



## **CITY PLANNING COMMISSION**

September 7, 2011 / Calendar No. 6

C 100312 ZSX

**IN THE MATTER OF** an application submitted by Industco Holdings, LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-743 of the Zoning Resolution:

- a. to allow the distribution of total allowable floor area, dwelling units and lot coverage without regard for zoning lot line and zoning district boundaries;
- b. allow the location of buildings without regard for the applicable height and setback and court regulations; and
- c. to exclude portions of a building containing permitted or required accessory off-street parking spaces to be excluded from the calculation of lot coverage;

in connection with two proposed mixed use developments (Zoning Lot A, Block 3013, Lots 12, 29, 31, 35, 37 & 46 and Zoning Lot B, Block 3014, Lots 9, 15 & 45), in R7A/C2-4, R8X and R8X/C2-4 Districts, within a Large-Scale General Development bounded by Boone Avenue, East 173<sup>rd</sup> Street, West Farms Road, and a line approximately 331 feet southwesterly of East 172<sup>nd</sup> Street, Borough of the Bronx, Community Districts 3.

The application for a Special Permit pursuant to Section 74-743 of the Zoning Resolution was filed by Industco Holdings, LLC on April 14, 2010. The proposed Special Permit would allow the distribution of total allowable floor area, dwelling units and lot coverage without regard for zoning lot line and zoning district boundaries; to allow the location of buildings without regard for the applicable height and setback and court regulations; and to exclude portions of a building containing permitted or required accessory off-street parking spaces to be excluded from the calculation of lot coverage. The action will facilitate the development of multiple mixed-use buildings, including affordable housing.

## **RELATED ACTIONS**

In addition to the proposed special permit which is the subject of this report, implementation of the project also requires action by the City Planning Commission on

the following applications, which are being considered concurrently with this application:

C 100310 ZMX        Zoning map amendment to change portions of 11 blocks currently zoned M1-1, R7-1, R7-1/C2-4 to R6A, R6A/C2-4, R7A, R7A/C2-4, R7X, R7X/C2-4, and R8X, R8X/C2-4 generally located in Crotona Park East and West Farms neighborhoods of the Bronx.

N 100311ZRX        Zoning text amendment pursuant to Section 23-144 to designate the ‘Rezoning Area’ as inclusionary housing designated area and ZR 74-743 to exclude portions of buildings containing parking from lot coverage in Large Scale General Developments in Community District 3 of the Bronx.

C 100313 ZSX        Special Permit pursuant to Section 74-745 to allow accessory parking spaces to be distributed without regard to zoning lot lines.

C 110297 ZSX        Special Permit pursuant to Section 74-744 to allow commercial uses to be arranged within a building without regard to the regulations set forth in Section 32-42.

C 110234HAX        UDAAP, disposition and project approval to facilitate disposition and development of 13 square feet vacant land.

## **BACKGROUND**

A full background discussion and description of this application appears in the report on the related zoning map amendment application (C 100310 ZMX).

## **ENVIRONMENTAL REVIEW**

This application (C 110312 ZSX), in conjunction with the related applications (C 100310 ZMX, N 100311 ZRX, C 100313 ZSX, C 110297 ZSX, C 110234 HAX) 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 New York City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The designated CEQR number is 10DCP017X. The lead agency is the New York City Planning Commission.

A summary of the environmental review and the Final Environmental Impact Statement appears in the related report for a zoning map amendment (C 100310 ZMX).

## **UNIFORM LAND USE REVIEW**

This application (C 100312 ZSX), in conjunction with the related applications (C 100310 ZMX, C 100313 ZSX, C 110297 ZSX, and C 110234 HAX), was certified as complete by the Department of City Planning on May 9, 2011, and was duly referred to Bronx Community Board 3, Community Board 6, the Bronx Borough President and the Bronx Borough Board in accordance with Title 62 of the Rules of the City of New York,

Section 2-02(b), along with the related non-ULURP application (N 100311 ZRX) which was duly referred to Community Board 3, Community Board 6, the Bronx Borough President and the Bronx Borough Board in accordance with the procedure for referring non-ULURP matters.

