CITY PLANNING COMMISSION

May 11, 2016/Calendar No. 8 C 160141 ZSQ

IN THE MATTER an application submitted by the New York City Department of Housing Preservation & 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 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, in connection with a proposed mixed-use development on property located at 133-45 41st Avenue (Block 5037, Lots 64 & 65), in a C4-5X District, Borough of Queens, Community District 7.

The New York City Department of Housing Preservation and Development (HPD) filed an application (C 160141 ZSQ) for a special permit pursuant to Section 74-681 of the Zoning Resolution to allow a portion of a railroad right-of-way where railroad or transit use has been permanently discontinued to be included in the lot area on December 18, 2015, in conjunction with several related actions, to facilitate the development of a mixed-use, affordable, multi-family housing project in the Flushing neighborhood of Community District 7, Queens.

RELATED ACTIONS

In addition to the application for a special permit (C 160141 ZSQ), which is the subject of this report, 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 160143 HAQ — Designation of property as an Urban Development Action Area and Urban Development Action Area Project; and pursuant to Section 197-c, disposition of such property to a developer selected by HPD.

C 160138 ZMQ — Amendment to the Zoning Map, Section 10b changing from a C4-2 District to a C4-5X District.

C 160140 ZSQ — Special permit, pursuant to ZR Section 74-52, to allow an attended public parking garage.

N 160139 ZRQ — Zoning text amendment to modify ZR Section 23-90 to designate the proposed rezoning area as a Mandatory Inclusionary Housing Area.

BACKGROUND

A full background discussion and description of this application appears in the report for the related UDAAP action (C 160143 HAQ).

ENVIRONMENTAL REVIEW

This application (C 160141 ZSQ), in conjunction with the related actions (C 160143 HAQ, N 160139 ZRQ, C 160138 ZMQ and C 160140 ZSQ), 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 16HPD014Q. The Lead Agency is the Department of Housing Preservation and Development.

After a study of the potential environmental impacts of the proposed action, a negative declaration was issued on December 17, 2015.

UNIFORM LAND USE REVIEW

This application (C 160141 ZSQ), in conjunction with the related actions (C 160143 HAQ, N 160139 ZRQ, C 160138 ZMQ and C 160140 ZSQ), was certified as complete by the Department of City Planning on January 4, 2016, and was duly referred to Community Board 7 and the Queens 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 the application (C 160141 ZSQ) on March 14, 2016 and on that date, by a vote of 37 in favor, 2 in opposition, and 1 abstention, adopted a resolution recommending disapproval of the application.

A summary of the recommendations of Community Board 7 appears in the report on the related application for a UDAAP designation (C 160143 HAQ).

Borough President Recommendation

This application (C 160141 ZSQ) was considered by the Queens Borough President, who issued a recommendation approving the application with conditions on April 12, 2016.

A summary of the recommendations of the Borough President appears in the report on the related application for a UDAAP designation (C 160143 HAQ).

City Planning Commission Public Hearing

On March 30, 2016 (Calendar No. 8), the City Planning Commission scheduled April 13, 2016, for a public hearing on this application (C 160141 ZSQ) and related actions. The hearing was duly held on April 13, 2016 (Calendar No. 9), in conjunction with the application for the related actions. There were a number of appearances, as described in the report for the related action (C 160143 HAQ), and the hearing was closed.

CONSIDERATION

The Commission believes that this application (C 160141 ZSQ) is appropriate. A full consideration and analysis of the issues and the reasons for approving this application appear in the related report (C 160143 HAQ).

FINDINGS

The City Planning Commission hereby makes the following findings pursuant to Section 74-681 of the Zoning Resolution:

1) the streets providing access to all uses pursuant to paragraph (a) of Section 74-681 are adequate to handle traffic resulting therefrom;

2) 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;

3) all uses, developments or enlargements located on the zoning lot or below a platform do not adversely affect one another;

4) 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 do 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 be it further

RESOLVED, by the City Planning Commission, pursuant to Section 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 New York City's Department of Housing Preservation and Development for the grant of a special permit pursuant to Section 74-681 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, in connection with a proposed mixed-use development, on property located at 133-45 41st Avenue (Block 5037, Lots 64 & 65), in a C4-5X District, Borough of Queens, Community District 7, is approved, subject to the following conditions:

