



CITY PLANNING COMMISSION

February 8, 2006/Calendar No. 12

C 060179 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. 4a and 4b:

1. eliminating from an existing R7-1 District a C1-2 District bounded by:
 - a. a line 150 feet southeasterly of Westchester Avenue, a line 150 feet southeasterly of Buhre Avenue, a line midway between Hobart Avenue and Crosby Avenue, a line 150 feet northwesterly of Middletown Road, Hobart Avenue, Middletown Road, a line 150 feet westerly of Crosby Avenue, Daniel Street, and a line 100 feet southwesterly of Crosby Avenue; and
 - b. Lee Street, Westchester Avenue, Mulford Avenue, Middletown Road, and Hutchinson River Parkway East;
2. eliminating from an existing R6 District a C2-2 District bounded by:
 - a. Wilkinson Avenue, a line 100 feet easterly of Westchester Avenue and its northerly prolongation, Sands Place, Westchester Avenue, St. Theresa Avenue, a line 100 feet westerly of Westchester Avenue, and a line 100 feet easterly of Hobart Avenue; and
 - b. Westchester Avenue, Mahan Avenue, a line 150 feet northwesterly of Buhre Avenue, the northwesterly centerline prolongation of Jarvis Avenue, and Buhre Avenue;
3. eliminating from an existing R7-1 District a C2-2 District bounded by:
 - a. a line 150 feet northwesterly of Westchester Avenue and its northeasterly and southwesterly prolongation, Burr Avenue, Westchester Avenue, Wilkinson Avenue, and a line 100 feet easterly of Hobart Avenue; and
 - b. a line 150 feet northerly of Buhre Avenue, Edison Avenue, a line 150 feet northwesterly of Westchester Avenue, Hobart Avenue, Westchester Avenue, Buhre Avenue, Jarvis Avenue, a line 100 feet southeasterly of Buhre Avenue, a line midway between Hobart Avenue and Crosby Avenue, a line 150 feet southeasterly of Buhre Avenue, a line 150 feet southeasterly of Westchester Avenue, Roberts Avenue, Westchester Avenue, Buhre Avenue, and Pilgrim Avenue;

4. changing from an R5 District to an R5A District property bounded by:
 - a. East 197th Street, a line perpendicular to the northerly street line of East 197th Street distant 300 feet westerly (as measured along the street line) from the point of intersection of the northerly street line of East 197th Street and the southwesterly street line of Continental Avenue, a line 100 feet northerly of East 197th Street, a line perpendicular to the northerly street line of East 197th Street distant 175 feet westerly (as measured along the street line) from the point of intersection of the northerly street line of East 197th Street and the southwesterly street line of Continental Avenue, East 197th Street, Continental Avenue, a line perpendicular to the northeasterly street line of Continental Avenue distant 220 feet southeasterly (as measured along the street line) from the point of intersection of the northeasterly street line of Continental Avenue and the southerly street line of Pelham Parkway South, a line midway between Continental Avenue and St. Paul Avenue, a line 250 feet northwesterly of East 196th Street, St. Paul Avenue, a line 200 feet southerly of Pelham Parkway South, Colonial Avenue, a line 100 feet northwesterly of East 196th Street, St. Paul Avenue, a line 100 feet southeasterly of East 196th Street, a line midway between Colonial Avenue and Burr Avenue, a line 275 feet northwesterly of Westchester Avenue, Continental Avenue, a line 100 feet easterly of Hobart Avenue, Wilkinson Avenue, Edison Avenue, a line 100 feet southerly of St. Theresa Avenue, a line midway between Edison Avenue and Hobart Avenue, a line 150 feet northwesterly of Westchester Avenue, Edison Avenue, a line 150 feet northerly of Buhre Avenue, Pilgrim Avenue, Buhre Avenue, Libby Place, Hutchinson River Parkway East, Buhre Avenue, a line midway between Hutchinson River Parkway East and Mulford Avenue, St. Theresa Avenue, Mayflower Avenue, a line 370 feet southerly of Wilkinson Avenue, a line 95 feet easterly of Mayflower Avenue, East 194th Street, a line 110 feet easterly of Mayflower Avenue, East 196th Street, and a line 100 feet easterly of Mayflower Avenue and its northerly prolongation;
 - b. a line midway between Wilkinson Avenue and Sands Place and its easterly prolongation, the westerly boundary line of Pelham Bay Park, a line 100 feet northwesterly of Buhre Avenue and its northeasterly prolongation, Mahan Avenue, a line 100 feet southeasterly of Willow Lane, a line 125 feet northeasterly of Mahan Avenue, and a line 100 feet easterly of Westchester Avenue;
 - c. a line 100 feet southeasterly of Buhre Avenue, a line midway between Parkview Avenue and Bruckner Boulevard (west), a line 100 feet northwesterly of Roberts Avenue, and a line midway between Crosby Avenue and Hobart Avenue; and
 - d. Westchester Avenue, Roberts Avenue, a line 150 feet southeasterly of Westchester Avenue, a line 100 feet southwesterly of Crosby Avenue,

