



## **CITY PLANNING COMMISSION**

March 2, 2011/ Calendar No. 4

C 110100 ZSX

**IN THE MATTER OF** an application submitted by the Department of Housing Preservation and Development pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-681(a)(2) of the Zoning Resolution to allow that portion of the right-of-way or yard where railroad or transit use has been permanently discontinued or terminated to be included in the lot area for a proposed mixed-use development on property located at 1175 East Tremont Avenue a.k.a. 1160 Lebanon Street (Site A, Block 4007, Lot 15), in an M1-1 District, Borough of the Bronx, Community District 6.

The application for the special permit was filed by the Department of Housing Preservation and Development on September 30, 2010, to facilitate the construction of a mixed-use affordable housing development, in Bronx Community District 6.

### **RELATED ACTIONS**

In addition to the special permit which is the subject of this report, implementation of the proposal also requires action by the City Planning Commission on the following applications which are being considered concurrently with this application:

- |              |   |
|--------------|---|
| C 110101 HAX | Urban Development Action Area Project (UDAAP) designation and project approval pursuant to Article 16 of the General Municipal Law of New York State and disposition of two City-owned properties pursuant to 197-c of the NYC Charter to a developer selected by HPD   |
| C 110103 ZSX | Special Permit pursuant to Section 74-681(a) (2) of the Zoning Resolution to allow that portion of the right-of-way or yard where railroad or transit use has been permanently discontinued or terminated to be included in the lot area for a proposed mixed-use development on property located at 1172 East Tremont Avenue (Site B, Block 3909, Lot 8), in an M1-1 District. |

### **BACKGROUND**

A description of this application, the surrounding area and the proposed project is included in the report on the related action for the proposed Urban Development Action Area designation and project approval and disposition of city-owned property (C 110101 HAX).

## **ENVIRONMENTAL REVIEW**

The application (C 110100 ZSX), in conjunction with the related applications (C 110101 HAX and C 110103 ZSX) was reviewed pursuant to New York State Environmental Quality Review Act (SEQR), and the SEQR 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 10HPD001X. The lead agency is the Department of Housing Preservation and Development.

After a study of the potential impact of the proposed action, a Negative Declaration was issued on August 11, 2010.

## **UNIFORM LAND USE REVIEW**

The application (C 110100 ZSX), in conjunction with the related applications (C 110101 HAX and C 110103 ZSX) was certified as complete by the Department of City Planning on October 12, 2010, and was duly referred to the Community Board 6 and the Bronx Borough President, in accordance with Title 62 of the Rules of the City of New York, Section 2-02(b).

### **Community Board Public Hearing**

Community Board 6 held a public hearing on this application on December 8, 2010, and on that date, by a vote of 11 in favor, 5 opposed and 4 abstentions, adopted a resolution recommending approval.

### **Borough President Public Hearing**

The Borough President held two public hearings on this application on December 21, 2010, and January 4, 2011 issued a recommendation disapproving the application on January 12, 2011.

The Borough Presidents recommendation and concerns are listed in the report on the related action for the proposed Urban Development Action Area designation, project approval and, disposition of city-owned property (C 110101 HAX).

## **City Planning Commission Public Hearing**

On January 5, 2011 (Calendar No. 2) the Commission scheduled January 26, 2011 for a public hearing for this application (C 110100 ZSX), in conjunction with the related applications (C 110101 HAX and C 110103 ZSX).

There were a number of appearances, as described in the report on the related Urban Development Action Area designation, project approval, and disposition (C 110101 HAX), and the hearing was closed.

## **CONSIDERATION**

The Commission believes that this special permit (C 110100 ZSX), in conjunction with the related actions (C 110101 HAX and C 110103 ZSX), is appropriate. A full consideration and analysis of the issues and reasons for approving this application appears in the report on the related application for the proposed Urban Development Action Area designation, project approval, and disposition of city-owned property (C 110101 HAX).

