CITY PLANNING COMMISSION
CITY OF NEW YORK

OFFICE OF THE CHAIRMAN

NEGATIVE DECLARATION October 4, 2016

Project Identification
CEQR No. 16DCP121K
ULURP Nos. 160221ZMK, N160222ZRK
SEQRA Classification: Unlisted

Lead Agency
City Planning Commission
120 Broadway, 31st Floor
New York, NY 10271
Contact: Robert Dobruskin
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Name, Description and Location of Proposal:

376-378 Flushing Avenue, 43 Franklin Avenue (Rose Castle) Rezoning

The Applicant, Riverside Developers USA, Inc., is seeking a zoning map amendment affecting portions of two blocks (Block 1884, Lots 7501, 40, 48, and 53 and p/o Lot 57, and Block 1885, Lots 15 and 20, the "Affected Area") in the Bedford-Stuyvesant neighborhood of Brooklyn Community District 3. The zoning map amendment would rezone a portion of the Affected Area, bounded by Flushing Avenue to the north, Franklin Street to the east, Kent Avenue to the west, and Little Nassau Street to the South (Block 1884, Lots 7501, 40, 48, and 53 and p/o Lot 57), from an existing M1-2 district to a R7A/C2-4 district. The zoning map amendment would also rezone the area between Franklin Street and Silkman Street (Block 1885, Lots 15 and 20), from an M1-2 district to an M1-2/R6A mixed use (MX-4) district. In addition, the Applicant is seeking 1) a zoning text amendment to Zoning Resolution (ZR) Section 23-933 (Inclusionary Housing) Appendix F to establish a Mandatory Inclusionary Housing (MIH) area that is coterminous with the Affected Area and; 2) a zoning text amendment to ZR Section 123-63 (Special Mixed Use District) to modify the Special Mixed Use District (MX-4). The proposed zoning map and text amendments (collectively, the "Proposed Actions") would facilitate a proposal by the Applicant to construct two buildings on two applicant-owned development sites located within the Affected Area (376-378 Flushing Avenue on Block 1884, Lots 40 and 48, "Projected Development Site 1", and 43 Franklin Street on Block 1885 Lot 15, "Projected Development Site 2"). The two buildings are expected to contain approximately 294,707 gross square feet (gsf) of residential use including 296 dwelling units, of which 88 units would be affordable for households earning up to 80% of the Area Median Income (AMI), 8,808 gsf of commercial retail use, and 148 accessory below-grade parking spaces.

The Affected Area is currently zoned M1-2, a district that allows community facility uses (UG 4) up to a maximum FAR of 4.8, and commercial and manufacturing uses (UG 5-14, 16 and 17) up to a maximum FAR of 2.0. Residential uses are not permitted within an M1-2 district. Projected Development Site 1 is currently occupied with a 47,230 gsf Use Group (UG) 9 catering establishment (known as "Rose Castle", on Block 1884, Lot 48), and a 13,250 gsf UG 16 commercial vehicle storage (Block 1884, Lot 40). Projected Development Site 2 is occupied with a 35,250 square feet (sf) vacant lot (Block 1885, Lot 15). The

remaining lots within the Affected Area are developed with a variety of uses, including a legal non-complying and overbuilt UG 6 office building totaling 27,840 gsf (Block 1884, Lot 53), a legal non-conforming and non-complying UG 2 residential building totaling 32,250 gsf (Block 1884, Lot 7501), portions of a 20,075 gsf UG 16 wholesale establishment (Block 1884, Lot 57), and an accessory parking area covering 1,549 sf (Block 1885, Lot 20).

The proposed R7A/C2-4 district, which would cover a portion of Block 1884 (Lots 40 and 48 (Projected Development Site 1) and Lots 7501, 53, and p/o Lot 57), would allow a maximum allowable residential FAR of 4.6 (UG 1 and 2) under the proposed MIH area, and a maximum allowable commercial FAR of 2.0 (UG 5-9). The proposed M1-2/R6A mixed use (MX-4) district, which would cover a portion of Block 1885 (Lot 15 (Projected Development Site 2) and Lot 20), would allow a maximum residential FAR of 3.6 (UG 1 and 2) under the proposed MIH area, and a maximum commercial and manufacturing FAR of 2.0 (UG 5-14, 16 and 17).

Upon approval of the proposed R7A/C2-4 district, the existing buildings on Projected Development Site 1, including the catering establishment (Block 1884, Lot 48) and commercial vehicle storage building (Block 1884, Lot 40) would be demolished. The Applicant intends to develop Projected Development Site 1 with an eight-story, approximately 176,670 gross square foot (gsf) mixed use building consisting of 167,868 gsf of residential use for 168 dwelling units on the building's upper floors, 8,800 gsf of commercial use on the ground floor, and an 84-space below-grade accessory parking garage accessed from Franklin Avenue (via an approximately 20 foot curb cut).

