CITY PLANNING COMMISSION
CITY OF NEW YORK

OFFICE OF THE CHAIR September 29, 2014

NEGATIVE DECLARATION

Project Identification
CEQR No. 15DCP038K
ULURP No. 150076ZMK
SEQRA Classification: Unlisted

Lead Agency
City Planning Commission
22 Reade Street
New York, NY 10007
Contact: Olga Abinader
(212) 720-3493

Name, Description and Location of Proposal:

Hamilton's Patio
The applicant, Lula Enterprises, LLC, is seeking a zoning map amendment to map a C2-4 commercial overlay on portions of two city blocks currently zoned R5. The proposed action would facilitate a proposal by the applicant to apply for a Department of Consumer Affairs (DCA) permit for an unenclosed 45-seat sidewalk café adjacent to a restaurant owned by the applicant, "Hamilton's Patio" located on the ground floor of an existing three-story building located at 2826 Fort Hamilton Parkway ("the project site", Block 5318, Lot 1). The proposed C2-4 commercial overlay would also be mapped on a property located at 2902 Fort Hamilton Parkway (Block 5317, Lot 9), which is not under the applicant's control. The proposed rezoning area is located within the Special Ocean Parkway District in the Windsor Terrace neighborhood of Brooklyn, Community District 7.

Currently, the project site is developed with a 3-story 7,350 gross square foot (gsf) mixed-use residential and commercial building containing 8 residential dwelling units and 2,250 gsf of commercial space, which includes the 1,300 gsf Hamilton's Patio restaurant, a 350 gsf New York City Department of Sanitation (DSNY) storage space, a 350 gsf of contractor storage space and a 250 gsf artist studio space. The non-applicant owned site located at the southwest corner of Fort Hamilton Parkway and East 4th Street is developed with a 3-story 4,515 gsf mixed residential and commercial building containing 4 residential dwelling units and 1,505 gsf of commercial space which is occupied by Jaya Yoga East.

R5 zoning districts allow all housing types at a maximum floor area ratio (FAR) of 1.25. The maximum building height is 40 feet with a maximum perimeter wall height of 35 feet. Community facilities are permitted at maximum FAR of 2.0. Commercial uses are not allowed as-of-right in R5 zoning districts without a commercial overlay. C2-4 commercial overlay districts allow for a variety of commercial uses (Use Group 5–9 and 14), including restaurants (UG 6) with a maximum FAR of 1.0 when mapped in an R5 district.

Pursuant to the New York City Zoning Resolution, a non-conforming use is any use that no longer conforms to one or more of the use regulations of the current zoning district. The degree of non-conformance may not be increased. Since the two affected sites were built prior to the zoning of the current R5 zoning district, they are considered pre-existing legal non-conforming commercial uses, which, per the Zoning Resolution, may continue to operate, with limitations on improvements, expansion, rebuilding or other changes to the non-conforming property. Currently, the Applicant is prohibited from applying for a license from the Department of Consumer Affairs (DCA) for an unenclosed sidewalk café because this would increase the level of non-conformance under the existing R5 zoning district. As stated above, the proposed C2-4 commercial overlay allows Use Group 6 restaurants and would, therefore, allow the Applicant to apply for an unenclosed sidewalk café license by bringing the site into conformance with zoning.

Under the proposed action, both the project site at 2826 Fort Hamilton Parkway and the non-applicant owned site at 2902 Fort Hamilton Parkway would become conforming with zoning regulations. The applicant is expected to apply for a DCA license for a 45 seat unenclosed sidewalk café adjacent to Hamilton's Patio. The proposed project is expected to be completed by 2015. Absent the proposed action, the project site would remain in its current condition.

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 15, 2014, prepared in connection with the ULURP Application (No. 150076ZMK). 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 6 NYCRR part 617. Should you have any questions pertaining to this Negative Declaration, you may contact Jonathan Keller at (212) 720-3419.

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

Date: September 26, 2014

Carl Weisbrod, Chairman
City Planning Commission

Date: September 29, 2014