



## CITY PLANNING COMMISSION

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October 7, 2008 | Calendar No. 8

C 080519 ZSX

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**IN THE MATTER OF** an 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 that portion of the railroad or transit right-of-way which has been permanently discontinued or terminated to be included in the lot area in connection with a proposed mixed use development on property located at 527 Westchester Avenue (Block 2359, p/o Lots 1, 3 & 9001), in a General Large-Scale Development, within the Bronxchester Urban Renewal Area, in a C6-2 District, Borough of the Bronx, Community District 1.

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The application was filed by the Department of Housing Preservation and Development (HPD) on June 24, 2008, for a special permit pursuant to allow a portion of a railroad right-of-way which has been permanently discontinued to be included in the lot area in connection with a proposed mixed use development, located on property at 527 Westchester Avenue (Block 2359, p/o Lots 1, 3 & 9001), within the Bronxchester Urban Renewal Area.

### **RELATED ACTIONS**

In addition to the special permit which is the subject of this report (C 080519 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:

- C 080517 ZMX    Zoning Map amendment changing from an M1-1 District to an C6-2 District
- N 080518 ZRY    Zoning Text Amendment
- C 080520 ZSX    Special Permit to permit modifications of height and setback, rear yard, minimum distances between buildings, minimum distance between

legally required windows and walls or lot lines, and inner court regulations within a General Large Scale Development

- C 080521 PQX Acquisition of privately-owned property
- C 080522 HAX UDAAP designation and project approval and disposition of City-owned property
- N 080523 HCX Minor Change to the First Amended Bronxchester Urban Renewal Plan

## **BACKGROUND**

A detailed description of the proposed project and the area is contained in the report on the related application for UDAAP designation project approval and disposition of City-owned property (C 080522 HAX).

## **ENVIRONMENTAL REVIEW**

This application (C 080519 ZSX), in conjunction with the related applications (C 080517 ZMX, N 080518 ZRY, C 080520 ZSX, C 080521 PQX and C 080522 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 City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The designated CEQR number is 08HPD018X. The lead agency is the Department of Housing Preservation and Development.

After a study of the potential environmental impact of the proposed action, a Negative Declaration was issued on June 19, 2008.

## **UNIFORM LAND USE REVIEW**

This application (C 080519 ZSX), in conjunction with the related applications (C 080517 ZMX, C 080520 ZSX, C 080521 PQX and C 080522 HAX), was certified as complete by the Department of City Planning on June 30, 2008, 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) along with the application for a zoning text amendment (N 080518 ZRY) which was referred for information and review.

### **Community Board Public Hearing**

Community Board 1 held a public hearing on this application on July 31, 2008, 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 21, 2008.

### **Planning Commission Public Hearing**

On August 27, 2008 (Calendar No 4), the City Planning Commission scheduled September 10, 2008, for a public hearing on this application (C 080519 ZSX). The hearing was duly held on September 10, 2008 (Calendar No. 22), in conjunction with the public hearing on the related applications (C 080517 ZMX, N 080518 ZRY, C080520 ZSX, C 080521 PQX and C 080522 HAX).

There were four speakers in favor of the application and no speakers in opposition, as described in the report on the related application for UDAAP designation, project approval and disposition of City-owned property (C 080522 HAX), and the hearing was closed.

## **CONSIDERATION**

The Commission believes that this application for a special permit (C 080519 ZSX) is appropriate.

A full consideration and analysis of the issues and reasons for approving this application appears in the report on the related application for UDAAP designation, project approval and disposition of City-owned property (C 080522 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) above are adequate to handle traffic resulting therefrom;
- (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;
- (3) all #uses#, #developments# or #enlargements# located on the #zoning lot# or below a platform do not adversely affect one another;
- (4) if such railroad or transit right-of-way or yard is deemed appropriate for future transportation #use#, the site plan and structural design of the #development# does not preclude future use of, or improvements to, the right-of-way for such transportation #use#.

## **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**, 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 that portion of the railroad or transit right-of-way which has been permanently discontinued or terminated to be included in the lot area in connection with a proposed mixed use development on property located at 527 Westchester Avenue (Block 2359, p/o Lots 1, 3 & 9001), in a General Large-Scale Development, Sites within Bronxchester Urban Renewal Area, in a C6-2 District, 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 080519 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 Dattner Architects and Grimshaw, filed with this application and incorporated in this resolution:

<u>Drawing No.</u>	<u>Title</u>	<u>Last Date Revised</u>
Att. 2a	Site Plan	06/12/08
Att. 2c	Site Plan w/Zoning Actions	06/12/08
Att. 3	Zoning Analysis	06/20/08
Att. 4a	Height and Setback Keys NYC ZR 23-632	06/12/08
Att. 4b	Height and Setback Sections NYC ZR 23-632	06/12/08
Att. 4c	Height and Setback Sections NYC ZR 23-632	06/12/08
Att. 4d	Height and Setback Sections NYC ZR 23-632	06/12/08
Att. 4e	Minimum Distance Between Buildings Sections	06/12/08

- 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 080519 ZSX), duly adopted by the City Planning Commission on October 7, 2008 (Calendar No. 8), 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, IRWIN G. CANTOR, P.E., ANGELA R. CAVALUZZI, A.I.A.,**  
**ALFRED C. CERULLO, III, BETTY Y. CHEN, MARIA M. DEL TORO,**  
**RICHARD W. EADDY, NATHAN LEVENTHAL, SHIRLEY A. McRAE,**  
**JOHN MEROLO, Commissioners**