



IN THE MATTER OF an application submitted by 3500 Park Avenue, LLC Associates pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 3d:

1. changing from an M1-1 District to an R7-1 District property bounded by East 168th Street, a line midway between Park Avenue and Washington Avenue, a line 100 feet southwesterly of East 168th Street and Park Avenue; and
2. establishing within an existing and proposed R7-1 District a C2-4 District bounded by East 168th Street, Washington Avenue, a line 100 feet southwesterly of East 168th Street, and Park Avenue;

Borough of the Bronx, Community District 3, as shown on a diagram (for illustrative purposes only) dated June 7, 2010 and subject to the conditions of CEQR Declaration E- 259.

The application for an amendment of the Zoning Map was filed by 3500 Park Avenue, LLC on October 19, 2007 for an amendment to the zoning map to change from an M1-1 District to an R7-1 District and to establish a new C2-4 District with the existing and proposed R7-1 districts, to facilitate the construction of a new eight-story mixed-use building.

BACKGROUND

3500 Park Avenue, LLC proposes to rezone an entire block front along the southern portion of E. 168th Street between Park and Washington avenues, from an M1-1 District to an R7-1 District, and to establish a new C2-4 District with the existing and proposed R7-1 districts, in the Claremont section of Bronx Community District 3. The rezoning area (Block 2389, Lots 20, 26, 27, 28, 31, 32 and p/o 33) is approximately 30,000 square feet in area. Lot 20, a corner lot, is owned by the applicant and is occupied by a licensed parking lot. Immediately adjacent are Lots 26 and 27, which contain two, three-story residential buildings with ground floor commercial

uses. Lot 28 is a vacant lot at the corner of East 168th Street and Washington Avenue. Lots 31 and 32, which front on Washington Avenue, contain two four-story residential buildings. Lot 33 is vacant. Immediately south and adjacent of the area to be rezoned, along Park Avenue, is an African-American wholesale and retail market followed by the World Youth Ministries building and a house of worship. The surrounding area consists of a mixture of industrial and residential uses. The block located to the north and across the street from the rezoning area contains Public School 132 and accessory playground and high rise residential buildings. There are existing multi-story apartment buildings administered by the New York City Housing Authority located northwest of the site.

The rezoning area is well served by public transportation, with the BX 35 bus operating east/west along East 168th Street. The Bronx 41 bus operates along Webster Avenue to the west and the BX 15 and BX 55 buses operate along Third Avenue to the east. In addition, the East 167th Street “B” and “D” trains stop is located approximately 2/3 mile to the west.

The existing M1-1 District allows Use Groups 5 through 14, 16 and 17 with an FAR of 1.0, as well as certain Use Group 4 community facility uses at an FAR of 2.4. Residential uses are prohibited in the M1-1 zoning district. The proposed R7-1 zoning District allows residential uses to develop to a maximum F.A.R. of 4.0 pursuant to the optional Quality Housing regulations on a wide street, and an F.A.R. of 3.44 otherwise. A base height of 40 to 65 feet in height is required and a maximum height of eighty feet for Quality Housing development, otherwise the building envelop is defined by the sky exposure plane. Parking is required for 50% of the dwelling units in a residential use. A maximum F.A.R. of 4.8 is allowed for

Community Facility uses. The proposed C2-4 overlay permits local service retail uses (Use Groups 5-9) with a maximum F.A.R. of 2.0.

The applicant proposes to construct an eight-story building containing 61 units of rental apartments intended for low-income residents, combined with approximately 5,900 square feet of ground floor retail, and/or community facility space. Twenty accessory parking spaces would be provided below grade and would have ingress/egress from Park Avenue. The building would be developed under the Quality Housing Provisions of the Zoning Resolution.

ENVIRONMENTAL REVIEW

This application (C 080129 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 designated CEQR number is 08DCP022X. The lead is the City Planning Commission.

After a study of the potential environmental impact of the proposed action (C 080129 ZMX), a Conditional Negative Declaration was issued. The Conditional Negative Declaration included an (E) designation. To avoid any potential impacts associated with noise, the proposed action will place an (E) designation on Block 23289, Lot 20. The lead agency has determined that the proposed action will have no significant effect on the quality of the environment, once it is modified as follows:

Noise
Block 2389, Lot 20

In order to ensure an acceptable interior noise environment, future

residential/commercial uses 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 must also be provided. Alternate means of ventilation includes, but is not limited to, central air conditioning.

