



CITY PLANNING COMMISSION

September 13, 2006/Calendar No.9

N 060426 ZRQ

IN THE MATTER OF an application submitted by Powell Cove Associates LLC, pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York relating to Article VII, Chapter 8, (Large Scale Residential Development), concerning Section 78-06, to modify the ownership provisions, Community District 7, Borough of Queens.

This application for an amendment of the Zoning Resolution was filed by Powell Cove Associates LLC on July 15, 2004. The proposed text amendment would facilitate development of 202 dwelling units in College Point, Community District 7, Queens.

RELATED ACTIONS

In addition to the text amendment, which is the subject of this report, implementation of the proposed development also requires action by the City Planning Commission on the following applications which are being considered concurrently with this application:

- C 020332 MLQ Landfill of approximately 123,000 cubic feet.

- M 820250 (D) ZAQ Modifications of previously approved special permit (CP-23249) and Restrictive Declaration (D-21).

- N 020331 ZAQ Authorization pursuant to Section 78-311(a) to allow floor area for all zoning lots within the development to be distributed without regard for zoning lot lines.

- N 060427 ZAQ Authorization pursuant to Section 23-631(h) for modification of the R4 building perimeter wall height regulations.

N 060428 ZAQ Authorization pursuant to Section 26-26(a) to modify the widths of private roads.

N 020333 ZCQ Certification by the Chair of the City Planning Commission pursuant to Section 62-711 (Waterfront public access and visual corridors).

BACKGROUND

In 1976, the City Planning Commission and the Board of Estimate approved applications submitted by College Point Associates (CPA) for a change to the city map, a zoning map change and a special permit (CP 23245, CP 23248, CP 23249 respectively) to facilitate a 500 dwelling unit, large scale residential development (LSRD) on approximately 28 acres of property on the East River waterfront north of 5th Avenue and west of Lax Avenue in the College Point neighborhood in Community District 7, Queens. The approved project also included a public pedestrian walkway along the waterfront.

During the course of development, in 1981, CPA applied to the New York State Department of Environmental Conservation (NYSDEC) for a permit to remove decaying wood piers on their property. Subsequently, this permit was denied due to illegal landfill on the property.

The 1976 LSRD approvals had been modified several times over the next decade, during which time the property was sold by CPA to another developer. Ultimately 236 units on the western portion of the property and a portion of the public pedestrian promenade along the waterfront were completed.

The present owner of the property, Powell Cove Associates LLC, seeks to develop 202 dwelling units on zoning lots on two vacant parcels having a lot area of 14 acres that is located in the eastern portion of the original development site. When these units are completed, there

would be a total of 438 dwelling units on the site, 62 fewer than the 500 originally approved by the Commission.

The new units will be located in 74 two- and three-family, three-story attached buildings arranged in 16 clusters on the two undeveloped parcels. The new development will have frontage on mapped City streets (Lax Avenue & Powells Cove Boulevard) and three private, internal roads. The new development would provide accessory off-street parking for 254 cars.

The current owners would also complete the required public pedestrian promenade extending from a small portion of the completed walkway of the earlier development to allow continuous waterfront access on the property's waterfront. In addition, the new development will provide four (4) public access links from the upland to the promenade.

This applicant also has reached an agreement with the New York State Department of Environmental Conservation (NYSDEC) which issued an order of consent on December 22, 1998 that allows for legalization of the existing earlier illegal landfill of approximately 123,000 cu. yd.

REQUIRED ACTIONS

The proposed development requires the following actions:

Amendment to the Zoning Resolution - N 060426 ZRQ

As part of the subject proposal, the portion of the original Large Scale Residential Development (LSRD) owned by the applicant would be removed from the existing LSRD and two separate LSRDs would be created. The current ownership provisions of Section 78-06

generally require the tract of land which is the subject of the application be under the control of the applicant(s) as owner(s) or holder(s) of the entire LSRD.