### **Community Board Public Hearing**

A summary of the vote and recommendations of Community Board 3 and Community Board 6 appears in the related report for a zoning map amendment (C 100310 ZMX).

### **Borough President Recommendation**

This application (C 100312 ZSX) was considered by the Borough President of the Bronx which issued a recommendation approving the application on July 14, 2011.

### **Borough Board Recommendation**

The Borough Board held a public hearing on June 23, 2011, and on that day, unanimously recommended approval of this application (C 100312 ZSX).

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

On July 13, 2011 (Calendar No. 3) the City Planning Commission scheduled July 27, 2011 for a public hearing on this application (C 100312 ZSX). The hearing was duly held on July 27, 2011 (Calendar No. 6) in conjunction with the hearing on the related

applications (C 100310 ZMX, N 100311 ZRX, C 100313 ZSX, C 110297 ZSX, C 110234 HAX).

There were six speakers in favor of the application, and five in opposition, as described in the report on the related Zoning Map Amendment application (C 100310 ZMX) and the hearing was closed.

### **Waterfront Revitalization Consistency Review (WRP)**

A discussion of the WRP Consistency Review appears in the report on the related Zoning Map amendment application (C 100310 ZMX).

### **CONSIDERATION**

The Commission believes that this Special Permit (C 100312 ZSX), along with the related applications is appropriate.

A full consideration and analysis of the issues, and the reasons for approving this application appear in the report on the related zoning map amendment application (C 100310 ZMX).

## **FINDINGS**

The City Planning Commission hereby makes the findings pursuant to Section 74-743 of the Zoning Resolution:

- (1) that the distribution of floor area, open space, dwelling units, rooming units and the location of buildings, primary business entrances and show windows will result in a better site plan and a better relationship among buildings and open areas to adjacent streets, surrounding development, adjacent open areas and shore lines than would be possible without such distribution and will thus benefit both the occupants of the large-scale general development, the neighborhood, and the City as a whole;
- (2) that the distribution of floor area and location of buildings will not unduly increase the bulk of buildings in any one block or unduly obstruct access of light and air to the detriment of the occupants or users of buildings in the block or nearby blocks or of people using the public streets;
- (3) not applicable;
- (4) that, considering the size of the proposed large-scale general development, the streets providing access to such large-scale general development will be adequate to handle traffic resulting therefrom;

- (5) that, when the Commission has determined that the large-scale general development requires significant addition to the existing public facilities serving the area, the applicant has submitted to the Commission a plan and timetable to provide such required additional facilities. Proposed facilities that are incorporated into the City's capital budget may be included as part of such plan and timetable;
- (6) not applicable;
- (7) not applicable;
- (8) that, where the Commission permits portions of buildings containing accessory parking spaces to be excluded from lot coverage in accordance with the provisions of paragraph (a)(7) of this Section, the exclusion of lot coverage will result in a better site plan and a better relationship among buildings and open areas than would be possible without such exclusion and therefore benefit the residents of the large-scale general development; and
- (9) that a declaration with regard to ownership requirements in paragraph (b) of the large-scale general development definition in Z.R. Section 12-10 (DEFINITIONS) has been filed with the Commission.

## **RESOLUTION**

**RESOLVED**, that having considered the Final Environmental Impact Statement (FEIS), for which a Notice of Completion ratified herein was issued on August 26, 2011, with respect to this application (CEQR No. 10DCP017X), the City Planning Commission finds that the requirements of the New York State Environmental Quality Review Act and Regulations have been met and that

1. Consistent with social, economic, and other essential considerations, from among the reasonable alternatives thereto, the action is the one which minimizes or avoids adverse environmental impacts to the maximum extent practicable; and
2. The adverse environmental impacts disclosed in the FEIS will be minimized or avoided to the maximum extent practicable by incorporating as conditions to the approval, pursuant to the restrictive declaration dated September 1, 2011 described in the Resolutions for applications C 100312 ZSX, C 100313 ZSX, and C 110297 ZSX, and in addition with respect to application C 100310 ZMX, the three restrictive declarations dated September 1, 2011 and respectively executed by Boone West Farms LLC, 1903 West Farms LLC, and 1931 West Farms LLC, those project components related to the environment and mitigation measures that were identified as practicable.

