



CITY PLANNING COMMISSION

February 13, 2008 / Calendar No. 20

C 050192 ZMK

IN THE MATTER OF an application submitted by 70 Wyckoff Ave LLC pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 13b:

1. changing from an M1-1 District to an R6 District property bounded by Wyckoff Avenue, Dekalb Avenue, a line 400 feet northwesterly of Irving Avenue and Suydam Street;
2. establishing within an existing R6 District a C2-4 District bounded by Wyckoff Avenue, Dekalb Avenue, a line 400 feet northwesterly of Irving Avenue and Suydam Street

as shown on a diagram (for illustrative purposes only) dated October 1, 2007 and subject to the conditions of CEQR Declaration E-197, Community District 4, Borough of Brooklyn.

The application for an amendment of the Zoning Map was filed by 70 Wyckoff Ave LLC on November 29, 2004 to change the existing M1-1 District to an R6 district, to facilitate the legalization of existing residential uses in a former manufacturing building located in Community District 4, Bushwick, Brooklyn.

BACKGROUND

70 Wyckoff Ave LLC seeks a zoning map amendment from M1-1 to R6/C2-4 on Wyckoff Avenue between Suydam Street and Dekalb Avenue.

Located in the northwestern section of the community district, the rezoning area covers the two northern frontages of Wyckoff Avenue between Suydam Street and DeKalb Avenue. The rezoning area consists of ten lots (Block 3221, Lots 23, 31, 35, and 122 and Block 3237, Lots 23, 27, 31, 33, 38, 41) – three lots contain loft buildings with residential uses, the other lots have commercial uses (two supermarkets and a restaurant, a post office, and three lots with parking lots). The applicant's property (Block 3221, Lot 31) at 70 Wyckoff Avenue contains a four-story loft building that has residential uses for which the Department of Buildings (DOB) has issued violations. DOB has also

issued violations on two other lots within the rezoning area (Block 3237, Lots 21 and 41) that have residential uses.

To the west of the rezoning area is an M1-1 district containing a mix of industrial and storage uses as well as residential buildings. Both north and south of the rezoning area is an R6 district comprised mainly of three- to four- story residential buildings.

M1-1 is a light manufacturing district that allows Use Groups 4-14, 16, and 17, which includes certain community facilities, and a wide range of commercial and light industrial uses. The maximum floor area ration (FAR) in M1-1 districts is 1.0 for commercial and light industrial uses and 2.4 for community facility uses. New residential uses are not permitted.

The applicant seeks to rezone the area to an R6 district with a C2-4 commercial overlay. R6 is a medium density residential district which allows Use Groups 1-4, which includes residential buildings and community facilities. R6 districts have a maximum floor area ratio of 2.43 for residential uses and 4.8 for community facility uses. C2-4 overlay district allows local retail and service uses. The proposed rezoning would make the existing residential uses conforming.

ENVIRONMENTAL REVIEW

This application (C 050192 ZMK) 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 agency is the City Planning Commission. The designated CEQR number is 05DCP040K.

After a study of the potential environmental impacts of the proposed action, a Conditional Negative Declaration, signed by the applicant, was prepared on September 28, 2007 stating the following: The applicant, 70 Wyckoff, LLC, has agreed via a restrictive declaration to implement a DEP-approved hazardous materials sampling protocol including a health and safety plan.

The applicant signed the conditional negative declaration on October 1, 2007. The conditional negative declaration was published in the City Record on October 9, 2007 and in the New York State Environmental Notice Bulletin on October 10, 2007. 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, which included (E) designations for hazardous materials, air quality, and noise, was issued on January 28, 2008.

The (E) designations for hazardous materials would be placed on the properties located at Block 3221, Lots 23 and 122 and Block 3237, Lots 23, 27, and 41. The text of the (E) designation is as follows:

Task 1 – The application must be submitted to the DEP Office of Planning and Assessment (OEPA) for review and approval, a soil and ground water testing protocol including a description of the methods and a site map with all sampling locations clearly and precisely represented.

