



E-252

DEPARTMENT OF CITY PLANNING  
CITY OF NEW YORK

OFFICE OF THE CHAIR

October 12, 2010

**REVISED NEGATIVE DECLARATION**  
**Supersedes Negative Declaration issued on May 10, 2010.**

**Project Identification**

CEQR No. 10DCP029K

ULURP Nos. 100345 ZMK, N 100346 ZRK

100347 HAK, and 100348 through 100361 ZSK

SEQRA Classification: Type I

**Lead Agency**

City Planning Commission

22 Reade Street

New York, NY 10007

Contact: Robert Dobruskin

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**Name, Description and Location of Proposal:**

Culver El Project

This Negative Declaration has been revised to reflect modifications to the zoning map amendment proposed by the City Council.

The Department of City Planning (DCP) and the Department of Housing Preservation and Development (HPD) propose the Culver El project, a series of actions that includes a zoning map amendment, a zoning text amendment to establish a Special Mixed Use District (MX-12), Disposition and UDAAP for two parcels of city-owned land, and 14 special permits for development within or over a railroad or transit right of way (ZR 74-681). Eleven of the special permits would apply to sites to be developed with affordable housing, and the remaining three would apply to sites to be used for parking areas for existing neighborhood community facilities. The project area is generally bounded by 36th Street on the north, 12th Avenue on the west, Old New Utrecht Road and 14th Avenue on the east and 39th Street on the south. The proposed actions would facilitate the development of 68 units of affordable housing in the former Culver elevated railroad right-of-way (Culver El) in the Borough Park neighborhood of Brooklyn Community District 12.

The specific actions are comprised of the following components:

**Zoning Map Amendment:** To change the existing M2-1 and M1-2 districts on Blocks 5294, 5295, 5296, 5298, 5299, 5300, and 5301 to [MX] M1-2/R6A, [MX] M1-2/R6B, C8-2, M1-2, and R5 districts with a partial C2-3 commercial overlay. More specifically, the south side of 37<sup>th</sup> Street from 12<sup>th</sup> Avenue on the west and 14<sup>th</sup> Avenue on the east (to a depth of 50 feet) would be rezoned from M2-1 to [MX] M1-2/R6A; both frontages of

13<sup>th</sup> Avenue from 37<sup>th</sup> Street on the north to 39<sup>th</sup> Street on the south, and the western frontage of 13<sup>th</sup> Avenue, between 36<sup>th</sup> Street and 37<sup>th</sup> Street would be rezoned from M2-1 and M1-2 to [MX] M1-2/R6A; the entire block bounded by 36<sup>th</sup> Street on the north, 13<sup>th</sup> Avenue on the west, Old New Utrecht Road on the east and 37<sup>th</sup> Street on the south would be rezoned from M1-2 to C8-2; portions of four blocks north of 39<sup>th</sup> Street, from 12<sup>th</sup> Avenue on the west, 14<sup>th</sup> Avenue on the east and 37<sup>th</sup> Street on the north would be rezoned from M1-2 and M2-1 to [MX] M1-2/R6B; the eastern portion of Block 5300 would be mapped with a M1-2 district to a depth of 165 feet from 14<sup>th</sup> Avenue; the entire block, except frontage 100' feet or less from 13<sup>th</sup> Avenue, bounded by 36<sup>th</sup> Street on the north, 12<sup>th</sup> Avenue on the west, 13<sup>th</sup> Avenue on the east and 37<sup>th</sup> Street on the south would be rezoned from M1-2 to R5; the southeast corner of 12<sup>th</sup> Avenue and 36<sup>th</sup> Street, the proposed R5 district would be mapped with a C2-3 commercial overlay, measuring 80 feet by 80 feet.

**Text Amendment:** An amendment to ZR Section 123-90 (Special Mixed Use Districts Specified to Map) to map a new mixed use district (MX-12) in the Borough Park neighborhood of Brooklyn.

**Special Permits:** Special permits, one for each of the fourteen lots created after the designation and disposition of Block 5295, Lot 4 and Block 5300, Lot 9, pursuant to ZR Section 74-681 (Development within or over a railroad or transit right-of-way or yard).

**Disposition:** A designation and disposition of city-owned property pursuant to the Urban Development Action Area Act (Block 5295, Lot 4 and Block 5300, Lot 9).

