



IN THE MATTER OF an application submitted by the NYC Department of Housing Preservation and Development pursuant to Section 197-c and 201 of the New York City Charter for the grant of special permits pursuant to the following sections of the Zoning Resolution:

1. Section 74-743(a)(1) – to allow the distribution of required open space without regard to zoning lot lines; and
2. Section 74-743(a)(2) – to allow the location of buildings without regard to applicable yard requirements of Sections 23-47 and 35-50 and height and setback regulations of Sections 23-62, 23-64, and 33-43;

in connection with a proposed mixed-use development, on property generally bounded by Bergen Avenue and its northeasterly centerline prolongation, Brook Avenue and East 149th Street (Block 2294, Lot 32, Block 2361, Lots 1, 25, 26, & 50, Block 2263, Lot 1), in a C6-2 District, within a Large-Scale General Development, Borough of the Bronx, Community District 1.

An application (C 160270 ZSX) for a special permit pursuant to Section 74-743(a)(1) to allow the distribution of required open space without regard to zoning lot lines, and Section 74-743(a)(2) to allow the location of buildings without regard to applicable yard requirements of Sections 23-47 and 35-50 and height and setback regulations of Sections 23-62, 23-64, and 33-43 of the Zoning Resolution was filed by the New York City Department of Housing Preservation and Development (HPD) on April 6, 2016, in conjunction with several related actions, to facilitate the development of five mixed-use buildings containing approximately 831 affordable dwelling units, 160 supportive housing units, commercial space and community facility space, in Borough of the Bronx, Community District 1.

RELATED ACTIONS

In addition to the application for a designation, project approval and disposition of city-owned property (C 160270 ZSX), which is the subject of this report, implementation of the proposed development also requires action by the City Planning Commission on the following applications, which are being considered concurrently with this application:

- C 160268 HAX Designation of property as an Urban Development Action Area and Urban Development Action Area Project and pursuant to Section 197-c, disposition of such property to a developer selected by HPD.
- C 160267 ZMX Amendment to the Zoning Map, Section 6a, changing from an M1-1 and C4-4 to a C6-2 District.
- C 160271 ZSX Special Permit, pursuant to ZR Section 74-744(b), to permit residential and non-residential uses to be arranged on the second floor within building B without regard for the location regulations of ZR Section 32-42.
- N 160269 ZRX Zoning Text Amendment pursuant to Appendix F, to add the project area to the list and maps of Mandatory Inclusionary Housing Areas.

BACKGROUND

A full background discussion and description of this application appears in the report for the related UDAAP action (C 160268 HAX).

ENVIRONMENTAL REVIEW

This application (C 160270 ZSX), in conjunction with the related actions (C 160267 ZMX, C 160268 HAX, N 160269 ZRX, C 160271 ZSX), 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 15HPD041X. The Lead Agency is the Department of Housing Preservation and Development.

A summary of the environmental review, including the Final Environmental Impact Statement (FEIS), issued on XXX 2016, appears in the report on the related application for the UDAAP action (C 160268 HAX).

UNIFORM LAND USE REVIEW

This application (C 160270 ZSX), in conjunction with the related actions (C 160267 ZMX, C 160268 HAX, C 160271 ZSX), was certified as complete by the Department of City Planning on April 11, 2016, and was duly referred to Community Board 1 and the Bronx Borough President, in accordance with Title 62 of the Rules of the City of New York, Section 2-02(b) along with the related application for a zoning text amendment, (N 160269 ZRX) which was referred for information and review in accordance with the procedures for non-ULURP matters.

Community Board Public Hearing

Community Board 1 held a public hearing on this application (C 160270 ZSX), on April 28, 2016 and on that date, by a vote of 23 in favor, 0 in opposition, and 1 abstention, adopted a resolution recommending approval of the application with modifications/conditions.

A summary of the recommendations of Community Board 1 appears in the report on the related application for a UDAAP designation (C 160268 HAX).

Borough President Recommendation

This application (C 160270 ZSX), was considered by the Bronx Borough President, who issued a recommendation approving the application on June 20, 2016.

City Planning Commission Public Hearing

On June 8, 2016 (Calendar No. 4), the City Planning Commission scheduled June 22, 2016, for a public hearing on this application (C 160270 ZSX) and related actions. The hearing was duly held on June 22, 2016 (Calendar No. 21), in conjunction with the application for the related actions. There were a number of appearances, as described in the report for the related action (C 160268 HAX), and the hearing was closed.

