



CITY PLANNING COMMISSION

April 27, 2005/Calendar No. 10

C 040389 ZMK

IN THE MATTER OF an application submitted by Parklane Enterprises, Inc. pursuant to Sections 197-c and 201 of the New York City Charter for **an amendment of the Zoning Map, Section No. 17c by changing from an M1-1 District to an R5 District property bounded by** a line 100 feet southeasterly of Atlantic Avenue, Logan Street, a line 300 feet southeasterly of Atlantic Avenue, and Milford Street, Borough of Brooklyn, Community District 5, as shown on a diagram (for illustrative purposes only) dated December 20, 2004, and subject to the conditions of CEQR Declaration E-141.

The application for an amendment of the Zoning Map was filed by Parklane Enterprises, Inc. on April 1, 2004.

BACKGROUND

Park Lane Enterprises, Inc. proposes a zoning map amendment from M1-1 to R5 on the northern half of block 4153 bounded by Milford Street, Atlantic Avenue, and Logan Street in Community District 5, East New York, Brooklyn. The proposed rezoning would facilitate new residential development in the primarily residential area and better reflect the existing land use.

Block 4153 is currently zoned M1-1 for a depth of 300 feet from Atlantic Avenue, and the remainder of the block is in an R5 district. The proposed rezoning area encompasses 20 lots in the northern portion of the block fronting Logan Street and Milford Street immediately south of Atlantic Avenue and contains 20 private lots of which two are owned by the applicant. The existing land use of the proposed rezoning area is characterized by two-story residential buildings, two vacant industrial buildings owned by the applicant, and vacant land.

Immediately north of the proposed rezoning area on the same block on Atlantic Avenue in the M1-1 zoning district are an auto body shop and an auto paint store. The remainder of the block to

the south of the proposed rezoning area is characterized by two-story residential buildings and vacant lots in an R5 zoning district and an auto commercial use on Liberty Avenue in a C2-3 commercial overlay.

The surrounding area consists primarily of residential use and some commercial uses. To the north of the rezoning area are commercial uses on Atlantic Avenue, two-story residences, vacant lots, and light manufacturing uses. To the east are two-and three-story residences, vacant lots, the East New York High School of Transit Technology, light manufacturing uses, and commercial uses. To the west are two-and three-story residences, vacant lots, PS 345, light manufacturing uses, and commercial uses.

The existing M1-1 zoning allows for Use Groups 4 for community facilities, 5-14 for limited retail/commercial and recreation facilities, and 16-17 for industrial/manufacturing uses. The M1-1 district has a maximum floor area ratio of 1.00 for commercial and industrial uses and 2.40 for community facility uses. The proposed R5 zoning district allows for Use Groups 1-4, which include residential uses and community facilities and a maximum floor area ratio of 1.25 for residential and 2.00 for community facility uses. Only Lot 48 in the proposed rezoning area, which has the vacant industrial buildings owned by the applicant, conforms to the existing M1-1 zoning district. Four lots (25, 27, 28, and 46) are vacant, and the remaining 15 lots consist of two-story residences, which would become conforming under the proposed rezoning.

If the proposed rezoning is approved, the applicant proposes to construct four, two-family residences on their two lots (46 and 48).

ENVIRONMENTAL REVIEW

This application (C 040389 ZMK) was reviewed pursuant to the New York State Environmental Quality Review Act (SEQRA), and the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 et seq. and the City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The designated CEQR number is 04DCP031K. The lead is the City Planning Commission.

The applicant signed a conditional negative declaration on October 8, 2004. The conditional negative declaration was published in the City Record on December 22, 2004 and in the New York State Environmental Notice Bulletin on December 29, 2004. Pursuant to the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 et seq., a 30-day comment period followed. No comments were received and the conditional negative declaration was issued on December 17, 2004.

To avoid any potential impacts associated with noise and hazardous materials, (E) designations will be placed on various properties within the rezoning area, as part of the proposed rezoning.

To avoid any potential impacts associated with noise, as part of the proposed action, the following

(E) designation for noise will be placed on Block 4153, Lots 46 and 48:

In order to ensure an acceptable interior noise environment, future residential uses must provide a closed window condition with a minimum of 35 dB(A) window/wall attenuation 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 or HUD-approved fans.

To avoid any potential impacts associated with hazardous materials, as part of the proposed action, the following (E) designation for hazardous materials will be placed on Block 4153, Lots 25, 27, and 28:

Based on its review of the Phase I Environmental Assessment completed for the applicant's proposed development site (Block 4153, Lots 46 and 48), which revealed diversified on-site land uses that may have impacted the soil and groundwater, the New York City Department of Environmental Protection (NYCDEP) is recommending (E) designations be assigned to Lots 25, 27, and 28 due to their proximity to Lots 46 and 48. Lots 25, 27, and 28 were analyzed in the EAS as potential development sites. Consequently the proposed zoning map action includes (E) designations for the following sites: Block 4153, Lots 25, 27, and 28.