Concurrent to the review of the above actions, the HPD-selected developer of the City-owned parcels (Southern Brooklyn Community Organization) proposes to file a variance at the New York City Board of Standards and Appeals (BSA) to seek relief from Section 23-861 (General Provisions, Minimum Distance Between Legally Required Windows and Walls or Lot Lines) and Section 23-47 (Minimum Required Rear Yards) of the New York City Zoning Resolution (ZR). Upon approval of these applications by the City Planning Commission (CPC) and the City Council, the BSA would determine whether to grant the requested variances. The variances would be required to build the proposed residential development (68 residential dwelling units in 17 four-story buildings) at the proposed size and density on the former Culver El parcels. The units would be built under HPD's New Foundations Home Ownership program.

The above actions are proposed to facilitate the development of needed residential and community uses on vacant and under-utilized parcels within the rezoning area. The proposed actions would allow existing residential uses and community facilities within the M2-1 district, to conform with the Zoning Resolution and to provide for modest expansions. Existing manufacturing businesses would be protected through the establishment of text amendment that would create a Special Mixed Use District (MX-12).

The proposed actions projected to result in development on 13 sites (including two City-owned sites) with a net increase of 180 dwelling units of which 68 would be affordable units and 9,910 square feet of community facility space; and net decreases to industrial space of 57,310 square feet, commercial office space of 21,036 square feet, and commercial retail space of 6,936 square feet. In addition to these 13 projected development sites, 38 potential development sites have

been identified within the rezoning area. The analysis year for the proposed action is 2020.

To avoid any potential impacts associated with hazardous materials, air quality, and noise, as part of the proposed rezoning, an (E) designation (E-252) would be mapped on all the applicable privately-owned development sites. For the two City-owned development sites, a Land Disposition Agreement (LDA) between HPD and the development project sponsor (Southern Brooklyn Community Organization) will be utilized to avoid any potential impacts associated with hazardous materials and air quality.

As part of the proposed rezoning, an (E) designation for hazardous materials will be placed on all privately-owned projected and potential development sites:

<u>Block</u>	<u>Lots</u>
5294	9, 16, 18, 19, 20, 21, 23, 24, 25, 26, 27, 28, 29, 30, 31, 34, 35, 36, 39, 45, 46, 50, 53, 54, 55, 62, 65, 66
5295	42, 45, 45, 52, 56, 60, 68, 70, 71, 73
5296	1, 7, 29, 46, 49, 51, 54, 55, 57, 60, 64, 66, 67, 70, 72
5299	17
5300	8, 62, 70, 72, 74

Development of a site with an (E) designation would require that a Phase I Environmental Site Assessment in accordance with the American Society of Testing Materials (ASTM) E1527-05 be conducted, and if necessary, a sampling and remediation protocol be developed and implemented to the satisfaction of New York City Department of Environmental Protection (DEP) prior to issuance of a building permit (pursuant to ZR Section 11-15). Such designation would eliminate the potential for significant adverse impacts from hazardous materials due to implementation of the proposed project.

The applicable text for the (E) designations would be as follows:

#### **Task 1**

**The fee owner(s) of the lot(s) restricted by this (E) designation will be required to prepare a scope of work for any soil, gas, or groundwater sampling and testing needed to determine if contamination exists, the extent of the contamination, 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 DEP 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.**

**No sampling program may begin until written approval of a work plan and sampling protocol is received from DEP. The number and location of sample sites should be selected to adequately characterize the type and extent of the contamination, and the condition of the remainder of the site. The characterization should be complete enough to determine what remediation strategy (if any) is necessary after review of the sampling data. Guidelines**

**and criteria for choosing sampling sites and performing sampling will be provided by DEP upon request.**

**Task 2**

**A written report with findings and a summary of the data must be presented to DEP after completion of the testing phase and laboratory analysis for review and approval. After receiving such test results, a determination will be provided by DEP if the results indicate that remediation is necessary.**

**If DEP determines that no remediation is necessary, written notice shall be given by DEP.**

**If remediation is necessary according to test results, a proposed remediation plan must be submitted to DEP for review and approval. The fee owner(s) of the lot(s) restricted by this (E) designation must perform such remediation as determined necessary by DEP. After completing the remediation, the fee owner(s) of the lot restricted by this (E) designation should provide proof that the work has been satisfactorily completed.**

