CITY PLANNING COMMISSION
CITY OF NEW YORK

OFFICE OF THE CHAIR

CONDITIONAL NEGATIVE DECLARATION

Project Identification
CEQR No. 10DCP024K
ULURP No. 100218ZMK & 100219ZRK
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

209-231 McGuinness Boulevard

The applicant, McGuinness Realty, is proposing zoning map and zoning text amendments to rezone the eastern half of the block bounded by McGuinness Boulevard to the west, Eckford Street to the east, Calyer Street to the south and Greenpoint Avenue to the north, in the Greenpoint neighborhood of Brooklyn, Community District 1. The proposed actions would rezone a portion of Block 2576 from M1-1 to R7A with a C2-4 overlay along McGuinness Boulevard. The proposed actions would facilitate a proposal by the applicant to develop Lots 20 and 23, with an eight-story 155,000 square-foot mixed-use building, containing 141 dwelling units, of which 40 would be affordable pursuant to the Inclusionary Housing Program, and approximately 23,000 square feet of ground floor commercial space. The proposed actions include a text amendment, which would extend an adjacent Inclusionary Housing designated area to apply the Inclusionary Housing program to the proposed rezoning area.

The rezoning area is approximately 55,000 square feet in size, covering seven tax lots, and small portions of two additional lots (Block 2576, Lots 7, 20, 23-27, p/o 5, p/o 42). The applicant owns two of these lots (Block 2576, Lots 20 and 23), covering approximately 60% of the rezoning area, or 33,750 square feet.

In addition to the mixed-use building, there would be an approximately 48,000 square foot, 91-car sub-grade garage, which would be accessed via a 25-foot curb cut at the southern end of the development (on Lot 23). Another 25-foot curb cut would be located at the northern end of the development to allow access to an existing at-grade parking facility serving the existing 42-unit residential building located on Lot 42 to the west of the applicant's site, pursuant to a pre-existing easement. Cars would pass through the first floor of the proposed building and on to Lot 42.

The affected area is currently zoned M1-1, which permits industrial and commercial uses to an FAR

of 1.0 and some community facility uses to an FAR of 2.4. New residential development is not permitted. In M1-1 districts, buildings may rise to 30 feet at the street, above which they are controlled by a sky-exposure plane after a required setback.

The proposed R7A district with the Inclusionary Housing program would permit residential uses to an FAR of 3.45. With an inclusionary housing bonus, the maximum FAR may be increased to 4.6 with the provision of affordable housing. Buildings would be permitted to a height of 65 feet at the street, and 80 feet after a setback and contextual street-wall lineup provisions would apply. The C2-4 overlay permits a maximum FAR of 2.0 for commercial uses.

Absent the proposed action, the applicant has stated that site will remain unchanged.

The proposed project is expected to be completed by 2015.

To avoid any potential significant adverse impacts, the applicant has entered into a Restrictive Declaration for hazardous materials for their properties at Block 2576, Lots 20 and 23. An (E) designation, (E-287), for hazardous materials, air quality and noise would also apply, as described below. The applicant's sites (Block 2576, Lots 20 and 23) would receive an (E) designation for air quality and noise. The non-applicant owned site (Block 2576, Lot 7) would receive an (E) designation for hazardous materials, air quality, and noise.

The (E) designation requirements related to hazardous materials would apply to the following non-applicant owned block and lots:

Potential Development Site
Block 2576, Lot 7

The text of the (E) designation for hazardous materials is as follows:

Task 1 – Sampling Protocol

The applicant must submit to the Mayor's Office of Environmental Remediation (OER) for review and approval, a Phase 1 of the site.

If site sampling is necessary, a soil and groundwater testing protocol including a description of methods and a site map with all sampling locations clearly and precisely represented must be submitted to OER. No sampling program should begin until written approval of a protocol is received from the 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 or 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 the OER upon request.

Task 2 – Remediation Determination and Protocol

A written report with findings and a summary of the data must be submitted to the

OER after completion of the testing phase and laboratory analysis for review and approval. After receiving such tests results, a determination will be made by the OER if the results indicate that remediation is necessary.

If the OER determines that no remediation is necessary, written notice shall be given by the OER.

If based on the test results, the OER concludes that remediation is required; a remediation plan must be prepared and submitted to the OER for review and approval. The applicant must complete such remediation when and as determined necessary by the OER. The applicant should then provide proper documentation, including an engineering certification, that the work has been satisfactorily completed.

An OER-approved construction-related health and safety plan would be implemented during excavation and construction 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 the OER with the remediation plan for review and approval prior to implementation.

The (E) designation for air quality would preclude the potential for significant adverse air quality impacts related to heating and hot water systems (HVAC) emissions. The (E) designation for air quality would apply to the following properties:

Projected Development Site
Block 2576, Lots 20 and 23

Potential Development Site
Block 2576, Lot 7

The text for the (E) designations for air quality for the above properties is as follows:

Block 2576, Lots 20 and 23 (Projected Development Site): Any new residential and/or commercial development on the above-referenced properties must ensure that the heating, ventilating and air conditioning stack(s) are located at least 100 feet from the lot line facing Greenpoint Avenue, at a height of 3 feet above roof level (83 feet high), and will use exclusively natural gas as the type of fuel for space heating and hot water (HVAC) systems to avoid any potential significant adverse air quality impacts.

