



CITY PLANNING COMMISSION

August 19, 2009/Calendar No. 20

C 090365 ZMX

IN THE MATTER OF an application submitted by the Department of City Planning pursuant to Sections 197-c and 201 of the New York City charter for an amendment of the Zoning Map, Section Nos.3b and 6a:

1. eliminating from within an existing R7-1 District a C1-4 District bounded by Morris Avenue a line 100 feet northeasterly of East 161st Street, a line 100 feet southeasterly of Morris Avenue, and East 161st Street;
2. eliminating from within an existing R8 District a C1-4 District bounded by River Avenue, a line 250 feet northeasterly of East 161st Street, East 162nd Street, Gerard Avenue, East 161st Street, a line midway between Gerard Avenue and Walton Avenue, a line 100 feet southwesterly of East 161st Street, a line midway between River Avenue and Gerard Avenue, and a line 150 feet northeasterly of East 158th Street;
3. changing from an R7-1 District to an R8A District property bounded by East 162nd Street and its southeasterly prolongation, Park Avenue, East 161st Street, and Morris Avenue;
4. changing from an R8 District to a C6-2 District property bounded by East 161st Street, Concourse Village West, a line 50 feet northeasterly of East 159th Street, and a line 100 feet northwesterly of Concourse Village West;
5. changing from a C4-6 District to a C6-2 District property bounded by a line 140 feet northeasterly of East 161st Street, Sheridan Avenue, East 161st Street, and a line 100 feet northwesterly of Sheridan Avenue;
6. changing from a C8-3 District to a C6-2 District property bounded by East 161st Street, Concourse Village East, a line 150 feet southwesterly of East 161st Street, and Concourse Village West;
7. changing from an R8 District to a C6-3D District property bounded by River Avenue, a line 250 feet northeasterly of East 161st Street, East 162nd Street, Gerard Avenue, East 161st Street, a line midway between Gerard Avenue and Walton Avenue, a line 110 feet southwesterly of East 161st Street, a line midway between River Avenue and Gerard Avenue, and a line 150 feet northeasterly of East 158th Street
8. changing from a C8-3 District to a C6-3D District property bounded by River Avenue, a line 150 feet northeasterly of East 158th Street, a line midway between River Avenue and Gerard Avenue, and a line perpendicular to the southeasterly street line of River Avenue distant 100 feet northeasterly (as measured along the street line) from the point of intersection of the southeasterly street line of River Avenue and the northeasterly street line of East 153rd Street; and

9. establishing within the proposed R8A district a C2-4 District bounded by East 162nd Street, a line 100 feet southeasterly of Morris Avenue, a line midway between East 161st Street and East 162nd Street, a line 100 feet northwesterly of Park Avenue, a line 100 feet northeasterly of East 161st Street, a line perpendicular to the northeasterly street line of East 161st Street distant 100 feet northwesterly (as measured along the street line) from the point of intersection of the northeasterly street line of East 161st Street and the northwesterly street line of Park Avenue, East 161st Street, and Morris Avenue;

Borough of the Bronx, Community District 4 as shown on a diagram (for illustrative purposes only) dated March 30, 2009 and subject to the conditions of CEQR Declaration E-225.

The application for an amendment of the Zoning Map was filed by the Department of City Planning on March 25, 2009. The requested action, in conjunction with the related zoning text amendment (N 090364 ZRY), would facilitate redevelopment of the 161st Street and River Avenue corridors in Community District 4, Borough of the Bronx.

RELATED ACTION

In addition to the proposed amendments to the Zoning Map, which is the subject of this report (C 090365 ZMX), implementation of the proposal, also requires action by the City Planning Commission on the following application, which is being considered concurrently with this application:

N 090364 ZRY: An amendment of the Zoning Resolution, establishing the C6-3D and R9D zoning designations, applying the Inclusionary Housing program to the rezoning area and amending related sections of the Zoning Resolution

BACKGROUND

The Department of City Planning (DCP) proposes to rezone all or portions of eight blocks in three areas along the 161st Street and River Avenue corridors to provide opportunities for new residential, commercial, and community facility development in the civic heart of the Bronx. In conjunction with the rezoning, DCP proposes to create a new zoning district (C6-3D) to facilitate development along River Avenue with its elevated subway line and to employ the Inclusionary Housing Program to encourage development of affordable housing. The 161st Street / River Avenue rezoning is located in Community District 4, and is

generally bounded by River Avenue on the west, East 162nd Street to the north, Park Avenue to the east, and East 159th and East 153rd streets to the south.

The 161st Street corridor includes a variety of land uses ranging from Yankee Stadium at River Avenue, to the Bronx County Courthouse and Borough Hall at the center of the corridor, and the New York City Housing Authority (NYCHA) Morrisania Air Rights development at Park Avenue. The area has ample access to mass transit including the B, D and 4 subway lines at 161st Street and River Avenue and the Bx1, Bx2, Bx6, Bx13, Bx15, Bx21, Bx32, Bx41, Bx55 bus lines, express bus service to Manhattan along the Grand Concourse (BxM4A/ BxM4B), and the Metro- North Melrose Station and a new Metro-North Yankees/153rd Street Station, which opened in May 2009 adjacent to the proposed Heritage Field Park, site of the old Yankee Stadium.