## **FINDINGS**

The commission hereby makes the following findings pursuant to ZR Section 74-681:

- a) That the streets providing access to all uses pursuant to Section 74-681 (a) are adequate to handle traffic resulting there from;
- b) That the distribution of floor area and the number of dwelling units or rooming units does not adversely affect the character of the surrounding area by being unduly concentrated in any portion of such development or enlargement, including any portion of the development or enlargement located beyond the boundaries of such railroad or transit right-of-way or yard;
- c) That all uses, developments or enlargements located on the zoning lot or below a platform do not adversely affect one another;
- d) That if such railroad or transit right-of-way or yard is deemed appropriate for future transportation use, the site plan and structural design of the development does not preclude future use of, or improvements to, the right-of-way for such transportation use.

**RESOLUTION**

**RESOLVED**, that the City Planning Commission finds that the action described herein will have no significant impact on the environment; and

**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 and findings described in this report, the application submitted by the Department of Housing Preservation and Development pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to 74-681(a)(2) of the Zoning Resolution to allow that portion of the right-of-way or yard where railroad or transit use has been permanently discontinued or terminated to be included in the lot area for a proposed mixed-use development on property located at 1175 East Tremont Avenue a.k.a. 1160 Lebanon Street (Site A, Block 4007, Lot 15), in an M1-1 District, Borough of the Bronx, Community District 6, is approved, subject to the following terms and conditions:

- 1) The property that is the subject of this application (C 110100 ZSX) shall be developed in size and arrangement substantially in accordance with the dimensions, specifications and zoning computations indicated on the following plans, prepared by Curtis and Ginsberg Architects, LLP, filed with this application and incorporated in this resolution:

Drawing No.	<u>Drawing Title</u> _____	Last Date Revised
UL 01N	Lot 15, Block 4007 Site Plan	December 27, 2009
UL 02N	Lot 15, Block 4007 Zoning Calculations	December 27, 2009
UL 03N	Lot 15, Block 4007 Right Of Way Site Plan	December 27, 2009
UL 04N	Lot 15, Block 4007 BLDG. 1 & 2 Height & Setback	December 27, 2009

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- 2) Such development shall conform to all applicable provisions of the Zoning Resolution, except for the modifications specifically granted in this resolution and shown on the plans

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) Such development shall conform to all applicable laws and regulations relating to its construction, operation and maintenance.
- 4) 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, sub lessee or occupant.
- 5) Upon failure of any party having any right, title or interest in the property that is the subject of this application, or failure of any heir, successor, assign, or legal representative of such party, to observe any of the covenants, restrictions, agreements, terms and conditions of this resolution whose provisions shall constitute 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 the 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 the 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 of the City Council, as applicable, to disapprove any application for modification, cancellation or amendment of the special permit hereby granted.
- 6) 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 110100 ZSX), duly adopted by the City Planning Commission on March 2, 2011 (Calendar No. 4), is filed with the Office of 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.,**  
**ALFRED C. CERULLO, III, BETTY CHEN, MARIA M. DEL TORO,**  
**RICHARD W. EADDY, ANNA HAYES LEVIN,**  
**SHIRLEY A. MCRAE, KAREN A. PHILLIPS, Commissioners**

# Community/Borough Board Recommendation

CITY PLANNING COMMISSION  
22 Reade Street, New York, NY 10007  
FAX # (212) 720-3356

Application # **C 11010026X**  
CEQR # **10HP00030**  
Community District No. 06 Borough: The Bronx  
Community District No. \_\_\_ Borough: \_\_\_  
Project Name: **East Tremont Apartments**

**INSTRUCTIONS**  
1. Complete this form and return one copy to the Calendar Information Office, City Planning Commission, Room 2E, at the above address.  
2. Send one copy of this completed form with any attachments to the applicant's representative at the address listed below, one copy to the Borough President, and one copy to the Borough Board, when applicable.