Daniel Street, a line 150 feet westerly of Crosby Avenue, Middletown Road, and a line midway between Mulford Avenue and Mayflower Avenue;

5. changing from an R6 District to an R5A District property bounded by Wilkinson Avenue, a line midway between Edison Avenue and Hobart Avenue, a line 370 feet southerly of Wilkinson Avenue, and Edison Avenue;
6. changing from a R7-1 District to an R5A District property bounded by:
 - a. East 196th Street, Burr Avenue, line perpendicular to the southwesterly street line of Burr Avenue distant 135 feet northwesterly (as measured along the street line) from the point of intersection of the southwesterly street line of Burr Avenue and a westerly street line of Westchester Avenue, a line midway between Colonial Avenue and Burr Avenue, a line 100 feet northwesterly of Westchester Avenue, Colonial Avenue, a line 275 feet northwesterly of Westchester Avenue, and a line midway between Colonial Avenue and Burr Avenue;
 - b. a line 275 feet northwesterly of Westchester Avenue, a line midway between St. Paul Avenue and Colonial Avenue, a line 100 feet northwesterly of Westchester Avenue, and St. Paul Avenue;
 - c. a line 275 feet northwesterly of Westchester Avenue, a line midway between Continental Avenue and St. Paul Avenue, a line 100 feet northwesterly of Westchester Avenue, and Continental Avenue;
 - d. a line 150 feet northerly of Buhre Avenue, Edison Avenue, a line 100 feet northerly of Buhre Avenue, and Pilgrim Avenue;
 - e. a line 100 feet southeasterly of Westchester Avenue, a line 100 feet southwesterly of Crosby Avenue, a line 150 feet southeasterly of Westchester Avenue, and Roberts Avenue;
 - f. a line 100 feet northwesterly of Roberts Avenue, Jarvis Avenue, Roberts Avenue, and Hobart Avenue; and
 - g. Daniel Street, a line 100 feet westerly of Crosby Avenue, Middletown Road, and a line 150 feet westerly of Crosby Avenue;

7. changing from an R7-1 District to an R6 District property bounded by a line 150 feet northwesterly of Buhre Avenue, a line 100 feet southeasterly of Westchester Avenue, and the northwesterly centerline prolongation of Jarvis Avenue;
8. establishing within an existing R7-1 District a C1-4 District bounded by:
 - a. a line 150 feet southeasterly of Westchester Avenue, Crosby Avenue, a line 100 feet southeasterly of Westchester Avenue, a line midway between Crosby Avenue and Hobart Avenue, a line 150 feet northwesterly of Middletown Road, Hobart Avenue, Middletown Road, and a line 100 feet westerly and southwesterly of Crosby Avenue; and
 - b. Lee Street, Westchester Avenue, Mulford Avenue, Middletown Road, and Hutchinson River Parkway East;
9. establishing within an existing and proposed R6 District a C2-4 District bounded by:
 - a. Wilkinson Avenue, a line 100 feet easterly of Westchester Avenue and its northerly prolongation, Sands Place, Westchester Avenue, St. Theresa Avenue, a line 100 feet westerly of Westchester Avenue, and a line 100 feet easterly of Hobart Avenue; and
 - b. Westchester Avenue, Mahan Avenue, a line 150 feet northwesterly of Buhre Avenue, a line 100 feet southeasterly of Westchester Avenue, the northwesterly centerline prolongation of Jarvis Avenue, and Buhre Avenue; and
10. establishing within an existing R7-1 District a C2-4 District bounded by:
 - a. a line 100 feet northerly of Wilkinson Avenue, a line 100 feet northwesterly of Westchester Avenue, a line midway between Colonial Avenue and Burr Avenue, the northeasterly prolongation of a line 150 feet northwesterly of Westchester Avenue, Burr Avenue, Westchester Avenue, Wilkinson Avenue, and a line 100 feet easterly of Hobart Avenue; and
 - b. a line 100 feet northerly of Buhre Avenue, Edison Avenue, a line 150 feet northwesterly of Westchester Avenue, Hobart Avenue, Westchester Avenue, Buhre Avenue, Hobart Avenue, a line 100 feet southeasterly of Westchester Avenue, Crosby Avenue, a line 150 feet southeasterly of Westchester Avenue, a line 100 feet southwesterly of Crosby Avenue, a line 100 feet southeasterly of Westchester Avenue, Roberts Avenue, Pilgrim Avenue, Westchester Avenue, Buhre Avenue, and Pilgrim Avenue;

Borough of the Bronx, Community District 10, as shown on a diagram (for illustrative purposes only) dated October 17, 2005 and subject to the conditions of CEQR Declaration E-157.

The application for an amendment of the Zoning Map was filed by the Department of City Planning on October 11, 2005, to rezone a total of 45 blocks or portions thereof in the Pelham Bay neighborhood within Bronx Community District 10. The proposed rezoning will support and reinforce the existing character of the neighborhood and ensure that future residential development will be consistent in scale and context with existing large detached homes.

