



E-282

CITY PLANNING COMMISSION
CITY OF NEW YORK

OFFICE OF THE CHAIR

July 25, 2012

CONDITIONAL NEGATIVE DECLARATION

Project Identification

CEQR No. 10DCP001K
ULURP No. 100041ZMK & N100042ZRY
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

59 Walton Street Rezoning

The applicant, Walton Street Associates, is proposing zoning map and zoning text amendments to rezone an area bounded by Middleton Avenue to the north, Marcy Avenue to the west, Harrison Avenue/Union Avenue to the east, and Wallabout Street to the south in Brooklyn, Community District 1. The proposed actions would rezone Block 2241 from M1-2 to R6A, and Blocks 2245 and 2249 within the rezoning area from M3-1 to R7A with a C2-4 overlay along a portion of Marcy Avenue. The proposed actions include a zoning text amendment, modifying Appendix F of the NYC Zoning Resolution, to make the R7A district an "inclusionary housing designated area."

No development would be induced by the proposed actions on Blocks 2241 and 2249 to R6A and R7A, respectively. On Block 2245, the proposed actions would result in eleven buildings developed across eight lots. There would be two lots that would contain multiple buildings - three on Lot 8 and two on Lot 108.

The proposed actions would facilitate a proposal by the applicant to develop two eight-story residential buildings consisting of 68,256 total square feet, containing 69 dwelling units, of which 14 would be affordable (Block 2245, Lots 55 and 58). The proposed actions would also result in development of 9 additional buildings on non-applicant owned properties, comprised of 257 dwelling units (of which 51 would be affordable under the Inclusionary Housing program) and 23,625 square feet of local retail (Block 2245, Lots 1, 5, 8, 62, 108, and 154). In total, the proposed actions would result in 11 new buildings, all located on Block 2245, containing 326 dwelling units (of which 65 would be affordable under the Inclusionary Housing Program) and 23,625 square feet of local retail.

The eleven projected development sites are currently occupied by retail, warehousing, and automotive uses and are zoned M3-1, which permit Use Groups 6-14, and 16-18 at an FAR up to 2.0 FAR and certain commercial uses. The R7A district and Inclusionary Housing designated area

community facility uses with an FAR of 4.0. The maximum base and building height is 65 and 80 feet, respectively. After the base height, buildings must be setback 10 feet on wide streets and 15 feet on narrow streets. Parking is required for 50% of the total dwelling units. In addition, the proposed C2-4 commercial overlay along Marcy Avenue on Block 2245 would permit regional retail commercial uses to occupy the ground floor of a mixed use building.

Block 2241 and 2249 within the rezoning area contain mainly three to seven story non-conforming residential uses and a music production studio and are zoned M1-1 and M3-1, respectively.. No development sites are located on these blocks. M1-1 districts permit Use Groups 4-14, and 16-17, which include light manufacturing and industrial uses with a FAR of 1.0 and an FAR of 2.4 for community facility uses. As noted above, M3-1 districts permit Use Groups 6-14, and 16-18, which include heavy manufacturing and industrial uses at an FAR up to 2.0 FAR and certain commercial uses. The proposed rezoning would establish an R6A district on Block 2241 and an R7A district on 2249, which would make the residential buildings conforming uses. R6A districts allow all housing types and have a maximum FAR of 3.00. The maximum base and building height is 60 and 70 feet, respectively. After the base height, the building must set back by at least 10 feet on a wide street and 15 feet on a narrow street before rising to its maximum height. Off-street parking is required for 50% of the total dwelling units

The language for the (E) designations is specified below. The restrictions are based on the building layout and tiers shown in Figure F-4. The (E) designations for Lot 8 and Lot 108 are based on the applicant's illustrative building design for these sites, as shown in Figure F-4, which indicates that 3 separate buildings would be constructed on Lot 8, and 2 separate buildings would be constructed on Lot 108. The (E) designations for Lots 8 and 108, below, account for multiple buildings on each lot. Any changes to the heights or configurations of the buildings or tiers may necessitate revisions to the (E) designations.

