

E-242



DEPARTMENT OF CITY PLANNING
CITY OF NEW YORK

OFFICE OF THE CHAIR

CONDITIONAL NEGATIVE DECLARATION

Project Identification

CEQR No. 06DCP083Q
ULURP No. 060550 ZMQ
SEQRA Classification: Unlisted

Lead Agency

City Planning Commission
22 Reade Street
New York, NY 10007
Contact: Robert Dobruskin
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Name, Description and Location of Proposal

118-02 Queens Boulevard Rezoning

The applicant, Kew Point Associates LLC, is proposing a zoning map amendment on an entire block (Block 3347) from C4-2, C4-4, and R6 zoning districts to a C4-4D zoning district. The subject block is located in the Forest Hills neighborhood in Queens Community District 6 at the intersection of Queens Boulevard and Union Turnpike. The proposed rezoning area is bounded by Queens Boulevard, Union Turnpike, 78th Avenue, and Kew Forest Lane. The block consists of eight tax lots (Lots 24, 34, 35, 36, 37, 38, 54 and 7501).

The proposed action would facilitate development of two sites within the rezoning area. The first, owned by the applicant, located at 118-02 Queens Boulevard (Block 3347, Lot 24) would be rezoned from R6 and C4-2 districts to a C4-4D district. The subject site is currently developed with a one-story commercial building. The applicant intends to redevelop the site as a 12-story mixed-use building (101,795 gross square feet (sf) or 5.99 FAR) with approximately 89,420 sf of residential floor area (65 residential units); 12,370 sf of ground floor retail space; and, a two-level 9,300 sf 46-space accessory garage accessed by a ramp from 78th Avenue. To ensure a conservative analysis, the environmental review considers a development on the same site with 6.02 FAR (versus 5.99 FAR) and smaller dwelling units, resulting in 81 residential units (versus 65 units).

In addition, the proposed action could facilitate development on a second site, not owned by the applicant, located at 78-11 Kew Forest Lane (Block 3347, Lot 54) that would be rezoned from R6 and C4-4 districts to a C4-4D district. This site is currently developed with a four-story residential building with approximately 43,635 sf of built floor area. Under the proposed C4-4D zoning, the site could be redeveloped with a 12-story residential building with approximately 111,370 sf of residential floor area (110 residential units).

In summary, the two development sites could be redeveloped with a total of 191 residential units (or a net increase of 147 units), 12,370 sf of ground floor retail space, and an accessory garage with 46 parking spaces. The analysis year for the proposed actions is 2019.

The rezoning area is currently split between three zoning districts: C4-2, C4-4 and R6. C4-2 districts permit residential development at a floor area ratio (FAR) of 2.43 or, if developed under the Quality Housing Program, a residential FAR of 3.0 could be utilized. Community facility developments in C4-2 districts are allowed a maximum FAR of 4.8, and commercial developments are allowed a maximum FAR of 3.4. R6 districts allow the same residential and community facility maximums as C4-2 districts, however commercial uses are not allowed. C4-4 districts allow a maximum residential FAR of 3.44, a maximum commercial FAR of 3.4, and a maximum FAR of 6.5 for community facilities.

The proposed action would rezone the block to a single zoning district of C4-4D. This would allow for a maximum residential FAR of 6.02, a maximum commercial FAR of 3.4, and a maximum community facility FAR of 6.5. Under the proposed zoning, regulations governing maximum commercial FAR would remain the same, but would result in an increase in community facility maximums on properties currently zoned C4-2 and R6. The permitted density for residential development would increase on the entire block from 2.43 (or 3.0 under Quality Housing) and 3.44 to 6.02. The C4-4D district allows a maximum building height of 120 feet and requires setbacks of between 60 and 85 feet.

