



E-202

DEPARTMENT OF CITY PLANNING
CITY OF NEW YORK

OFFICE OF THE CHAIR

CONDITIONAL NEGATIVE DECLARATION

Project Identification

CEQR No. 06DCP095K

ULURP No. 060477 ZMK

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

45 Summit Street

The applicant, LLJ Realty Corporation, is proposing a zoning map amendment to rezone the mid-block area of the block bounded by Summit Street to the south, Columbia Street to the east, Carroll Street to the north and Van Brunt Street to the west (Block 352, portions of Lot 20, Lots 21, 22, 23, 24, 48, 49, 50, 51, 52 & 53) from M1-1 to R6 in the Carroll Gardens neighborhood of Brooklyn Community District 6. The rezoning would extend an existing R6 zone, located to the east of the rezoning area. The proposed rezoning area covers an approximately 39,500 square foot area containing a mix of commercial, residential, and industrial/warehouse buildings. The site owned by the applicant (Block 352, Lot 53) is currently developed with a former warehouse operating as a film set design operation and with a plant and tree nursery.

The proposed action would facilitate a proposal by the applicant to develop a four-story, 32,885 square-foot apartment building with 39 dwelling units on the property located at 45 Summit Street (Block 352, Lot 53). In addition, four other sites (Block 352, Lots 20, 21, 48, 49, 50, 51 and 52) are projected as a result of the proposed rezoning action, resulting in 36 dwelling units.

To avoid the potential impacts associated with hazardous materials, as part of the proposed rezoning, an (E) designation for hazardous materials will be placed on Block 352, Lots 20, 21, 48, 49, 50, 51 & 52. The text of the (E) designation for hazardous materials is as follows:

Task 1-Sampling Protocol

A. Petroleum

A soil, soil gas, and groundwater testing protocol (including a description of methods), and a site map with all sampling location represented clearly and precisely, must be submitted to the NYCDEP by the fee owner(s) of the lot which is restricted by this (E) designation, for review and approval.

A site map with the sampling locations clearly identified and a testing protocol with a description of methods, for soil, soil gas, and groundwater, must be submitted by the fee owner(s), of the lot which is restricted by the (E) designation, to the NYCDEP for review and approval.

B. Non-Petroleum

The fee owner(s) of the lot restricted by this (E) designation 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 NYCDEP 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. For all non-petroleum (E) designated sites, the three generic NYCDEP soil and ground-water sampling protocols should be followed.

A scope of work for any sampling and testing to be completed, which will determine the extent of on-site contamination and the required remediation, must be prepared by the fee owner(s) of the lot restricted by this (E) designation. The scope of work will include the following: site plans, sampling locations, and all other relevant supporting documentation. The scope of work must be submitted to the NYCDEP for review and confirmation that an adequate testing protocol (i.e., number of samples collected, appropriate parameters for laboratory analysis) has been prepared. The NYCDEP must approve the scope of work before it can be implemented.

For non-petroleum (E) designated sites, one of the three generic soil and groundwater sampling protocols prepared by the NYCDEP should be followed.

The protocols are based on three types of releases to soil and groundwater sampling protocols prepared by the NYCDEP should be followed.

45 Summit Street
CEQR No. 06DCP095K
Conditional Negative Declaration

The protocols are based on three types of releases to soil and groundwater, including: the release of a solid hazardous material to ground surface; the 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 defines the areas of soil to be sampled from surface, near-surface, to subsurface. Additionally, it determines the need for groundwater sampling.

A written approval of the sampling protocol must be received from the NYCDEP before commencement of sampling activities. Sample site quantity and location should be determined so as to adequately characterize the site, the source of contamination, and the condition of the remainder of the site. After review of the sampling data, the characterization should have been complete enough to adequately determine what remediation strategy (if any) is necessary. Upon request, NYCDEP will provide guidelines and criteria for choosing sampling sites and performing sampling.

Finally, a Health and Safety Plan must be devised and approved by the NYCDEP before the commencement on any on-site activities.

Task 2-Remediation Determination and Protocol

After sample collection and laboratory analysis have been completed on the soil and/or groundwater samples collected in Task 1, a summary of the data and findings in the form of a written report must be presented to the NYCDEP for review and approval. The NYCDEP will provide a determination as to whether remediation is necessary.

