



DEPARTMENT OF CITY PLANNING
CITY OF NEW YORK

OFFICE OF THE CHAIR

CONDITIONAL NEGATIVE DECLARATION

Project Identification

CEQR No. 04DCP013Q
ULURP No. 030223 ZMQ
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

134-03 35th Street (aka New Millenium/Prince Street)

The applicant, C & G Empire Realty LLC, is proposing a zoning map amendment on a portion of Block 4949 (Lots 31, 46, and 8900) from a M1-1 zoning district to a R6 zoning district with a C2-2 commercial overlay. The subject area is located in the Downtown Flushing neighborhood in Queens Community District 7 north of Northern Boulevard and east of College Point Boulevard. The proposed rezoning area is on the north side 35th Avenue between Prince and Farrington Streets. The proposed action would serve to extend an adjacent R6/C2-2 zoning district that exist along the south side of 35th Avenue to include the proposed rezoning area.

The proposed action would facilitate a proposal by the applicant to redevelop a 43,146 square-foot property located at 134-03 35th Street (Block 4949, Lot 46) that is currently developed with a two-story, approximately 30,438 square-foot structure occupied by a wholesale appliance and plumbing supply company, accessory office space, and three retail stores. The applicant intends to redevelop the site as a 11-story mixed use building with a total floor area of 125,570 square feet (2.91 FAR) that contains 100 residential dwelling units (87,780 square feet), 17,640 square feet of commercial space, and community facility space of 20,150 square feet that includes a community center (14,000 square feet). The proposed project would also provide 189 subsurface and surface parking spaces with access from 35th Street for the residential subsurface parking garage (170 spaces) and from Prince Street for the non-residential surface parking area (19 spaces). To ensure a conservative analysis, the environmental review considers a projected development on the same site with 100 dwelling units, 17,640 square feet of commercial space, and 48,014 square feet of community facility space for a total floor area of approximately 153,434 square feet (3.56 FAR).

In addition, the proposed action could facilitate development on a second site, not owned by the applicant, located at 134-37 35th Street (Block 4949, Lot 31) and currently developed with a one-story, approximately 36,960 square-foot former warehouse occupied by a restaurant,

nightclub, and accessory offices. Under the proposed action, the site could potentially be redeveloped as a 11-story mixed-use building of approximately 172,480 square feet (4.10 FAR) containing approximately 110 residential dwelling units (96,480 square feet), approximately 38,000 square feet of ground floor retail and commercial office space, approximately 38,000 square feet of second floor community facility medical office space, and approximately 344 accessory garage parking spaces in the building's cellar and sub-cellar levels.

Lot 8900, located north of and adjacent to Lot 31, would not be developed in the future as it would continue to serve as a right-of-way providing access to the adjacent lots 31 and 46. It was assumed for the purpose of this environmental review that the development rights pertaining to lot 8900 would be transferred to lot 31 as illustrated above. The analysis year for the proposed action is 2011.

As noted above, the rezoning area is presently zoned as a M1-1 district that permits light industrial uses at a maximum floor area ratio (FAR) of 1.0. The proposed action would rezone the area to a residential R6 zoning district with C2-2 commercial overlay that would permit mixed use buildings at a maximum FAR of 4.80. Building heights for R6 zoning districts are governed by the sky exposure plane. However, as this location is along the flight path for the LaGuardia Airport, buildings would be limited to no more than 115 feet in height. Also in R6 districts, parking is required at a rate of seven spaces for every ten dwelling units and open space has to be provided at a ratio between 27.5 to 37.5 percent.

The surrounding area is presently zoned M1-1 or M2-1 to the north and west of the proposed rezoning area. To the south beyond the adjacent R6/C2-2 district and south of Northern Boulevard are C4-3 and C4-2 districts. And to the east is a residential R6 district. At the current time, the properties adjacent to the proposed rezoning area to the north include a three-story walk up apartment building and a recently constructed three-story building containing two commercial uses (office and storage). Further to the north and west are one- and two-story warehouses, auto repair garages, and several small one- and two-story office and commercial buildings. It also includes several residential buildings including several three-story apartment buildings, two-story residences and row houses, and an eight-story condominium building. The area to the south of the site is predominantly developed with residential uses including two- and three-story residential and mixed-use buildings (ground floor retail space) and a four-story apartment building directly across 35th Avenue from the site. The area also includes several one- and two-story commercial buildings, a church and day care center, and a few one- and two-story warehouses. Four-story apartment buildings are located directly across the street from the proposed rezoning area to the east, as is the seven-story Flushing International Hotel and several retail stores along 35th Avenue.

To avoid any potential significant adverse impacts, an (E) designation (E-246) would be mapped as part of the proposed rezoning. The applicant's site (Block 4949, Lot 46) would receive an (E) designation for air quality and noise. The non-applicant site (Block 4949, Lot 31) would receive an (E) designation for hazardous materials, air quality and noise. In addition the lot that is presently serving as a right-of-way (Block 4949, Lot 8900) would receive an (E) designation for hazardous materials.

Development of a site with an (E) designation for hazardous materials would require that a Phase I Environmental Site Assessment in accordance with the American Society of Testing Materials

(ASTM) E1527-05 be conducted, and if necessary, a sampling and remediation protocol be developed and implemented to the satisfaction of New York City Department of Environmental Protection (DEP) prior to issuance of a building permit (pursuant to Section 11-15 of the City's Zoning Resolution). Such designation would eliminate the potential for significant adverse impacts from hazardous materials due to implementation of the proposed project.

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

Block 4949, Lots 31 and 8900

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.

