NYC PLANNING

ENVIRONMENTAL ASSESSMENT AND REVIEW DIVISION

Marisa Lago, *Director*
Department of City Planning

Sunshine Elmhurst Real Estate LLC
c/o Richard Lobel, Esq.
Sheldon Lobel, P.C.
18 East 41st Street, 5th Floor
New York, New York 10017

Re:	**45-20 83rd Street Rezoning**
CEQR No.	21DCP113Q
ULURP No(s).	210041ZMQ & N210042ZRQ
SEQRA Classification:	Unlisted
Queens Community District:	QN04

Dear Richard Lobel,

Under City Environmental Quality Review, the lead agency is required to determine whether a proposed action may have a significant adverse impact on the environment. In accordance with this regulation, the City Planning Commission has determined that the proposed action would not have a significant adverse impact on the environment.

Enclosed is the Negative Declaration for CEQR No. 21DCP113Q, 45-20 83rd Street Rezoning, including supporting statements for the finding that the proposed actions would not have a significant adverse impact on the environment. The Negative Declaration was issued on July 26, 2021.

Sincerely,

Olga Abinader, *Director* — July 26, 2021 (Date)

cc: Project File
Marisa Lago, Chair
City Planning Commissioners
Raju Mann, Director, City Council Land Use Division
Donovan Richards Jr., Queens Borough President
Queens Community Board QN04

Olga Abinader, *Director,* (212) 720-3493 | oabinad@planning.nyc.gov
Stephanie Shellooe, AICP, *Deputy Director,* (212) 720-3328 | sshellooe@planning.nyc.gov
120 Broadway, 31st Floor, New York, N.Y. 10271 | Fax: (212) 720-3488

NEGATIVE DECLARATION

Statement of No Significant Effect

Pursuant to Executive Order 91 of 1977, as amended, and the Rules of Procedure for City Environmental Quality Review, found at Title 62, Chapter 5 of the Rules of the City of New York and 6 NYCRR, Part 617, State Environmental Quality Review, the Department of City Planning acting on behalf of the City Planning Commission assumed the role of lead agency for the environmental review of the proposed actions. Based on a review of information about the project contained in this environmental assessment statement (EAS) and any attachments hereto, which are incorporated by reference herein, the lead agency has determined that the proposed actions would not have a significant adverse impact on the environment.

Reasons Supporting this Determination

The above determination is based on information contained in this EAS, which finds the proposed actions sought before the City Planning Commission would not have a significant adverse impact on the environment. Reasons supporting this determination are noted below.

Land Use, Zoning, and Public Policy

A detailed analysis of land use, zoning, and public policy is included in the EAS. The applicant, Sunshine Elmhurst Real Estate LLC, is seeking a zoning map amendment and a zoning text amendment (the "Proposed Actions") of approximately 69,869 square feet (sf) comprising Block 1536, Lots 79, 80, 223, p/o 75, p/o 85, and p/o condo lots 1101-1242 (the "Affected Area") located in the Elmhurst neighborhood of Queens Community District (CD) 4. The zoning map amendment would rezone the Affected Area from an M1-1 zoning district to an R7A zoning district. The zoning text amendment would affect Zoning Resolution Appendix F by modifying Queens CD 4 Map with MIHA. The Proposed Actions would facilitate the development of 80-52 47th Avenue (Block 1536, former Lots 80 and 223 or reapportioned Lot 80) with a new 161,696 GSF 9-story residential building. The building will include 163 total dwelling units (DUs), at least 20% of which would be permanently set aside at or below 80% AMI. Seventy-two parking spaces would be provided at the cellar level in an enclosed garage. The Proposed Action would also bring the 67,286 GSF Use Group "UG" 3 charter school building to be developed on Block 1536, Lot 223 (45-20 83rd Street) into conformance as-of-right. The UG 3 school building was approved on June 29th, 2020 pursuant to a Special Permit application with the NYC Board of Standards and Appeals (BSA) under BSA Calendar Number 2019-18-BZ. The proposed residential building would effectively serve as an extension to the adjacent residential and institutional land use and the UG 3 charter school would serve the surrounding densely populated residential neighborhoods; therefore, the proposed development would be consistent with established and ongoing surrounding land use patterns, would not create conflicts with existing land uses, and would not alter the overall land use pattern in the area. The Proposed Actions will not result in development that is inconsistent with the established zoning patterns. As such, the proposed rezoning would not adversely impact established zoning patterns or jeopardize the intent of the Zoning Resolution. The proposed rezoning would not alter the essential character of the neighborhood or district or substantially impair the appropriate use or development of an adjacent property, nor would it be detrimental to the public welfare or jeopardize the intent of the Zoning Resolution. Overall, the proposed project would not result in significant adverse impacts to land use, zoning, or public policy.

