



CITY PLANNING COMMISSION

October 11, 2006 / Calendar No. 11

C 020127 ZMQ

IN THE MATTER OF an application submitted by H.K. Development Group, Ltd. pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 9d:

1. changing from an R6B District to an R7A District property bounded by 45th Avenue, 83rd Street, the northeasterly prolongation of the southeasterly street line of 47th Avenue, and 82nd Street and its southerly centerline prolongation; and
2. establishing within a proposed R7A District a C2-3 District bounded by a line 100 feet southerly of 45th Avenue, 83rd Street, the northeasterly prolongation of the southeasterly easterly street line of 47th Avenue, and 82nd Street and its southerly centerline prolongation;

Borough of Queens, Community District 4, as shown on a diagram (for illustrative purposes only) dated June 5, 2006, and subject to the conditions of CEQR Declaration E-169.

The application for an amendment of the Zoning Map was filed by H.K. Development Group, Ltd. on October 2, 2001, to change the zoning on a portion of one block from R6B and R6B/C2-3 to R7A/C2-3 to facilitate the development of a new mixed-use building containing approximately 100 residential units and approximately 30,800 square feet of retail on the ground floor in Queens, Community District 4.

BACKGROUND

The applicant, H.K. Development Group, Ltd, proposes a zoning map change on a portion of Block 1536 (Lots 201, 210, 215 and 247) from R6B/C2-3 to R7A/C2-3 to facilitate the development of a new residential building with a commercial base. The subject property is located on the south side of 45th Avenue between 82nd and 83rd streets in Elmhurst, Queens. The parcel consists of four tax lots, two of which are owned by the applicant. The applicant's property, Lots 215 and 247, is developed with a parking lot and a former warehouse use, both accessory to an adjacent supermarket located on Lot 201. Lots 201 and 210 are developed with a supermarket and a one-story commercial building.

The parcel proposed to be rezoned is located directly south of Moore Homestead Park, and one block west of Broadway, a main commercial thoroughfare that connects with Queens Boulevard and Northern Boulevard. The Long Island Railroad right-of-way is located approximately 120 feet south of the site.

The subject parcel is located on the western edge of an R6B district characterized by residential and community facility uses in buildings ranging in height from three to ten stories. An adjacent R7A district is immediately north and east of the site and developed with a mix of commercial, residential and mixed-use buildings ranging in height from one to eight stories. C1 and C2 commercial overlays are mapped on properties fronting on Broadway in the R7A district. A one story warehouse abuts the subject parcel to the south in an adjacent M1-1 zoning district. R5 and R6 districts are located south on the railroad tracks and developed with a public school and low rise residences. The area is well served by mass transit with a subway station for the G, R, and V lines at the corner of 45th Avenue and Broadway, one block from the site.

The parcel is zoned R6B, with a C2-3 commercial overlay mapped along the parcel's frontage at a depth of 100 feet from 45th Avenue. The proposal would change the zone from R6B to R7A and extend the C2-3 commercial overlay over the entire site.

The proposed zoning change would allow future mixed use development in the rezoning area, and would increase the maximum allowable floor area ratio (FAR) on the entire rezoning area from 2.0 to 4.0. The proposal would also increase the maximum building height from 50 feet to 80 feet. The residential parking requirement would remain unchanged at 50% of the dwelling units. The proposed R7A district is a contextual district with mandatory Quality Housing requirements. The C2-3 district permits a wide range of commercial uses that serve the local retail needs of the surrounding residential neighborhood.

The applicant intends to construct a mixed use building on his property (Lots 215 and 247) containing two mid-rise residential towers, with approximately 30,800 sf of retail on the ground floor. An eight-story tower would be located on the eastern portion of the site (Lot 215) and

contain 54 dwelling units. A second tower, six stories in height, would be located on the western portion of the site (Lot 247), and contain 45 dwelling units. Accessory parking would be provided on the cellar and sub-cellar levels of the building for the proposed residential and commercial uses, and the existing supermarket. Approximately 89 parking spaces for commercial use and 130 spaces for accessory residential use would be provided.

ENVIRONMENTAL REVIEW

This application (C 020127 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 City Environmental Quality Review (CEQR) Rules of Procedures of 1991 and Executive Order No. 91 of 1977. This application was determined to be an Unlisted action. The designated CEQR number is 02DCP044Q. The City Planning Commission is the lead agency.

