

CITY PLANNING COMMISSION

January 5, 2005/Calendar No. 24

N 050093 ZRY

IN THE MATTER OF an application submitted by the Department of City Planning, pursuant to Section 201 of the New York City Charter, **for amendments to the Zoning Resolution** of the City of New York, relating to Article X, Chapter 5 (Special Natural Area District).

This application to amend the text of the Zoning Resolution was filed by the Department of City Planning on September 14, 2004. It is intended to strengthen preservation of natural features such as steep slopes, trees and vegetation on vacant land, and to extend applicability to “grandfathered” zoning lots with residences developed prior to December 19, 1974 when the Special Natural Area District was first established. The application was revised on December 23, 2004.

BACKGROUND

The purpose of the Special Natural Area District is to guide development to preserve significant natural features by requiring City Planning Commission (CPC) review of new developments and site alteration on primarily vacant land. The original special district text was adopted on December 19, 1974 along with the designation of special Natural Areas (NA) in Staten Island and Riverdale in the Bronx.

The district is mapped in areas with significant natural features such as steep slopes, rock outcroppings, forests, wetlands, ponds and stream corridors. NA districts have been mapped in Staten Island’s Greenbelt (NA-1) and Shore Acres (NA-3), in Riverdale, the Bronx (NA-2), and in Queens at Fort Totten (NA-4).

The special district is located primarily in low-density residential zoning districts characterized by detached, attached and mid-rise residential development. These areas also contain some community facilities on large parcels such as hospitals, senior care, educational and religious institutions, parkland and open space, and small amounts of local commercial uses.

The Department received requests for changes to the text from various groups: From 1997 to 1999 a task force worked with the Department of City Planning to amend and strengthen the Hillside District steep slope and tree regulations in Staten Island's CB 1. After the Hillside zoning text amendment was adopted, the Task Force asked for similar changes to the Natural Area District text, and, elimination of the grandfather provision which exempts zoning lots of less than 40,000 square feet which contained a residence prior to December 19, 1974 from most Natural Area regulations. On February 7, 2001 the Staten Island Borough Board unanimously adopted a resolution in support of the Task Forces's recommendations. In the Bronx, CB8's 197-a plan (N000618NPX) October 22, 2003 (Calendar No. 22) contained recommendations pertaining to the Special Natural Area District. Specifically, the 197-a plan recommended elimination of the grandfather clause, additional protections for steep slopes, and extending the community review period for applications. The Department worked with these groups to identify issues, conduct research, make findings and recommendations for specific zoning text amendments.

Existing Natural Area District Regulations

The goals of the Special Natural Area District (SNAD) (ZR Article X, Chapter 5) are: to guide

development in areas of outstanding natural beauty in order to protect natural features, to preserve land having exceptional recreational or educational value to the public, to protect natural features which have ecological and conservation values and functions, to limit erosion associated with development by conservation of vegetation and protection of natural terrain, and to promote the most desirable use of land in accordance with a well considered plan.

Currently, there is no as-of-right construction of new buildings in the SNAD. All development of new structures requires either CPC authorization or special permit. Natural features are protected by limiting modifications in topography, by preserving tree, plant and marine life and natural water courses, and by encouraging clustered development to maximize the preservation of natural features. Significant botanic, geologic, topographic, and aquatic natural features are to be preserved to the greatest extent practicable.

Site alteration on vacant land is only permitted by CPC certification, authorization or special permit. Site alteration, defined in Section 105-01 (Definitions), includes “land contour work, topographic modifications, removal of top soil, vegetation, excavating, filling, dumping, changes in existing drainage systems, improvements in public-rights of way, relocation of erratic boulders or modification of any other natural features...” defined or listed in the NA district text.

A grandfather provision allows enlargement and site alteration as-of-right only for houses that existed prior to December 19, 1974 on zoning lots of 40,000 square feet or less. New development on grandfathered lots requires CPC authorization.

Development and site alteration within city parkland and public rights-of-way is subject to CPC review. Zoning lot subdivision requires CPC certification. Future subdivision of a predominantly steep sloped lot requires a larger minimum lot size of 12,500 square feet compared to the minimum lot sizes of the underlying zoning districts, which are smaller.

At present, procedural regulations vary within the different NA districts. For example, alteration or development on steep slope requires an authorization in Staten Island's NA-1 and NA-3 districts and a special permit in the Bronx NA-2 district.

PROPOSED ACTION

The proposed action consists of zoning text amendments to Article X, Chapter Five of the Zoning Resolution. These amendments implement certain recommendations of the Staten Island Special Natural Area District Task Force and the Bronx CB8 197-a plan. The primary goal of the proposed text amendment is to strengthen preservation of significant natural features. In working with the existing regulations, the Department and the communities found that the regulations were inadequate in certain categories, including: no clear standards for development on steep slopes; standards for private roads and driveways do not adequately protect topography; too many existing trees and vegetation were being removed; regulations did not protect natural features during construction; findings necessary to grant approval for modifications were vague and lacked specific standards; lack of specific lot coverage controls geared to preserve natural features; and the grandfathering provisions resulted in enlargements and site alterations that conflicted with the goals of the Natural Area district.

Hillsides and Steep Slopes

The proposed Natural Area text amendment will incorporate regulations from the Special Hillsides Preservation District, adopted in 1987 and modified in 1999. These provisions have been more effective in guiding development to preserve steep slopes, hillsides, trees and vegetation and to prevent erosion. This text change will incorporate Hillsides topography classifications which define:

- Sites with 0% up to 10% slope as Tier I,
- Sites with 10% up to 25% slope as Tier II, and
- Steep slope areas as any area having a slope of 25% or greater

With the proposed text amendment, steep slope will be redefined from 15% or greater to 25% or greater (Section 105-01). A steep slope buffer, consisting of a 15 foot setback from the crest of a steep slope will be required. For Tier I sites, temporary disturbance of this buffer is permitted during construction, however, Tier II submission requirements would then apply. Development, site alteration or removal of vegetation in the buffer will require CPC authorization.

The new definition of steep slope will also exempt small narrow areas of steep slope, or “slivers”. Slivers are areas smaller than 200 square feet or less than 10 feet long on a side. These areas would not be counted as steep slope because construction would not present a hazard or loss of significant natural features.

The proposed text will have specific lot coverage controls in order to better preserve steep slopes, hillsides, trees and vegetation (Section 105-33 Lot Coverage Regulations for Residences on Tier II Sites). Permitted lot coverage will decrease as the degree of slope increases. In R1 through R3 districts, permitted lot coverage would range from 22.5 % to 17.5 % on Tier II sites. Development or site alteration on a steep slope on any site would have a maximum lot coverage of 12.5 %. This would apply on both Tier I and Tier II sites when development or site alteration is proposed on areas of steep slope. If the reduced lot coverage, combined with height limits of the underlying zoning, should pose constraints to reasonable development, lot coverage requirements can be modified by a Commission authorization (Section 105-431 Modification of Lot Coverage Controls).

Private Roads and Driveways on Tier II Sites

Under the existing SNAD regulations, private road development in Staten Island is subject to the recently adopted Lower Density Growth Management Area (LDGMA) standards. Private roads are required to be 34 feet wide and meet LDGMA standards for sidewalks, street trees in planting strips, buffers along lot lines, minimum spacing between curb cuts and maximum widths for driveways. The LDGMA specifically allows front yard parking only in the Natural Area, Hillsides and South Richmond districts in Staten Island. Since LDGMA is only designated in Staten Island and Throgs Neck, Bronx, private road development in the Bronx and Queens Natural Area districts would be subject to the citywide private road standards of Sections 26-20 through 26-27 and the definition of private road in Section 12-10 (Definitions). The definition

of private road states that: “An individual driveway serving fewer than five parking spaces shall not be considered a private road.”

The proposed SNAD regulations (Section 105-35 Tier II Requirement for Driveways and Private Roads) would supercede some of the LDGMA and citywide private road standards in order to better preserve natural features and terrain on Tier II sites. On Tier II sites and steep slopes, the maximum width of driveways would be set at 18 feet, with maximum length of driveway at 80 feet. The maximum grade of private roads and driveways would be 10 percent. LDGMA sets a maximum grade of 11 percent and Section 26-20 (Special Requirements for Developments with Private Roads) is silent on grade standards. To limit the amount of paving and grading and preserve hillside terrain, the maximum paved width of private roads on Tier II sites in the SNAD text amendment as originally referred would be 30 feet curb-to-curb. LDGMA sets a minimum width of 34 feet curb-to-curb, and the citywide standard requires either 34 feet minimum or 38 feet depending on the amount and location of parking provided.

The proposed text would permit modification or waiver of these standards by authorization pursuant to either Section 26-26 (Modification and Waiver Provisions) or the proposed Section 105-434 (Modification of requirements for private roads and driveways). Section 26-26 allows modification of most requirements -- sidewalks, street trees in planting strips, buffers along lot lines, minimum spacing between curb cuts and maximum widths for driveways – but does not allow a decrease in paved road width to less than 34 feet. However, the SNAD private road

requirements set a maximum width of 30 feet on Tier II sites, thus a private road narrower than 30 feet may be proposed (if also approved by the Fire Department for safe access) without requiring an authorization to modify. The SNAD private road standards would be applicable to Tier II sites and to steep slopes.

Grandfather provision

When the district was adopted in December, 1974, any zoning lot of less than 40,000 square feet containing a residential building in the NA-1 and NA-2 districts was grandfathered to allow site alteration and building enlargement as-of-right. (Section 105-01 definition of site alteration and development, and Section 105-02 General Provisions). This grandfather provision is not applicable in the NA-3 (Shore Acres) Natural Area in Staten Island and the NA-4 (Fort Totten) in Queens.

Currently, in Staten Island, almost 50% of lots are grandfathered (1121 of 2291 lots in the NA-1 district). In the Bronx 60% of lots are grandfathered (581 of 966 lots in the NA-2 district). From 1994 to 2003, 209 grandfathered lots received DOB building alteration permits versus 98 CPC approvals for new residential development in Staten Island. In the Bronx, there were 101 DOB building alteration permits issued for grandfathered lots compared to 15 CPC approvals for new residential development.

The proposed amendment would eliminate the grandfather clause and the special definitions of development and enlargement in Section 105-01. As a result, site alteration and most building enlargement on formerly grandfathered lots would now require CPC review. Development would still require CPC review unless it met new criteria allowing as-of-right development described below.

As-of-right development

Under the current text, even small, vacant flat lots with scattered trees and no significant natural features are subject to the SNAD provisions and review requirements which can be costly and time consuming. In the other special districts which protect natural features, (South Richmond and Hillside) there are provisions to allow as-of-right development on sites of this type. The proposed text will allow as-of-right development on small sites with relatively flat topography and few trees. (Section 105-021 Actions not requiring special review) The level of review will be based on the extent of natural features on the site rather than when the site was developed.

If an existing zoning lot is less than 10,000 square feet, and Tier I (less than 10% slope), and has no steep slope, wetland, stream corridor, rock outcropping or other listed significant natural features, then development of up to 2,500 square feet of lot coverage would be permitted as-of-right. Proposed projects must meet minimum site planning standards incorporated in the proposed text, to save trees, limit grading and prevent erosion. This would be applicable to all uses permitted by the underlying zoning. The as-of-right provision would not apply to sites with

previously approved CPC actions, or to site alterations not associated with a proposed development.

Many of the applications submitted are to permit in-ground swimming pools. In order to avoid the costs and time consumed by application review for swimming pools which do not otherwise affect trees, steep slopes and other natural features, Section 105-021 would allow such pools on Tier I lots as-of-right if the resultant topography modification is 2 feet or less at the edges of the pool.

Approximately 10 percent of lots in Staten Island and 21% of lots in the Bronx would be able to develop as-of-right. In the NA-4 District in Queens, all existing lots are greater than 10,000 square feet, so there can be no as-of-right development. All other development or site alteration would continue to require CPC review.

Site Planning Standards

The proposed text will include specific standards for limiting grading and controlling erosion and stormwater runoff during construction (Section 105-36 Controls During Construction). For example, site grading will generally be restricted to within 15 feet of the proposed building footprint, and in the area of driveways, walkways required off-street parking and utilities. To preserve natural features, grading must avoid steep slopes, steep slope buffers and the critical

root zone of any existing tree to be saved. Development and grading on Tier II or steep slope areas will require CPC authorization and submission of a construction plan, erosion control plan and stormwater drainage plan, each with specific requirements (Section 105-37). At minimum, hay bales and silt fences will be required to control runoff of eroded soil during construction.

Trees

The current SNAD minimum standard for tree preservation and planting is 1 tree credit per 1000 square feet of lot area. (Tree credit is defined in Section 105-01). In the current text, the planting requirement can be met either by saving existing trees of 6 inch caliper or greater or by planting new trees of 3 inch caliper. Research on past approvals showed this standard more often results in removal of existing trees, particularly on larger forested sites and hillsides.

The proposed text encourages the preservation of large trees and sets a higher minimum preservation standard which will result in greater preservation of existing trees or replanting of trees, especially on large, heavily wooded sites. The proposed text change will require preservation of 51 percent of existing tree credits, or one tree credit per 1,000 square feet of lot area, whichever is greater, on Tier I and Tier II sites. (Section 105-31 Botanic Environment and Tree Preservation Requirements and Section 105-32 Botanic Environment and Tree Planting Requirements)

A survey of the site prior to development is submitted with the application and shows the location,

caliper and species of all existing trees of six inch caliper or greater. Tree removal would generally be allowed in areas occupied by required parking, private roads, driveways, the building footprint and within 15 feet of a building foundation, unless that resulted in removal of more than 51% percent of tree credits on site prior to the proposed development. Existing provisions that allow removal of trees which are diseased, dead or hazardous would remain in effect. CPC authorization or certification would be required for all other removal of trees of 6 inch caliper or greater.

The current text has general guidelines for replanting but lacks specific, easy-to-follow standards for the amount, location and species of required trees, shrubs and groundcover. When replanting of vegetation is required, the proposed text will include the amount, type and location of required replanting, together with an improved list of native species suitable for residential landscapes (Sections 105-31, 105-32 and Appendix C, Groundcovers and Shrubs, and Appendix D Selection List for On-Site Trees).

The current SNAD minimum standard for tree preservation and planting on steep slopes is the same as for flat sites, 1 tree credit per 1000 square feet of lot area. As in the Hillside district, the proposed text sets a higher standard for preservation of trees and vegetation on steep slopes. All trees and vegetation on steep slopes are to be preserved as they are an integral part of the steep slope's natural features. They also prevent erosion and slope failure, and can only be removed by authorization.

In order to protect trees that are to remain during construction, the proposed text change will require

an area-of-no-disturbance, known as a tree's critical root zone, around all trees slated for preservation. This area must be fenced during site work and construction. The critical root zone is defined as one radial foot from the trunk of a tree for every inch of tree caliper. The minimum critical root zone would be 4 radial feet for trees 4 inch caliper or less and the maximum, 22 radial feet for trees 22 inch caliper or more. Modification of protection standards would be allowed by certification (Section 105-41) or authorization (Section 105-42 Authorizations to Alter Natural Features and to Allow Certain Uses) only if a tree protection plan is submitted by a certified arborist specifying other means of protection. These changes would lessen the chances of physical damage to roots, trunks and branches caused by construction vehicles, cut and fill, or wash out from construction materials.