1) The property that is the subject of this application (C 160141 ZSQ) shall be developed in size and arrangement substantially in accordance with the dimensions, specifications and zoning computations indicated on the following plans, prepared by Bernheimer Architecture, filed with this application and incorporated in this resolution:

Drawing Number	Title	Last Date Revised
Z-001.00	Zoning Analysis, Unit & Building Area Charts	December 9, 2015
A-010	Site Plan	December 9, 2015
A-301	Building Sections	December 9, 2015
A-302	Building Sections	December 9, 2015
A-303	Building Sections	December 9, 2015

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 plan 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, sublessee or occupant.

5) 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.

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 160141 ZSQ), duly adopted by the City Planning Commission on May 11, 2016 (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.

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, CHERYL COHEN EFFRON, ANNA HAYES LEVIN, ORLANDO MARIN, LARISA ORTIZ, Commissioners

NYCPLANNING
DEPARTMENT OF CITY PLANNING CITY OF NEW YORK

Community/Borough Board Recommendation

Pursuant to the Uniform Land Use Review Procedure

Application #: **C 160140 ZSQ**	Project Name: **One Flushing**
CEQR Number: 16HPD014Q	Borough(s): Queens Community District Number(s): 7

Please use the above application number on all correspondence concerning this application

SUBMISSION INSTRUCTIONS

1. Complete this form and return to the Department of City Planning by one of the following options:
   - **EMAIL (recommended):** Send email to CalendarOffice@planning.nyc.gov and include the following subject line: (CB or BP) Recommendation + (6-digit application number), e.g., "CB Recommendation #C100000ZSQ"
   - **MAIL:** Calendar Information Office, City Planning Commission, Room 2E, 22 Reade Street, New York, NY 10007
   - **FAX:** (212) 720-3356 and note "Attention of the Calendar Office"
2. Send one copy of the completed form with any attachments to the applicant's representative at the address listed below, one copy to the Borough President, and one copy to the Borough Board, when applicable.

Docket Description:

IN THE MATTER OF an application submitted by the New York City Department of Housing Preservation & Development pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-52 of the Zoning Resolution to allow an attended public parking garage with a maximum capacity of 229 spaces on a portion of the ground floor and cellar level of a proposed mixed use development on property located at 133-45 41st Avenue (Block 5037, Lots 64 & 65), in a C4-5X* District, Borough of Queens, Community District 7.

*Note: The site is proposed to be rezoned from a C4-2 to a C4-5X District under a concurrent related application (C 160138 ZMQ).

Plans for this proposal are on file with the City Planning Commission and may be seen at 120 Broadway, 31st Floor, New York, N.Y. 10271-0001.

Applicant(s):	Applicant's Representative:
NYC Department of Housing Preservation and Development 100 Gold Street New York, NY 10038	Jaclyn Sachs NYC Department of HPD 100 Gold Street New York, NY 10038

Recommendation submitted by:
Queens Community Board 7

Date of public hearing: 3/14/16 **Location:** Union Plaza Care Center 33-23 Union St.

Was a quorum present? YES [X] NO [ ]

A public hearing requires a quorum of 20% of the appointed members of the board, but in no event fewer than seven such members.

Date of Vote: 3/14/16 **Location:** Union Plaza Care Center 33-23 Union Street - Fl. 11354

RECOMMENDATION

- [ ] Approve
- [ ] Approve With Modifications/Conditions
- [X] Disapprove
- [ ] Disapprove With Modifications/Conditions

Please attach any further explanation of the recommendation on additional sheets, as necessary.

Voting

 # In Favor: 37 **# Against:** 2 **# Abstaining:** 1 No Conflict **Total members appointed to the board:** 48

Name of CB/BB officer completing this form	*Title*	*Date*
[signature]	Chairperson	3/14/16

TO: Gene Kelty – Chair CB#7

FROM: Chuck Apelian – Land Use Chair CB#7

RE: "One Flushing" AKA 133-45 41st Avenue
AKA Flushing Municipal Parking Lot #3

DATE: February 12, 2016

The Committee met on January 14, 2016 and February 11, 2011 and the attendance sheets are in the Board Office.

