEP after completion of the testing phase and laboratory analysis for review and approval. After receiving such test results, a determination will be provided by the NYCDEP if the results indicate that remediation is necessary. Written notice shall be given by the NYCDEP if it determines that no remediation is necessary.

If remediation is necessary according to the test results, a proposed remediation plan must be

submitted to the NYCDEP for review and approval. The fee owner(s) of the lot restricted by the (E) designation must perform such remediation as determined necessary by the NYCDEP. 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.

**(E) Designations for Non-Petroleum Based Contamination**

The non-petroleum based contamination protocol has been developed to address potential contamination from all other hazardous materials sources. The procedures in the non-petroleum based protocol are the same as the petroleum based protocol with the exception of the parameters for which the soil and ground water should be tested. These parameters will vary from site to site depending upon the type of non-petroleum contamination expected to be encountered.

In general the following steps will be required for non-petroleum (E) designated sites:

- The owner of the property 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 the NYCDEP for review and approval prior to implementation. It will be reviewed to insure 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. These protocols are based on the following three types of releases to soil and ground water that may occur: release of a solid hazardous material to the ground surface; 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 will define the areas of soil to be sampled (surface, near-surface or subsurface) and determine the need for ground water sampling.
- Upon receipt of written approval from the NYCDEP of the scope of work, the sampling program will be implemented. No site investigation work will be initiated without a Site Health and Safety Plan also approved by the NYCDEP.
- Once the site investigation is complete, a report fully documenting the procedures and findings of the report will be submitted to the NYCDEP for review and approval. If remediation is deemed necessary by the NYCDEP, the site owner will be required to develop a remediation plan and subsequently implement the plan to

the satisfaction of the NYCDEP.

To avoid any potential impacts associated with emissions, as part of the proposed action, the following (E) designation for air quality will be placed on the following properties:

Block 819, Lots 14, 15 and 66

Block 822, Lot 45

Block 823, Lot 31

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

**Any new development on the above referenced property must use natural gas as the type of fuel for the HVAC systems.**

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

To avoid any potential impacts associated with noise, as part of the proposed action, the following (E) designation for noise will be placed on the following properties:

Block 818, Lot 56

Block 819, Lots 6, 14, 15, 26, 32, 59 and 66

Block 821, Lots 24 and 58

Block 822, Lots 45 and 51 and the eastern p/o Lot 19

Block 823, Lots 16, 17, 31 and 64

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 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.**

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

The proposed action also includes a Restrictive Declaration in connection with the special permit for the proposed public parking garage at 7-13 West 21<sup>st</sup> Street (Block 823, Lot 31). The Restrictive Declaration would ensure that significant adverse impacts related to hazardous materials would not occur in connection with the redevelopment of the site.

With implementation of the above referenced NYCDEP-approved Restrictive Declaration, the proposed action would not result in significant adverse impacts related to hazardous materials on Block 823, Lot 31.

**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 17, 2004, prepared in connection with the ULURP Applications (040331 ZMM, 040332 ZRM, 040333 ZSM and 040334 ZSM). The City Planning Commission has determined that the proposed action will have no significant effect on the quality of the environment.

**Supporting Statement:**

- 1) Based on the Phase I Environmental Site Assessment (ESA) prepared by Fleming-Lee Shue, Inc. in June 2003, for Block 823, Lot 3, it has been determined that the proposed action has the potential to result in significant adverse impacts related to hazardous materials due to the presence of a gas station on the site between 1974 and 1991 and potentially contaminated fill material. To preclude the potential for significant adverse impacts on Block 823, Lot 31, Richard Chapman and Associates has agreed to enter into a Restrictive Declaration, including a Health and Safety Plan, approved by the NYCDEP on March 16, 2004. The applicant agrees, via the Restrictive Declaration, to identify the existence of any potential hazardous materials impact and mitigate any such impact found in connection with the development of the subject property. The applicant agrees to submit a hazardous materials Sampling Protocol, including a Health and Safety Plan, which shall be submitted for the approval of the NYCDEP, to test for and identify any potential hazardous materials impacts, pursuant to the approved Sampling Protocol. If an impact is found, the applicant is required to submit a hazardous materials Remediation Plan, including a Health and Safety Plan, to the NYCDEP for their approval and will provide for the mitigation of such an impact. The applicant has agreed to implement the Sampling Protocol and all hazardous material remediation

required by the Remediation Plan, to the satisfaction of the NYCDEP.

- 2) The proposed action would not result in significant adverse impacts to the Ladies' Mile Historic District.
- 3) No 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 Patrick Blanchfield at (212) 720-3346.

Robert Dobruskin

Date: 3/19/04

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

A.M. Burden

Date: 3/22/04

Amanda M. Burden, AICP, Chair  
City Planning Commission