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

Due to the possible presence of hazardous materials on the aforementioned designated sites there

is the potential for contamination of the soil and groundwater. To determine if contamination exists and perform any appropriate remediation, the following tasks must be undertaken by the fee owner(s) of the lot restricted by this (E) designation prior to any demolition or disturbance of soil on the lot.

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 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.

No sampling program may begin until written approval of a work plan and sampling protocol is received from NYCDEP. 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 NYCDEP upon request.

TASK 2

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

If NYCDEP determines that no remediation is necessary, written

notice shall be given by NYCDEP.

If remediation is necessary according to test results, a proposed remediation plan must be submitted to NYCDEP 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 NYCDEP. 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 NYCDEP-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 NYCDEP for review and approval prior to implementation.

After a study of the potential environmental impact of the proposed action, the lead agency has determined that the proposed action will have no significant effect on the quality of the environment, once it is modified as follows:

1. A Phase I Environmental Site Assessment (ESA), available in the proposal's CEQR file, was prepared on June 2003 for the properties under the control of the applicant located at (Block 4153, Lots 46 and 48) . The restrictive declaration covers the applicant's properties only. The Phase I ESA was reviewed by the Department of Environmental Protection's (DEP) Office of Environmental Planning and Assessment, and a restrictive declaration was recommended, as stated in a memo by DEP, on November 29, 2004, due to the potential presence of hazardous materials on the site as a result of past and present land uses at, adjacent to, and surrounding the applicant's sites. A restrictive declaration was

prepared by the applicant and filed against properties under the control of the applicant located at (Block 4153, Lots 46 and 48). The declaration requires that Phase II testing for hazardous materials would occur under the direction of DEP 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 sub-surface soils and groundwater on the applicant's sites would be characterized prior to any site disturbance (i.e., site grading, excavation, demolition, or building construction).

UNIFORM LAND USE REVIEW

This application (C 040389 ZMK) was certified as complete by the Department of City Planning on December 20, 2004, and was duly referred to Community Board 5 and the Borough President, in accordance with Article 3 of the Uniform Land Use Review Procedure (ULURP) rules.

Community Board Public Hearing

Community Board 5 held a public hearing on this application on February 9, 2005, and on that date, by a vote of 28 to one with no abstentions, adopted a resolution recommending approval of the application.

Borough President Recommendation

This application was considered by the Borough President, who issued a recommendation approving the application on March 16, 2005.

City Planning Commission Public Hearing

On March 16, 2005 (Calendar No. 5), the City Planning Commission scheduled March 30, 2005, for a public hearing on this application (C 040389 ZMK). The hearing was duly held on March 30, 2005 (Calendar No. 23). There were 2 speakers in favor of the application and no speakers in opposition.

The speakers in favor of the application were representatives of the applicant, who described the proposed rezoning and the development it would facilitate. There were no other speakers and the hearing was closed.

CONSIDERATION

The Commission believes that this amendment of the Zoning Map is appropriate. The proposed rezoning would result in existing residences becoming conforming and would create opportunities for new residential construction on previously vacant properties.

The Commission notes that to the immediate south of the site proposed for rezoning are residential neighborhoods zoned R5 and that the proposed rezoning area has residential uses.

Furthermore, the Commission notes that south of Atlantic Avenue on the block of the rezoning there are no manufacturing uses.

Upon approval of the rezoning the applicants propose to develop four, two-family homes on their

vacant lot and after demolishing the existing vacant industrial buildings.

This proposed rezoning would facilitate much needed housing in the community district as well as allowing for conformance in the existing uses in the area.

RESOLUTION

RESOLVED, that the City Planning Commission finds that the action described herein will have no significant impact on the environment subject to the following conditions:

1. For the properties located at 280-290 Logan Street (Block 4153, Lots 46 and 48), the applicant 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.

The restrictive declaration also restricts the manner in which the property may be developed or redeveloped, by requiring the sampling protocol and remediation measures to serve as a condition precedent to any change of use in any such development or redevelopment of the property; and be it further

RESOLVED, by the City Planning Commission, pursuant to Sections 197-c and 200 of the New York City Charter, that based on the environmental determination and the consideration described in this report, the Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended by changing the Zoning Map, Section No.17c, by changing from an M1-1 District to an R5 District property bounded by a line 100 feet southeasterly of Atlantic Avenue, Logan Street, a line 300 feet southeasterly of Atlantic Avenue, and Milford Street, Borough of Brooklyn, Community District 5, as shown on a diagram (for illustrative purposes only) dated December 20, 2004, which includes the CEQR Designation E-141.

The above resolution (C 040389 ZMK), duly adopted by the City Planning Commission on April 27, 2005 (Calendar No.10), is filed with the Office of the Speaker, City Council, and the Borough President in accordance with the requirements of Section 197-d of the New York City Charter.

AMANDA M. BURDEN, AICP, Chair
KENNETH KNUCKLES, Esq, Vice-Chairman
IRWIN G. CANTOR, P.E., ANGELA R. CAVALUZZI, R.A., ALFRED CERULLO, III,
RICHARD W. EADDY, LISA A. GOMEZ, CHRISTOPHER KUI, JOHN MEROLO,
KAREN A. PHILLIPS, DOLLY WILLIAMS, Commissioners