Procedural Modifications

Alteration of natural features, such as development on steep slopes, currently requires an authorization in Staten Island (Section 105-424) , but a special permit in the Bronx (Section 105-433). In order to facilitate speedier review, and to eliminate inconsistencies between Staten Island and Bronx provisions, the proposed text will change two existing special permits (Section 105-432 Modification of yard, height and setback regulations and parking location regulations, and Section 105-433 Alteration of natural features) to authorizations which would not be subject to the lengthier ULURP review process for special permits. With this change to a shorter process, more applicants may seek these modifications or waivers in order to better preserve natural features.

Section 105-20 (Protection of Natural Features) currently allows an as-of-right development option if an application for certain authorizations or special permits is denied. This rarely used provision was added in the 1980's, ostensibly for the purpose of protecting the City from claims that CPC disapproval of an application might result in a taking. Section 105-20 allows development of one dwelling unit per 25,000 square feet of lot area so long as 1 tree credit per 1000 square feet of lot area is preserved. These standards are inadequate to preserve significant natural features in as-of-right development. Moreover, the Department believes the existing provision is no longer needed because of legal precedents established in case law over the past 20 years. It should be noted that an applicant always has the right to return with a revised application if an application for an authorization or special permit is disapproved.

Projects that do not meet the requirements of Section 11-30 (Building Permits Issued Before Effective Date of Amendment) would be subject to the provisions of the proposed text amendment, possibly necessitating filing of a new application and changes to the approved plans. The text as originally referred would have allowed any previously approved projects to continue providing that substantial construction is completed within one year of the effective date of this proposed text amendment.

ENVIRONMENTAL REVIEW

This application (N 050093 ZRY) 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 05DCP016Y. The lead is the City Planning Commission.

After a study of the potential environmental impact of the proposed action, a Negative Declaration was issued on September 20, 2004.

PUBLIC REVIEW

On September 20, 2004, this application was referred to Staten Island Community Boards 1 and 2, Bronx Community Board 8, Queens Community Board 7, the Queens Borough President, the Bronx Borough President, the Staten Island Borough President and the Staten Island Borough Board for information and review in accordance with the procedure for referring non-ULURP matters.

Community Board Review

Staten Island Community Board 1: On October 12, 2004 Community Board 1 adopted a resolution in favor of the proposed text amendment by a vote of 33 in favor and 0 opposed, with 0 abstentions.

Staten Island Community Board 2: On October 19, 2004 Community Board 2 adopted a

resolution unanimously in favor of the proposed text amendment by a vote of 26 in favor and 0 opposed, with 2 abstentions and 1 not entitled. Their resolution recommended one modification to the text:

Community Board 2 supports ULURP application N050093ZRY, Special Natural Area District Text Amendment and recommends that private streets in Natural Areas must follow the same regulations as the City Planning Zoning Text Amendment for private streets that is required in the City of New York.

Queens Community Board 7: Community Board 7 did not submit a recommendation.

Bronx Community Board 8: On October 12, 2004 by a vote of 26 to 0 with 2 abstentions, Bronx Community Board 8 adopted a resolution recommending approval of the application.

Borough Presidents' Review

The Borough President of Staten Island issued a recommendation approving the application on October 22, 2004.

The Borough President of the Bronx issued a recommendation approving the application on November 12, 2004.

The Borough President of Queens did not submit a recommendation.

Staten Island Borough Board

The Staten Island Borough Board issued a recommendation unanimously approving the application on November 3, 2004.

City Planning Commission Public Hearing

On November 17, 2004 (Calendar No. 6), the City Planning Commission scheduled December 8, 2004, for a public hearing on this application (N 050093 ZRY). The hearing was duly held on December 8, 2004 (Calendar No. 8). There were twelve speakers in favor of the application and two speakers in opposition.

The City Council Member representing Council District 11 in the Bronx spoke in favor of the proposed amendments. He described the importance of the amendments in relation to Community Board 8's 197a plan, adopted in 2003. He also praised the removal of the section which allows as-of-right development should the City Council or City Planning Commission deny an application. He mentioned the Chapel Farm site which is proceeding as-of-right because their application was disapproved by the City Council.

A resident of Fieldston in the Bronx stated that the proposal would prevent hillsides from being denuded of vegetation. A representative of the Riverdale Nature Preservancy and a resident of Riverdale spoke in favor of the application stating that it would help preserve urban forests. He said

the Preservancy has been asking for amendments to SNAD since 1997. A representative of the Bronx Borough President indicated that the Borough President favored removing the grandfather provision and removing the provision for as-of-right development should the City Council or City Planning Commission deny an application. The Chair of Community Board 8 in the Bronx stated that the Community Board supports the amendments and that they are especially pleased that the new regulations will protect the natural features on grandfathered lots, which represent 70% of lots in the District.

A representative of the City Council Member from City Council District 49 in Staten Island who served on the SNAD Task Force noted that rolling topography and steep slopes define the north shore of Staten Island. He encouraged the Department of City Planning to work closely with the Department of Buildings to ensure understanding and proper enforcement of the new regulations.

A representative of the City Council Member from District 50 in Staten Island reviewed a history of the Council Member's work to strengthen the Special Natural Area District, including his participation in the Staten Island Special Natural Area Task Force. He further stated that the Council Member encouraged speedy adoption of the proposed amendments.

A resident of Spuyten Duyvil who is also on the Board of Directors of the Bronx Council on Environmental Quality spoke in favor of the proposed amendments. He noted the lack of knowledge

among architects and builders and the need for standards to preserve mature urban trees and plant new ones.

A representative from Staten Island's Richmondtown and Clarke Avenue Civic Association who also served on the Staten Island SNAD Task Force spoke in favor. His civic group will continue to seek further changes to the Special District since the proposed amendments do not include a requirement of public notice of all applications, and special protections on public lands. He also read written testimony from the Lighthouse Hill Civic Association in support of this application.

A representative from Protectors of Pine Oak Woods, an environmental preservation organization on Staten Island, who also served on the SI SNAD task force, stated support for the detailed standards that would protect trees and steep slopes, limit grading and prevent erosion.

A representative of the Henry Hudson Parkway Task Force spoke in favor of the application as the type of zoning that will help their efforts to protect this scenic byway in the Bronx. A representative from WildMetro and resident of Spuytin Duyvil spoke in favor of the SNAD text changes and pointed out the historic opportunity to save more wild natural areas in the five boroughs.

An architect who practices in the Natural Area District in the Bronx spoke in opposition. He

expressed concern that removal of the grandfather provision would pose a hardship on affected homeowners. He noted that he preferred slope described in degrees rather than percentages, that the as-of-right provision should apply to lots 20,000 square feet in area or less and should include proportional lot coverage controls, and that the critical root zone provision hampers development on small sites.

An architect and builder working in the Bronx also spoke in opposition. He noted that he is generally in favor of the changes in principle but only with several changes. However, he would like to see an as-of-right provision on Tier II sites. He indicated that under the proposed regulations, even a small addition on such sites could triple the cost of the expansion in soft costs associated with applying for a certification or authorization. He indicated that the definition of “buildable area” should be expanded to include steep slope area as some sites with steep slope could be developed responsibly. He also noted that the text does not address the issue of protecting trees on neighboring properties.

There were no other speakers and the hearing was closed.

Waterfront Revitalization Program Consistency Review

This application (N 050093ZRY) was reviewed by the Department of City Planning for consistency with the policies of the New York City Waterfront Revitalization Program (WRP), as amended,

approved by the New York City Council on October 13, 1999 and by the New York State Department of State on May 28, 2002, pursuant to the New York State Waterfront Revitalization and Coastal Resources Act of 1981 (New York State Executive Law, Section 910 et seq.). The designated WRP number is 04-095.

This action was determined to be consistent with the policies of the New York City Waterfront Revitalization Program.

CONSIDERATION

The Commission believes that this amendment to the Zoning Resolution as revised is appropriate. The proposed amendments will better achieve the goals of the Natural Area District which are: to guide development in areas of outstanding natural beauty in order to protect natural features, to preserve land having exceptional recreational or educational value to the public, to protect natural features which have ecological and conservation values and functions, to limit erosion associated with development by conservation of vegetation and protection of natural terrain, and to promote the most desirable use of land in accordance with a well considered plan.

The Commission notes that these proposed text changes result from various requests to amend the SNAD text especially from a task force on Staten Island and Bronx Community Board 8 which proposed changes in its 197-a plan adopted in 2003. The Commission further notes that the

Department of City Planning worked with these groups in drafting the proposed zoning text amendments.

When the district was adopted in December, 1974, any zoning lot of less than 40,000 square feet containing a residential building in the NA-1 and NA-2 districts was grandfathered to allow site alteration and building enlargement as-of-right. Currently, only new development on a grandfathered lot requires CPC review. This is a significant problem with the current text.

The Commission notes that over 50% of lots are grandfathered and need not comply with the Chapter's provisions. Since 1994 over 300 permits were issued by the Department of Buildings for such lots, compared to only 113 applications reviewed for SNAD actions by the Commission. The ability to substantially enlarge existing homes and remove natural features on grandfathered lots without review warrants the elimination of this provision. It allowed removal of significant natural features without review on nearly 50% of the lots in the Staten Island NA-1 district and over 60% of lots in the Bronx NA-2 district. The Commission believes this is contrary to the goals of the Special Natural Area District.

While widening the applicability of the SNAD regulations, the Commission notes that under the proposal many small lots without significant natural features would no longer need to undergo the costly and time consuming review required by the existing provisions. The Commission agrees that

allowing some accessory in-ground swimming pools as-of-right on Tier I sites is appropriate if modification of topography at the pool edge is limited and no tree removal is required. This provision will eliminate CPC review of proposed swimming pools which do not otherwise affect trees, steep slopes and other natural features.

The Commission understands that approximately 10% of lots in Staten Island and 21% of lots in the Bronx would be able to develop as-of-right pursuant to the proposed standards. All other development or site alteration would continue to require CPC review.

The Commission believes it is appropriate for the as-of-right provision to apply to lots no larger than 10,000 square feet, because in the predominant R1 and R2 districts, the underlying yard requirements determine building placement with little room for adjustment. On lots larger than 10,000 square feet there is more flexibility in locating development to preserve natural features which should be guided by CPC discretionary review.

The Commission believes that the proposal to adopt many of the Special Hillside Preservation District regulations, including definitions, application requirements, and requirements for steep slopes, trees and vegetation, private roads and residential lot coverage, will more effectively guide development and protect natural features. The Commission notes that while regulations in SNAD may not permit development on steep slopes as-of-right, site alteration and development on steep

slopes may be permitted by CPC authorization. As in the current text, discretionary review rather than as-of-right development is appropriate for this significant natural feature. Similarly, development on hilly Tier II sites will require CPC authorization.

The Commission supports the clearer regulations which will facilitate application filing and review, and changing some special permits to authorizations. The inclusion of requirements for grading and tree protection during construction as well as stricter tree preservation requirements will further the goals of the SNAD.

The Commission believes that the removal of the provision in Section 105-20 that provides an as-of-right development option if an application is denied further strengthens the SNAD regulations. This provision is not necessary in view of current legal standards and application of the minimal standards of that provision can result in destruction of significant natural features.

The Commission notes that in response to comments and issues raised during the public review period, the Department submitted revisions to the proposed text on December 23, 2004. In proposed Section 105-35 (Tier II Design Standards for Driveways and Private Roads), the text has been revised to allow a private roadway width of 34 feet. The revised proposal will not require sidewalks

and planting strips, thereby allowing a wider roadway without additional removal or replacement

of natural features.

As originally referred, the text allowed all approved applications to continue, providing that substantial construction is completed within a year of this amendment's effective date. The developer of the proposed 515-unit senior citizen development at the Seaview Hospital site, which was approved by the Commission in the summer of 2004, informed the Commission that the proposed development would not be able to meet the requirement to complete substantial construction within one year.

Consequently, the Department has revised the proposed amendment to allow applications approved after July 18, 1995 to continue under the zoning provisions currently in effect. These projects will therefore be subject to the lapse provisions of Section 11-42 and 43, giving them four years from the date of approval of the authorization or special permit to complete substantial construction and allowing, upon application, up to two additional three-year extensions.

In addition, the text has been revised so that applications approved prior to July 18, 1995 and not vested pursuant to Section 11-30 of the Zoning Resolution will lapse upon the effective date of this proposed zoning text amendment. This affects approximately 12 applications. The Commission believes that these projects, which have not been completed for over nine years, warrant a new review.

In addition to the two revisions described above, minor clarifications and corrections were also made to the referred text.

The Commission believes that these text amendments will strengthen preservation of natural features such as steep slopes, trees and vegetation, focus review on significant natural features and preserve natural features on formerly grandfathered lots.

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, 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 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 further amended as follows:

Matter Underlined is new, to be added;

Matter in ~~Strikeout~~ is old, to be deleted;

Matter within # # is defined in Section 12-10;

* * * indicate where unchanged text appears in the Zoning Resolution

12-10

DEFINITIONS

Special Mixed Use District (12/10/97)

* * *

Special Natural Area District ~~(12/19/74)~~

The "Special Natural Area District" is a Special Purpose District designated by the letters "NA" in which special regulations set forth in Article X, Chapter 5, apply to ~~#developments# or #site alterations#~~. The #Special Natural Area District# appears on the #zoning maps# superimposed on other districts, and its regulations supplement or modify those of the districts on which it is superimposed. The #Special Natural Area District# includes any district whose designation begins with the letters "NA."-

#Special Natural Area Districts# may be mapped only in areas where outstanding #natural features# or areas of natural beauty are to be protected. The preservation of such areas is important because they contain areas of special ecological significance, interesting geological formations and rock outcrops, unique aquatic features such as tidal wetlands, unique topographic features such as palisades, valleys and hills, important plant life such as glaciated oak-chestnut forests or because they serve as habitats for native flora and fauna. A #Special Natural Area District# may include one or more #natural features#.

A #public park# may be included in a #Special Natural Area District# only where it is part of a designated larger natural ecological system.

Special Northside Mixed Use District (3/18/76)

* * *

12/19/74

Article X - Special Purpose Districts

Chapter 5

Special Natural Area District

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12/19/74

Chapter 5

Special Natural Area District

105-00

GENERAL PURPOSES

The "Special Natural Area District" (hereinafter also referred to as the "Special District"), established in this Resolution, is designed to promote and protect public health, safety and general welfare. These general goals include, among others, the following specific purposes:

- (a) to guide development in areas of outstanding natural beauty in order to protect, maintain and enhance the natural features of such areas;
- (b) to preserve land having qualities of exceptional recreational or educational value to the public;
- (c) to protect aquatic, biologic, botanic, geologic and topographic features having ecological and conservation values and functions;
- (d) ~~to limit erosion associated with development by conservation of vegetation and protection of natural terrain~~ reduce hillside erosion, landslides and excessive storm water runoff associated with development by conserving vegetation and protecting natural terrain; and
- (e) to preserve hillsides having unique aesthetic value to the public; and

(e~~f~~) to promote the most desirable use of land and the direction of building development in accordance with a well-considered plan, to promote stability of residential development, to promote the character of the district and its peculiar suitability for particular uses, to conserve the value of land and buildings, and thereby to protect the City's tax revenues.