To avoid any potential significant adverse impacts, the applicant has entered into a Restrictive Declaration for hazardous materials for their properties at Block 2245, Lots 55 and 58. An (E) designation, (E-282), for hazardous materials, air quality and noise would also apply, as described below. The applicant's sites (Block 2245, Lots 55 and 58) would receive an (E) designation for air quality and noise. The non-applicant sites (Block 2245, Lots, 1, 5, 8, 62, 108, and 154) would receive an (E) designation for hazardous materials, air quality, and noise.

The (E) designation requirements related to hazardous materials would apply to the following non-applicant owned block and lots:

- Block 2245, Lot 1
- Block 2245, Lot 5
- Block 2245, Lot 8
- Block 2245, Lot 62
- Block 2245, Lot 108
- Block 2245, Lot 154

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

Task 1 – Sampling Protocol

The applicant must submit to the Mayor's Office of Environmental Remediation (OER) for review and approval, a Phase 1 of the site.

If site sampling is necessary, a soil and groundwater testing protocol including a description of methods and a site map with all sampling locations clearly and precisely represented must be submitted to OER. No sampling program should begin until written approval of a protocol is received from the OER. The number and location of sample sites should be selected to adequately characterize the site, the specific source of suspected contamination (i.e., petroleum based contamination or non-petroleum based contamination) and the remainder of the site's condition. The characterization should be complete enough to determine what remediation strategy (if any) is necessary after review of sampling data. Guidelines and criteria for selecting sampling locations and collecting samples are provided by the OER upon request.

Task 2 – Remediation Determination and Protocol

A written report with findings and a summary of the data must be submitted to the OER after completion of the testing phase and laboratory analysis for review and approval. After receiving such tests results, a determination will be made by the OER if the results indicate that remediation is necessary.

If the OER determines that no remediation is necessary, written notice shall be given by the OER.

If based on the test results, the OER concludes that remediation is required; a remediation plan must be prepared and submitted to the OER for review and approval. The applicant must complete such remediation when and as determined necessary by the OER. The applicant should then provide proper documentation, including an engineering certification, that the work has been satisfactorily completed.

An OER-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 the OER with the remediation plan 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 (E) designation for air quality would apply to the following properties:

Block 2245, Lot 1

Block 2245, Lot 5
Block 2245, Lot 8
Block 2245, Lot 55
Block 2245, Lot 58
Block 2245, Lot 62
Block 2245, Lot 108
Block 2245, Lot 154

The text for the (E) designations for air quality for the above properties is as follows:

Block 2245, Lot 1

Any new residential and/or commercial development on the above-referenced property must use natural gas as the type of fuel for space heating and hot water (HVAC) systems and ensure that the boiler stack(s) are located on a bulkhead that is at least 93 feet high and 23 feet, 2 inches from the lot line facing Marcy Avenue and 60 feet from the lot line facing Walton Street to avoid any potential significant adverse air quality impacts.

Block 2245, Lot 5

Any new residential and/or commercial development on the above-referenced property must use natural gas as the type of fuel for space heating and hot water (HVAC) systems and ensure that the boiler stack(s) are located on a bulkhead that is at least 103 feet high and at least 25 feet, 2 inches from the lot line facing Marcy Avenue and 22 feet 6 inches from the lot line facing Lorimer Street to avoid any potential significant adverse air quality impacts.

Block 2245, Lot 8

Any new residential and/or commercial development on the above-referenced property must use natural gas as the type of fuel for space heating and hot water (HVAC) systems and ensure that the boiler stack(s) are located on the highest tier bulkhead that is at least 103 feet high and at least 25 feet 6 inches from the lot line facing Lorimer Street to avoid any potential significant adverse air quality impacts.

Block 2245, Lot 55

Any new residential and/or commercial development on the above-referenced property must use natural gas as the type of fuel for space heating and hot water (HVAC) systems and ensure that the boiler stack(s) are located on a bulkhead that is at least 103 feet high and 22 feet, 6 inches from the lot line facing Walton Street and 31 feet 3 inches from the lot line facing Marcy Avenue to avoid any potential significant adverse air quality impacts.