**Docket Description:**

IN THE MATTER OF an application submitted by the NYC Department of Housing Preservation and Development pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 24-681(a)(2) of the Zoning Resolution to allow that portion of the right-of-way or yard where railroad or transit use has been permanently discontinued or terminated to be included in the lot area for a proposed mixed-use development on property located at 1175 East Tremont Avenue a.k.a. 1160 Lebanon Street (Site A, Block 4007, Lot 15), in an M1-1 District, Borough of the Bronx, Community District 6.

Plans for this proposal are on file with the City Planning Commission and may be seen at 22 Reade Street, Room 3N, New York, NY 10007.

<b>Applicant(s):</b>	<b>Applicant's Representative:</b>
NYC Dept. of Housing Preservation & Development 100 Gold Street New York, NY 10038 Phone: (212) 863-5000	Winifred Campbell NYC Dept. of Housing Preservation & Development 100 Gold Street New York, NY 10038

Community Board No. 06 Borough: The Bronx	Borough Board West Farms Branch Library 2085 Honeywell Avenue, Bronx, NY 10460
Date of public hearing: <u>December 8, 2010</u>	Location: _____
Was a quorum present? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	A public hearing shall require a quorum of 20% of the appointed members of the board, but in no event fewer than seven such members.
Vote adopting recommendation taken: <u>Dec. 8, 2010</u>	West Farms Branch Library Location: <u>2085 Honeywell Avenue, Bronx, NY 10460</u>

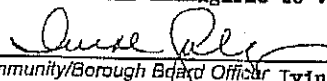
**RECOMMENDATION**

Approve  Approve With Modifications/Conditions  
 Disapprove  Disapprove With Modifications/Conditions

Explanation of Recommendation-Modification/Conditions (Attach additional sheets if necessary)

**Voting**

In Favor: 11 Against: 5 Abstaining: 4 Total members appointed to the board: 28  
One member was ineligible to vote on this matter.

	District Manager
Community/Borough Board Officer <u>Ivine Galarza</u>	Title _____

December 9, 2010	v.012008W
Date _____	

\* Indicates application was certified by the CPC pursuant to Section 197-C(c) of the City Charter.

**BOROUGH PRESIDENT  
RECOMMENDATION**

**CITY PLANNING COMMISSION  
22 Reade Street, New York, NY 10007  
Fax # (212)720-3356**

**INSTRUCTIONS**

- 1. Return this completed form with any attachments to the Calendar Information Office, City Planning Commission, Room 2E at the above address.
- 2. Send one copy with any attachments to the applicant's representative as indicated on the Notice of Certification.

**APPLICATION # C 110100 Z5X, C 110101 HAX, C 110103 Z5X**

**DOCKET DESCRIPTION**

**PLEASE SEE ATTACHMENT FOR DOCKET DESCRIPTION**

**COMMUNITY BOARD NOS. 6**

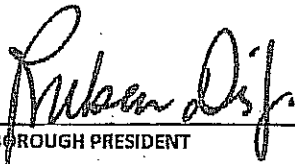
**BOROUGH: THE BRONX**

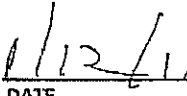
**RECOMMENDATION**

- APPROVE
- APPROVE WITH MODIFICATIONS/CONDITIONS (List below)
- DISAPPROVE

**EXPLANATION OF RECOMMENDATION-MODIFICATION/CONDITIONS (Attach additional sheets if necessary)**

**PLEASE SEE ATTACHMENT FOR BOROUGH PRESIDENT'S RECOMMENDATION**

  
 \_\_\_\_\_  
 BOROUGH PRESIDENT

  
 \_\_\_\_\_  
 DATE



BRONX BOROUGH PRESIDENT'S RECOMMENDATION  
ULURP APPLICATION NOS: C 110100 ZSX C 110101 HAX C 110103 ZSX  
EAST TREMONT APARTMENTS  
1/12/10

DOCKET DESCRIPTION

CD #6-ULURP APPLICATION NO: C 110100 ZSX-IN THE MATTER OF an application submitted by the NYC Department of Housing Preservation and Development (HPD) pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-681(a)(2) of the Zoning Resolution to allow that portion of the right-of-way or yard where a railroad or transit use has been permanently discontinued or terminated to be included in the lot area for a proposed mixed-use development on property located at 1175 East Tremont Avenue a.k.a. 1160 Lebanon Street (Site A, Block 4007, Lot 15), in an M1-1 District, Borough of the Bronx, Community District #6.