As noted above, the proposed rezoning area is located at the intersection of Queens Boulevard and Union Turnpike, two major thoroughfares characterized by a mix of commercial, community facility and residential uses with a range of low to high rise buildings. The applicant's property (Lot 24) is a corner lot of approximately 15,000 square feet with frontages along Queens Boulevard and 78th Avenue. It is presently zoned C4-2 and R6, and developed with a one-story commercial building. Remaining properties on the block consist of a four-story residential building fronting along Kew Forest Lane (Lot 54, presently zoned R6 and C4-4), an 11-story mixed use building fronting along Union Turnpike known as Boulevard Condominium Towers (zoned C4-4), and several two- and three-story mixed use buildings fronting along Queens Boulevard adjacent to the applicant's property (Lots 34, 35, 36, 37, and 38, zoned C4-2 and C4-4).

Nearby properties northeast of the rezoning area, across Queens Boulevard, are zoned C4-2 and R6, and developed with two office buildings with heights of six and sixteen stories and a six-story residential building. A 12-story office building is located southwest of the rezoning area across Union Turnpike in a C4-4 district. Properties south and west are zoned R6 and R2, and developed with low rise residential and community facility uses. Properties immediately northwest of the site in a C4-2 district along Queens Boulevard consist of one- and two-story commercial and mixed use buildings.

Under the proposed zoning, regulations governing maximum commercial FAR would remain the same, but would result in an increase in the maximum residential FAR across the full rezoning area and increase community facility maximums on properties currently zoned C4-2 and R6. The proposed action would facilitate the proposed mixed-used residential and commercial building on the applicant's property, allow the applicant to apply commercial uses to the entire site, and provide for future residential development elsewhere on the block at higher densities that are consistent with the existing built context along Queens Boulevard.

To avoid any potential significant adverse impacts, an (E) designation (E-242) would be mapped as part of the proposed rezoning. The applicant's site (Block 3347, Lot 24) would receive an (E) designation for air quality and noise. The non-applicant site (Block 3347, Lot 54) would receive an (E) designation for hazardous materials and air quality.

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 property identified below is as follows:

Block 3347, Lot 54

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 3347, Lot 24

Any new residential and/or commercial development on the above-referenced property must use natural gas as the type of fuel for HVAC systems and ensure that the heating, ventilating and air conditioning stack(s) are located at least 30 feet from the lot lines facing Kew Forest Lane to avoid any potential significant adverse air quality impacts.

Block 3347, Lot 54

Any new residential and/or commercial development on the above-referenced property must ensure that the heating, ventilating and air conditioning stack(s) are located at least 65 feet, 65 feet, and 30 feet for fuel oil no. 4, fuel oil no.2 and natural gas respectively as the type of fuel from the lot lines facing Queens Boulevard; and, at least 65 feet from the existing stack on Lot 7501 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 Queens Boulevard. The text of the (E) designation for certain noise attenuation requirements for the property identified below is as follows:

Block 3347, Lot 24

In order to ensure an acceptable interior noise environment, future residential/commercial uses must provide a closed window condition with a minimum of 30 dBA window/wall attenuation in all facades 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 or HUD-approved fans.

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 November 12, 2009, prepared in connection with the ULURP Application (No. 060550 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 submit a hazardous materials sampling protocol prepared by a qualified consultant and including a health and safety plan to the New York City Department of Environmental Protection (DEP) for their approval and sequentially

conduct a Phase II Environmental Site Assessment (Phase II) in accordance with the approved sampling protocol.

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.

Supporting Statement:

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

1. A Phase I Environmental Site Assessment (Phase I) was prepared in January 2006 for the proposed rezoning area. The Phase I was reviewed by DEP's Bureau of Environmental Planning and Assessment, and pursuant to a letter dated July 25, 2006, 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 hazardous materials sampling protocol and health and safety plan be submitted to DEP for their approval and sequentially conduct a Phase II Environmental Site Assessment (Phase II) 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 April 17, 2008. Pursuant to a letter from the DEP dated June 19, 2008, 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 July 25, 2006, 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. 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.

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: 11/12/09

Mark Levine

Name of Applicant or Authorized Representative



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

Date: 11/12/09



Amanda M. Burden, FAICP, Chair
City Planning Commission

Date: 3/24/10