The proposed text amendment (N 060426 ZRQ) would make owners of vacant sites in existing LSRDs in Community District 7 in Queens eligible to file applications to amend existing LSRD plans, provided that: the requested modification does not seek a transfer of floor area from other zoning lots within the LSRD not included in the owner(s) parcel(s); and as a result of the modification, the total allowable floor area of the parcel(s) would not exceed that allowed in the applicable zoning district. The amendment would also allow such owner(s) to withdraw their parcel(s) from the LSRD, provided this would not create a non-compliance in the LSRD. A similar zoning text amendment (N 030404 ZRM) relating to LSRDs within expired Urban Renewal Plans within Community Board 7 in Manhattan was approved by the City Planning Commission and the City Council in 2003.

Authorization pursuant to Section 78-311(a) - N 020331 ZAQ

This application requests an authorization pursuant to Section 78-311(a) to allow the distribution of floor area within the new development without regard for zoning lot lines. The new proposed development will become a separate large scale residential development (LSRD) and will comprise two zoning lots. The zoning lot north of Powells Cove Boulevard will have a floor area ratio (FAR) of 0.15. The zoning lot located between Lax Avenue and Powells Cove Boulevard will have a 0.84 FAR, more than the maximum 0.75 FAR allowed by R4 zoning. The majority of the development will be located on the southern lot to allow for the public esplanade and naturalization of the landfill. The proposed FAR for the combined two lots of the new development will be 0.44, which is less than what is allowed as-of-right in the R4 District.

Authorizations pursuant to Sections 23-631(h) and 26-26 – N 060427 ZAQ, N 060428 ZAQ

In R4 Districts, the maximum allowable building perimeter wall height established by Section 23-63 is 25 feet. This application requests authorization for 34 of the buildings located along the mapped City streets to allow a perimeter wall height of 29 feet. However, the maximum building height for all of the 74 buildings in the new development is less than the 35 feet allowed in the R4 District. Because the project includes private roads that serve more than five dwelling units, it is subject to the regulations of Section 21-20. The applicant requests authorization to provide 34 foot wide private roads, less than the required width of 38 foot. This authorization, along with the request for higher perimeter walls, will provide for an increase in the amount of open, unbuilt areas on the site.

Landfill – C 020332 MLQ

The applicant has reached an agreement with the New York State Department of Environmental Conservation (NYSDEC) for legalization of the existing earlier landfill and has agreed to complete a naturalization program in compliance with an order of consent. The applicant has agreed to provide some seating on the completed shore public walkway that will meet NYSDEC concerns to minimize the impact for naturalization through limited public use. This application would legalize the earlier landfill.

Waterfront Certification - N 020333 ZCQ

Because a portion of the site is located on a waterfront block, that portion of the development requires a certification by the Chair of the City Planning Commission pursuant to Section 62-711 that the development complies with the public access and visual corridor requirements of the waterfront zoning regulations. Although the project will include completion of the previously required public pedestrian promenade, it is technically not required to provide waterfront public access since it is a residential development in an R4 district. The project is

required, however, to provide visual corridors and three 60-foot wide visual corridors will be provided.

Change previously approved special permit and restrictive declaration – M 820250 (D) ZAQ

These changes will reflect the proposed project as described.

ENVIRONMENTAL REVIEW

This application (N 060426 ZRQ), in conjunction with the related applications (C 020332 MLQ, N 020331 ZAQ, N 020333 ZCQ, M 820250 (D) ZAQ, N 060427 ZAQ and N 060428 ZAQ), 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 is the City Planning Commission. The designated CEQR number is 02DCP036Q.

After a study of the potential environmental impact of the proposed action, the lead agency has determined that the proposed action will have no significant impact on the quality of the environment, once it is modified as follows:

The applicant agrees via a restrictive declaration to prepare a hazardous materials sampling protocol including a health 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 applicant signed the conditional negative declaration on April 17, 2006. The conditional negative declaration was published in the City Record on May 25, 2006 and in the New York State Environmental Notice Bulletin on May 31, 2006. 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 July 24, 2006.