BACKGROUND

The Pelham Bay neighborhood is approximately bounded by Pelham Parkway South to the north, the Bruckner Expressway to the east, Middletown Road to the south and the Hutchinson River Parkway to the west. The majority of the rezoning area is presently zoned R5 on the interior blocks and R6 and R7-1 along the wider avenues.

As it did in other parts of the city, the arrival of the Interborough Rapid Transit in 1920 spurred the development of the Pelham Bay neighborhood around a terminal station. Most of the brick apartment buildings of this neighborhood date back to that time. Pelham Bay was rezoned in 1985 from R7-1 to R5 and R6 districts with the higher density districts along the commercial corridors of Westchester and Crosby avenues remaining R7-1. The aim of the 1985 rezoning was to “bring the zoning map into accord with the existing development and maintain the character of the neighborhood,” which was similar to today’s neighborhood character of one- and two-family homes with multi-family buildings scattered throughout the neighborhood and along the elevated subway line, most of which were built before the 1961 Zoning Resolution was enacted.

The interior blocks of the Pelham Bay neighborhood are composed of large detached houses. Apartment buildings are located along the wider avenues, including those next to the elevated on Westchester Avenue. The rezoning area consists of 988 lots, of which 935 (94.6%) are residentially developed. Detached homes constitute approximately seventy-two percent (72.1%) of the area's housing stock; the other 27.9% of the residential lots are semi-detached, attached and apartment buildings.

The number 6 elevated subway runs along Westchester Avenue with stops located at Middletown Road, Buhre Avenue and Pelham Bay Park. Several buses serve the area including Bx5, Bx8, Bx12, Bx14, Bx29, Bx40, and QBx1. Even though these public transportation options exist, Bronx CD10 has one of the highest automobile ownership rates in the city. Institutions in this neighborhood include St. Theresa Church and School, Lady of the Assumption Church and School, PS 71, and Middletown Senior Center. The New York Public Library located at Middletown Road between Jarvis Avenue and the Bruckner Expressway is just south of the rezoning area. Pelham Bay Park, at 2,765-acres is the city's largest park that is run by the Department of Parks and Recreation, is just east of the Pelham Bay rezoning area, east of the Bruckner Expressway.

Local civic groups and Community Board 10 approached the Department of City Planning after the Throgs Neck Area rezoning and text amendments (040479 ZMX, N 040480 ZRX, N 040481 ZRY, and N 040482 ZRX) were approved by the City Planning Commission and City Council in 2004 to request that this neighborhood be considered for a contextual rezoning to preserve the community's residential built character. The community was concerned that with the new Throgs

Neck zoning in place, out-of-character development would move northward into the Pelham Bay neighborhood.

The Throgs Neck area, which is located just south of the Pelham Bay rezoning area, is a predominately lower density residential neighborhood that was rezoned from mostly R4 and R3-2 zoning districts to lower density contextual R4-1, R4A, R3-1, and R3A zoning districts, generally limiting new development to semi-detached and detached homes to preserve the area's built character. This rezoning area also became subject to Lower Density Growth Management Area (LDGMA) regulations of the Zoning Resolution.

Similar to the Throgs Neck area, but with a higher density, the inner blocks of the Pelham Bay neighborhood are primarily developed with large detached homes. However, the existing R5, R6 and R7-1 districts in this neighborhood allow for a variety of housing types including semi-detached, attached housing and small apartment buildings which are not reflective of the predominant detached home character. The mismatch between the built character of the area and building type permitted by the existing zoning creates an incentive to replace sound detached homes with out-of-character developments. The proposed actions will limit new development to housing types that correspond to the neighborhood's residential context and built form without precluding future development opportunities. The proposed rezoning is aimed at preserving the community's context of large detached single- and two-family homes in the inner blocks and apartment buildings along the wider avenues of the rezoning area.

The community is also concerned about the lack of parking especially in the new buildings. Even though much of the Westchester Square neighborhood is located along the elevated subway line, Bronx CD10 has one of the highest car ownership rates in the city. New multi-family buildings often do not provide enough parking spaces for new residences.

EXISTING CONTEXT AND ZONING

The Pelham Bay rezoning area is currently mapped with R5, R6 and R7-1 zoning districts that allow for all housing types.

The interior blocks of the Pelham Bay neighborhood are primarily developed with large detached homes and are mainly zoned R5, a residential district which allows for all housing types with a maximum FAR of 1.25 and a maximum building height limit of 40 feet. Generally, R5 zoning results in small apartment buildings and row houses. The parking requirement is one space for each dwelling unit or, if grouped, 85% of the dwelling units.

