CITY PLANNING COMMISSION
CITY OF NEW YORK

OFFICE OF THE CHAIR

NEGATIVE DECLARATION

November 27, 2017

Project Identification
CEQR No. 18DCP007X
ULURP Nos. 180088ZMX, N180089ZRX
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:

Willow Avenue Rezoning

The Applicant, Markland 745 LLC, seeks a Zoning Map Amendment pursuant to Zoning Resolution (ZR) Section 123-90 to designate Block 2562, Lots 41, 49, 56, 58, 60 and part of Lot 61 (the "Rezoning Area") from M1-2 and M1-2/R6A districts to M1-2/R6A and M1-2/R7D districts respectively. The Applicant also seeks a Zoning Text Amendment pursuant to Appendix F of the ZR to establish a Mandatory Inclusionary Housing (MIH) area coterminous with the Rezoning Area. These actions (collectively the "Proposed Actions") would facilitate a proposal by the Applicant to demolish three buildings currently occupying Block 2562, Lots 49, 56, 58, and 60 (the "Project Site") and construct an approximately 85 feet tall mixed use building, containing 100,477 gross square feet (gsf) of residential floor area (126 dwelling units, of which at least 25 percent would have to be affordable pursuant to MIH) and 15,125 of commercial floor area (the "Proposed Project") in the Port Morris neighborhood of Bronx Community District 1. The Proposed Project would also include 26 accessory parking spaces accessed via a new curb cut on East 134th Street.

The Proposed Actions would facilitate the introduction of residential uses to the Rezoning Area, where currently only manufacturing and commercial uses are permitted. As described below, a portion of the Rezoning Area is in an MX Special Mixed Use District and the remainder of the Rezoning Area is located immediately adjacent to the MX District. The MX-1 District was created in 2005 as part of the Port Morris/ Bruckner Boulevard Rezoning. The MX-1 District legalized a number of pre-existing nonconforming residential uses on Block 2562 and was designed to permit the location of residential, commercial and manufacturing uses in the same buildings. The eastern side of Block 2562 (located in the Rezoning Area) retained the M1-2 zoning district associated with the predominantly industrial parcels to the north, east, and south.

The Rezoning Area is currently mapped within an M1-2 district, with the exception of Lots 60 and 61. Lot 60 has a "split" zoning district condition, with a portion of the parcel located within both the M1-2 district and the M1-2/R6A (MX-1) district. Lot 61 is located wholly within the M1-2/R6A (MX) district. M1-2 districts allow for commercial and light industrial uses (Use Groups 5-14, 16, and 17) and limited community facility uses (Use Group 4 only). The Proposed Actions would designate Lot 41 from an M1-2 District to an M1-2/R6A (Special Mixed Use) District. M1-2/R6A (MX) districts allow for residential and community facility uses (Use Groups 1-4) as well as commercial and light-industrial uses (Use Groups 5-14, 16 and 17).

The Proposed Actions would also extend the M1-4/R7D (Special Mixed Use) District along Block 2565 Lots 49, 56, 58, 60 (and the portion of Lot 61). M1-4D/R7D districts allow a maximum FAR of 4.2 (up to 5.6 FAR with the MIH area bonus) for residential, community facility, ground floor commercial, and industrial uses (Use Groups 1-14, 16, and 17).

The Proposed Actions would also create an MIH area that is coterminous with the Rezoning Area. In MIH areas, 25 percent of residential floor area must be affordable for residents with incomes averaging 60 percent of Area Median Income (AMI) (Option 1) or 30 percent of the residential floor area must be affordable to residents with incomes averaging 80 percent of AMI (Option 2). The Applicant intends to seek construction financing from the New York City Department of Housing and Preservation Development (HPD) to facilitate the construction of a 100 percent affordable building. A coordinated environmental review has been completed for this purpose. However, if the Applicant does not obtain HPD construction financing, at least 25 percent of dwelling units on the Project Site would have to be affordable pursuant to MIH.

For the purposes of presenting a conservative analysis, the Reasonable Worst Case Development Scenario identifies two Projected Development Sites and projects development on those sites that maximize the height, bulk and FAR permissible in M1-2/R6A and M1-4/R7D zoning districts. Projected Development Site 1 (Block 2562 Lots 49, 56, 58, and 60) is controlled by the Applicant. In the future with the Proposed Actions, it is assumed Projected Development Site 1 would be developed with a 115 feet tall, 148,260 gsf mixed use building containing 112,723 gsf of residential space (132 dwelling units) and 14,680 gsf of ground floor commercial space. For the purposes of presenting a conservative childcare analysis, the With-Action scenario assumes that all dwelling units would be affordable. The building's cellar (20,647 gsf) would contain 34 non-accessory parking spaces, bicycle parking, and storage/utility facilities. Projected Development Site 2 (Block Lot 41) is not controlled by the Applicant. In the future with the Proposed Actions it is assumed that an approximately 85 foot tall, 85,500 gsf mixed use building containing 65,976 gsf of residential space (77 dwelling units, of which 15 would be affordable pursuant to MIH Option 1), 9,024 gsf of ground floor commercial space, and 10,500 gsf of cellar space would be developed on Lot 41. Because only 26% of the area of Lot 61 is in the Rezoning Area, the lot would continue to be governed by the underlying M1-2/R6A district. It is therefore not considered in this analysis.