12/19/74

105-01

Definitions

Definitions specially applicable to this Chapter are set forth in this Section. The definitions of other defined terms are set forth in Section 12-10 (DEFINITIONS).

Area of no disturbance

An "area of no disturbance" is an area designated on the site plan that is protected from all types of intrusion, including: #site alteration#, operation of construction equipment, storage of construction materials, excavation or regrading, tunneling for utilities, removal of trees, #topsoil# or any living vegetation, or construction of driveways, #private roads#, parking areas, patios, decks, swimming pools, walkways or other impervious surfaces. #Areas of no disturbance# shall include #steep slopes#, #steep slope buffers# and the #critical root zone# of each tree proposed for preservation.

Average percent of slope

The "average percent of slope" of a #zoning lot# is the average slope of all portions of a #zoning lot# excluding #steep slopes# and shall be determined according to the following equation:

$$S = \frac{IL}{A} \times 100$$

Where:

S - average percent of slope

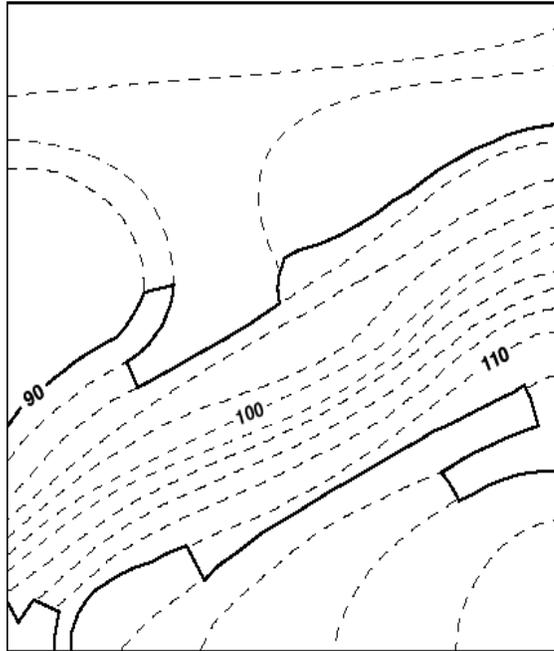
I - contour interval in feet

L - combined length of contour lines in feet, excluding those portions bordering or lying within areas having a slope of 25 percent or greater and meeting the definition of #steep slope#

A - gross area in square feet of the #zoning lot#, excluding those portions of the #zoning lot# having a slope of 25 percent or greater and meeting the definition of #steep slope#

100 - factor which yields slope as a percentage

CALCULATING AREAS HAVING
A SLOPE EQUAL TO OR GREATER THAN 25 PERCENT
ILLUSTRATIVE EXAMPLE



Example:

$$X = \frac{\text{contour interval in feet}}{0.25} = \frac{2}{0.25} = 8.0 \text{ feet}$$

Where:

X - distance between contour lines which indicates a slope of 25 percent

In order to calculate the area having a slope equal to or greater than 25 percent, one can use a map with two-foot contour intervals and a scale of one inch equals 20 feet, such as the map pictured here. A 25 percent slope, on a map with two-foot contour intervals, is indicated by contour lines that are 8.0 feet apart, rounded to the nearest tenth (0.1) of a foot. On a map whose scale is one inch to 20 feet, 8.0 feet is represented by 0.4 of an inch,

rounded to the nearest tenth (0.1) of an inch. Identify where the contour lines are 0.4 of an inch or less apart. Connect these contour lines (as indicated by the heavy lines on the map) and calculate the area.

Buildable area

A "buildable area" is a portion of a #zoning lot# excluding #steep slopes#.

Caliper (of a tree)

"Caliper" of a tree is the diameter of a tree trunk measured 4 feet, 6 inches from the ground. If a tree splits into multiple trunks below 4 feet, 6 inches from the ground, the trunk is measured at its most narrow point beneath the split.

Critical root zone

The "critical root zone" of a tree is the area containing the roots of a tree that must be maintained and protected to ensure the tree's survival. The area of the #critical root zone# is measured as one radial foot for every #caliper# inch of the tree, with a required minimum of four radial feet and maximum of 22 radial feet, measured from the surface of the tree trunk at grade.

Development

For the purposes of this Chapter, a "development" includes the construction of a new #building or other structure# on a #zoning lot#, the relocation of an existing #building# on another #zoning lot#, the #use# of a tract of land for a new #use#, or an #enlargement# of a non-#residential# building or portion thereof.

To "develop" is to create a #development#.

Hillside

A "hillside" is ground where the ratio of change in elevation to horizontal distance results in a 10 percent or greater slope or #average percent of slope#.

Natural feature

A "natural feature" is a specific natural feature belonging to one of the types listed in Section 105-10 (NATURAL FEATURES) and existing within a #Special Natural Area District#.

Site alteration

A "site alteration" is an alteration on any vacant tract of land, #land with minor improvements# or any tract of land containing ~~non-~~#residential #buildings or other structures# which includes land contour work, topographic modifications, removal of top soil, vegetation, excavating, filling, dumping, changes in existing drainage systems, improvements in public rights-of-way, relocation of erratic boulders or modification of any other #natural features#, whether or not a permit is required from the Department of Buildings, the Department of Transportation or other public agencies.

~~In all #Special Natural Area Districts# other than the NA-3 District, the requirements set forth herein shall not apply to any #site alteration# on a #zoning lot# of less than 40,000 square feet containing #residential buildings# on the effective date of the Special District designation.~~

~~Special Natural Area District~~

~~(repeated from Section 12-10)~~

~~The "Special Natural Area District" is a Special Purpose District designated by the letters "NA", in which special regulations set forth in Article X, Chapter 3 apply to all #developments# or #site~~

~~alterations#. The #Special Natural Area District# appears on the #zoning maps# superimposed on other districts, and its regulations supplement or modify those of the districts on which it is superimposed. The #Special Natural Area District# includes any district whose designation begins with the letters "NA".~~

~~#Special Natural Area Districts# may be mapped only in areas where outstanding #natural features# or areas of natural beauty are to be protected. The preservation of such areas is important because they contain areas of special ecological significance: interesting geologic formations such as rock outcrops, unique aquatic features such as tidal wetlands, unique topographic features such as palisades, valleys, and hills, important plant life such as glaciated oak-chestnut forests or because they serve as habitats for native flora and fauna. A #Special Natural Area District# may include one or more #natural features#.~~

~~A #public park# may be included in a #Special Natural Area District# only where it is a part of a designated larger natural ecological system.~~

Staging area

A "staging area" is any area on a #zoning lot# used during the construction of a #development#, #enlargement# or #site alteration# for the purposes of stockpiling soil or construction materials; storing, cleaning or servicing construction equipment, vehicles or tools; or storing leachable construction products, gases or other materials used to clean or service vehicles, equipment or tools.

Steep slope

A "steep slope" is a portion of a #zoning lot# with an incline of 25 percent or greater. However, a portion of a #zoning lot# with an incline of 25 percent or greater shall not be considered a #steep slope# if it occupies an area of less than 200 square feet or has a dimension of less than ten feet, measured along the horizontal plane, unless such portions in the aggregate equal ten percent or more of the area of the #zoning lot#.

Steep slope buffer

A "steep slope buffer" is a 15-foot wide area having a slope of less than 25 percent that adjoins the entire length of the crest of a #steep slope#.

Tier I

A "Tier I" #development#, #enlargement# or #site alteration# is any #development#, #enlargement# or #site alteration# that occurs on a #zoning lot# having an #average percent of slope# of less than 10 percent.

Tier II

A "Tier II" #development#, #enlargement# or #site alteration# is any #development#, #enlargement# or #site alteration# that occurs on a #zoning lot# having an #average percent of slope# equal to or greater than 10 percent.

Topsoil

"Topsoil" is soil containing undisturbed humus and organic matter capable of sustaining vigorous plant growth and is generally the top six inches of soil.

Tree credit

A "tree credit" is a credit for preserving an existing tree of six-inch #caliper# or more that is counted towards a tree preservation requirement, or a credit for a newly-planted tree of three-inch #caliper# or more that is counted towards a tree planting requirement.

Tree protection plan

A "tree protection plan" is a plan that modifies the #area of no disturbance# around a tree proposed for preservation while protecting and preserving the tree during construction. A #tree protection plan# is prepared by an arborist certified by the International Society of Arboriculturists (ISA) or equivalent professional organization that includes:

- (a) a survey of the current condition and health of such trees of six-inch #caliper# or more;
- (b) methods for tree protection and preservation based on best management practices, including the prevention of damage due to compaction, grade and drainage pattern changes and tunneling for utilities;
- (c) a schedule for site monitoring during construction;
- (d) a procedure to communicate protection measures to contractor and workers; and
- (e) post-construction treatment.

~~12/19/74~~

105-02

General Provisions

In harmony with the general purpose and intent of this Resolution and the general purposes of the #Special Natural Area District#, the regulations of the districts upon which this Special District is superimposed are supplemented or modified in accordance with the provisions of this Chapter, in order to protect outstanding #natural features# described herein. Except as modified by the express provisions of this Chapter, the regulations of the underlying district remain in effect.

The provisions of this Chapter shall apply to:

- (a) any #development# ~~on a #zoning lot#, #enlargement# or~~
- ~~(b) any #site alteration# on a #zoning lot#;~~
- ~~(c) any subdivision of a #zoning lot# existing on the effective date of the Special District designation into two or more #zoning lots#; and~~
- ~~(d) any public improvement projects located within the #Special Natural Area District#, which shall be subject to the provisions of Sections 105-92(Special Provisions for City-owned Lands) and 105-93 (Inter-agency Coordination), except for any such projects which were approved by the Board of Estimate prior to the effective date of the Special District designation.~~

Prior to issuance by the Department of Buildings, ~~Department of Transportation, Department of Environmental Protection~~ or other

~~City or State~~ agencies, of a permit for any #development#, #enlargement# or #site alteration# within a #Special Natural Area District#, or for any #site alteration# for which no permit is required by the Department of Buildings ~~Department of Transportation, Department of Environmental Protection~~ or other

~~City or State~~ agencies, an application shall be submitted to the City Planning Commission for review and approval pursuant to Section 105-40 (SPECIAL REVIEW PROVISIONS), except those #developments#, #enlargements# and #site alterations# that are not subject to the provisions of Section 105-40, as specified in Section 105-021 (Actions not requiring special review).

Any authorization or special permit granted by the City Planning Commission after July 18, 1995, pursuant to the provisions of this Chapter, may be started or continued, in accordance with the terms thereof, or as such terms may be subsequently modified, pursuant to the regulations in effect at the time such authorization or special permit was granted, subject to the provisions of Sections 11-42 (Lapse of Authorization or Special Permit Granted by the City

Planning Commission Pursuant to the 1961 Zoning Resolution) and 11-43 (Renewal of Authorization or Special Permit).

When a #zoning lot# existing on the effective date of the Special District designation is subdivided into two or more #zoning lots#, an application shall be submitted to the Commission for review and approval pursuant to Section 105-90 (FUTURE SUBDIVISION).

~~Nothing contained in this Chapter shall be understood to supersede scenic landmark designations of the New York City Landmarks Preservation Commission.~~

~~Except in the #Special Natural Area District#-3 (NA-3), the provisions of this Chapter shall not apply to a #zoning lot# for which a building permit application was filed prior to October 15, 1974 with the Department of Buildings, and building permits pursuant thereto are issued no later than October 15, 1975, provided that such #zoning lot# is not modified in size, that there are no substantial amendments to building plans after October 15, 1974 and that substantial construction of foundations~~

~~For #site alterations# on a #zoning lot# of more than 40,000 square feet containing #residential buildings# on the effective date of the #Special Natural Area District# designation, a plan for such #site alterations# shall be filed by the owner of the #zoning lot# with the Commission for approval. In the event such #site alteration# work has impact on the #natural features# existing on the #zoning lot#, the Commission may require the applicant to comply with the provisions of Section 105-021 (Requirements for application) and Section 105-40 of this Chapter.~~

6/23/77

105-021

Actions not requiring special review

The special review requirements of Section 105-40 (Special Review Provisions) of this Chapter shall not apply to the following:

(a) a #site alteration# on a #zoning lot# containing #buildings or

other structures#, or a #development# or #enlargement# on any #zoning lot#, provided that such #zoning lots# shall have:

- (1) not more than 10,000 square feet of #lot area#;
- (2) an #average percent of slope# of less than 10 percent;
- (3) no significant #natural features#, and the resulting #development#, #enlargement# or #site alteration# can satisfy the requirements of Section 105-30 (PRESERVATION OF NATURAL FEATURES), inclusive;
- (4) the resulting #development#, #enlargement# or #site alteration# shall not exceed 2,500 square feet of #lot coverage#; and
- (5) no Notice of Restriction or Restrictive Declaration recorded against the title of such property;

(b) any #site alteration#, on a #zoning lot# containing a #residential building# in existence on the effective date of the Special District designation, involving a structure that does not require a permit from the Department of Buildings, including, but not limited to swimming pools, garden sheds and fences, provided that:

- (1) any modification of topography for the footprint, foundation, or grading around the footprint of such structure, shall not exceed two feet of cut or fill; and
- (2) no tree of six-inch #caliper# or greater shall be removed and the #critical root zone# of such tree shall be an #area of no disturbance# on any #zoning lot#.

