



April 24, 2019 / Calendar No. 9

C 190210 ZSX

IN THE MATTER OF an application submitted by the New York City Department of Housing Preservation and Development (HPD) & Phipps Houses pursuant to Section 197-c and 201 of the New York City Charter for 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 740 Brook Avenue a.k.a. East 156th Street (Block 2360, Lots 1 & 3), in a C6-2 District, Borough of the Bronx, Community District 1.

This application (C 190210 ZSX) for a special permit, in conjunction with the applications for related actions (C 190207 ZMX, N 190209 ZRX, C 190208 PPX), was filed by the Department of Housing Preservation and Development (HPD) and Phipps Houses on November 27, 2018. This application, would facilitate the development of a new nine-story residential building comprising approximately 54 affordable dwelling units plus one unit for a superintendent on Block 2360, Lots 1 and 3 in the Melrose neighborhood of Community District 1 in the Bronx.

RELATED ACTIONS

In addition to the special permit (C 190210 ZSX) that is the subject of this report, the proposed project also requires action by the City Planning Commission on the following applications, which are considered concurrently with this application:

C 190207 ZMX	Zoning Map Amendment to rezone the Project Area from R7-2 to C6-2
C 190208 PPX	Disposition of non-residential City-owned property
N 190209 ZRX	Zoning Text Amendment to Appendix F of the Zoning Resolution designating the Project Area as a Mandatory Inclusionary Housing (MIH) Area

BACKGROUND

A full background discussion and description of this application appears in the report for the related disposition action (C 190208 PPX).

ENVIRONMENTAL REVIEW

This application (C 190210 ZSX) was reviewed pursuant to the New York State Environmental Quality Review Act (SEQRA), and the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 et. seq. and the City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The designated CEQR number is 19HPD011X. The lead agency is HPD.

After a study of the potential environmental impact of the proposed action, a Negative Declaration was issued on November 28, 2018.

UNIFORM LAND USE REVIEW

This application (C 190210 ZSX) and the applications for related actions (C 190208 PPX, C 190207 ZMX) were certified as complete by the Department of City Planning on December 3, 2018 and duly referred to Bronx Community Board 1 and the Bronx Borough President in accordance with Title 62 of the Rules of the City of New York, Section 2-02(b), along with the application for a zoning text amendment N 190209 ZRX), which was referred in accordance with the procedures for non- ULURP actions.

Community Board Public Hearing

Bronx Community Board 1 held a public hearing on this application (C 190210 ZSX) on February 7, 2019, and on that date, by a vote of 24 in favor, one opposed, and with two abstentions, adopted a resolution to approve the application.

Borough President Recommendation

This application (C 190210 ZSX) was considered by the Bronx Borough President, who held a public hearing on February 5, 2019 and on March 6, 2019, issued a recommendation to approve the application.

City Planning Commission Public Hearing

On March 13, 2019 (Calendar No. 4) the City Planning Commission scheduled March 27, 2019 for a public hearing on this application (C 190208 PPX). The hearing was duly held on March 27, 2019 (Calendar No. 28).

Three representatives of the applicant team spoke about the project as described in the report for the related action (C 190208 PPX). There were no other speakers and the hearing was closed.

CONSIDERATION

The Commission believes that this application for a special permit to allow development over a railroad right-of-way (C 190210 ZSX) is appropriate. A full consideration and analysis of the issues and the reasons for approving this application appear in the report for the related disposition action (C 190208 PPX).

FINDINGS

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

- (a) In all districts, when a development or enlargement, including large-scale developments pursuant to Section 74-74, 78-00 et seq. or 79-00 et seq. is located partially or entirely within a railroad or transit right-of-way or yard and/or in railroad or transit air space, the City Planning Commission may permit:

- (2) Any 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 such development or enlargement;

- (b) As a condition for granting a special permit, the Commission shall find that:

- (1) the streets providing access to all uses pursuant to paragraph (a) above are adequate to handle traffic resulting there from;
- (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;
- (3) all uses, developments or enlargements located on the zoning lot or below a platform do not adversely affect one another;
- (4) 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 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, an application submitted by the New York City Department of Housing Preservation & Development and Phipps Houses 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 on property located at 740 Brook Avenue a.k.a. East 156th Street (Block 2360, Lots 1 & 3) in a C6-2 District in Community District 1, Borough of the Bronx, is approved, subject to the following conditions:

1. The property that is the subject of this application (C 190210 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 Dattner Architects, filed with this application and incorporated in this resolution:

Drawing No.	Title	Last Date Revised
U-002.00	Zoning Lot Site Plan	11/06/18
U-003.00	Zoning Analysis	11/06/18
U-200.00	Sections	11/06/18
U-201.00	Sections	11/06/18

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 190210 ZSX), duly adopted by the City Planning Commission on April 24, 2019 (Calendar No. 9), 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.

MARISA LAGO, *Chair*

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

ALLEN P. CAPELLI, *Esq.*, **ALFRED C. CERULLO, III**, **MICHELLE R. DE LA UZ**,
JOSEPH I. DOUEK, **HOPE KNIGHT**, **ANNA HAYES LEVIN**, **ORLANDO MARIN**,
LARISA ORTIZ, **RAJ RAMPERSHAD**, *Commissioners*