



CITY PLANNING COMMISSION

May 7, 2008 | Calendar No. 6

C 050172 ZMX

IN THE MATTER OF an application submitted by Westpark, Inc. pursuant to Section 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 4b changing from an R5 District to an R6 District property bounded by Westchester Avenue, a line 450 feet northeasterly of Pugsley Avenue, a line midway between Westchester Avenue and Newbold Avenue, and Pugsley Avenue, Borough of the Bronx, Community District 9, as shown on a diagram (for illustrative purposes only) dated January 7, 2008 and subject to the conditions of CEQR Declaration E-207.

The application for an amendment of the Zoning Map was filed by Westpark, Inc. on November 9, 2004 to change from an R5 district to an R6 district property on the south side of Westchester Avenue, east of Pugsley Avenue to facilitate the development of a residential building with retail, and community facility space in the Parkchester section of The Bronx in Community District 9.

BACKGROUND

Westpark, Inc. seeks a zoning map amendment from R5 to R6 on a portion of a block front along Westchester Avenue between Pugsley and Olmstead avenues in the Parkchester section of The Bronx in Community District 9. The proposed rezoning would facilitate the development of a mixed-use building with approximately 116 dwelling units, ground floor retail and community facility uses on the second floor, and 200 underground accessory parking spaces at 2008-2040 Westchester Avenue.

The rezoning area contains seven full lots and portions of five lots. These lots contain two parking garages, a vacant storefront, a tire repair shop, a parking lot and three two-family attached homes. The applicant owns Lots 11, 13, 14, 15, 17, 20, and 169 on Block 3805, which are occupied by a vacant storefront, an automotive repair shop, three attached two-family homes, an automotive repair

shop, and an auto sale lot. The other lots, 1, 7, 64, 67, and 78, which are not owned by the applicant, are occupied by two parking garages, a portion of a four-story residential building, a portion of the rear yard of a privately-owned two story residential home and a portion of a vacant parcel of land. The existing C2-2 commercial overlay on this block will remain unchanged. An R6 district exists north of the rezoning area on Westchester Avenue and west on Pugsley Avenue.

The site is located two blocks south of Parkchester, a large housing complex. A recently constructed four-story apartment building is located north of the proposed rezoning across Westchester Avenue. Westchester Avenue is a major retail corridor containing a mix of neighborhood retail uses. The area is well served by transit, including local buses along Westchester Avenue. The #6 elevated subway line runs along Westchester Avenue with stations at Parkchester and Castle Hill avenues.

The existing R5 zoning district allows all housing types and has a maximum residential FAR of 1.25 and a maximum height of 40 feet. The proposed R6 district permits a variety of housing types including multiple dwellings. The maximum FAR is 2.43 for residential buildings and 4.8 for community facilities. The maximum height is governed by the sky exposure plane. The R6 district typically produces residential buildings between twelve to fourteen-stories with low lot coverage and set back from the street. Under the optional Quality Housing regulations, residential buildings on wide streets, such as Westchester Avenue can have a maximum FAR of 3.0 and a maximum building height of 70 feet. The parking requirement in the R6 is 70 percent of the dwelling units (50% for Quality Housing buildings).

If the rezoning is approved, the applicant intends to construct a seven-story mixed-use building on his property . The project would be built pursuant to the optional Quality Housing regulations. The building would have ground floor commercial uses and medical offices would be located on the second floor. Approximately 200 accessory parking spaces would be provided below grade for the commercial and residential uses. The applicant intends to have approximately 116 units and is seeking funding so the units can be affordable to persons at 80% of area median income.

ENVIRONMENTAL REVIEW

This application (C 050172 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 05DCP034X. The lead is the City Planning Commission.

After a study of the potential environmental impact of the proposed action, a Conditional Negative Declaration was issued on January 7, 2008. The environmental analysis includes an (E) designation for hazardous materials to be placed on Block 3805, Lots 1 and 7. The placement of the (E) designation E-207 would eliminate the potential for significant adverse impact on those sites and would ensure that appropriate testing and /or remediation, if needed, would be undertaken.

