



## **CITY PLANNING COMMISSION**

---

August 24, 2005 / Calendar No. 9

C 030370 ZMX

---

**IN THE MATTER OF** an application submitted by VIP Community Services pursuant to sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 3d, changing from an M1-2 District to an R7-1 District property bounded by Prospect Avenue, East 176<sup>th</sup> Street, a line 90 feet southeasterly of Prospect Avenue and East 175<sup>th</sup> Street, Borough of the Bronx, Community District 6 as shown on a diagram (for illustrative purposes only) dated April 11, 2005, and subject to the conditions of CEQR Declaration No. E-147.

---

This application for a zoning map amendment was submitted by VIP Community Services on March 11, 2003 to facilitate the development of a residential use.

### **BACKGROUND**

The applicant is seeking a zoning map amendment to rezone the western portion of Block 2953 from an M1-2 zoning designation to an R7-1. The proposed zoning is intended to facilitate the development of a residential use on a lot owned by the applicant.

The proposed rezoning area consists of the western portion of Block 2953, which is bounded by East 176<sup>th</sup> Street to the north, Marmion Avenue to the east, East 175<sup>th</sup> Street to the south and Prospect Avenue to the west. The proposed R7-1 zoning district would be extended to a depth of 90 feet along Prospect Avenue. The proposed rezoning is located in the East Tremont neighborhood of Bronx Community District 6. To the immediate north of the project site is the Cross Bronx Expressway. Crotona Park is located one block to the south.

The lots affected by the rezoning consist of the following uses, from the south to the north on Prospect Avenue: Block 2953, Lot 1, a six-story apartment building; Lot 6 a vacant lot; lots 9 and 11 are developed with two family homes; Lot 12, a residential building converted to a church and Lot 13 is vacant. The applicant has acquired Lot 13, which is the site of the proposed

residential use.

Immediately east of Lot 13, outside of the rezoning area, is VIP's main facility, which provides treatment programs, education and health services to the community. Other uses on the block include five-to six-story apartment buildings, churches, vacant land and a New York City Department of Sanitation garage. The block was the subject of a previous rezoning (C 830468 ZMX, Cal No. 38) in 1983 from an R7-1 to the current M1-2, to facilitate the construction of the sanitation garage located at 800 East 176<sup>th</sup> Street.

The land uses in the surrounding area include five and six-story apartment buildings, one and two-story detached and semi-detached homes, several churches and a homeless transition center. Public School 44 is located across the street from the subject block. Prospect Playground is located over the Cross Bronx Expressway, and Community School 122 is a block north on Prospect Avenue.

The existing M1-2 manufacturing district allows light industrial and limited commercial uses (use groups 4-14, 16 and 17) with a maximum FAR of 2.00. It prohibits residential uses. The proposed R7-1 residential district would allow residential uses (use groups 1-2) at a maximum FAR of 3.44 and community facility uses (use groups 3-4) at a maximum FAR of 4.8.

The area is served by mass transit including the Bx 17, which runs north-south on Crotona Ave one block from the site.

If approved the applicant intends to develop a residential use on Lot 13.

## **ENVIRONMENTAL REVIEW**

This application (C 030370 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 lead agency is the City Planning Commission. The designated CEQR number is 03DCP053X.

After a study of the potential environmental impacts of the proposed action, a conditional negative declaration, was issued on April 11, 2005, stating that the proposed action would have no significant effect on the quality of the environment, once modified as follows:

The applicant, VIP Community Services, agrees via a restrictive declaration to prepare a hazardous materials protocol, including a health and safety plan, which would be submitted to DEP for approval. The declaration establishes an agreement to test and identify any potential hazardous material impacts pursuant to the approved sampling protocol and, if any such impact is found, submit a hazardous material remediation plan including a health and safety plan to DEP for approval. If necessary, remediation measures would be undertaken pursuant to the remediation plan.

An (E) designation (E-147) for hazardous materials would be placed on Block 2953, Lot 6 as follows:

Due to the possible presence of hazardous materials on the aforementioned designated site there is a potential of contamination of the soil and groundwater. To determine if contamination exists and perform an appropriate remediation, the following tasks must be undertaken by the fee owner(s) of the lot restricted by this (E) designation prior to any demolition or disturbance of soil on the lot.

### **Task 1**

The fee owner(s) of the lot restricted by this (E) designation will be required to prepare a scope of work for any soil, gas, or groundwater sampling and testing needed to determine if contamination exists, the extent of the contamination, and to what extent remediation may be required. The scope of work will include all relevant supporting documentation, including site plans and sampling locations. The scope of work will be submitted to DEP

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.

No sampling program may begin until written approval of a work plan and sampling protocol is received from DEP. The number and location of sample sites should be selected to adequately characterize the type and extent of the contamination, and the condition of the remainder of the site. The characterization should be complete enough to determine what remediation strategy (if any) is necessary after review of the sampling data. Guidelines and criteria for choosing sampling sites and performing sampling will be provided by DEP upon request.

## Task 2

A written report with findings and a summary of the data must be presented to DEP after completion of the testing phase and laboratory analysis for review and approval. After receiving such test results, a determination will be provided by DEP if the results indicate that remediation is necessary.

If DEP determines that no remediation is necessary, written notices shall be given by DEP.

If remediation is necessary according to test results, a proposed remediation plan must be submitted to DEP for review and approval. The fee owner(s) of the lot restricted by this (E) designation must perform such remediation as determined necessary by DEP. After completing the remediation, the fee owner(s) of the lot restricted by this (E) designation should provide proof that the work has been satisfactorily completed.