With the implementation of the above (E) designation, no significant adverse impacts related to noise would occur.

Air Quality
Block 2389, Lot 28

Any new commercial development on the above-referenced property must ensure that the heating, ventilation and air conditioning stack(s) are located at least 30 feet from the lot lines facing East 167th Street, and at least 30 feet from the lot line facing Park Avenue, regardless of fuel type, to avoid any potential significant adverse air quality impacts.

With the placement of the (E) designation for air quality, no impacts related to air quality are expected and no further assessment is warranted.

Further, after a study of the potential environmental impact of the subject application (C 080129 ZMX), a Conditional Negative Declaration, was issued on, stating the following:

The Environmental Assessment and Review Division of the Department of City Planning, on behalf of the City Planning Commission, has completed its technical review of the Environmental Assessment Statement, dated September 13, 2010, prepared in connection with the ULURP Application (No. 080129 ZMX). The City Planning Commission has determined that the proposed action will have no significant effect on the quality of the environment, once it is modified as follows:

1. The applicant, 3500 Park Avenue LLC, agrees via a restrictive declaration to prepare a hazardous materials sampling protocol including a health and safety plan, which would be submitted to the Department of Environmental Protection (DEP) for approval. The applicant agrees to test and identify any potential hazardous material impact pursuant to the approved sampling protocol and, if any such impact is found, submit a hazardous material remediation plan including a health and safety plan to

DEP for approval. If necessary, remediation measures would be undertaken pursuant to the remediation plan.

The above determination is based on an environmental assessment which finds that:

1. A Phase I Environmental Site Assessment (ESA) was prepared in June 2006, and is available in the proposal's CEQR file, for the properties located in Bronx (Block 2389, Lot 20). The Phase I ESA was reviewed by DEP's Office of Environmental Planning and Assessment, and a restrictive declaration was recommended by DEP, due to the presence of hazardous materials on the site as a result of past and present on-site land uses. The declaration requires the preparation of an investigative work plan summarizing the proposed soil and groundwater (if encountered) sampling activities to be submitted to the NYC Department of Environmental Protection (DEP) for review and approval. The restrictive declaration is binding upon the property's successors and assigns. The contamination that may exist in the sub-surface soils and groundwater on the project site would be characterized prior to any site disturbance (i.e., site grading, excavation, demolition, or building construction).

The restrictive declaration was executed on December 17, 2009 and submitted for recording on January 22, 2010. Pursuant to a letter from DEP dated January 28, 2010, DEP is in receipt of a signed copy of a DEP-approved restrictive declaration with proof of recording for the site.

2. No other significant adverse effects on the environment which would require an Environmental Impact Statement are foreseeable.

The applicant signed the conditional negative declaration on June 4, 2010. The conditional negative declaration was published in the City Record and in the New York State Environmental Notice Bulletin on June 16, 2010. Pursuant to the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 et seq., a 30-day comment period followed.

No comments were received and the Conditional Negative Declaration was issued on September 13, 2010.

UNIFORM LAND USE REVIEW

This application (C 080129 ZMX) was certified as complete by the Department of City Planning

on June 7, 2010, and was duly referred to Community Board 3 and the 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 3 held a public hearing on this application on July 29, 2010 and on that date, by a vote of 5 in favor, 0 against with no abstentions, adopted a resolution recommending approval of the application.

Borough President Recommendation

This application was considered by the Borough President, who issued a recommendation approving the application on March 22, 2010 with the following condition:

I do have some concerns regarding the project. The first is the encroachment of residential development into an existing manufacturing zone. One benefit of the creation of the Morrisania Mixed-Use District was that certain areas were give flexibility in terms of use, while others maintained their industrial character completely. There are still many viable industrial businesses with skilled labor jobs along Park Avenue, and they should not feel pressured to be pushed out. I strongly recommend the developer consider partnering with the African wholesale market next door to utilize some of the retail space, or a similar use, to blend the industrial character and context of the historical use groups of the neighborhood.

Second, while I am pleased that the building will incorporate green features, part of my support is based on the developer's due diligence in obtaining a formal green certification.

Third, I encourage the developer to "Buy Bronx," echoing Bronx Community Board 3's call to hire locally.

