



CITY PLANNING COMMISSION
CITY OF NEW YORK

OFFICE OF THE CHAIR

CONDITIONAL NEGATIVE DECLARATION

October 5, 2009

Project Identification

CEQR No. 07DCP076M
ULURP No. 080397ZMM
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

West 129th Street Rezoning

The proposal involves an application by West 129th Street Realty I & II LLC for a zoning map amendment to rezone Block 1969 in the West Harlem neighborhood of Manhattan, Community District 10. The subject block, which is bounded by West 129th Street, West 130th Street, Convent Avenue, and Amsterdam Avenue, is currently zoned M1-1, R7-2, and R7-2/C1-4. Under the proposed action, the M1-1 and R7-2 districts would be rezoned to an R7A district. The current C1-4 commercial overlay district would remain unchanged.

The proposed rezoning would facilitate a proposal by the applicant to redevelop a property located at 487 West 129th Street (Block 1969, Lots 5 and 6), a through lot site with frontage on West 129th Street and West 130th Street, for residential use. The property is currently developed with a one-story storage facility for the Metropolitan Opera and consists of two parcels, Lot 5 and Lot 6. Under the proposed rezoning, the applicant intends to demolish the portion of the storage facility located on Lot 6 and redevelop it with a 9-story residential building containing approximately 130 dwelling units and 65 accessory parking spaces. The new building would have frontage on both West 129th Street and West 130th Street, and access to the accessory parking spaces would be from West 129th Street. The portion of the Metropolitan Opera storage facility located on Lot 5 would remain, and approximately 33,122 square feet of its unused development rights under the proposed rezoning would be incorporated into the proposed residential building on Lot 6.

The proposed rezoning could also facilitate new residential development on two properties not under the control of the applicant. The properties are located at 474 West 130th Street (Block 1969, Lot 12) and 464 West 130th Street (Block 1969, Lot 68.) They are currently zoned M1-1 and R7-2 and would be rezoned to an R7A district. The property located at 474 West 130th Street is currently developed with private parking facility and could be redeveloped with a 7-story residential building containing 103 dwelling units under the proposed rezoning. The

property located at 464 West 130th Street is currently developed with a private parking facility and could be redeveloped with a 4-story residential building containing 17 dwelling units.

The analysis year for the proposed action is 2011.

The environmental analysis includes an (E) designation for hazardous materials to be placed on Block 1969, Lots 12 and 68. The placement of the (E) designation E-239 would eliminate the potential for significant adverse impact on those sites and would ensure that appropriate testing and/or remediation, if needed, would be undertaken.

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

Task 1-Sampling Protocol

A. Petroleum

A soil, soil gas, and groundwater testing protocol (including a description of methods), and a site map with all sampling location represented clearly and precisely, must be submitted to the NYCDEP by the fee owner(s) of the lot which is restricted by this (E) designation, for review and approval.

A site map with the sampling locations clearly identified and a testing protocol with a description of methods, for soil, soil gas, and groundwater, must be submitted by the fee owner(s), of the lot which is restricted by the (E) designation, to the NYCDEP for review and approval.

B. Non-Petroleum

The fee owner(s) of the lot restricted by this (E) designation will be required to prepare a scope of work for any sampling and testing needed to determine if contamination exists and to what extent remediation may be required. The scope of work will include all relevant supporting documentation, including site plans and sampling locations. This scope of work will be submitted to NYCDEP for review and approval prior to implementation. It will be reviewed to ensure that an adequate number of samples will be collected and that appropriate parameters are selected for laboratory analysis. For all non-petroleum (E) designated sites, the three generic NYCDEP soil and groundwater sampling protocols should be followed.

A scope of work for any sampling and testing to be completed, which will determine the extent of on-site contamination and the required remediation, must be prepared by the fee owner(s) of the lot restricted by this (E) designation. The scope of work will include the following: site plans, sampling locations, and all other relevant supporting documentation. The scope of work must be submitted to the NYCDEP for review and confirmation that an adequate testing protocol (i.e., number of samples collected,

appropriate parameters for laboratory analysis) has been prepared. The NYCDEP must approve the scope of work before it can be implemented.