Despite the civic uses and rich access to transit, underutilized one-story properties and seasonal uses are common. Current zoning, which has largely been in place since 1961, unduly limits reasonable residential and commercial expansion in the transit accessible civic center of the Bronx. In addition, current zoning encourages uses and densities that are incompatible with surrounding residential and civic uses.

The Department's proposal seeks to:

Provide opportunities for commercial expansion

As the civic center of the Bronx, the 161st Street corridor is appropriate for additional office and retail development that would cater to legal and court-related offices and employees in the area as well as to nearby residents.

Provide opportunities for residential development

Over the past two decades, the Bronx has experienced a substantial amount of new housing construction, rebounding from the disinvestment and population loss experienced during the 1970s and 1980s. However, most city-owned sites have been developed or are programmed for development, leaving a shortage of available sites for new residential development. With the population of New York City expected to increase by a million people and the Bronx by more than 100,000 by the year 2030, new areas are needed to accommodate this growth.

Encourage the development of new affordable housing

There is a need for affordable housing in the South Bronx and in the city as a whole. Mayor Bloomberg's New Housing Marketplace Plan has set a goal of creating over 165,000 units of affordable housing over 10 years. Establishing select portions of the corridor as an Inclusionary Zoning area would encourage the provision of new permanently-affordable housing in new housing developments in order to help meet the affordable housing needs of the community.

Direct new development to areas with transit access

The proposed rezoning would encourage residential and commercial expansion in a transit-rich, high-profile area of the Bronx. The rezoning proposal includes the creation of a new zoning district (C6-3D) that will include special design controls to facilitate high-density development near an elevated train line.

Strengthen the 161st Street corridor

The proposed rezoning would strengthen the urban design and appeal of a high-profile and significant corridor in the Bronx by requiring new development to provide a contextual street wall built at or near the street line. The proposal would enliven the street level and improve local services by encouraging the redevelopment of vacant and underutilized lots along the corridor's length, better connecting existing civic and residential uses and transportation infrastructure.

Context and History

The 161st Street/River Avenue rezoning area is located in the southwest portion of the Bronx in Community District 4, a transit-rich area that is the civic administrative center of Bronx County, housing the offices of the Borough President, the District Attorney and the County Clerk, as well as the Bronx County Family Court, the Bronx Criminal Court Complex, and the newly constructed Bronx Hall of Justice. The Bronx Borough Hall is prominently located along the Grand Concourse at East 161st Street, between Joyce Kilmer Park and Franz Sigel Park.

161st Street is a high-profile east-west corridor in the Bronx. At its civic core, it intersects the Grand Concourse, which is the Bronx' signature street, a wide boulevard (180 feet wide)

featuring wide sidewalks, tree-lined malls, and a system of underpasses for major east-west streets. To the west, 161st Street is accessible to the Major Deegan Expressway. To the east, 161st Street intersects Third Avenue, another key north-south street in the borough.

The area surrounding 161st Street was mostly farmland until the introduction of rail transit in the latter part of the 1800's brought the way to greater urbanization and development in the area. The early 20th Century defined 161st Street as the civic center of the Bronx with the construction of the Bronx Borough Courthouse, now inactive, at the intersection of 161st Street, Brook and Third avenues. In 1923, Yankee Stadium was constructed at the southwest corner of 161st Street and River Avenue. In 1933, New Deal public funds allowed the construction of the Bronx County Courthouse at the Grand Concourse and 161st Street.

In the decades following the Second World War, the southern Bronx was the site of widespread abandonment. Arson and neglect forced large portions of the population to leave the area. The Melrose neighborhood east of the rezoning area was hit especially hard, losing almost three-quarters of its residents, as populations fled the South Bronx.

Today the area is a stable, growing community. Melrose Commons continues to attract population to the area with home ownership opportunities on formerly city-owned properties. The art deco buildings of the Grand Concourse, spared the devastation that much of the community experienced in the 1970s, remain an architectural hallmark of the Bronx

Recent investments in the area surrounding the 161st Street corridor have led to the renewal of the civic center of the Bronx and the South Bronx overall. Recent investments include the new Yankee Stadium, on the northwest corner of 161st Street and River Avenue. Parks are planned for the existing Yankee Stadium site, and sites along River Avenue and the Harlem River. The Gateway Center, will bring approximately one million square feet of new retail space south of the proposed rezoning area at 149th Street and the Major Deegan Expressway, and will include additional waterfront parks.

Lou Gehrig Plaza, which formerly was used for parking in front of Bronx Borough Hall, was reconstructed as a new public space as part of the Department of Transportation's Grand Concourse reconstruction project. Joyce Kilmer Park has undergone extensive phased renovation; over the past decade, the Department of Parks and Recreation has

improved all areas of the park, including the Lorelei Fountain area, playground, pathways, fencing and benches. A Greenmarket is open in the park on Tuesdays for five months of the year. At the center of the 161st Street corridor is the new Bronx Hall of Justice, which includes approximately 670,000 square feet of office space for 47 courtrooms and court-related agencies.

The eastern section of the 161st Street corridor runs through the Melrose Commons Urban Renewal Area. Since the renewal plan was established in 1994, more than 2,300 affordable dwelling units and approximately 60,600 square feet of commercial floor area have been built or are currently under construction. In addition, Boricua Village, currently under construction in Melrose Commons along Third Avenue, will accommodate a campus for Boricua College, as well as approximately 700 residential units and 30,000 square feet of commercial space.