An area in the center of the rezoning area located along Westchester Avenue between Wilkinson Avenue to the north and Buhre Avenue to the south is zoned R6. The residential built character along Westchester Avenue is a mix of housing types. In the interior blocks, detached homes dominate the residential built form. The R6 zoning district is a residential district that allows for all housing types with a maximum residential FAR of 2.43. There is no height limit, but height is regulated by sky exposure plane and setback regulations. Generally, R6 zoning districts result in apartment buildings between three and twelve stories tall. The parking requirement is one space for each dwelling unit or, if grouped, 70% of the dwelling units.

The blocks along the wider avenues, Westchester and Crosby avenues and Middletown Road, and along the periphery of the rezoning area, along Pelham Parkway South, Burr Avenue and the Bruckner Expressway, are primarily zoned R7-1 and are developed with all housing types. Portions of the R7-1 zoning district is mapped along some of the interior blocks of the neighborhood, generally bounded by East 196th Street to the north, Burr Avenue to the east, Westchester Avenue to the south and Continental Avenue to the west and along Roberts Avenue between Jarvis and Hobart avenues. These areas are generally developed with large detached homes. The R7-1 zoning district allows for all housing types with a maximum residential FAR of 3.44. There is no height limit, but height is regulated by sky exposure plane and set back regulations. Generally, R7-1 zoning districts results in apartment buildings between twelve and eighteen stories tall. The parking requirement is one space for each dwelling unit or, if grouped, 60% of the dwelling units.

In all three districts, the minimum lot size is 3,800 square feet and the minimum lot width is 40 feet for detached homes.

Westchester, Crosby and Buhre avenues are the main retail strips serving this neighborhood. They are generally developed with a range of buildings types including one- and two-story commercial uses and apartment building with commercial uses on the ground-floor. Examples of existing uses are restaurants, banks, and grocery, cosmetic and variety stores. C1-2 and C2-2 commercial overlays are mapped along these avenues to a depth of 150 feet.

C1-2 commercial overlays permit local retail and personal service shops needed in residential neighborhoods (Use Group 6) with a maximum commercial FAR of 2.0 when mapped in R6 and R7-1 zoning districts. Typical uses include, but are not limited to, grocery stores, dry cleaners and restaurants. C2-2 commercial overlays permit a wider range of local retail and service shops than C1-2 districts, intended to serve a wider residential neighborhoods (Use Groups 6-9 and 14) with the same commercial FAR of 2.0. Additional uses include, but are not limited to, funeral homes, small lumber stores, business and trade schools.

Parking requirements are the same in both the C1-2 and C2-2 districts.

PROPOSED ZONING

A majority of the buildings in the area are large detached homes, especially in the interior blocks of this neighborhood. The proposed zoning would preserve the existing neighborhood character with lower density and contextual zoning districts in the interior blocks and prevent commercial uses from encroaching on mid-block residential uses along Westchester, Crosby and Buhre avenues. Generally, most of the existing R5 district and portions of the R6 and R7-1 districts would be rezoned to an R5A zoning district, a new residential zoning district adopted by the City Council in December 2005 as part of the Olinville Rezoning (C 060084 ZMX) in Bronx Community District 12. A portion of one block would be rezoned from R7-1 to R6.

R5, R6, R7-1 to R5A

Forty one full blocks and portions of blocks would be rezoned from R5 to R5A in four separate sub-areas. The first sub-area is generally bounded by Crosby Avenue to the west, Roberts

Avenue to the south, Bruckner Boulevard to the east, and Buhre Avenue to the north. The second sub-area is generally bounded by Bruckner Boulevard to the east, Wilkinson Avenue to the north, Westchester Avenue to the west, and Buhre Avenue to the south. The third sub-area is south of Westchester Avenue generally bounded by Crosby Avenue to the east and Middletown Road to the south. The fourth sub-area is approximately bounded by Buhre Avenue to the north, Edison Avenue, Westchester Avenue, Burr Avenue, Pelham Parkway, and Mayflower Avenue.

A portion of one block along the east side of Edison Avenue between Santo Donato Place and Wilkinson Avenue would be rezoned from R6 to R5A.

Portions of six blocks would be rezoned from R7-1 to R5A. The first area, a portion of one block, is located along the north side of Roberts Avenue between Hobart Avenue to the west and Jarvis Avenue to the east. The second area includes portions of three blocks, located along the north side of Westchester Avenue between Hobart Avenue to the west and Burr Avenue to the east. The third area includes portions of two blocks, located between Pilgrim and Edison avenues along Westchester Avenue.

In the proposed R5A district, residences are limited to one- and two-family detached homes with a maximum FAR of 1.1 (with a 300 square-foot increase for providing a detached garage in the rear yard). The minimum lot size would be 2,850 square feet for one-family and two-family detached homes and the minimum lot width would be 30 feet in the proposed zoning district. Two side yards are required with a minimum total of 10 feet. The front yard requirement is 10 feet or at least as deep as the adjacent front yards. The maximum height would be 35 feet with a

25-foot perimeter wall. The parking requirement would be 100% of the dwelling units in the proposed zoning district.

