



## **CITY PLANNING COMMISSION**

May 20, 2009/Calendar No. 11

N 090302 ZRX

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**IN THE MATTER OF** an application submitted by the Department of City Planning pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, relating to Article VI, Chapter 2 (Special Regulations Applying in the Waterfront Area); Article VIII, Chapter 7 establishing the Special Harlem River Waterfront District; and Article XII, Chapter 3 (Special Mixed Use District) specifying a Special Mixed Use District (MX-13) and amending related sections of the Zoning Resolution, Community District 1, Borough of The Bronx.

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The application for an amendment of the Zoning Resolution was filed by the Department of City Planning on January 29, 2009. The proposed zoning text amendments, in conjunction with the related actions, would facilitate new development in the Lower Concourse area of, Community District 1, Borough of the Bronx.

### **RELATED ACTIONS**

In addition to the proposed amendments to the Zoning Resolution, which is the subject of this report (N 090302 ZRX), implementation of the proposal also requires action by the City Planning Commission on the following applications, which are being considered concurrently with this application:

**C 090303 ZMX:** Amendment of the Zoning Map

**C 090166 MMX:** Amendment to the City Map to establish a park along the Harlem River

### **Background**

The Department of City Planning, working closely with elected officials, Community Board 1, property and business owners, and residents is proposing a comprehensive

zoning strategy to revitalize an underutilized, but strategically located 30-block area in the South Bronx. The area generally bounded by the Harlem River to the west, E. 149th Street to the north, Morris and Lincoln Avenues to the east, and the Major Deegan Expressway to the south is located in the southwestern corner of the Bronx, Community District 1.

The southernmost portion of the Grand Concourse runs through the center of the area, making this a high-profile gateway to the South Bronx. This area shapes the first impression of the borough for commuters on the subway, commuter rail, several bridges from Manhattan, and the Major Deegan Expressway. However, unlike the more historic parts of the Grand Concourse to the north, the southernmost portion of the Concourse is characterized by single-story automotive uses. The two blocks of Harlem River waterfront in this area are characterized by open air waste transfer and bus parking facilities and self storage and moving facilities. The rest of the area is characterized by a mix of multi-story lofted buildings, single-story automotive and industrial buildings, and vacant or unimproved land.

This area has historically been industrial, with a mix of 4 to 12 story lofted buildings and lower-rise industrial and automotive uses. However, several multistory lofted buildings stand partially vacant, many waterfront lots are underutilized or vacant, and employment has declined over the past two decades. In the past decade, however, the South Bronx has enjoyed a resurgence of housing development, leaving

a shortage of available sites for much-needed new housing. Current zoning in the Lower Concourse does not allow residential development, limiting opportunities to redevelop underutilized property.

Transit access is excellent in the Lower Concourse, with the first stops in the Bronx on the 2, 4, and 5 express trains, and the 6 local train. The entire proposed rezoning area is within walking distance of a subway station. Vehicular access is provided by the Major Deegan and Bruckner expressways, several arterial streets, including the Grand Concourse, Third Avenue, 149th Street, and 138th Street, and the 145th Street, Madison Avenue, and Third Avenue bridges into Manhattan.

### ***Land Use and History***

In the nineteenth century, an active port and numerous rail connections brought a number of industrial businesses including garment and piano factories to this area. Changes in the economy and the desire for larger modern industrial space led to a decline in manufacturing firms and jobs in this area during the latter half of the twentieth century. The Oak Point Rail Link was built along the Harlem River through this area in the 1990's in order to divert freight traffic away from busy commuter rail lines. However, the waterborne route cut off access to waterfront lots in this area and precluded waterfront-dependent uses. The waterfront is presently characterized by uses which do not take advantage of their waterfront location such as bus parking, construction waste recycling, and personal self-storage. Despite decreases in

employment and number of firms, a number of businesses remain in this area. Storage and light industrial uses, including personal self-storage, warehousing, distribution, and woodworking uses occupy about 40% of the land area within the Lower Concourse.

However, the decline in manufacturing has left large proportion of vacant and non-industrial space. Current studies show there is a 22% vacancy rate within existing buildings in the rezoning area. An additional 22% of the buildings are used for non-industrial uses such as office, retail, and community facilities. 13% of the total built area is used for personal self-storage, a low-employment use. Only three new buildings have been built since 1980, and only 10 have been built since the current zoning was enacted in 1961. New construction has consisted primarily of automotive service and personal self-storage facilities, rather than job-intensive industrial businesses.

The areas surrounding the Lower Concourse to the north and south have seen a number of recent developments. The Port Morris/ Bruckner Boulevard Mixed-Use zoning district, located directly to the south of the Lower Concourse study area, was first mapped in 1997 and expanded in 2005. To date, this rezoning has resulted in the conversion of several buildings into more than 300 new residential units, along with the rehabilitation of several existing row-houses and apartment buildings. The Gateway Center, currently under construction, will bring approximately one million

square feet of new retail space directly north of 149th Street. Across from the Gateway Center, a new 9-acre waterfront park is under construction along the Harlem River directly north of the Lower Concourse.

## **EXISTING ZONING**

The proposed Lower Concourse rezoning area consists primarily of M1-2 and M2-1 manufacturing districts. A small area on the eastern portion of study area is zoned R6 and two blocks in the north are zoned C4-4. Residential uses are not permitted in manufacturing zones.

### ***M1-2***

A 21-block area currently zoned M1-2 comprises most of the proposed rezoning area. These blocks contain a mix of uses, including warehouses, self-storage, auto repair shops, partially-vacant multistory loft buildings, construction-related businesses, and several vacant lots. M1-1 districts generally permit light industrial, commercial and limited community facility uses. Manufacturing and commercial uses have a maximum floor-area ratio (FAR) of 2.0 and community facilities have a maximum FAR of 4.8. There are no height limits, and building heights and setbacks are governed by the sky exposure plane. The commercial, manufacturing, and community facility parking requirements vary with use.