PUBLIC REVIEW

On May 8, 2006, this application (N 060426 ZRQ) in conjunction with the related applications (N 020331 ZAQ, N 020333 ZCQ, M 820250 (D) ZAQ, N 060427 ZAQ and N 060428 ZAQ) was duly referred to Community Board 7 and the Borough President, in accordance with the Commission's policy for referring non-ULURP items, along with the related application (C 020332 MLQ) which was certified as complete by the Department of City Planning on May 8, 2006.

Community Board Review

Queens Community Board 7 did not issue a recommendation on this item.

Borough President Review

The Borough President issued a recommendation on July 25, 2006, approving this application (N 060426 ZRQ) and the related applications.

City Planning Commission Public Hearing

On July 12, 2006 (Calendar No. 7), the City Planning Commission scheduled July 26, 2006 for a public hearing on this application. The hearing was duly held on July 26, 2006 (Calendar No. 14) in conjunction with the hearing for the related action (C 020332 MLQ). There was one speaker in favor of the application and none in opposition

The applicant's attorney explained the proposal. There were no other speakers, and the hearing was closed.

WATERFRONT REVITALIZATION PROGRAM CONSISTENCY REVIEW

This application (N 060426 ZRQ), in conjunction with the related authorizations and applications (C 020332 MLQ, N 020331 ZAQ, N 020333 ZCQ, M 820250 (D) ZAQ, N 060427 ZAQ and N 060428 ZAQ), 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 Resource Act of 1981 (New York State Executive Law, Section 910 et seq.). The designated WRP number is 02-002.

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

CONSIDERATION

The Commission believes that the proposed amendment to Section 78-06 of the Zoning Resolution, along with the related actions (C 020332 MLQ, N 020331 ZAQ, M 820250 (D) ZAQ, N 060427 ZAQ and N 060428 ZAQ), is appropriate.

These actions will facilitate development of 202 dwelling units in the College Point neighborhood of Queens. They would allow the completion of this long vacant part of the original Riverview project, first approved in 1976. The 202 new dwelling units would result in a total of 438 dwelling units, 62 fewer than the originally approved 500 units. The approved actions would allow for completion of the public esplanade along the waterfront and legalize landfill done with necessary approvals. The Commission notes that the agreement between the applicant and the New York State Department of Environmental Conservation provides for a naturalization program in compliance with an order of consent. The applicant has agreed to

provide seating on the completed shore public walkway that will meet NYSDEC concerns to minimize the impact for naturalization through limited public use.

The proposed zoning text amendment (N 060426 ZRQ) will facilitate the withdrawal of the applicant's site from the original Large Scale Residential Development without affecting the already built homes.

The Commission approves the authorization (N 020331 ZAQ) pursuant to Section 78-311(a) that the total floor area, lot coverage, dwelling units for all zoning lots within the development be distributed without regard for zoning lot lines for the two zoning lots. The proposed distribution of floor area provides a better site plan by allowing the completion of the waterfront public esplanade and naturalization of the landfill.

The Commission believes the modification (N 060427 ZAQ) of the R4 District building perimeter wall height pursuant to Section 23-631(h) allowing an increase in this height from 25 feet to 29 feet for buildings with frontage on the City streets is appropriate and further notes the maximum building height for all of the structures in the new development is less than the 35 feet allowed by R4 zoning. The increased perimeter wall height will reduce the lot coverage thereby providing an increase in open space. This slight increase in height will not have an adverse effect upon the access to light, air and privacy of adjacent properties. The heights of the proposed buildings will not exceed the heights of existing residences in the surrounding College Point neighborhood.

The Commission further believes an increase in open space and the distance between buildings is provided by the authorization (N 060428 ZAQ) pursuant to Section 26-26 to modify the widths of the private roads within the LRSD from 38 feet to 34 feet. The required curbside

planting strips, sidewalk widths and spacing and size of trees for the private roads, is otherwise in full compliance. The proposed reduction in private road width will allow more lot area to be dedicated to landscaping and additional off-street parking while not being detrimental to adequate circulation or decrease the provision for public services. The number of parking spaces that will be provided is in excess of the zoning requirement of one-space per dwelling unit.