The Applicant in conjunction with NYC DCP and NYC HPD ask the following in order to build 232 affordable housing units on Municipal Parking Lot # 3.

1. Rezone property form C4-2 to C4-5-X
2. Overlay proposed MIH text
3. Special Permit for Public Parking Facility over 150 spaces more than required.
4. Special Permit to allow FAR from adjacent LIRR ROW used for the Site
5. Mayoral override to waive loading berth requirement
6. Designation of UDAAP and Disposition of City-owned property

I. The committee opposes the Mayoral Override to eliminate the loading berth, as there is a great deal of traffic issues throughout downtown Flushing due to street loading. The applicant states they will ask DOT to allow for a "few" commercial street parking spaces in front of the building as replacement. The Committee feels these spaces should be "numerous" not a "few" and as far west along 41st Avenue to minimize the queue of traffic turning from Main Street onto 41st Avenue.

II. This project is 100% affordable and does not need the MIH overlay. MIH is a program with "permanent" affordability for 25% or 30% of units within a Site. This Site is 100% affordable and has a 40-year financial structure with no exit strategy. **MIH does not apply and is not needed.** The Committee does not want to hamper sound development with political agendas.

III. It is HPD policy to allocate 50% of the affordable units (via lottery) to residents of the Community Board where the project resides, and the balance of the units available (also via lottery) Citywide.

This application will still have the 50% Citywide lottery, but the balance will be divided:

25% for CB #7
12.5% for CB #3
12.5% for CB #4

In essence, CB#7 is being told we will lose 25% of our allotment (approximately 58 units) that are desperately needed for our community. We were told this was negotiated as part of "Willets Point". How can this be? Willets Point is 100% in CB #7 and so is Muni Lot #3.

Community Boards #3 and #4 have no say in either project and have no right to preferential treatment in this application. This is an insult to all members of Community Board #7 who worked with extreme diligence and under tremendous community fire for nearly 10-years on Willets Point, only to receive this political slap in the face.

Muni Lot #3 is in our district. We made our community valuable, and we haven't been offered any reciprocal preferential treatment in HPD projects from CB #3 or CB #4.

CB#7 has no obligation to be philanthropic!

For these reasons, the Committee unanimously voted 11-0 to disapprove the application.

Respectfully submitted,

Chuck Apelian
Committee Chair
Land Use Chair
Vice Chair – CB #7

Queens Borough President Recommendation

APPLICATION: ULURP #C160141 ZSQ **COMMUNITY BOARD: Q07**

DOCKET DESCRIPTION

IN THE MATTER OF an application submitted by the City of New York Department of Housing Preservation and Development ("HPD"), pursuant to Section 197(c) of the NYC Charter, for a special permit to allow development within or over a railroad right-of-way, pursuant to section 74-681, Block 5037, Lots 64 and 65 on 41st Avenue between Main Street and College Point **Boulevard**, Zoning Map 10b, Flushing, Borough of Queens. (Related: ULURP #C160138 ZMQ, #N 160139 ZRQ, #C160140 ZSQ, #C 160143 HAQ)

PUBLIC HEARING

A Public Hearing was held in the Borough President's Conference Room at 120-55 Queens Boulevard on March 31, 2016 at 10:30 A.M. pursuant to Section 82(5) of the New York City Charter and was duly advertised in the manner specified in Section 197-c (i) of the New York City Charter. The applicant made a presentation. There were four speakers (4) speakers in support and one (1) written testimony in opposition of the application. The hearing was closed.

