December 14, 2015

CITY PLANNING COMMISSION
CITY OF NEW YORK

OFFICE OF THE CHAIRMAN

NEGATIVE DECLARATION

Project Identification
CEQR No. 15DCP067X
ULURP Nos. 160064ZMX
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:

3276 Jerome Avenue

The Applicant and owner, Mosholu Petro Realty, LLC, is seeking a zoning map amendment to rezone a portion of a block (Block 3323, Lot 82, p/o Lots 55 and 22, the "proposed rezoning area"), from R8 to C8-2. The proposed action would facilitate a proposal by the Applicant to bring an existing 4,885 gross square foot (gsf) illegal Use Group (UG) 6 commercial drive-through, located at the project site (Lot 82 and p/o Lot 55), into conformance with zoning regulations. The affected area is located at 3276 Jerome Avenue within the Bedford Park neighborhood in the Bronx, Community District 7. A portion of the affected area is located within the Residential Preservation Area Subdistrict of the Special Grand Concourse Preservation District.

The project site (Lot 82 and p/o Lot 55) is currently zoned R8 and contains a drive-through and refuse area accessory to an existing retail store on a remaining portion of Lot 55. The remainder of Lot 55 adjacent to the project site, and also owned by the Applicant, is zoned C8-2. It contains a 3,585 gsf mixed-use building with a conforming UG 16B gasoline service station, originally developed pursuant to a BSA variance granted in 1952, and a UG 6 retail store (a fast food establishment). The proposed rezoning area also includes a 495 square foot portion of Lot 22, which is occupied by a 6-story, 105,000 gsf mixed-use building with ground floor retail uses and residential uses (81 dwelling units) on the upper floors.

The existing R8 zoning district allows residential uses up to an FAR of 6.02 and community facility uses up to an FAR of 6.5. Commercial uses, including accessory commercial uses, are not permitted in R8 districts. C8-2 districts allow automotive retail and other retail uses at an FAR of 2.0. In 2013, the New York City Department of Buildings (DOB) issued violations for the drive-through uses accessory to the UG 6 convenience retail store on the project site. In order to address the DOB violations, the applicant proposes to merge Lots 55 and 82 to form one zoning lot and to rezone the project site from R8 to C8-2 through the subject application.

The proposed action would also result in the rezoning of a portion of Lot 22 from C8-2 to R8, resulting in a "split lot" condition. The proposed C8-2 district boundary would be mapped to a

distance of approximately 25 feet from the lot's north-eastern boundary. Pursuant to the New York City Zoning Resolution (ZR) Section 77-11, when a zoning lot existing on December 15, 1961 is divided by a boundary between districts in which different uses are permitted, the use regulations applicable to the district in which more than 50 percent of the lot area of a zoning lot is located may apply to the entire zoning lot, provided that the greatest distance from the mapped district boundary to any lot line of the zoning lot is less than 25 feet, in the district in which less than 50 percent of its area is located. The use regulations applicable to the R8 district, which would continue to cover more than 50 percent of the zoning lot area, would continue to apply to the entire zoning lot with the proposed rezoning. The proposed rezoning would thus not affect the existing residential building on Lot 22, the majority of which would remain zoned R8, per the proposed action.

Absent the proposed action, the existing fast food establishment would cease operations, as the accessory drive-through use would not be allowed, and the project site would become vacant. The gas station within the existing C8-2 district would remain.

The analysis year for the proposed action is 2016.

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 December 11, 2015, prepared in connection with the ULURP Application (160064ZMX). The City Planning Commission has determined that the proposed action will have no significant effect on the quality of the environment.

Supporting Statement

The above determination is based on an environmental assessment which finds that no significant effects on the environment which would require an Environmental Impact Statement are foreseeable.

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

Should you have any questions pertaining to this Negative Declaration, you may contact Annabelle Meunier at (212) 720-3426.

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

Date: December 11, 2015

Carl Weisbrod, Chairman
City Planning Commission

Date: December 14, 2015