In the area proposed to be rezoned to R5A, 56% of the residential lots are one- and two-family detached homes, which would be conforming under the proposed R5A zoning. An additional 149 lots or 16% of the residential lots in the rezoning area are also detached buildings but will be nonconforming because they contain more than two units. Seventy-four percent of residential lots will comply with the allowable floor area ratio of 1.1 under the proposed zoning.

R7-1 to R6

A portion of one block located along on the south side of Westchester Avenue between Mahan and Hobarts avenues would be rezoned from R7-1 to R6. This block has a commercial overlay and is developed with one-story commercial uses along Westchester Avenue and with 6-story apartment buildings along Buhre Avenue. All housing types would be allowed with a maximum FAR of 2.43. In the proposed R6 district buildings are typically between three to 12 stories high, no front yard is required and building height is regulated by a sky exposure plane and set-back regulations. The parking requirement would be 70% of the dwelling units in the proposed R6 zoning district.

Commercial Overlay Changes

The commercial overlays along Westchester, Crosby and portions of Buhre avenues would generally be changed from the existing C1-2 and C2-2 overlays to C1-4 and C2-4 overlays. The use groups allowed in the commercial overlays designation remain the same, but the parking regulations would be reduced, depending on the type of use. For example, for food stores with

2,000 square feet or more of floor area per establishment in the C1-2 and C2-2 one parking space per 200 square feet of floor area is required in comparison one parking space per 1,000 square feet of floor area in the C1-4 and C2-4.

The reduced parking requirements are appropriate since the commercial overlays are adjacent to or close to transit. Many of the existing commercial overlays are already 100 feet deep, the standard width of C1-4 and C2-4 overlays. The width of the deeper commercial overlays would be reduced from 150 feet to 100 feet, where appropriate, mainly along the northern side of Westchester Avenue between Burr and Wilkinson avenues and at the intersection of Buhre and Westchester avenues, to prevent commercial intrusion on residential streets.

Additionally, the irregularly shaped C2-2 commercial overlay on the south side of Westchester Avenue between Mahan and Hobarts avenues that would be rezoned from R7-1 to R6, is proposed to be changed to a C2-4 overlay. The proposed C2-4 overlay would be extended to cover an existing two-story structure to facilitate the expansion of an existing business.

ENVIRONMENTAL REVIEW

The application (C 060179 ZMX) 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 CEQR number is 06DCP035X. The lead agency is the City Planning Commission.

After a study of the potential environmental impacts of the proposed action, a Negative Declaration was issued on October 17, 2005, which included (E) designations for hazardous materials and noise.

To avoid the potential for hazardous materials impacts, the proposed zoning map amendment includes (E) designations for hazardous materials on the following properties:

- Block 4235, Lots 4, 36, 59
- Block 4248, Lot 56

On the sites receiving (E) designation for hazardous materials, the contamination can be classified as petroleum based, non-petroleum based or both. The NYCDEP has developed protocols for both petroleum and non-petroleum based, or both. The NYCDEP has developed protocols for both petroleum and non-petroleum based (E) designated sites that are required to be followed in order to address possible contamination. The placement of the (E) designation on the zoning map would eliminate the potential for significant adverse impacts from hazardous materials and would ensure that appropriate testing and remediation, if needed, would be undertaken. The text of the (E) designation is as follows:

Task 1-Sampling Protocol

A. Petroleum

A soil, soil gas, and groundwater testing protocol (including a description of methods), and a site map with all sampling location represented clearly and precisely, must be submitted to the NYCDEP by the fee owner(s) of the lot which is restricted by this (E) designation, for review and approval.

A site map with the sampling locations clearly identified and a testing protocol with a description of methods, for soil, soil gas, and groundwater, must be submitted by the fee owner(s), of the lot which is restricted by the (E) designation, to the NYCDEP for review and approval.

B. Non-Petroleum

The fee owner(s) of the lot restricted by this (E) designation will be required to prepare a scope of work for any sampling and testing needed to determine if contamination exists and to what extent remediation may be required. The scope of work will include all relevant supporting documentation, including site plans and sampling locations. This scope of work will be submitted to NYCDEP for review and approval prior to implementation. It will be reviewed to ensure that an adequate number of samples will be collected and that appropriate parameters are selected for laboratory analysis. For all non-petroleum (E) designated sites, the three generic NYCDEP soil and ground-water sampling protocols should be followed.

A scope of work for any sampling and testing to be completed, which will determine the extent of on-site contamination and the required remediation, must be prepared by the fee owner(s) of the lot restricted by this (E) designation. The scope of work will include the following: site plans, sampling locations, and all other relevant supporting documentation. The scope of work must be submitted to the NYCDEP for review and confirmation that an adequate testing protocol (i.e., number of samples collected, appropriate parameters for laboratory analysis) has been prepared. The NYCDEP must approve the scope of work before it can be implemented.

For non-petroleum (E) designated sites, one of the three generic soil and groundwater sampling protocols prepared by the NYCDEP should be followed.

The protocols are based on three types of releases to soil and groundwater sampling protocols prepared by the NYCDEP should be followed.