Land Use and Existing Zoning

The 161st Street corridor is largely built out; therefore the rezoning is focused on three strategic nodes. From west to east, the three nodes are: the Transit Node, the Civic Node and the Residential Node. Land uses and zoning differ in each node.

Transit Node

Defined as the block fronts on River Avenue from 162nd Street south to 153rd Street and the block fronts on 161st Street from River Avenue east to Walton Avenue, the Transit Node is centered on a transit hub that includes stations for the elevated 4 line and the B and D subway lines, bus lines, and a new Metro-North commuter rail station on the western side of the existing Yankee Stadium/proposed Heritage Field. The rezoning area consists of one- and two-story commercial uses, including a McDonald's restaurant and seasonal baseball-oriented bars and souvenir shops, surface and enclosed parking. Two parking lots on River Avenue on the North and South corner of 157th Street were mapped as parkland as part of the New Yankee Stadium project. The surrounding area is characterized by Yankee Stadium, 6 to 8-story apartment buildings, and parkland. The Transit Node is currently zoned C8-3 and R8 with a C1-4 overlay.

Civic Node

At the center of the 161st Street corridor is the Civic Node, which is defined as the block fronts on 161st Street between Walton Avenue and Morris Avenue. This area is anchored by two major court houses and the Grand Concourse, which intersects 161st Street here. Uses in the area to be rezoned consist of a parking garage, low-scale retail and office uses, a portion of the Concourse Plaza Mall parking lot, and two 10-story office buildings.

Surrounding the rezoning area are the Bronx Criminal Court Complex, the new Bronx Hall of Justice, 6- to 8-story apartment buildings, a 10-story senior housing residential building (the former Concourse Plaza Hotel), and 25-story Concourse Village co-operative housing to the south of the Concourse Plaza Mall. The Civic Node is currently zoned R8, C8-3 and C4-6.

Residential Node

The Residential Node is one full block at the eastern end of the rezoning area north of 161st Street between Morris and Park avenues. The block is characterized by single-story commercial uses, low-scale detached residential buildings, a low-scale community facility, and a 6-story residential building. Open parking uses are also found on the block. The area surrounding the block includes the 19-story NYCHA housing on Park Avenue, the 150 foot tall Bronx Hall of Justice, and an 8-story senior housing development across 161st Street. The Residential Node is currently zoned R7-1 with C1-4 and C2-4 overlays over small portions of the 161st Street block front.

Existing Zoning

R7-1

The R7-1 district is a height factor district that allows residential uses to a maximum floor area ratio (FAR) of 3.44 and community facility uses up to 4.8 FAR. There is no maximum building height, and the building envelope is regulated by the sky exposure plane. The optional Quality Housing regulations allow residential development to a maximum permitted FAR of 4.0 on a wide street and 3.44 on a narrow street. Under Quality Housing rules, the base height of the building at the street must be between 40-65 feet then must set back from the street before rising to a maximum building height of 80 feet. Off-street

parking is required for 60% of the residential units (50% for Quality Housing developments).

R8

The R8 district is a height factor district that allows residential uses up to an FAR of 6.02. Community facilities are permitted at an FAR of 6.5. There is no maximum building height, and the building envelope is regulated by the sky exposure plane. The optional Quality Housing regulations allow residential development a maximum permitted FAR of 7.2 on a wide street and 6.02 on a narrow street. Under Quality Housing rules, the base height of the building at the street must be between 60 to 80 feet then must set back from the street before rising to a maximum building height of 120 feet. Off-street parking is required for 40% of the residential units.

C1-4 and C2-4 Overlays

C1-4 and C2-4 are commercial overlay districts mapped within residential districts. When mapped within an R7 or R8 district, they allow commercial uses up to 2.0 FAR and limit uses to local retail and services. In a mixed residential/commercial building, commercial uses are limited to the ground floor. C2 districts allow a greater range of uses than C1 districts, including funeral homes and local repair services. Typical uses in both districts include grocery store, beauty salon, and restaurants. Off-street parking regulations for both districts vary with use, but generally most uses require one accessory parking space per 1,000 square feet of commercial space.

C8-3

The C8-3 district allows commercial and community facility uses in Use Groups 4 through 14 and 16. The most prevalent uses in C8 districts are automotive and heavy commercial uses such as auto repair and showrooms, warehouses, gas stations and car washes. Residential uses are not permitted. The maximum commercial FAR in C8-3 districts is 2.0. Community facilities are permitted an FAR of 6.5. There is no maximum building height, and the building envelope is regulated by the sky exposure plane. Off-street parking requirements vary with the use, but generally most uses require one accessory parking space per 1,000 square feet of commercial space.

C4-6

The C4-6 district allows residential, commercial and community facility uses. The maximum permitted FAR is 10.0 for community facilities and residential uses and 3.4 for commercial uses. There are no building height limits in this district and building envelopes are regulated by the sky exposure plane. Under optional Quality Housing rules, the base height of the building at the street must be between 125-150 feet then must set back from the street before rising to a maximum building height of 210 feet on a wide street and 185 feet on a narrow street.

The Special Grand Concourse District (C) is mapped along the Grand Concourse intersecting 161st Street between the Transit Node and the Civic Node. The special district was established in 1989 to protect the scale, form and residential character of the Grand Concourse; the special district will not be affected by the 161st Street rezoning proposal.