Finally, as a general note, I am concerned about the overdevelopment of the Third Avenue corridor without viable rail transit access. While the number of units in this development is relatively modest, projects containing hundreds of units each have been developed in the surrounding area. As I mentioned above, I am concerned about

manufacturing being pushed out of the neighborhood in favor of residential uses. The overdevelopment of The Bronx during the early to mid-twentieth century helped lead to its decline, as amenities, such as rail access and open space, became few and far between. In the long term, I call on the City and State to consider subway or commuter rail options for areas around the Third Avenue corridor. In the short term, I ask that Select Bus Service be implemented along either Webster or Third Avenue, and that both the Departments of City Planning and Housing Preservation and Development take a balanced approach to development in this currently transit-isolated area of The Bronx.

I recommend approval of this application with the aforementioned conditions.

City Planning Commission Public Hearing

On July 28, 2010 (Calendar No. 4), the City Planning Commission scheduled August 11, 2010 for a public hearing on this application (C 080129 ZMX). The hearing was duly held on August 11, 2010 (Calendar No. 15).

There were two speakers in favor of the application. The speakers in support of the proposal included the applicant's attorney and his architect. The attorney described the proposal and stated that this rezoning would be beneficial to the neighborhood by bringing in a new use to a formerly underutilized site. She responded to the comments of the Community Board and the Borough President; the responses were confirmed in a letter dated August 12, 2010, described below. The project architect described the architectural features of the proposed building and described how it was designed to set back the residential bulk. He also responded to comments from the commission questioning the desirability of the notch in the ground floor at the northwest corner of the building, due to streetscape and security concerns. The architect stated that his firm would look into it.

There were no other speakers and the hearing was closed.

CONSIDERATION

The Commission believes that this amendment of the Zoning Map is appropriate.

The Commission notes that the proposed development site is on an underutilized block front that currently contains a licensed parking lot, and that other uses in the area to be rezoned include two-three story residential buildings with non-conforming retail uses on the ground floor, a vacant corner lot, two four-story residential buildings and a portion of a vacant lot. The Commission further noted that the proposed action would bring the existing non-conforming commercial uses into conformance.

The Commission also notes that the proposed rezoning is proximate to a number of residential buildings, multi-family residential buildings to the north, northwest, south and southeast which are zoned R7-1.

The Commission believes that the proposed rezoning would enable new development on a block front that has been underutilized for many years with an appropriate land use that predominately reflects the surrounding neighborhood.

The Commission acknowledges the Bronx Borough President's recommendations that the

proposed building incorporate green features and that the developer hire locally and involve local businesses. The Commission, however, recognizes that the application is for a zoning map amendment and not for review of a specific building, site plan or construction plan. The Commission notes that a letter from the applicant's representative dated August 12, 2010 stated that the applicant will meet or exceed the standards for LEED certification. However, the cost of obtaining the certification is estimated at \$100,000 and the applicant may pursue it if the project budget allows it. The letter also states that the applicant intends to hire locally and will work with the Bronx Overall Economic Development Corporation to identify local residents seeking employment. The letter also responded the Borough President's concern regarding transportation in the Third Avenue Corridor. The applicant stated that the proposed building will only add a modest number of residents to the area and it is well served by mass transit.

The Commission also acknowledges the Borough President's concerns regarding commuter bus service in the Third Avenue Corridor. The Commission recognizes that the Transit Authority routinely monitors changes in bus ridership and makes service adjustments, when warranted. The Commission notes that in letters dated, September 8, 2010, the Borough President's concerns were forwarded to the New York City Department of Transportation by the Department of City Planning.

In addition, the Borough President expressed concern about encroachment of residential development into an existing manufacturing zone. The applicant stated that the development site

is not currently occupied by a manufacturing use, but is a surface parking lot and that the remaining sites on Block 2389 are not currently in manufacturing use. The Commission believes that the proposed rezoning represents a balanced approach that would enable new development on a block front that has been underutilized for many years with an appropriate land use that reflects the predominate land uses of the surrounding neighborhood.

