



CITY PLANNING COMMISSION

September 24, 2008 / Calendar No. 18

C 080448 ZSR

IN THE MATTER OF an application submitted by Northrop Grumman Information Technology Inc. pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 107-73 of the Zoning Resolution to modify the height and setback regulations of Section 107-43 to allow a 120 foot-high telecommunications tower in connection with a proposed wireless communications facility on property located at 4414 Arthur Kill Road (Block 7380, Lot 70), in an M1-1 District, within the Special South Richmond Development District, Borough of Staten Island, Community District 3.

The application for the special permit was filed by Northrop Grumman Information Technology Inc. on May 21, 2008 to modify the Special South Richmond Development District height limitation of 50 feet to construct a 120-foot high telecommunications tower at 4414 Arthur Kill Road, in the Charleston neighborhood in Staten Island, Community District 3.

RELATED ACTION

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 application which is being considered concurrently with this application:

N 080449 ZCR Certification for substitution of other plant materials pursuant to
Section 107-323.

BACKGROUND

A public safety wireless facility consisting of a 120-foot high stealth monopole and related equipment cabinets on a 3-foot by 6-foot concrete pad is proposed to be constructed within an approximately 150 square-foot leased project site located on the 51,567 square-foot zoning lot at 4414 Arthur Kill Road. The applicant, Northrop Grumman Information Technology, was selected by the City of New York to develop and maintain the proposed facility as part of the New York City Wireless Network (NYCWiN). The citywide data network will support the City's public

safety and public service agencies and will only be accessible to those agencies. The secure, broadband network will transmit data, including city, state, and federal database information, real-time video, traffic information, GIS maps, and building plans. The network is proposed to better coordinate the City's first responders and mobile workforce. There will be approximately 400 wireless facility sites citywide, 51 of which will be located in Staten Island.

The project site is located at 4414 Arthur Kill Road in the Charleston area of Staten Island's Community District 3 (Block 7380, Lot 70). The property is located in an M1-1 zoning district within Special Area M of the South Richmond District.

The zoning lot is approximately 51,567 square feet. The site is developed with an automotive service center, which consists of one two-story building at the front of the site, two one-story garages in the center of the site, and the open storage of vehicle parts on the rear half of the site. The site slopes up approximately 10 feet from the street to the proposed location of the facility. There are six existing trees along the side lot lines, totaling ten tree credits.

The surrounding area is characterized by manufacturing, residential, commercial, and open space uses. The adjacent property to the north is vacant and heavily wooded. To the south and west, there are detached residences, manufacturing uses, and commercial uses which include offices, restaurants, and construction supply and automobile repair businesses. Fairview Park is also located to the southeast of the property on Englewood Avenue.

The applicant proposes construction of a 120-foot high monopole and a 3-foot by 6-foot concrete pad for related equipment cabinets. The facility will be located in a 10-foot by 15-foot fenced area. The monopole will be designed to resemble a flagpole, and all antennas will be contained within the pole. The pole's diameter will be 38 inches at the base and taper to 24 inches at the top. The project area of the proposed facility will occupy approximately 150 square feet behind the existing garage on the south side lot line. This 10-foot by 15-foot project area will be screened with an eight-foot

high fence and nine shrubs and will be protected by bollards.

The applicant requests a special permit (C 080448 ZSR) pursuant to Section 107-73 of the Zoning Resolution to modify the 50-foot Special South Richmond Development District height limit to allow construction of the 120-foot high public safety wireless facility. Pursuant to Section 107-43, no structures shall exceed a height of 50 feet in the South Richmond Development District, unless modified by a special permit pursuant to Section 107-73. The Commission must make findings related to the effects of this proposal on the surrounding area's character and the ability of the proposal's design to take full advantage of the site's special characteristics.

The applicant is also requesting a Commission certification (N 080449 ZCR) pursuant to Section 107-323 because the proposal does not meet the minimum requirements for on-site trees in South Richmond. Pursuant to Section 107-322(a), any development on a zoning lot requires the preservation or planting of trees at a rate of 1 tree credit per 1,000 square feet of zoning lot area. Therefore, the zoning lot would require 52 tree credits. There are 10 existing tree credits on the site. It is infeasible to plant additional trees outside the 150 square-foot project area because of the nature and scale of the existing automobile repair uses which occupy the majority of the zoning lot. The applicant proposes to plant nine shrubs adjacent to the proposed 8-foot fence which will enclose the project area.

ENVIRONMENTAL REVIEW

This application (C 080448 ZSR), in conjunction with the application for the related action (N 080449 ZCR) 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 08DCP075R. The lead agency is the City Planning Commission.