### ***M2-1***

A five-block area consisting of two blocks along the waterfront and three adjacent upland blocks south of E. 138th Street are currently zoned M2-1. This area contains a mix of uses including parking lots and a construction waste transfer station on the waterfront, personal self-storage, warehouses, wholesale distributors, auto repair, and vacant land. The existing M2-1 district has a maximum commercial/manufacturing FAR of 2.0 and parking requirements vary by use. M2-1 districts occupy the middle ground between light and heavy industrial areas. A range of manufacturing uses are permitted, but most community facilities are not allowed in M2-1 zoning districts.

### ***C4-4***

A 2-block area located south of E. 149th Street and west of Walton Avenue is currently zoned C4-4. These blocks contain a mix of uses, including permanent and temporary classroom space for Hostos College, a community basketball center, warehouse, and light industrial uses. C4-4 districts are medium-density commercial districts which permit commercial office, retail, residential, and community facility uses. Commercial uses have a maximum FAR of 3.4, residential uses have a maximum FAR of 3.44, and community facilities have a maximum FAR of 6.5. There are no height limits, and building heights and setbacks are governed by the sky exposure plane. The residential parking requirement provides one parking space for 50% the number of residential units. The commercial and community facility parking requirements vary with use.

## **R6**

A two-block area consisting of a public school and its adjacent parking lot is currently zoned R6. These blocks are located south of E. 142nd Street, west of Morris Avenue, north of E. 140th Street, and east of Rider Avenue. R6 zoning districts have a maximum FAR of 2.43 for residential and 4.8 for community facility. The residential parking requirement provides one parking space for 70% of the number of residential units. The community facility parking requirements vary with use.

## **PROPOSED ACTIONS**

The proposal seeks to achieve the following objectives:

- Create new housing opportunities
- Encourage the development of new affordable housing
- Retain viable light industry
- Provide new waterfront open space to an underserved community
- Connect communities to each other and to the waterfront
- Redevelop vacant land and lofts

The proposal includes a zoning text amendment, a zoning map amendment and an amendment to the city map.

## **Zoning Text Amendment (N 090302 ZRX)**

The proposed text amendment has several key elements:

- Establishing the Special Harlem River Waterfront District (HRW)
- Creating the Harlem River Waterfront Access Plan
- Establishing of an MX-13 (Lower Concourse) Mixed Use District
- Applying the Inclusionary Housing Program in the rezoning area
- Eliminating the need for large grocery stores to obtain special permits in M1 districts

### **Special Harlem River Waterfront District (HRW)**

The HRW would modify the bulk regulations of the waterfront zoning provisions of the Zoning Resolution to ensure that development creates an attractive and inviting waterfront. The HRW would also control building heights, massing, and FAR in order to facilitate orderly waterfront development. Nine development parcels (Parcels 1 -9) have been identified. Select details of the regulations are as follows:

- To ensure development maintains a human scale along the waterfront, minimum/ maximum Base Heights will be established at 60/ 85 feet except parcels 5 and 6 where a minimum/maximum base height of 20/40 feet. would be established.
- To guarantee a variety of structures along the waterfront, a maximum base length of 300 feet would be established (except on parcel 1).
- To create a varied skyline, only one tower is allowed per base on zoning lots smaller than 130,000 square feet and only two towers per base allowed on larger zoning lots. If there are two towers on one zoning lot, one may rise to the maximum height, all other towers are restricted to 260 feet.



- To maximize waterfront views, the area’s main asset, and to avoid a wall of buildings that would obstruct upland views of the waterfront, tall but slender towers would be allowed. Maximum tower height is 400 feet. on lots of 100,000 square feet or more, and 300 feet for lots smaller than 100,000 square feet. The maximum width of a tower wall would be 135 feet.
- To facilitate a strong streetscape and to maximize utility of the waterfront open spaces, the special district will provide incentives to develop loop roads to reach the waterfront on parcels 1-4. Properties that require supplemental public access areas shall be allowed to count the loop road as the supplemental area if an access easement is provided to adjacent properties.
- To encourage activity and “eyes on the street” along the waterfront, the main entry of a building must front the shore public walkway on parcels 1-4 and 20% of each base front of a building must be active uses.
- To meet the goals of the plan and ensure a full range of uses along the waterfront, each square foot of retail use, defined as all commercial uses except office or hotel uses, must be matched with an equal amount of residential, community facility, office or hotel use. An authorization would be available to allow retail-predominant development provided that a project meets findings with regard to site plan and pedestrian access.

### **Harlem River Waterfront Access Plan**

The proposed zoning text amendment would create a Waterfront Access Plan (WAP) for property along the Harlem River from E. 149th Street to the prolongation of Park Avenue south of the Metro North viaduct. A Waterfront Access Plan (WAP) is a specific plan, set forth in the Zoning Resolution that tailors public access requirements of waterfront zoning to the specific conditions of a particular waterfront. The WAP establishes specific locations for public access areas including the Shore Public Walkway (SPWW) and Supplemental Public Access Area (SPAA), view corridors as well as upland connections in strategic locations that would connect to surrounding neighborhoods. Together with existing waterfront parks mapped to the north and new parkland proposed as part of the

Lower Concourse actions, the Lower Concourse WAP would provide a mechanism that over time would facilitate a coordinated public open space network.

### **Special Mixed-Use District (MX-13)**

The Special Mixed Use District is a special zoning district that is mapped in several locations throughout the city, including Port Morris and Morrisania in the Bronx. It combines a light industrial (M1) district with a residential district, and permits a mix of selected light industrial, commercial, residential, and community facility uses under the applicable regulations. The MX district permits mixed-use buildings, and includes an expanded definition of “home occupations,” permitting a broader variety of live-work accommodations than is allowed in standard zoning districts. The proposed MX district is intended to retain existing light industrial businesses while encouraging the redevelopment of vacant and underutilized land and lofts with residential uses.