105-021 2

Requirements for application

An application to the City Planning Commission for certification, authorization or special permit and to the Department of Buildings respecting any #development#, #enlargement# or #site alteration#, to be made within any #Special Natural Area District#, shall include the following:

- (a) ~~a survey map prepared by a registered surveyor showing topography at two foot intervals, location, caliper and species of individual trees of 6 inch caliper or more,~~

a survey map prepared by a licensed surveyor showing topography at two-foot contour intervals and indicating the #average percent of slope#, the existing slope of the land, as it occurs, in categories of 10-14 percent, 15-19 percent, 20-24 percent, 25 percent and greater; the location of existing #buildings or other structures#, patios, decks, swimming pools, walkways, driveways and #private roads#, including sidewalks and other impervious surfaces; and the location, #caliper# and species of all trees of six-inch #caliper# or more on the #zoning lot# and in the sidewalk area of the adjacent #streets#, location of geologic features, ~~boundaries of steep slopes~~, aquatic features, and botanic environments, as enumerated in Section 105-11 (Description of Natural Features);

- (b) photographs showing the location and condition of such #natural features# for verification with pre-existing aerial survey and/or other photographs for each #Special Natural Area District#;

- (c) ~~site plans showing the proposed #site alteration# or #development#;~~

a site plan prepared by a registered architect or professional engineer indicating the location of all existing #buildings or other structures#; the location of all proposed #buildings or other structures#; the location of existing and proposed patios, decks, swimming pools, walkways, driveways and #private roads#, including sidewalks and other impervious surfaces; the location of any #steep slopes#, #steep slope buffer# areas and the #staging area#; and the location, #caliper# and species of all trees of six-inch #caliper# or more on the #zoning lot# and in the sidewalk area of the adjacent #streets#. The site plan shall identify those trees

proposed to be removed and those trees proposed to be preserved, indicating, for the latter, the #critical root zone# and in addition, for Tier II #developments#, #enlargements# and #site alterations#, the location of any other #area of no disturbance#;

- (d) a drainage plan and soil report prepared by a registered professional engineer, when necessary to assess whether or not there will be major impact on #natural features#; and . The drainage plan shall describe the temporary (during construction) and permanent measures to collect, direct and discharge stormwater drainage from the site, indicating the direction of drainage flow and providing detailed plans and locations of all surface and subsurface drainage devices, walls, dams, sediment basins, stormwater storage (detention and retention) facilities, and other drainage facilities and protective devices. Such report shall include an estimate of runoff from the site after completion of any proposed #development#, #enlargement# or #site alteration# and provide a description with supporting information of the manner in which the proposed #development#, #enlargement# or #site alteration# complies with the requirements of Local Law 103 of 1988;

- (e) a grading plan showing all existing and proposed contours at two-foot intervals, critical spot elevations, tops and bottoms of proposed slopes over 10 percent gradient and will indicate at least one longitudinal and one latitudinal cross-section showing both the original and proposed final ground surfaces, with grades, slopes and elevations noted;

- (f) a landscaping and revegetation plan, prepared by a registered landscape architect, indicating the extent of vegetation and #topsoil# removal required for site preparation and development and the location and species of all new plantings;

- (e_g) any other information necessary to evaluate the request;
i and

- (h) for #developments#, #enlargements# and #site alterations# on #Tier II# sites, the application shall also include:

- (1) an alignment and paving plan for any #private road# with a typical cross-section; and
- (2) a construction plan prepared by a registered landscape architect, registered architect, licensed surveyor or professional engineer showing the proposed location for the #staging area#, the proposed method for protecting trees, understory shrubs and ground cover during construction, as well as a description of the equipment to be employed in processing and disposing of soil and other material to be removed from the site; and if the #critical root zone# is proposed to be modified, a #tree protection plan# for any tree proposed for preservation.

For a #site alteration#, #enlargement# or #development# within any #Special Natural Area District#, the Commission may modify one or more requirements set forth in paragraphs (a) through (~~d~~ h) of this Section, when such modification is requested by the applicant in writing and when the Commission determines that the requirements are unnecessary for evaluation purposes.

Appendix B of this Chapter should be used as a guide to assist in the preparation of the surveyor's map identifying the #natural features# on the survey required in this Section.

The applicant's submission shall also include a statement admitting authorized Department of City Planning personnel to the site for the purposes of recording or verifying survey data.

~~The Commission shall act within 60 days after receipt of a completed application.~~ Where a permit is required for a #development#, #enlargement# or #site alteration# within a #Special Natural Area District# from any City or State agency, an application for such permit shall be filed simultaneously with such agency and the Commission.

~~In the event a City agency involved in issuing permits has failed to act or there is disagreement among agencies concerning requirements within their jurisdiction for a #development#, the matter shall be resolved pursuant to Section 105-93 (Inter-agency~~

~~Coordination), within 90 days after the application is filed by the Director of the Department of City Planning with the Inter-agency Board of Conservation of Natural Features.~~

12/19/74

Note: *Former Section 105-022 (Action by the Board of Estimate) was previously deleted administratively*

105-023

Relationship to public improvement projects

In all cases, the City Planning Commission shall deny an application, whenever the #development#, #enlargement# or #site alteration# will interfere with a public improvement project (including highways, public buildings or facilities, redevelopment or renewal projects, or rights-of-way for sewers, transit or other public facilities) which has been approved by the ~~Board of Estimate, City Council or the City Planning Commission or the Site Selection Board.~~

105-10

NATURAL FEATURES

105-11

Description of Natural Features

All #natural features# shall be significant in terms of age, size, composition, function, structure, history, association, location, ecological value or educational interest. ~~The preservation of the #natural features# may be necessary in order to maintain ecological balance in the area.~~

The protection of one #natural feature# may require the protection

of another which is closely linked to it. The preservation of #natural features# may also be necessary to avoid such adverse conditions as flooding, erosion or hazards to private property. All vegetation is part of a botanic environment or part of an aquatic feature and shall be considered as a #natural feature# protected by the regulations of this District. For the purposes of this Chapter, vegetation includes all forms of plant material, including but not limited to trees, shrubs, vines, ferns, grasses, herbs and other plant life.

All #natural features# defined in this Section and further described in Appendix B of this Chapter shall be protected by the provisions of this Chapter.

(a) Geologic features

(1) Rock outcrop

A rock outcrop is the portion of a rock formation which appears at the surface of the earth.

(2) Geologic deposit

A geologic deposit is a mass of material which has been placed, shaped or created by the actions of wind, water, ice, gravity, vulcanism, pressure or temperature, either alone or in combination. Such deposits are to include erratic boulders, glacial formations, mineral deposits or semi-precious stones.

(b) Topographic features

(1) ~~Steep slope~~ #Steep slope#

~~A steep slope is ground which has an incline of 15 percent or more~~

(2) Existing natural topography

Existing natural topography is the ground elevation of land ~~existing at the time of designation of a #Special Natural Area District#~~.

(3) ~~Topsoil~~ #Topsoil#

Topsoil is generally the top six inches of soil containing undisturbed humus and organic matter capable of sustaining vigorous plant growth.

(c) Aquatic features

Wetlands, including, but not limited to State and Federal, mapped or designated, freshwater or tidal wetlands:

(1) Laminarian zone

A laminarian zone is that land under the surface of salt water from the mean low tide mark to the depth of 15 fathoms. The portion of laminarian zone to be protected by the provisions of this Special District extends to the pierhead line, or to the shoreline where no pierhead line has been established.

(2) Beach

A beach is a tract of relatively flat, sandy or gravelly land, without visible vegetation, forming the shore of a large body of water.

(3) Tidal wetland and saltwater littoral zone

A tidal wetland or saltwater littoral zone is that land which is regularly covered by tidal waters and its spray.

(4) Swamp

A swamp is a wet woodland, the soil of which is typically waterlogged or often covered with water.

(5) Marsh

A marsh is a wet prairie which has waterlogged soil during the growing season (from last spring frost to first fall frost) and is often covered with shallow water.

(6) Bog

A bog is a tract of waterlogged land without natural drainage.

(7) Meadow

A meadow is a tract of land which is waterlogged to within a few inches of the surface and may have temporary ponds during the non-growing season (between the first fall frost and first spring frost).

(8) Creek, stream or brook

A creek, stream or brook is a free flowing fresh watercourse on soil, gravel or rock ~~which~~ that drains a watershed.

(9) Lake or pond

A lake or pond is a body of fresh or salt water standing year round.

(10) Natural spring

A natural spring is a point source of water exiting from the surface of the earth or rock.

(d) Botanic environments

(1) Primary succession community area

A primary succession community area is a tract of land characterized by species which can tolerate extreme environmental conditions and provide initial protection for less tolerant forms of life. These species are usually annuals and herbaceous.

(2) Secondary succession community area

A secondary succession community area is a tract of land characterized by short-lived trees and shrubs as well as grasses and herbaceous material. These species are less tolerant than primary succession community species but provide a greater diversity and range of protection from the sun, wind and rain.

(3) Climax community area

A climax community area is a stable association of plants and animals which will perpetuate itself indefinitely with minor variation in the group of associated plants. The climax community area in New York City is the glaciated oak-chestnut association, which is part of the eastern hardwood deciduous forest.

(4) Dune or heathland

A dune or heathland is a tract of windblown and wind- or water-shaped sandy land with such characteristic species as beach grass and beach heather.

(5) Wild grassland

A wild grassland is an area whose vegetation is primarily of wild grass species.

The #natural features# defined in this Section are described in Appendix B of this Chapter.

105-20

PROTECTION OF NATURAL FEATURES

All #natural features# within a #Special Natural Area District# shall be protected by the regulations of this Chapter in accordance with the provisions set forth in Sections 105-02 (General Provisions), 105-30 (PRESERVATION OF NATURAL FEATURES) and 105-50 (REGULATIONS FOR PROTECTION OF NATURAL FEATURES).

Except for any existing #natural feature# ~~which~~ that is unsafe and the removal of which is required by the Department of Buildings to eliminate hazardous conditions, no #natural features# described in Section 105-11 (Description of Natural Features) shall be removed, destroyed or altered unless permitted by certification, authorization or special permit of the City Planning Commission pursuant to Sections 105-40 (SPECIAL REVIEW PROVISIONS), or allowed pursuant to Section 105-021 (Actions not requiring special review).

~~Where a special permit or authorization pursuant to Sections 105-421, 105-422, 105-423, 105-432 or 105-433 is not granted to an applicant with respect to a #zoning lot# which as of December 1, 1980 contained no #developments#, the restrictions imposed by the provisions of Section 105-20 shall not apply to that portion of the #natural feature# affected, provided that:~~

- ~~(a) all future #developments# or #site alterations# shall have a resulting density of not less than 25,000 square feet or the actual area of the #zoning lot# in existence on December 1, 1980, whichever is smaller;~~
- ~~(b) any future subdivisions pursuant to Section 105-90 shall have a resulting #lot area per dwelling unit# of not less than 25,000 square feet; and~~
- ~~(c) all future #developments# or #site alterations# shall comply with the tree planting standards specified in Section 105-30, and the whether or not existing vegetation is removed as a result of such #development# or #site alteration#.~~

12/15/77

105-30 SPECIAL PROVISIONS FOR PLANTING PRESERVATION OF NATURAL FEATURES

The provisions of this Section are applicable to all #developments#, #enlargements# and #site alterations# within the #Special Natural Area District#, pursuant to Section 105-02 (General Provisions). When pursuant to Sections 105-41 (Certification) or 105-021 (Actions not requiring special review) it is not necessary for an applicant for a #development#, #enlargement# or a #site alteration# to apply for an authorization or special permit, such #development#, #enlargement# or #site alteration# shall nonetheless comply with the natural feature preservation requirements of this Section, inclusive.

105-31

Botanic Environment and Tree Preservation Requirements

To the maximum extent possible, existing trees and vegetation shall be retained. Trees of six-inch #caliper# or more and vegetation may only be removed or destroyed as a result of a #development#, #enlargement# or #site alteration#, provided that:

- (a) such trees or vegetation are located in areas to be occupied by #buildings#, #private roads#, driveways, areas for required #accessory# parking, or within a distance of 15 feet of the exterior walls of such #building#, provided that it is not possible to avoid such removal by adjustments in the arrangement of such #buildings#, driveways or required parking areas;
- (b) the continued presence of such tree would create special hazards or dangers to persons or property, which would not be possible or practical to eliminate by pruning;
- (c) the continued presence of such tree would interfere with the growth or health of another tree of six-inch #caliper# or more, designated for preservation and belonging to a species listed in Appendix D (Selection List for On-site Trees) of this Chapter; or
- (d) an authorization pursuant to Section 105-425 (Modification of botanic environment preservation and planting requirements) has been granted by the City Planning Commission approving the removal of such trees or vegetation.

Any tree of six-inch #caliper# or more that cannot be preserved as a result of a proposed #development#, #enlargement# or #site alteration# shall be replaced pursuant to the provisions of Section 105-32 (Botanic Environment and Tree Planting Requirements).

105-32

Botanic Environment and Tree Planting Requirements

Any vegetation that cannot be saved as a result of #site alteration#, #enlargement# or #development# shall be replaced with alternateive vegetation to be approved by the City Planning Commission. All #developments#, #enlargements# and #site alterations# shall comply with the tree planting requirements set forth in this Section, whether or not existing trees are removed as a result of such #development#, #enlargement# or #site alteration#.

The replanting of elements of vegetation ~~which~~ that are parts of an

association or community shall be such as to reestablish, as rapidly as is reasonable, the vigor and character of the association. When necessary to establish ecological balance, the Commission may also require additional vegetation to be planted.

(a) Tree Planting

For the purposes of this Section, the following minimum standard shall apply for tree planting:

- (3) For any #development#, #enlargement# or #site alteration# within a #Special Natural Area District#, trees of at least ~~four~~ three-inch #caliper#, pre-existing or newly planted, shall be provided on the #zoning lot# at the rate of one tree for each 1,000 square feet of #lot area# or portion thereof or shall equal a total of 51 percent of all #tree credits# for trees originally on site, whichever is greater.
- (4) For any existing tree of at least 6 six-inch #caliper# ~~which that~~ is preserved, credit for one tree shall be given for the first six inches of #caliper# ~~for the purpose of this Section,~~ and, for each additional four inches of #caliper#, credit for ~~one~~ an additional tree shall be given.

Single-trunk trees, newly planted to meet this requirement, shall be of at least three-inch #caliper# at the time of planting. Multiple-trunk trees and low-branching coniferous evergreens shall be at least 10 feet in height at the time of planting. Trees newly planted to meet this requirement shall be of a species selected from Appendix B D of this Chapter, and acceptable from the standpoint of hardiness, appearance and habit of growth suitable to the site.

The Commission may grant a waiver of the tree planting requirements by certification to the Department of Buildings, where the Commission finds that the ecology of the site is such that the substitution of other plant material would be

more appropriate than the tree planting requirements and a detailed plan for planting has been filed with the Commission for its approval.

~~Where trees are planted pursuant to this Section prior to April 1, 1978, such planting may be undertaken in accordance with the tree caliper requirements existing prior to the effective date of this amendment.~~

(b) Botanic Environment Planting

For the purposes of this Section, the following minimum standard shall apply for the planting of vegetation:

Any vegetation or #topsoil# that cannot be preserved as a result of a proposed #development#, #enlargement# or #site alteration# and is not permitted to be removed pursuant to the regulations of Sections 105-31 (Botanic Environment and Tree Preservation Requirements) or 105-425 (Modification of botanic environment preservation and planting requirements), shall be replaced as follows: for every square foot of #lot area# of removed vegetation or #topsoil#, there shall be provided the following plantings of the size and number indicated in paragraphs (1) through (4) of this Section. The area of removed vegetation shall be measured so as to include any portions of the #zoning lot# that were located within the #critical root zone# of a removed tree of six-inch #caliper# or more. Species of ground cover and shrubs shall be selected from Appendix C (Selection List for Shrubs and Ground Covers) of this Chapter. Species of on-site trees shall be selected from Appendix D (Selection List for On-site Trees) of this Chapter.

(1) Ground cover shall be planted one at one-foot-on-center and at the rate of one plant for every square foot of #lot area# of removed vegetation; and

(2) Large trees shall be planted at the rate of one three-inch #caliper# tree for every 500 square feet of #lot area# of removed vegetation; or

- (3) Small trees shall be planted at a rate of one eight-foot high tree for every 100 square feet of #lot area# of removed vegetation; or
- (4) #Shrubs# shall be planted at a rate of one gallon container-grown material for every 25 square feet of #lot area# of removed vegetation.