After a study of the potential environmental impact of the application (C020127 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:

The applicant agrees via a restrictive declaration to prepare a hazardous materials sampling protocol including a health and safety plan, including an ACM (Asbestos Containing Materials) abatement program which would be submitted to the Department of Environmental Protection (DEP) for approval. The applicant agrees to provide a Health and Safety Plan prior to starting the proposed demolition activities and 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 conditional negative declaration included an (E) designation. The placement of the (E) designation (E-169) on the zoning map would eliminate the potential for significant adverse impact on those sites and would ensure that appropriate testing, remediation and corrective action, if needed, would be undertaken.

To avoid any potential impacts associated with hazardous materials, the proposed action will place an (E) designation for hazardous materials on the following properties:

<u>Block</u>	<u>Lots</u>
1536	201, 210

The text of the (E) designation is as follows:

Due to the possible presence of hazardous materials on the aforementioned designated sites there is potential for contamination of the soil and groundwater. To determine if contamination exists and perform an appropriate remediation, the following tasks must be undertaken by the fee owner(s) of the lot restricted by this (E) designation prior to any demolition or disturbance of soil on the lot.

Task 1

The fee owner(s) of the lot(s) restricted by this (E) designation will be required to prepare a scope of work for any soil, gas, or groundwater sampling and testing needed to determine if contamination exists, the extent of the contamination, and to what extent remediation may be required. The scope of work will include all relevant supporting documentation, including site plans and sampling locations. This scope of work will be submitted to DEP for review and approval prior to implementation. It will be reviewed to ensure that an adequate number of samples will be collected and that appropriate parameters are selected for laboratory analysis.

No sampling program may begin until written approval of a work plan and sampling protocol is received from DEP. The number and location of sample sites should be selected to adequately characterize the type and extent of the contamination, and the condition of the remainder of the site. The characterization should be complete enough to determine what remediation strategy (if any) is necessary after review of the sampling data. Guidelines and criteria for choosing sampling sites and performing sampling will be provided by DEP upon request.

Task 2

A written report with findings and a summary of the data must be presented to DEP after completion of the testing phase and laboratory analysis for review and approval. After receiving such test results, a determination will be provided by DEP if the results indicate that remediation is necessary.

If DEP determines that no remediation is necessary, written notice shall be given by DEP.

If remediation is necessary according to test results, a proposed remediation plan must be submitted to DEP for review and approval. The fee owner(s) of the lot(s) restricted by this (E) designation must perform such remediation as determined necessary by DEP.

After completing the remediation, the fee owner(s) of the lot restricted by this (E) designation should provide proof that the work has been satisfactorily completed.

A DEP-approved construction-related health and safety plan would be implemented during excavation and construction activities to protect workers and the community from potentially significant adverse impacts associated with contaminated soil and/or groundwater. This Plan would be submitted to DEP for review and approval prior to implementation.

With the implementation of the above (E) designation, no significant adverse impacts related to hazardous materials would occur.

The applicant signed the conditional negative declaration on June 2, 2006. The conditional negative declaration was published in the City Record on June 9, 2006 and in the New York State Environmental Notice Bulletin on June 14, 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 September 11, 2006.

UNIFORM LAND USE REVIEW

The application, (C 020127 ZMQ) was certified as complete by the Department of City Planning on June 5, 2006 and was duly referred to Community Board 4 and the Borough President in accordance with Article 3 of the Uniform Land Use Review Procedure (ULURP) rules.

Community Board Public Hearing

Community Board 4 held a public hearing on this application on July 18, 2006 but did not submit a recommendation.

Borough President Recommendation

This application was considered by the Borough President, who issued a recommendation approving the application on September 18, 2006.

City Planning Commission Public Hearing

On August 23, 2006 (Calendar No. 3), the City Planning Commission scheduled September 13, 2006 for a public hearing on this application (C 020127 ZMQ). The hearing was duly held on September 13, 2006, (Calendar No. 17). There were two speakers in favor of the application, and one speaker opposed.

