

IN THE MATTER OF an application submitted by Mosholu Petrol Realty, LLC pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 1d, changing from an R8 District to a C8-2 District property bounded by Risse Street, a line 150 feet northerly of Van Cortlandt Avenue, a line perpendicular to the southeasterly street line of Jerome Avenue distant 180 feet southwesterly (as measured along the street line) from the point of intersection of the southeasterly street line of Jerome Avenue and the westerly street line of Risse Street, and a line 100 feet southeasterly of Jerome Avenue, Borough of the Bronx, Community District 7, as shown on a diagram (for illustrative purposes only) dated December 14, 2015.

This application for an amendment of the Zoning Map was filed by the applicant on September 24, 2015 to rezone portions of properties located around 3276 Jerome Avenue (Block 3323, Lots 82, 55 and portion of Lot 22), in the Bedford Park neighborhood, Community District 7 of the Bronx.

BACKGROUND

The applicant seeks a zoning change from an R8 District to a C8-2 District to bring into conformance existing commercial land uses on residentially-zoned portions of property located around 3676 Jerome Avenue.

3276 Jerome Avenue (Block 3323, Lots 55 and 82) is developed with a 3,585 square foot masonry building used as a donut shop, convenience store and a gasoline service station. Most of the development is located on Lot 55 which is predominately zoned C8-2 (which allows the existing uses as-of-right), but a small triangular portion at the southern tip of Lot 55 is zoned R8. Lot 82, a small triangular lot adjacent to the eastern tip of Lot 55, has an area of 1,482 square feet and is used as a drive-thru/queuing area for the donut shop and for trash storage. All of Lot 82 is zoned R8, which does not allow commercial uses, including

service stations and convenience stores. Both Lots 55 and 82 are owned by the applicant. The proposed zoning map amendment would change the R8 portions of Lots 55 and 82 to a C8-2 district, rendering the entire site developed with the gas station and convenience store complying with zoning.

Lot 22, which abuts the southern border of the service station site, is also zoned R8 and is not owned by the applicant. The lot is 18,230 square feet in area and is developed with a six-story mixed use building containing 81 units. An approximately 500 square foot triangular portion of the side yard of this lot is proposed to be mapped as C8-2, to improve the geometry of the zoning district boundary. Under the provisions of Section 77-11 of the Zoning Resolution, since the greatest distance from the proposed C8-2 district boundary does not exceed 25 feet into Lot 22, the R8 district bulk and use regulations would still apply to the entirety of the lot. Therefore, there would be no change to the existing use and bulk regulations on Lot 22 due to the proposed zoning map amendment.

R8 zones are characterized by mid-rise residential buildings with 8-10 stories. Use groups 1-4 are permitted in this district. The district has a maximum residential F.A.R. of 6.02, a maximum community facility F.A.R. of 6.5, and a parking requirement of 40% of dwelling units. Building heights are determined by a sky exposure plane. The optional Quality Housing bulk envelop has a 120 foot maximum building height.

C8-2 zones typically provide a buffer between manufacturing and residential districts. They are characterized by warehouses, commercial uses, and auto-related businesses including gas stations and repair services. The district has a maximum commercial F.A.R. of 2.0 and a maximum community facility F.A.R. of 4.8. Use groups 4-14 and 16 are permitted.

The site was originally developed pursuant to a 1953 BSA variance (No. #332-32BZ) permitting auto service stations/auto repair businesses on what is today Block 3323, Lots 55 and 82, both of which are owned by the applicant. The variance had a term of 15 years and required a portion of lot 82 abutting the adjacent residential use to the south to be landscaped with a seating area.

In 1961, a C8 zoning district was mapped on the majority of Lot 55, making the portion of the service station located therein an as-of-right use. At the same time, Lot 82 and the eastern edge of Lot 55 were mapped with an R8 district, which does not permit auto service stations or repair shops; however, the variance was still in effect to allow such use over the portion that it covered. The variance was not renewed, and when it expired in 1968, that small portion of the service station site located within the R8 district was rendered an illegal use.

The applicant and current owner purchased the site in 2007 and filed plans to modify the site in 2013. At that time, the history of the site, including the expired BSA variance and subsequent illegal use came to light. The Department of Buildings issued a violation for an illegal use within a residential district in 2013, therefore the applicant is seeking this rezoning to correct the violation and bring the entire site into conformance.

ENVIRONMENTAL REVIEW

This application (C 160064 ZMX) 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 15DCP067X.

The lead is the City Planning Commission.