### **Inclusionary Housing**

The Inclusionary Housing Program would be applicable in areas proposed to be rezoned R6A, R7-2, R7A, R7X, R8A, C4-4 and C6-2A. Residential developments not participating in the program would only be allowed to develop at the base FAR.

Developments would qualify for the maximum allowed FAR by providing floor area for low-income households, either on- or off-site, in an amount equal to 20 percent of the residential floor area of the development. Off-site units would be required to be located

within Community District 1 or within one-half mile of the subject development if not located in Community District 1. The affordable units would be developed and administered pursuant to a Lower Income Housing Plan with the Department of Housing, Preservation and Development (HPD) and would remain affordable in perpetuity. Other city, state, and federal housing finance programs could be used to provide further assistance in the creation of affordable units.

### **Grocery Stores**

In the existing M1 and M2 districts, food stores greater than 10,000 square feet in size require a special permit from the City Planning Commission. In the proposed text as referred, to encourage the development of supermarkets over 10,000 square feet, the special permit normally required for such stores would not be required in Community District 1, in the Borough of the Bronx, in M1-4 Districts for food stores.

### **Zoning Map Changes (C 090303 ZMX)**

The proposed rezoning is comprised of a thirty-block area that is generally bounded by East 149<sup>th</sup> Street and East 144<sup>th</sup> Street to the north, the Major Deegan Expressway and Park Avenue to the south, Morris and Lincoln Avenues to the east, and the Harlem River to the west. The proposed zoning map changes would change these blocks currently zoned R6, C4-4, M1-2 and M2-1 to C4-4, C6-2A, R7-2/C2-4, MX (M1-4/ R8A), MX (M1-4/ R7X), MX (M1-4/ R7A), MX (M1-4/ R6A), and M1-4.

**C6-2A**

Change from M1-2 to C6-2A

This proposal would change the zoning for two blocks along the Grand Concourse between E. 138th Street and E. 144th Street from M1-2 to C6-2A to encourage future development of this portion of the Grand Concourse that is more consistent with the more historic Grand Concourse to the north. C6-2A districts permit residential, office, retail, hotel, and community facility uses. The proposed C6-2A would allow residential uses at a maximum FAR of 7.2 with the full Inclusionary Housing bonus and 5.4 without the provision of Inclusionary Housing. The maximum FAR in C6-2A districts is 6.0 for commercial uses. C6-2A zoning districts are contextual zoning districts requiring buildings to be built at or near the street line with maximum base height of 85 feet and a maximum building height of 120 feet. This proposed district would mimic the built context of the Grand Concourse to the north of the rezoning area.

**MX: M1-4/ R6A**

Change from M1-2 to M1-4/ R6A

As certified, six partial blocks generally bounded by Gerard Avenue, E. 144th Street, Walton Avenue, and E. 138th Street and by E. 146th Street, Rider Avenue, E. 139th Street, and Canal Place would be rezoned from M1-2 to a new Special Mixed-Use District, M1-4/ R6A. Residential uses would be allowed to encourage the reuse of vacant land and loft buildings. Existing light industrial and commercial uses would

continue to be allowed. Within the proposed Mixed-Use District, the proposed R6A would allow residential development at a maximum FAR of 3.6 with the full Inclusionary Housing bonus and 2.7 without the provision of Inclusionary Housing. R6A zoning districts are contextual zoning districts requiring buildings to be built at or near the street line with maximum base height of 60 feet and a maximum building height of 70 feet. The M1-4 allows commercial and industrial uses at a maximum FAR of 2.0. New buildings would be consistent with the existing built form in the area.

**MX: M1-4/ R7A**

Change from M1-2 and R6 to M1-4/ R7A

Ten blocks or portions of blocks generally bounded by E. 144th Street, Morris and Lincoln Avenues, Rider Avenue, and the Major Deegan Expressway would be rezoned from M1-2 to a new Special Mixed-Use District, M1-4/ R7A. Residential uses would be allowed to encourage the reuse of vacant land and loft buildings. Existing light industrial and commercial uses would continue to be allowed. Within the proposed Mixed-Use district, the proposed R7A would allow residential development at a maximum FAR of 4.6 with the full Inclusionary Housing bonus and 3.45 without the provision of Inclusionary Housing. R7A zoning districts are contextual zoning districts requiring buildings to be built at or near the street line with maximum base height of 65 feet and a maximum building height of 80 feet. The M1-4 allows commercial and industrial uses at a maximum FAR of 2.0. New

buildings would be consistent with existing buildings along Third and Lincoln avenues.

**MX: M1-4/ R7X**

Change from M1-2 to M1-4/ R7X

Portions of seven blocks along E. 138th Street between the Metro North rail tracks and Third Avenue would be rezoned from M1-2 to a new Special Mixed-Use District, M1-4/ R7X. Residential uses would be allowed to encourage the redevelopment of vacant land. Existing light industrial and commercial uses would continue to be allowed. Within the proposed Mixed-Use District, the proposed R7X would allow residential development at a maximum FAR of 5.0 with the full Inclusionary Housing bonus and 3.75 without the provision of Inclusionary Housing. R7X zoning districts are contextual zoning districts requiring buildings to be built at or near the street line with maximum base height of 85 feet and a maximum building height of 125 feet. The M1-4 allows commercial and industrial uses at a maximum FAR of 2.0..

**MX: M1-4/ R8A**

Change from M1-2 and C4-4 to M1-4/ R8A

Five full blocks and a portion of one blocks bounded by E 149th Street, Walton Avenue, E 140th Street, and Exterior Street would be rezoned from M1-2 to a new Special Mixed-Use District, M1-4/ R8A. Residential uses would be allowed to encourage the reuse of vacant land and loft buildings. Existing light industrial and commercial uses would continue to be allowed. Within the proposed Mixed-Use

district, the proposed R8A allows residential development at a maximum FAR of 7.2 with the full Inclusionary Housing bonus and 5.4 without the provision of Inclusionary Housing. R8A zoning districts are contextual zoning districts requiring buildings to be built at or near the street line with maximum base height of 85 feet and a maximum building height of 120 feet. The M1-4 allows commercial and industrial uses at a maximum FAR of 2.0.