**A DEP-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 DEP for review and approval prior to implementation.**

Measures comparable to the above hazardous materials (E) designation will be required for the two City-owned development sites. Hazardous materials testing and potential remediation measures (in accordance with DEP oversight) will be required through a LDA between HPD and the development project sponsor for:

**Block 5295**, Lot 4 (tentative tax lots: 4, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113)

**Block 5300**, Lot 9 (tentative tax lots: 116, 115, 114, 113, 112, 111, 110, 109, 9).

To preclude the potential for significant adverse air quality impacts related to HVAC emissions, an (E) designation would be incorporated into the rezoning proposal for each of the following privately-owned properties:

<b><u>Block</u></b>	<b><u>Lots</u></b>
5294	18, 19, 20, 21, 23, 24, 25, 26, 27, 28, 29, 30, 31, 34, 35, 36, 39, 45, 46, 50, 53, 54, 55, 62, 65, 66
5295	45, 46, 52, 56, 60, 68, 70, 71
5296	7, 29, 49, 51, 52, 54, 55, 57, 64, 66, 67, 70, 72
5299	17
5300	8, 62, 70, 72, 74

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

Block 5294, Lots 31 (Projected Development Site 3)

Any new residential development on the above-referenced property must use natural gas as the type of fuel for space heating and hot water (HVAC) systems, to avoid any potential significant air quality impacts.

Block 5294, Lots 45, 46, 50 (Projected Development Site 4)

Any new residential and/or commercial development on the above-referenced property must use natural gas as the type of fuel for space heating and hot water (HVAC) systems, to avoid any potential significant air quality impacts.

Block 5294, Lots 53, 54, 55 (Projected Development Site 5)

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 30 feet from the lot line facing 38<sup>th</sup> Street, or use natural gas as the type of fuel for space heating and hot water (HVAC) systems, to avoid any potential significant air quality impacts.

Block 5294, Lot 65, 66 (Projected Development Site 6)

Any new residential and/or commercial development on the above-referenced property must use natural gas as the type of fuel for space heating and hot water (HVAC) systems, to avoid any potential significant air quality impacts.

Block 5295, Lots 52, 56 (Potential Development Site 7)

Any new residential and/or commercial development on the above-referenced property must use natural gas as the type of fuel for space heating and hot water (HVAC) systems, to avoid any potential significant air quality impacts.

Block 5295, Lot 60 (Projected Development Site 8)

Any new residential and/or commercial development on the above-referenced property must use natural gas as the type of fuel for space heating and hot water (HVAC) systems, to avoid any potential significant air quality impacts.

Block 5295, Lots 70, 71 (Potential Development Site 9)

Any new residential and/or commercial development on the above-referenced property must use natural gas as the type of fuel for space heating and hot water (HVAC) systems, to avoid any potential significant air quality impacts.

Block 5296, Lot 7 (Projected Development Site 11)

Any new residential and/or commercial development on the above-referenced property must use natural gas as the type of fuel for space heating and hot water (HVAC) systems, to avoid any potential significant air quality impacts.

Block 5300, Lots 8, 70, 72, 74 (Projected Development Site 12)

Any new residential and/or commercial development on the above-referenced property must use natural gas as the type of fuel for space heating and hot water (HVAC) systems, to avoid any potential significant air quality impacts.

Block 5294, Lot 36 (Potential Development Site 13)

Any new residential and/or commercial development on the above-referenced property must use natural gas as the type of fuel for space heating and hot water (HVAC) systems, to avoid any potential significant air quality impacts.

Block 5295, Lot 68 (Potential Development Sites 14)

Any new residential and/or commercial development on the above-referenced property must use natural gas as the type of fuel for space heating and hot water (HVAC) systems, to avoid any potential significant air quality impacts.

Block 5294, Lot 62 (Potential Development Site 16)

Any new residential and/or commercial development on the above-referenced property must use natural gas as the type of fuel for space heating and hot water (HVAC) systems, to avoid any potential significant air quality impacts.

Block 5294, Lot 19 (Potential Development Site 18)

Any new residential development on the above-referenced property must use natural gas as the type of fuel for space heating and hot water (HVAC) systems, to avoid any potential significant air quality impacts.

Block 5294, Lot 18 (Potential Development Site 19)

Any new residential development on the above-referenced property must use natural gas as the type of fuel for space heating and hot water (HVAC) systems, to avoid any potential significant air quality impacts.