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 conditions:

For the lots generally located easterly of 121st Street and its northerly prolongation and northwesterly of Lax Avenue (Block 3916, Lots 90, 100, 120, 300 and 400), the applicant agrees via a restrictive declaration to prepare a hazardous materials sampling protocol including a health 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.

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 Section 200 of the New York City Charter, that based on the environmental determination and 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 as follows:

Matter in underline is new, to be added;

Matter in ~~strikeout~~ is to be deleted;

Matter within # # is defined in Section 12-10;

* * * indicates where unchanged text appears in the Zoning Resolution.

* * *

78-06

Ownership

(a) Except as otherwise provided in this Section, any #large-scale residential development# for which application is made for an authorization or special permit or modification thereto in accordance with the provisions of this Chapter shall be on a tract of land that at the time of application is all under the control of the applicant(s) as the owner(s) or holder(s) of a written option to purchase. **Except as otherwise provided in this Section,** no authorization or special permit or modification thereto shall be granted for such #development# unless the applicant(s) acquired actual ownership (single fee ownership or alternate ownership arrangements according to the #zoning lot# definition in Section 12-10 (DEFINITIONS) for all #zoning lots# comprising the #development#) of, or executed a binding sales contract for, all of the property comprising such tract.

(b) Except as otherwise provided in paragraph (c) of this Section with respect to a #large scale residential development# within an urban renewal area or former urban renewal area, for any #large scale residential development# located in the Community District(s) listed in this paragraph, the owner(s) of a vacant parcel(s) may make application for and be granted modifications of authorizations or special permits previously granted under the provisions of this Chapter with respect to such parcel(s), provided that such modification does not:

- (1) result in the distribution of #floor area# from any #zoning lot# not coextensive with or included within such parcel(s); or
- (2) increase the total allowable #floor area# on any #zoning lot included within such parcel(s) beyond that amount permitted by the applicable district regulations.

Such modifications may include the withdrawal of such parcel(s) from the boundaries of the #large scale residential development#, provided that such modification would not create a non-compliance within the #large scale residential development#.

Community District	Borough
<u>Community District # 7</u>	<u>Queens</u>

- (c) When a #development# is part or all of a designated urban renewal project, the City's urban renewal agency, or a person authorized by such agency, may make application for and be granted authorizations or special permits under the provisions of this Chapter, even though such #large scale residential development# does not meet the ownership requirements set forth elsewhere in this Section. All parcels comprising such #large-scale residential development# shall be within the designated urban renewal area and subject to the urban renewal controls set forth in the approved urban renewal plan.

In the event that the urban renewal plan has expired, the owner(s) of a vacant parcel(s) within such #large scale residential development#, if located in a former urban renewal area listed in this ~~Section~~ paragraph, (c), may make application for and be granted modifications of authorizations or special permits previously granted under the provisions of this Chapter with respect to such parcel(s), ~~provided that such modification does not seek:~~ pursuant to and subject to the limitations of paragraph (b) of this Section.

- (a) ~~the distribution of #floor area# from any #zoning lot# not included within such parcel(s); or~~
- (b) ~~to increase the total allowable #floor area# on any #zoning lot# included within such parcel(s) beyond the amount permitted by the applicable district regulations.~~

~~Such modifications may include the withdrawal of such parcel(s) from the boundaries of the #large scale residential development#, provided that such modification would not create a non-compliance within the #large scale residential development#.~~

Former Urban Renewal Area	Community District
West Side Urban Renewal Area	CD 7, Manhattan

- (d) When a #residential large scale residential development# is to be #developed# or #enlarged# through assemblage by any other governmental agency, other than the City’s urban renewal agency, or its agent, having the power of condemnation, authorizations or special permits may be applied for and granted under the provisions of this Chapter, even though such #large scale residential development# does not meet the ownership requirements set forth elsewhere in this Section

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The above resolution (N 060426 ZRQ), duly adopted by the City Planning Commission on September 13, 2006 (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.

AMANDA M. BURDEN, AICP, Chair
KENNETH J. KNUCKLES, Esq., Vice Chairman
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