Plans for this proposed project are on file with the City Planning Commission and may be seen at 22 Reade Street, Room 3N, New York, New York 10007.

CD #6-ULURP APPLICATION NO: C 110101 HAX-IN THE MATTER OF an application submitted by the NYC Department of Housing Preservation and Development (HPD):

1. Pursuant to Article 16 of the General Municipal Law of New York State for:
  - a) the designation of properties located at 1157-1167 East 178<sup>th</sup> Street a.k.a. 1172 East Tremont Avenue (Site B, Block 3909, Lot 8 and 1160 Lebanon Street a.k.a. 1175 East Tremont Avenue (Site A, Block 4007, Lot 15) as an Urban Development Action Area; and
  - b) an Urban Development Action Area Project for such area; and
2. Pursuant to Section 197-c of the New York City Charter for the disposition of such property to a developer selected by HPD;

To facilitate development of three mixed use building with a total of approximately 141 dwelling units.

CD #6-ULURP APPLICATION NO: C 110103 ZSX-IN THE MATTER OF an application submitted by the New York City Department of Housing Preservation and Development (HPD) pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-681 (a)(2) of the Zoning Resolution to allow that portion of the right-of-way or yard where railroad or transit use has been permanently discontinued or terminated to be included in the lot area for a

proposed mixed-use development on property located at 1157-1167 East 178<sup>th</sup> Street a.k.a. 1172 East Tremont Avenue (Site B, Block 3909, Lot 8) in an M1-1 District, Borough of the Bronx, Community District #6.

## BACKGROUND

The purpose of this ULURP is to allow for a special permit and the disposition of land built on a former rail right-of-way that constituted the Bronx Park Spur off of the IRT 2 and 5 train lines that was closed in 1952. Only part of the elevated trestle was demolished, with an elevated structure remaining along Lebanon Street, entering the East 180<sup>th</sup> Street train yards, and structural footings in other areas. The intent of said actions would to allow residential construction on what are now two lots facing East Tremont Avenue, Lebanon Street and East 178<sup>th</sup> Street.

The proposed residential development would allow for three buildings on two lots consisting of 141 units, ranging from 8-10 stories in height. There would be nine studios, 43 one-bedrooms, 74 two-bedrooms, and 15 three-bedrooms. Building 1 faces Lebanon Street housing 51 units and rising 8 stories, with a setback at the 7<sup>th</sup> floor. Building 2 faces the north side of East Tremont Avenue housing 54 units and rising 10 stories, with a setback at the 8<sup>th</sup> floor. Building 3 faces the south side of East Tremont Avenue housing 36 units and rising 10 stories, with a setback at the 8<sup>th</sup> floor. They would serve households earning up to 60% of area median income. There would be 11 parking spaces behind Building 3 facing East 178<sup>th</sup> Street, and 11,767 square feet of open space in a central courtyard between Buildings 1 and 2, and on the roof of Building 3.

The current zoning for the site and the immediate area is M1-1. Though zoned for manufacturing, there are few manufacturing uses throughout the neighborhood. The area primarily consists of turn-of-the-century one to three-family detached homes, with some apartment buildings, small scale retail stores, automobile uses, and the aforementioned manufacturing uses.

The site is readily accessible by public transportation. It has the unique benefit of being located almost equidistance from both the East 180<sup>th</sup> Street express station, and the West Farms Square-East Tremont Avenue local station along the IRT 2 and 5 lines. West Farms Square is also a bus hub and terminus for the BX9, 21, 36, 40 and 42, as well as Q44 buses. The BXM10 express bus also serves the area.

