



## **CITY PLANNING COMMISSION**

March 2, 2011/ Calendar No. 6

C 110103 ZSX

**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 right-of-way or yard where railroad or transit use has been permanently discontinued or terminated to be included in the lot area for a proposed mixed-use development on property located at 1172 East Tremont Avenue (Site B, Block 3909, Lot 8), in an M1-1 District, Borough of the Bronx, Community District 6.

The application for the special permit was filed by the Department of Housing Preservation and Development on September 30, 2010, to facilitate the construction of a mixed-use affordable housing development, in Bronx Community District 6.

### **RELATED ACTIONS**

In addition to the special permit which is the subject of this report, 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 110101 HAX | Urban Development Action Area Project (UDAAP) designation and project approval pursuant to Article 16 of the General Municipal Law of New York State and disposition of two City-owned properties pursuant to 197-c of the NYC Charter to a developer selected by HPD   |
| C 110100 ZSX | Special Permit pursuant to Section 74-681(a) (2) of the Zoning Resolution to allow that portion of the right-of-way or yard where railroad or transit use has been permanently discontinued or terminated to be included in the lot area for a proposed mixed-use development on property located at 1175 East Tremont Avenue a.k.a. 1160 Lebanon Street (Site A, Block 4007, Lot 15), in an M1-1 District. |

### **BACKGROUND**

A description of this application, the surrounding area and the proposed project is included in the report on the related action for the proposed Urban Development Action Area designation and project approval and disposition of city-owned property (C 110101 HAX).

## **ENVIRONMENTAL REVIEW**

The application (C 110103 ZSX), in conjunction with the related applications (C 110101 HAX and C 110100 ZSX) was reviewed pursuant to New York State Environmental Quality Review Act (SEQR), and the SEQR 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 10HPD001X. The lead agency is the Department of Housing Preservation and Development.

After a study of the potential impact of the proposed action, a Negative Declaration was issued on August 11, 2010.

## **UNIFORM LAND USE REVIEW**

The application (C 110103 ZSX), in conjunction with the related applications (C 110101 HAX and C 110100 ZSX) was certified as complete by the Department of City Planning on October 12, 2010, and was duly referred to the Community Board 6 and the Bronx 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 6 held a public hearing on this application on December 8, 2010, and on that date, by a vote of 11 in favor, 5 opposed and 4 abstentions, adopted a resolution recommending approval.

### **Borough President Public Hearing**

The Borough President held two public hearings on this application on December 21, 2010, and January 4, 2011 and issued a recommendation disapproving the application on January 12, 2011.

The Borough Presidents recommendation and concerns are listed in the report on the related action for the proposed Urban Development Action Area designation, project approval and, disposition of city-owned property (C 110101 HAX).

## **City Planning Commission Public Hearing**

On January 5, 2011 (Calendar No. 2) the Commission scheduled January 26, 2011 for a public hearing for this application (C 110103 ZSX), in conjunction with the related applications (C 110101 HAX and C 110100 ZSX).

There were a number of appearances, as described in the report on the related Urban Development Action Area designation, project approval, and disposition (C 110101 HAX), and the hearing was closed.

### **CONSIDERATION**

The Commission believes that this special permit (C 110103 ZSX), in conjunction with the related actions (C 110101 HAX and C 110100 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 the proposed Urban Development Action Area designation, project approval, and disposition of city-owned property (C 110101 HAX).

### **FINDINGS**

The commission hereby makes the following findings pursuant to ZR Section 74-681:

- a) That the streets providing access to all uses pursuant to Section 74-681 (a) are adequate to handle traffic resulting there from;
- b) That 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;
- c) That all uses, developments or enlargements located on the zoning lot or below a platform do not adversely affect one another;
- d) That 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

**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 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 74-681(a)(2) of the Zoning Resolution to allow that portion of the right-of-way or yard where railroad or transit use has been permanently discontinued or terminated to be included in the lot area for a proposed mixed-use development on property located at 1172 East Tremont Avenue (Site B, Block 3909, Lot 8), in an M1-1 District, Borough of the Bronx, Community District 6, is approved, subject to the following terms and conditions:

- 1) The property that is the subject of this application (C 110103 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 Curtis and Ginsberg Architects, LLP, filed with this application and incorporated in this resolution:

Drawing No.	<u>Drawing Title</u> _____	Last Date Revised
UL 01S	Lot 8, Block 3909 Site Plan	December 27, 2009
UL 02S	Lot 8, Block 3909 Zoning Calculations	December 27, 2009
UL 03S	Lot 8, Block 3909 Right Of Way Site Plan	December 27, 2009
UL 04S	Lot 8, Block 3909 BLDG. 3 Height & Setback	December 27, 2009

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- 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 failure of any party having any right, title or interest in the property that is the subject of this application, or failure of any heir, successor, assign, or legal representative of such party, to observe any of the covenants, restrictions, agreements, terms and conditions of this resolution whose provisions shall constitute 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 the 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 the 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 of the City Council, as applicable, to disapprove any application for modification, cancellation or amendment of the special permit hereby granted.
- 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 110103 ZSX), duly adopted by the City Planning Commission on March 2, 2011 (Calendar No. 6), is filed with the Office of 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.,**  
**ALFRED C. CERULLO, III, BETTY CHEN, MARIA M. DEL TORO,**  
**RICHARD W. EADDY, ANNA HAYES LEVIN,**  
**SHIRLEY A. MCRAE, KAREN A. PHILLIPS, Commissioners**