If it is determined that no remediation activities are necessary, a written notice will be released to that effect. However, if it is the NYCDEP's determination that remediation is necessary the fee owner(s) of the lot restricted by the (E) designation must submit a proposed remediation plan to the NYCDEP for review and approval. Once approval has been obtained, and the work completed, the fee owner(s) of the lot restricted by the (E) designation must provide proof to the NYCDEP that the work has been completed satisfactorily.

To avoid any potential for impacts associated with air quality, as part of the proposed rezoning an (E) designation for air quality will be placed on Block 352, Lots 20, 21, 48, 49, 50, 51, 52 & 53. The text for the (E) designation is as follows:

Block 352, Lot 53

Any new residential and/or commercial development on the above-referenced property must ensure that the heating, ventilation and air conditioning stack(s) are located at 80 and 65 feet for Oil No. 4 and No. 2 from the lot line facing Columbia Street, or use natural gas as the type of fuel for space heating and hot water (HVAC) systems to avoid any potential significant adverse air quality impacts.

45 Summit Street
CEQR No. 06DCP095K
Conditional Negative Declaration

Block 352, Lots 48, 49, 50, 51 & 52

Any new residential and/or commercial development on the above-referenced property must ensure that the heating, ventilation and air conditioning stack(s) are located 65 feet for Oil No. 4 and No. 2 from the lot line facing Van Brunt Street, or use natural gas as the type of fuel for space heating and hot water (HVAC) systems to avoid any potential significant adverse air quality impacts.

Block 352, Lot 20

Any new residential and/or commercial development on the above-referenced property must ensure that the heating, ventilation and air conditioning stack(s) are located at least 30 feet for Oil No. 4 and No. 2 from the lot line facing Columbia Street, or use natural gas as the type of fuel for space heating and hot water (HVAC) systems to avoid any potential significant adverse air quality impacts.

Block 352, Lot 21

Any new residential and/or commercial development on the above-referenced property must ensure that the heating, ventilation and air conditioning stack(s) are located at least 30 feet for Oil No. 4 and No. 2 from the lot line facing Van Brunt Street, or use natural gas as the type of fuel for space heating and hot water (HVAC) systems to avoid any potential significant adverse air quality impacts.

To avoid any potential for impacts associated with noise, as part of the proposed rezoning an (E) designation for noise will be placed on Block 352, Lots 20, 21, 48, 49, 50, 51, 52 & 53. The text for the (E) designation for these properties is as follows:

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

The (E) designation will ensure that the proposed action would not result in significant adverse noise impacts.

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 April 26, 2007, prepared in connection with the ULURP Application (No. 060477 ZMK). 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, LLJ Realty Corp., agrees via a restrictive declaration to prepare a

45 Summit Street
CEQR No. 06DCP095K
Conditional Negative Declaration

hazardous materials Remedial Action Plan (RAP), including a health and safety plan, which would be submitted to the Department of Environmental Protection (DEP) for approval. Remediation measures would be undertaken pursuant to the remediation plan.

Supporting Statement:

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

1. A Phase I Environmental Site Assessment (ESA), prepared on May 13, 2004 and a Phase II report, available in the proposal's CEQR file, was prepared on April 27, 2006 for the project site. The Phase I ESA and Phase II report were reviewed by DEP's Office of Environmental Planning and Assessment, and a restrictive declaration was recommended by DEP, due to the presence of hazardous materials on the site as a result of past and present on-site land uses. The declaration requires the preparation of a Remedial Action Plan, including a sampling protocol and a health and safety plan for DEP's review and approval. 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 exists in the sub-surface soils and groundwater on the project site be remediated prior to any site disturbance (i.e., site grading, excavation, demolition, or building construction).
2. No other significant adverse effects on the environment which would require an Environmental Impact Statement are foreseeable.

With the implementation of the condition described above, no significant adverse impact related to hazardous materials would occur.

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.

Eric Nocera
Signature of Applicant or Authorized Representative

Date: 4/27/07

Eric Nocera
Name of Applicant or Authorized Representative

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

Date: 5/4/07

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

Date: 8/20/07