DEPARTMENT OF CITY PLANNING

CITY OF NEW YORK

ENVIRONMENTAL ASSESSMENT AND REVIEW DIVISION

Daniel R. Garodnick, *Director*
Department of City Planning

June 27, 2023

POSITIVE DECLARATION

Positive Declaration
962-972 Franklin Avenue Rezoning
CEQR No. 23DCP165K
ULURP Nos. 230356ZMK, N230357ZRK, 230358ZSK
SEQRA Classification: Type 1

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

962-972 Franklin Avenue Rezoning
The Applicant, Franklin Ave. Acquisition LLC, is requesting a series of discretionary approvals from the City Planning Commission. The land use actions include: a zoning map amendment to change an R6A district to an R8A district and an R8A with a C2-4 commercial overlay; a zoning text amendment to establish a Mandatory Inclusionary Housing (MIH) area; and a special permit for a reduction in required parking spaces to facilitate the proposed development (together, the "Proposed Actions").

The area affected by the Proposed Actions consists of a portion of the block bound by Montgomery Street, Franklin Avenue, Sullivan Place, and Washington Avenue in the Crown Heights neighborhood of Brooklyn Community District (CD) 9. The sites within the "Affected Area" are located on Block 1192 and include parts of (p/o) Lots 63 and 66, the "Development Site", as well as p/o Lots 1, 46, 77 and 85. The Proposed Actions would facilitate the "Proposed Project", the construction of a 14-story, approximately 145-foot-tall (excluding mechanical bulkhead), 471,495 gross square foot (gsf) mixed-use residential and commercial development. The development would include 419,346 gsf of residential space with 475 dwelling units (DUs), including 119 permanently affordable DUs pursuant to Mandatory Inclusionary Housing (MIH), Zoning Resolution (ZR) Appendix F. The building would also include 8,128 gsf for local retail use and approximately 44,021 gsf for parking, loading and mechanical space.

Due to the limited square footage of the portion of each non-applicant-controlled lot included in the Affected Area (p/o Lots 1, 46, 77, and 85), development beyond Lots 63 and 66 is not expected if the Proposed Actions are approved. Lot 1 is also owned by the MTA and serves as a right-of-way for the Franklin Avenue Shuttle Subway, further decreasing the likelihood that the lot could be redeveloped under the Proposed Actions.

Specifically, the Proposed Actions are:

- Zoning map amendment to rezone Block 1192, parts of Lots 1, 46, 63, 66, 77 and 85.
- Zoning text amendment to ZR Appendix F to establish a new MIH area coterminous with the rezoning area.
- Special permit pursuant to ZR section 74-533 to partially waive the parking requirements per ZR Section 25-23.

Absent the Proposed Actions, an as-of-right residential development would be constructed on the Development Site (Lots 63 and 66) pursuant to the existing R6A zoning district, which permits 3.0 FAR and a maximum base height of 60-feet (65-feet with a qualifying ground floor) with a maximum building height of 70-feet (75-feet with a qualifying ground floor). The Applicant would construct a seven-story residential building containing approximately 168 DUs (177,716 gsf) and 84 accessory off-street parking spaces. The 84 accessory off-street parking spaces would comply with the R6A district's requirements for parking for 50 percent of the building's market-rate units.

The analysis year of the Proposed Actions is 2026.

Statement of Significant Effect:
On behalf of the CPC, the Environmental Assessment and Review Division has determined, pursuant to 6 NYCRR Part 617.7, that the Proposed Actions may have a significant effect on the quality of the environment as detailed in the following areas, and that an environmental impact statement will be required: open space; shadows; natural resources; hazardous materials; transportation; neighborhood character; greenhouse gas emissions and climate change; and construction.

The Proposed Actions would not result in significant adverse impacts related to land use, zoning and public policy; socioeconomic conditions; community facilities; historic and cultural resources; urban design and visual resources; water and sewer infrastructure; solid waste and sanitation services; energy; air quality; noise; and public health.

Supporting Statement:
The above determination is based on an Environmental Assessment Statement (EAS) prepared for the actions which finds that:

1. Land Use, Zoning and Public Policy – The Proposed Actions include a zoning map amendment, a zoning text amendment, and a special permit to partially waive parking requirements. While the Proposed Actions do alter zoning in the Affected Area, the R8A and R8A with C2-4 commercial overlay districts are already present within the secondary study area. The special permit would reduce parking requirements for the Proposed Project, but the Affected Area is within the transit zone (within one half-mile of a subway station). Therefore, significant adverse impacts related to land use, zoning and public policy are not expected.

