



CITY PLANNING COMMISSION

July 2, 2008 / Calendar No. 14

C 050018 ZMX

IN THE MATTER OF an application submitted by Ebling Partners LLC pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 6c:

1. changing from an M1-1 District to an R7X District property bounded by East 159th Street, Eagle Avenue, East 156th Street, and St. Ann's Avenue; and
2. establishing within the proposed R7X District a C2-3 District bounded by East 159th Street, a line 100 feet southeasterly of St. Ann's Avenue, East 156th Street, and St. Ann's Avenue,

as shown on a diagram (for illustrative purposes only) dated March 24, 2008, Community District 1, Borough of the Bronx.

This application for an amendment of the Zoning Map, Section No. 6c, was filed by Ebling Partners LLC on July 14, 2004 to rezone the block bounded by St. Ann's Avenue, Eagle Avenue, E. 159th Street and E. 156th Street from M1-1 to R7X and establish a C2-3 overlay, in Community District 1 of the Bronx.

BACKGROUND

The Ebling Partners LLC is seeking approval for an amendment to the Zoning Map for one block in its entirety, from M1-1 to R7X with a commercial overlay of C2-3 at a depth of 100 feet along St. Ann's Avenue, in Community District 1 of The Bronx. The rezoning would facilitate the development of several mixed-use buildings at 800 St. Ann's Avenue (entire Block 2618), with approximately 618 dwelling units, approximately 50,000 square feet of commercial space, and an underground parking garage with up to approximately 459 parking spaces of which 248 will be required accessory parking spaces.

The rezoning area is the entire block bounded by St. Ann's Avenue to the west; Eagle Avenue to the east; E. 159th Street to the north; and E. 156th Street to the south. The applicant owns all but three lots on the subject block (Block 2618, lots 1, 10, 15, 22, 26, 28, 30, 33, 35, 40, 41, and 42). Three lots (36, 38 and 39) are city-owned under the jurisdiction of the Department of Parks and Recreation. These lots are located on Eagle Avenue and occupied by the El Batey Borincano Garden.

Much of the applicant's property was formerly occupied by the Ebling Brewery buildings, which were demolished by 1995. Current land uses on the project site include two small buildings on the north-west corner of the site; one of which (Lot 22) is a one-story parking garage with 45 parking spaces and the other building (Lot 26) is a five-story vacant manufacturing building. The remaining portion of the applicant's property is used for open parking.

The block has a substantial slope. The elevation of the eastern edge along Eagle Avenue is approximately 22 feet higher in elevation than western edge along St. Ann's Avenue. E. 159th Street also has a very steep slope, and currently it is barricaded and is not opened for vehicular traffic.

The area in the immediate proximity to the project site is predominantly residential in character with some commercial, industrial, institutional and open space uses. There is a four-story multi-family housing to the west, St. Peter & Paul Church and elementary school, and a two story industrial building to the north-west corner, a vacant lot and a

two-story industrial building face to the north, a three-story multi-family housing to the east and northeast, and PS 157 (Grove Hill Elementary School) and playground to the east of the project site. There are a number of multi-family and one- and two- family residential buildings to south of the project site with ground floor retail facing the project site. There is a mixed-use building to the south-west corner of the project site that currently houses the High School for Career in Sports, Mott Haven Village Prep High School and the New Explorers High School. The nearest public transportation: Bx15, Bx21 and Bx55 buses run along Third Avenue, is two blocks northwest of the project site. The Jackson Avenue subway station on the #2 and #5 trains is approximately five blocks southeast of the project site.

The existing M1-1 permits manufacturing and commercial uses with a maximum Floor Area Ratio (FAR) of 1.0 and limited community facility uses with a maximum FAR of 2.4. Light industries are typically found in M1 districts such as woodworking shops, auto storage and repair shops and storage facilities. Retail and office uses as well as Use Group 4 community facilities are also permitted. Residential uses are not permitted.

The proposed R7X district is a medium density contextual residential district that requires use of the Quality Housing regulations. The R7X district with C2-3 overlay allows commercial uses with a maximum FAR of 2.0 and residential or community facility uses with a maximum FAR of 5.0. The maximum lot coverage on corner lots is 80% while maximum lot coverage on interior and through lots is limited to 70%. The base height of the building ranges from 60 to 85 feet, with a set back of 10 feet on a wide street, and 15

feet on a narrow street. Maximum height of 125 feet is permitted in R7X zoning district. Parking requirement is 50 percent of dwelling units. The proposed C2-3 overlay district would also require parking for general retail and service uses at a ratio of one parking space per 400 square feet of floor area.

If the rezoning is approved, the R7X/C2-3 would permit a maximum of 688,935 square feet of floor area for residential and community facility uses including 141,524 square feet for commercial uses along St. Ann's Avenue. The applicant intends to develop of a mixed-use project of total approximately 638,931 square feet for residential use that would consist of eight buildings with a total of approximately 618 residential units and approximately 50,000 square feet of ground floor commercial uses. The buildings would range from 8 to 13 stories in height with a range of 63 to 85 feet of base-heights. The proposed development would contain a landscaped open space with walkways and benches in the interior of the site. 248 required parking spaces (up to a maximum of 459 parking spaces are permitted) would be provided in two underground parking garages within the buildings.

