



## **CITY PLANNING COMMISSION**

September 9, 2009/Calendar No. 20

C 060419 ZMQ

---

IN THE MATTER OF an application submitted by Parkway Properties LLC pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 19b, by establishing within an existing R3-1 District a C1-3 District bounded by South Conduit Avenue, Lansing Avenue, a line perpendicular to the southwesterly street line of Lansing Avenue distant 75 feet southeasterly (as measured along the street line) from the point of intersection of the southerly street line of South Conduit Avenue and the southwesterly street line of Lansing Avenue, and a line 100 feet northeasterly of Edgewood Avenue, Borough of Queens, Community District 13, as shown on a diagram (for illustrative purposes only) dated April 20, 2009.

---

The application for an amendment to the Zoning Map was filed by Parkway Properties, LLC on March 30, 2006 to establish a C1-3 district within an existing R3-1 district. The proposed Zoning Map amendment will facilitate development of a one-story commercial structure.

### **BACKGROUND**

The rezoning area consists of an irregularly-shaped parcel of land located on the southeast corner of South Conduit and Lansing avenues (Block 13513, Lot 58) is owned by the applicant, has an area of approximately 20,600 square feet and is zoned R3-1. The property is occupied by an automobile repair facility with accessory sale of new and used cars in an open area (Use Group 16) pursuant to a Board of Standards and Appeals use variance (657-88 BZ). Prior to the variance, the site had been occupied by a gas station since the 1930s. The current variance will expire in December, 2009.

The Brookville neighborhood surrounding the site is zoned R3-1 and developed with one- and two-family detached and semi-detached homes. An R4B district covers portions of four blocks directly east of the site. There is a C1-3 commercial overlay district mapped within that R4B district encompassing half of the block between Lansing Avenue and 230<sup>th</sup> Place. This area is developed with a one-story commercial structure that fronts on South Conduit Boulevard and is occupied by Use Group 6 retail and service uses. Single-family row houses occupy the remainder of the R4B district along 230<sup>th</sup> Place, 231<sup>st</sup> and 232<sup>nd</sup> streets.

South Conduit Avenue is mapped to a width of 60 feet and is the eastbound service road for the Sunrise Highway/Belt Parkway, a limited-access highway. A parkway exit (Exit 23A) is located on South Conduit Avenue immediately west of the site. Lansing Avenue is a two-way, 60-foot wide local street with a stop sign at South Conduit Avenue.

The proposed rezoning would extend the existing C1-3 overlay district west of Lansing Avenue along South Conduit Avenue for a distance of approximately 150 feet. The proposed C1-3 commercial overly district

would be mapped to a depth that ranges between 75 feet and 164 feet.

C1 districts are mapped within residential districts and permit local retail uses (Use Groups 1 - 6).

Commercial buildings within C1 commercial district overlays are permitted a maximum floor area ratio of 1.0 when mapped in R1 through R5 districts. Residential, mixed residential/commercial, and community facility uses in C1 commercial districts are regulated by the underlying residential districts. Commercial uses in mixed-use buildings cannot be located above the first floor. Most commercial uses within C1-3 overlays require one off-street parking space for each 400 square feet of commercial space. The parking requirement can be waived for uses with less than 25 required spaces.

If the proposed C1-3 overlay district is approved, the applicant intends to construct a one-story, 7,800 square foot commercial building for Use Group 6 retail uses. Parking for 25 cars (20 spaces are required) and three bicycle spaces would be provided aside and behind the commercial building in the western and southern portions of the site. Two 27-foot curb cuts will provide vehicular access and egress for the site: one on South Conduit Avenue and the other on Lansing Avenue. Fencing, 11 street trees and a planting strip would surround the perimeter of the site; shrubs would be planted to visually screen automobile lights from the adjacent residences.

## **ENVIRONMENTAL REVIEW**

This application (C 060419 ZMQ) 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 New York City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The designated CEQR number is 07DCP006Q. The lead is the City Planning Commission.