Block 2245, Lot 58

Any new residential and/or commercial development on the above-referenced property must use natural gas as the type of fuel for space heating and hot water (HVAC) systems and ensure that the boiler stack(s) are located on a bulkhead that is at least 103 feet high and 22 feet, 6 inches from the lot line facing Walton Street and 31 feet 3 inches from the lot line facing Marcy Avenue to avoid any potential significant adverse air quality impacts.

Block 2245, Lot 62

Any new residential and/or commercial development on the above-referenced property must use natural gas as the type of fuel for space heating and hot water (HVAC) systems and ensure that the boiler stack(s) are located on a bulkhead that is at least 103 feet high and 22 feet, 6 inches from the lot line facing Walton Street and 31 feet 3 inches from the lot line facing Marcy Avenue to avoid any potential significant adverse air quality impacts.

Block 2245, Lot 108

Any new residential and/or commercial development on the above-referenced property must use natural gas as the type of fuel for space heating and hot water (HVAC) systems and ensure that the boiler stack(s) are located on the highest tier bulkhead that is at least 103 feet high and 22 feet, 6 inches from the lot line facing Lorimer Street to avoid any potential significant adverse air quality impacts.

Block 2245, Lot 154

Any new residential and/or commercial development on the above-referenced property must use natural gas as the type of fuel for space heating and hot water (HVAC) systems and ensure that the boiler stack(s) are located on a bulkhead that is at least 103 feet high and 72 feet 10 inches from the lot line facing Walton Street and 4 feet 5 inches from the lot line facing Marcy Avenue to avoid any potential significant adverse air quality impacts.

With the placement of the (E) designations on the above blocks and lots, no significant air quality impacts related to HVAC emissions would be expected as the result of the proposed action.

The (E) designation for noise would preclude the potential for significant adverse impacts related to high levels of ambient noise. The text of the (E) designation for certain noise attenuation requirements for the properties identified follows below.

The following properties require 28 dBA of noise attenuation in order to avoid the potential for significant adverse impacts related to noise:

- Block 2245, Lot 1
- Block 2245, Lot 5
- Block 2245, Lot 8
- Block 2245, Lot 62

The text for the (E) designation for noise for the above properties 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 28 dBA window-wall attenuation in all façades 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 not limited to, central air conditioning.

The following properties require 31 dBA of noise attenuation in order to avoid the potential for significant adverse impacts related to noise:

- Block 2245, Lot 55
- Block 2245, Lot 58
- Block 2245, Lot 108
- Block 2245, Lot 154

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 uses must provide a closed window condition with a minimum of 31 dBA window/wall attenuation on all façades 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.

With the attenuation measure specified above, the proposed action would not result in any significant adverse noise impacts, and would meet CEQR guidelines.

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 22, 2012, prepared in connection with the ULURP Application (Nos. 100041ZMK; N100042ZRY). The City Planning Commission has 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 a restrictive declaration to prepare a Phase II Environmental Assessment Statement (ESA), hazardous materials sampling protocol and 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 a hazardous material remediation plan including a health and safety plan 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 14, 2011 a Phase II Environmental Assessment Statement (ESA), hazardous materials sampling protocol and health and safety plan were

recommended due to the potential presence of hazardous materials on the site as a result of past on-site and/or surrounding area land uses. As such, the applicant has entered into a restrictive declaration to ensure that a detailed Phase II testing would occur, and hazardous materials sampling protocol including a health and safety plan would be prepared, 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 subsurface 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 November 7, 2011 and submitted for recording on January 24, 2012. Pursuant to a letter from DEP dated March 22, 2012, 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.

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 action.



Signature of Applicant or Authorized Representative

Date: 3/19/12

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Name of Applicant or Authorized Representative



Celeste Evans, Deputy Director
Environmental Assessment & Review Division
Department of City Planning

Date: 3/23/12



Amanda M. Burden, FAICP, Chair
City Planning Commission

Date: 7/25/12