Community Facilities and Services

A detailed analysis of public schools is included in the EAS. The Proposed Actions would introduce 163 DUs which is projected to generate 63 primary school students and 21 intermediate school students. In the Future With-Action Condition, the utilization rate for primary schools would be 120 percent, and the utilization rate for intermediate schools would be 105 percent. However, the Proposed Actions would result in only a 0.49 percent increase in utilization from the No-Action Condition for primary schools and a 0.73 percent increase in utilization from the No-Action Condition for intermediate schools. Therefore, the Proposed Actions would not result in significant adverse impacts related to primary or intermediate school utilization.

Open Space

A detailed analysis of public open space is included in the EAS. The Proposed Actions would not directly displace or alter any existing or planned open spaces. A quantitative analysis of the indirect effect on public open space found that compared to conditions in the future without the Proposed Actions, the With-Action conditions would result in an overall reduction of approximately 1.08 in the combined open space ratio (OSR) and 0.85 percent reduction in the residential OSR for both active and passive open space resources. Furthermore, the OSRs under No-Action conditions and With-Action conditions would be significantly lower than the target OSRs for the City. While the resulting OSRs would continue to be less than the City's guideline, those are not considered CEQR impact thresholds on their own. The reduction in the total OSR in the residential study area is further ameliorated by several factors, including the proposed rezoning area's proximity to additional open space resources not included in the quantitative open space analysis, and the current quality, condition, variety, and relatively low utilization of existing open space resources. Therefore, the Proposed Actions would not result in a significant adverse impact on open space.

Shadows

A detailed analysis related to shadows is included in this EAS. The analysis found that the southern portion of Moore Homestead Playground to the north of the Affected Area will be influenced by the potential shaded area induced by the proposed development. The playground is mostly paved with handball courts, volleyball courts, basketball courts, bike racks, ping-pong tables, and an adult gym. The southern portion of Moore Homestead Playground will be affected by the proposed development. However, it is anticipated that shadows cast from the proposed development would cover these resources only in the winter season, where the shadow could reach the playground for a two-hour period from 8:51 am to 10:51 am. These facilities typically have lower utilization during the winter season, and it is anticipated that the shadows cast from the Proposed Building would not significantly affect the utilization of the facilities. Additionally, shadows cast would not impact the growth of the vegetation within the park, as the winter season is not a growing season for vegetation. Further, the vegetation shaded by the proposed development can still get four hours of sunlight on those days, which is the minimum requirement for direct sunlight. All the sunlight-sensitive resources within the projected development's longest action-induced shadow area will either not be impacted or be impacted with limited timespan. Therefore, the Proposed Actions would not have the potential to cause a significant adverse impact related to shadows.