CONSIDERATION

Subsequent to review of the application and consideration of testimony received at the public hearing, the following issues and impacts have been identified:

- The applicant is requesting a special permit to allow development within or over a railroad right-of-way. The railroad right of way is located on the northern boundary of Lot 65 and consists of footings supporting the concrete retaining wall located along the northern lot line of Lot 65. The proposed development will be constructed entirely on the Lot 64 portion of the zoning lot. The Lot 65 portion of the zoning lot will remain vacant;
- There are four related ULURP applications: designation of an Urban Development Action Area and disposition of city-owned property; a zoning map amendment to rezone from a C4-2 district to a C4-5X district an area located on the north side of 41st Avenue between Main Street and College Point Boulevard in Downtown Flushing; a zoning text amendment to map the project area as a Mandatory Inclusionary Housing (MIH) area that will require 30% of floor area dedicated for families at average 80% of Area Median Income(AMI); and a special permit to allow an attended public parking garage with a maximum capacity of 229 spaces. There will also be a mayoral override providing a waiver of a required loading berth;
- The area to be rezoned includes the development site (Block 5037, Lots 64 and 65), four privately owned lots (Lots 60, 61, 62 and 63) and part of Lot 5 which is owned by MTA. The four privately-owned lots face Main Street and are developed with two- to four-story attached commercial office buildings. The MTA-owned lot is occupied by the Long Island Rail Road (LIRR) Port Washington line track and the Flushing Main Street Station;
- The development site is two city-owned tax lots that are to be merged into a single zoning lot. Lot 64, with frontage on 41st Avenue, is currently developed as the 156 parking space Flushing Municipal Parking Lot #3. Lot 65 is an undeveloped interior lot located between Lot 64 and the LIRR right-of-way with no street access. The combined lot area of the development site is 45,425.36 sf. The proposed mixed-use building will be constructed on Lot 64;
- The development site is located 100 ft west of the intersection of Main Street and 41st Avenue and abutted by the Long Island Rail Road track to the north. Downtown Flushing is a regional multi-modal transportation hub densely developed with a concentration of commercial/retail, office, hotel, and residential buildings. These buildings are occupied with a mix of local and national retail stores, offices, residents and many community facilities. 41st Avenue is a heavily traveled one-way west bound street between Main Street and College Point Boulevard that is often congested. The New York City Housing Authority Bland Houses five-building complex is located to the northwest of the project area directly on the other side of the LIRR track. The area to the west of the site is developed with medium-density residential buildings. Main Street to the east of the site is a major thoroughfare and is the focal point of much the area's activity. There are also many community facilities, office and ground floor retail buildings located south of the site. Downtown Flushing is served by 22 municipal bus lines, the terminus of the #7 subway line, and the Long Island Rail Road Port Washington line with a stop at Flushing Main Street. The development site is located within the transit zone in which no parking spaces are required for affordable and senior affordable housing;

Continued...

- The applicant is proposing to construct a 226,325 sf ten-story mixed-use building which will include retail, community facility space, 100% affordable multi-family and senior housing, and replacement public parking. The community facility will occupy a total floor area of 11,208 sf which includes a senior service center and other social service offices on the second floor and 5,000 sf on the ground floor will be made available for use by community based organizations. There will be 28,277 sf of ground floor retail space provided in stores ranging from 500 to 4,000 sf each. The 183,139 sf of residential space will be located on the second through ninth floors in 231 affordable units of housing with an apartment for the superintendent. The attended public parking garage utilizing stackers will be on the cellar level with a maximum capacity for 229 cars. Space will be provided on the tenth floor and rooftop for a community room, laundry facility, gym and vegetable garden for building residents;
- Out of 231 housing units, 165 units will be allocated to families with income levels between 57% AMI to 100% AMI and sixty-six (66) units will be for seniors with income levels between 37% AMI to 47% AMI. The affordable units will be made available through a lottery for applicants who meet the income criteria. The initial group of applicants will be given preference if they meet the following criteria: residents of Community Board (CB) 7(25% of units), CB 3 (12.5%) and CB 4 (12.5%), persons with mobility disability (5%), hearing/visually disabled (2%) and municipal employees (5%). After the lottery process is completed units will be assigned based on the income criteria;
- The proposed development will provide a variety of services for the community and building residents. The community facility space will be used for senior services, weatherization services and space for community groups. The retail space tenants will be eligible for a $2 million loan fund from AAFE's Renaissance EDC for small businesses. The sidewalk on 41st Avenue will be effectively widened by 5' to 10' setbacks of the building from the property line to create a safer and better pedestrian environment. There will be a garden on the second floor and vegetable farm on the rooftop for building residents;
- This site was identified as an affordable housing development site as part of the Willets Point Points of Agreement in 2013. The development program was developed through a community engagement process which specified a mixed-use affordable housing development for low income seniors and families. The development team was selected through a competitive Request for Proposals process. The team is comprised of Asian Americans for Equality (AAFE), HANAC, and Monadnock Development and Construction. Each of these organizations have a long history of providing various social services and preservation and development of affordable housing in Queens and the City. Monadnock Development and Construction will construct the project and AAFE and HANAC will operate the senior service center and weatherization services in the building;
- CB 7 disapproved this application by a vote of thirty-seven (37) against two (2) in favor, and one (1) abstaining at a community board meeting held on March 14, 2016. The reasons for CB7's disapproval are: traffic congestion and backups will be exacerbated by not providing a required loading berth which would be waived by the Mayoral Override; MIH does not apply and is not needed because the project will provide 100% affordable housing; the community board preference for the affordable housing units should only be given to CB 7 since the site is located within CB 7;
- At the Borough President Land Use Public Hearing, State Senator Tony Avella's testimony opposing to the project was read into the record. He stated that the proposed project will overtake a municipal parking lot adjacent to the Long Island Rail Road and will further exacerbate difficult parking conditions in Downtown Flushing. Four speakers testified for the project emphasizing the need for affordable housing in the area and the City especially for seniors.

