CITY PLANNING COMMISSION
CITY OF NEW YORK

OFFICE OF THE CHAIRMAN

December 12, 2016

NEGATIVE DECLARATION

Project Identification
CEQR No. 17DCP080X
ULURP Nos. 160326ZMX, 160327ZRX
SEQRA Classification: Unlisted

Lead Agency
City Planning Commission
22 Reade Street
New York, NY 10007
Contact: Robert Dobruskin
(212) 720-3423

Name, Description and Location of Proposal:

Westchester Mews Rezoning

The Applicant, Westchester Mews LLC, is seeking a zoning map amendment from R5 and R5/C2-2 to R6 and R6/C2-4 affecting a portion of a block (Block 3805, Lots 123, 124, 41, 34, 30, 56, 55, 69, 71, 72, 73, 75, 76, 11, 78, and 43) located in the Unionport neighborhood in Bronx, Community District 9. The affected area is generally bounded by Westchester Avenue to the north, Pugsley Avenue to the west, Olmstead Avenue to the east, and Newbold Avenue to the south. The Applicant also seeks a zoning text amendment to: (a) Appendix F (Inclusionary Housing Designated Areas and Mandatory Inclusionary Housing Areas) of the New York City Zoning Resolution (ZR) to designate a Mandatory Inclusionary Housing (MIH) Area coterminous with the affected area; and (b) ZR Section 23-154 (Inclusionary Housing, subsection b) to increase the maximum allowable Floor Area Ratio (FAR) from 2.43 to 3.6 for all New York City sites zoned R6 that are mapped with an MIH district and front a narrow street. The Applicant proposes mapping MIH Options 1 and 2. Option 1 requires that at least 25% of future residential floor area be set aside for families with incomes averaging 60% Area Median Income (AMI) (including 10% of residential units intended for families with incomes averaging 40% AMI). Option 2 requires that 30% of residential floor area be set aside for families with incomes averaging 80% AMI. Collectively, the Proposed Actions would facilitate a proposal by the Applicant to develop a 218,831 gross square foot (gsf) mixed-use development comprising two residential towers (203 affordable dwelling units) above a base containing commercial (7,949 gsf) and community facility (1,276 gsf) space at 2044 Westchester Avenue/2053 Newbold Avenue (Lots 123 and 124, "Projected Development Site 1").

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Per the proposed rezoning, Lots 69, 71, 72, 73, 75, and 76 would be rezoned from R5 to R6. Lots 30, 34, and 41 would be rezoned from R5/C2-2 to R6/C2-4. Additionally, lots 11, 43, 55, 56, 78, 123 and 124 would be partially rezoned from R5/C2-2 to R6/C2-4.

The proposed zoning text amendment to ZR Section 23-154 Inclusionary Housing, subsection (b), is intended to provide R6 districts with narrow street applicability in MIH Areas the same maximum FAR (3.6) provided to other R6 districts (that is, R6 districts with wide street applicability and R6A districts) in MIH Areas. There are no other instances of R6 with narrow street applicability within an MIH Area and therefore the applicability of this text amendment is currently limited to this project. If the proposed text amendment is adopted, future projects proposing R6 with narrow street applicability within an MIH Area would be able to utilize the higher maximum FAR and will conduct their environmental review accordingly.

In addition to the proposed zoning map and text amendments, the Applicant has stated an intention to seek discretionary financing from the New York City Housing Preservation and Development (HPD) for the residential component of the proposed development. A coordinated review was conducted with HPD acting as an involved agency. In accordance with the proposed HPD financing program, the "Mixed Income Program Mix and Match Funds," the 203 residential units proposed by the Applicant would be set aside for low-income residents as follows: 15% of the units would be made available to formerly homeless persons; 35% of the units would be made available to families earning incomes at or below 60% AMI; and the remaining 50% would be made available to families earning incomes at or below 80% AMI.

The Applicant-owned Projected Development Site 1 (Lots 123 and 124, which together comprise a single zoning lot) is currently vacant. The remaining lots within the affected area are developed with: a 2,584 gsf one story commercial building (Lots 30 and 34); a 2,874 gsf multi-family residence (Lot 41); two 2,900 gsf, 1-2 family residences (Lots 55 and 56); one 1,816 gsf 1-2 family residence (Lot 69); and five 2,005 gsf 1-2 family residences (Lots 71, 72, 73, 75, and 76). The affected area is partially located within an R5 district (Lots 69, 71, 72, 73, 75, and 76) and partially within an R5/C2-2 district (Lots 30, 34, and 41). R5 districts permit residential (Use Group 2) and community facility uses (Use Groups 3-4) at an FAR of 1.25 and 2.0, respectively. In R5 districts, one accessory parking space per market-rate dwelling unit is required. When mapped within an R5 district, C2-2 overlays permit commercial development at an FAR of 1.0. C2-2 districts require 1 parking space per 300 sf. Parking is waived if the total number of required spaces falls below 15. The entire affected area is located within a "transit zone."

