



**IN THE MATTER OF** an application submitted by 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 74-681 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, in connection with a proposed mixed-use development, on property located at Elton Avenue between E. 162<sup>nd</sup> Street and E. 163<sup>rd</sup> Street (Block 2384, Lots 20, 25, 28, 32, 33, 34, 38, 48, 8900, 8901, ARO Lot 23, and portions of demapped Brook Avenue, Melrose Crescent and E. 162<sup>nd</sup> Street), in R8 and R8/C1-4 Districts, within the Melrose Commons Urban Renewal Area in Community District 3, Borough of the Bronx.

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The New York City Department of Housing Preservation and Development (HPD) filed an application for a Special Permit on March 20, 2015 to allow a portion of a railroad right-of-way where railroad or transit use has been permanently discontinued to be included in the lot area to facilitate the development of a mixed-use building with approximately 277 dwelling units, 26,700 square feet of retail use, 25,390 square feet of community facility use, 36 parking spaces and 139 bike parking spaces.

#### **RELATED ACTIONS**

In addition to the special permit which is the subject for this report, implementation of the proposed development also requires action by the City Planning Commission on the following application which is being considered concurrently with this application.

C 150306 HAX      UDAAP designation, project approval and disposition of city-owned properties to developers to be selected by HPD.

## **BACKGROUND**

A description of this application, the surrounding area and the proposed project is included in the report on the related action for UDAAP designation, project approval and disposition of city-owned properties (C 150306 HAX).

## **ENVIRONMENTAL REVIEW**

This application (C 150303 ZSX) was reviewed pursuant to the New York State Environmental Quality Review Act (SEQRA), and the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 et seq. and the City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The lead agency is the Department of Housing Preservation and Development. The designated CEQR number is 14HPD030X. After a study of the potential impacts of the proposed action, a Negative Declaration was issued on October 9, 2014.

## **UNIFORM LAND USE REVIEW PROCEDURE**

This application (C 150303 ZSX), in conjunction with the related application (C 150306 HAX), was certified as complete by the Department of City Planning on March 30, 2015, and was duly referred to Bronx Community Board 3 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 3 held a public hearing on this application on April 14, 2014, and on that date, by a vote of 21 in favor, 6 opposed with 0 abstentions, adopted a resolution recommending approval.

### **Borough President Recommendation**

The Borough President held a public hearing on this application on May 7, 2015, and issued a recommendation on May 19, 2015, approving the application.

### **City Planning Commission Public Hearing**

On May 20, 2015 (Calendar No. 3), the City Planning Commission scheduled June 3, 2015 for a public hearing on this application (C 150303 ZSX). The hearing was duly held on June 3, 2015 (Calendar No. 6) in conjunction with the related applications (C 150306 HAX).

There were a number of appearances, as described in the related report for UDAAP designation, project approval and disposition of city owned property (C 150306 HAX) and the hearing was closed.

### **CONSIDERATION**

The Commission believes that the proposed special permit (C 150303 ZSX), in conjunction with the related application for UDAAP designation, project approval, and disposition of City-owned property (C 150306 HAX) is appropriate.

A full consideration and analysis of the issues, and the reasons for approving this application appear in the report for UDAAP designation, project approval, and disposition of City-owned property (C 150306 HAX).

### **FINDINGS**

The Commission hereby makes the following findings pursuant to Section 74-681 of the Zoning Resolution:

- (1) the streets providing access to all uses pursuant to paragraph (a) of Section 74-681 are adequate to handle traffic resulting therefrom;
- (2) 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; and

(3) all uses, developments or enlargements located on the zoning lot or below a platform do not adversely affect one another; and

(4) Not Applicable

**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 and findings described in this report, the application submitted by HPD and. for the grant of a special permit pursuant to Section 74-681 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, in connection with a proposed mixed-use development, on property located at Elton Avenue between E. 162<sup>nd</sup> Street and E. 163<sup>rd</sup> Street (Block 2384, Lots 20, 25, 28, 32, 33, 34, 38, 48, 8900, 8901, ARO Lot 23, and portions of demapped Brook Avenue, Melrose Crescent and E. 162<sup>nd</sup> Street), in R8 and R8/C1-4 Districts, Borough of the Bronx, Community District 3, is approved, subject to the following terms and conditions:

1. The property that is the subject of this application (C 150303 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 Marvel Architects, PLLC, filed with this application and incorporated in this resolution:

<u>Drawing No.</u>	<u>Title</u>	<u>Last Date Revised</u>
Z-000.00	Zoning Analysis	01.09.15
Z-005.00	Site Plan	01.09.15
Z-006.00	Site Plan_Gr.Floor	01.09.15
Z-050.00	Neighborhood Character	01.09.15
Z-051.00	Neighborhood Character	01.09.15

Z-015.00	Sections	01.09.15
Z-016.00	Sections	01.09.15

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

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 150303 ZSX), duly adopted by the City Planning Commission on July 1, 2015 (Calendar No. 4), is filed with the Office of the Speaker, City Council, and the Borough President in accordance with the requirements of Section 197-d of the New York City Charter.

**CARL WEISBROD**, *Chairman*

**KENNETH J. KNUCKLES**, *Esq.*, *Vice Chairman*

**RAYANN BESSER, IRWIN G. CANTOR, P.E., ALFRED C. CERULLO, III,  
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LARISA ORTIZ** *Commissioners*