



## **CITY PLANNING COMMISSION**

September 9, 2009 / Calendar No. 9

C 060289 ZSX

IN THE MATTER OF an application submitted by City Island Estates, LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 112-107 of the Zoning Resolution to modify the height and setback regulations of Sections 112-103 (Special height and setback regulations) and Section 23-631 (Maximum Height of Walls and Required Setbacks) to facilitate a 43-unit residential development on property located at 226 Fordham Place (Block 5643, Lot 235), in an R3A District, within the Special City Island District (Area A), Community District 10, Borough of the Bronx.

The application for the special permit was filed by City Island Estates, LLC on January 10, 2006, to facilitate the “On the Sound at City Island” development project, a residential development containing 43 dwelling units at 226 Fordham Place on City Island, Community District 10, Borough of the Bronx.

### **RELATED ACTIONS**

In addition to the proposed special permit which is the subject of this report (C 060289 ZSX), implementation of the proposal also requires action by the City Planning Commission on the following applications which are being considered concurrently with this application:

- |              |  |
|--------------|--|
| C 060288 ZMX | Zoning Map Amendment changing from an M1-1 manufacturing district to an R3A residential district.                |
| N 060290 ZAX | Authorization pursuant to ZR Section 22-43 to permit side-by-side dwelling units in a detached two-family house. |
| N 060291 ZCX | Chairperson certification of waterfront public access and visual corridors pursuant to Section 62-711.           |
| N 060292 ZCX | Chairperson certification of special requirement for waterfront public access pursuant to Section 112-14.        |

### **BACKGROUND**

A full background discussion and project description appears in the related report for the zoning map amendment (C 060288 ZMX).

## **ENVIRONMENTAL REVIEW**

This application (C 060289 ZSX) in conjunction with the related actions (C 060288 ZMX and N 060290 ZAX), 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 06DCP084X. The lead agency is the City Planning Commission.

After a study of the potential environmental impacts of the proposed action, a Negative Declaration was issued on May 4th, 2009

A revised Negative Declaration was issued on September 8, 2009.

## **UNIFORM LAND USE REVIEW**

This application (C 060289 ZSX) in conjunction with the related action (C 060288 ZMX), was certified as complete by the Department of City Planning on May 4, 2009, and was duly referred to Bronx Community Board 10 and the Bronx Borough President, in accordance with Title 62 of the Rules of the City of New York, Section 2-02(b), along with the related action (N 060290 ZAX), which was referred for information and review in accordance with procedures for non-ULURP matters.

## **Community Board Public Hearing**

Community Board 10 held a public hearing on this application (C 060289 ZSX) on June 2, 2009, and on June 18, 2009, by a vote of 11 to 13 with 3 abstentions and 3 no votes, failed to adopt a resolution approving this application.

A summary of the Community Board's recommendation appears in the report on the related application for the zoning map amendment (C 060288 ZMX).

### **Borough President Recommendation**

This application (C 060289 ZSX) and the related actions (C 060288 ZMX and N 060290 ZAX) were considered by the Bronx Borough President who issued a recommendation approving the application on July 27, 2009.

### **City Planning Commission Public Hearing**

On July 22, 2009 (Calendar No. 2), the City Planning Commission scheduled August 5, 2009 for a public hearing on this application (C 060289 ZSX). The hearing was duly held on August 5, 2009 (Calendar No. 16) in conjunction with the hearing on the related action (C 060288 ZMX).

There were a number of appearances as described in the report for the related application for the zoning map amendment (C 060288 ZMX) and the hearing was closed.

### **Waterfront Revitalization Program Consistency Review**

This application (C 060289 ZSX), in conjunction with those for the related actions (C 060288 ZMX and N 060290 ZAX), 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 06-032.

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

## CONSIDERATION

The City Planning Commission believes that this special permit to modify the height and setback regulations (C 060289 ZSX) is appropriate.

A full consideration and analysis of the issues, and the reasons for approving this application, appear in the report on the related application for the zoning map amendment (C 060288 ZMX).

## FINDINGS

The City Planning Commission hereby makes the following findings pursuant to 112-107 of the Zoning Resolution:

- 112-107      Modification of Height and Setback Regulations
- a)      the distribution of the *bulk* of a *development* or *enlargement* permits adequate access to light and air to the surrounding *streets* and properties and does not impair the views of and to the water;
  - b)      the modification of the building heights permits better site planning and distribution of *open space*; and
  - c)      the height of the new *development* or *enlargement* does not exceed 50 feet.

## 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 the 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 by City Island Estates, LLC for the grant of a special permit to modify the height and setback regulations of Sections 112-103 (Special height and setback regulations) and Section 23-631 (Maximum Height of Walls and Required Setbacks) to facilitate a 43-unit residential development on property located at 226 Fordham Place (Block 5643, Lot 235), in an R3A District, within the Special City Island District (Area A), Community District 10, Borough of the Bronx, is approved subject to the following conditions:

1. That the property that is subject of this application (C 060289 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 the architectural firm of The Lessard Architectural Group, filed with this application and incorporated in this resolution:

<u>Drawing No.</u>	<u>Title</u>	<u>Latest Revision Date</u>
Z-000	Cover Sheet	3/18/09
Z-100	Survey	3/18/09
Z-101	Site Plan	8/12/09
Z-101a	Typical Private Road Detail and Front Yard Planting Requirements	3/18/09
Z-102	Open Space Calculation	8/12/09
Z-102a	Parking Plan	8/12/09
Z-200	Zoning Analysis	8/12/09
Z-201	Area Map	3/18/09
Z-300	Floor Plans	3/18/09
Z-301	Floor Plans	8/12/09
Z-302	Floor Plans	3/18/09
Z-400	Elevations and Encroachment Diagrams	3/18/09
Z-401	Elevations and Encroachment Diagrams	3/18/09
Z-401a	Fordham Place Sections and Elevations	3/18/09
Z-402	Site Sections	3/18/09
Z-500	Waterfront Access Plan	3/16/09

2. Such development shall conform to all applicable provisions of the Zoning Resolution, except for modifications specifically granted in this resolution and shown on the plans listed above which has 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, operations and maintenance.
4. All leases, subleases, or other agreements for use of occupancy of space at the subject property shall give actual notice of this special permit to the lessee, sublessee or occupant.
5. Development pursuant to this resolution shall be allowed only after the attached restrictive declaration dated August 20<sup>th</sup>, 2009, executed by City Island Estates, LLC, the terms of which shall be deemed incorporated herein as a condition of this resolution, shall have been recorded and filed in the Office of the City Register of the City of New York, County of the Bronx.
6. Upon the failure of any party having any right, title or interest in the property that is 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, as filed and recorded, shall constitute conditions of the special permit and authorization hereby granted, the City Planning Commission may, without the consent of any 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 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 and authorization hereby granted or of the attached restrictive declaration.

7. 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 and authorization.

The above resolution (C 060289 ZSX), duly adopted by the City Planning Commission on September 9, 2009 (Calendar No. 9), 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*

**ANGELA M. BATTAGLIA, RAYANN BESSER, IRWIN G. CANTOR, P.E.,**

**BETTY Y. CHEN, MARIA M. DEL TORO, RICHARD W. EADDY,**

**NATHAN LEVENTHAL, KAREN A. PHILLIPS**, *Commissioners*

**ANNA HAYES LEVIN**, *Commissioner*, **ABSTAINING**