The proposed R6 zoning district, in conjunction with the proposed zoning text amendment, permits residential uses (Use Groups 1-2) at an FAR of 3.6, while community facility uses (Use Groups 3-4) are permitted at an FAR of 4.8. In R6 zoning districts located within "transit zones," parking is waived for affordable residential units. When mapped within an R6 district, C2-4 commercial overlays permit commercial development at an FAR of 2.0. One accessory parking space is required

for 50 percent of all market rate dwelling units. C2-4 overlays require 1 parking space per 1,000 sf commercial uses; parking is waived if the total number of required spaces falls below 40.

For the purposes of presenting a conservative environmental analysis, the Environmental Assessment Statement (EAS) considers two analsysis frameworks. One analysis framework accounts for HPD financing and fully affordable residential development on the Applicant owned site (Projected Development Site 1), and therefore eliminates parking requirements for the entire residential component of the Applicant's proposed development. The second analysis framework assumes that HPD financing will not be sought, reducing the number of affordable units on the Applicant owned site to that required under MIH, and triggering standard parking requirements for the market rate units. Under the first scenario, Projected Development Site 1 is assumed to be developed with the Applicant's proposed project under HPD financing: a 218,831 gross square foot (gsf) mixed-use development comprising two residential towers (203-dwelling units, all of which are affordable) above a base containing commercial (7,949 gsf) and community facility (1,276 gsf) space. No parking is assumed for this scenario, as accessory parking spaces are waived for affordable residential units. Under the second scenario, Projected Development Site 1 is assumed to be developed with 218,831 gsf of residential uses (203 residential units, 30% of which would be made available to families at or below 80% AMI pursuant to MIH), for a total of 61 affordable units and 142 market rate units, above a building base containing commercial (7,949 gsf) and community facility (1,276 gsf) space plus 122 accessory parking spaces required for the market-rate units.

The EAS also considers future development on soft sites included within the rezoning area that are not under the Applicant's control (Projected Development Sites 2-5). For analysis purposes, Projected Development Site 2 (Lots 30, 34 and 41) is assumed to be developed with a 90,538 gsf eleven-story mixed use building, consisting of residential (67,903 gsf) and commercial (20,577 gsf) uses. Projected Development Site 3 (Lots 55 and 56) is assumed to be developed with a 40,978 gsf seven-story residential building. Projected Development Site 4 (Lots 69, 71, and 72) is assumed to be developed with a seven-story 25,641 gsf residential building. Projected Development Site 5 (Lots 73, 75, and 76) is assumed to be developed with a 25,641 gsf seven-story residential building. The proposed action is not expected to induce development on Lots 11, 78, and 43, also included in the affected area; these lots are either overbuilt, have recent multi-family residential development that isn't expected to be affected by the proposed actions.

Absent the Proposed Actions, it is assumed that Projected Development Site 1 (Lots 123 and 124) would be developed on an as of right basis, with 1 four-story mixed use building of 81,960 gsf, consisting of residential (58,768 gsf), commercial (21,692 gsf), and community facility (1,500 gsf) uses, and 117 accessory parking spaces. The remaining Projected Development Sites (2-5) would be expected to remain as in their existing conditions.

The analysis year for the Proposed Actions is 2024.

To avoid the potential for significant adverse impacts related to air quality, noise and hazardous materials, an (E) designation (E-406) has been incorporated into the Proposed Actions, as described below.

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

Projected Development Sites:
Block 3805, Lots 123 and 124 (Projected Development Site 1)
Block 3805, Lots 30, 34, and 41 (Projected Development Site 2)
Block 3805, Lots 55 and 56 (Projected Development Site 3)
Block 3805, Lots 69, 71, and 72 (Projected Development Site 4)
Block 3805, Lots 73, 75, and 76 (Projected Development Site 5)

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

Projected Development Sites:
Block 3805, Lots 123 and 124 (Projected Development Site 1)
Any new development on Block 3805, Lots 123 and 124 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 impacts and ensure that the stacks are located at least 118 feet above grade.

Block 3805, Lots 30, 34, and 41 (Projected Development Site 2)
Any new development on Block 3805, Lots 30, 34 and 41 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 impacts and ensure that the stack is located at least 118 feet above grade.

