



DEPARTMENT OF CITY PLANNING
CITY OF NEW YORK

OFFICE OF THE CHAIR

CONDITIONAL NEGATIVE DECLARATION

Project Identification

CEQR No. 07DCP043M
ULURP No. 070289 ZMM, 070290 ZSM
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:

534 West 49th Street

The proposal involves an application by Real Estate Industrials, Inc., for multiple actions (explained in further detail below) consisting of 1) a zoning map amendment from M1-5 to R8/C2-5, 2) a text amendment to modify the rezoning area's floor area, height, and modified lot coverage regulations to be in character with the surrounding neighborhood, and 3) a special permit for an 88-space parking garage (57 public and 31 accessory spaces) in the applicant's proposed development. The rezoning area is comprised of lots located on the block bounded by West 49th Street to the north, 10th Avenue to the east, 48th Street to the south, and 11th Avenue to the east (specifically Block 1077, Lots 8-10, 12, p/o 29, 43, 55, 56 and 57) in the Hell's Kitchen neighborhood of Manhattan, Community District 4. The applicant's development site ("project site") is located at 534 W. 49th Street (Lots 8-10, 55, 56).

The proposed actions would facilitate a proposal by the applicant to develop two new, seven-story residential buildings on the project site, which would contain a total of 127,496 gross square feet (gsf) of residential floor area (up to 148 market-rate dwelling units) and 17,667 square feet of public and accessory parking in a shared basement. The larger of the two buildings, at 7 stories, containing 66,831 square feet, would be located along the south side of West 49th Street; the smaller building, also 7 stories in height, would contain 60,042 square feet of floor area, would be located along the north side of West 48th Street. The proposed parking garage would contain a minimum of 31 accessory parking spaces and up to 57 public parking spaces and would be accessed via one curb cut located on West 48th Street. The project site is currently occupied with a public parking garage, a parking lot and an automotive repair facility, which would be demolished. It is expected that the proposed development would be constructed and fully occupied by 2009.

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

Conditional Negative Declaration
534 West 49th Street
CEQR No. 07DCP043M

In addition, the proposed actions could facilitate the residential conversion of a Salvation Army dormitory located on Block 1077, Lot 12, within the rezoning area. The dormitory building could accommodate up to 50 dwelling units.

Specifically, the following actions are being sought in conjunction with the applicant's proposal:

- 1) A zoning map amendment to change an M1-5 zoning district (located within the Special Clinton District) to an R8/C2-5 zoning district;
- 2) A zoning text amendment establishing ZR Section 96-32 which would make the bulk requirements of the Preservation Area of the Special Clinton District applicable to the Other Areas of the Special Clinton District that are zoned R8 (specifically ZR 96-101 (Floor Area Regulations), Section 96-104 (Height Regulations), and Section 96-102 (Lot Coverage Regulations)); and
- 3) A special permit pursuant to Zoning Resolution (ZR) sections 74-52 and 13-562 to allow an 88-space parking garage, with 57 public and 31 accessory parking spaces.

The Special Clinton District is generally mapped west of Eighth Avenue between West 41st and West 48th streets. It was created to preserve and strengthen the residential character of the Clinton neighborhood (Hell's Kitchen) and ensure that the community is not adversely affected by new development. The underlying M1-5 zoning district allows commercial and manufacturing uses built to an FAR of 5. Residential uses are not allowed in M1-5 zoning districts. The proposed R8 zoning district allows residential uses built to a maximum FAR of 6.02. The proposed C2-5 commercial overlay district has an FAR of 2.0 when mapped within R8 districts.

The proposed text amendment would require that new residential developments in R8 districts in the Other Area of the Special Clinton District west of Tenth Avenue comply with certain bulk regulations of the Preservation Area of the Special Clinton District. The proposed text amendment would apply only to the rezoning area, which would be the only area zoned R8 within the Other Areas of the Special Clinton District. The regulations that would be modified by the text amendment are Sections 96-101 (Floor Area regulations), 96-104 (Height regulations) and 96-103 (Lot coverage regulations). The maximum FAR would be limited to 4.2, the maximum building height to 66 feet or seven stories, whichever is less, and the maximum lot coverage to 60 percent, or 70 percent on lots in the Other Area more than 100 feet from a wide street. These regulations would ensure that future development better matches the context of the existing built character found on midblocks in West Clinton.

The proposed rezoning includes (E) designations for noise and air quality on the project site (Block 1077, Lots 8-10, 55, 56) and (E) designations for noise, air quality, and hazardous materials on the Salvation Army property (Block 1077, Lot 12), 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

Conditional Negative Declaration
534 West 49th Street
CEQR No. 07DCP043M

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 1077, Lots 8-10, 12, 55, 56. 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 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 1077, Lot 12. 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.

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 1077, Lots 8-10, 12, 55 and 56. 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 stack(s) are located at least 56 feet for 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 October 11, 2007, prepared in connection with the ULURP Applications (Nos. 070289ZMM, 070290ZSM). The City Planning Commission has

Conditional Negative Declaration
534 West 49th Street
CEQR No. 07DCP043M

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 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.

Supporting Statement:

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

1. A Phase I Environmental Site Assessment (ESA) was prepared for the project site. The Phase I ESA was reviewed by DEP's Office of Environmental Planning and Assessment, and pursuant to a letter dated October 2, 2007, subsurface investigation of soil and groundwater was recommended by DEP due to the potential presence of hazardous materials on the site as a result of past adjacent land uses. As such, the applicant has entered into a restrictive declaration to ensure 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). The restrictive declaration was executed on October 3, 2007 and submitted for recording on October 4, 2007. Pursuant to a letter from the DEP dated October 5, 2007, the DEP is in receipt of a signed copy of a DEP-approved restrictive declaration with proof of recording for the site. Consequently, no significant adverse impacts related to hazardous materials will 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.

Conditional Negative Declaration
534 West 49th Street
CEQR No. 07DCP043M

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.



Signature of Authorized Representative

Date: 10/10/07

Kenneth David Burrows
Name of the applicant or Authorized Representative (Print)

Date: _____

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

Date: 10/12/07

A.M. Burden
Amanda M. Burden, AICP, Chair
City Planning Commission

Date: 2/11/08