CONSIDERATION

The Commission believes that this application (C 160270 ZSX) is appropriate. A full consideration and analysis of the issues and the reasons for approving this application appear in the related report (C 160268 HAX).

FINDINGS

The City Planning Commission hereby makes the following findings pursuant to Section 74-743(a)(1) and Section 74-743(a)(2) of the Zoning Resolution:

(a) For a #large-scale general development#, the City Planning Commission may permit:

(1) distribution of total allowable #floor area#, #rooming units#, #dwelling units#, #lot coverage# and total required #open space# under the applicable district regulations within a #large-scale general development# without regard for #zoning lot lines# or district boundaries, subject to the following limitations:

(i) no distribution of #bulk# across the boundary of two districts shall be permitted for a #use#

utilizing such #bulk# unless such #use# is permitted in both districts;

(ii) not applicable

(2) location of #buildings# without regard for the applicable #yard#, #court#, distance between #buildings#, or height and setback regulations;

(b) In order to grant a special permit pursuant to this Section for any large-scale general development, the Commission shall find that:

(1) the distribution of floor area, open space, dwelling units, rooming units and the location of buildings, primary business entrances and show windows will result in a better site plan and a better relationship among buildings and open areas to adjacent streets, surrounding developments, adjacent open areas and shorelines than would be possible without such distribution and will thus benefit both the occupants of the large-scale general development, the neighborhood, and the City as a whole;

(2) the distribution of floor area and location of buildings will not unduly increase the bulk of buildings in any one block or unduly obstruct access of light and air to the detriment of the occupants or users of buildings in the block or nearby blocks or of people using the public streets;

(3) where a zoning lot of a large-scale general development does not occupy a frontage on a mapped street, appropriate access to a mapped street is provided;

(4) not applicable

(5) when the Commission has determined that the large-scale general development requires significant addition to existing public facilities serving the area, the applicant has submitted to the Commission a plan and timetable to provide such required additional facilities. Proposed facilities that are incorporated into the City's capital budget may be included as part of such plan and timetable;

(6) not applicable

(7) not applicable

(8) not applicable

(9) not applicable

(10) a declaration with regard to ownership requirements in paragraph (b) of the large-scale general development definition in Section 12-10 (DEFINITIONS) has been filed with the Commission; and

(11) not applicable

RESOLUTION

RESOLVED, that the City Planning Commission finds that the actions described herein will have that having considered the Final Environmental Impact Statement (FEIS), for which a Notice of Completion was issued on July 29, 2016, with respect to this application (CEQR No. 15HPD041X) 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 available, the action is one which avoids or minimizes adverse environmental impacts to the maximum extent practicable; and
2. The adverse environmental impacts identified in the FEIS will be minimized or avoided to the maximum extent practicable by the placement of (E) designations for Hazardous Materials, Air Quality, and Noise, as well as through the provisions of Sections 81-624 and 81-691(a)(3) of the Zoning Resolution, which form part of the action.

The report of the City Planning Commission, together with the FEIS, constitutes 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 197-c and 200 of the New York City Charter, that based on the environmental determination and the consideration and findings described in this report, the application submitted by the New York City Department of Housing Preservation and Development for the grant of a special permit pursuant to Section 74-743(a)(1) to allow the distribution of required open space without regard to zoning lot lines, and Section 74-743(a)(2) to allow the location of buildings without regard to applicable yard requirements of Sections 23-47 and 35-50 and height and setback regulations of Sections 23-62, 23-64, and 33-43 of a proposed mixed-use development, on property generally bounded by Bergen Avenue and its northeasterly centerline prolongation, Brook Avenue and East 149th Street (Block 2294, Lot 32, Block 2361, Lots 1, 25, 26, & 50, Block 2263, Lot 1), in a C6-2 District, within a

Large-Scale General Development, Borough of the Bronx, Community District 1, is approved, subject to the following conditions:

- 1) The property that is the subject of this application (C 160270 ZSX) shall be developed in size and arrangement substantially in accordance with the dimensions, specifications and zoning computations indicated on the following approved plans, prepared by MHG Architects PC and FXFowle, filed with this application and incorporated in this resolution:

