



CITY PLANNING COMMISSION

September 22, 2004/Calendar No. 9

C 030272 ZSX

IN THE MATTER OF an application submitted by the Department of Environmental Protection pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-734 of the Zoning Resolution to allow a municipal sewage pumping station in connection with the development of the Westchester Creek Combined Sewer Storage Facility, on a property located at 1500 Waters Place (Block 4226, p/o Lot 30), in an R5 District, Community District 11, Borough of the Bronx.

The application for the special permit was filed by the Department of Environmental Protection on January 2, 2003, to permit a municipal sewage pumping station in connection with the development of the Westchester Square Creek Combined Sewer Storage Facility in a residential district pursuant to Section 74-734 of the Zoning Resolution.

RELATED ACTIONS

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

1. C 030271 PCX Site selection and acquisition of property

BACKGROUND

A full background discussion and description of this project appears in the report on the related application for site selection and acquisition (C 030271 PCX).

ENVIRONMENTAL REVIEW

This application (C 030272 ZSX), in conjunction with the application for the related action (C 030271 PCX), 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 94DEP141X. The lead agency is the Department of Environmental Protection.

After a study of the potential environmental impact of the proposed action, a Negative Declaration was issued on February 21, 2003.

UNIFORM LAND USE REVIEW

This application (C 030272 ZSX), in conjunction with the application for the related action (C 030271 PCX), was certified as complete by the Department of City Planning on May 24, 2004, and was duly referred to Community Board 11 and the Borough President, in accordance with Article 3 of the Uniform Land Use Review Procedure (ULURP) rules.

Community Board Public Hearing

A summary of the vote of Community Board 11 appears in the report on the related application for the site selection and acquisition of property (C 030271 PCX).

Borough President Recommendation

A summary of the Borough President's recommendation appears in the report of the related application for the site selection and acquisition (C 030271 PCX).

City Planning Commission Public Hearing

On July 28, 2004 (Calendar No. 6), the City Planning Commission scheduled August 11, 2004 for a public hearing on this application (C 030272 ZSX). The hearing was duly held on August 11, 2004 (Calendar No. 11), in conjunction with the public hearing on the application for the related action (C 030271 PCX). There was one speaker representing the Department of Environmental Protection who spoke in favor of the application . There were no other speakers and the hearing was closed.

Waterfront Revitalization Program Consistency Review

This application (C 030272 ZSX), in conjunction with the application for the related action, 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 04-041.

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

CONSIDERATION

The Commission believes that the application by the Department of Environmental Protection for a special permit of property located on the southwestern portion of the Bronx Psychiatric Center (BPC), Block 4226, part of Lot 30, for the construction of a Combined Sewage Overflow (CSO) storage facility is appropriate.

A full discussion of the Commission consideration appears in the report on the related application for site selection and acquisition (C 030271 PCX).

FINDINGS

The City Planning Commission hereby makes the following findings pursuant to Section 74-734 (Municipal Sewage Pumping Stations) of the Zoning Resolution:

(a) that the proposal promotes and protects the public health, safety and general welfare; and

(b) Not Applicable;

(c) in the case of sewage pumping stations, the sewers and treatment plants to which the flow is to be pumped will be adequate to accommodate anticipated future development in the area to be served by these facilities.

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, 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 200 of the New York City Charter, that based on the environmental determination, and the consideration and findings described in this report, the grant of a special permit pursuant to Section 74-734 of the Zoning Resolution to allow a municipal sewage pumping station in connection with the development of the Westchester Creek Combined Sewer Overflow Storage Facility, on a property located at 1500 Waters Place (Block 4226, p/o Lot 30), in an R5 district, is approved, subject to the following terms and conditions:

1. The property that is the subject of this application (C 030272 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 URS, filed with this application and incorporated in this resolution:

<u>Drawing No.</u>	<u>Title</u>	<u>Date Revised</u>
Attachment 2	Proposed Site Plan	April 2004

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 its 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, sublessee 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 030272 ZSX), duly adopted by the City Planning Commission on September 22, 2004 (Calendar No. 9), is filed with the Office of the Speaker, City Council, and the Borough President together with a copy of the plans of the development, in accordance with the requirements of Section 197-d of the New York City Charter.

AMANDA M. BURDEN, AICP, Chair
IRWIN G. CANTOR, P.E., **ANGELA M. CAVALUZZI**, R.A.,
RICHARD W. EADDY, **JANE D. GOL**, **CHRISTOPHER KUI**, **JOHN MEROLO**, **DOLLY WILLIAMS**, Commissioners

KENNETH J. KNUCKLES, Esq., Vice Chair,
KAREN A. PHILLIPS, Commissioners Voting No