

CITY PLANNING COMMISSION

March 26, 2008/Calendar No. 8

C 080228 ZMK

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 an amendment of the Zoning Map, Section No. 17d:

- 1) changing from a C8-1 District to an R6A District property bounded by Livonia Avenue, Warwick Street, New Lots Avenue, and Barbey Street; and
- 2) establishing within the proposed R6A District a C2-4 District bounded by Livonia Avenue, Warwick Street, New Lots Avenue, and Barbey Street; as shown on a diagram (for illustrative purposed only) dated January 7, 2008.

as shown on a diagram (for illustrative purposes only) dated January 7, 2008, and subject to the CEQR Declaration E-209.

The application for an amendment of the Zoning Map was filed by the Department of Housing Preservation and Development on December 19, 2007, for a rezoning from an C8-1 District to an R6A/C2-4 District to facilitate the development of an seven-story mixed- use (residential and commercial) building located along Barbey Street and New Lots Avenue, Site 76 of the East New York I Urban Renewal Area.

RELATED ACTION

In addition to the special permit which is the subject of this report (C 080228 ZMK), implementation of the proposed development also requires action by the City Planning Commission on the following application which is being considered concurrently with this application:

C 080229 HAK

UDAAP designation and project approval and disposition of City-owned property;

BACKGROUND

A detailed description of the proposed project and the area is contained in the report on the related UDAAP designation and project approval and disposition of City-owned property application (C 080229 HAK).

ENVIRONMENTAL REVIEW

This application (C 080228 ZMK), in conjunction with the related application (C 080229 HAK) 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 08HPD012K. The lead agency is the Department of Housing Preservation and Development.

After a study of the potential impacts of the proposed actions, a Negative Declaration was issued for this proposal, on December 27, 2007. The negative declaration included (E) designations, which would be placed on all of the potential development sites that are not City-owned properties, for hazardous materials and noise. On the City-owned property, the provisions listed below will be incorporated into the Land Disposition Agreement (LDA) between the Department of Housing Preservation and Development (HPD) and the intended developer to ensure no significant adverse impacts are incurred. The provisions to be addressed in the LDA are Historic (Archaeological) Resources, Hazardous Materials and Noise Attenuation.

To avoid the potential for impacts associated with hazardous materials, the proposed action includes (E) designations on the following properties: Block 4092, Lots 1, 2, 3, 4, 10, and 11.

The text of the (E) designation for hazardous material for the above properties is as follows:

The (E) designation would require that the fee owner of such a site conduct a testing and sampling protocol, and remediation where appropriate, to the satisfaction of the Department of Environmental Protection (DEP) before the issuance of a building permit by the Department of Buildings (DOB) (pursuant to Section 11-15 of the Zoning Resolution – Environmental Requirement). The (E) designation also includes a mandatory construction-related health and safety plan which must also be approved by DEP.

To avoid the potential for impacts associated with noise, the proposed action includes (E) designations on the following properties: Block 4092, Lots 1, 2, 3, 4, 10, and 11.

The text of the (E) designation for noise for the above properties is as follows:

In order to ensure an acceptable interior noise environment, future residential uses must provide a closed window condition with a minimum of 40 dB(A) window/wall attenuation along the Livonia Avenue, Jerome Street and Warwick Street facades in order to maintain an interior noise level of 45 dB(A). In order to ensure an acceptable interior noise environment, future residential uses must provide a closed window condition with a minimum of 30 dB(A) window/wall attenuation along the New Lots Avenue façade in order to maintain an interior noise level of 45 dB(A). In order to maintain a closed-window condition, an alternate means of ventilation must also be provided. Alternate means of ventilation includes, but is not limited to, central air conditioning or air conditioning sleeves containing air conditioners or HUD-approved fans.

UNIFORM LAND USE REVIEW

This application (C 080228 ZMK), in conjunction with related applications (C 080229 HAK), was certified as complete by the Department of City Planning on January 7, 2008, and was duly referred to Community Board 5 and the 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 5 held a public hearing on this application on January 23, 2008, and on that date, by a vote of 31 to 4 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 February 25, 2008.

City Planning Commission Public Hearing

On February 13, 2008 (Calendar No. 11), the City Planning Commission scheduled February 13, 2008, for a public hearing on this application (C 080228 ZMK). The hearing was duly held on February 27, 2008 (Calendar No. 31), in conjunction with the public hearing on the related application (C 080229 HAK). There were four speakers in favor and five speakers in opposition, as fully described in the report on the related UDAAP designation, project approval and disposition of City-owned property application (C 080229 HAK).

There were no other speakers and the hearing was closed.

CONSIDERATION

The Commission believes that the application for the zoning map amendment (C 080228 ZMK) and the related action of Urban Development Action Area designation and project (UDAAP) and the disposition of city-owned property (C 080229 HAK) is appropriate.

A full consideration and analysis of the issues and reasons for approving this application appears in the report on the related UDAAP designation and project approval and disposition of City-owned property application (C 080229 HAK).

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 200 of the New York City Charter, that based on the environmental determination and the 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 further amended by changing the Zoning Map, Section No. 17d:

- 1) changing from a C8-1 District to an R6A District property bounded by Livonia Avenue, Warwick Street, New Lots Avenue, and Barbey Street; and
- 2) establishing within the proposed R6A District a C2-4 District bounded by Livonia Avenue, Warwick Street, New Lots Avenue, and Barbey Street,

as shown on a diagram (for illustrative purposes only) dated January 7, 2008, and which includes CEQR Designation E-209.

The above resolution (C 080228 ZMK), duly adopted by the City Planning Commission on March 26,

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, AICP, Chair

KENNETH J. KNUCKLES, ESQ., Vice Chairman

ANGELA M. BATTAGLIA, IRWIN G. CANTOR, P.E., ANGELA R. CAVALUZZI, R.A.,

ALFRED C. CERULLO, III, BETTY Y. CHEN, MARIA M. DEL TORO,

RICHARD W. EADDY, NATHAN LEVENTHAL, SHIRLEY A. MCRAE,

JOHN MEROLO, KAREN A. PHILLIPS, Commissioners