The planting of species shall not be limited to woody plant materials, but shall include trees, shrubs, vines, ferns, grasses, herbs, annuals, biennials, perennials, mosses, and other associated vegetation. All vegetation to be planted shall be either of the species which characterized the area's biological community prior to #site alteration#, #enlargement# or #development#, or of an ~~alternate~~ive biologic community found in the area. Species selection shall give particular attention to the relationship of the species to each other and to the surrounding plant community and to the quality of the soil and the vertebrate and invertebrate populations associated with and dependent upon the proposed plants. ~~The goal is to maintain, reinforce and increase the diversity and stability of the plant and animal population which characterize the~~ #Special Natural Area District#.

105-33

Lot Coverage Regulations for Residences on Tier II Sites

The maximum permitted percentage of #lot coverage# on a #zoning lot# shall be determined by Table I or Table II of this Section, as applicable.

TABLE I

PERMITTED PERCENTAGE OF LOT COVERAGE ON A ZONING LOT
BY ZONING DISTRICT, AVERAGE PERCENT OF SLOPE AND
RESIDENCE TYPE

#Residence District#*

R6

#Average
Percent
of
Slope#

1-2

	R1	R2	R3	R4	R5	Family	Other
10-14.9	22.5	22.5	22.5	36.0	45.0	48.6	32.4
15-19.9	20.0	20.0	20.0	32.0	40.0	43.2	28.8
20-24.9	17.5	17.5	17.5	28.0	35.0	37.8	25.2

* or #Residence District# equivalent when #zoning lot# is located within a #Commercial District#

If an authorization is granted for a #development#, #enlargement# or #site alteration# on a #zoning lot# or portion of a #zoning lot# having a #steep slope# or #steep slope buffer# pursuant to Section 105-422, the maximum permitted percentage of #lot coverage# for said #zoning lot# shall not exceed the maximum set forth in Table II of this Section.

TABLE II

PERMITTED PERCENTAGE OF LOT COVERAGE ON A ZONING LOT
OR PORTION OF A ZONING LOT WITH A STEEP SLOPE,
BY ZONING DISTRICT AND RESIDENCE TYPE

#Residence District#*

R6

<u>R1</u>	<u>R2</u>	<u>R3</u>	<u>R4</u>	<u>R5</u>	<u>1-2</u> <u>Family</u>	<u>Other</u>
<u>12.5</u>	<u>12.5</u>	<u>12.5</u>	<u>20.0</u>	<u>25.0</u>	<u>27.0</u>	<u>18.0</u>

* or #Residence District# equivalent when #zoning lot# is located within a #Commercial District#

105-34

Grading Controls for Tier II Sites

With the exception of #private roads# and driveways, no grading shall take place beyond 15 feet of the location of a building foundation, measured from the foundation perimeter. The following grading requirements shall apply to all #Tier II developments#, #enlargements# or #site alterations#.

- (a) Cut slopes shall be no steeper than two horizontal to one vertical; subsurface drainage shall be provided as necessary for stability.
- (b) Fill slopes shall be no steeper than two horizontal to one vertical; fill slopes shall not be located on natural slopes 2:1 or steeper, or where fill slope toes out within 12 feet horizontally of the top of an existing or planned cut slope.
- (c) Excavating for fill shall be prohibited unless the material is obtained from a cut permitted under an approved grading plan obtained for some purpose other than to produce fill material, or imported from outside the #Special Natural Area District#.
- (d) Fills shall be compacted to at least 95 percent of maximum density, as determined by ASSHO T99 or ASTM D698.

- (e) All retaining walls or cuts with a total vertical projection in excess of three feet and associated with cut or fill surfaces shall be designed as structural members keyed into stable foundations and capable of sustaining the design loads.

- (f) The top and toe of any cut or fill slope, or where any excavation meets the grade existing on (the effective date of this amendment), should be rounded in a vertical arc with a radius of not less than five feet.

- (g) Tops and toes of cut and fill slopes and retaining walls shall be set back from #lot lines# for a horizontal distance of three feet plus one-fifth the height of the cut or fill but need not exceed a horizontal distance of 10 feet; tops and toes of cut and fill slopes shall be set back from #buildings# and structures for a horizontal distance of six feet plus one-fifth the height of the cut or fill but need not exceed a horizontal distance of ten feet.

105-35

Tier II Requirements for Driveways and Private Roads

The provisions set forth in this Section and Section 105-34 (Grading controls) shall apply to driveways and to #private roads# that provide access to #buildings# developed after (the effective date of this amendment). The provisions for #private roads# set forth in Article II, Chapter 6, shall not apply.

(a) Driveways

- (1) The maximum grade of a driveway shall not exceed 10 percent.

- (2) The paved width of a driveway shall not exceed 18 feet.
- (3) The maximum length of a driveway from a #private road# or #street# to an #accessory# parking space shall not exceed 80 feet.

(b) #Private roads#

- (1) The maximum grade of a #private road# shall not exceed 10 percent.
- (2) The width of the graded section beyond the curb back or edge of pavement of a #private road# shall extend no more than three feet beyond the curb back or edge of pavement on both the cut and the fill sides of the roadway. If a sidewalk is to be installed parallel to the roadway, the graded section shall be increased by the width of the sidewalk plus no more than one foot beyond the curb back.
- (3) The paved width of a #private road# shall not exceed 34 feet.
- (4) Curbs shall be provided along each side of the entire length of a #private road# and #accessory# parking spaces may be located between the required roadbed and curb.
- (5) A curb cut, excluding splays, from a #street# to a #private road# may be as wide as such #private road#.
- (6) Curb cuts providing access from #private roads# to parking spaces shall not exceed the width of the driveway served and in no event shall exceed a width of 18 feet, including splays.

- (7) A minimum distance of 16 feet of uninterrupted curb space shall be maintained between all curb cuts.

- (8) Along the entire length of a #private road#, trees shall be provided and maintained at the rate of one tree for every 25 feet of #private road# frontage and shall comply with the requirements set forth in Section 105-32 (Botanic Environment and Tree Planting Requirements).

- (9) No building permit shall be issued by the Department of Buildings without approval by the Fire Department regarding the adequacy of vehicular access to and within the #development# for fire safety. Such approval may include the modification of #private road# width as set forth in paragraph (b)(3) of this Section.

The City Planning Commission may by authorization pursuant to Section 105-434 (Modification of requirements for private roads and driveways), allow modifications to, or waivers of, the requirements of this Section. The prior approval of the Fire Department regarding the adequacy of vehicular access to and within the #development# for fire safety shall be a condition for any modification or waiver.

105-36

Controls During Construction

The following requirements must be met during construction and identified on the construction plan:

- (a) No construction equipment of any kind shall operate beyond 15 feet of the perimeter of a building foundation except those vehicles engaged in the construction of #private roads#, driveways or required #accessory# parking areas. This provision may be waived by the Commissioner of Buildings should it be determined that the particular conditions of the site make a 15-foot limit infeasible or impractical.

- (b) Construction fences shall be erected around all vegetation proposed for preservation and all #areas of no disturbance#, and those portions of the fence that are downhill from the construction site shall have hay bales placed adjacent to them.
- (c) Excavating for fill shall be prohibited unless the material is obtained from a cut permitted under an approved grading plan obtained for some purpose other than to produce fill material, or imported from outside the #Special Natural Area District#.
- (d) The #staging area# shall be located in an area that would most minimize destruction of the natural features of the landscape. Such area shall be as close to the construction area on the #zoning lot# as practical, and shall be either on the flattest portion of the #zoning lot# or behind a containment wall where it will not erode any #area of no disturbance# or endanger any tree designated for preservation.
- (e) #Topsoil# shall be used in the area to be replanted as soon as construction is complete.
- (f) Any exposed earth area shall have straw, jute matting or geotextiles placed on it within two days of exposure and be seeded with annual rye grass during construction.

105-37

Special Erosion and Sedimentation Prevention Requirements for Authorizations for Tier II Sites

Any #development#, #enlargement# or #site alteration# that is on a #Tier II# site and requires an authorization shall be subject to the provisions of this Section. The requirements of this Section shall supplement any other requirements set forth in Section 105-40 (SPECIAL REVIEW PROVISIONS), that also must be met.

Prior to construction, at least one of the erosion and sedimentation control measures described in paragraphs (a) through (e) of the Section shall be selected. A plan describing how the selected erosion and sedimentation control measure will be implemented and justifying its selection on the basis of the particular conditions of the site shall be prepared by a professional engineer or landscape architect and submitted to the City Planning Commission.

(a) Benches and berms

These are level terraces or ledges constructed across sloping land to provide a relatively flat construction site or to reduce the length and grade of the slope. Benches and berms reduce runoff and erosion hazards by slowing down the velocity of water and providing greater intake opportunity.

(b) Diversion channels

These are earth channels with a supporting ridge on the lower side constructed across the slope lengths to break up concentration of runoff and move water to stable outlets at a non-erosive velocity.

(c) Debris or sediment basins

These consist of a dam or embankment, a pipe outlet and an emergency spillway situated at the low corner of the site to provide a temporary means of trapping and storing sediment while releasing the water. They protect property below the installation from damage by excessive sedimentation and debris.

(d) Retention ponds

These are impoundment-type ponds that temporarily store runoff water and release it at rates that minimize erosion and prevent flooding. They may be located above the site to trap water before it enters the area or within the site to protect properties below the site.

(e) Grassed waterways or outlets

These are natural or excavated channels to dispose of excess runoff water from diversions, berms, benches and other areas at non-erosive velocities. Waterways or outlets are shaped or graded and established in suitable vegetation as needed, depending on the supplemental measure used to slow the velocity of runoff.

105-38

Special Submission Requirements for Authorizations on Tier II Sites

When a #development#, #enlargement# or #site alteration# is on a #Tier II# site, an application to the City Planning Commission for an authorization shall include the following submission requirements. These requirements shall be in addition to the requirements set forth in Section 105-40 (SPECIAL REVIEW PROVISIONS).

- (a) A drainage plan and soil report prepared by a professional engineer to protect natural features. The drainage plan shall describe the temporary (during construction) and permanent measures to collect, direct and discharge stormwater drainage from the site, indicating the direction of drainage flow and providing detailed plans and locations of all surface and subsurface drainage devices, walls, dams, sediment basins, stormwater storage (detention and retention) facilities, and other drainage facilities and protective devices. Such report shall include an estimate of runoff from the site after completion of proposed #developments#, #enlargements# or #site alterations# and provide a description with supporting information of the manner in which the proposed #development#, #enlargement# or #site alteration# complies with the requirements of Local Law 103 of 1988.
- (b) An erosion and sedimentation plan as described in Section 105-37(Special Erosion and Sedimentation Prevention Requirements for Certain Authorizations and Special Permits).

(c) For any #development# or #site alteration# on a tract of land 40,000 square feet or greater, a landscape plan prepared by a registered landscape architect that shows the location and species of all new plantings of trees, shrubs and ground covers and the proposed method of preserving existing trees, shrubs and ground covers.

(d) Any other information the Commission may deem necessary to evaluate the request.

The applicant's submission shall also include a statement admitting authorized Department of City Planning personnel to the site for the purposes of recording or verifying survey data.

6/23/77

105-40

SPECIAL REVIEW PROVISIONS

The provisions of this Section shall apply to all #developments#, #enlargements# or #site alterations# located within a #Special Natural Area District#.

Prior to the issuance by the Department of Buildings of any permit for a #development#, #enlargement# or #site alteration# within a #Special Natural Area District#, the City Planning Commission shall certify to the Department of Buildings that the #development#, #enlargement# or #site alteration# is approved pursuant to Sections 105-41, 105-42, ~~or~~ 105-43 or 105-44, inclusive.

The provisions of Article VII, Chapter 8 (Special Regulations Applying to Large-Scale Residential Developments) shall apply to all #developments# and #enlargements#, where such #development# or #enlargement# is a #large-scale residential development#, except as modified by the provisions of Section 105-701 (Applicability of large-scale residential development regulations).

105-41

Certification

When it is not necessary for the applicant for a #development#, #enlargement# or #site alteration# to apply for an authorization or special permit, the City Planning Commission shall certify to the Department of Buildings that such #development#, #enlargement# or #site alteration# complies with the regulations of this Chapter, and that no authorization or special permit is required pursuant to this Chapter.

Where #natural features# are to be protected and maintained under Section 105-60 (MAINTENANCE OF NATURAL FEATURES), the Commission shall indicate in the certification specific conditions and safeguards appropriate to the designated area.

12/1/77

105-42

Authorizations to Alter Natural Features and to Allow Certain Uses

For a #development#, #enlargement# or #site alteration# located within the #Special Natural Area District#, the City Planning Commission may authorize:

- (a) modification of topographic features including existing natural topography and #top soil# pursuant to Section 105-421 (Modification of ~~existing topography~~ topographic features on Tier I sites), and modification of #steep slopes# pursuant to Section 105-422 (Authorization of a development, enlargement or site alteration on a Tier II zoning lot or portion of a zoning lot having a steep slope or steep slope buffer); or

- (b) modification of geologic features including the relocation of erratic boulders, and the alteration of rock outcrops pursuant to Sections 105-422 3(Relocation of erratic boulders) and 105-424 (Alteration of rock outcrops; or

- (c) ~~alteration~~ modification of botanic environments pursuant to Section 105-423 5 (~~Alteration Modification~~ of botanic environment ~~s~~, ~~or removal of trees~~ preservation and planting requirements); or
- (d) alteration of ~~#natural features#~~ ~~other than existing topography erratic boulders or~~ aquatic features ~~botanic environments~~, pursuant to Section 105-424 6 (~~Alteration of natural features~~ aquatic features), in NA-1, NA-2 and NA-3 Districts.

The Commission may prescribe appropriate additional conditions and safeguards to protect the character of the #Special Natural Area District#.

105-421

Modification of ~~existing topography~~ topographic features on Tier I sites

The topographic features including natural topography and #top soil#, existing at the time of designation of a #Special Natural Area District# may be modified by the City Planning Commission provided that the Commission finds that :

- (a) ~~that~~ #development#, #enlargement# or #site alteration# is not feasible without such modification, or that the requested modification will permit a #development#, #enlargement# or #site alteration# that satisfies the purposes of this Chapter;
- (b) ~~that~~ such modification, including any removal of #top soil#, will not disturb the drainage pattern and soil conditions in the area; ~~and~~
- (c) ~~that~~ such modification of topography has minimal impact on the existing ~~natural topography~~ topographic features of the surrounding area and blends harmoniously with it-;

- (d) such modification is the least modification required to achieve the purpose for which it is granted; and
- (e) the #development#, #enlargement# or #site alteration# takes advantage of the natural characteristics of the site.

Where permits are required from a city agency, the Commission shall request a report from such agency, and the provisions of Section 105-93 (Inter-agency Coordination) apply.

Note:

Current Section 105-422 (Relocation of erratic boulders) would be renumbered 105-423.

Current Special Permit 105-433 (Alteration of natural features) would be covered in Authorizations 105-426(Alteration of aquatic features) and 105-422 (Authorization of a development, enlargement or site alteration on a Tier II zoning lot or portion of a zoning lot having a steep slope or steep slope buffer).

105-422

Authorization of a development, enlargement or site alteration on a Tier II zoning lot or portion of a zoning lot having a steep slope or steep slope buffer

The City Planning Commission may authorize #developments#, #enlargements# and #site alterations# on a #Tier II zoning lot# or on portions of a #zoning lot# having a #steep slope# or #steep slope buffer#.