Proposed Zoning

The Department proposes zoning map changes within the three nodes described previously. In addition DCP proposes amendments to the Zoning Resolution to establish a new zoning district (C6-3D) to facilitate development along the elevated #4 line and to employ the Inclusionary Housing Program in the 161st Street area to encourage development of affordable housing.

Transit Node

In the Transit Node, the proposed zoning would facilitate greater residential and commercial development surrounding the high-profile transit-rich intersection of East 161st Street and River Avenue. Current C8-3 zoning prohibits residential uses. Portions of three blocks generally located along River Avenue south of East 161st Street and north of East 153rd Street would be rezoned from C8-3 to C6-3D and portions of three blocks generally located along East 161st Street between River Avenue and Walton Avenue, south of East 162nd Street and north of East 158th Street would be rezoned from R8/C1-4 to C6-3D.

C6-3D

The related zoning text amendment (N 090364 ZRY) would establish a new C6-3D zoning district. The proposed C6-3D district would allow high-density residential, commercial and

community facility uses with a maximum FAR of 9.0. The related text amendment would also apply the Inclusionary Housing Program to the proposed C6-3D rezoning area. Under the Inclusionary Housing Program, the maximum base residential FAR in the C6-3D would be 7.52; however, developments utilizing the Inclusionary Housing Program bonus could achieve a maximum FAR of 10.0.

Building Form: The C6-3D bulk regulations are designed to facilitate tower development adjacent to an elevated train line . To allow light and air below the tracks and reduce street-level noise, a 15 to 25 foot building base would be required on sites that front the elevated structure, although a secondary base would be allowed to reach a total height of 60 to 85 feet. Where a lot is immediately adjacent to a park the 15 to 25 foot base would not be required. Both the secondary base and the unlimited height tower would be required to set back a minimum of 20 feet from the lot line that fronts the elevated tracks (for sites less than 110 feet deep, the setback would be reduced to between 10 to 19 feet). For a new building where a neighboring existing building with windows is located within 30 feet of an adjacent lot line, a minimum 15-foot setback from the lot line would be required.

Pedestrian Improvements: On corner sites that front an elevated line, a corner setback at the ground level would be required to create additional pedestrian circulation space (a corner setback would be optional on street corners where neither street fronts on an elevated train). In addition, if an existing subway station entrance fronts a property, new development would be required to improve and relocate the subway entrance inside the new building. Sidewalk widening requirements would apply along all wide streets within the rezoning area.

Parking: Parking would be required for 40% of the residential units. There would be reduced parking requirements for public, publicly-assisted and government assisted housing. No parking would be required for commercial or community facility uses.

Civic Node

In the Civic Node, zoning changes would facilitate development of retail uses and office space, allow residential development, and prevent the development of industrial and automotive uses in the heart of the civic center.

C6-2

Portions of three blocks within the Civic Node would be rezoned to C6-2:

- A portion of one block generally located along the south side of East 161st Street between Concourse Village West and Concourse Village East would be rezoned from C8-3.
- A portion of the block located at the northeast corner of East 161st Street and Sheridan Avenue would be changed from C4-6.
- A portion of the block generally located at the southeast corner of 161st Street and Concourse Village West would be rezoned from R8.

The C6-2 district would allow high-density residential, commercial and community facility uses with a maximum permitted FAR of 6.02, 6.0 and 6.5, respectively. C6-2 is an R8 residential equivalent district. There is no maximum building height, and the building envelope is regulated by the sky exposure plane. Because C6 districts are mapped in areas well served by mass transit, no parking is required for commercial and community facility uses. Off-street parking is required for 40% of the residential units.

The optional Quality Housing regulations allow residential development a maximum permitted FAR of 7.2 on a wide street and 6.02 on a narrow street. Under Quality Housing rules, the base height of the building at the street may rise between 60 to 80 feet then must set back from the street before rising to a maximum building height of 120 feet.

Residential Node

In the Residential Node, zoning changes would facilitate development of retail and residential uses and expand the commercial uses allowed in an area of the 161st Street corridor that connects the civic heart of the Bronx with the Melrose Metro-North station and Melrose Commons to the east.

R8A

The block bounded by East 161st Street, Morris Avenue, Park Avenue/Teller Avenue and East 162nd Street, would be rezoned from R7-1 to R8A. The R8A zoning designation

would allow higher-density development with a contextual envelope that would match existing and proposed buildings in the Melrose Commons area.

The Inclusionary Housing Program would be employed in the Residential Node as part of the related zoning text amendment. Under the Inclusionary Housing Program, the maximum base residential FAR in the R8A would be 5.4; however, developments utilizing the Inclusionary Housing Program bonus could achieve a maximum FAR of 7.2. The proposed R8A would allow community facility uses up to a maximum FAR of 6.5. The base height of the building at the street must be between 60 to 85 feet and the building then must set back from the street before rising to a maximum building height of 120 feet. Off-street parking is required for 40% of the residential units.

