

E-260



CITY PLANNING COMMISSION
CITY OF NEW YORK

OFFICE OF THE CHAIR

CONDITIONAL NEGATIVE DECLARATION

Project Identification

CEQR No. 08DCP017K
ULURP No. 070579ZMK
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

Howard Avenue Rezoning

The applicant, S & H Glazer Bros, Inc., is seeking a Zoning Map amendment to change the zoning from a C8-2 zoning district to a R6/C2-4 district on the block bounded by Howard Avenue, Pitkin Avenue, Eastern Parkway, and Lincoln Place (Block 1475, Lots 35, 39, 40-41, 44-47, 49-51, 55-62, 64, 67-69, and 71-78) in the Ocean Hill neighborhood of Brooklyn, Community District 16.

The action would facilitate a proposal by the applicant to construct a five-story building containing 23,069 square feet of residential floor area for approximately 20 residential apartment units on the second through fifth floors of the building and 7,267 square feet of ground floor local retail space. The applicant for the proposed rezoning owns lots 55 through 62, referred to as Projected Development Site 1, currently containing 10,112 square feet of land, developed with eight-two story attached buildings with 10,105 square feet of retail and office space, 5,600 square feet of warehouse space, and one residential apartment unit. The remaining area of the property proposed to be rezoned is not under control by the applicant and consists of lots 35, 39, 40-41, 44-47, 49-51, 64, 67-69, and 71-78, and is developed with 40 dwelling units, local retail and office space, a auto repair and tire sales establishment, two churches and vacant buildings. Lots 39-45, 49, 69 and 76 are vacant and undeveloped. Lots 35, 49, 50, 64, 69, and 76, referred to as Potential Development Sites A through F, may experience development in the future with the proposed action. The remaining lots, including lots 39-45 which are HPD owned, are not likely to be developed.

Absent the proposed action the block would remain under its current zoning and the existing structures would not change. The proposed build year for this action is 2011.

To avoid any potential significant adverse impacts resulting from new development on identified projected and potential development sites, (E) designations for hazardous materials, air quality

and noise would be mapped as part of the proposal, as described below.

To preclude the potential for significant adverse hazardous materials impacts, an (E) designation would be mapped on the Brooklyn lots listed below.

Potential Development Sites A-F (Block 1475, Lots 35, 49, 50, 64, 69, & 76)

The text for the (E) designations 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.

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 obtain, 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 preclude the potential for significant adverse air quality impacts related to HVAC emissions, an (E) designation would be incorporated into the proposal. The text for the (E) designations is as follows:

Projected Development Site 1 (Block 1475, Lots 55, 56, 57, 58, 59, 60, 61, and 62)

Any new residential/commercial development on the above-referenced properties must use natural gas as the type of fuel for HVAC systems.

To preclude the potential for significant adverse impacts related to noise, an (E) designation would be incorporated into the proposal. The text for the (E) designations is as follows:

Potential Development Sites A through F (Block 1475, Lots 35, 49, 50, 64, 69, & 76)

In order to ensure an acceptable interior noise environment, future residential/commercial uses must provide a closed window condition with a minimum of 35 dB(A) window/wall attenuation on the eastern façade and 30 dB(A) window/wall attenuation on the northern, southern, and western 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.

With the placement of the (E) designation for noise, no impacts related to noise are expected and no further analysis is warranted.

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 10, 2010, prepared in connection with the ULURP Application (No. 070579ZMK). 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, S & H Glazer Bros, Inc., agrees via a restrictive declaration to prepare a hazardous materials sampling protocol including a health and safety plan, 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 protocol 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 plan.

Supporting Statement:

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

1. A Phase I Environmental Site Assessment (ESA) was prepared in June 2007 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 May 26, 2010 a Phase II Environmental Site Assessment (ESA), hazardous materials sampling protocol and health and safety plan were recommended due to the potential presence of hazardous materials on the site of past on-site and/or surrounding area land uses. As such, the applicant has entered into a restrictive declaration to ensure that 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 June 23, 2010 and submitted for recording on

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Conditional Negative Declaration

June 24, 2010. Pursuant to a letter from DEP dated July 2, 2010, 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. Additionally, the (E) designation for the Potential Development Sites would ensure that the proposed action would not result in significant adverse impacts due to hazardous materials.

2. The (E) designation for air quality would ensure that the proposed action would not result in significant adverse impacts due to air quality.
3. The (E) designation for noise would ensure that the proposed action would not result in significant adverse impacts due to noise.
4. 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: November 10, 2010

RICHARD LOBEL

Name of Applicant or Authorized Representative



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

Date: November 10, 2010



Amanda M. Burden, FAICP, Chair
City Planning Commission

Date: 3/16/11