In order to grant such authorizations, the Commission shall find that:

- (a) the #development#, #enlargement# or #site alteration# is not feasible without such modification, or that the modification will permit a #development#, #enlargement# or #site

alteration# that satisfies the purposes of this Chapter;

- (b) such modification is the least modification required to achieve the purpose for which it is granted;
- (c) the modification has minimal impact on the existing natural topography and vegetation and blends harmoniously with it;
- (d) the modification will not disturb the drainage patterns and soil conditions of the area; and
- (e) the #development#, #enlargement# or #site alteration# takes advantage of the natural characteristics of the site.

Any #development#, #enlargement# or #site alteration# requiring an authorization pursuant to this Section shall be subject to all the requirements of this Chapter for which an authorization or special permit has not been obtained.

105-422 105-423

Relocation of erratic boulders

No erratic boulder with a diameter at any point of six feet or more may be moved from its location at the time of designation of a #Special Natural Area District# to another location within the Special District during #development#, #enlargement# or #site alteration# except in compliance with the provisions of this Section.

Prior to the moving of an erratic boulder from its present location to a location elsewhere within the #Special Natural Area District#, an application shall be filed with the City Planning Commission showing the present location and the proposed location. Moving of an erratic boulder will be permitted only by authorization of the Commission under the following circumstances:

- (a) where such a boulder is located in an area to be occupied by

#buildings#, driveways, parking areas or recreation areas and it is not possible to avoid such location by minor adjustments in the arrangement of such #buildings#, driveways, parking areas or recreation areas on the site;

- (b) where the boulder's continued existence in its present location would create hazards or dangers; ~~and~~ or
- (c) where authorizations granted by the Commission under the provisions of this Chapter require or clearly contemplate the boulder's relocation from its present position.

In issuing an authorization under this Section, the Commission shall require an appropriate relocation site, visible, if possible, from a public #street#, park, or public place, preferably on the #zoning lot# or elsewhere within the #Special Natural Area District#. The Commission may prescribe appropriate conditions to enhance the setting of the relocated boulder ~~and safeguards to protect the character of the #Special Natural Area District#.~~

105-424

Alteration of rock outcrops

The City Planning Commission may authorize the alteration of a rock outcrop, provided that:

- C the #development# or #enlargement# is not feasible without such alteration, or that the requested alteration will permit a #development# or #enlargement# that satisfies the purposes of this Chapter; or
- C such alteration is necessary to protect the health and safety of the site occupants; and
- C such #development#, #enlargement# as authorized will result in the minimum #natural feature# interference that must be

permitted in order to allow reasonable #development# or #enlargement# and #bulk# distribution under the regulations of the underlying district.

The Commission shall impose appropriate conditions and safeguards to assure protection of the portions of the area to be preserved in their natural state.

6/23/77

105-423 5

Alteration Modification of botanic environment s or removal of trees and preservation and planting requirements

~~No portion of a botanic environment shall be altered or land operations affecting botanic environments undertaken by or on behalf of present or future applicants for permits except in compliance with the provisions of this Section.~~

~~No individual tree of six-inch caliper or more shall be removed without authorization of the City Planning Commission.~~

~~Prior to any such removal, alteration or land operation, applications shall be filed with the Commission showing the location of all botanic environments indicated in Section 105-11 (Description of Natural Features) and trees of six-inch caliper or more, and identifying those which are proposed to be removed or altered. Alteration or removal of existing plant material will be permitted only by authorization of the Commission under the following circumstances:~~

- ~~(a) where plant material is located in areas to be occupied within a distance of eight feet of the exterior dimension of such facilities, and it is not possible to avoid such location by minor adjustments in the arrangement of such #buildings#, driveways, parking areas, utility lines or recreation areas on the site. If necessary to permit the construction of such facilities, exceptions may be made to~~

~~allow the removal of individual plant material located up to a distance of not more than 15 feet from the exterior dimension of such facilities; or~~

The City Planning Commission may authorize modifications to the provisions of Sections 105-31 (Botanic Environment and Tree Preservation Requirements) 105-32 (Botanic Environment and Tree Planting Requirements) and paragraph (b)(8) of Section 105-35 (Tier II Requirements for Driveways and Private Roads).

In order to grant such authorizations, the Commission shall find that:

- (a) the #development#, #enlargement# or #site alteration# is not feasible without such modifications, or that the requested modification will permit a #development#, #enlargement# or #site alteration# that satisfies the purposes of this Chapter;
- (b) such modification is the least modification required to achieve the purpose for which it is granted;
- (c) the ecology and soil conditions of the site are such that the substitution of other plant material would be as appropriate as the botanic preservation or planting requirements being modified; and
- (d) in order to modify requirements relating to tree preservation, planting or removal, the Commission shall also find that:

(b_1) where plant material such tree is located in areas which require excessive cut or fill of land deemed inimical to plant survival; or

(c_2) ~~where the plant material's~~ the continued presence of such tree would create hazards or dangers (such as an area affected by storm or plant disease) to persons, property or other plant material which it would not be possible or practical to eliminate by pruning; ~~or .~~

~~(d) where authorizations granted by the Commission under the provisions of this Chapter require or clearly contemplate the plant material's alteration or removal.~~

~~In issuing authorizations under this Section, the Commission may prescribe appropriate conditions and safeguards to protect the character of the #Special Natural Area District#.~~

Where on-site replanting of vegetation would result in overcrowding or would adversely affect the ecology of the site, the Commission may authorize planting of one or more trees on adjoining public sidewalks or in a nearby public area within the #Special Natural Area District#. The Commission may also allow the substitution of other plant material, provided a detailed landscaping plan is filed with the Commission for approval and certification.

~~12/1/77~~

105-424_6

Alteration of ~~other natural features~~ aquatic features

~~In #Special Natural Area Districts#-1 (NA-1) or 3 (NA-3), alteration of all #natural features# other than existing topography, erratic boulders or botanic environments for which alteration, modification or relocation is authorized pursuant to Sections 105-421 (Modification of existing topography or 105-422 (Relocation of erratic boulders) or 105-423 (Alteration of botanic environments or removal of trees), may be permitted by authorization of the City Planning Commission where~~

No portion of an aquatic feature shall be altered or land operations affecting aquatic features undertaken by or on behalf of present or future applicants for permits except in compliance with the provisions of this Section. The City Planning Commission may permit the alteration of aquatic features provided that:

(a) the #development# or #enlargement# is not feasible without such alteration or where such alteration will permit a #development# or #enlargement# that satisfies the purposes of this Chapter; or

(b) such alteration is necessary to protect the health and safety of the site occupants; and

~~As a condition for such alteration, the Commission shall find that the~~

(c) such #development# or #enlargement# as authorized will result in the minimum #natural feature# interference that must be permitted in order to allow reasonable #development# or #enlargement# and #bulk# distribution under the regulations of the underlying district; and

(d) such modification shall not disturb the drainage patterns in the area.

The Commission shall impose appropriate conditions and safeguards to assure protection of the portions of the area to be preserved in their natural state.

Where permits are required from a City agency for any work affecting #natural features#, the Commission shall request a report from such agency and the provisions of Section 105-93 (Inter-agency Coordination) apply.

In the event alteration of a ~~#natural feature#~~ an aquatic feature is found inappropriate, the Commission may treat an application under this Section as an application for modification of #yard# and height and setback regulations under Section 105-432.

105-43

Authorizations to Modify Bulk, Parking, Grading and Private Roads Regulations

For a #development#, #enlargement# or #site alteration# located within the #Special Natural Area District#, the City Planning Commission may authorize:

- (a) modification of #lot coverage# controls in accordance with the provisions of Section 105-431;
- (b) modification of underlying district regulations relating to #bulk# or #parking# in accordance with the provisions of Section 105-432 (Modification of yard, height and setback regulations, and parking location regulations);
- (c) modification of grading controls on accordance with the provisions of Section 105-433; and
- (d) modification of requirements for driveways and private roads on Tier II sites in accordance with the provisions of Section 105-434.

105-431

Modification of lot coverage controls

For any #development# or #enlargement# on a #Tier II zoning lot# or within a #steep slope# or a #steep slope buffer# on a #Tier I zoning lot#, the City Planning Commission may authorize variations in the #lot coverage# controls set forth in Section 105-33.

In order to grant such authorization, the Commission shall find that:

- (a) the #development# or #enlargement# is not feasible without such modification, or that the requested modification will permit a #development# or #enlargement# that satisfies the purpose of this Chapter;
- (b) by allowing the permitted #floor area# in a #building# or #buildings# of lower height to cover more land, the preservation of #hillsides# having aesthetic value to the public would be assured, and that such preservation would not be possible by careful siting of a higher #building# containing the same permitted #floor area# on less land;
- (c) such modification is the least modification required to achieve the purpose for which it is granted;
- (d) the modification has minimal impact on the existing natural topography and vegetation and blends harmoniously with it;
- (e) the modification will not disturb the drainage pattern and soil conditions of the area; and
- (f) the modification does not impair the essential character of the surrounding area.

105-432

Modification of yard, height and setback regulations, and parking location regulations

For any #development# or #enlargement# that does not qualify under provisions of Section 105-701(Applicability of large-scale residential development regulations), the City Planning Commission may authorize variations in required #front#, #rear#

or #side yards#, location of parking, driveways or curb cuts and required space between #buildings# on the same #zoning lot#, and may modify height and setback regulations for the purpose of preserving #natural features#, provided the Commission finds that:

(a) the proposed placement of #buildings# and arrangement of #open space# will not have significant adverse effects upon the light, air and privacy for existing #development# in adjacent areas or the opportunities therefore in future #development#; and

(b) will preserve significant #natural features#.

The Commission may condition such authorizations upon the joint submission of acceptable plans for #development# or #enlargement# of two or more adjacent #zoning lots# by the owners thereof.

105-433

Modification of grading controls

For any #development#, #enlargement# or #site alteration# on a #Tier II zoning lot#, the City Planning Commission may authorize variations in the grading controls set forth in Section 105-34.

In order to grant such authorization, the Commission shall find that:

(a) the #development#, #enlargement# or #site alteration# is not feasible without such modifications, or that the modifications will permit a #development#, #enlargement# or #site alteration# that satisfies the purposes of this Chapter;

(b) such modification is the least modification required to achieve the purpose for which it is granted;

- (c) the modification has minimal impact on the existing natural topography and vegetation and blends harmoniously with it;
- (d) the modification will not disturb the drainage pattern and soil conditions of the area;
- (e) the modification does not impair the essential character of the surrounding area; and
- (f) the benefits to the surrounding area from the modification outweigh any disadvantages that may be incurred thereby in the area.

105-434

Modification of requirements for private roads and driveways

For any #development#, #enlargement# or #site alteration#, the City Planning Commission may authorize variations in the requirements for #private roads# and driveways on any #Tier II zoning lot# as set forth in Section 105-35 (Tier II Requirements for Driveways and Private Roads) as well as the requirements of Sections 25-621 (Location of parking spaces in certain districts) and 25-631 (Location and width of curb cuts in certain districts).

In order to grant such authorizations, the Commission shall find that:

- (a) the #development# or #enlargement# is not feasible without such modification, or that the requested modification will permit a #development#, #enlargement# or #site alteration# that satisfies the purposes of this Chapter;
- (b) such modification is the least modification required to achieve the purpose for which it is granted;

- (c) the modification will not disturb the drainage pattern and soil conditions of the area;
- (d) the modification has minimal impact on the existing natural topography and vegetation and blends harmoniously with it; and
- (e) such modification will enhance the quality of the design of the #development#, #enlargement# or site alteration#.

12/1/77

105-43 4

Special Permit

For any #development#, #enlargement# or #site alteration# within the #Special Natural Area District#, the City Planning Commission may grant special permits for modification of the underlying district regulations in accordance with the provisions of Sections 105-431 441 to ~~Section 105-434, inclusive~~ and 105-442.

105-431 441

Modification of use regulations

In addition to any #use# modifications which may be granted under the provisions of Section 105-701 (Applicability of large-scale residential development regulations), the City Planning Commission may ~~grant special permits to allow~~ permit #semi-detached# or #attached single-family residences# in R2 Districts and #attached single-# or #two-family residences# in R3-1 Districts.

Furthermore, except in the #Special Natural Area District#-1 (NA-1), the Commission may ~~grant special permits to allow permit~~ #semi-detached# or #attached single-family residences# in R1-2 Districts provided that the #development# or #enlargement# is on a tract of land of at least four acres_±. ~~As a condition for granting such special permits the~~ and provided the Commission shall find that:

- (a) ~~that~~ the preservation of #natural features# requires the permitted #development# to be concentrated to the extent feasible in the remaining portion of the tract;
- (b) ~~that~~ for such concentration of #development#, better standards of privacy and usable #open space# can be and are achieved under the development plan by inclusion of the proposed #residential building# types;
- (c) ~~that~~ the change of housing type ~~requested~~ constitutes the most effective method of preserving #natural features#;
- (d) ~~that~~ the #aggregate width of street walls# of a number of #residential buildings# separated by party walls shall not exceed 100 feet;
- (e) ~~that~~ the proposed #street# system for the #development# is so located as to draw a minimum of vehicular traffic to and through #streets# in the adjacent area; and
- (f) ~~that~~ the existing topography, vegetation and proposed planting effectively screen all #attached single-family residences# from the #lot lines# along the #development# perimeter.

6/30/89

105-432

~~Modification of yard, height and setback regulations, and parking location regulations~~

~~For any #development# which does not qualify under provisions of Section 105-701, the City Planning Commission may authorize variations in required #front#, #rear# or #side yards#, location of parking, driveways or curb cuts and required space between #buildings# on the same #zoning lot#, and may modify height and setback regulations for the purpose of preserving #natural features# if the Commission finds that the proposed placement of #buildings# and arrangement of #open spaces# will not have significant adverse effects upon the light, air and privacy for existing #development# in adjacent areas or the opportunities therefor in future #development# and will preserve significant #natural features#.~~

~~The Commission may condition such authorizations upon the joint submission of acceptable plans for #development# of two or more adjacent #zoning lots# by the owners thereof.~~

105-433

~~Alteration of natural features~~

~~In #Special Natural Area District#-2 (NA-2), alterations of all #natural features# other than existing topography, erratic boulders or botanic environments, for which alteration, modification or relocation is authorized pursuant to Sections 105-421 (Modification of existing topography), 105-422 (Relocation of erratic boulders) or 105-423 (Alteration of botanic environments or removal of trees) may be granted by special permit of the City Planning Commission where #development# is not feasible without such alteration or where alteration is necessary to protect the health and safety of the site occupants. As a condition for such alteration, the Commission shall find that the #development#, as authorized, will result in the minimum #natural feature# interference that must be permitted in order to allow reasonable #development# and #bulk# distribution under the regulations of the underlying district.~~

~~The Commission shall impose appropriate conditions and safeguards to assure protection of the portions of the area to be preserved in their natural state.~~

~~Where permits are required from a city agency for any work affecting #natural features#, the Commission shall request a report from such agency and the provisions of Section 105-93 (Inter-agency Coordination) shall apply. In the event alteration of a #natural feature# is found inappropriate, the Commission may treat an application under this Section as an application for modification of #yard# and height and setback regulations under Section 105-432.~~

7/26/01

105-434 442

Natural area dedicated for public use

Where commonly or separately-owned areas containing #natural features# of exceptional recreational, cultural or educational value to the public are dedicated to the City, without any cost to the City, pursuant to Section 105-701 (Applicability of large-scale residential development regulations), the City Planning Commission may by special permit allow, where appropriate, such portion of the #zoning lot# to be included in the zoning computation for #floor area#, #open space#, #lot coverage#, and density regulations and other #bulk# computations.