Transportation

A detailed analysis related to transportation is included in the EAS. Preliminary screening assessment of trip generation and assignments found detailed analysis was warranted for traffic, pedestrians, and public transit; specifically for four traffic intersections (two signalized and two unsignalized) and six pedestrian elements within the transportation study area plus eight subway station elements associated with the Elmhurst Avenue station and one bus line (Q53-SBS). The proposed development facilitated by the Proposed Actions would include a number of roadway and pedestrian improvements including several that were conditioned as part of the BSA special

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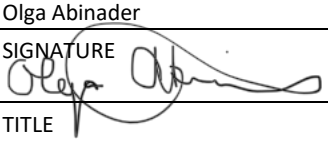
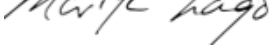
permit for the UG3 charter school. Furthermore, the applicant will be obligated to conduct post-opening transportation monitoring program (TMP) subject to NYC Department of Transportation (DOT) oversight and review for the purpose of observing traffic operations at key intersections to determine if the project improvements as described in the EAS should be implemented and/or refined. The roadway and pedestrian improvements plus the TMP will be ensured through a restrictive declaration imposed as part of the Proposed Actions. With the incorporation of the roadway and pedestrian improvements, the Proposed Actions would not have the potential to cause a significant adverse impact related to transportation.

Hazardous Materials, Air Quality, and Noise
An (E) designation (E-630) related to hazardous materials, air quality, and noise would be established as part of the approval of the Proposed Actions. Refer to "Determination of Significance Appendix: (E) designation" for the applicable (E) designation requirements. The hazardous materials, air quality, and noise analyses conclude that with the (E) designation in place, the proposed actions would not result in a significant adverse impact related to hazardous materials, air quality, or noise.

No other significant effects upon the environment that would require the preparation of a Draft Environmental Impact Statement are foreseeable. This Negative Declaration has been prepared in accordance with Article 8 of the New York State Environmental Conservation Law (SEQRA). Should you have any questions pertaining to this Negative Declaration, you may contact DIANE MCCARTHY at +1 212-720-3417.

TITLE	LEAD AGENCY
Director, Environmental Assessment and Review Division	Department of City Planning on behalf of the City Planning Commission 120 Broadway, 31st Fl. New York, NY 10271 | 212.720.3493
NAME Olga Abinader	DATE July 23, 2021
SIGNATURE 	
TITLE Chair, City Planning Commission	
NAME Marisa Lago	DATE July 26, 2021
SIGNATURE 	

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Determination of Significance Appendix

The Proposed Actions were determined to have the potential to result in changes to development on the following site(s):

Development Site	Borough	Block and Lot
Proposed Residential Building Site	Queens	Block 1536 / Lot 80
UG3 Charter School Site	Queens	Block 1536 / Lot 223

(E) Designation Requirements

To ensure that the proposed actions would not result in significant adverse impacts related to hazardous materials, air quality, and noise an (E) designation (**E-630**) would be established as part of approval of the proposed actions on the **Proposed Residential Building Site** and **UG3 Charter School Site** as described below:

Development Site	Hazardous Materials	Air Quality	Noise
Proposed Residential Building Site	X	X	
UG3 Charter School Site	X	X	X

Hazardous Materials

The (E) designation requirements applicable to **Proposed Residential Building Site** and **UG3 Charter School Site** for hazardous materials would apply 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.

Air Quality

The (E) designation requirements for air quality would apply as follows:

Block 1536, Lot 80 (Proposed Residential Building Site): *Any new residential development on Block 1536, Lot 80 must ensure HVAC stack(s) is located at the highest tier and at least 102 feet above grade, to avoid any significant adverse air quality impacts.*

Block 1536, Lot 223 (UG3 Charter School Site)*: The charter school development on Block 223 must be heated and cooled by electrically powered Variable Refrigerant Flow (VRF) and Energy Recovery Ventilation (ERV) HVAC systems to avoid any significant adverse air quality impacts.*

Noise

The (E) designation requirements for noise would apply as follows:

Block 1536, Lot 223 (UG3 Charter School Site)*: To ensure an acceptable interior noise environment, future community facility uses must provide a closed-window condition with a minimum of 28 dBA window/wall attenuation on all facades to maintain an interior noise level not greater than 45 dBA for community facility uses. 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, air conditioning. A ten-foot high acoustical sound barrier/absorption panel fence with a noise reduction coefficient rating (NRC) of 1.0 will be installed along the western portion of the School building's third-floor terrace.*