Block 2576, Lot 7 (Potential Development Site): Any new residential and/or commercial development on the above-referenced properties must ensure that the heating, ventilating and air conditioning stack(s) are located at least 65 feet from the lot line facing Calyer Street, at a height of 3 feet above roof level (73 feet high), and will use exclusively natural gas as the type of fuel for space heating and hot water (HVAC) systems to avoid any potential significant adverse air quality impacts.

With the placement of the (E) designations on the above block and lots, no significant air quality impacts related to HVAC emissions would be expected as the result of the proposed action.

The (E) designation for noise would preclude the potential for significant adverse impacts related to high levels of ambient noise. The text of the (E) designation for certain noise attenuation requirements for the properties identified follows below.

The following properties require 31 dBA of noise attenuation in order to avoid the potential for significant adverse impacts related to noise:

Projected Development Site
Block 2576, Lots 20 and 23

The text for the (E) designation for noise for the above properties is as follows:

In order to ensure an acceptable interior noise environment, future residential/commercial uses must provide a closed window condition with a minimum of 31 dB(A) window/wall attenuation on all building's east, north, and south facades in order to maintain an interior noise level of 45 dB(A). In order 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 or air conditioning sleeves containing air conditioners.

The following properties require 33 dBA of noise attenuation in order to avoid the potential for significant adverse impacts related to noise:

Potential Development Site
Block 2576, Lot 7

The text of the (E) designation for noise for the above properties is as follows:

In order to ensure an acceptable interior noise environment, future residential/commercial uses must provide a closed window condition with a minimum of 33 dB(A) window/wall attenuation on all building's east, north, and south facades in order to maintain an interior noise level of 45 dB(A). In order 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 or air conditioning sleeves containing air conditioners.

With the attenuation measures specified above, the proposed action would not result in any significant adverse noise impacts, and would meet CEQR guidelines.

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 July 19, 2012, prepared in connection with the ULURP Application (Nos. 100218ZMK & 100219ZRK). The City Planning Commission has determined that the proposed action will have no significant effect on the quality of the environment, once it is modified as follows:

1. The applicant agrees via a restrictive declaration to prepare a Phase II Environmental Assessment Statement (ESA), hazardous materials sampling protocol and health and safety plans, which would be submitted to the Department of Environmental Protection (DEP) for approval. The applicant agrees to test and identify any potential hazardous material impact pursuant to the approved sampling protocols and, if any such impact is found, submit a hazardous material remediation plan including a health and safety plan to DEP for approval. If necessary, remediation measures would be undertaken pursuant to the remediation plans.

Supporting Statement:

The above determination is based on an environmental assessment which finds that:

1. A Phase I Environmental Site Assessment (ESA) was prepared for the project site. The Phase I ESA was reviewed by DEP's Office of Environmental Planning and Assessment, and pursuant to a letter dated February 17, 2011 a Phase II Environmental Site Assessment (ESA), hazardous materials sampling protocol and health and safety plan were recommended due to the potential presence of hazardous materials on the site as a result of past on-site and/or surrounding area land uses. As such, the applicant has entered into a restrictive declaration to ensure that a detailed Phase II testing would occur, and hazardous materials sampling protocol including a health and safety plan would be prepared, and is binding upon the property's successors and assigns. The declaration serves as a mechanism to assure the potential for hazardous material contamination that may exist in the subsurface soils and groundwater on the project site would be characterized prior to any site disturbance (i.e., site grading, excavation, demolition, or building construction). The restrictive declaration was executed on May 9, 2012 and submitted for recording on May 10, 2012. Pursuant to a letter from DEP dated June 14, 2012, DEP is in receipt of a signed copy of a DEP-approved restrictive declaration with proof of recording for the site. Consequently, no significant adverse impacts related to hazardous materials will occur.

2. The (E) designation for hazardous materials would ensure that the proposed action would not result in significant adverse impacts due to hazardous materials.

3. The (E) designation for air quality would ensure that the proposed action would not result in significant adverse impacts due to air quality.

4. The (E) designation for noise would ensure that the proposed action would not result in significant adverse impacts due to noise.

5. No other significant adverse effects on the environment which would require an Environmental Impact Statement are foreseeable.

It is fully agreed and understood that if the foregoing conditions, modification, and alterations are not fully incorporated into the proposed action, this Conditional Negative Declaration shall become null and void. In such event, the applicant shall be required to prepare a Draft Environmental Impact Statement before proceeding further with said proposal.

Should you have any questions pertaining to this Conditional Negative Declaration, you may contact Munmun Parmar at (212) 720-3524

This Conditional Negative Declaration has been prepared in accordance with Article 8 of the Environmental Conservation Law 6NYCRR part 617.

I, the Undersigned, as the applicant or authorized representative for this proposal, hereby affix my signature in acceptance of the above conditions to the proposed action.

Paul J. Pullo

Signature of Applicant or Authorized Representative

Date: 7-18-12

PAUL J. PULLO

Name of Applicant or Authorized Representative

Celeste Evans

Celeste Evans, Deputy Director
Environmental Assessment & Review Division
Department of City Planning

Date: 7/19/12

Amanda M. Burden, FAICP, Chair
City Planning Commission

Date: 11/13/12