6/30/89

105-44

~~Conditions for Certification, Authorization or Special Permits~~

~~The City Planning Commission may certify or grant an authorization or special permit for any #development# or #site alteration# within the #Special Natural Area District#, provided the #development# or #site alteration# complies with the provisions of the following Sections:~~

~~Section 105-50 (REGULATIONS FOR PROTECTION OF NATURAL FEATURES)~~

~~Section 105-60 (MAINTENANCE OF NATURAL FEATURES)~~

~~Section 105-70 (SPECIAL REGULATIONS FOR RESIDENTIAL DEVELOPMENT)~~

~~Section 105-80 (JOINT APPLICATIONS).~~

~~The provisions of Section 105-50 establish regulations for Commission review of #development#, #enlargement# or #site alteration# plans from the standpoint of the protection they afford to #natural features#. Plans which that are deficient in this regard may be rejected or required to be modified, even though they comply with all other applicable regulations of this Chapter.~~

~~The provisions of Section 105-60 establish requirements for the maintenance of #natural features#. Approval of development plans subject to such requirements is conditioned upon the Commission's approval of a maintenance plan.~~

~~Section 105-70 deals with the Commission's power to grant modifications of the applicable regulations of the underlying districts for predominantly #residential developments# so as to permit greater flexibility in the location of #buildings# and parking, driveways and curb cuts, and in the distribution of #bulk#, density and #open space# or #lot coverage# and thereby facilitate the protection of #natural features# or the preservation of natural terrain.~~

~~As a condition for certification, authorization or issuance of a special permit by the Commission, the Commission shall find that all proposed #developments#, #enlargements# or #site alterations# blend harmoniously with the #natural features# and topography of the surrounding area within a #Special Natural Area District#.~~

6/23/77

105-45

Certification of Compliance with the Special Review Provisions
Restoration Plans

On any #zoning lot# to which the provisions of Section 105-02 (General Provisions) apply, no #natural features# as described in Section 105-11 (Description of Natural Features) or any other vegetation shall be removed, altered, relocated or replaced without prior approval by the City Planning Commission as set forth in Section 105-40 (SPECIAL REVIEW PROVISIONS) of the #Special Natural Area District#.

In the event that any such features are removed, altered, relocated or replaced from a #zoning lot# without prior approval by the Commission, the Commission may specify the manner of their replacement or restoration. If trees are to be planted, the Commission may require that they be ~~six~~ three inches in caliper.

A copy of the restoration plan certified by the Commission's specifying requirements for the replacement or restoration of the #natural features# shall be issued to the owner of the #zoning lot# containing such violations and to the Department of Buildings.

Upon receipt of the Commission's certified restoration requirements, the Department of Buildings shall require the owner of the #zoning lot# to remove the violations in accordance with the requirements set forth by the Commission. If such violations have not ceased within 90 days of receipt of the Commission's requirements, the Department of Buildings shall institute such action as may be necessary to terminate the violations. For compliance with new planting requirements to remove violations, the Department of Buildings may allow an additional 90 days.

No building permit or certificate of occupancy shall be issued by

the Department of Buildings for any #development#, #enlargement#, #site alteration# or #use# on such #zoning lot# until the violations are removed from the #zoning lot# in accordance with the restoration plan certified by the Commission's requirements.

5/21/75

105-50

REGULATIONS FOR PROTECTION OF NATURAL FEATURES

The provisions of this Section establish regulations for City Planning Commission review of #development#, #enlargement# or #site alteration# plans from the standpoint of the adequacy of protection for #natural features# within a #Special Natural Area District#. Plans that are deficient in this regard may be rejected or required to be modified, even though they comply with all other applicable regulations of this Chapter.

These regulations are to be used by the Commission in reaching a determination whether to approve #development#, #enlargement# or #site alteration# plans filed pursuant to Sections 105-41 (Certification), 105-42 (~~Special~~ Authorizations to Alter Natural Features), or 105-43 (Authorizations to Modify Bulk, Parking, Grading and Private Roads Regulations, or 105-44 (Special Permits).

The Commission, where appropriate, shall be guided by the reports from other city agencies involved in land contour work, storm water drainage systems and similar operations affecting #natural features#.

In determining the necessary alteration of #natural features# or extent of modifications involved in a #development#, #enlargement# or #site alteration#, the Commission shall be guided by the effect of any alteration of a #natural feature# on the total ecological process of the surrounding natural environment including the following: the effect of such

alteration on the existing topography, soil conditions, erosion, natural flow of water and drainage, water quality, and animal, plant and marine life.

Further guidelines for the protection of #natural features# are ~~listed below~~:

- (a) No #natural feature# shall be moved, removed, covered, diminished, broken or disfigured, unless permitted pursuant to the provisions of Sections 105-30 (PRESERVATION OF NATURAL FEATURES) and 105-40(SPECIAL REVIEW PROVISIONS). Furthermore, topsoil shall neither be removed from the surface of any #zoning lot# nor covered with inferior material unless permitted pursuant to ~~Section 105-21 (Modification of Existing Topography)~~105-40(SPECIAL REVIEW PROVISIONS). Where existing topography is altered without prior authorization of the Commission, the Commission may require new grading or other topographical modifications or surface improvement to reestablish the viability and function of the soil as a growing medium, and as a drainage surface, in order to permit the site to blend harmoniously with the surrounding area of the Special District.
- (b) Filling, excavating, draining, dredging, grading and contouring shall be staged and controlled so as to minimally impair the function, composition, vitality and existence of #natural features#. When and where possible, such operations shall be done in a manner so as to maintain or improve the biological system and individual features on the site.
- (c) All filling, excavating, draining, dredging, grading and contouring shall avoid creation of #steep slopes# or conditions causing erosion, loss of fertility of soil, health or safety hazards, and shall be done in conformance with the limits and nature of the soil involved.
- (d) All land operations including filling, excavating, draining, dredging, grading and contouring shall be limited to those operations which maintain or restore natural drainage, cause a minimum disturbance of the #natural features# and their

setting while providing for the #development#, #enlargement# or #site alteration# or permitted #uses#.

- (e) No #development# , #enlargement# or #site alteration# shall be such as to impede or change the quality, turbidity, temperature or chemical composition of natural drainage or aquatic features.
- (f) A #development# , #enlargement# or #site alteration# shall be permitted only in areas sufficiently removed from the #natural features# to avoid impairment of their existence, functions or beauty.
- (g) There shall be maximum preservation of all natural vegetation in and adjacent to the #natural features# found on the site. Plant communities which have been substantially reduced in area or composition as a result of a #development# , #enlargement# or #site alteration# shall be restored, extended or replaced by alternative plant materials with an adequate maintenance program. In no case shall the site be allowed to be denuded and without vegetational cover upon completion of the #development# , #enlargement# or #site alteration#.
- (h) Replacement of any #natural feature# and planting of new vegetation on a site in the Special District shall be such as to extend, reinforce, increase the diversity, function and vitality of an association or community in the area. Special attention shall be given to symbiotic relationships between plants and the relationship between vegetation to be planted and animal populations which are dependent upon or related to the proposed vegetation. Where appropriate, planting shall include trees, shrubs, vines, ferns, grasses, herbs, annuals, biennials, perennials, mosses, and other associated vegetation.
- (i) Adequate provision shall be made for proper management and maintenance of #natural features# and their immediate surroundings to avoid pollution, loss of vigor, reduction in composition or function or other ecological damage.

- (j) Where appropriate, when a portion of a #natural feature# or its function must be altered, such alteration shall not only reinforce the function, vitality and existence of the remaining portion of the #natural feature# but also improve conditions for other #natural features#. This shall apply particularly but not exclusively to the removal and replanting of plant materials.
- (k) Where appropriate, a #development# , #enlargement# or #site alteration# shall be such as to leave #natural features# intact in their natural setting and, where feasible, visible from public #streets# or places.
- (l) For a #steep slope#, ~~the primary concerns are the preservation of natural beauty and the prevention of hillside erosion, landslide, and excessive runoff. Additional concerns arise where the #steep slope# area is part of the watershed of a creek, stream, brook, lake, pond or swamp. Accordingly, these additional requirements apply:~~
- (1) In all #Residence Districts#, for #residential developments#, on individual #zoning lots# substantially within a #steep slope# area, the #lot area per dwelling unit# requirement shall not be less than 12,500 feet. Except in R1 Districts located in ~~the~~ #Special Natural Area District#-1 (NA-1), the Commission may, for a tract of land of at least ~~4.0~~ four acres substantially within the #steep slope# area, modify, by authorization, the #lot area per dwelling unit# requirement set forth ~~above, in this paragraph~~ for the #steep slope# area, and may allow #development# to be concentrated in clusters to preserve the #steep slope# areas in their natural state, provided that such clusters are located to the extent feasible in areas of comparatively flat topography and will not require unnecessary grading on adjacent slopes or the creation of new #steep slopes#.
- (2) In no event shall the #lot area per dwelling unit# requirement be less than the amount required by the underlying district regulations.

- (3) Existing vegetational cover in steep areas shall not be removed, destroyed or damaged except pursuant to #development# and grading plans approved by the Commission. An objective of such plans shall be to fit #street# layouts and #building# designs to the natural terrain, limit grading to a practical minimum and provide for maximum preservation of the natural terrain and vegetational cover.

12/19/74

105-60

MAINTENANCE OF NATURAL FEATURES

For any #development# , #enlargement# or #site alteration# on a tract of land within a #Special Natural Area District#, the City Planning Commission may require a maintenance plan for a #natural feature#. Where a maintenance plan is required, approval of the development plan and the granting of any certification, authorizations or special permit shall be conditioned upon the Commission's approval of the maintenance plan.

The maintenance plan shall specify what the maintenance is to consist of and whose responsibility it will be, and shall provide assurance that maintenance will be satisfactorily executed. The Commission, in considering the maintenance needs of a particular #natural feature# and the content of an acceptable maintenance plan shall, where appropriate, refer all relevant plans to the Landmarks Preservation Commission, Department of Parks or other City agency with primary responsibilities in natural areas conservation, for its report thereon. The Commission shall, in its determination, give due consideration to any such report submitted within one month from the date of referral. If such City agency does not report within one month, the Commission may make a final determination without reference thereto.

For #natural features# for which the Commission determines that specialized maintenance and regulated public #use# are appropriate, the maintenance plan may provide for dedication of the #natural feature# to the City or an approved private

conservation organization for responsible maintenance in the public interest.

12/19/74

105-70

SPECIAL REGULATIONS FOR RESIDENTIAL DEVELOPMENT

In order to carry out the purposes of this Chapter, all #developments# used predominantly for #residential use# shall ~~shall~~ may be subject to the provisions of this Section.

5/21/75

105-701

Applicability of large-scale residential development regulations

The provisions of Article VII, Chapter 8 (Special Regulations Applying to Large-Scale Residential Developments) shall apply except as modified by the provisions of this Section.

Any #development# used predominantly for #residential uses# shall ~~shall~~ may be treated as a #large-scale residential development#, and authorizations or special permits for such #development# may be granted in accordance with the provisions of Article VII, Chapter 8, as modified herein, or in Section 105-80 (JOINT APPLICATIONS), regardless of whether such #development# will have the area, number of #buildings# or number of #dwelling units# specified in the definition of #large-scale residential development# as set forth in Section 12-10 (DEFINITIONS).

However, in R1 Districts located in the #Special Natural Area District#-1 (NA-1), no modification of minimum required #lot area# as set forth in Section 23-32 (Minimum Lot Area or Lot Width for Residences) shall be allowed for any #development# pursuant to paragraph (c) of Sections 78-311 (Authorizations by

the City Planning Commission) or Section 78-32 (Bonus for Good Site Plan) but modifications of required #front# or #rear yards# and height and setback regulations on the periphery of such #development#, pursuant to paragraphs (c) and (d) of Section 78-312 (Special permit authorizations), shall apply. Modification of #side yards# of all #developments#, including #developments# in R1 Districts, shall be subject to the provisions of Section 105-432 (Modification of yard, height and setback regulations, and parking location regulations).

Bonuses which may be granted for #large-scale residential developments#, pursuant to Section 78-32 (~~Bonus for Good Site Plan~~) through Section 78-35 (Special Bonus Provisions), may not be granted for #developments# which have less than 10 acres and less than the number of #buildings# or number of #dwelling units# required by the definitions of a #large-scale residential development#.

Commonly or separately-owned areas containing #natural features# may qualify as common #open space# for purposes of satisfying #open space# requirements in #residential developments#.

Approval by the Commission of a development plan incorporating #natural features# as common #open space# shall be conditioned upon the findings required in Sections 78-313 (Findings) and 78-52 (Common Open Space) with respect to the qualification of areas as common #open space# and upon additional findings that appropriate safeguards are provided for the protection and preservation of such #natural features#. In the case of #natural features# ~~which that~~ are determined to have qualities of exceptional recreational, cultural or educational value to the public and ~~which that~~ are directly accessible to the public from a public right-of-way, the applicant may request the City to take title or a less than fee interest in the property occupied by such a #natural feature# without any cost to the City or its designee for #use# and enjoyment by the public subject to the provisions of Section 105-60 (MAINTENANCE OF NATURAL FEATURES).

12/19/74

105-80

JOINT APPLICATIONS

Notwithstanding the provisions of Section 78-06 (Ownership), a tract of land which is the subject of an application for authorizations or special permits under the provisions of this Chapter may include adjacent property in more than one ownership, provided that the application is filed jointly by the owners of all property included. Any subdivision of the tract reflecting ownerships at the time of application or creating new ownerships before, during or after #development# shall be subject to the provisions of Section 78-51 (General Provisions).

5/28/81

105-90

FUTURE SUBDIVISION

Within a #Special Natural Area District#, any #zoning lot# existing on the effective date of the Special District designation may be subdivided into two or more #zoning lots#; provided that #natural features# are preserved to the greatest extent possible under future #development# options.

A plan for such subdivision shall be filed with the City Planning Commission and the Commission shall certify that such subdivision complies with this objective. The subdivision plan shall include a survey map indicating existing topography and other #natural features# within this area. When a #zoning lot#, existing on the effective date of the Special District designation; is more than 10 acres and is intended to be subdivided, an area plan of the entire #zoning lot# shall be filed with the Commission. The area plan shall include the proposed #street# system within the area, #block# layouts and any other information required by the Commission.

When any #zoning lot# is subdivided into two or more #zoning lots#, all resulting #zoning lots# ~~which~~ that lie substantially

within a #steep slope# area existing as of December 19, 1974, shall be subject to the #steep slope# provisions of Section 105-50 (REGULATIONS FOR PROTECTION OF NATURAL FEATURES) and all other provisions of this Chapter, as applicable.