2. Socioeconomic Conditions – The Proposed Actions can be screened out from any consideration of direct displacement of existing residential populations or businesses since the development site has no current residential uses, and the existing spice warehouse north of the development site does not employ 100 or more workers. Fewer than 200,000 sf of commercial uses would be introduced to the Affected Area under the Proposed Actions, therefore indirect business displacement is also not expected. However, the Proposed Actions would introduce a net increase of 475 DUs, exceeding the 200 DU threshold in the *CEQR Technical Manual* for an indirect residential displacement analysis. This analysis, included in the EAS, determined that the Proposed Actions would not result in significant adverse indirect residential socioeconomic impacts.

3. Community Facilities and Services – The Proposed Actions are expected to generate 48 elementary and intermediate school students and 24 high school students, less than the *CEQR Technical Manual* threshold that would require a detailed assessment. The Proposed Actions would also not generate more than 20 children under age six eligible for publicly funded childcare and would not generate enough DUs to warrant analyses of impacts on local libraries, fire and police protection resources, or health care facilities. Therefore, significant adverse community facility and services impacts are not expected.

4. Open Space – The Proposed Actions are expected to add 774 residents and 37 workers to the Affected Area, more than the *CEQR Technical Manual* threshold of 200 residents that would require a detailed open space assessment. Additionally, the Proposed Project is expected to cast a shadow on two publicly accessible open space resources (the Brooklyn Botanic Gardens and the Jackie Robinson Playground). Therefore, an analysis of indirect and direct open space impacts is warranted and will be provided in the Draft Environmental Impact Statement (DEIS).

5. Shadows – The Proposed Actions would result in the construction of a 14-story, 145-foot-tall building in the vicinity of sunlight-sensitive resources, including Jackie Robinson Playground to the east and the Brooklyn Botanic Garden and Prospect Park to the west. Therefore, the Proposed Actions could result in significant adverse shadows impacts. An assessment of the extent, duration, and effects of incremental shadows on sunlight-sensitive resources in the vicinity of the Development Site will be provided in the DEIS.

6. Historic and Cultural Resources – A portion of the Affected Area (Lot 46) includes the State/National Register-eligible landmark, Consumer Park Brewery Complex at 124-150 Montgomery Street. However, the owner of this property has filed plans with the Department of Buildings to construct a six-story residential building on Lots 41 and 46 which will require the demolition of the Consumer Park Brewery Complex. Since the State/National Register-eligible landmark is expected to be demolished with or without the Proposed Actions, no significant direct or indirect adverse impacts are expected for Historic and Cultural Resources within the Affected Area.

7. Urban Design and Visual Resources – The Proposed Actions would change the permitted bulk allowed within the Affected Area, therefore, an urban design analysis is warranted and included in the EAS. However, the changes in allowable bulk would not be different from the bulk requirements for other R8A district buildings within the secondary study area, and therefore, significant adverse impacts on the area's urban design and visual resources are not expected.

8. Natural Resources – The Proposed Actions would facilitate the development of a 14-story, 145-foot-tall building that has the potential to cast shade on certain sunlight-sensitive resources within the Brooklyn Botanic Garden. Since the Brooklyn Botanic Garden represents a terrestrial cultural community, as defined by the *CEQR Technical Manual,* the Proposed Actions could cause significant adverse impacts for natural resources near the Affected Area, and an analysis will be included in the DEIS.

9. Hazardous Materials – The Development Site includes recognized environmental conditions (RECs) that could pose hazardous materials impacts. The Applicant has conducted a Phase I Environmental Site Assessment and a Phase II Work Plan and Health and Safety Plan which have been reviewed by the NYC Department of Environmental Protection (DEP). Upon DEP sign-off, the Applicant intends to conduct Phase II testing at the Development Site and will include the Phase II Site Investigation results in the DEIS.