Commercial Overlays

The existing C2-4 overlay, which is mapped to a depth of 100 feet along Teller Avenue, Park Avenue and for a length of 100 feet along 161st Street, would be extended to cover the entire block front along 161st Street, between Park Avenue and Morris Avenue and the entire block front along Morris Avenue between 161st Street and 162nd Street, including the small area on the southwest corner of the block that is currently mapped C1-4. The proposed change would allow commercial uses along 161st Street where today such uses are prohibited and activate the street level on a block that connects the civic center with the Metro-North station and Melrose Commons. The change from C1-4 to C2-4 would allow a greater range of uses, including local repair services. Commercial uses are allowed up to 2.0 FAR; however, in a mixed residential/commercial building, commercial uses are limited to the ground floor.

Inclusionary Housing

The related zoning text amendment (N 090364 ZRY) would also apply the Inclusionary Housing Program to the proposed R8A and C6-3D districts within the rezoning area, establishing incentives for the creation and preservation of affordable housing in conjunction with development of new housing.

For residential development without an affordable housing component, the maximum FAR within the selected areas would be limited to a base FAR of 7.52 in the C6-3D and 5.4 in the

R8A. Under the Inclusionary Housing program, developments providing affordable housing are eligible for a floor area bonus, within contextual height and bulk regulations tailored to this area. Developments could qualify for a maximum FAR of 10.0 in the C6-3D and 7.2 in the R8A by providing 20 percent of the residential floor area in the development as permanently affordable housing for low- and moderate-income households, or by constructing or preserving off-site affordable units for low-income households. Off-site units must be located within Community District 4, or within one half-mile of the bonused development if outside of Community District 4. Other city, state and federal housing finance programs may be used to provide further assistance in creating affordable units.

ENVIRONMENTAL REVIEW

This application (C 090365 ZMX) in conjunction with the related application

(N 090364 ZRY) were 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 New York City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The designated CEQR number is 090DCP024X. The lead is the City Planning Commission.

It was determined that the proposed actions may have a significant effect on the environment and that an environmental impact statement would be required. A Positive Declaration was issued on November 12, 2008, and distributed, published and filed and the applicant was asked to prepare a Draft Environmental Impact Statement (DEIS). Together with the Positive Declaration, a Draft Scope of Work for the Draft Environmental Impact Statement (DEIS) was issued on December 16, 2008. A public scoping meeting was held on December 16, 2008. A Final Scope of Work and the Draft Environmental Impact Statement (DEIS), reflecting the comments made during the scoping meeting and during the comment period, was issued on March 20, 2009.

The applicant prepared a DEIS and the lead agency issued a Notice of Completion for the DEIS on March 27, 2009. Pursuant to the SEQRA regulations and the CEQR procedures and other relevant statutes, a joint public hearing was held on the DEIS on July 1, 2009, in conjunction with the public hearings on the related ULURP actions (C 090365 ZMX and N 090365 ZRY).

A Final Environmental Impact Statement (FEIS) was completed and a Notice of Completion of the FEIS was issued on August 7, 2009. The Notice of Completion for the FEIS identified significant impacts and proposed mitigation measures, as summarized in the following:

Traffic And Parking

According to the *CEQR Technical Manual*, a significant traffic impact can be considered mitigated if measures implemented return projected future conditions to what they would be if a proposed action were not in place, or to acceptable levels. For a Future No-Action level of service (LOS) D, E or F, mitigation back to the No-Action condition is required; for No-Action LOS A, B or C, mitigating to mid-LOS D is required (45 seconds of delay for signalized intersections, and 30 seconds of delay for unsignalized intersections).

As discussed in Chapter 3.3, “Traffic and Parking”, during non-game day conditions, the proposed action is expected to result in significant adverse traffic impacts at four intersections during the weekday AM peak hour, five intersections during the weekday PM peak hour, and two intersections during the Saturday midday peak hour. During game day conditions, the proposed action is expected to result in significant adverse traffic impacts at five intersections during the weekday PM peak hour and one intersection during the Saturday midday peak hour. A traffic mitigation plan was therefore developed to address these impacts.

The following mitigation measures would off-set impacts identified above (see chapter 3.3, “Traffic and Parking” for detailed traffic analysis) for both game day and non-game traffic conditions:

Mitigation Measures

- E. 161st Street S. Service Road at Gerard Avenue – Re-allocate one (1) second of green time from the eastbound phase to the northbound phase during the weekday PM peak period.
- E. 161st Street S. Service Road at Grand Concourse – Re-allocate two (2) seconds of green time from the eastbound phase to the northbound-southbound phase during the weekday PM peak period.
- E. 161st Street at Concourse Village East/Morris Avenue
 - Prohibit on-street parking along Concourse Village East northbound approach to accommodate one additional northbound lane. This prohibition should extend for a distance of approximately 150 feet south of E. 161st Street. This change would result in the loss of approximately six (6) existing parking spaces along Concourse Village East northbound approach.
- Restripe Concourse Village East northbound approach to two (2) 10.5-foot wide lanes.
- Re-allocate six (6) seconds of green time from the northbound phase to the eastbound-westbound phase during the weekday AM, midday, and PM peak periods.

- E. 161st Street at Park Avenue East and West – Re-allocate two (2) seconds of green time from the eastbound-westbound phase to the northbound-southbound phase during the weekday AM and midday peak periods.
- E. 161st Street at Melrose Avenue
 - Prohibit on-street parking along Melrose Avenue northbound approach to accommodate the northbound left-turns in a separate lane. This prohibition should extend for a distance of approximately 150 feet south of E. 161st Street. This change would result in the loss of approximately six (6) existing parking spaces along Melrose Avenue northbound approach.
 - Restripe Melrose Avenue northbound approach to a 11-foot wide, 100-foot long left-turn bay and a 13-foot wide through-right-turn lane;
 - Re-allocate four (4) seconds of green time from the northbound-southbound phase to the eastbound-westbound phase during the weekday AM and PM peak periods.
- Macombs Dam Bridge at Major Deegan Expressway (I-87) Southbound Ramps – Re-allocate one (1) second of green time from the southbound phase to the westbound left-turn movement lead phase during the weekday AM and PM and Saturday midday peak periods.