After a study of the potential environmental impact of the subject application (C 090614 ZMQ), a Conditional Negative Declaration was issued. 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:

A Phase I Environmental Site Assessment (ESA) available in the proposal's CEQR file, was prepared on July 2006 for the properties under the control of the applicant located at Block 13513, Lot 58. The Phase I ESA was reviewed by the Department of Environmental Protection's (DEP) Office of Environmental Planning and Assessment, and a Phase II Environmental Site Assessment was recommended, as stated in a memo by DEP, on November 17, 2006, due to the presence of hazardous materials on the site as a result of past and present on-site land uses at, adjacent to, and surrounding the applicant's sites. In lieu of the Phase II Environmental Site Assessment, as stated in a memo by DEP, on

January 5, 2007, a restrictive declaration was prepared by the applicant and filed against properties under the control of the applicant located at Block 13513, Lot 58. 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 declaration serves as a mechanism to assure the potential for hazardous material contamination that may exist in the sub-surface soils and groundwater on the applicant's sites would be characterized prior to any site disturbance (i.e., site grading, excavation, demolition, or building construction). With the implementation of the restrictive declaration no significant adverse impacts related to hazardous materials would occur.

The applicant signed the Conditional Negative Declaration on April 15, 2009. The Conditional Negative Declaration was published in the City Record on April 29, 2009 and in the New York State Environmental Notice Bulletin on April 29, 2009. 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 August 3, 2009.

## **UNIFORM LAND USE REVIEW**

This application (C 060419 ZMQ) was certified as complete by the Department of City Planning on April 20, 2009 and was duly referred to Community Board 13 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 13 held a public hearing on this application on June 22, 2009 and on that date, by a vote of 33 to 4 with no abstentions, adopted a resolution recommending approval of the application subject to the following conditions:

- Certain community-adverse uses would be banned, including: fast food drive thru restaurants, check cashing stores, Laundromats, pawn shops, adult book stores, adult entertainment establishments, bars, cabarets/after hours clubs or any establishment that attracts disorderly conduct, illicit or pornographic activity.
- Security lighting, fences and gates and video cameras be installed. Lighting to be facing away from surrounding residences.
- Establish safe and orderly traffic circulation patterns and cooperate with a traffic study to be conducted by the New York City Department of Transportation.
- Continue to work with the community board and local civic associations through planning and construction to avoid any uses or conditions that would be detrimental to the community.

It is noted that South Conduit Avenue is a very busy, high speed roadway and every

effort must be made to ensure safe entrance and egress from the site. All deliveries and garbage services must be from the parking lot.

Residents expressed their preference for a single business to occupy the site, such as a supermarket or bank. Otherwise, the community would prefer occupancy by no more than four businesses to keep traffic generation and congestion to reasonable levels.

### **Borough President Recommendation**

This application was considered by the Borough President, who issued a recommendation on July 21, 2009 approving the application subject to the following condition:

- The applicant should keep the community informed of construction plans and consider qualified area residents for employment opportunities during and after construction.

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

On July 22, 2009 (Calendar No. 9), the City Planning Commission scheduled August 5, 2009, for a public hearing on this application (C 0060419 ZMQ). The hearing was duly held on August 5, 2009 (Calendar No. 24). There were two speakers in favor of the proposal, including the applicant's representative and the District Manager of Community Board 13.

The applicant's representative described the history of commercial development on the site, the nature of the existing business and the proposed retail development. He stated that the owner of the property is committed to working with the community to maintain a quality commercial development and improve any traffic impacts that might be generated from the development. In response to questions from the Commission, the representative reviewed the possible convenience retail and local service uses that could occupy the site, the hours of operation and landscaping.

The District Manager of Community Board 13 described the unsafe traffic conditions along South Conduit Avenue and the efforts of the New York City Department of Transportation (DOT), the New York Police Department (NYPD) and elected officials to improve traffic circulation in the vicinity of the proposed development.

There were no other speakers and the hearing was closed.

### **Waterfront Revitalization Program Consistency Review**

This application was reviewed by the Department of City Planning for consistency with the policies of the New York City Waterfront Revitalization Program (WRP), as amended, approved by the New York City

Council on October 13, 1999 and by the New York State Department of State on May 28, 2002, pursuant to the New York State Waterfront Revitalization and Coastal Resources Act of 1981 (New York State Executive Law, Section 910 et seq.). The designated WRP number is # 09-049.

This action was determined to be consistent with the policies of the New York City Waterfront Revitalization Program.