The analysis year for the environmental review is 2020.

To avoid any potential impacts associated with hazardous materials and air quality, an (E) **designation** (E-454) would apply to Projected Development Site 1 (Block 2565, Lot 49, 56, 58, 60) and Projected Development Site 2 (Block 2562, Lot 41).

The text for the (E) designation related to hazardous materials applies to both Projected Development Sites and is as follows:

Task 1-Sampling Protocol

The applicant submits to OER, for review and approval, a Phase I of the site along with a soil, groundwater and soil vapor 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 samples should be selected to adequately characterize the site, specific sources 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-Remediation Determination and Protocol

A written report with findings and a summary of the data must he 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 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. A construction-related health and safety plan should be submitted to OER and would be implemented during excavation and construction activities to protect workers and the community from potentially significant adverse impacts associated with contaminated soil, groundwater and/or soil vapor. This plan would be submitted to OER prior to implementation.

The text for the (E) designation related to air quality for Projected Development Site 1 (Block 2562, Lot 49, 56, 58, 60) is as follows:

Any new residential or commercial development on the above-referenced property must ensure that the heating, ventilating, air conditioning (HVAC) and hot water systems stack be located at the highest tier, or at a minimum of 93 feet above grade, to avoid any potential significant adverse air quality impact.

The text for the (E) designation related to air quality for Projected Development Site 2 (Block 2562, Lot 41) is as follows:

> **Any new residential or commercial development on the above-referenced property must exclusively use natural gas as the type of fuel for heating, ventilating, air conditioning (HVAC) and hot water systems to avoid any potential significant adverse air quality impact. The stack shall be located at the highest tier, or at a minimum of 88 feet above grade, and at least 90 feet from the lot line facing Willow Avenue to avoid any potential significant adverse air quality impact.**

Supporting Statement:

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

1. The Proposed Actions would introduce new residential uses within an area traditionally permitting manufacturing and industrial uses, although residential, commercial, and light industrial uses are already present in the vicinity of the Project Site. While the Project Site contains office and warehouses uses, the Proposed Actions would facilitate development on the Projected Development Sites that reflects the mixed-use character of the surrounding area. The EAS finds that the Proposed Actions would not result in significant adverse impacts related to Land Use, Zoning, or Public Policy.

2. The EAS finds that the Proposed Actions would not result in significant adverse impacts related to Neighborhood Character. As discussed in the EAS, the Proposed Actions would not alter the character of the neighborhood, impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare. The Proposed Actions would not negatively affect the pedestrian experience along Willow Avenue, East 133rd Street, or East 134th Street, and would have no adverse effects on the vitality, walkability, or visual character of the area.

3. The Proposed Actions affect an area within the boundaries of the City's Waterfront Revitalization Program. An analysis was conducted (WRP Number: 16-095) that determined that the Proposed Actions comply with New York State's approved Coastal Management Program as expressed in New York City's approved Local Waterfront Revitalization Program.

4. The EAS finds that the Proposed Actions would not result in significant adverse impacts related to hazardous materials, due to the placement of an (E) designation (E-454) on both Projected Development Sites. The site reconnaissance, interviews and review of records (provided in a Phase I report) did not detect the presence of hazardous substances or petroleum-related products in, on, or at the Rezoning Area due to any release to the environment; under conditions indicative of a release to the environment; or under conditions that pose a material threat of a future release to the environment. The (E) designation will ensure that testing and mitigation will be provided as necessary before any

future development and/or soil disturbance on the property. The Applicant will be directed to coordinate further hazardous materials assessments through the Mayor's Office of Environmental Remediation.

5. The EAS finds that the Proposed Actions would not result in significant adverse impacts related to air quality. The (E) designation (E-454) would ensure that the Proposed Action would not result in significant adverse impacts from HVAC sources. A field survey and online searches identified 44 sites that could potentially require New York City Department of Environmental Protection (NYCDEP) operational permits for industrial emissions. Additionally, a detailed analysis using AERMOD modeling was conducted for two major sources near the Rezoning Area, the Harlem River Yards Power Plant, and the New York Post printing facility. Based on these analyses, no significant air quality impacts were predicted from either industrial or major sources.

6. To avoid any potential impacts associated with noise, in Special Mixed Use Districts the Zoning Resolution requires all new dwelling units be provided with a minimum 35dB(A) of window wall attenuation in order to maintain an interior noise level of 45dB(A) or less, with windows closed, as well as alternate means of ventilation. As such, that the Proposed Action would not result in a significant adverse impact related to noise.

7. No other significant effects on the environment which would require an Environmental Impact Statement are foreseeable.

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 26, 2017, prepared in connection with the ULURP Application (Nos. 180088ZMX and N180089ZRX). The City Planning Commission has determined that the Proposed Actions will have no significant effect on the quality of the environment.

This Negative Declaration has been prepared in accordance with Article 8 of the Environmental Conservation Law 6NYCRR part 617.

If you have any questions pertaining to this Negative Declaration, you may contact William Pugliese of the Department of City Planning at (212) 720-3334

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

Date: November 22, 2017

Kenneth J. Knuckles, Vice Chair
City Planning Commission

Date: November 27, 2017