Dwg. No.	Title	Last Date Revised
Z-000.00	Title Sheet	04/05/2016
Z-003.00	Zoning Analysis, List of Actions & Average Curb Level	04/07/2016
Z-010.00	Site Plan Zoning Envelope	04/05/2016
Z-011.00	Enlarged Site Plan Zoning Envelope (Partial)	04/05/2016
Z-012.00	Enlarged Site Plan Zoning Envelope (Partial)	04/05/2016
Z-030.00	Open Space Plan	04/05/2016
Z.040.00	Building A – Waiver Plan	04/05/2016
Z-041.00	Building A – Height & Setback Waiver Diagrams	04/05/2016
Z-050.00	Building B – Waiver Plan	04/05/2016
Z-051.00	Building B – Height & Setback Waiver Diagrams	04/05/2016
Z-060.00	Building C & D – Waiver Plan	04/05/2016
Z-061.00	Building C & D – Height & Setback Waiver Diagrams	04/05/2016
Z-070.00	Building E – Waiver Plan	04/05/2016
Z-071.00	Building E – Height & Setback Waiver Diagrams	04/05/2016
Z-072.00	Building E – Height & Setback Waiver Diagrams	04/05/2016
L-000.00	Landscape Site Plan	04/05/2016
L-101.00	Building A, 2 nd Floor Material Plan- Part A	04/05/2016
L-102.00	Building A, 2 nd Floor Material Plan- Part B	04/05/2016
L-103.00	Building A, 2 nd Floor Material Plan- Part C	04/05/2016
L-104.00	Building A, 11 th Floor Material Plan	04/05/2016
L-111.00	Building B, Courtyard Material Plan – Part A	04/05/2016

L-112.00	Building B, Courtyard Material Plan – Part B	04/05/2016
L-113.00	Building B, 3 rd Floor Material Plan	04/05/2016
L-114.00	Building B, 12 th Floor material Plan	04/05/2016
L-121.00	Building D Courtyard Material Plan – Part A	04/05/2016
Z-122.00	Building D Courtyard Material Plan – Part B	04/05/2016

- 2) Such development shall confirm to all applicable provisions of the Zoning Resolution, except for the modifications specifically granted in this resolution and shown on the plan listed above which have been filed with this application. All zoning computations are subject to verification and approval by the New York City Department of Buildings.

- 3) Development pursuant to this resolution shall be allowed only after the restrictive declaration attached hereto as Exhibit A, with such administrative changes as are acceptable to Counsel to the Department of City Planning, has been executed and recorded in the Office of the Register, New York County. Such restrictive declaration shall be deemed incorporated herein as a condition of this resolution.

- 4) Such development shall conform to all applicable laws and regulations relating to its construction, operation and maintenance.

- 5) All leases, subleases, or other agreements for use or occupancy of space at the subject property shall give actual notice of this special permit to the lessee, sublessee or occupant.

- 6) Upon failure of any party having any right, title or interest in the property that is the subject of this application, or the failure of any heir, successor, assign, or legal representative of such party, to observe any of the covenants, restrictions, agreements, terms or conditions of this resolution whose provisions shall constitute conditions of the special permit hereby granted, the City Planning Commission may, without the consent of any other party, revoke any portion of or all of said special permit. Such power of revocation shall be in addition to and not limited to any other powers of the City Planning Commission, or of any other agency of government, or any private person or entity. Any such failure as stated above,

or any alteration in the development that is the subject of this application that departs from any of the conditions listed above, is grounds for the City Planning Commission or the City Council, as applicable, to disapprove any application for modification, cancellation or amendment of the special permit hereby granted.

- 7) Neither the City of New York nor its employees or agents shall have any liability for money damages by reason of the city's or such employee's or agent's failure to act in accordance with the provisions of this special permit.

The above resolution (C 160270 ZSX), duly adopted by the City Planning Commission on August 15, 2016 (Calendar No. 4) 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.

CARL WEISBROD, Chairman
RAYANN BESSER, IRWIN G. CANTOR, P.E., ALFRED C. CERULLO, III,
JOSEPH DOUEK, RICHARD W. EADDY, HOPE KNIGHT, ANNA HAYES LEVIN,
ORLANDO MARIN, Commissioners

KENNETH J. KNUCKLES, Esq., Vice Chairman, Commissioner, Recused