RECOMMENDATION

- The proposed development will provide much needed affordable housing for low- and moderate-income families and low-income seniors. According to the study by the Department of City Planning, Flushing is identified as one of the areas with the largest increase in rent burdened households between 2008 and 2012. Analysis of rent burden by income levels shows very low-income households face the highest burden. Also, many seniors have difficulty finding affordable places to live and receive appropriate services. It is projected that senior population will increase by 35 percent within two decades. Therefore, the need for affordable senior housing will only increase. The proposed development will provide 100% of its housing units dedicated to low and moderate-income households and low-income seniors with appropriate services for the seniors.
- The development team consists of organizations that are experienced in developing affordable housing and providing valuable social services. They have been a major presence in Queens and New York City providing services to the community. The proposed building will provide much needed affordable housing, a senior service center, and community space that will be a great resource for Downtown Flushing.
- Community Board 7 held several committee meetings with the development team during which there were detailed review and discussions about the project. In consideration that the effect of the impacts and burdens of the project would be solely felt in their district they were against the split community preference. CB 7 also cited concerns that the waiver of the required loading berth would result in unloading on the street exacerbating the existing traffic conditions on 41st Avenue. CB 7 acted in the interest of their district and this was reflected in the overwhelming majority of the full board 37-2-1 vote against the project.

Continued...

- The proposed development will be a 100% affordable housing project for seniors, low- and moderate-income residents. This project is proposed in response to an HPD Request for Proposals developed with community input with the goal of providing much needed affordable housing. The development team, selected on the basis of being the most responsive to the goals of the RFP, are organizations with a proven track record in Queens and NYC. Most importantly, the project will result in 100% affordable housing, services for seniors, retail spaces and a new space open for use by community based organizations. This project will benefit Queens and NYC.

Based on the above consideration, I hereby recommend approval of this application with the following conditions:

- The proposed project is wholly located in Community District 7 well within its boundaries. Downtown Flushing, and particularly around the project site on 41st Avenue, is seriously impacted by traffic gridlock especially during the peak hours on weekdays and weekends. While the proposed project will bring benefits to the immediate area and all of Queens, there will also be added impacts on that part of 41st Avenue during the construction period for approximately two years or more. The community preference for affordable housing is offered as a means to offset the inconveniences endured during construction and also to offset the effects on long term low income residents who may be priced out of their neighborhood. Going forward, the community preference for selection of the initial residents of future projects should be allocated solely to the affected community district.
- Traffic congestion is a major problem in Downtown Flushing. The development team should coordinate with NYC Department of Transportation and NYPD Enforcement to find the most effective way to minimize the impact of the new development especially during construction and afterwards specifically with commercial loading activities. To assure that commercial loading does not become a major impact, standing and loading signage must be posted along with appropriate enforcement efforts.

PRESIDENT, BOROUGH OF QUEENS

4/12/16
DATE