After a study of the potential environmental impact of the proposed action, a Negative Declaration was issued on June 16, 2008.

UNIFORM LAND USE REVIEW

This application (C 080448 ZSR) was certified as complete by the Department of City Planning on June 16, 2008, and was duly referred to Community Board 3 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 3 held a public hearing on this application on June 18, 2008, and on June 24, 2008, by a vote of 22 to 5 with 0 abstentions, adopted a resolution recommending approval of the application.

Borough President Recommendation

This application was considered by the Staten Island Borough President who issued a recommendation approving the application on July 31, 2008.

City Planning Commission Public Hearing

On August 11, 2008 (Calendar No. 11), the City Planning Commission scheduled August 27, 2008, for a public hearing on this application (C 080448 ZSR). The hearing was duly held on August 27, 2008 (Calendar No. 29). There were three speakers in favor and none in opposition. The speakers in favor were two representatives of the applicant and a representative from the Department of Information Technology and Telecommunications (DOITT).

The first applicant's representative described the NYCWiN network and the proposed location and addressed concerns regarding the design of the facility. He agreed to incorporate a flag to better blend into the surrounding area. The second applicant's representative also appeared in favor.

The DOITT representative described the citywide NYCWiN network, how it is coordinated with

other networks, and what community concerns were encountered in establishing proposed sites.

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 08-056.

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

CONSIDERATION

The Commission believes that the grant of this special permit is appropriate.

This special permit requests a modification of the Special South Richmond Development District's height limitation of 50 feet pursuant to Section 107-73 of the Zoning Resolution. The proposed public safety wireless facility would be 120 feet high and would be located near the center of the subject zoning lot in an M1-1 zoning district. Further, the stealth monopole is designed as a flagpole which is 38 inches in diameter at its base and 24 inches at the top.

The Commission notes that at the time of certification, the wireless facility was proposed to be built as a stealth monopole without a mounted flag. Subsequent to certification and in response to concerns raised by the Commission, the applicant revised the proposal to include a flag at the top and lighting at the base of the monopole. The Commission notes that the inclusion of a flag does not increase the size of the monopole but better relates to the character of the surrounding area.

The Commission notes that the nearby area is developed primarily with manufacturing, residential, commercial, and open space uses. The Commission notes that enclosing the antennas inside the monopole improves the aesthetic appearance of the public safety wireless facility and takes advantage of the special characteristics of the site. The proposed site is located in an M1-1 zoning district, which permits the use.

The project area is screened from the street by the existing garage in the center of the zoning lot. The project area will be further screened by an eight-foot high opaque fence and nine newly planted shrubs. It will also be protected by bollards. The related equipment cabinets will be located within the enclosed project area. In addition, the design of the proposed wireless facility as a flagpole is seen as appropriate for this setting.

The Commission also notes that the proposed wireless facility is necessary to complete coverage for the New York City Wireless Network. NYCWiN is a public service that will provide valuable data to the City's first responders. The monopole will be exclusively used as part of NYCWiN.

FINDINGS

The City Planning Commission hereby makes the following findings pursuant to Section 107-73 which allows the Special South Richmond Development District 50-foot height limit to be modified:

- (a) that such development is so located as not to impair the essential character of the surrounding area;
- (b) not applicable; and
- (c) that the development's design proposal takes full advantage of all special characteristics of the site.

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 application submitted by Northrop Grumman Information Technology Inc. pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 107-73 of the Zoning Resolution to modify the height and setback regulations of Section 107-43 to allow a 120-foot high telecommunications tower in connection with a proposed wireless communications facility on property located at 4414 Arthur Kill Road (Block 7380, Lot 70), in an M1-1 District, within the Special South Richmond Development District, Borough of Staten Island, Community District 3, is approved subject to the following terms and conditions:

1. The property that is the subject of this special permit (C 080448 ZSR), 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 Corporation for Northrop Grumman Information Technology Inc., and incorporated in this resolution:

<u>Drawing Number</u>	<u>Title</u>	<u>Last Date Revised</u>
Z-1	Proposed Site Plan	August 29, 2008
Z-2	Proposed Equipment Plan and Cabinet Detail	August 29, 2008
Z-3	Encroachment Diagram	August 29, 2008
Z-4	Site Details	August 29, 2008
Z-6	Site Landscape Plan, Legend and Tables	August 29, 2008
Z-7	Compound Landscape Plan, Legends, Tables, and Details	August 29, 2008

