



## **CITY PLANNING COMMISSION**

September 7, 2011 / Calendar No. 9

C 110297 ZSX

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**IN THE MATTER OF** an application submitted by Industco Holdings, LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-744 of the Zoning Resolution to allow residential and non residential uses to be arranged within a building without regard for the use regulation set forth in Section 32-42 (Location within buildings), in connection with two proposed mixed use developments (Zoning Lot A, Block 3013, Lots 12, 29, 31, 35, 37 & 46 and Zoning Lot B, Block 3014, Lots 9, 15 & 45), in R7A/C2-4, R8X and R8X/C2-4 Districts, within a Large-Scale General Development bounded by Boone Avenue, East 173<sup>rd</sup> Street, West Farms Road, and a line approximately 331 feet southwesterly of East 172<sup>nd</sup> Street, Borough of the Bronx, Community District 3.

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The application for a Special Permit pursuant to Section 74-744 of the Zoning Resolution was filed by the Department of Housing Preservation and Development on April 14, 2010. The proposed Special Permit would allow residential and non residential uses to be arranged within a building without regard for the use regulation set forth in Section 32-42. The action will facilitate the development of mixed-use buildings, including affordable housing.

### **RELATED ACTIONS**

In addition to the proposed 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 100310 ZMX      Zoning map amendment to change portions of 11 blocks currently zoned M1-1, R7-1, R7-1/C2-4 to R6A, R6A/C2-4, R7A, R7A/C2-4, R7X, R7X/C2-4, and R8X, R8X/C2-4 generally located in Crotona Park East and West Farms neighborhoods of the Bronx.

- N 100311ZRX           Zoning text amendment pursuant to ZR 23-144 to designate the ‘Rezoning Area’ as inclusionary housing designated area and ZR 74-743 to exclude portions of buildings containing parking from lot coverage in Large Scale General Developments in Community District 3 of the Bronx.
- C 100312 ZSX           Special Permit pursuant to ZR 74-743 for modification of bulk regulations for Large Scale General Development.
- C 100313 ZSX           Special Permit pursuant to 74-745 to allow accessory parking spaces to be distributed without regard to zoning lot lines.
- C 110234HAX           UDAAP, disposition and project approval to facilitate disposition and development of 13 square feet vacant land.

## **BACKGROUND**

A full background discussion and description of this application appears in the report on the related zoning map amendment application (C 100310 ZMX).

## **ENVIRONMENTAL REVIEW**

This application (C 110297 ZSX), in conjunction with the related applications (C 100310 ZMX, N 100311 ZRX, C 100312 ZSX, C 110313 ZSX, C 110234 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 New York City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The designated CEQR number is 10DCP017X. The lead agency is the New York City Planning Commission.

A summary of the environmental review and the Final Environmental Impact Statement appears in the related report for a zoning map amendment (C 100310 ZMX).

#### **UNIFORM LAND USE REVIEW**

This application (C 110297 ZSX), in conjunction with the related applications (C 100310 ZMX, C 100312 ZSX, C 110313 ZSX, C 110234 HAX), was certified as complete by the Department of City Planning on March 9, 2011, and was duly referred to Bronx Community Board 3, Community Board 6, the Bronx Borough President and the Bronx Borough Board in accordance with Title 62 of the Rules of the City of New York, Section 2-02(b), along with the related non-ULURP application (N 100311 ZRX) which was duly referred to Community Board 3, Community Board 6, the Bronx Borough President and the Bronx Borough Board in accordance with the procedure for referring non-ULURP matters.

### **Community Board Public Hearing**

A summary of the vote and recommendations of Community Board 3 and Community Board 6 appears in the related report for a zoning map amendment (C 100310 ZMX).

### **Borough President Recommendation**

This application (C 100297 ZSX) was considered by the Borough President of the Bronx which issued a recommendation approving the application on July 14, 2011.

### **Borough Board Recommendation**

The Borough Board held a public hearing on June 23, 2011, and on that day, recommended approval of this application (C 100297 ZSX).

### **City Planning Commission Public Hearing**

On July 13, 2011 (Calendar No. 6) the City Planning Commission scheduled July 27, 2011 for a public hearing on this application (C 100297 ZSX). The hearing was duly held on July 27, 2011 (Calendar No. 9) in conjunction with the hearing on the related applications (C 100310 ZMX, N 100311 ZRX, C 100312 ZSX, C 110313 ZSX and C 110234 HAX).

There were six speakers in favor of the application, and five in opposition, as described in the report on the related Zoning Map Amendment application (C 100310 ZMX) and the hearing was closed.

## **Waterfront Revitalization Consistency Review (WRP)**

A discussion of the WRP Consistency Review appears in the report on the related Zoning Map amendment application (C 100310 ZMX).

### **CONSIDERATION**

The Commission believes that this Special Permit (C 100297 ZSX) is appropriate, along with the related applications (C 100310 ZMX, N 100311 ZRX, C 100313 ZSX, C 110297 ZSX, C 110234 HAX).

A full consideration and analysis of the issues, and the reasons for approving this application appear in the report on the related zoning map amendment application (C 100310 ZMX).

