



CITY PLANNING COMMISSION

October 3, 2007 | Calendar No. 10

C 070507 ZSX

IN THE MATTER OF an application submitted by the Department of Housing Preservation and Development pursuant to Section 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-681(a)(2) of the Zoning Resolution to allow a portion of a railroad or transit right-of-way that has been permanently discontinued or terminated to be included in the lot area for a proposed eight-story mixed building on property located north of East 158th Street between Third Avenue and Brook Avenue (Block 2364, Lots 45, 49, 70 and part of Lot 58), in an R8 and an R8/C1-4 Districts, Borough of the Bronx, Community District 1.

The application was filed by the Department of Housing Preservation and Development (HPD) on June 4, 2007, for a special permit pursuant to Section 74-681(a)(2) of the Zoning Resolution to allow a portion of a railroad right-of-way that has been permanently discontinued to be included in the lot area of a zoning lot located at 3120 Third Avenue to facilitate the development of an eight-story mixed-use building on property located north of East 158th Street between Third Avenue and Brook Avenue, portion of Site 17 of the Melrose Commons Urban Renewal Area.

RELATED ACTIONS

In addition to the special permit which is the subject of this report (C 070507 ZSX), 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:

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| C 070506 HAX | UDAAP designation and project approval and disposition of City-owned property; |
| C 080002 ZMX | Zoning Map Amendment to eliminate from within an existing R8 District a portion of a C1-4 District. |

BACKGROUND

A detailed description of the proposed project and the area is contained in the report on the related UDAAP designation and project approval and disposition of City-owned property application (C 070506 HAX).

ENVIRONMENTAL REVIEW

This application (C 070507 ZSX), in conjunction with the related applications (C 070506 HAX and C 080002 ZMX) 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 06HPD008X. The lead agency is the Department of Housing Preservation and Development.

It was determined that this application would not result in environmental impacts that would be substantially different from or greater than those described in the 1994 FEIS and 2007 FEIS for the Melrose Commons URA project. In a letter dated July 6, 2007 with a copy of the Notice of Minor Modification and the Technical Memorandum for the CEQR No. 88-087X application, it was determined that the proposed changes do not alter the conclusions of the FEIS and that therefore the Notice of Completion issued on April 27, 2007 remains in effect.

UNIFORM LAND USE REVIEW

This application (C 070507 ZSX), in conjunction with related applications (C 080002 ZMX and

C 070506 HAX), was certified as complete by the Department of City Planning on July 9, 2007, and was duly referred to Community Board 1 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 1 held a public hearing on this application on August 1, 2007, and on that date, by a vote of 22 to 0 with 0 abstentions, adopted a resolution recommending approval of the application.

Borough President Recommendation

This application was considered by the Borough President, who issued a recommendation approving the application on August 28, 2007.

City Planning Commission Public Hearing

On September 5, 2007 (Calendar No. 2), the City Planning Commission scheduled September 19, 2007, for a public hearing on this application (C 070507 ZSX). The hearing was duly held on September 19, 2007 (Calendar No. 23), in conjunction with the public hearing on the related applications (C070506 HAX and C 080002 ZMX). There were three speakers in favor of the application and no speakers in opposition, as described in the report on the related UDAAP designation and project approval and disposition of City-owned property application (C 070506 HAX).

There were no other speakers and the hearing was closed.

CONSIDERATION

The Commission believes that this application for a special permit (C 070507 ZSX) is appropriate.

A full consideration and analysis of the issues and reasons for approving this application appears in the report on the related UDAAP designation and project approval and disposition of City-owned property application (C 070506 HAX).

FINDINGS

The City Planning Commission hereby makes the findings pursuant to Section 74-681 of the Zoning Resolution:

1. the streets providing access to all uses pursuant to paragraph (a) of Section 74-681 are adequate to handle traffic resulting there from; and
2. the distribution of floor area and the number of dwelling units or rooming units does not adversely affect the character of the surrounding area by being unduly concentrated in any portion of such development or enlargement, including any portion of the development or enlargement located beyond the boundaries of such railroad or transit right-of-way or yard; and
3. all uses, developments, or enlargements located on the zoning lot or below a platform do not adversely affect one another; and

4. Not Applicable

RESOLUTION

RESOLVED, that having considered the Final Environmental Impact Statement (FEIS), for which a Notice of Completion was issued on April 15, 1994 and a letter dated July 6, 2007 with a copy of the Notice of Minor Modification and the Technical Memorandum, with respect to this application (CEQR No.88-087X), the City Planning Commission finds that the requirements of the New York State Environmental Quality Review Act and regulations have been met and that, consistent with social, economic and other essential considerations:

1. From among the reasonable alternatives thereto, the action to be approved is one which minimizes or avoids adverse environmental impacts to the maximum extent practicable; and
2. The adverse environmental impacts revealed in the Environmental Impact Statement will be minimized or avoided to the maximum extent possible by incorporating, as conditions to the approval, those mitigative measures that were identified as practicable.

The report of the City Planning Commission, together with the FEIS, constitutes the written statement of facts, and of social, economic and others factors and standards; that form the basis of the decision, pursuant to Section 617.11(d) of the SEQRA regulations; and

RESOLVED, by the City Planning Commission, pursuant to Sections 197-c and 201 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 the Department of Housing Preservation and Development pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit, pursuant to Section 74-681(a)(2) of the Zoning Resolution to allow a portion of a railroad right-of-way that has been permanently discontinued or terminated to be included in the zoning lot area of the proposed development of an eight-story mixed-use building with approximately 124,380 square feet of floor area with a total of 96 dwelling units for moderate and middle-income families on property located north of East 158th Street between Third Avenue and Brook Avenue (Block 2364, Lots 45, 49, 70 and part of Lot 58), in an R8 and an R8/C1-4 Districts, Borough of the Bronx, Community District 1, is approved, pursuant to Section 74-681 of the Zoning Resolution, subject to the following terms and conditions:

- 1) The property that is the subject of this application (C 070507 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 Magnusson Architectural and Planning PC, filed with this application and incorporated in this resolution:

Title	Last Date Revised
Zoning Analysis & Site Plan	07.02.07

- 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, sub lessee 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 and the attached restrictive declaration 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 or of the

attached restrictive declaration.

- 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 070507 ZSX), duly adopted by the City Planning Commission on October 3, 2007 (Calendar No. 10), 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 Chair

ANGELA M. BATTAGLIA, IRWIN G. CANTOR, P.E., ANGELA M. CAVALUZZI, R.A.,

BETTY Y. CHEN, RICHARD W. EADDY, NATHAN LEVENTHAL, JOHN MEROLO,

KAREN A. PHILLIPS, DOLLY ILLIAMS, Commissioners

LISA A. GOMEZ, Commissioner, RECUSED