10. Water and Sewer Infrastructure – The Proposed Actions will result in sewage generation that is less than 0.01% of the average daily flow at the Owls Head Wastewater Resource Recovery Facility and would not result in an exceedance of the plant's permitted capacity. Therefore, the Proposed Actions would not result in significant adverse impacts to the City's sanitary sewage conveyance and treatment system.

11. Solid Waste and Sanitation Services – The Proposed Actions would not result in a substantial increase to solid waste production that would overburden available waste management capacity and would not result in solid waste generation greater than the threshold of 50 tons per week.

Therefore, no significant adverse impacts related to solid waste and sanitation services are anticipated.

12. Energy – The Proposed Actions would not affect the transmission or generation of energy. The Proposed Project's projected energy use is estimated to be 54,889,225 BTUs per year, which is below the analysis thresholds specified in the *CEQR Technical Manual*. Therefore, the Proposed Actions would not result in significant adverse impacts related to energy.

13. Transportation – The Proposed Actions would generate a net increase of vehicular and pedestrian traffic and exceed the Level 1 Screening Assessment threshold, warranting a Level 2 Screening Assessment. The Level 2 Screening Assessment concluded that a detailed assessment was not warranted for pedestrian or vehicular traffic. The EAS also determined that quantified parking analyses are not warranted, and therefore no significant adverse impacts related to transportation are expected.

14. Air Quality – The Proposed Actions would not generate enough vehicular trips or heavy-duty diesel vehicle (HDDV) trips to exceed the *CEQR Technical Manual* threshold that would warrant a detailed mobile source air quality analysis. The stationary source HVAC screening analysis of the Proposed Project reflected a potential for the Proposed Actions to have air quality impacts. A detailed analysis was included in the EAS and determined that an E-designation E-728 at the Development Site would put restrictions in place that would eliminate any potential for significant adverse air quality impacts.

15. Greenhouse Gas Emissions and Climate Change – The Proposed Actions would facilitate the development of a 471,495 gsf mixed-use development, exceeding the *CEQR Technical Manual* detailed assessment threshold of 350,000 sf of development and potential significant environmental impacts in other categories. The Proposed Actions could cause significant adverse greenhouse gas emissions impacts, and a screening analysis will be included in the DEIS.

16. Noise – A detailed analysis included in the EAS concluded that the utilization of standard construction practices at the proposed Development Site would provide sufficient attenuation to meet CEQR interior noise level guidance for residential and community facility uses, and therefore, the Proposed Actions would not result in any significant adverse impacts related to noise.

17. Public Health – As detailed in the EAS, the Proposed Actions are not expected to result in significant adverse impacts in the areas of air quality, water quality, hazardous materials, or noise. Therefore, the Proposed Actions do not have the potential to result in significant adverse health impacts.

18. Neighborhood Character – The Proposed Actions could have potential significant adverse open space and shadows impacts. According to the *CEQR Technical Manual*, a project's potential significant adverse impacts in these categories warrant a detailed neighborhood character assessment. Therefore, the Proposed Actions could cause potential significant adverse impacts to neighborhood character, and a detailed analysis will be included in the DEIS.

19. Construction – The construction period for the Proposed Actions would be considered long term in duration (more than 24 months) and warrants a detailed analysis. Therefore, the Proposed Actions could have the potential to result in significant adverse impacts related to construction and a detailed analysis will be included in the DEIS.

Public Scoping:

The CEQR lead agency hereby requests that the applicant prepare or have prepared, at their option, a Draft Environmental Impact Statement (DEIS) in accordance with 6 NYCRR 617.9(b) and Sections 6-08 and 6-12 of Executive Order No. 91 of 1977 as amended (City Environmental Quality Review).

A public scoping meeting has been scheduled for Thursday, July 27, 2023 at 2:00 PM. To continue to allow for broad public participation options, DCP will hold the public scoping meeting remotely. To join the meeting and comment, please visit NYC Engage (https://www.nyc.gov/site/nycengage/events/index.page).

Written comments will be accepted by the lead agency through 5:00 PM, Monday, August 7, 2023.

This determination has been prepared in accordance with Article 8 of the Environmental Conservation Law.

Should you have any questions pertaining to this Positive Declaration, you may contact Max Marinoff, at mmarinoff@planning.nyc.gov .



June 27, 2023

Stephanie Shellooe, AICP, Director
Environmental Assessment & Review Division
New York City Department of City Planning

Date