#### **M1-4**

Change from M2-1 to M1-4

A five-block area currently zoned M1-2 and M2-1 is proposed to be rezoned to M1-4. This five block area is generally bound by Park Avenue to the west, E. 137th Street to the north, Third Avenue to the east, and the Major Deegan Expressway to the south and is characterized by light industrial businesses and warehouses. Light industrial uses and commercial uses are allowed in M1-4 zoning districts at a maximum FAR of 2.0. Industrial uses in M1-4 districts must meet the highest performance standards. Performance standards are lower for industrial uses in M2-1 districts. Rezoning from M2-1 to M1-4 will ensure that new development near proposed residential rezoning areas will be more compatible with residential uses.

#### **C4-4**

Change from M2-1 and M1-2 to C4-4

This proposal would rezone a portion of one waterfront block south of E. 149th Street from M2-1 to C4-4. The C4-4 zoning would encourage the redevelopment of these underutilized waterfront lots with new residential, retail, office, and hotel uses.

C4-4 zoning districts are mid-density regional commercial districts which allow residential, commercial retail, office, and hotel, and community facility uses. Within the proposed Special Harlem River Waterfront District (HRW), the C4-4 zoning district would allow residential development at a maximum FAR of 4.0 with the full Inclusionary Housing bonus and 3.0 without the provision of Inclusionary Housing. The C4-4 allows commercial development at a maximum FAR of 3.4. In addition, a portion of one block currently occupied by Lincoln Hospital would be rezoned from M1-2 to C4-4 in order to bring Lincoln Hospital into conformance. Community facility uses such as hospitals are allowed in C4-4 zoning districts.

New waterfront development in the proposed C4-4 zoning district would be required to provide publicly accessible open space and waterfront access, including a shore public walkway along the Harlem River. Eventually, this shore public walkway would provide a continuous walkway connecting the 9-acre park north of the Lower Concourse to the existing Port Morris community to the south. Specific elements and design of the public open space are designated in the WAP. The C4-4 zoning district was chosen to allow for maximum flexibility and provide additional retail and commercial uses near the Gateway Center shopping area.

### **R7-2/ C2-4**

Change from M2-1 to R7-2/ C2-4/HRW

This proposal would change the zoning for portions of two waterfront blocks along the Harlem River between E. 149th Street and Park Avenue from M2-1 to R7-2 with



a C2-4 commercial overlay. The proposed C2-4 commercial overlay would cover the entire proposed R7-2 district. The proposed zoning is intended to encourage the redevelopment of waterfront lots with residential, office, retail, and hotel uses.

Within the proposed Special Harlem River Waterfront District (HRW), the R7-2 zoning district would allow residential development at a maximum FAR of 4.0 with the full Inclusionary Housing bonus and 3.0 without the provision of Inclusionary Housing. The C2-4 commercial overlay allows a maximum FAR of 2.0 for commercial development.

#### **Amendment to the City Map (C 090166 MMX)**

A new park is proposed to be mapped along the Harlem River generally between E. 144th Street and E. 146th Street. The proposed 2.26 acre park is currently privately-owned and is occupied by a bus parking lot and two warehouses. This park would create an easily-accessible central open space for the new neighborhood and provide much-needed active recreational opportunities for existing and new residents.

#### **ENVIRONMENTAL REVIEW**

This application (N 090302 ZRX) in conjunction with the related applications (C 090303 ZMX and C 090166 MMX) were reviewed pursuant to the New York State Environmental Quality Review Act (SEQRA), and the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 et seq. and the New York City Environmental Quality Review (CEQR) Rules of Procedure of 1991

and Executive Order No. 91 of 1977. The designated CEQR number is 08DCP071X. The lead is the City Planning Commission.

It was determined that the proposed actions may have a significant effect on the environment and that an environmental impact statement would be required. A Positive Declaration was issued on May 14, 2008, and distributed, published and filed and the applicant was asked to prepare a Draft Environmental Impact Statement (DEIS).

Together with the Positive Declaration, a Draft Scope of Work for the Draft Environmental Impact Statement (DEIS) was issued on May 14, 2008. A public scoping meeting was held on June 19, 2008. A Final Scope of Work and the Draft Environmental Impact Statement (DEIS), reflecting the comments made during the scoping meeting and during the comment period, was issued on January 30, 2009.

The applicant prepared a DEIS and the lead agency issued a Notice of Completion for the DEIS on January 30, 2009. Pursuant to the SEQRA regulations and the CEQR procedures and other relevant statutes, a joint public hearing was held on the DEIS on April 1, 2009, in conjunction with the public hearings on the related ULURP items (C 090303 ZMX, C 090166 MMX).

A Final Environmental Impact Statement (FEIS) was completed and a Notice of Completion of the FEIS was issued on May 8, 2009. The Notice of Completion for the

FEIS identified significant impacts and proposed mitigation measures, as summarized in the following:

#### *Community Facilities*

The introduction of day care-eligible children associated with the proposed action's reasonable worst-case development scenario (RWCDS) would cause an 11.3 percent increase in demand over the existing capacity of day care facilities in the study area. Therefore the proposed action would result in a significant adverse impact on publicly funded day care facilities in the study area, warranting consideration of mitigation measures. This potential increase in demand could be offset by a number of factors. Private day care facilities and day care centers outside of the study area (e.g., closer to parent's place of work) are not included in this analysis. Some of the increased day care demand would likely be offset by parents who choose to take their children to day care centers outside of the study area (e.g., closer to work). Some of the Family Day Care Networks serve children residing in the study area and could potentially absorb some of the demand. This new demand would also be considered in future planning for contracted services. Finally, new capacity could potentially be developed as part of the New York City Administration for Children's Services' public-private partnership initiatives. However, if none of these measures are taken, then the proposed action would result in an unmitigated adverse day care impact.