Block 3805, Lots 55 and 56 (Projected Development Site 3)
Any new development on Block 3805, Lots 55, 56 must use natural gas as the type of fuel for heating, ventilating, and air conditioning for the (HVAC) system and ensure that the stack is located at least 78 feet above the grade and is at least 134 feet from the lot line facing Westchester Avenue, and 58 feet from lot line facing Pugsley Ave to avoid any potential significant adverse air quality impacts.

Block 3805, Lots 69, 71, and 72 (Projected Development Site 4)
Any new development on Block 3805, Lots 69, 71, and 72 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 impacts and ensure that the stack is located at least 78 feet above grade.

Block 3805, Lots 73, 75, and 76 (Projected Development Site 5)
Any new development on Block 3805, Lots 73, 75 and 76 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 impacts and ensure that the stack is located at least 78 feet above grade.

The (E) designation requirements related to noise would apply to the following development sites:

Projected Development Sites:
Block 3805, Lots 124 (p/o Projected Development Site 1)
Block 3805, Lots 30, 34, and 41 (Projected Development Site 2)

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

Projected Development Sites:
Block 3805, Lot 124 (p/o Projected Development Site 1)
To ensure an acceptable interior noise environment, future development at Block 3805 Lot 124 must provide minimum composite building façade attenuation of 42 dBA in order to maintain an interior noise level not greater than 45 dBA for residential and community facility uses or not greater than 50 dBA for commercial uses. To achieve 42 dBA of building attenuation, special design features that go beyond the normal double-glazed windows are necessary and may include using specially designed windows (i.e., windows with small sizes, windows with air gaps, windows with thicker glazing, etc.), and additional building attenuation. To maintain a closed window condition in these areas, an alternate means of ventilation that brings outside air into the building without degrading the acoustical performance of the building façade(s) must also be provided. Alternate means of ventilation includes, but is not limited to, central air conditioning.

Block 3805, Lots 30, 34, and 41 (Projected Development Site 2)
To ensure an acceptable interior noise environment, future development at Block 3805 Lot 30, 34, 41 must provide minimum composite building façade attenuation of 42 dBA on the northerly façade facing Westchester Avenue and easterly façade facing Olmstead Avenue 100 feet from Westchester Avenue in order to maintain an interior noise level not greater than 45 dBA for residential and community facility uses or not greater than 50 dBA for commercial uses. To achieve 42 dBA of building attenuation, special design features that go beyond the normal double-glazed windows are necessary and may include using specially designed windows (i.e., windows with small sizes, windows with air gaps, windows with thicker glazing, etc.), and additional building attenuation. To maintain a closed window condition in these areas, an alternate means of ventilation that brings outside air into the building without degrading the acoustical performance of the building façade(s) must also be provided. Alternate means of ventilation includes, but is not limited to, central air

conditioning.

To ensure an acceptable interior noise environment, future residential/commercial uses must provide a closed window condition with a minimum of 31 dBA window/wall attenuation on easterly façade facing Olmstead Avenue exceeding 100 feet 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.

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

Projected Development Sites:
Block 3805, Lots 123 and 124 (Projected Development Site 1)
Block 3805, Lots 30, 34, and 41 (Projected Development Site 2)
Block 3805, Lots 55 and 56 (Projected Development Site 3)
Block 3805, Lots 69, 71, and 72 (Projected Development Site 4)
Block 3805, Lots 73, 75, and 76 (Projected Development Site 5)

The (E) designation text related to hazardous materials is as follows:

Task 1
The applicant submits to OER, for review and approval, a Phase 1 of the site along with a soil and groundwater 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 sample sites should be selected to adequately characterize the site, the specific source 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
A written report with findings and a summary of the data must be 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 the 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.

An OER-approved construction-related health and safety plan would be implemented during evacuation and construction and activities to protect workers and the community from potentially significant adverse impacts associated with contaminated soil and/or groundwater. This plan would be submitted to OER for review and approval prior to implementation.

All demolition or rehabilitation would be conducted in accordance with applicable requirements for disturbance, handling and disposal of suspect lead-paint and asbestos-containing materials. For all projected and potential development sites where no E-designation is recommended, in addition to the requirements for lead-based paint and asbestos, requirements (including those of NYSDEC) should petroleum tanks and/or spills be identified and for off-site disposal of soil/fill would need to be followed.

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 9, 2016, prepared in connection with the ULURP Application (Nos. 160326ZMK, 160327ZRX). 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 air quality, noise and hazardous materials would ensure that the Proposed Actions would not result in significant adverse impacts.

2. No other 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 Samuel Nourieli at (212) 720-3425.

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

Date: December 9, 2016

Carl Weisbrod, Chairman
City Planning Commission

Date: December 12, 2016