Traffic analyses indicate that there is no spare capacity at the intersection listed below in the Future Action condition and traffic impacts identified at this intersection would remain unmitigatable (see Chapter 3.9, “Unavoidable Adverse Impacts”).

- E. 149th Street at River Avenue/Exterior Street/ MDE (I-87) Northbound Off-Ramp. Despite the improved geometry and widening proposed by the Gateway Center at Bronx Terminal Market EIS, which are discussed in Chapter 3.3 (Traffic and Parking), significant traffic impacts remain which are identified below:
 - E. 149th Street westbound left-turn movement during the weekday PM peak hour
 - Exterior Street northbound left-turn movement during the weekday PM peak hour
 - MDE northbound off-ramp during the Saturday midday peak hour

Pedestrians

Pedestrian impacts would occur under Future Action conditions for the weekday PM peak and Saturday midday peak hours. Specifically there would be a marginal impact in the east crosswalk of 161st Street and River Avenue intersection during the PM peak period and the north and south crosswalk of the 161st Street and River Avenue during the Saturday midday peak period.

The results of the analysis account for a peak surge of pedestrians during worst-case (i.e. a sold out stadium) conditions. During pre-game periods, normal traffic operations are expected to be adjusted and NYPD traffic enforcement officers are expected to manage

the flow of pedestrians and traffic to help mitigate any pedestrian impacts and enhance safety. Therefore, no mitigation is proposed for the potential impacts to these crosswalks.

(E) DESIGNATIONS

As part of the Zoning Map amendment, (E) Designations would be mapped for hazardous materials, air quality, and noise. An (E) is designated on the appropriate Zoning Map (by block and lot) and indicates that on that site no change of use or development requiring a New York City Department of Buildings (DOB) permit may be issued without approval of the New York City Department of Environmental Protection (DEP). Under the proposed actions, as set forth in the FEIS, (E) designations for Hazardous Materials, Air Quality and Noise would be mapped as part of the proposed rezoning, as detailed below. A complete list of properties requiring (E) designations for hazardous materials is included in the Environmental Assessment Statement and in the FEIS for air quality and noise.

Hazardous Materials

Hazardous Material analyses were performed for the Environmental Assessment Statement. To preclude the potential for significant adverse hazardous materials impacts on any future residential, commercial or community facility uses on any of the sites an (E) designation would be incorporated into the proposed rezoning for each of the affected sites. Any site that has received an (E) designation for hazardous materials will require that the fee owner of the site conduct a testing and sampling protocol, and develop a remediation plan, where appropriate, to the satisfaction of DEP before the issuance of a building permit by the DOB (pursuant to Section 11-15 of the Zoning Resolution - Environmental Requirements).

Air Quality

Air quality analyses for heating, ventilation, and air conditioning (HVAC) systems were performed for the FEIS. To preclude the potential for significant adverse air quality impacts on other projected and potential developments from HVAC emissions, an (E) designation would be incorporated into the proposed rezoning for each of the affected sites. These “E” designations would specify the required stack set-back distance for fuel oil or the exclusive use of natural gas.

Noise

The *CEQR Technical Manual* establishes building noise attenuation requirements, based on exterior (ambient) noise levels. As part of the proposed action, (E) designations would be placed on the zoning map for select projected and potential development sites to avoid the potential for significant adverse noise impacts. Residential, commercial and community facility development on lots mapped with an (E) designation would be required to provide sufficient noise attenuation to maintain interior noise levels of 45 dBA or lower.

UNIFORM LAND USE REVIEW

On March 30, 2009, this application (C 090365 ZMX) was certified as complete by the Department of City Planning on March 30, 2009, and was duly referred to Community Board 4 and the Borough President in accordance with Title 62 of the Rules of the City of New York, Section 2-02(b) along with the related action (N 090364 ZRY), which was referred for information and review in accordance with the procedures for non-ULURP matters.

Community Board Review

Community Board 4 held a public hearing on this and the related application (N 090364 ZRY) on May 19, 2009, and on that date, by a vote of 10 in favor, 2 opposed and 3 abstaining, adopted a resolution recommending approval of these applications.

Borough President Recommendation

The applications (C 090365 ZMX and N 090364 ZRY) were considered by the Borough President, who issued a recommendation approving the applications on June 24, 2009, subject to the following conditions:

- Assure sufficient analysis is done to identify ways to mitigate overcrowding and delays for the BX6 bus. Significant impacts (though no mitigation) were identified for the BX 13, which follow the BX6 route along East 161st Street only during rush hours. The BX6 currently has significant overflow and bunching during rush hours. The potential creation of 894 units in this rezoning, in addition to the thousands of units being created at Boricua Village, Courtlandt Corners, St. Ann's Terrace and the Melrose Commons North RFP sites; 553,484 square feet of potential office space; and 113,553 square feet of potential retail space, will only impact this line even further, as it provides a primary conduit to subway access. Bus-only lanes during rush hours should be considered.
- Mitigate the impact of a 2% increase of needed day care slots to 135% utilization. I acknowledge that this figure is below the five percent increase mitigation CEQR

threshold, but increasing need in one of the most underserved areas of the City deserves mitigation. Administration for Children's Services (ACS) is currently looking to build a facility in the area given the high need. I understand DCP is working with ACS to further analyze the matter. I hope sufficient accommodation is made to alleviate this situation.