The applicant's attorney spoke in favor and stated that the rezoning would allow for the development of a new mixed-use building with commercial uses on the ground floor and two levels of parking for both the commercial and accessory residential uses. Previously, the site was zoned in 1961 as an M1-1 district but was changed first to an R6 district and then in 1989 to an R6B district with a C2-3 overlay along 45th Avenue. The speaker said that the original R6 district would have permitted an even larger development and that the proposed rezoning to R7A is in keeping with the character and scale of the surrounding area. The applicant's environmental consultant also appeared in favor.

One speaker, representing the Newtown Civic Association, spoke in opposition to the application. The speaker was concerned that the proposed development would not have adequate truck loading facilities for the existing commercial uses and that the future condominium association would refuse to accommodate the garbage pickup and commercial parking. He also noted that current maintenance of the rezoning area is poor.

There were no other speakers and the hearing was closed.

CONSIDERATION

The Commission believes that the amendment of the zoning map is appropriate.

The proposed rezoning to an R7A/C2-3 district would increase the maximum allowable floor area (FAR) on the entire rezoning area from 2.0 to 4.0 and facilitate the development of a six story residential building and an eight story residential building connected by ground floor retail

uses. The site is located in an area which is predominately developed with apartment buildings ranging from four to eight stories to one and two family homes. There are many retail shops and other small commercial establishments on Broadway. Furthermore, the proposed R7A district has mandatory Quality Housing requirements which produce high lot coverage buildings that blend in with the existing context and require street plantings that will enhance and improve the blighted area. The rezoning area is also conducive to mixed-use residential development since it is across the street from a park and there is an R, G, V subway station at the corner of the block on 45th Avenue and Broadway, one block from the site.

In response to concerns raised at the public hearing, the applicant's representative, in a letter dated September 18, 2006, stated that:

The owner/developer of this site was originally only one of the partners in the supermarket. Recently, he obtained a controlling interest in the supermarket and intends to refurbish as soon as the development is underway. It is important to note that all the activity (truck deliveries, parking, etc) that are presently in the open yard will be enclosed under the proposed development.

The proposed rezoning would allow the owner to accommodate the commercial storage, parking and deliveries on the subject site, both by zoning and square footage and still develop the residential component. Without the proposed zoning, only the residential component can be built. The warehouse storage area and the parking/delivery, presently grandfathered, would be removed and could not be reinstated. This would result in deliveries over the sidewalk on 45th Avenue. The number of deliveries would be substantially increased because of the removal of the storage area. there would be no accessory parking for the supermarket. Clearly, this would be an unsatisfactory scenario for the community.

The Commission believes that the proposed rezoning would provide important new housing opportunities in this area. The Commission therefore believes that the proposed zoning change is appropriate.

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:

The applicant agrees via a restrictive declaration to prepare a hazardous materials sampling protocol including a health and safety plan, including an ACM (Asbestos Containing Materials) abatement program which would be submitted to the Department of Environmental Protection (DEP) for approval. The applicant agrees to provide a Health and Safety Plan prior to starting the proposed demolition activities and 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, 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 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 by changing the Zoning Map Section No. 9d;

1. changing from an R6B District to an R7A District property bounded by 45th Avenue, 83rd Street, the northeasterly prolongation of the southeasterly street Line of 47th Avenue, and 82nd Street and its southerly centerline prolongation; and
2. establishing within a proposed R7A District a C2-3 District bounded by a line 100 feet southerly of 45th Avenue, 83rd Street, the northeasterly prolongation of the southeasterly easterly street line of 47th Avenue, and 82nd Street and its southerly centerline prolongation;

Borough of Queens, Community District 4, as shown on a diagram (for illustrative purposes only) dated June 5, 2006, and subject to the condition of the CEQR declaration which includes CEQR Designation E-169.

The above resolution (C 020127 ZMQ), duly adopted by the City Planning Commission on (Calendar No. 11) is filed with the Office of the Speaker, City Council, and the Borough President in accordance with the requirement of Section 197-d of the New York City Charter.

AMANDA M. BURDEN, AICP, Chair
KENNETH J. KNICKLES, Esq., Vice-Chairman
IRWIN CANTOR, P.E., ANGELA R. CAVALUZZI, R.A.,
ALFRED C. CERULLO, III, RICHARD W. EADDY,
JANE D. GOL, CHRISTOPHER KUI, JOHN MEROLO,
DOLLY WILLIAMS, Commissioners