The protocols are based on three types of releases to soil and groundwater, including: the release of a solid hazardous material to ground surface; the release of a liquid hazardous material to the ground surface; and the release of a hazardous material to the subsurface (i.e., storage tank or piping). The type of release defines the areas of soil to be sampled from surface, near-surface, to subsurface. Additionally, it determines the need for groundwater sampling.

A written approval of the sampling protocol must be received from the NYCDEP before commencement of sampling activities. Sample site quantity and location should be determined so as to adequately characterize the site, the source of contamination, and the condition of the remainder of the site. After review of the sampling data, the characterization should have been complete enough to adequately determine what remediation strategy (if any) is necessary. Upon request, NYCDEP will provide guidelines and criteria for choosing sampling sites and performing sampling.

Finally, a Health and Safety Plan must be devised and approved by the NYCDEP before the commencement on any on-site activities.

Task 2-Remediation Determination and Protocol

After sample collection and laboratory analysis have been completed on the soil and/or groundwater samples collected in Task 1, a summary of the data and findings in the form of a written report must be presented to the NYCDEP for review and approval. The NYCDEP will provide a determination as to whether remediation is necessary.

If it is determined that no remediation activities are necessary, a written notice will be released to that effect. However, if it is the NYCDEP's determination that remediation is necessary the fee owner(s) of the lot restricted by the (E) designation must submit a proposed remediation plan to the NYCDEP for review and approval. Once approval has been obtain, and the work completed, the fee owner(s) of the lot restricted by the (E) designation must provide proof to the NYCDEP that the work has been completed satisfactorily.

To avoid the potential for significant adverse impacts related to noise, the proposed action includes (E) designations on the following properties:

- Block 4235, Lots 4, 36 and 59
- Block 4248, Lot 56

In order to ensure an acceptable interior noise environment, future residential uses on the above referenced properties must provide a closed window condition with a minimum of 35 dB (A) window/wall attenuation on all facades in order to maintain an interior noise level of 45 dB (A).

In order to maintain a closed-window condition, an alternate means of ventilation would also have to be provided. Alternate means of ventilation would include, but would not be limited to, central air conditioning or air conditioning sleeves containing air conditioners or HUD-approved fans.

UNIFORM LAND USE REVIEW

This application (C 060179 ZMX) was certified as complete by the Department of City Planning on October 17, 2005, and was duly referred to Community Board 10 and the Bronx Borough

President, in accordance with Article 3 of the Uniform Land Use Review Procedure (ULURP) rules.

Community Board Public Hearing

Community Board 10 held a public hearing on this application on November 15, 2005, and on November 17, by a vote of 28 to 0 with 0 abstentions, adopted a resolution recommending approval of the application.

Borough President Recommendation

This application was considered by the Borough President who issued a recommendation on December 27, 2006, approving the application.

City Planning Commission Public Hearing

On December 19, 2005 (Calendar No. 22) the City Planning Commission scheduled January 11, 2006 for a public hearing on this application (C 060179 ZMX). The hearing was duly held on January 11, 2005 (Calendar No. 36). There was one speaker in favor of the application and one speaker in opposition.

The speaker in favor of the application was a representative of the Bronx Borough President, who expressed the Borough President's support for the proposals as it would aid in the preservation of the neighborhood context and character, especially along the interior blocks of the rezoning area. A homeowner on East 196th Street spoke against the application stating that

the rezoning would limit his rights to fully develop his property, reducing possible development of his lot to two two-family homes instead of three attached multi-family homes.

There were no other speakers and the hearing was closed.

CONSIDERATION

The Commission believes that this amendment of the zoning map (C 060179 ZMX) is appropriate.

The Commission notes that the interior blocks of the Pelham Bay neighborhood are developed primarily with large detached homes and that the existing zoning is not reflective of the existing development patterns of this community. The Commission believes that changing the area's zoning designation is required to protect the established character and quality of life in this neighborhood and ensure that new development is consistent with the scale of surrounding buildings. The current mismatch between the built character of the inner blocks of the Pelham Bay neighborhood and the housing type and density permitted by the existing zoning creates an incentive to replace detached housing with semi-detached or attached houses containing substantially more dwelling units.

The Commission believes that this rezoning action represents a comprehensive zoning strategy for the Pelham Bay neighborhood of Community District 10. The Commission notes that the proposed R5A districts would restrict future residential development to one-or two-family detached housing thereby, ensuring that future development would be consistent with the prevailing detached neighborhood character.

The Commission believes that the proposed C1-4 and C2-4 commercial overlays along Westchester, Crosby and Buhre avenues are appropriate since it is more reflective of the existing commercial development along these wider commercial avenues are adjacent to the number 6 subway line. This action will prevent the intrusion of commercial uses along residential side streets which are developed with residential uses.