Block 5294, Lot 20 (Potential Development Site 20)

Any new residential development on the above-referenced property must use natural gas as the type of fuel for space heating and hot water (HVAC) systems, to avoid any potential significant air quality impacts.

Block 5294, Lot 21 (Potential Development Site 21)

Any new residential development on the above-referenced property must use natural gas as the type of fuel for space heating and hot water (HVAC) systems, to avoid any potential significant air quality impacts.

Block 5294, Lot 23 (Potential Development Site 22)

Any new residential development on the above-referenced property must use natural gas as the type of fuel for space heating and hot water (HVAC) systems, to avoid any potential significant air quality impacts.

Block 5294, Lot 24 (Potential Development Site 23)

Any new residential development on the above-referenced property must use natural gas as the type of fuel for space heating and hot water (HVAC) systems, to avoid any potential significant air quality impacts.

Block 5294, Lot 25 (Potential Development Site 24)

Any new residential development on the above-referenced property must use natural gas as the type of fuel for space heating and hot water (HVAC) systems, to

avoid any potential significant air quality impacts.

Block 5294, Lot 26 (Potential Development Site 25)

Any new residential development on the above-referenced property must use natural gas as the type of fuel for space heating and hot water (HVAC) systems, to avoid any potential significant air quality impacts.

Block 5294, Lot 27 (Potential Development Site 26)

Any new residential development on the above-referenced property must use natural gas as the type of fuel for space heating and hot water (HVAC) systems, to avoid any potential significant air quality impacts.

Block 5294, Lot 28 (Potential Development Site 27)

Any new residential development on the above-referenced property must use natural gas as the type of fuel for space heating and hot water (HVAC) systems, to avoid any potential significant air quality impacts.

Block 5294, Lot 29 (Potential Development Site 28)

Any new residential development on the above-referenced property must use natural gas as the type of fuel for space heating and hot water (HVAC) systems, to avoid any potential significant air quality impacts.

Block 5294, Lot 30 (Potential Development Site 29)

Any new residential development on the above-referenced property must use natural gas as the type of fuel for space heating and hot water (HVAC) systems, to avoid any potential significant air quality impacts.

Block 5294, Lot 34 (Potential Development Site 30)

Any new residential development on the above-referenced property must use natural gas as the type of fuel for space heating and hot water (HVAC) systems, to avoid any potential significant air quality impacts.

Block 5294, Lot 35 (Potential Development Site 31)

Any new residential development on the above-referenced properties must ensure that the heating, ventilating and air conditioning stack(s) are located at least 30 feet from the lot line facing 39<sup>th</sup> Street, or use natural gas as the type of fuel for space heating and hot water (HVAC) systems, to avoid any potential significant air quality impacts.

Block 5294, Lot 39 (Potential Development Site 32)

Any new residential and/or commercial development on the above-referenced property must use natural gas as the type of fuel for space heating and hot water (HVAC) systems, to avoid any potential significant air quality impacts.

Block 5295, Lots 45, 46 (Potential Development Site 34)

Any new residential development on the above-referenced property must use natural gas as the type of fuel for space heating and hot water (HVAC) systems, to avoid any potential significant air quality impacts.

Block 5296, Lot 29 (Potential Development Site 36)

Any new residential development on the above-referenced properties must ensure that the heating, ventilating and air conditioning stack(s) are located at least 30 feet from the lot line facing 37<sup>th</sup> Street, or use natural gas as the type of fuel for space heating and hot water (HVAC) systems, to avoid any potential significant air quality impacts.

Block 5296, Lot 49 (Potential Development Site 38)

Any new residential and/or commercial development on the above-referenced property must use natural gas as the type of fuel for space heating and hot water (HVAC) systems, to avoid any potential significant air quality impacts.

Block 5296, Lot 51 (Potential Development Site 39)

Any new residential development on the above-referenced property must use natural gas as the type of fuel for space heating and hot water (HVAC) systems, to avoid any potential significant air quality impacts.

Block 5296, Lot 52 (Potential Development Site 40)

Any new residential development on the above-referenced property must use natural gas as the type of fuel for space heating and hot water (HVAC) systems, to avoid any potential significant air quality impacts.

Block 5296, Lot 54 (Potential Development Site 41)

Any new residential development on the above-referenced property must use natural gas as the type of fuel for space heating and hot water (HVAC) systems, to avoid any potential significant air quality impacts.