After a study of the potential environmental impact of the proposed action, a Negative Declaration was issued on December 14, 2015.

UNIFORM LAND USE REVIEW

This application (C 160064 ZMX) was certified as complete by the Department of City Planning on December 14, 2015, and was duly referred to Bronx Community Board 7 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 7 held a public hearing on this application on February 8, 2016 and on February 16, 2016, by a vote of 23 in favor, 0 opposed, and 3 abstaining, adopted a resolution recommending approval of the application.

BOROUGH PRESIDENT RECOMMENDATION

The application was considered by the Bronx Borough President, who issued a recommendation approving the application on March 18, 2016.

CITY PLANNING COMMISSION PUBLIC HEARING

On March 9, 2016 (Calendar No. 1), the City Planning Commission scheduled March 30, 2016 for a public hearing on this application (C 160064 ZMX). The hearing was duly held on March 30, 2016 (Calendar No. 12). There were no speakers and the hearing was closed.

CONSIDERATION

The Commission believes that this application (160064 ZMX) for an amendment of the Zoning Map is appropriate.

The site was initially developed as a service station in 1953 pursuant through a BSA variance (#332-32BZ). When the current Zoning Resolution was adopted in 1961, the service station was zoned C8, making the station an as of right use, however the adjacent property was zoned as an R8 district. In 1968, the BSA variance (#332-32BZ) expired.

Over the last 60 years, the service station has undergone changes, such as adding a convenience store and a drive-through coffee shop. The paved and queuing area and trash storage area for the drive-through coffee shop runs through the R8 portion of the site, however such uses do not conform to zoning. The proposed rezoning would bring the entire establishment, including the drive-through area, into conformance.

The proposed rezoning is consistent with the goals of the commercial district, as it would keep to the scale and character of the area by maintaining street wall continuity along Jerome Avenue and Risse Street. The surrounding area is fully developed with commercial, residential, and transportation uses. The proposed rezoning is consistent with existing land uses in the area.

The C8 zoning is consistent with the historical and current character of the area. This section of Jerome Avenue has always been developed by auto related businesses and public infrastructure appropriate for the zoning district. The balance of the Jerome Avenue block front is developed with vacant auto showrooms, parking, auto storage, and auto repair businesses. Across Jerome Avenue, there is a NYC/DEP pumping facility and a lay-up yard for the IRT #4 elevated transit line.

The proposed extension of the C8 boundary line includes a less than 500 square foot portion of the adjacent mixed use property. However, since the zoning lot is fully developed, and with application of the Section 77-11, the parcel can effectively be treated as being completely within the R8 zone. No changes are expected on this property.

The commission further believes that the proposed extension of the C8-2 commercial district is appropriate and would result in a clear, rational zoning designation that is consistent with the existing development.

RESOLUTION

RESOLVED, that the City Planning Commission finds that the action described herein will have no significant impact on the environment.

RESOLVED, by the City Planning Commission, pursuant to Section 200 of the New York City Charter, that based on the environmental determination and 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 hereby amended by changing the Zoning Map, Section No. 1d, , changing from an R8 District to a C8-2 District property bounded by Risse Street, a line 150 feet northerly of Van Cortlandt Avenue, a line perpendicular to the southeasterly street line of Jerome Avenue distant 180 feet southwesterly (as measured along the street line) from the point of intersection of the southeasterly street line of Jerome Avenue and the westerly street line of Risse Street, and a line 100 feet southeasterly of Jerome Avenue, Borough of the Bronx, Community District 7, as shown on a diagram (for illustrative purposes only) dated December 14, 2015.

The above resolution (C 160064 ZMX), duly adopted, by the City Planning Commission on April 25, 2016 (Calendar No. 1), 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.

CARL WEISBROD, *Chairman*

KENNETH J. KNUCKLES, *Esq., Vice Chairman*

**RAYANN BESSER, IRWIN G. CANTOR, P.E., ALFRED C. CERULLO, III,
MICHELLE R. DE LA UZ, JOSEPH I. DOUEK, RICHARD W. EADDY,
HOPE KNIGHT, ORLANDO MARIN, LARISA ORTIZ, *Commissioners***

CHERYL COHEN EFFRON, *Commissioner (Recused)*

**BOROUGH PRESIDENT
RECOMMENDATION**

**CITY PLANNING COMMISSION
22 Reade Street, New York, NY 10007
Fax # (212)720-3356**

INSTRUCTIONS

1. Return this completed form with any attachments to the Calendar Information Office, City Planning Commission, Room 2E at the above address.
2. Send one copy with any attachments to the applicant's representative as indicated on the Notice of Certification.

