CITY PLANNING COMMISSION
CITY OF NEW YORK

OFFICE OF THE CHAIR

CONDITIONAL NEGATIVE DECLARATION

July 25, 2018

Project Identification
CEQR No. 17DCP055R
ULURP No. 160401 ZMR
SEQRA Classification: Unlisted

Lead Agency
City Planning Commission
120 Broadway, 31st Floor
New York, NY 10271
Contact: Robert Dobruskin
(212) 720-3423

Name, Description and Location of Proposal:

5 Bement Avenue

The Applicant, Pelton Place LLC, is seeking a Zoning Map Amendment (the "Proposed Action") from R3-1 to R3-1/C2-2 on Block 150, Lot 1, 9, and part of 154 (the "Proposed Rezoning Area") located in the West Brighton neighborhood of Staten Island, Community District 1. The Proposed Action would extend an existing C2-2 commercial overlay district mapped on the south side of Richmond Terrace to the west of Bement Avenue. This would facilitate a proposal to develop a new 4,830 gross square feet (gsf) commercial retail building with 16 accessory off-street parking spaces on the Applicant's property at 5 Bement Avenue (Block 150, Lot 1, the "Project Site").

The Proposed Rezoning Area is zoned R3-1 and is located at the northern portion of Block 150, bounded by Richmond Terrace to the north, Bement Avenue to the west, and Elizabeth Avenue to the east. The Project Site measures 15,655 sf, of which 2,406 sf is mapped but not built as a street, and the lot is currently vacant. To the east of the Project Site is 45 Elizabeth Avenue (Block 150, Lot 9) and measures 10,608 sf, containing an approximately 1,700 gsf nonconforming vacant automotive service station. South of this site is 37 Elizabeth Avenue (Block 150, Lot 154) currently improved with a two-family 1,312 gsf residential building.

The Proposed Rezoning Area is currently zoned R3-1. R3-1 is the lowest density contextual residential district that allows for semi-detached and detached houses commonly found in Staten

Island. Pursuant to Zoning Resolution ("ZR") section 23-20, the maximum permitted floor area ratio ("FAR") is 0.5 in R3-1 districts, with an additional attic allowance of up to 20% for the inclusion of space beneath a pitched roof. The maximum building height is 35 feet, and one off-street parking space is required for each dwelling unit. The Proposed Rezoning Area is located within a Lower Density Growth Management Area ("LDGMA"), which places bulk, minimum off-street parking space, lot, yard, and open space requirements. The proposed C2-2 commercial overlay permits a range of commercial uses (Use Groups 1-9, 14) at a maximum FAR of 1.0 within R3 districts. In R3-1 districts mapped with a C2-2 commercial overlay, one parking space is required for every 300 square feet of retail space for commercial building with general retail or service uses.

The Project Site is partially in the bed of a mapped but unbuilt portion of Richmond Terrace. In 2012, the Board of Standards and Appeals ("BSA") under Calendar No. 122-11-A, approved a proposal by the Applicant to develop a one-story, 2,498 gsf single-family home at the Project Site in the bed of a mapped street pursuant to General City Law 35 ("Permits for building in bed of mapped streets"). The BSA-approved residential building would comply with underlying R3-1 residential zoning district regulations.

In the future absent the Proposed Action, the Applicant's site at 5 Bement Avenue would be developed pursuant to the 2012 BSA approval. 45 Elizabeth Avenue, not under the Applicant's control, is assumed to be redeveloped with a conforming residential use: two semi-detached residential buildings totaling 6,256 gsf containing 4 dwelling units with 4 accessory off-street parking spaces. 37 Elizabeth Avenue would remain in its existing condition.

In the future with the Proposed Action, the Applicant's site would be developed as per the Applicant's proposal: a 4,830 gsf (.30 FAR) one-story commercial retail building containing 16 parking spaces. While C2-2 commercial overlays permit a commercial FAR of 1.0, off-street parking requirements limit the developeable floor area to .30 FAR. The non-Applicant-controlled site at 45 Elizabeth Avenue is assumed to be developed with a one-story commercial retail building at 4,282 gsf (.40 FAR) containing 8 accessory off-street parking spaces. 37 Elizabeth Avenue would remain in its existing condition.

The analysis year for the Proposed Action is 2021.

To avoid the potential for significant adverse impacts related to hazardous materials and air quality, an (E) designation (E-441) has been incorporated into the proposed actions, as described below.

The (E) designation text related to air quality is as follows:

Block 150, Lot 1

Any new commercial development must ensure that the heating, ventilating, and air conditioning stack(s) is located at the building's highest level and at a minimum of 20 feet above grade, and at least 18 feet away from the lot line of Block 150, Lot 144 and at least 18 feet away from the lot line of Block 150, Lot 9, to avoid any significant air quality impacts.

Block 150, Lot 9

Any new commercial development must ensure that the heating, ventilating, and air conditioning stack(s) is located at the building's highest level and at a minimum of 20 feet above grade, and at least 20 feet away from the lot line of Block 150, Lot 154 and at least 20 feet away from the lot line of Block 150, Lot 1, to avoid any potential significant air quality impacts.

The (E) designation (E-441) text related to hazardous materials would apply to Block 150, Lot 1, and Block 150, Lot 9.

The (E) designation text related to hazardous materials is as follows:

Task 1

The applicant submits to OER, for review and approval, a Phase 1A of the site along with a soil and groundwater testing protocol, including a description of methods and a site map with all sampling locations clearly and precisely represented.

If site sampling is necessary, no sampling should begin until written approval of a protocol is received from 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 and 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 OER upon request.

Task 2

A written report with findings and a summary of the data must be submitted to OER after completion of the testing phase and laboratory analysis for review and approval. After receiving such results, a determination is made by OER if the results indicate that remediation is necessary. If OER determines that no remediation is necessary, written notice shall be given by OER.

If remediation is indicated from the test results, a proposed remediation plan must be submitted to OER for review and approval. The applicant must complete such remediation as determined necessary by OER. The applicant should then provide proper documentation that the work has been satisfactorily completed.

An OER-approved construction-related health and safety plan would be implemented during evacuation and construction and 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 OER for review and approval prior to implementation.

All demolition or rehabilitation would be conducted in accordance with applicable requirements for disturbance, handling and disposal of suspect lead-paint and asbestos-containing materials. For all projected and potential development sites where no E-designation is recommended, in addition to the requirements for lead-based paint and asbestos, requirements (including those of NYSDEC) should petroleum tanks and/or spills be identified and for off-site disposal of soil/fill would need to be followed.

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 13, 2018, prepared in connection with the ULURP Application (No. 160401 ZMR). 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 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 Department of Buildings ("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. The (E) designation for air quality, and hazardous materials would ensure that the proposed actions would not result in significant adverse impacts.

2. By letter dated June 2, 2015, LPC determined that the site may be archaeologically significant and that further testing would be required to determine if there are remains from the 18th and 19th century cemetary from the Kreuzer Family Burial Ground on the Project Site. As such, the applicant has entered a Restrictive Declaration which requires that prescribed archaeological work be conducted in accordance with 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 the 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 was executed on November 8, 2016 and recorded in the Office of the Richmond County Clerk on November 9, 2016 under Land Document Number 628204. Consequently, no significant adverse impacts to archaeological resources are expected.

3. No other significant 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 Axtion, 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 proceeduring 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: 3/17/18

HIRAM A. ROTHKRUG
Name of Applicant or Authorized Representative

Olga Abinader, Deputy Director
Environmental Assessment & Review Division
Department of City Planning

Date: March 23, 2018

Marisa Lago, Chair
City Planning Commission

Date: 7/25/18