This report of the City Planning Commission, together with the FEIS, constitute the written statement of facts, and of social, economic and other factors and standards, that



form the basis of the decision, pursuant to Section 617.11(d) of the SEQRA regulations;  
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 of Industco Holdings, LLC for the grant of a special permit pursuant to Section 74-743 of the Zoning Resolution:

- a. to allow the distribution of total allowable floor area, dwelling units and lot coverage without regard for zoning lot line and zoning district boundaries;
- b. allow the location of buildings without regard for the applicable height and setback and court regulations; and
- c. to exclude portions of a building containing permitted or required accessory off-street parking spaces to be excluded from the calculation of lot coverage;

in connection with two proposed mixed use developments (Zoning Lot A, Block 3013,

Lots 12, 29, 31, 35, 37 & 46 and Zoning Lot B, Block 3014, Lots 9, 15 & 45), in R7A/C2-4, R8X and R8X/C2-4 Districts, within a Large-Scale General Development bounded by Boone Avenue, East 173rd Street, West Farms Road, and a line approximately 331 feet southwesterly of East 172nd Street, Borough of the Bronx, Community Districts 3 is approved, subject to the following terms and conditions:

1. The property that is subject of this application (C 100312 ZSX) shall be developed in size and arrangement substantially in accordance with the dimensions, specifications indicated on the following plans, prepared by Dattner Architects, filed with this application and incorporated in this resolution:

<u>Drawing No.</u>	<u>Title</u>	<u>Last Date Revised</u>
Z-05	Site Plan - Large-Scale General Development	August 24, 2011
Z-06	Zoning Calculations - Large-Scale General Development	April 19, 2011
Z-08	Lot Coverage Calculations & Modifications	April 19, 2011
Z-09	Zoning Lot A- Max. Base Height, Setback & Bldg. Height Modifications - Plan	April 19, 2011
Z-10	Zoning Lot A- Max. Base Height, Setback & Bldg. Height Modifications - Sections	April 19, 2011
Z-11	Zoning Lot B (South) - Max. Base Height, Setback & Bldg. Height Modifications - Plan	April 19, 2011
Z-12	Zoning Lot B (South) - Max. Base Height, Setback & Bldg. Height Modifications - Sections	April 19, 2011
Z-13	Zoning Lot B (North) - Max. Base Height, Setback & Bldg. Height Modifications - Plan	April 19, 2011
Z-14	Zoning Lot B (North) - Max. Base Height, Setback & Bldg. Height Modifications - Sections	April 19, 2011
Z-15	Zoning Lots A & B (South) - Outer Court Recess Modifications	April 19, 2011

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. Development pursuant to this resolution shall be allowed only after the restrictive declaration dated September 1, 2011, executed by Allied West Farms (NY), LLC, Allied West Farms (NY) II, LLC, AWF Sliver LLC, Boone West Farms, LLC and Sedgwick Materials, Inc., the terms of which are hereby incorporated in this resolution, shall have been recorded and filed in the Office of the Register of the City of New York, Bronx County.

4. Such development shall conform to all applicable laws and regulations relating to its construction, operation and maintenance.

5. 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.

6. 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 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.

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.

The above resolution (C 100312 ZSX), duly adopted by the City Planning Commission on September 7, 2011 (Calendar No. 6), is filed with the Office of the Speaker, City Council, and the Borough President together with a copy of the plans of the development, in accordance with the requirements of Section 197-d of the New York City Charter.

**AMANDA M. BURDEN, *FAICP*, Chair**  
**RICHARD W. EADDY, VICE CHAIRMAN**  
**ANGELA M. BATTAGLIA, RAYANN BESSER, IRWIN G. CANTOR, P.E.**  
**ALFRED C. CERULLO, III, BETTY Y. CHEN, MARIA M. DEL TORO,**  
**NATHAN LEVENTHAL, ANNA HAYES LEVIN,**  
**SHIRLEY A. MCRAE, KAREN A. PHILLIPS, Commissioners**

**ORLANDO MARIN, Commissioner, Abstained**