RESOLUTION

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

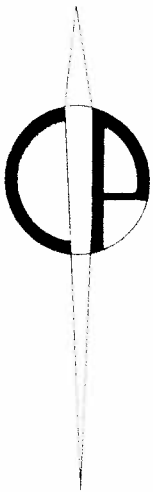
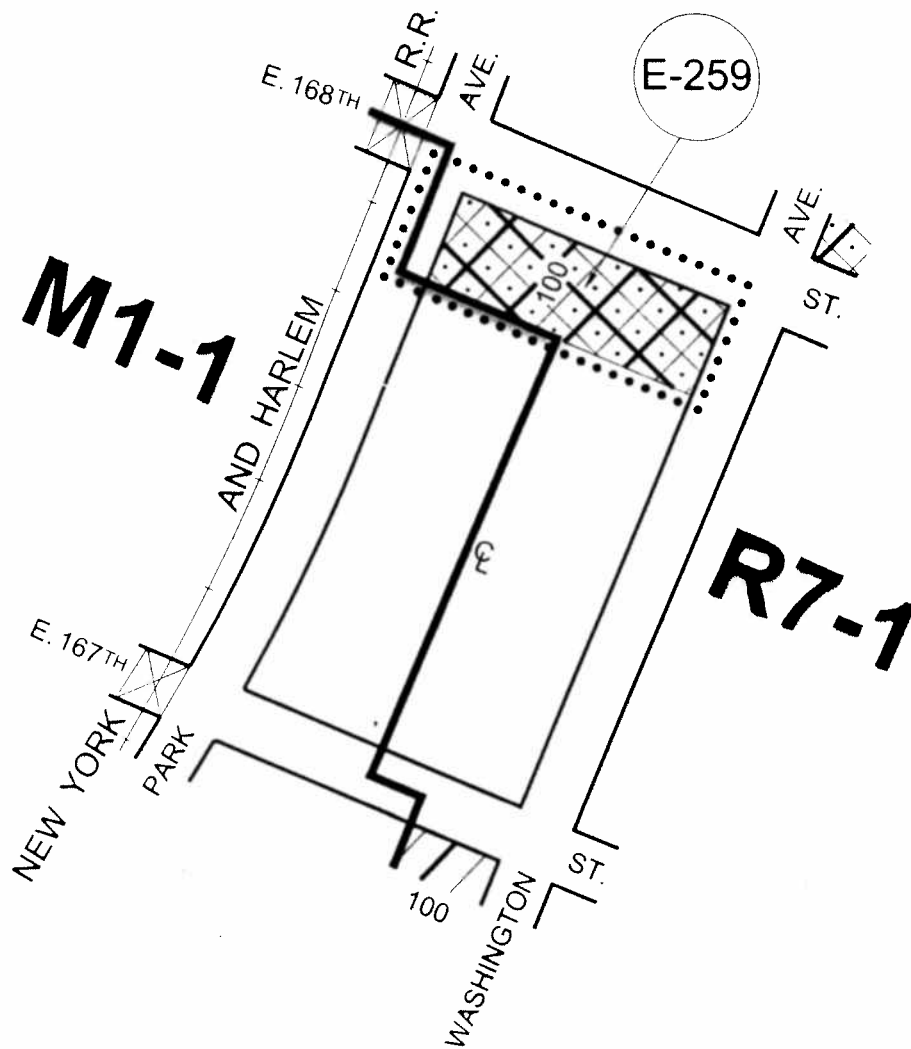
That the applicant, 3500 Park Avenue, LLC, agrees via a restrictive declaration to prepare a Phase II Environmental Assessment Statement (EAS), hazardous material sampling protocol including a health and safety plan, which would be submitted to the Department of Environmental Protection (DEP) for approval. The applicant agrees to test and identify any potential hazardous material impact pursuant to the approved sampling protocol and, if any such impact is found, submit a hazardous material remediation plan including a health and safety plan to DEP for approval. If necessary, remediation measure would be undertaken pursuant to the remediation plans.

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(s) and the consideration described in this report, the Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended by changing the Zoning Map, Section No. 3d, from an M1-1 District to an R7-1/C2-4 District, property bounded by East 168th Street, a line midway between Park Avenue and Washington Avenue, a line 100 feet

southwesterly of East 168th Street and Park Avenue, Borough of the Bronx, Community District 3, as shown on a diagram (for illustrative purposes only) dated June 7, 2010 and which includes CEQR Designation E-259.

The above resolution (C 080129 ZMX), duly adopted by the City Planning Commission on September 15, 2010, (Calendar No. 6), 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.