## **CONSIDERATION**

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

The Commission notes that the subject site is zoned R3-1 which limits development on the site to detached or semi-detached, one- or two-family homes. The Commission also notes that the site has historically been commercially developed. A gas station occupied the site in the 1930's and the current auto sales and repair use was established pursuant to a Board of Standards and Appeals use variance under Calendar No. 657-88 BZ which will expire at the end of 2009. The Commission is aware that the owner can seek to extend the term of the variance and existing auto sales and repair use.

The Commission notes that the area to be rezoned fronts on South Conduit Avenue which is a 60-foot-wide roadway that serves as the eastbound service road for the adjacent Sunrise Highway/ Belt Parkway. The Commission also notes that the rezoning area is situated just east of a highway exit and immediately west of an existing commercial development that is occupied by Use Group 6 retail uses. The Commission believes this location and its historical use together with the adjacent commercial uses, is an appropriate area in which to extend the existing C1-3 commercial overlay district that is east of Lansing Avenue. The proposed extension of the C1-3 overlay would facilitate development of a one-story, 7,800 square-foot commercial building. The Commission further notes that although the project can waive out of its parking requirements, 25 accessory parking spaces and three bicycle spaces will be provided on site to take care of the parking needs of the project

The Commission carefully considered the traffic issues raised by Community Board 13 and acknowledges the coordinated efforts of Community Board 13, the 105<sup>th</sup> Police Precinct, local elected officials and the NYC Department of Transportation (DOT) to address traffic safety concerns on South Conduit Avenue between Lansing Avenue and 230<sup>th</sup> Place. These concerns and the possible solutions were summarized in a report prepared by the District Manager of Community Board 13 and provided to the Commission. The Commission notes that these concerns were raised prior to the review of the subject application and that the

Department of Transportation is evaluating the possibility of making Lansing Avenue a one-way street. Although the Environmental Assessment Statement prepared for this application concluded that the proposed rezoning action would not have any significant traffic impacts, the Commission believes it is important to avoid traffic circulation conflicts that could arise between vehicles exiting the project site and the two-way traffic flow on Lansing Avenue. The Commission is, therefore, pleased to note that the applicant, in a letter dated August 10, 2009, agreed to restrict the Lansing Avenue curb cut to entering vehicles if traffic direction on Lansing Avenue remains two-way.

In response to the Community Board's conditions of approval, the Commission notes, in a letter dated August 10, 2009, the applicant agreed to the following:

- Limitation on the uses within the proposed building.
- Provision of adequate security lighting, fencing, gates and video cameras
- Establishment of safe traffic circulation and cooperation with the traffic study to be conducted by the NYC Department of Transportation
- Continuation of efforts working with community and local civic organizations to insure that future use and operation of the premises will not be detrimental to the community.

The Commission believes that establishing a C1-3 overlay on the south side of South Conduit Avenue, on a portion of a block between Edgewood and Lansing avenues, would be consistent with existing land uses in the area.

## **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:

That the applicant has entered into a restrictive declaration to ensure that the appropriate hazardous materials sampling protocols, including health and safety plans, will occur prior to construction on the applicant's premises (Block 13513, Lot 58). and would ensure that appropriate mediation measures for on-site hazardous materials, if necessary, would occur;

And be it further

**RESOLVED**, that the City Planning Commission, in its capacity as the City Coastal Commission, has reviewed the waterfront aspects of this application and finds that the proposed action is consistent with WRP policies; and be it further

**RESOLVED**, by the City Planning Commission, pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 19b, by establishing within an existing R3-1

District a C1-3 District bounded by South Conduit Avenue, Lansing Avenue, a line perpendicular to the southwesterly street line of Lansing Avenue distant 75 feet southeasterly (as measured along the street line) from the point of intersection of the southerly street line of South Conduit Avenue and the southwesterly street line of Lansing Avenue, and a line 100 feet northeasterly of Edgewood Avenue, Borough of Queens, Community District 13, as shown on a diagram (for illustrative purposes only) dated April 20, 2009 is approved.

The above resolution (C 060419 ZMQ), duly adopted by the City Planning Commission on September 9, 2009 (Calendar No. 20), 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

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

**ANGELA M. BATTAGLIA, RAYANN BESSER, IRWIN G. CANTOR, P.E.**

**BETTY Y. CHEN, MARIA M. DEL TORO, RICHARD W. EADDY,**

**NATHAN LEVENTHAL, KAREN A. PHILLIPS**, Commissioners

**ANNA HAYES LEVIN**, Commissioner, **Abstaining**