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. All zoning computations are subject to verification and approval of the New York City Department of Buildings.
3. Prior to commencing construction, the following steps shall be taken in accordance with the provisions of Appendix A: (i) an ASTM-compliant Phase I Environmental Site Assessment and a hazardous materials sampling protocol (“Sampling Protocol”), including an investigative Health and Safety Plan (HASP), will be prepared by a qualified consultant and submitted for approval to the New York City Department of Environmental Protection (DEP); (ii) pursuant to the DEP-approved Sampling Protocol, testing will be performed to identify any potential hazardous materials; (iii) if hazardous materials are found, a Remedial Action Plan (“RAP”), including a construction HASP, will be submitted for approval by DEP; and (iv) as necessary based on the sampling results and/or RAP, a Notice shall be issued by DEP in accordance with Appendix A.
4. Following completion of construction, and before authorization to operate is issued by the City, a Closure Report under a New York State licensed professional engineer's signature documenting the successful implementation of all aspects of the Remedial Action Plan must be prepared by a qualified consultant and submitted to DEP for review and approval if necessary based on the DEP Notice issued prior to construction. Following acceptance of the Closure Report, a Notice shall be issued by DEP in accordance with Appendix A to commence operation.
5. Such development shall conform to all applicable laws and regulations relating to its construction, operation and maintenance.
6. 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.
7. Upon the failure of any party having any right, title or interest in the property that is the subject of this special permit, or the failure of any heir, successor, assign or legal representative of such party, to observe any of the covenants, restrictions, agreements, terms of conditions of this resolution whose provisions shall constitute conditions of the special

permit and authorizations hereby granted, the City Planning Commission may, without the consent of any other party, revoke any portion of or all of said special permit and authorization. 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 special permit 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.

8. 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 080448 ZSR), duly adopted by the City Planning Commission on September 24, 2008, (Calendar No. 18), 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
IRWIN G. CANTOR, P.E., ANGELA R. CAVALUZZI, AIA, ALFRED C. CERULLO III,
BETTY Y. CHEN, MARIA M. DEL TORO, RICHARD W. EADDY, NATHAN LEVENTHAL,
SHRILEY A. MCRAE, JOHN MEROLO, KAREN A. PHILLIPS, Commissioners.

Appendix A -- Hazardous Materials

1. An ASTM-compliant Phase I Environmental Site Assessment and a hazardous materials sampling protocol, including a health and safety plan (the "Sampling Protocol"), shall be prepared by a qualified consultant and submitted for the approval of DEP.
2. Pursuant to the DEP approved Sampling Protocol, any potential hazardous materials shall be tested and identified, and if such hazardous materials are found, a hazardous materials remediation plan shall be submitted, including a construction health and safety plan (the "Remedial Action Plan" or "RAP") to DEP for review and approval.
3. Pursuant to the DEP approved Remedial Action Plan any hazardous materials on the property that is the subject of this special permit (C 080448 ZSR) (the "Subject Property") shall be remediated and upon completion of the remediation a closure report shall be prepared and submitted under a New York State licensed professional engineer's signature, documenting the successful implementation of all aspects of the Remedial Action Plan, to DEP for DEP for review and approval.
4. No application for grading, excavation, foundation, alteration, building or other permit respecting the Subject Property which permits soil disturbance shall be submitted to or accepted from the Department of Buildings (the "DOB") until DEP has issued to DOB, as applicable, either a Notice of No Objection, a Notice to Proceed or a Notice of Satisfaction as set forth below. A copy of the Notice of No Objection, Notice to Proceed or a Notice of Satisfaction shall be submitted to the DOB at the time of filing of any application.
5. No authorization to operate the monopole shall be issued by or accepted from the City until DEP has issued to DOB, as applicable, either a Notice of No Objection or a Notice of Satisfaction as set forth below. A copy of the Notice of No Objection or a Notice of Satisfaction shall be submitted to the DOB at the time of filing of any application set forth in this Paragraph 1(b).
6. Notice of No Objection - DEP shall issue a Notice of No Objection after the work set forth in the DEP approved Sampling Protocol has been completed and DEP has determined in writing that the results of such sampling demonstrate that no hazardous materials remediation is required for the proposed project. DEP may also issue a Notice of No Objection if it is determined that the proposed work will not result in a soil disturbance and would not involve any activity that could potentially be impacted by hazardous materials.
7. Notice to Proceed - DEP shall issue a Notice to Proceed after it determines that: (i) the RAP has been approved by DEP and (ii) the permit(s) respecting the Subject Property that permit grading, excavation, foundation, alteration, building or other permit respecting the Subject Property which permits soil disturbance or construction of the superstructure are necessary to further the implementation of the DEP approved RAP.
8. Notice of Satisfaction - DEP shall issue a Notice of Satisfaction after the RAP has been prepared and accepted by DEP, a closure report has been submitted to DEP for review and approval and DEP has determined in writing that the RAP has been completed to the satisfaction of DEP.