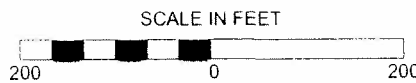
AMANDA M. BURDEN, FAICP, Chair
ANGELA M. BATTAGLIA, RAYANN BESSER, IRWIN G. CANTOR, P.E.,
BETTY Y. CHEN, MARIA M. DEL TORO, RICHARD W. EADDY,
NATHAN LEVENTHAL, ANNA HAYES LEVIN, SHIRLEY A. McRAE,
KAREN A. PHILLIPS, Commissioners



CITY PLANNING COMMISSION
 CITY OF NEW YORK
 DIAGRAM SHOWING PROPOSED
ZONING CHANGE
 ON SECTIONAL MAP
3d
 BOROUGH OF
THE BRONX

New York, Certification Date
 JUNE 7, 2010

S. Voyages
 For S. Voyages, R.A. Director
 Technical Review Division



- NOTE:
- Indicates Zoning District Boundary.
 - The area enclosed by the dotted line is proposed to be rezoned by changing an M1-1 District to an R7-1 District and by establishing a C2-4 District within existing and proposed R7-1 District.
 - Indicates a C1-3 District.
 - Indicates a C2-4 District.
 - Indicates a City Environmental Quality Review Declaration, refer to C.E.Q.R. sheet.

Community/Borough Board Recommendation

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

Application # **G 080129 ZMX**
CEQR # **080CP022X**
Community District No. **03** Borough: **The Bronx**
Community District No. **___** Borough: **___**
Project Name: **3500 Park Avenue**

INSTRUCTIONS:
1. Complete this form and return one copy to the Calendar/Information Office, City Planning Commission, Room 2E, at the address above.
2. Send one copy of this completed form with any documents to the address above.
3. Add below one copy of the Borough Project and one copy of the CEQR Declaration.

Docket Description:

IN THE MATTER of an application submitted by 3500 Park Avenue LLC, pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 3d:

- changing from an M1-1 District to an R7-1 District property bounded by East 168th Street, a line midway between Park Avenue and Washington Avenue, a line 100 feet southwesterly of East 168th Street, and Park Avenue; and
- establishing within an existing and proposed R7-1 District a C2-4 District bounded by East 168th Street, Washington Avenue, a line 100 feet southwesterly of East 168th Street, and Park Avenue;

Borough of the Bronx, Community District 3, as shown on a diagram (for illustrative purposes only) dated June 7, 2010 and subject to the conditions of CEQR Declaration E-259.

Applicant(s):
3500 Park Avenue LLC
3152 Albany Crescent
Bronx, NY 10463

Applicant's Representative:
Judith Gallant, Esq.
Bryan Cave LLP
1290 Avenue of the Americas
New York, NY 10104

Community Board No. 3 Borough: **The Bronx**

Borough Board

Date of public hearing: 6/29/10

Location: 1426 BOSTON RD. Bx NY 10456

Was a quorum present? YES NO

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: 6/29/10

Location: 1426 BOSTON RD. Bx NY 10456

RECOMMENDATION

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

Explanation of Recommendation-Modification/Conditions (Attach additional sheets if necessary)
Requirements for provision of local employment opportunities during and after construction. Developer is also required to provide information on financing programs approved for construction and income levels for eligibility.

Voting

In Favor: 0 Against: 0 Abstaining: 0
[Signature]

Total members appointed to the board: EXEC. COMM. VOTED empowered to act on behalf of board DIST. M9 ✓

Community/Borough Board Officer

Title

Date: 7/9/10

v.012008w

* 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 080129 ZMX

DOCKET DESCRIPTION

PLEASE SEE ATTACHMENT FOR DOCKET DESCRIPTION

COMMUNITY BOARD NO. 3

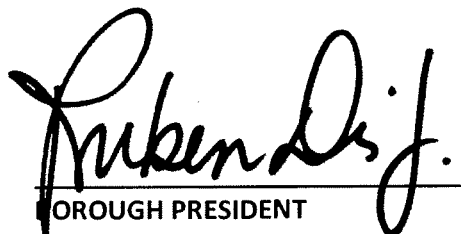
BOROUGH: BRONX

RECOMMENDATION

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

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

PLEASE SEE ATTACHMENT FOR THE BOROUGH PRESIDENT'S RECOMMENDATION


BOROUGH PRESIDENT


DATE

BRONX BOROUGH PRESIDENT'S RECOMMENDATION
ULURP APPLICATION NO: C 080129 ZMX
3500 PARK AVENUE REZONING
8/9/10

DOCKET DESCRIPTION

CD#3-ULURP APPLICATION NO: C 080129 ZMX-IN THE MATTER OF AN application submitted by 3500 Park Avenue LLC, pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 3d:

1. Changing from an M1-1 District to an R7-1 District property bounded by East 168th Street, a line midway between Park Avenue and Washington Avenue, a line 100 feet southwesterly of East 168th Street, and Park Avenue; and
2. Establishing within an existing and proposed R7-1 District a C2-4 District, bounded by East 168th Street, Washington Avenue, a line 100 feet southwesterly of East 168th Street, and Park Avenue;

Borough of the Bronx, Community District #3, as shown on a diagram (for illustrative purposes only) dated June 7, 2010, and subject to the conditions of CEQR Declaration E-259.