ENVIRONMENTAL REVIEW

This application (C 050018 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 05DCP051X.

After a study of the potential environmental impact of the proposed action (C 050018 ZMX), a Conditional Negative Declaration was issued. The lead agency has determined that the proposed action will have no significant effect on the quality of the environment, once it is modified as follows:

1. *Hazardous Materials:*

The applicant, Ebling Partners LLC., agrees to incorporate all provisions of the DEP-approved RAP and the following measures indicated below:

- In order to develop an appropriate remediation plan as well as adequately characterize the site, DEP determined that at least five additional soil borings needed be completed at the site. Soil samples revealed the presence of SVOC's and metals. Several metals and a few SVOC's were found in the groundwater. A Phase II magnetometer survey did not reveal the presence of any underground storage tanks.
- The RAP indicates there will be removal and disposal of contaminated soil and the inclusion of a vapor barrier. Based on the sites' characteristics DEP determines a vapor barrier is not necessary, unless it is desired for moisture. Also, it is not required to remove all the soil from the site; however soil must be removed to construct the buildings. If any soil remains on the site it must be capped with two feet of clean fill.
- The two (2) feet of clean fill/top soil must be imported from an approved facility/source and graded across all landscaped/ grass covered areas of the site not capped with concrete/asphalt. The clean fill/ top soil must be segregated at the source/facility, have qualified environmental personnel collect representative samples at a frequency of one (1) sample for every 250 cubic yards, analyze the samples for Target Compound List (TCL) volatile organic compounds (VOCs), SVOCs, pesticides/PCBs and Target Analyte (TAL) metals by a New York State Department of Health Environmental Laboratory Approval Program (ELAP)certified laboratory, compare to TAGM 4046 Recommended Soil Clean-up Objectives, and receive DEP written approval to use fill/top soil. Upon receipt of DEPs written approval, the clean fill/top soil should not be comprised of any construction and demolition debris. Prior to importing and grading the two (2) feet clean fill/top soil cap, highly visible demarcation membrane/barrier (such as an orange plastic construction fence etc.) should be installed beneath the two (2) foot clean fill/top soil cap.

2. Air Quality:

The applicant, Ebling Partners LLC., has agreed to enter a restrictive declaration related to stationary source air quality. The restrictive declaration, prepared by the Department of City Planning in consultation with the Department of Environmental Protection, will be executed by the owner and recorded prior to the City's approval of the proposed action.

Pursuant to the restrictive declaration, the space heating and hot water (HVAC) systems for any new residential and/or commercial development on the above-referenced properties shall use Natural Gas as the fuel type. In addition, notwithstanding the fixed location of the heating, ventilating and air conditioning stacks shown on the proposed site plan in the EAS, the stack(s) for any new residential and/or commercial development in the proposed development (Buildings A through H) will be located:

Building A

not more than 100 feet northerly of the street line of E. 156th Street.

Building B

not more than 244 feet northerly of the street line of E. 156th Street.

Building C

at least 321 feet southerly of the street line of E. 159th Street.

Building D

at least 137 feet southerly of the street line of E. 159th Street.

Building E with frontage on St. Ann's Avenue

not more than 38 feet southerly of the street line of E. 159th Street.

Building E with frontage on Eagle Avenue

not more than 40 feet westerly of the street line of Eagle Avenue.

Building F

not more than 248 feet southerly of the street line of E. 159th Street.

Building G

not more than 297 feet northerly of the street line of E. 156th Street.

Building H

not more than 29 feet westerly of the street line of Eagle Avenue.

In addition, the restrictive declaration will restrict the height, square footage, and arrangement of each of Buildings A through H as shown on the proposed site plan and as disclosed in the EAS.

3. Noise:

The applicant, Ebling Partners LLC., has agreed to enter a restrictive declaration related to noise. The restrictive declaration, prepared by the Department of City Planning in consultation with the Department of Environmental Protection, will be executed by the owner and recorded prior to the City's approval of the proposed action.

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 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.

With the implementation of the restrictive declaration, no significant adverse impacts related to noise would occur.

The applicant signed the conditional negative declaration on March 20, 2008. The conditional negative declaration was published in the City Record and in the New York State Environmental Notice Bulletin. 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 June 16, 2008.

UNIFORM LAND USE REVIEW

This application (C 050018 ZMX) was certified as complete by the Department of City Planning on March 24, 2008, and was duly referred to Bronx Community Board 1 and

the Bronx 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 1 held a public hearing on this application on April 24, 2008 and, on that date, by a vote of 27 to 0 with 0 abstentions, adopted a resolution recommending approval of the application.

Borough President Recommendation

The application was considered by the Bronx Borough, who issued a recommendation approving the application on May 27, 2008 subject to the following conditions:

“I support the return of this long underutilized site to productive use. It offers the opportunity to further enhance a rapidly developing neighborhood with new housing and local services. I appreciate the developer’s effort to create a mixed income, multigenerational community.