A DEP-approval construction-related health and safety plan would be implemented during excavation and construction activities to protect workers and the community from potentially significant adverse impacts associated with contaminated soil and/or groundwater. This Plan would be submitted to DEP for review and approval prior to implementation.

## **UNIFORM LAND USE REVIEW**

This application (C 030370 ZMX) was certified as complete by the Department of City Planning on April 11, 2005, and was duly referred to Bronx Community Board 6 and the Bronx Borough President, in accordance with Article 3 of the Uniform Land Use Review Procedure (ULURP) rules.

### **Community Board Public Hearing**

Community Board 6 held a public hearing on this application on May 11, 2005, and on that date, by a vote of 9 to 3 with 4 abstentions, adopted a resolution recommending approval of the application.

### **Borough President Recommendation**

This application was considered by the Bronx Borough President who issued a recommendation approving the application with the following conditions on

July 21, 2005, subject to the following conditions:

When formal plans for development of Block 2953, Lot 13 are completed, VIP Community Services will present such plans to Community Board 6 and to my office for review and comment.

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

On July 13, 2005 (Calendar No. 1), the City Planning Commission scheduled July 27, 2005 for a public hearing on this application (C 030370 ZMX). The hearing was duly held on July 27, 2005 (Calendar No. 24). There was one speaker in favor of the application and none in oppositions.

A representative from the applicant spoke in favor, described the project and stated that the project would allow the applicant to better meeting their goals in serving the community, either through the construction of a residential treatment facility or low-income housing on the applicant's property.

There were no other speakers on the application and the hearing was closed.

## **CONSIDERATION**

The Commission believes this Zoning Map amendment to change an existing M1-2 manufacturing district to a R7-1 residential zoning district is appropriate.

The land uses on the portion of the block in the rezoning area are residential and this zoning change would bring these uses into conformance and allow development of vacant lots with residential uses. The action will facilitate the applicant's desire to expand the services it provides to the area. It will also remove the possibility that incompatible commercial and industrial uses can locate in the rezoning area.

## **RESOLUTION**

**RESOLVED**, that the City Planning Commission finds that the action described herein will have no significant impact on the environment, once modified as follows:

The applicant, VIP Community Services, agrees via a restrictive declaration to prepare a hazardous materials protocol, including a health and safety plan, which would be submitted to DEP for approval. The declaration establishes an agreement to test and identify any potential hazardous material impacts pursuant to the approved sampling protocol and, if any such impact is found, submit a hazardous material remediation plan including a health and safety plan to DEP for approval. If necessary, remediation measures would be undertaken pursuant to the remediation plan.

An (E) designation (E-147) for hazardous materials would be placed on Block 2953, Lot 6 as follows:

Due to the possible presence of hazardous materials on the aforementioned designated site there is a potential of contamination of the soil and groundwater. To determine if contamination exists and perform an appropriate remediation, the following tasks must be undertaken by the fee owner(s) of the lot restricted by this (E) designation prior to any demolition or disturbance of soil on the lot.

## Task 1

The fee owner(s) of the lot restricted by this (E) designation will be required to prepare a scope of work for any soil, gas, or groundwater sampling and testing needed to determine if contamination exists, the extent of the contamination, and to what extent remediation may be required. The scope of work will include all relevant supporting documentation, including site plans and sampling locations. The scope of work will be submitted to DEP 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.

No sampling program may begin until written approval of a work plan and sampling protocol is received from DEP. The number and location of sample sites should be selected to adequately characterize the type and extent of the contamination, and the condition of the remainder of the site. The characterization should be complete enough to determine what remediation strategy (if any) is necessary after review of the sampling data. Guidelines and criteria for choosing sampling sites and performing sampling will be provided by DEP upon request.

## Task 2

A written report with findings and a summary of the data must be presented to DEP after completion of the testing phase and laboratory analysis for review and approval. After receiving such test results, a determination will be provided by DEP if the results indicate that remediation is necessary.

If DEP determines that no remediation is necessary, written notices shall be given by DEP.

If remediation is necessary according to test results, a proposed remediation plan must be submitted to DEP for review and approval. The fee owner(s) of the lot restricted by this (E) designation must perform such remediation as determined necessary by DEP. After completing the remediation, the fee owner(s) of the lot restricted by this (E) designation should provide proof that the work has been satisfactorily completed.

A DEP-approval construction-related health and safety plan would be implemented during excavation and construction activities to protect workers and the community from potentially significant adverse impacts associated with contaminated soil and/or groundwater. This Plan would be submitted to DEP for review and approval prior to implementation.

**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. 3d, changing from an M1-2 District to an R7-1 District property bounded by Prospect Avenue, East 176<sup>th</sup> Street, a line 90 feet southeasterly of Prospect Avenue and East 175<sup>th</sup> Street, Borough of the Bronx, Community District 6 as shown on a diagram (for illustrative purposes only) dated April 11, 2005, and subject to the conditions of CEQR Declaration No. E-147.

The above resolution (C 030370 ZMX), duly adopted by the City Planning Commission on August 24, 2005 (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**, AICP, Chair  
**KENNETH J. KNUCKLES**, ESQ., Vice Chairman  
**ANGELA M. BATTAGLIA, IRWIN G. CANTOR, P.E., ALFRED C. CERULLO, III,**  
**RICHARD W. EADDY, JANE D. GOL, LISA A. GOMEZ, CHRISTOPHER KUI,**  
**JOHN MEROLO, KAREN A. PHILLIPS, DOLLY WILLIAMS**, Commissioners