The text of the (E) designation for hazardous materials is as follows:

Task 1-Sampling Protocol

A. Petroleum

A soil, soil gas, and groundwater testing protocol (including a description of methods), and a site map with all sampling location represented clearly and precisely, must be submitted to the NYCDEP by the fee owner(s) of the lot which is restricted by this (E) designation, for review and approval.

A site map with the sampling locations clearly identified and a testing protocol with a description of methods, for soil, soil gas, and groundwater, must be submitted by the fee owner(s), of the lot which is restricted by the (E) designation, to the NYCDEP for review and approval.

B. Non-Petroleum

The fee owner(s) of the lot restricted by this (E) designation will be required to prepare a scope of work for any sampling and testing needed to determine if contamination exists and to what extent remediation may be required. The scope of work will include all relevant supporting documentation, including site plans and sampling locations. This scope of work will be submitted to NYCDEP for review and approval prior to implementation. It will be reviewed to ensure that an adequate number of samples will be collected and that appropriate parameters are selected for laboratory analysis. For all non-petroleum (E) designated sites, the three generic NYCDEP soil and ground-water sampling protocols should be followed.

A scope of work for any sampling and testing to be completed, which will determine the extent of on-site contamination and the required remediation, must be prepared by the fee owner(s) of the lot restricted by this (E) designation. The scope of work will include the following: site plans, sampling locations, and all other relevant supporting documentation. The scope of work must be submitted to the NYCDEP for review and confirmation that an adequate testing protocol (i.e., number of samples collected, appropriate parameters for laboratory analysis) has been prepared. The NYCDEP must approve the scope of work before it can be implemented.

For non-petroleum (E) designated sites, one of the three generic soil and groundwater sampling protocols prepared by the NYCDEP should be followed.

The protocols are based on three types of releases to soil and groundwater sampling protocols prepared by the NYCDEP should be followed.

The protocols are based on three types of releases to soil and groundwater, including: the release of a solid hazardous material to ground surface; the release of a liquid hazardous material to the ground surface; and the release of a hazardous material to the subsurface (i.e., storage tank or piping). The type of release defines the areas of soil to be sampled from surface, near-surface, to subsurface. Additionally, it determines the need for groundwater sampling.

A written approval of the sampling protocol must be received from the NYCDEP before commencement of sampling activities. Sample site quantity and location should be determined so as to adequately characterize the site, the source of contamination, and the condition of the remainder of the site. After review of the sampling data, the characterization should have been complete enough to adequately determine what remediation strategy (if any) is necessary. Upon request, NYCDEP will provide guidelines and criteria for choosing sampling sites and performing sampling.

Finally, a Health and Safety Plan must be devised and approved by the NYCDEP before the commencement on any on-site activities.

Task 2-Remediation Determination and Protocol

After sample collection and laboratory analysis have been completed on the soil and/or groundwater samples collected in Task 1, a summary of the data and findings in the form of a written report must be presented to the NYCDEP for review and approval. The NYCDEP will provide a determination as to whether remediation is necessary.

If it is determined that no remediation activities are necessary, a written notice will be released to that effect. However, if it is the NYCDEP's determination that remediation is necessary the fee owner(s) of the lot restricted by the (E) designation must submit a proposed remediation plan to the NYCDEP for review and approval. Once approval has been obtain, and the work completed, the fee owner(s) of the lot restricted by the (E) designation must provide proof to the NYCDEP that the work has been completed satisfactorily.

With the placement of the (E) designation on the above block and lots, no impacts related to hazardous materials are anticipated.

The applicant signed the conditional negative declaration on January 4, 2008. The conditional negative declaration was published in the City Record on January 11, 2008 and in the New York State Environmental Notice Bulletin on January 11, 2008. Pursuant to the SEQRA regulations set

forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 et seq., a 30-day comment period followed.