- The Environmental Impact Statement projects school enrollment increases that exceed seat capacity, yet do not meet the CEQR threshold, it is my position that any over enrollment is unacceptable. I therefore require assurance that school seating capacity will be addressed.

In June 2008 the Bronx Borough President's Office, along with other elected officials and education advocates, engaged the Department of Education and met with Chancellor Joel Klein, to discuss Bronx neighborhoods most impacted by overcrowding. Among these were the Highbridge and West Concourse communities (CSD9). Local public education advocates remain concerned about the enrollment impact of the increase in population anticipated through 2010 and, in particular, say that there is an urgent need for a middle school in Highbridge that has to be addressed. The Department of City Planning population increase estimates for Highbridge and West Concourse are 14.1% and 4.7% respectively.

These increases are being driven by extensive subsidized housing construction with the financial support of the Community Preservation Corporation, the New York City Housing Development Corporation, the Department of Housing Preservation and Development and other sources. Since much of this housing, as aforementioned in the first bullet, is still either under construction or yet to be developed, many of the elementary and middle school students who will occupy these units were not counted in the October 2006 Blue Book data, nor were they considered in the Grier Partnership projections.

- I am profoundly concerned about the projected impacts reported in the Environmental Impact Statement (EIS) at the intersection of East 149th Street at River Avenue, which has no spare capacity and for which the EIS indicates mitigation is not possible. This is the worst of several intersections projected to be impacted. While the EIS proposes mitigation for impacted intersections on East 161st Street, this is a critical east/west corridor deserving of a more thorough multi-modal assessment, including the benefits of replacing the already mapped and designed East 153rd Street Bridge.

City Planning Commission Public Hearing

On June 17, 2009 (Calendar No. 2) the City Planning Commission scheduled July 1, 2009, for a public hearing on the application (C 090365 ZMX). The hearing was duly held on July 1, 2009 (Calendar No 30.), in conjunction with the hearing for the related action (N 090365 ZRY).

There were four speakers in favor and none in opposition.

Three of the speakers represented an owner of property located on the east side of River Avenue between E. 161st and E. 157th streets. They spoke in support of the proposal and asked for changes to the height and setback regulations for the proposed C6-3D. Specifically they asked that a certification be created to allow the buildings fronting on an elevated line to raise up higher than 25 feet at the street line; that windows be allowed on the lot line fronting a mapped public park; that more flexibility be allowed in the location of the tower, and that the required parking be lowered to 20%.

The last speaker represented a construction trade union and spoke in favor of construction jobs and union labor for new development in the area.

There were no other speakers and the hearing was closed.

CONSIDERATION

The Commission believes that the amendment to the zoning map (C 090365 ZMX) and the related amendment to the zoning text (N 090364 ZRY), as modified are appropriate.

The Commission believes that the rezoning proposal would facilitate the redevelopment of underutilized lots in this high-profile and transit rich area of the Bronx. Furthermore the Commission believes that the creation and mapping of the new C6-3D zoning designation will spur high density, transit oriented development that is responsive to the needs of the community and sensitive to the complex urban environment. Lastly, the Commission believes that the application of the Inclusionary Housing program to segments of the corridors will provide a powerful incentive for the development of affordable housing in this part of the Bronx, insuring that new development will be affordable to a range of income levels.

The Commission recognizes the concerns of the Bronx Borough President relating to mass transit, day care facilities, school seats and traffic. The Commission notes that New York City Transit routinely conducts ridership counts and adjusts bus service frequency to meet its service criteria. Any impacts of the proposed rezoning would be mitigated through this process. The implementation of bus-only lanes on 161st Street would require further study, and the recommendation has been referred to the New York City Department of Transportation and New York City Transit. The Commission notes the Borough President's concern regarding the overcapacity of publicly funded day care facilities in the area. The Final Environmental Impact

Statement does not include in the quantitative analysis the hundreds of private and not-for-profit child care centers or informal child care with a relative or neighbor. With these options, which are how most children are served, the publicly funded day care facilities are no longer overcapacity.

The Commission notes that the quantitative analysis of the elementary and intermediate school seats in the Final Environmental Impact Statement does not include schools that are in the Department of Education's *2005-2009 Five year Capital Plan*, which have not been sited and funded. It also does not include charter schools. With the full build out of the *2005-2009 Five year Capital Plan* and the inclusion of area charter schools there is no longer over-enrollment in Community School District 9E

The Commission notes that the intersection of East 149th Street, River Avenue and Exterior Street has been the subject of numerous studies and continues to be studied by various transportation agencies. The State Department of Transportation has plans that are expected to widen and straighten the Major Deegan Expressway from the 138th Street interchange to the Macombs Dam Bridge interchange. The Environmental Impact Statement for this proposal has been shared with the State so that the highway design can take into account the impacts of development projected to occur as a result of the 161st Street rezoning.