RESOLUTION

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

RESOLVED, by the City Planning Commission, pursuant to Sections 197-c and 200 of the New York City Charter that based on the environmental determination and the consideration described in this report, the Zoning Resolution of the City of New York, effective as of December 15, 1961 and as subsequently amended, is hereby amended by changing the Zoning Map, Section Nos. 4a and 4b:

1. eliminating from an existing R7-1 District a C1-2 District bounded by:
 - a. a line 150 feet southeasterly of Westchester Avenue, a line 150 feet southeasterly of Buhre Avenue, a line midway between Hobart Avenue and Crosby Avenue, a line 150 feet northwesterly of Middletown Road, Hobart Avenue, Middletown Road, a line 150 feet westerly of Crosby Avenue, Daniel Street, and a line 100 feet southwesterly of Crosby Avenue; and
 - b. Lee Street, Westchester Avenue, Mulford Avenue, Middletown Road, and Hutchinson River Parkway East;
2. eliminating from an existing R6 District a C2-2 District bounded by:

- a. Wilkinson Avenue, a line 100 feet easterly of Westchester Avenue and its northerly prolongation, Sands Place, Westchester Avenue, St. Theresa Avenue, a line 100 feet westerly of Westchester Avenue, and a line 100 feet easterly of Hobart Avenue; and
 - b. Westchester Avenue, Mahan Avenue, a line 150 feet northwesterly of Buhre Avenue, the northwesterly centerline prolongation of Jarvis Avenue, and Buhre Avenue;
3. eliminating from an existing R7-1 District a C2-2 District bounded by:
- a. a line 150 feet northwesterly of Westchester Avenue and its northeasterly and southwesterly prolongation, Burr Avenue, Westchester Avenue, Wilkinson Avenue, and a line 100 feet easterly of Hobart Avenue; and
 - b. a line 150 feet northerly of Buhre Avenue, Edison Avenue, a line 150 feet northwesterly of Westchester Avenue, Hobart Avenue, Westchester Avenue, Buhre Avenue, Jarvis Avenue, a line 100 feet southeasterly of Buhre Avenue, a line midway between Hobart Avenue and Crosby Avenue, a line 150 feet southeasterly of Buhre Avenue, a line 150 feet southeasterly of Westchester Avenue, Roberts Avenue, Westchester Avenue, Buhre Avenue, and Pilgrim Avenue;
4. changing from an R5 District to an R5A District property bounded by:
- a. East 197th Street, a line perpendicular to the northerly street line of East 197th Street distant 300 feet westerly (as measured along the street line) from the point of intersection of the northerly street line of East 197th Street and the southwesterly street line of Continental Avenue, a line 100 feet northerly of East 197th Street, a line perpendicular to the northerly street line of East 197th Street distant 175 feet westerly (as measured along the street line) from the point of intersection of the northerly street line of East 197th Street and the southwesterly street line of Continental Avenue, East 197th Street, Continental Avenue, a line perpendicular to the northeasterly street line of Continental Avenue distant 220 feet southeasterly (as measured along the street line) from the point of intersection of the northeasterly street line of Continental Avenue and the southerly street line of Pelham Parkway South, a line midway between Continental Avenue and St. Paul Avenue, a line 250 feet northwesterly of East 196th Street, St. Paul Avenue, a line 200 feet southerly of Pelham Parkway South, Colonial Avenue, a line 100 feet northwesterly of East 196th Street, St. Paul Avenue, a line 100 feet southeasterly of East 196th Street, a line midway between Colonial Avenue and Burr Avenue, a line 275 feet northwesterly of Westchester Avenue, Continental Avenue, a line 100 feet easterly of Hobart Avenue, Wilkinson Avenue, Edison Avenue, a line 100 feet southerly of St. Theresa Avenue, a line midway between

Edison Avenue and Hobart Avenue, a line 150 feet northwesterly of Westchester Avenue, Edison Avenue, a line 150 feet northerly of Buhre Avenue, Pilgrim Avenue, Buhre Avenue, Libby Place, Hutchinson River Parkway East, Buhre Avenue, a line midway between Hutchinson River Parkway East and Mulford Avenue, St. Theresa Avenue, Mayflower Avenue, a line 370 feet southerly of Wilkinson Avenue, a line 95 feet easterly of Mayflower Avenue, East 194th Street, a line 110 feet easterly of Mayflower Avenue, East 196th Street, and a line 100 feet easterly of Mayflower Avenue and its northerly prolongation;