BACKGROUND

The proposed rezoning would extend an existing R7-1 zone along East 168th Street between Park and Washington Avenues over an existing M1-1 zone at East 168th Street and Park Avenue, as well as institute a C2-4 overlay along the entire stretch of East 168th Street on said block. The impetus for this rezoning is to develop a 61-unit residential development affordable to households earning between 40-60 percent of Area Median Income, and to allow for greater flexibility of commercial uses. Fifteen additional units can be developed on a lot located at Block 2389, Lot 28 on the corner of East 168th Street and Washington Avenue.

The proposed development will be eight stories in height, contain 5,500 square feet of retail space in two commercial units, a 1,500 square feet community room, and 20 parking spaces. The building will contain green elements, such as high efficiency ventilation, Energy Star appliances, and motion sensor lighting, but the applicant has not yet committed to certification through LEED or Enterprise Green Communities. The unit breakdown will be as such:

- Ten Studios- 450 SF
- 19 One-bedrooms- 750 SF
- 27 Two-bedrooms- 900-950 SF
- Five Three-bedrooms- 1,100 SF

The site currently serves as a parking lot and is surrounded by Claremont Village, a public housing project and Morgan Playground to the north; residential, institutional, automobile and industrial uses and Rev. Lena Irons Unity Park to the east, an African wholesale market, church and vacant lot to the south, and the Metro-North rail cut to the west.

The site is served by bus public transit with the BX38 running along East 168th Street, BX41 along Webster Avenue, and the BX15 and BX55 along Third Avenue. It is poorly-served by rail public transit, with the nearest Metro-North station approximately 2/3 mile away at Melrose, and the nearest subway station almost 3/4 mile away at the IND B & D 167th Station. It is also poorly-served by vehicular transportation with the Major Deegan Expressway being the closest highway at over 1 1/2 miles away.

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. The City Planning Commission certified this application as complete on June 7th, 2010.

COMMUNITY BOARD PUBLIC HEARING

Bronx Community Board #3 held a public hearing and approved this application on July 9th, 2010 with a vote of 5 in favor, 0 against, and 0 abstaining.

BRONX BOROUGH PRESIDENT'S PUBLIC HEARING

The Bronx Borough President held a public hearing on this application on July 30th, 2010. Representatives of the applicants were present and spoke in favor of this application. No members of the public were present.

BRONX BOROUGH PRESIDENT'S RECOMMENDATION

This rezoning will allow the development of 61 units of affordable housing in an area that has rapidly transformed into a more residential community over the last seven years due to the establishment of the Morrisania Mixed-Use District. The proposed project has an attractive design that is modern, but complimentary to the neighborhood. The apartment sizes are ample for this type of development. I am pleased to see that ground floor retail is provided.

I do have some concerns regarding the project. The first is the encroachment of residential development into an existing manufacturing zone. One benefit of the creation of the Morrisania Mixed-Use District was that certain areas were given flexibility in terms of use, while others maintained their industrial character completely. There are still many viable industrial businesses with skilled labor jobs along Park Avenue, and they should not feel pressured to be pushed out. I strongly recommend the developer consider partnering with the African wholesale market next door to utilize some of the retail space, or a similar use, to blend the industrial character and context of the historical use groups of the neighborhood.

Second, while I am pleased that the building will incorporate green features, part of my support is based on the developer's due diligence in obtaining a formal green certification.

Third, I encourage the developer to "Buy Bronx," echoing Bronx Community Board #3's call to hire locally.

Finally, as a general note, I am concerned about the overdevelopment of the Third Avenue corridor without viable rail transit access. While the number of units in this development is relatively modest, projects containing hundreds of units each have been developed in the surrounding area. As I mentioned above, I am concerned about manufacturing being pushed out of the neighborhood in favor of residential uses. The overdevelopment of The Bronx during the early to mid-twentieth century helped lead to its decline, as amenities, such as rail access and open space, became few and far between. In the long term, I call on the City and State to consider subway or commuter rail options for areas around the Third Avenue corridor. In the short term, I ask that Select Bus Service be implemented along either Webster or Third Avenues, and that both the Departments of City Planning and Housing Preservation and Development take a balanced approach to development in this currently transit-isolated area of The Bronx.

I recommend approval of this application with the aforementioned conditions.