On the non-applicant owned sites included within the proposed R7A/C2-4 district, the UG 2 residential building (Block 1884, Lot 7501) would be brought into compliance and conformance with the zoning resolution. The UG 6 office building (Block 1884, Lot 53), an overbuilt, a legal non-complying building, is expected to remain. Portions of the 20,075 gsf UG 16 wholesale establishment (Block 1884, Lot 57) would not be affected as most of its lot area would remain within an M1-2 district.

Upon approval of the proposed M1-2/R6A (MX-4) district, the Applicant intends to develop the currently vacant property on Projected Development Site 2 with an approximately 126,838 gsf, six-story residential building consisting of 128 dwelling units and a 64-space below-grade accessory parking garage accessed from Franklin Avenue (via an approximately 20 foot curb cut).

The accessory parking area covering 1,549 sf (Block 1885, Lot 20) on the non-applicant owned site included within the proposed M1-2/R6A district would be expected to remain.

With the proposed text amendment, three of the Mandatory Inclusionary Housing options would be mapped over the Affected Area. Under Option One, 25 percent of residential floor area would be affordable for residents with incomes averaging 60% AMI (of which 10% would be affordable at 40% AMI). Under Option Two, 30 percent of residential floor area would be affordable for residents with incomes averaging 80% AMI. The Workforce Option requires that 30 percent of residential floor area must be affordable for residents with incomes averaging 115% AMI (of which at least 5% of residential floor area would be affordable at 70% AMI and an additional 5% of residential floor area would be affordable at 90% AMI). In accordance with the MIH program, it is expected that 88 dwelling units (50 dwelling units from Development Site 1 and 38 dwelling units from Development Site 2) would be reserved for residents with incomes averaging 80% AMI.

The analysis year for the Proposed Actions is 2024. Absent the Proposed Actions, the Affected Area is expected to remain in its existing condition.

In connection with the Proposed Actions, an (E) designation (E-395) would be assigned to the two Projected Development Sites within the Rezoning Area (Block 1884, Lot 40, 48; Block 1885, Lot 15) to avoid potential significant adverse impacts related to hazardous materials, air quality and noise.

The (E) designation related to hazardous materials would apply to the following sites:

Block 1884, Lot 40, 48 (Propjected Development Site 1)
Block 1885, Lot 15 (Projected Development Site 2)

The (E) designation text related to hazardous materials 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.

With the assignment of the above-referenced (E) designation for hazardous materials, the Proposed Actions would not result in significant adverse impacts.

The (E) designation related to air quality would apply to the following properties:

Block 1884, Lot 40, 48 (Projected Development Site 1)
Block 1885, Lot 15 (Projected Development Site 2)

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

Block 1884, Lots 40 and 48 (Projected Development Site 1): Any new development or enlargement on the above-referenced property must use natural gas as the type of fuel for heating, ventilating, and air conditioning (HVAC). Adherence to these conditions would avoid any potential significant adverse air quality impacts.

Block 1885, Lot 15 (Projected Development Site 2): Any new development or enlargement on the above-referenced property must exclusively use natural gas as the type of fuel for HVAC systems, and ensure that the heating, ventilating and air conditioning stack(s) is located at least 40 feet away from the lotline facing Franklin Avenue, to avoid any potential significant air quality impacts.

With the assignment of the above-referenced (E) designation for air quality, the Proposed Actions would not result in significant adverse impacts.

The (E) designation related to noise would apply to the following properties:

Block 1884, Lot 40, 48 (Projected Development Site 1)

The text for the (E) designation related to noise is as follows:

Block 1884, Lots 40, 48 (Projected Development Site 1): To ensure an acceptable interior noise environment, future uses must provide a closed window condition with a minimum of 35 dBA window/wall attenuation on all façades to maintain an interior noise level of 45 dBA. 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.

With the assignment of the above-referenced (E) designation for noise, the Proposed Actions would not result in significant adverse impacts.

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 September 30, 2016, prepared in connection with the ULURP Application (Nos. 160221ZMK, N160222ZRK). 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:

1. The (E) designation for hazardous materials, air quality and noise would ensure that the Proposed Actions would not result in significant adverse impacts.

2. The environmental conditions of ZR Section 123-32 requiring a minimum 35dBA of window wall attenuation and alternate means of ventilation would ensure that the Proposed Actions would not result in significant adverse noise impacts on properties within the proposed M1-2/C2-4 (MX-4) district, including Projected Development Site 2.

3. 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 6NYCRR part 617 (SEQRA).

An Environmental Assessment Statement is attached. Please contact Christopher Lee of the Department of City Planning at (212) 720-3429, if you have any questions regarding the application.

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

Date: September 30, 2016

Carl Weisbrod, Chairman
City Planning Commission

Date: October 4, 2016