Block 5296, Lot 55 (Potential Development Site 42)

Any new residential development on the above-referenced property must use natural gas as the type of fuel for space heating and hot water (HVAC) systems, to avoid any potential significant air quality impacts.

Block 5296, Lot 57 (Potential Development Site 43)

Any new residential development on the above-referenced property must use natural gas as the type of fuel for space heating and hot water (HVAC) systems, to avoid any potential significant air quality impacts.

Block 5296, Lot 64 (Potential Development Site 45)

Any new residential development on the above-referenced property must use natural gas as the type of fuel for space heating and hot water (HVAC) systems, to avoid any potential significant air quality impacts.

Block 5296, Lot 66 (Potential Development Site 46)

Any new residential development on the above-referenced property must use natural gas as the type of fuel for space heating and hot water (HVAC) systems, to avoid any potential significant air quality impacts.

Block 5296, Lot 67 (Potential Development Site 47)

Any new residential development on the above-referenced property must use natural gas as the type of fuel for space heating and hot water (HVAC) systems, to avoid any potential significant air quality impacts.

Block 5296, Lot 70 (Potential Development Site 48)

Any new residential development on the above-referenced property must use natural gas as the type of fuel for space heating and hot water (HVAC) systems, to avoid any potential significant air quality impacts.

Block 5296, Lot 72 (Potential Development Site 49)

Any new residential development on the above-referenced property must use natural gas as the type of fuel for space heating and hot water (HVAC) systems, to avoid any potential significant air quality impacts.

Block 5299, Lot 17 (Potential Development Site 50)

Any new residential development on the above-referenced property must use natural gas as the type of fuel for space heating and hot water (HVAC) systems, to avoid any potential significant air quality impacts.

Block 5300, Lot 62 (Potential Development Site 51)

Any new residential development on the above-referenced property must use natural gas as the type of fuel for space heating and hot water (HVAC) systems, to avoid any potential significant air quality impacts.

Similarly, to preclude the potential for significant adverse air quality impacts related to HVAC emissions on the two City-owned development site, a LDA between HPD and the development project sponsor will contain provisions requiring the use of natural gas for space heating and hot water (HVAC) systems for any residential development on:

**Block 5295**, Lot 4 (tentative tax lots: 4, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113)

**Block 5300**, Lot 9 (tentative tax lots: 116, 115, 114, 113, 112, 111, 110, 109, 9).

To preclude the potential for significant adverse impacts related to mobile noise sources, an (E) designation would be incorporated into the proposed actions for each of the following privately-owned properties:

<u>Block</u>	<u>Lots</u>
5296	1, 7, 29, 46, 49, 51, 52, 54, 55, 57, 60, 64, 66, 67, 70, 72

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 30 dB(A) window/wall attenuation in all façades 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.**

**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, May 7, 2010, and the Technical Memorandum dated October 8, 2010, prepared in connection with the ULURP Applications (100345 ZMK, N 100346 ZRK, 100347 HAK, and 100348 through 100361 ZSK). The City Planning Commission has determined that the proposed action will have no significant effect on the quality of the environment.

**Supporting Statement:**

Because the proposed actions entails actions subject to approvals by BSA and program requirements of HPD in addition to the actions subject to CPC approvals, the CPC has conducted a coordinated environmental review with BSA and HPD as involved actions.

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

1. With the modifications to the zoning map amendment proposed by the City Council, (E) designations for hazardous materials and/or noise would not be needed for Block 5300, Lot 45 and Block 5301, Lot 1 which had been identified as potential development sites in the EAS.
2. The (E) designation for hazardous materials and/or a Land Disposition Agreement (LDA) between HPD and the development project sponsor (Southern Brooklyn Community Organization) would ensure that the proposed actions would not result in significant adverse impacts due to hazardous materials.
3. The (E) designations for air quality and/or a Land Disposition Agreement (LDA) between HPD and the development project sponsor (Southern Brooklyn Community Organization) would ensure that the proposed actions would not result in significant adverse impacts due to air quality.
4. The (E) designation for noise and noise window-wall attenuation requirements of the proposed Special Mixed-Use District for all new residential/commercial development would ensure that the proposed actions 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.

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 Diane McCarthy at (212) 720-3417.



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

Date: October 8, 2010



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Amanda M. Burden, FAICP, Chair  
City Planning Commission

Date: October 12, 2010