#### *Historic Resources*

The proposed action would not result in significant adverse impacts to archaeological resources; however, it has the potential to result in unmitigated significant adverse impacts to one potentially eligible National Register resource, the North Side Board of Trade building, due to potential conversion of the existing structure. Any significant adverse impacts from such a conversion would be unmitigated other than through limited protection under New York City Department of Building regulations applicable to all buildings located adjacent to construction sites, since this resource is not a designated New York City landmark and has not been calendared for designation. Mitigation could include calendaring the North Side Board of Trade building for consideration as a New York City Landmark by the New York City Landmarks Preservation Commission; if this resource was deemed to be landmark eligible, then further protection for redevelopment of this site would be afforded. Without these protective measures, significant adverse construction-related impacts to this eligible resource would not be mitigated.

#### *Traffic*

A total of 33 signalized intersections and five unsignalized intersections were analyzed for typical day conditions and seven signalized intersections were analyzed under PM peak hour and Saturday midday New York Yankee pre-game conditions within a focused game day study area. Significant adverse impacts were identified under typical day conditions for the full traffic study area at seven intersections during the AM peak hour, six intersections during the midday peak hour, 11 intersections during the PM peak hour,

and nine intersections during the Saturday midday peak hour. Within the game day focused study area, significant adverse impacts were identified at four intersections during the pre-game PM peak and at three intersections during the pre-game Saturday midday hours. Significant adverse impacts were also identified at these intersections during typical day conditions.

Most traffic impacts on the local street network can be mitigated by standard traffic engineering improvements such as signal phasing and timing modifications, parking prohibitions, lane re-striping, and changes in pavement markings. These proposed mitigation measures for typical day and game day conditions are consistent with the range of traffic capacity improvements that have been proposed and implemented for other projects in the city. The proposed mitigation measures would mitigate all of the operational impacts associated with the proposed action, with the exception of impacts at the following five intersections where unmitigated impacts would remain under the proposed action condition: 1) East 149<sup>th</sup> Street/Exterior Street and River Avenue (typical weekday AM, typical weekday MD, typical weekday PM, and typical Saturday midday peak hours as well as game day PM peak hour and Saturday midday hour); 2) East 149<sup>th</sup> Street/Morris Avenue (typical weekday AM, typical weekday MD, typical weekday PM as well as game day PM peak hour); 3) East 138<sup>th</sup> Street/Exterior Street (typical weekday AM and typical Saturday midday peak hours); 4) East 138<sup>th</sup> Street/Third Avenue and Morris Avenue (typical weekday MD, typical weekday PM, and typical weekday Saturday); and, 5) East 135<sup>th</sup> Street/Madison Avenue (typical weekday PM and typical Saturday midday peak hours).

#### *Pedestrians*

Pedestrian activity would be expected to increase as a result of the proposed action. As pedestrian levels increase in the future along the commercial areas of East 149<sup>th</sup> Street, both with and without the proposed action, implementation of pedestrian safety measures by NYCDOT, such as pedestrian lead intervals and exclusive pedestrian phases, may be necessary. As pedestrian activity increases significantly under the proposed action along East 138<sup>th</sup> Street, Exterior Street and on other street segments of the rezoning area with very little pedestrian activity today, measures will be required to be implemented by NYCDOT to provide for the level of pedestrian protection and control necessary.

#### *(E) Designations*

Significant, adverse impacts related to hazardous materials, air quality and noise would be avoided through the placement of (E) designations on selected projected and potential development sites.

As discussed in detail in the Consideration section of this report, the City Planning Commission has elected to make modifications to the proposed action. The FEIS analyzed the proposed modifications in the Canal/Rider Retention Alternative. That analysis reached the following conclusion:

Mitigation or other protective measures applicable under the Canal/Rider Retention Alternative would be similar to those that would be implemented with

the proposed action for potential impacts associated with community facilities, traffic, and pedestrians. The (E) designations for hazardous materials, noise, and air quality needed to avoid the potential for significant, adverse impacts would be similar to those of the proposed action, but would be placed on fewer sites, (see FEIS Appendix O). Changes to signal timing would mitigate all but the unmitigatable traffic impacts. This alternative would have the same unavoidable adverse impacts as for those of the proposed action. Therefore, the modifications under the Canal/Rider Retention Alternative would not result in an increase in significant adverse environmental impacts compared to the proposed action, nor would they avoid the significant adverse impacts of the proposed action.

## **PUBLIC REVIEW**

On February 2, 2009, this application (N 090302 ZRX) was duly referred to Community Board 1 and the Bronx Borough President for information and review in accordance with the procedures for non-ULURP matters. The related applications (C 090303 ZMX and C 090166 MMX) were certified as complete by the Department of City Planning on February 2, 2009, and was duly referred to Community Board 1 and the Borough President in accordance with Title 62 of the Rules of the City of New York, Section 2-02(b).

### **Community Board Review**

Community Board 1 held a public hearing on the applications (N 090302 ZRX, C 090303 ZMX and C 090166 MMX) on February 26, 2009, and on that date, by a vote of 26 in favor, 0 opposed and 0 abstaining, adopted a resolution recommending approval of these applications.

### **Borough President Recommendation**

The applications (N 090302 ZRX, C 090303 ZMX and C 090166 MMX) were considered by the Borough President, who issued a recommendation approving the applications on March 26, 2009, with the following conditions:

- Retain the existing M1-2 zoning between 144<sup>th</sup> Street and approximately 140<sup>th</sup> Streets from Canal Place to the east side of Rider Avenue, and the partial block between 144<sup>th</sup> Street and 146<sup>th</sup> Street/Lincoln Hospital east of the rail line, currently proposed for an M1-4/R6A MX District.
- Amend the Inclusionary Housing provisions of the Special Harlem River Waterfront District to require on-site affordable housing in developments receiving the floor area bonus.