### **FINDINGS**

The City Planning Commission hereby makes the findings pursuant to Sections 74-744 of the Zoning Resolution:

- (1) the commercial uses are located in a portion of the mixed building that has separate access to the outside with no opening of any kind to the residential portion of the building at any story;

(2) the commercial uses are not located directly over any story containing dwelling units; and

(3) the modifications shall not have any adverse effect on the uses located within the building.

## **RESOLUTION**

**RESOLVED**, that having considered the Final Environmental Impact Statement (FEIS), for which a Notice of Completion ratified herein was issued on August 26, 2011, with respect to this application (CEQR No. 10DCP017X), the City Planning Commission finds that the requirements of the New York State Environmental Quality Review Act and Regulations have been met and that

1. Consistent with social, economic, and other essential considerations, from among the reasonable alternatives thereto, the action is the one which minimizes or avoids adverse environmental impacts to the maximum extent practicable; and
2. The adverse environmental impacts disclosed in the FEIS will be minimized or avoided to the maximum extent practicable by incorporating as conditions to the approval, pursuant to the restrictive declaration dated September 1, 2011 described in the Resolutions for applications C 100312 ZSX, C 100313 ZSX, and C 110297 ZSX, and in addition with respect to application C 100310 ZMX, the three restrictive declarations dated September 1, 2011 and respectively executed by

Boone West Farms LLC, 1903 West Farms LLC, and 1931 West Farms LLC, those project components related to the environment and mitigation measures that were identified as practicable.

This report of the City Planning Commission, together with the FEIS, constitute the written statement of facts, and of social, economic and other factors and standards, that form the basis of the decision, pursuant to Section 617.11(d) of the SEQRA regulations; and be it further

**RESOLVED**, that the City Planning Commission, in its capacity as the City Coastal Commission, has reviewed the waterfront aspects of this application and finds that the proposed action is consistent with WRP policies; 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 and findings described in this report, the application of Industco Holdings LLC for the grant of a special permit pursuant to Section 74-744 of the Zoning Resolution to allow residential and non residential uses to be arranged within a building without regard for the use regulation set forth in Section 32-42 (Location within buildings), in connection with two proposed mixed use developments (Zoning Lot A, Block 3013, Lots 12, 29, 31, 35, 37 & 46 and Zoning Lot B, Block 3014, Lots 9, 15 & 45), in R7A/C2-4, R8X and R8X/C2-4 Districts, within a Large-Scale General Development bounded by Boone Avenue, East 173rd Street, West Farms Road, and a line

approximately 331 feet southwesterly of East 172nd Street, Borough of the Bronx, Community Districts 3, is approved, subject to the following terms and conditions:

1. The property that is subject of this application (C 110297 ZSX) shall be developed in size and arrangement substantially in accordance with the dimensions, specifications indicated on the following plans, prepared by Dattner Architects, filed with this application and incorporated in this resolution:

<u>Drawing No.</u>	<u>Title</u>	<u>Last Date Revised</u>
Z-05	Site Plan - Large-Scale General Development	August 24, 2011
Z-06	Zoning Calculations - Large-Scale General Development	April 19, 2011
Z-08	Lot Coverage Calculations & Modifications	April 19, 2011
Z-09	Zoning Lot A- Max. Base Height, Setback & Bldg. Height Modifications - Plan	April 19, 2011
Z-10	Zoning Lot A- Max. Base Height, Setback & Bldg. Height Modifications - Sections	April 19, 2011
Z-11	Zoning Lot B (South) - Max. Base Height, Setback & Bldg. Height Modifications - Plan	April 19, 2011
Z-12	Zoning Lot B (South) - Max. Base Height, Setback & Bldg. Height Modifications - Sections	April 19, 2011
Z-13	Zoning Lot B (North) - Max. Base Height, Setback & Bldg. Height Modifications - Plan	April 19, 2011
Z-14	Zoning Lot B (North) - Max. Base Height, Setback & Bldg. Height Modifications - Sections	April 19, 2011
Z-15	Zoning Lots A & B (South) - Outer Court Recess Modifications	April 19, 2011
Z-16	Zoning Lots A & B- Commercial Location in Buildings Modifications	April 19, 2011

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. Development pursuant to this resolution shall be allowed only after the restrictive declaration dated September 1, 2011, executed by Allied West Farms (NY), LLC, Allied West Farms (NY) II, LLC, AWF Sliver LLC, Boone West Farms, LLC and Sedgwick Materials, Inc., the terms of which are hereby incorporated in this resolution, shall have been recorded and filed in the Office of the Register of the City of New York, Bronx County.

4. Such development shall conform to all applicable laws and regulations relating to its construction, operation and maintenance.

5. 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, sublessee or occupant.

6. 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 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.

7. 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 110297 ZSX), duly adopted by the City Planning Commission on September 7, 2011 (Calendar No. 9), 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**  
**RICHARD W. EADDY, VICE CHAIRMAN**  
**ANGELA M. BATTAGLIA, RAYANN BESSER, IRWIN G. CANTOR, P.E.**  
**ALFRED C. CERULLO, III, BETTY Y. CHEN, MARIA M. DEL TORO,**  
**NATHAN LEVENTHAL, ANNA HAYES LEVIN,**  
**SHIRLEY A. MCRAE, KAREN A. PHILLIPS, Commissioners**

**ORLANDO MARIN, Commissioner, Abstained**