APPLICATION # C 160064 ZMX

DOCKET DESCRIPTION-PLEASE SEE ATTACHMENT FOR DOCKET DESCRIPTION

COMMUNITY BOARD NO. 7

BOROUGH: BRONX

RECOMMENDATION

- APPROVE**
- APPROVE WITH MODIFICATIONS/CONDITIONS (List below)**
- DISAPPROVE**

EXPLANATION OF RECOMMENDATION-MODIFICATION/CONDITIONS (Attach additional sheets if necessary): PLEASE SEE ATTACHMENT FOR THE BOROUGH PRESIDENT'S RECOMMENDATION


BOROUGH PRESIDENT


DATE

**BRONX BOROUGH PRESIDENT'S RECOMMENDATION
ULURP APPLICATION NO: C 160064 ZMX
3276 JEROME AVNEUE**

DOCKET DESCRIPTION

IN THE MATTER OF an application submitted by Mosholu Petrol Realty, LLC pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 1d, changing from an R8 District to a C8-2 District property bounded by Risse Street, a line 150 feet northerly of Van Cortlandt Avenue, a line perpendicular to the southeasterly street line of Jerome Avenue distant 180 feet southwesterly (as measured along the street line), from the point of intersection of the southeasterly street line of Jerome Avenue and the westerly street line of Risse Street, and a line 100 feet southeasterly of Jerome Avenue, Borough of The Bronx, Community District 7, as shown on a diagram (for illustrative purposes only) dated December 15, 2015.

BACKGROUND

This proposed amendment of the Zoning Map is being advanced by Mosholu Petrol Realty, the owners of property located at 3276 Jerome Avenue, (Block 3323, Lot 82 and portions of Lots 55 and 22). Lots 82 and 55 are owned by the applicant, Lot 22 is owned by GENC Realty. This site is bounded by Jerome Avenue on the west, Risse Street and Van Cortlandt Avenue East, to the north, the Grand Concourse on the east. Mosholu Petrol Realty owns a BP gas station that also includes a convenience store where Dunkin Donuts operates the store which features a drive-thru service. It is this drive-thru service and the queue that it prompts, which the Department of Buildings deems non-conforming, as it is located in an R8 District. Development on Lot 22 which is owned by GENC Realty includes a 6-story mixed use building. Upon approving this application, the Block and Lots described herein will be rezoned from the current R8 District, to a C8-2 District. Doing so will also deem unnecessary a BSA action (calendar #332-32-BZ) which was originally approved in 1953, allowing the construction of the existing gasoline station on Lot 55. Approval of this application will not result in any construction or change of use on the property in question.

Development of the surrounding community is typified by 6-story residential buildings located on the Grand Concourse one block east of the fuel and convenience store's location. Mass transportation is available on Jerome Avenue, via the Lexington Avenue's Number 4 train accessible at Mosholu Parkway, one block north of the site. Bus transportation also operates on the Grand Concourse, Mosholu Parkway and on Jerome Avenue. Retail activity is situated on Jerome Avenue, north of Mosholu Parkway, approximately two blocks from the site.

ENVIROMENTAL REVIEW AND ULURP CERTIFICATION

This application was reviewed pursuant to SEQR and CEQR and received a Negative Declaration meaning that the proposed matter will have no impact on the environment. The city Planning Commission certified this application as complete on December 14, 2015.

BRONX COMMUNITY BOARD RECOMMENDATION

A public hearing was held by Bronx Community Board #7 on February 16, 2016. A vote recommending approval of this application was 23 in favor, zero opposed and 3 abstaining.

BOROUGH PRESIDENT'S PUBLIC HEARING

The Bronx Borough President convened a public hearing to consider this matter on March 8, 2016. A representative of the applicant was present and spoke in favor of this application. No other members of the public were present and the hearing was closed.

BRONX BOROUGH PRESIDENT'S RECOMMENDATION

The primary of purpose of this application is to amend the Zoning Map so that an existing auto related use and convenience store located at 3276 Jerome Avenue will conform to the proposed C8-2 District. Currently this site is located in an R8 District. Given that in 1953 the fuel station use was approved by the Board of Standards and Appeal (BSA), and that the queue of those patronizing the convenience store (Dunkin Donuts) violates the current R8 designation, I see no reason to object to approving this matter.

I recommend approval of this application.