NYC PLANNING

ENVIRONMENTAL ASSESSMENT AND REVIEW DIVISION

Marisa Lago, *Director*
Department of City Planning

Bayride Realty LLC
c/o Sheldon Lobel PC
18 E 41st Street, 5th Floor
New York, NY 10017

Re:	**9114 5th Avenue Rezoning**
CEQR No.	19DCP128K
ULURP Nos.	190447 ZMK; N 190448 ZRK
SEQRA Classification:	Unlisted
Brooklyn Community District:	10

Dear Sheldon Lobel PC,

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. 19DCP128K, 9114 5th Avenue 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 August 31, 2020.

Sincerely,

Stephanie Shellooe, AICP, *Deputy Director*

August 31, 2020
Date

cc: Project File
Marisa Lago, Chair
City Planning Commissioners
Raju Mann, Director, City Council Land Use Division
Eric Adams, Brooklyn Borough President
Brooklyn Community Board 10

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, and determined that no significant adverse impacts would occur. A significant adverse impact would occur if a proposed action would generate a land use incompatible with the surrounding area. The proposed actions are a Zoning Map Amendment to rezone the project area (Brooklyn Block 6087, Lots 23, 26, 27, 28, 29, 30, 31, 32, 33, 34, 129, and p/o 1) from a C8-2 zoning district to an R7A/C2-4 zoning district and a Zoning Text Amendment to establish a Mandatory Inclusionary Housing (MIH) area with MIH Options 1 and 2 coterminous with the rezoning area within the Special Bay Ridge District in the Bay Ridge neighborhood of Brooklyn Community District 10. The project area is the southeastern portion of Block 6087 with frontage on 5th Avenue and 92nd Street, three blocks north of the MTA R-Train station at 95th Street. The proposed actions would facilitate the development of a nine-story mixed-use building on Block 6087, Lots 23 and 31, containing approximately 50 dwelling units and ground floor commercial space. As such, the proposed actions would not introduce a new land use, nor affect the existing mixed-use character of the area, nor affect public policy, which represent the thresholds of impact significance in the CEQR Technical Manual (TM). The analysis concludes that no significant adverse impacts related to Land Use, Zoning, and Public Policy would result from the proposed actions.

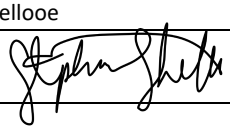
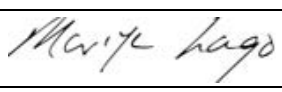
Open Space

A preliminary assessment of the effects of the proposed actions related to open space is included in the EAS. According to the 2014 CEQR Technical manual, a significant adverse open space impact may occur if a proposed action would reduce the open space ratio by more than five percent in areas that are currently below the City's median community district open space ratio of 1.5 acres per 1,000 residents. In areas with higher open space ratios, closer to 2.5 acres per 1,000 residents, a greater percentage of change (more than five percent) may be tolerated. There are 72.19 acres of open space resources in the Study Area—62.79 active and 9.40 passive. As a result of the proposed actions, the total residential study area open space ratio would decrease by 0.5-percent to 2.08 acres per 1,000 residents. Therefore, the proposed actions would not result in a significant adverse impact related to open space.

Hazardous Materials, Air Quality, and Noise

An (E) designation (E-577) 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 significant adverse impacts related to hazardous materials, air quality, and 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 Anthony Grande at 718-780-8271.

TITLE	LEAD AGENCY
Deputy 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 Stephanie Shellooe	DATE August 28, 2020
SIGNATURE 	
TITLE Chair, City Planning Commission	
NAME Marisa Lago	DATE August 31, 2020
SIGNATURE 	

Project Name: 9114 5th Avenue Rezoning
CEQR # 19DCP128K
SEQRA Classification: Unlisted

Determination of Significance Appendix

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

Development Site	Borough	Block and Lot
Projected Development Site 1	Brooklyn	Block 6087, Lots 23 and 31
Projected Development Site 2	Brooklyn	Block 6087, Lots 32, 33, and 34
Potential Development Site 1	Brooklyn	Block 6087, Lots 26, 27, 28, 29, 30, and 129

(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-577**) would be established as part of approval of the proposed actions on **Projected Development Site 1, Projected Development Site 2, and Potential Development Site 1** as described below:

Development Site	Hazardous Materials	Air Quality	Noise
Projected Development Site 1		X	X
Projected Development Site 2	X	X	X
Potential Development Site 1	X	X	X

Hazardous Materials

The (E) designation requirements applicable to **Projected Development Site 2, and Potential Development Site 1** for hazardous materials would apply as follows:

Task 1-Sampling Protocol

The applicant submits to OER, for review and approval, a Phase 1 ESA for the Project Site along with a soil, soil gas 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-Remediation Determination and Protocol

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. 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.

Air Quality

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

Projected Development Site 1: *Any new residential or commercial development on the above-referenced property must ensure that the heating, ventilating, air conditioning (HVAC), and hot water system(s) stack is located at the building's highest level, and at a minimum of 98 feet above the grade to avoid any potential significant adverse air quality impacts.*

Projected Development Site 2: *Any new residential or commercial development on the above-referenced property must ensure that the heating, ventilating, air conditioning (HVAC), and hot water system(s) stack is located at the building's highest level, and at a minimum of 98 feet above the grade to avoid any potential significant adverse air quality impacts.*

Potential Development Site 1: *Any new residential or commercial development on the above-referenced property must ensure that the heating, ventilating, air conditioning (HVAC), and hot water system(s) stack is located at the building's highest level, and at a minimum of 98 feet above the grade to avoid any potential significant adverse air quality impacts.*

Noise

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

Projected Development Site 1: *To ensure an acceptable interior noise environment, future residential/commercial uses must provide a closed-window condition with a minimum of 28 dBA window/wall attenuation on all facades facing 92nd Street and all facades facing 4th Avenue and the facades facing 5th Avenue within 98 feet of 92nd Street to maintain an interior noise level not greater than 45 dBA for residential uses and not greater than 50 dBA for commercial uses as illustrated in the EAS. 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.*

Projected Development Site 2: *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 the facades facing 92nd Street and the facades facing 4th Avenue and the facades facing 91st Street and 28 dBA of attenuation on the facades facing 5th Avenue to maintain an interior noise level not greater than 45 dBA for residential uses and not greater than 50 dBA for commercial uses as illustrated in the EAS. 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.*

Potential Development Site 1: *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 the facades facing 92nd Street and the facades facing 5th Avenue and 28 dBA of attenuation on the facades facing 4th Avenue to maintain an interior noise level not greater than 45 dBA for residential uses and not greater than 50 dBA for commercial uses as illustrated in the EAS. 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.*