~~Any #zoning lot# subdivided into two or more #zoning lots# after May 28, 1981 shall be subject to the #lot area per dwelling unit# standard in accordance with Section 105-20 (PROTECTION OF NATURAL FEATURES).~~

In the event that #natural features# on any #zoning lot# subject to the provisions of Section 105-02 (General Provisions) proposed for subdivision have been removed, altered, relocated or replaced from the #zoning lot# without prior approval by the Commission, as set forth in Section 105-40(SPECIAL REVIEW PROVISIONS), the Commission shall not approve the subdivision until violations are removed from the #zoning lot# in accordance with the Commission's requirements under Section 105-456 (Certification of Compliance with the Special Review Provisions).

~~12/19/74~~

105-91

Special District Designation on Public Parks

When a #Special Natural Area District# is designated on a #public park# or portion thereof, any #natural features# existing on December 19, 1974 within such area shall not be removed, destroyed or altered unless authorized by the City Planning Commission. As a condition for granting such authorization, the Commission shall find that any alteration of #natural features# is the least alteration required to achieve the purpose intended and such authorization is consistent with the intent of the #Special Natural Area District#.

12/19/74

105-92

Special Provisions for City-Owned Land

For any #development# or #site alteration# on city-owned land located within a #Special Natural Area District#, the provisions of Section 105-40 (SPECIAL REVIEW PROVISIONS) shall apply, except that modifications permitted under Section 105-43 ~~4~~(Special Permits) may be approved by ~~authorization of~~ the City Planning Commission.

Furthermore, provisions of Section 105-93 (Inter-agency Coordination) apply to all #developments# or #site alterations# on City-owned land. However, the provisions of this Chapter shall not apply to any public improvement project approved by the Board of Estimate prior to the effective date of the Special District designation.

~~12/19/74~~

105-93

Inter-agency Coordination

Where an authorization or permit is required from the City Planning Commission pursuant to this Chapter and where a permit is required from the Departments of Transportation or Buildings for land contour work, by the Department of Environmental Protection for storm water drainage systems for #buildings# or adjacent areas or where construction of a public improvement project is undertaken by a ~~City~~ agency, the Department of City Planning and the agencies involved shall jointly determine the conditions under which such proposed #development#, ~~#enlargement#~~ or #site alteration# within a #Special Natural Area District# will best meet the purposes of the Special District. Applications for any required permit or authorizations shall be filed simultaneously with each agency requiring a permit. ~~Where differences exist among agencies concerning a proposed #development# or #site alteration# within the Special District, a three-member Inter-agency Board of Conservation of Natural Features shall arbitrate prior to the issuance of any permit.~~

~~Such Board shall consist of:~~

~~the Deputy Mayor;~~

~~the Chairperson of the City Planning Commission; and~~

~~the Commissioner of the agency directly involved.~~

~~The Deputy Mayor shall be the Chairperson of the Inter-agency Board.~~

5/21/75

105-94

Special Natural Area Districts Specified

* * *

105-944

Special Fort Totten Natural Area District-4

* * *

(c) General requirements

(1) Requirements for applications

An application to the City Planning Commission for any #development# within the Special District shall be subject to the requirements of Section ~~105-21~~ 105-021.

* * *

(d) Special regulations

* * *

(2) Special height regulations

In order to preserve the unique character of the Special District and to protect the views of and to the water within the Special District, Section 23-631 Height and setback in R1, R2, R3, R4 ~~or~~ and R5 Districts) shall apply except . . .

* * *

(7) Planned community area (Area B)

* * *

(f) permitted or required #accessory# off-street parking spaces to be located anywhere within the #development# without regard to #zoning lot lines#, or the provisions of Sections ~~25-821~~ 25-621 (Location of parking spaces in certain districts) and . . .

APPENDIX B

Glossary

* * *

[*Note: Appendices A and B are unchanged. The proposed amendment*

would add Appendix C, D, E - shrub and tree lists as follows]

APPENDIX C

Selection List for Ground Covers and Shrubs

Ground Covers

<u>BOTANICAL NAME</u>	COMMON NAME
Adiantum pedatum	Maidenhair fern
Agrostis perennans (A. altissima)	Autumn bent-grass
Anaphalis margaritacea	Pearly everlasting
Andropogon gerardii	Big Bluestem
Andropogon glomeratus	Bushy bluestem
Andropogon virginicus	Broom Sedge
Anemone canadensis	Canada anemone
Antennaria plantaginifolia	Plantain-leaved pussytoes
Arctostaphylos uva-ursi	Bearberry
Asarum canadense	Wild ginger
Aster cordifolius	Heart-leaved aster
Aster divericatus	White wood aster
Aster ericoides	Heath aster
Aster lanceolatus (A. simplex)	Lined aster
Aster macrophyllus	Large-leaved aster
Aster novae-angliae	New England aster
Athyrium felix-femina (A. asplenoides)	Lady fern
Athyrium thelypteroides	Silvery glade fern
Carex appalachica (C. radiata)	Sedge
Carex pensylvanica	Pennsylvania sedge
Chimaphila maculata	Spotted or stripped wintergreen/Pipsissewa

<i>Chimaphila umbellata</i>	Pipsissewa, Prince's pine, Bitter wintergreen
<i>Chrysopsis mariana</i>	Maryland golden aster
<i>Danthonia compressa</i>	Flattened oat grass
<i>Danthonia spicata</i>	Oatgrass, Poverty grass
<i>Dennstaedtia punctilobula</i>	Hay-scented fern
<i>Deschampsia caespitosa</i>	Tufted hair grass
<i>Deschampsia flexuosa</i>	Common hair grass, Crinkled hair grass
<i>Dryopteris intermedia</i>	Common wood fern
<i>Dryopteris marginalis</i>	Marginal wood fern, Leatherleaf wood fern
<i>Erigeron philadelphicus</i>	Daisy fleabane
<i>Eupatorium maculatum</i>	Spotted Joe-Pye-Weed
<i>Eupatorium rugosum</i>	White snakeroot
<i>Eupatorium sessilifolium</i>	Upland boneset
<i>Fragaria virginiana</i>	Wild strawberry, Virginia strawberry
<i>Gaultheria hispidula</i>	Creeping snowberry, Creeping pearl berry
<i>Gaultheria procumbens</i>	Wintergreen, Teaberry, Checkerberry
<i>Geranium maculatum</i>	Wild geranium, Spotted cranesbill
<i>Geum canadense</i>	White avens, Winter rosette
<i>Heuchera americana</i>	Hairy alum root, Rock geranium
<i>Hypericum ellipticum</i>	Pale St. John's Wort
<i>Muhlenbergia schreberi</i>	Nimblewill
<i>Oenothera fruticosa</i>	Sundrops, Wild beet, Suncups, Scabish
<i>Onoclea sensibilis</i>	Sensitive fern, Bead fern
<i>Osmunda claytoniana</i>	Interrupted fern
<i>Panicum clandestinum</i>	Deer tongue grass
<i>Panicum virgatum</i>	Switch grass, Wild red top, Thatch grass

<i>Parthenocissus quinquefolia</i>	Virginia creeper, Woodbine, American ivy
<i>Phlox subulata</i>	Mountain phlox, Moss pink, Moss phlox
<i>Polygonatum biflorum</i>	Smooth Solomon's seal, True King Solomon's seal
<i>Polygonatum virginianum</i> (<i>Tovaria</i> v.)	Jumpseed
<i>Polypodium virginianum</i>	<i>P. vulgare</i> , Rocky polypody, Am. wall fern
<i>Polystichum acrostichoides</i>	Christmas fern, Dagger fern, Canker break
<i>Rudbeckia hirta</i> var. <i>hirta</i>	Black-eyed Susan
<i>Rudbeckia triloba</i>	Thin-leaved cone flower
<i>Thelypteris noveboracensis</i>	New York fern
<i>Tiarella cordifolia</i>	Allegheny foamflower, False mitrewort
<i>Tradescantia virginiana</i>	Virginia Spiderwort, Common S., Widow's tears
<i>Verbena hastata</i>	Blue vervain
<i>Vernonia noveboracensis</i>	New York ironweed
<i>Verbesina alternifolia</i> (<i>Actinomeria</i> a.)	Wingstem
<i>Viola sororia</i>	Wooly blue violet sister violet, Dooryard violet

Shrubs

<i>Amelanchier canadensis</i>	Shadblow
<i>Amelanchier laevis</i> (<i>A. arborea</i>)	Serviceberry, Allegheny
<i>Aronia arbutifolia</i>	Red chokeberry
<i>Aronia melanocarpa</i>	Black chokeberry
<i>Clethra alnifolia</i>	Sweet pepperbush, Summersweet
<i>Comptonia peregrina</i>	Sweet fern, Meadow fern, Spleenwort bush
<i>Cornus amomum</i>	Silky dogwood

<i>Cornus racemosa</i>	Gray dogwood, Red-panicled dogwood
<i>Cornus sericea</i> (<i>C. stolonifera</i>)	Red osier dogwood
<i>Corylus americana</i>	American hazelnut
<i>Corylus cornuta</i>	Beaked hazelnut
<i>Diervilla lonicera</i>	Bushhoneysuckle, Blue herb, Gravel weed
<i>Hamamelis virginiana</i>	Witch hazel
<i>Ilex glabra</i>	Inkberry, Gallberry
<i>Ilex verticillata</i>	Winterberry
<i>Juniperus communis</i>	Common juniper
<i>Juniperus horizontalis</i>	Creeping juniper, Creeping cedar/ Savin
<i>Kalmia angustifolia</i>	Sheep laurel
<i>Kalmia latifolia</i>	Mountain laurel
<i>Lindera benzoin</i>	Spice bush
<i>Myrica pensylvanica</i>	Northern bayberry
<i>Physocarpus opulifolius</i>	Common ninebark
<i>Potentilla fruticosa</i>	Cinquefoil, Bush cinquefoil
<i>Rhododendron maximum</i>	Great laurel
<i>Rhododendron periclymenoides</i>	Pinkster azalea
<i>Rhododendron viscosum</i>	Swamp azalea
<i>Rhus aromatica</i>	Fragrant sumac, Sweet scented sumac/Lemon sumac
<i>Rhus copallina</i>	Winged sumac
<i>Rhus glabra</i>	Smooth sumac
<i>Rhus typhina</i>	Staghorn sumac
<i>Rosa blanda</i>	Smooth rose, Meadow rose
<i>Rubus alleghaniensis</i>	Common blackberry, Allegheny blackberry
<i>Salix humilis</i>	Prairie willow
<i>Salix lucida</i>	Shining willow
<i>Sambucus canadensis</i>	American elderberry
<i>Spirea tomentosa</i>	Hardhack spirea
<i>Vaccinium angustifolium</i>	Lowbush blueberry

Vaccinium corymbosum	Highbush blueberry
Viburnum acerifolium	Maple leaf viburnum
Viburnum alnifolium (V. Lantanoides)	Hobble bush
Viburnum dentatum	Arrowwood viburnum
Viburnum lentago	Nanny-berry
Viburnum prunifolium	Black-haw

APPENDIX D

Selection List for On-site Trees

Small Trees

BOTANICAL NAME	COMMON NAME
Amelanchier laevis	Serviceberry
Betula nigra	River birch
Betula populifolia	Grey birch
Carpinus caroliniana	Hornbeam
Cercis canadensis	Eastern redbud
Cornus florida	Flowering dogwood
Crataegus crus-galli inermis	Thornless cockspur hawthorn
Crataegus phaenopyrum	Washington hawthorn
Hamamelis virginiana	Witch hazel
Ilex opaca	American holly
Juniperus virginiana	Eastern red cedar
Populus tremuloides	Quaking aspen

LARGE TREES

BOTANICAL NAME	COMMON NAME
Acer rubrum	Red maple
Acer saccharum	Sugar maple
Betula lenta	Black/Sweet birch

<i>Betula papyrifera</i>	Paper birch
<i>Celtis occidentalis</i>	Common hackberry
<i>Chamaecyparis thyoides</i>	Cedar, Atlantic white
<i>Fagus grandifolia</i>	American beech tree
<i>Fraxinus americanum</i>	Ash, white
<i>Fraxinus pennsylvanica</i>	Ash, green
<i>Larix laricina</i>	Tamarack/American larch
<i>Liquidambar styraciflua</i>	Sweet gum
<i>Liriodendron tulipifera</i>	Tulip tree
<i>Nyssa sylvatica</i>	Black tupelo
<i>Picea rubens</i>	Spruce, red
<i>Pinus resinosa</i>	Pine, red
<i>Pinus rigida</i>	Pine, pitch
<i>Pinus strobus</i>	Pine, eastern white
<i>Platanus occidentalis</i>	American Sycamore
<i>Populus deltoides</i>	Eastern cottonwood
<i>Populus grandidentata</i>	Aspen, big toothed
<i>Quercus alba</i>	White oak
<i>Quercus borealis</i>	Northern red oak
<i>Quercus palustris</i>	Pin oak
<i>Quercus phellos</i>	Willow oak
<i>Quercus prinus</i>	Chestnut oak
<i>Quercus rubra</i>	Red oak
<i>Tilia americana</i>	Basswood

APPENDIX E

Selection List for Street Trees`

Street Trees

BOTANICAL NAME	COMMON NAME
<i>Acer rubrum</i>	Red maple

<i>Amelanchier canadensis</i>	Shadbush, Serviceberry
<i>Carpinus caroliniana</i>	American hornbeam, Musclewood
<i>Celtis occidentalis</i>	Hackberry
<i>Crataegus crus-galli inermis</i>	Thornless cockspur hawthorn
<i>Crataegus phaenopyrum</i>	Washington hawthorn
<i>Fraxinus pennsylvanica</i>	Green ash
<i>Fraxinus americana</i>	White ash
<i>Ginkgo biloba</i> (male trees only)	Ginkgo
<i>Gleditsia triacanthos inermis</i>	Honey locust, thornless
<i>Liquidambar styraciflua</i>	Sweet gum
<i>Nyssa sylvatica</i>	Tupelo, swamp
<i>Ostrya virginiana</i>	American hop hornbeam
<i>Quercus palustris</i>	Pin oak
<i>Quercus stellata</i>	Post oak
<i>Quercus phellos</i>	Willow oak
<i>Quercus rubra</i>	Northern red oak
<i>Taxodium distichum</i>	Bald cypress
<i>Tilia americana</i>	Basswood
<i>Tilia cordata</i>	Little leaf linden

(End)

The above resolution (N 050093 ZRY), duly adopted by the City Planning Commission on January 5, 2005 (Calendar No. 24), is filed with the Office of the Speaker, City Council, and the Borough President in accordance with the requirements of Section 197-d and 200 of the New York City Charter.

AMANDA M. BURDEN, AICP, Chair

KENNETH KNUCKLES, Esq., Vice-Chair

IRWIN G. CANTOR, P.E., ANGELA R. CAVALUZZI, R.A., AFRED C. CERULLO, III,

RICHARD W. EADDY, JANE D. GOL, CHRISTOPHER KUI, JOHN MEROLO,

KAREN A. PHILLIPS, DOLLY WILLIAMS, Commissioners

LISA A. GOMEZ, Commissioner, ABSTAINED