No sampling program should begin until written approval of a protocol is received from DEP. The number and location of sample site would be selected to adequately characterize the site, the specific source of suspected contamination and the remainder of the site's condition. The characterization should be complete enough to determine what remediation strategy (if any) is necessary after review of 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 finding and a summary of the data must be submitted to DEP after completion of the testing phase and laboratory analysis for review and approval. After receiving such test results, a determination will be made by DEP if the results indicate that remediation is necessary.

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

If remediation is indicated from the test results, a proposed remediation plan must be submitted to DEP for review and approval. The application must perform such remediation as determined necessary by DEP. The applicant should provide proof that the work has been satisfactorily completed.

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

(E) designations related to air quality would be placed on Block 3221, Lots 23 and 122. The text of the (E) designation is as follows:

Any new residential and/or commercial development on the above referenced property must use natural gas as the type of fuel for HVAC systems.

(E) designations for noise would be placed on Block 3221, Lots 23 and 122, and Block 3237, Lots 23, 27, and 41.

The text of the (E) designation for noise for the above property is as follows:

In order to ensure an acceptable interior noise environment, future residential and commercial uses must provide a closed window condition with a minimum of 35 dB(A) window/wall attenuation on all facades in order to maintain an interior noise level of 45 dB(A). In order to maintain a closed-window condition, an alternate means of ventilation would also have to be provided. Alternate means of ventilation would include, but would not be limited to, central air conditioning or air conditioning sleeves containing air conditioners or HUD-approved fans.

UNIFORM LAND USE REVIEW

This application (C 050192 ZMK) was certified as complete by the Department of City Planning on October 1, 2007, and was duly referred to Community Board 4 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 4 held a public hearing on this application on January 16, 2008, and on that date, by a vote of 29 to 1 with two 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 December 17, 2007, with the following conditions:

that the applicant further commit to:

- a) include a clause in the rental agreement specifying for the next five years the tenants right to renew within increases not to exceed those imposed by the Rent Guidelines Board; and/or,
- b) to offer tenants residential leases of up to five years with specified rent increases consistent with recent Rent Guidelines Board increases of the last three years.

City Planning Commission Public Hearing

On December 19, 2007, Cal. No. 2, the Commission scheduled January 9, 2008 for a public hearing on this application (C 050192 ZMK). The hearing was duly held on January 9, 2008 (Calendar No. 19).

The applicant's attorney appeared in favor.

There were no other speakers and the hearing was closed.

CONSIDERATION

The Commission believes that the application for the zoning map amendment (C 050192 ZMK) is appropriate.

The Commission believes that the proposed rezoning area on Wyckoff Avenue between Suydam Street and DeKalb Avenue is an appropriate location for medium density residential and commercial development. Wyckoff Avenue is located near transportation infrastructure, including the DeKalb Avenue station of the 'L' train and local bus lines.

The applicant's proposal would extend an adjoining R6 zoning district over two block frontages and add a C2-4 commercial overlay to reflect the existing mixed-use residential and commercial character of the rezoning area and to facilitate the legalization of loft buildings previously converted to residential use.

The Commission acknowledges the concerns expressed by the Borough President regarding rent increases, the Commission notes that this recommendation is beyond the purview of the Commission's review.

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 condition:

The applicant, 70 Wyckoff, LLC, has agreed via a restrictive declaration to implement a DEP-approved hazardous materials sampling protocol including a health and safety 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. 13b:

1. changing from an M1-1 District to an R6 District property bounded by Wyckoff Avenue, Dekalb Avenue, a line 400 feet northwesterly of Irving Avenue and Suydam Street;
2. establishing within an existing R6 District a C2-4 District bounded by Wyckoff Avenue, Dekalb Avenue, a line 400 feet northwesterly of Irving Avenue and Suydam Street.

as shown on a diagram (for illustrative purposes only) dated October 1, 2007 and which includes CEQR Designation E-197.

The above resolution (C 050192 ZMK), duly adopted by the City Planning Commission on February 13, 2008 (Calendar No. 20), 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

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

ALFRED C. CERULLO, III, BETTY CHEN, MARIA M. DEL TORO,

RICHARD W. EADDY, NATHAN LEVENTHAL, JOHN MEROLO,

SHIRLEY A. MCRAE, KAREN A. PHILLIPS, Commissioners