No comments were received and the conditional negative declaration was issued on January 7, 2008.

UNIFORM LAND USE REVIEW

This application (C 050172 ZMX) was certified as complete by the Department of City Planning on January 7, 2008, and was duly referred to Community Board 9 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 9 held a public hearing on this application on February 11, 2008, and on February 21, 2008 adopted a resolution by a vote of 18 in favor, six opposed and none abstaining, recommending approval of the application subject to the following conditions:

- The developer to include all ON SITE required parking as per the NYC Zoning and Building Codes requirements. All proposed on site parking to be clearly and specifically included in the review of the design, development and construction phases of this project No reduction in ON SITE PARKING REQUIREMENTS should be allowed and/or permitted.
- The developer to include required infrastructure improvements including sidewalks, curbs, building and site storm water drainage, lighting, etc. as required under the NYC Zoning and Building Codes. All proposed infrastructure improvements to be clearly and specifically included in the review of the design, development and construction phases of this project No reduction of ALL INFRASTRUCTURE REQUIREMENTS should be allowed and /or permitted.
- The developer to include all required environmental improvements including Street Trees, landscape areas, etc.
- All proposed environmental improvements to be clearly and specifically included in the review of the design, development and construction phases of this project.

No reduction of ALL INFRASTRUCUTURE REQUIREMENTS should be allowed and /or permitted.

Borough President Recommendation

This application was considered by the Borough President, who issued a recommendation approving the application on March 26, 2008.

City Planning Commission Public Hearing

On March 26, 2007 (Calendar No. 1), the City Planning Commission scheduled April 9, 2008, for a public hearing on this application (C 050172 ZMX). The hearing was duly held on April 9, 2008 (Calendar No. 16). The applicant spoke in favor of the application and gave a description of the proposal.

There were no other speakers and the hearing was closed.

CONSIDERATION

The Commission believes that the application for the zoning map amendment (C 050172 ZMX) is appropriate.

The Commission believes the proposed R6 district along Westchester Avenue between Pugsley and Olmstead avenues is appropriate. There is an existing R6 district north of the rezoning area on Westchester Avenue and west on Pugsley Avenue. Westchester Avenue is a wide street with good

transit access including the Parkchester station of the #6 subway line which is one block from the rezoning area. It is also well served by the BX 4, BX 14, BX 22, BX 36, BX 39 and Q44 bus lines as well as the BXM 6 express bus to midtown Manhattan, all of which stop within a range of half a block to three blocks from the site.

The Commission notes that the conditions of the community board are beyond the purview of this application.

The rezoning would facilitate construction of a 116 unit apartment building with commercial and community facility uses. The Commission urges the applicant to continue to actively seek financing that would make the units affordable. The Commission further notes that in a letter dated April 14, 2008 the applicant explained in more detail the design of the proposed building and reaffirms his commitment to construct the building as presented to the Commission.

RESOLUTION

RESOLVED, that the City Planning Commission finds that the action described herein will have no significant impact on the environment, subject to the following condition(s):

1. That an (E) designation (E-207) be established on Block 3805, Lots 1 and 7, ensuring that appropriate testing and/or remediation for sub-soil hazardous materials would be undertaken thereby eliminating the potential for significant adverse impacts due to hazardous materials on those sites.

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. 3c: changing from an R5 District to an R6 District property bounded by Westchester Avenue, a line 450 feet northeasterly of Pugsley Avenue, a line midway between Westchester Avenue and Newbold Avenue, and Pugsley Avenue, Borough of the Bronx, Community District 9, as shown on a diagram (for illustrative purposes only) dated January 7, 2008 and which includes CEQR Designation E-207. The above resolution (C 050172 ZMX), duly adopted by the City Planning Commission on May 7, 2008, (Calendar No. 6), 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.

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