Given the large number of units proposed, it is essential that the development be planned so as to enhance the creation of a community with adequate and appropriate local retail and services, and community facilities. My recommendation includes project and zoning modifications necessary to achieve this objective, and assurances concerning the housing program.

1. Schools

The Environmental Assessment for the St. Ann’s Avenue rezoning, projects local school district (Zone 3, District 7) utilization at over 95% for the elementary level and 98% for head start facilities. These utilization rates could increase with the creation of over 1200 units at Boricua Village and Courtlandt Corners, in addition to those at St. Ann’s Terrace. The development of additional school capacity for the elementary school level to accompany the new housing would help ensure that children will have school seats in their neighborhood. The developer will continue to work towards the objective of locating a Charter School on the site.

2. Commercial Overlay

The incorporation of commercial space to accommodate local retail and service stores is important to the creation of a functional neighborhood. I disagree, however, with the proposed C2 zoning overlay. C1, a district designed for locally oriented retail, is a more appropriate designation. While C2 would allow the food stores, pharmacies, restaurants, nail salons, dry cleaners and other uses that constitute a local shopping district, its range of commercial uses extends beyond local retail establishments to include such uses as various contractor and repair shops, wholesalers, automobile parts, auto show rooms, lumber, pawn shops, trade schools among others that would not enhance this role as a community shopping center. Ample C2 zoning exists north and south of the site, on 161st Street, Westchester Avenue and in the Hub, in locations more suitable for such activities.

Accordingly, I support this zoning action with a C1-3 zoning overlay, rather than C2-3.

3. Housing Program

Given the large site size and unit count, housing for a range of incomes is especially vital to the long term future of St. Ann's Terrace and surrounding neighborhoods. Accordingly, my support anticipates the applicant's continued commitment to the stated housing program that includes middle income rentals in buildings A and H, and condo/co-op home ownership in buildings F and G. Along with the senior and low income buildings, St. Ann's can offer the potential for a truly diversified community.

4. Sustainability

The project will comply with my sustainable development policy announced in my 2008 State of the Borough Address and available on my website, which establishes conditions for capital budget assistance. Project design must be independently certified under one of the following programs:

- LEED rating of silver or higher
- NYSERDA Energy Smart Label
- Enterprise Green Building Criteria
- New York City Green Building Act standards

Subject to the above conditions, I recommend approval of this application.”

City Planning Commission Public Hearing

On May 21, 2008 (Calendar No. 1), the City Planning Commission scheduled June 4, 2008 for a public hearing on this application (C 050018 ZMX). The hearing was duly

held on June 4, 2008 (Calendar No. 15). There were three speakers in favor of the application and none in opposition.

The applicant's representative, the project developer, and the architect for the project appeared in favor. The developer and his representative described the project and the actions required to facilitate the proposal. The architect addressed the functioning of the parking layout, driveways and curb cut details of the parking garage located on E. 156th Street.

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

CONSIDERATION

The Commission believes that this application (C 050018 ZMX) for an amendment of the Zoning Map is appropriate.

The Commission believes that the proposed R7X district on a block bounded by St. Ann's Avenue, Eagle Avenue, E. 159th Street and E. 156th Street is appropriate. There is an existing R7-2 district to the west of St. Ann's Avenue, and an existing R6 district to the east on Eagle Avenue and south on E. 156th Street. St. Ann's Avenue is a wide street and C2-3 overlay would provide a number retail options along St. Ann's Avenue.

The zoning map amendment would facilitate the development of several mixed-use buildings with approximately 618 dwelling units, approximately 50,000 square feet

commercial space along St. Ann's Avenue, and approximately 459 underground accessory parking spaces.

With respect to the Borough President's recommendation, the inclusion of a charter school would be allowed as-of-right in the proposed zoning; however the applicant is not proposing a charter school at this time.

The applicant stated that they are seeking a C2-3 Commercial overlay mainly to construct an underground public garage with up to 150 parking spaces permitted as-of-right under the C2-3 overlay.

The income distribution of the proposed housing and the compliance with sustainable development policies of the Borough President are beyond the purview of the City Planning 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 conditions:

1. The applicant, Ebling Partners LLC., agrees to incorporate all provisions of the DEP-approved RAP;
2. The applicant, Ebling Partners LLC., enter into a restrictive declaration related to stationary source air quality.

3. The applicant, Ebling Partners LLC., enter into a restrictive declaration related to noise

and be it further

RESOLVED, by the City Planning Commission, pursuant to Section 200 of the New York City Charter, that based on the environmental determination and 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 hereby amended by changing the Zoning Map, Section No. 6c:

1. changing from an M1-1 District to an R7X District property bounded by East 159th Street, Eagle Avenue, East 156th Street, and St. Ann's Avenue; and
2. establishing within the proposed R7X District a C2-3 District bounded by East 159 Street, a line 100 feet southeasterly of St. Ann's Avenue, East 156th Street, and St. Ann's Avenue,

as shown on a diagram (for illustrative purposes only) dated March 24, 2008, Community District 1, Borough of the Bronx.

The above resolution (C 050018 ZMX), duly adopted, by the City Planning Commission on July 2, 2008 (Calendar No. 14), 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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