- b. a line midway between Wilkinson Avenue and Sands Place and its easterly prolongation, the westerly boundary line of Pelham Bay Park, a line 100 feet northwesterly of Buhre Avenue and its northeasterly prolongation, Mahan Avenue, a line 100 feet southeasterly of Willow Lane, a line 125 feet northeasterly of Mahan Avenue, and a line 100 feet easterly of Westchester Avenue;
 - c. a line 100 feet southeasterly of Buhre Avenue, a line midway between Parkview Avenue and Bruckner Boulevard (west), a line 100 feet northwesterly of Roberts Avenue, and a line midway between Crosby Avenue and Hobart Avenue; and
 - d. Westchester Avenue, Roberts Avenue, a line 150 feet southeasterly of Westchester Avenue, a line 100 feet southwestly of Crosby Avenue, Daniel Street, a line 150 feet westerly of Crosby Avenue, Middletown Road, and a line midway between Mulford Avenue and Mayflower Avenue;
5. changing from an R6 District to an R5A District property bounded by Wilkinson Avenue, a line midway between Edison Avenue and Hobart Avenue, a line 370 feet southerly of Wilkinson Avenue, and Edison Avenue;
6. changing from a R7-1 District to an R5A District property bounded by:
- a. East 196th Street, Burr Avenue, line perpendicular to the southwestly street line of Burr Avenue distant 135 feet northwesterly (as measured along the street line) from the point of intersection of the southwestly street line of Burr Avenue and a westerly street line of Westchester Avenue, a line midway between Colonial Avenue and Burr Avenue, a line 100 feet northwesterly of Westchester Avenue, Colonial Avenue, a line 275 feet northwesterly of Westchester Avenue, and a line midway between Colonial Avenue and Burr Avenue;
 - b. a line 275 feet northwesterly of Westchester Avenue, a line midway between St. Paul Avenue and Colonial Avenue, a line 100 feet northwesterly of Westchester Avenue, and St. Paul Avenue;

- c. a line 275 feet northwesterly of Westchester Avenue, a line midway between Continental Avenue and St. Paul Avenue, a line 100 feet northwesterly of Westchester Avenue, and Continental Avenue;
 - d. a line 150 feet northerly of Buhre Avenue, Edison Avenue, a line 100 feet northerly of Buhre Avenue, and Pilgrim Avenue;
 - e. a line 100 feet southeasterly of Westchester Avenue, a line 100 feet southwestly of Crosby Avenue, a line 150 feet southeasterly of Westchester Avenue, and Roberts Avenue;
 - f. a line 100 feet northwesterly of Roberts Avenue, Jarvis Avenue, Roberts Avenue, and Hobart Avenue; and
 - g. Daniel Street, a line 100 feet westerly of Crosby Avenue, Middletown Road, and a line 150 feet westerly of Crosby Avenue;
7. changing from an R7-1 District to an R6 District property bounded by a line 150 feet northwesterly of Buhre Avenue, a line 100 feet southeasterly of Westchester Avenue, and the northwesterly centerline prolongation of Jarvis Avenue;
8. establishing within an existing R7-1 District a C1-4 District bounded by:
- a. a line 150 feet southeasterly of Westchester Avenue, Crosby Avenue, a line 100 feet southeasterly of Westchester Avenue, a line midway between Crosby Avenue and Hobart Avenue, a line 150 feet northwesterly of Middletown Road, Hobart Avenue, Middletown Road, and a line 100 feet westerly and southwestly of Crosby Avenue; and
 - b. Lee Street, Westchester Avenue, Mulford Avenue, Middletown Road, and Hutchinson River Parkway East;
9. establishing within an existing and proposed R6 District a C2-4 District bounded by:
- a. Wilkinson Avenue, a line 100 feet easterly of Westchester Avenue and its northerly prolongation, Sands Place, Westchester Avenue, St. Theresa Avenue, a line 100 feet westerly of Westchester Avenue, and a line 100 feet easterly of Hobart Avenue; and
 - b. Westchester Avenue, Mahan Avenue, a line 150 feet northwesterly of Buhre Avenue, a line 100 feet southeasterly of Westchester Avenue, the northwesterly centerline prolongation of Jarvis avenue, and Buhre Avenue; and

10. establishing within an existing R7-1 District a C2-4 District bounded by:
 - a. a line 100 feet northerly of Wilkinson Avenue, a line 100 feet northwesterly of Westchester Avenue, a line midway between Colonial Avenue and Burr Avenue, the northeasterly prolongation of a line 150 feet northwesterly of Westchester Avenue, Burr Avenue, Westchester Avenue, Wilkinson Avenue, and a line 100 feet easterly of Hobart Avenue; and
 - b. a line 100 feet northerly of Buhre Avenue, Edison Avenue, a line 150 feet northwesterly of Westchester Avenue, Hobart Avenue, Westchester Avenue, Buhre Avenue, Hobart Avenue, a line 100 feet southeasterly of Westchester Avenue, Crosby Avenue, a line 150 feet southeasterly of Westchester Avenue, a line 100 feet southwesterly of Crosby Avenue, a line 100 feet southeasterly of Westchester Avenue, Roberts Avenue, Pilgrim Avenue, Westchester Avenue, Buhre Avenue, and Pilgrim Avenue;

Borough of the Bronx, Community District 10, as shown on a diagram (for illustrative purposes only) dated October 17, 2005 and which includes CEQR Designation E-157.

The above resolution (C 060179 ZMX), duly adopted by the City Planning Commission on February 8, 2006 (Calendar No. 12), is filed with the Office of the Speaker, City Council and the Borough President in accordance with the requirements of Section 197-d of the New York City Charter.

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