The (E) designation for air quality would preclude the potential for significant adverse air quality impacts related to heating and hot water systems (HVAC) emissions. The text of the (E) designation for air quality for the properties identified below is as follows:

Block 4949, Lot 31

Any new residential and/or commercial development on the above-referenced property must use natural gas for HVAC systems or, if fuel oil No.4/2 is used, ensure that the heating, ventilating and air conditioning stack(s) are located at least 37 feet from the lot lines facing Prince Street and 35th Avenue, to avoid any potential significant adverse air quality impacts.

Block 4949, Lot 46

Any new residential and/or commercial development on the above-referenced property must use natural gas exclusively as the type of fuel for HVAC systems, to avoid any potential significant adverse air quality impacts.

The (E) designation for noise would preclude the potential for significant adverse impacts related to high levels of ambient noise associated with traffic along 35th Avenue. The text of the (E) designation for certain noise attenuation requirements for the properties identified below is as follows:

Block 4949, Lots 31 and 46

In order to ensure an acceptable interior noise environment, future residential/community facility/commercial uses must provide a closed window condition with a minimum of 30 dBA window/wall attenuation in order to maintain an interior noise level of 45 dBA. 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.

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 January 21, 2009, prepared in connection with the ULURP Application (No. 030223 ZMQ). The City Planning Commission has determined that the proposed actions will have no significant effect on the quality of the environment, once it is modified as follows:

1. The applicant agrees via a restrictive declaration to conduct a Phase II Environmental Site Assessment (Phase II) in accordance with the sampling protocol approved by New York City Department of Environmental Protection (DEP).

The applicant further agrees to perform any necessary remediation of the subject property if hazardous materials are found as the result of the Phase II. The applicant would prepare a Remedial Action Plan, including a sampling protocol and a health and safety plan, for DEP for approval. Remediation measures would be undertaken pursuant to the approved remediation plan.

The restrictive declaration also restricts the applicant from submitting any permit applications to the New York City Department of Buildings (DOB) that would allow for soil disturbance on the subject property until such time that DEP provides the necessary written notice to DOB.

2. The applicant agrees via a restrictive declaration to conduct archaeological identification, investigation and mitigation in accordance with the *CEQR Technical Manual* and New York City Landmarks Preservation Commission (LPC) Guidelines for Archaeological Work in New York City.

The restrictive declaration also restricts the applicant from submitting any permit applications to the DOB that would allow for soil disturbance on the subject property until such time that LPC provides the necessary written notice to DOB.

Supporting Statement:

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

1. Existing land and environmental records for the subject property were reviewed by DEP's Bureau of Environmental Planning and Assessment, and pursuant to a letter dated February 28, 2005, 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 and present on-site land uses. As such, the applicant has entered into a restrictive declaration which requires that a Phase II Environmental Site Assessment (Phase II) be conducted in accordance with the approved sampling protocol.

Further, if warranted by the Phase II, the applicant would conduct any necessary site remediation in accordance with a Remedial Action Plan reviewed and approved by DEP. The restrictive declaration 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 properly characterized prior to any site disturbance (i.e., site grading, excavation, demolition, or building construction). The restrictive declaration was prepared in a form acceptable to the DEP and the restrictive declaration was executed on July 3, 2006. Pursuant to a letter from the DEP dated September 14, 2006, the DEP is in receipt of a signed copy of a DEP-approved restrictive declaration with proof of recording for the site.

Furthermore, as stated in the letter of February 28, 2005, DEP stipulated that the applicant would be required to conduct a building hazardous material survey of lead-based paint, PCBs, and asbestos in areas where construction, demolition, and/or renovation would occur on the subject property.

Consequently, no significant adverse impacts related to hazardous materials will occur.

2. A previous application for the proposed development site requested a determination from LPC as to whether the subject site contains any historical, architectural, or archaeological significance. By letter dated December 31, 2002, LPC determined that the subject site may be archaeologically significant and that further testing would be required in order to determine if the site contains remains from Native American burials and occupation as well as from circa 1859 residential occupation. As such, the applicant has entered into a restrictive declaration which requires that prescribed archaeological work be conducted in accordance with in accordance with the *CEQR Technical Manual* and LPC Guidelines for Archaeological Work in New York City.

The restrictive declaration is binding upon the property's successors and assigns. The declaration serves as a mechanism to assure that archaeological testing be conducted and that any necessary mitigation measures be undertaken prior to any site disturbance (i.e., site grading, excavation, demolition, or building construction). The restrictive declaration was prepared in a form acceptable to the LPC and the restrictive declaration was executed on May 10, 2006 and recorded with the City's Department of Finance on August 30, 2006.

Consequently, no significant adverse impacts to archaeological resources will occur.

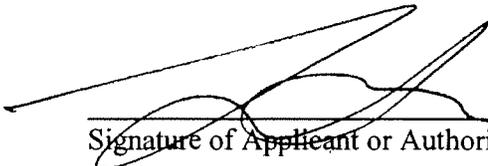
3. No other significant adverse effects on the environment which would require an Environmental Impact Statement are foreseeable.

It is fully agreed and understood that if the foregoing conditions, modification, and alterations are not fully incorporated into the proposed actions, 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.

134-03 35th Street (aka New Millenium/Prince Street)
CEQR No. 04DCP013Q

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 actions.



Signature of Applicant or Authorized Representative

Date: 1/25/10

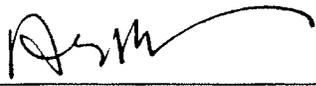
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Name of Applicant or Authorized Representative

Robert Dobruskin

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

Date: 11/22/10



Amanda M. Burden, FAICP, Chair
City Planning Commission

Date: 6/7/10