The Commission also recognizes the testimony relating to property on the east side of River Avenue between E. 161st and E. 157th streets. The Commission notes that such changes are out of scope of the current proposal, but suggests the property file an application requesting a zoning text amendment. However, the Commission believes that allowing a higher base fronting on the elevated tracks is not appropriate and that setting back the building a minimum of 10 feet provides relief from the noise of passing trains. The Commission notes that the proposed text does not specifically regulate tower location, rather it contains requirements for rear yards, which due to site constraints result in likely tower locations. Finally, the Commission notes that changing the rear yard requirements and to reducing the parking requirements are out of scope of the proposal.

As originally referred the text did not reflect the new Inclusionary Housing Text Amendment which was adopted by the New York City Council after this project was referred out. Therefore

the Commission is modifying the related text amendment (N 090364 ZRY) to reflect the changes adopted by the City Council.

RESOLUTION

RESOLVED, that having considered the Final Environmental Impact Statement (FEIS), for which a Notice of Completion was issued on August 7, 2009, with respect to this application (CEQR No. 090DCP024X), the City Planning Commission finds that the requirements of the New York State Environmental Quality Review Act and Regulations have been met and that

1. Consistent with social, economic, and other essential considerations, from among the reasonable alternatives thereto, the action is one which minimizes or avoids adverse environmental impacts to the maximum extent practicable; and
2. The adverse environmental impacts disclosed in the FEIS will be minimized or avoided to the maximum extent practicable by incorporating as conditions to the approval those mitigative measures that were identified as practicable.

The report of the City Planning Commission, together with the FEIS, constitute the written statement of facts, and of social, economic and other factors and standards, that form the basis of the decision, pursuant to Section 617.11(d) of the SEQRA regulations; and be it further

RESOLVED, by the City Planning Commission, pursuant to Section 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 modified, is further amended by changing the Zoning Map. Section Nos.3b and 6a:

1. eliminating from within an existing R7-1 District a C1-4 District bounded by Morris Avenue a line 100 feet northeasterly of East 161st Street, a line 100 feet southeasterly of Morris Avenue, and East 161st Street;
2. eliminating from within an existing R8 District a C1-4 District bounded by River Avenue, a line 250 feet northeasterly of East 161st Street, East 162nd Street, Gerard Avenue, East 161st Street, a line midway between Gerard Avenue and Walton Avenue, a line 100 feet southwesterly of East 161st Street, a line midway between River Avenue and Gerard Avenue, and a line 150 feet northeasterly of East 158th Street;
3. changing from an R7-1 District to an R8A District property bounded by East 162nd Street and its southeasterly prolongation, Park Avenue, East 161st Street, and Morris Avenue;
4. changing from an R8 District to a C6-2 District property bounded by East 161st Street, Concourse Village West, a line 50 feet northeasterly of East 159th Street, and a line 100 feet northwesterly of Concourse Village West;
5. changing from a C4-6 District to a C6-2 District property bounded by a line 140 feet northeasterly of East 161st Street, Sheridan Avenue, East 161st Street, and a line 100 feet northwesterly of Sheridan Avenue;

6. changing from a C8-3 District to a C6-2 District property bounded by East 161st Street, Concourse Village East, a line 150 feet southwesterly of East 161st Street, and Concourse Village West;
7. changing from an R8 District to a C6-3D District property bounded by River Avenue, a line 250 feet northeasterly of East 161st Street, East 162nd Street, Gerard Avenue, East 161st Street, a line midway between Gerard Avenue and Walton Avenue, a line 110 feet southwesterly of East 161st Street, a line midway between River Avenue and Gerard Avenue, and a line 150 feet northeasterly of East 158th Street
8. changing from a C8-3 District to a C6-3D District property bounded by River Avenue, a line 150 feet northeasterly of East 158th Street, a line midway between River Avenue and Gerard Avenue, and a line perpendicular to the southeasterly street line of River Avenue distant 100 feet northeasterly (as measured along the street line) from the point of intersection of the southeasterly street line of River Avenue and the northeasterly street line of East 153rd Street; and
9. establishing within the proposed R8A district a C2-4 District bounded by East 162nd Street, a line 100 feet southeasterly of Morris Avenue, a line midway between East 161st Street and East 162nd Street, a line 100 feet northwesterly of Park Avenue, a line 100 feet northeasterly of East 161st Street, a line perpendicular to the northeasterly street line of East 161st Street distant 100 feet northwesterly (as measured along the street line) from the point of intersection of the northeasterly street line of East 161st Street and the northwesterly street line of Park Avenue, East 161st Street, and Morris Avenue;

Borough of the Bronx, Community District 4 as shown on a diagram (for illustrative purposes only) dated March 30, 2009 and which includes CEQR Designation E-225.

The above resolution (C 090365 ZMX), duly adopted, by the City Planning Commission on August 19, 2009 (Calendar No. 20), 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, FAICP, Chair

KENNETH J. KNUCKLES, ESQ., Vice Chairman

ANGELA M. BATTAGLIA, , RAYANN BESSER, IRWIN G. CANTOR, P.E.,

ANGELA R. CAVALUZZI, AIA, ALFRED C. CERULLO, III, RICHARD W. EADDY,

NATHAN LEVENTHAL, SHIRLEY A. McRAE, KAREN PHILIPS, Commissioners