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

On March 18, 2009 (Supplemental Calendar No.2), the City Planning Commission scheduled April 1, 2009, for a public hearing on the application (N 090302 ZRX). The hearing was duly held on April 1, 2009 (Calendar No.29), in conjunction with the hearing for the related actions (C 090303 ZMX and C 090166 MMX). There were six speakers in favor and none in opposition.

The speakers included: an attorney representing a property owner in the area, a representative from the Bronx Borough President's Office, the Director of Friends of Brook Park, a local non-profit organization and one of their volunteers, a representative from the New York City Department of Housing Preservation and Development (HPD) and a representative of the New York Industrial Retention Network (NYIRN).

A representative of the Bronx Borough President reiterated the Bronx Borough President's recommendation. An attorney representing a property owner located at 142 Canal Street West (Block 2322; Lot 71) spoke in favor of the rezoning, but requested that the M1-4/R7X mapped along 138<sup>th</sup> Street from 3<sup>rd</sup> Avenue to Park Avenue be extended south to include his client's property. The Director of Friends of Brook Park and a volunteer with the organization spoke in favor of the proposal, but requested that an existing green space located at the southern terminus of Park Avenue, just outside the rezoning area, be mapped as a park. A representative from the New York City Department of Housing Preservation and Development (HPD) spoke in favor of the proposal. She noted that the off-site preservation option has been very successful and that more than two-thirds of the affordable units created to date have been located on-site. She also noted that the financial incentives available through the 421(a) financing program provide strong incentives for locating the affordable units on-site. A representative of the New York Industrial Retention Network (NYIRN) spoke in support of the proposal but requested that the M1-2 zoning be retained in certain areas and that a cap be placed on the as-of-right development of food stores within the rezoning area.

There were no other speakers and the hearing was closed.

### **Waterfront Revitalization Program Consistency Review**

This application (N 090302 ZRX), in conjunction with those for the related actions (C 090303 ZMX and C 090166 MMX), 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 22, 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 07-096.

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

### **CONSIDERATION**

The Commission believes that the proposed zoning text amendments (N 090302 ZRX) as modified herein, in conjunction with the proposed zoning map amendment (C 090303 ZMX ) as modified and city map amendment (C 090166 MMX), is appropriate. The Commission notes that the current zoning, predominantly M1-2 and M2-1, does not allow residential development and has limited capacity for commercial development. The Commission also notes that only in three new buildings have been constructed in the area since 1980 and those were a self-storage facility, a gas station and a car wash.

The Commission notes that over the last two decades the South Bronx has seen significant growth and new development, and the area has rebounded from the disinvestment and population loss of the 1970's and 1980's. There is a shortage of vacant or city-owned property available for redevelopment and there has been a decline in manufacturing throughout the City. Despite its excellent transit and highway access, the rezoning area is has a high vacancy rate and a significant amount of non-industrial uses and personal self-storage. The Commission notes that attracting investment to the area was identified as a Mayoral priority through the South Bronx Initiative (SBI) which sought to promote the continued revitalization of Bronx Community Districts 1 through



4. The Commission believes that this proposal supports the goals and objectives of SBI. and in concert, the proposed actions will create a vibrant, mixed-use, mixed-income neighborhood that will serve as a new gateway to the South Bronx.

The Commission believes that the application of the Inclusionary Housing Program in this area is appropriate and will build upon the City's commitment to provide affordable housing throughout New York City. The Commission notes that roughly 547 permanently affordable units could be developed in the Lower Concourse within a 10-year time period through the proposed affordable housing program. The Commission recognizes that the provision of affordable housing is an essential component of the Lower Concourse proposal and represents an important benefit to the current residents of Community District 1. The Inclusionary Housing Program would couple a zoning bonus with housing subsidy programs to create a strong incentive for permanently affordable housing throughout the Lower Concourse rezoning area. The Commission believes that the proposed regulations establish an effective approach to promoting affordable housing development where city-owned land is limited and one that would work under a variety of market conditions and for different types of development.

The Commission acknowledges the Borough President's request to require all affordable units developed in the Special Harlem River Waterfront District (HRW) be located on-site. The Commission believes the availability of multiple options for providing the affordable units, including both on-site and off-site options, is important to maximize

participation in the Inclusionary Housing program and critical to its success. The Commission notes that to date more than two-thirds of the affordable units created through the expanded Inclusionary Housing program have been located on-site, and that other incentives, including available financing programs and the extended tax abatement available through the 421-a program, further encourage the location of affordable units on-site. Moreover, the Commission recognizes that the off-site option allows for the preservation and substantial rehabilitation of existing affordable units which would provide significant benefit to residents of the aging housing stock in Community District 1 in the Bronx.

The Commission notes that currently, there is only one major food store located within the rezoning area. The Commission believes that food stores are a critical component in providing services in any neighborhood. The Commission believes that eliminating the requirement for a special permit for large food stores would facilitate them locating within the rezoning area and provide access to fresh produce in an area that is currently underserved by food stores.

In response to concerns raised about the size of as-of-right food stores, the Commission has modified the proposed text to establish a cap of 30,000 square feet for as-of-right food stores in M1-4 Districts, in Bronx Community District 1. A special permit would be required for food stores greater than 30,000 square feet. This modification is consistent

with the provisions of the proposed FRESH Food Stores zoning text (N 090412 ZRY) which was referred for public review on May 18, 2009

The Commission believes that the Special Harlem River Waterfront District (HRW) and the Waterfront Access Plan (WAP) will transform the waterfront area into a vibrant focal point in the South Bronx. The Commission notes that current uses along the waterfront include self-storage and waste recycling which are not compatible with public enjoyment of the waterfront. The Commission believes the proposed actions will foster new waterfront access and important connections to adjacent waterfront developments to the north and surrounding communities.