For non-petroleum (E) designated sites, one of the three generic soil and groundwater sampling protocols prepared by the NYCDEP should be followed.

The protocols are based on three types of releases to soil and groundwater sampling protocols prepared by the NYCDEP should be followed.

The protocols are based on three types of releases to soil and groundwater, including: the release of a solid hazardous material to ground surface; the release of a liquid hazardous material to the ground surface; and the release of a hazardous material to the subsurface (i.e., storage tank or piping). The type of release defines the areas of soil to be sampled from surface, near-surface, to subsurface. Additionally, it determines the need for groundwater sampling.

A written approval of the sampling protocol must be received from the NYCDEP before commencement of sampling activities. Sample site quantity and location should be determined so as to adequately characterize the site, the source of contamination, and the condition of the remainder of the site. After review of the sampling data, the characterization should have been complete enough to adequately determine what remediation strategy (if any) is necessary. Upon request, NYCDEP will provide guidelines and criteria for choosing sampling sites and performing sampling.

Finally, a Health and Safety Plan must be devised and approved by the NYCDEP before the commencement on any on-site activities.

Task 2-Remediation Determination and Protocol

After sample collection and laboratory analysis have been completed on the soil and/or groundwater samples collected in Task 1, a summary of the data and findings in the form of a written report must be presented to the NYCDEP for review and approval. The NYCDEP will provide a determination as to whether remediation is necessary.

If it is determined that no remediation activities are necessary, a written notice will be released to that effect. However, if it is the NYCDEP's determination that remediation is necessary the fee owner(s) of the lot restricted by the (E) designation must submit a proposed remediation plan to the NYCDEP for review and approval. Once approval has been obtain, and the work completed, the fee owner(s) of the lot restricted by the (E) designation must provide proof to the NYCDEP that the work has been completed satisfactorily.

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

West 129th Street Rezoning
CEQR No. 07DCP076M
Conditional Negative Declaration

Environmental Assessment Statement, dated May 28, 2009, prepared in connection with the ULURP Application (No. 080397 ZMM). 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:

The applicant, West 129th Street Realty I & II LLC, agrees via a restrictive declaration to prepare a hazardous materials sampling protocol including a health and safety plan, 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 protocol 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 plan.

Supporting Statement:

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

1. A Phase I Environmental Site Assessment (ESA) was prepared in May 2005, and is available in the proposal's CEQR file, for the properties located in Manhattan (Block 1969, Lot 5) for the project site. The Phase I ESA was reviewed by DEP's Office of Environmental Planning and Assessment, and Phase II testing was recommended by DEP, due to the presence of hazardous materials on the site as a result of past and present on-site land uses.

The declaration, binding on all successors and assigns of the applicant, requires that Phase II testing be prepared, including a sampling protocol and a health and safety plan for DEP's review and approval. If hazardous materials impacts exist, the declaration requires that the applicant submit a remediation plan for DEP's review and approval and provide for such remediation. 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 applicant's property would be characterized prior to any site disturbance.

The restrictive declaration was executed on April 21, 2008. On April 22, 2008 the DEP confirmed, via written correspondence, that the applicant filed a DEP-approved Restrictive Declaration with the New York City Department of Finance and the City Register.

2. The (E) designation for hazardous materials would ensure that no significant adverse impacts on Block 1969, Lots 12 and 68, due to hazardous materials would result from the proposed action.

129th Street Rezoning
CEQR No. 07DCP076M
Conditional Negative Declaration

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

With the implementation of the condition described above, no significant adverse impact related to hazardous materials would occur.

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.

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

West 129th Street
CEQR No. 07DCP076M
Conditional Negative Declaration

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.



Signature of Applicant or Authorized Representative

Date: 5/28/09

Michael Feigenbaum member
Name of Applicant or Authorized Representative



Robert Dobruskin, AICP, Director
Environmental Assessment & Review Division
Department of City Planning

Date: 5/28/09



Amanda M. Burden, FAICP, Chair
City Planning Commission

Date: 5/5/09