## ENVIRONMENTAL REVIEW AND ULURP CERTIFICATION

This application was reviewed pursuant to SEQRA and CEQR. An Environmental Assessment Statement was prepared for this application and designated as an unlisted action, resulting in a Negative Declaration. The City Planning Commission certified this application as complete on October 10, 2010.

## COMMUNITY BOARD PUBLIC HEARING

Bronx Community Board #6 held a public hearing and approved this application on December 9<sup>th</sup>, 2010 with a vote of 11 in favor, five against, and four abstaining.

## BRONX BOROUGH PRESIDENT'S PUBLIC HEARING

The Bronx Borough President held two public hearings on this application on December 21, 2010, and January 4, 2011. Representatives of the applicants were present and spoke in favor of this application. Representatives from the community, were also present. Six residents spoke in favor of this application, while nine spoke against this application. The primary concerns were based around contextual building height, particularly Building 3; the number of new residents moving in; increase in crime; the blockage of light and air; and insufficient parking.

## BRONX BOROUGH PRESIDENT'S RECOMMENDATION

This ULURP application has presented a difficult situation to my office. On the one hand, this office has encouraged the New York City Department of City Planning for the last five years to study the outdated M1-1 zone north and east of West Farms Square. The rationale is to preserve the existing one to three-family homes along the side streets, while considering appropriate multi-family development along an underdeveloped stretch of East Tremont Avenue. On the other hand, while encouraging development, any type of development that comes into the neighborhood needs to pay respect to the existing community.

That being said, I am in favor of the disposition of land and the special permit to allow residential construction, but I am seriously concerned about the proposed residential project to be built on this land. There appears to be a split within the community as whether or not this project is welcomed. Many of renters, including a large number of those who live in Lambert Houses, which is managed by Phipps Houses, the developer, are in favor of the project, while many of the homeowners surrounding the sites are against it.

After careful consideration, I think the height and bulk of this project is too much for this neighborhood. Phipps came to my office approximately two years ago with this proposal. While there was general support for the project amongst my staff and myself, there were concerns primarily for Lebanon Street. It is the shortest of the three buildings, but is located across the street from the train yards. Creating more shadows along this stretch poses a safety issue. We also conveyed there might be community opposition. Since then, our advice has not been heeded. Since this project went through a variance, it does not conform to any zoning. It appears that the closest zoning district would be R7X, but the bulk requirements for this project even exceeds those regulations.

I understand the site issues of removing the former Bronx Park Spur train trestle and subsequent environmental clean-up. I also understand the concerns that reducing the height of any of the buildings will create a funding gap. During the public hearing, my staff asked if the project can be phased in. Phipps and their architect replied that it could be phased in, though there may be a small incremental cost to develop it over time. Also, my staff asked if senior housing was considered for any of the buildings. Phipps replied it had not, with HPD stating that there was no funding available for senior housing other than through applying for Project-based Section 8, essentially inferring this cannot be done.

Furthermore, this project does not provide housing for incomes over 60 percent of area median income (AMI). I understand that historically West Farms is a challenged neighborhood, but there is a collection of moderate to middle-class homeowners, who have made their voices heard during this process, that show the neighborhood can handle slightly higher incomes to create aspirational communities.

Again, I favor the actions put forth in this ULURP, but I do not approve the model being put forth by Phipps. Phipps is a phenomenal organization, with a storied history. My concerns should not be a reflection on the work Phipps has done for The Bronx. I have favored other Phipps projects, such as the revolutionary Via Verde being built just outside The Hub. I believe that Buildings 1 and 3 would be best served for the community at a 7-story height limit, which would contextually blend in with the few existing apartment buildings in the surrounding area. I also believe that the project needs to be phased-in, which would allow the community to gradually become accustomed to the buildings, as well as give Phipps time to fill the identified funding gaps in a better economic environment.

As a result, I do not recommend this application for approval. I would fully endorse this application, if the height and income distribution concerns were adequately addressed. I believe working collaboratively is the only way to get this project done right, and the only way to properly influence a needed future rezoning.