The Commission believes the new 2.2 acre park proposed to be mapped along East 144<sup>th</sup> Street and East 146<sup>th</sup> Street will provide an easily accessible new open space for existing and future residents and workers in the area.. The Commission notes that the recommendation by Friends of Brook Park that a park be mapped at the southern end of Park Avenue is beyond the scope of the current proposal. The Commission also notes that the Department of Parks and Recreation has committed to a feasibility study of this site which will determine whether a park is suitable a this location.

In response to concerns raised by the Bronx Borough President and the New York Industrial Retention Network (NYIRN), the Commission has modified the proposed zoning map change (C 090303 ZMX) to retain existing M1-2 zoning for the blocks

between Canal Place and Rider Avenue south of the prolongation of 142<sup>nd</sup> Street. This change would preserve manufacturing zoning for several multi-story loft buildings with multiple small firms. The Commission believes that this modification achieves the goal of allowing redevelopment of vacant and underutilized sites while simultaneously supporting the goal of retaining viable light industrial uses in the area.

The Commission notes however that the request that property located at 142 Canal Street West (Block 2322; Lot 71) be included in the proposed MX: M1-4/R7X. is beyond the scope of the proposal.

Subsequent to the Commission's public hearing owners of parcels 1 and 5 in the Harlem River Waterfront Access Plan, requested modifications to the Special Harlem River Waterfront District (HRW) text to allow for greater flexibility in the development of their sites.

As originally referred, for Parcel 1, the Special District would have required that all main entrances of a building face the shore public walkway, that the street wall of a development or enlargement be located within five feet of the street line and extend along the entire frontage of the zoning lot and all parking would be required to be wrapped with active uses. To allow for constraints presented by an existing sewer easement and allow open parking under the elevated portion of the Major Deegan Expressway, the Commission has modified the text to require that at least one main entrance of a building

face the shore public walkway, no street wall shall be required along the portion of East 149<sup>th</sup> Street as defined in Section 87-32 (Street Wall Location and Building Base), the location of a second tower on a zoning lot must be within 120 feet of East 149<sup>th</sup> Street and open parking shall be permitted according to the provisions of Section 87-50 (e) (Special Parking Regulations).

As originally referred, the Special District would have required that Parcel 5 be developed with commercial and/or residential uses in accordance with the Waterfront Access Plan (WAP) and provide a 40-foot shore public walkway. The owner of Parcel 5, which is currently used for vehicle storage, would like to develop a small accessory building on the site to provide restrooms, showers and lockers for its employees. The site is proposed to be rezoned to R7-2/C2-4 and the aforementioned uses would not be allowed. Since this site is not likely to be redeveloped in the near future and to provide greater flexibility in the continued use of the site, the Commission has modified the text to allow as permitted uses, commercial or public utility vehicle storage, open or enclosed, including accessory motor fuel pumps as listed in Use Group 16C, limit such uses to a maximum floor area of 10,000 square feet and to require that a reduced shore public walkway be provided as set forth in subparagraph (a) (3) of Section 87-61 (Public Access Provisions by Parcel).

The Commission believes that with the changes described herein, the Lower Concourse Rezoning provides the framework to facilitate utilization of underdeveloped sites, create new

opportunities for housing and waterfront access and retain viable light industry in this strategically located area of the South Bronx.

## **RESOLUTION**

**RESOLVED**, that having considered the Final Environmental Impact Statement (FEIS), for which a Notice of Completion ratified herein was issued on May 8, 2009, with respect to this application (CEQR No. 08DCP071X) , the City Planning Commission finds that the requirements of the New York State Environmental Quality Review Act and Regulations have been met and that

1. Consistent with social, economic, and other essential considerations, from among the reasonable alternatives thereto, the Canal/Rider Retention Alternative as identified in the FEIS is the one which minimizes or avoids adverse environmental impacts to the maximum extent practicable; and

2. The adverse environmental impacts disclosed in the FEIS with respect to the Canal/Rider Retention Alternative will be minimized or avoided to the maximum extent practicable by incorporating as conditions to the approval those mitigative measures that were identified as practicable.

The report of the City Planning Commission, together with the FEIS, constitute the written statement of facts, and of social, economic and other factors and standards, that

form the basis of the decision, pursuant to Section 617.11(d) of the SEQRA regulations;  
and be it further

**RESOLVED**, that the City Planning Commission, in its capacity as the City Coastal  
Commission, has reviewed the waterfront aspects of this application and finds that the  
proposed action is consistent with WRP policies; and be it further

**RESOLVED**, by the City Planning Commission, pursuant to Section 200 of the New  
York City Charter, that based on the environmental determination, and the consideration  
described in this report, the Zoning Resolution of the City of New York, effective as of  
December 15, 1961, and as subsequently modified, is further amended as follows:

Matter in underline is new, to be added;

Matter in ~~strikeout~~ is to be deleted;

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

\* \* \* indicates where unchanged text appears in the Zoning Resolution

\* \* \*

**Article I**  
**General Provisions**

**Chapter 1**  
**Title, Establishment of Controls and Interpretation of Regulations**

\* \* \*

**11-12**  
**Establishment of Districts**

\* \* \*

Establishment of the Special Grand Concourse Preservation District

\* \* \*

Establishment of the Special Harlem River Waterfront District

In order to carry out the special purposes of this Resolution as set forth in Article VIII Chapter 7, the #Special Harlem River Waterfront District# is hereby established.

\* \* \*

**Chapter 2  
Construction of Language and Definitions**

\* \* \*

**12-10  
DEFINITIONS**

\* \* \*

Special Harlem River Waterfront District

The "Special Harlem River Waterfront District" is a Special Purpose District designated by the letter "HRW" in which special regulations set forth in Article VIII Chapter 7 apply. The #Special Harlem River Waterfront District# appears on the #zoning maps# superimposed on other districts and its regulations supplement and supersede those of the districts on which it is superimposed.

\* \* \*

**Article II  
Residence District Regulations**

**Chapter 3  
Bulk Regulations for Residential Buildings in Residence Districts**

\* \* \*

**23-144  
In designated areas where the Inclusionary Housing Program is applicable**

In #Inclusionary Housing designated areas#, as listed in the following table, the maximum permitted #floor area ratios# shall be as set forth in Section 23-942 (In Inclusionary Housing designated areas). The locations of such districts are specified in Section 23-922 (Inclusionary Housing designated areas).

<u>Community District</u>	<u>Zoning District</u>
<u>Community District 1, Bronx</u>	<u>R6A R7-2 R7A R7X R8A</u>
Community District 1, Brooklyn	R6 R6A R6B R7A
Community District 2, Brooklyn	R7A
Community District 3, Brooklyn	R7D
Community District 7, Brooklyn	R8A



Community District 6, Manhattan  
Community District 7, Manhattan  
Community District 2, Queens

R10  
R9A  
R7X

\* \* \*

**23-90  
INCLUSIONARY HOUSING**

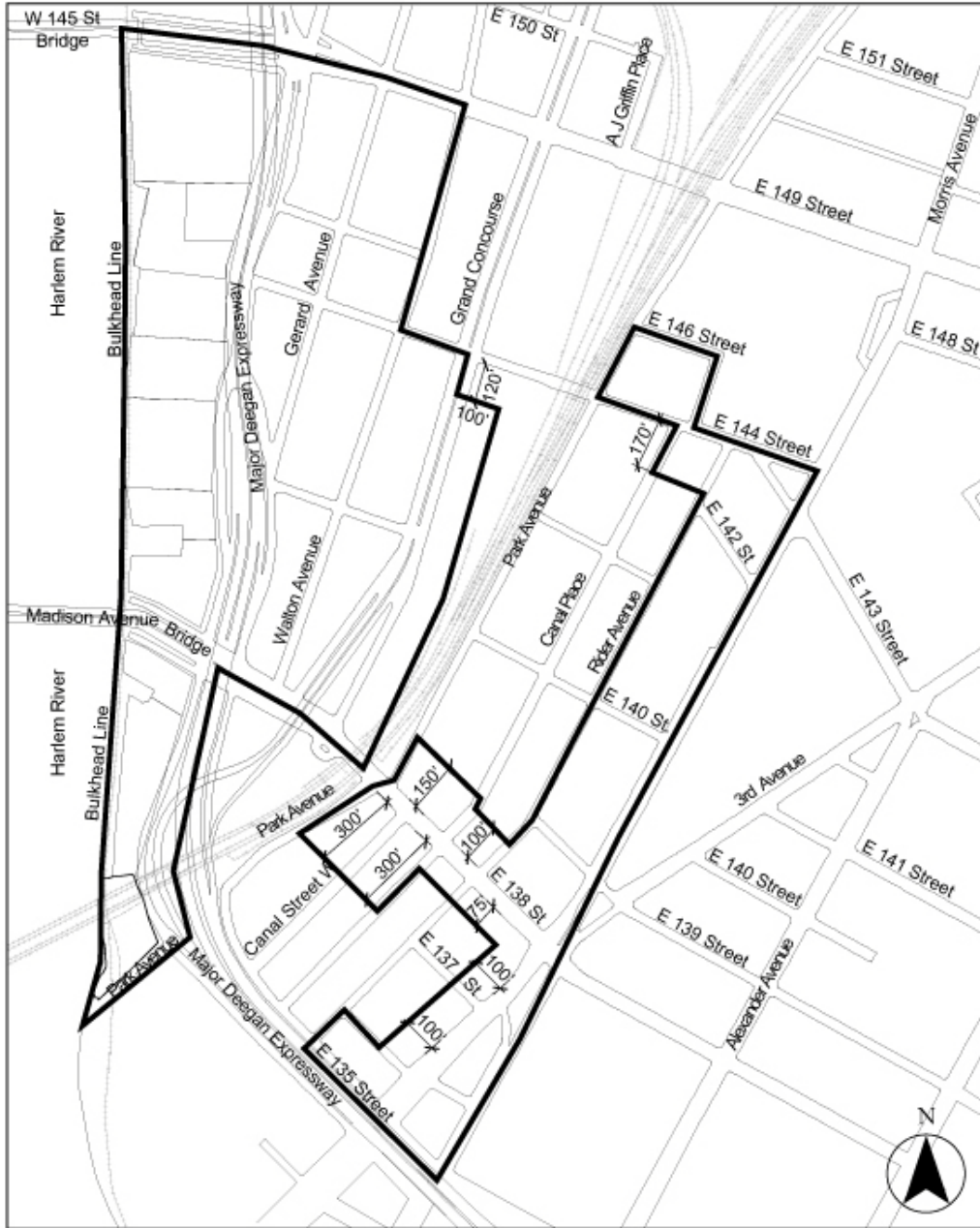
\* \* \*

**23-922  
Inclusionary housing designated areas**

The Inclusionary Housing Program shall apply in the following areas:

\* \* \*

(17) In Community District 1, in the Borough of the Bronx, in the R6A, R7-2, R7A, R7X and R8A Districts within the areas shown on the following Map 17:



Map 17. Portion of Community District 1, Bronx

\* \* \*

**Article IV  
Manufacturing District Regulations**

**Chapter 2  
Use Regulations**

\* \* \*

**42-10  
USES PERMITTED AS-OF-RIGHT**

\* \* \*

**42-12  
Use Groups 3A, 6A, 6B, 6D, 6F, 7B, 7C, 7D, 7E, 8, 9B, 9C, 10A, 10B, 10C, 11, 12A, 12C, 12D, 12E, 13, 14 and 16**

M1 M2 M3

Use Group 3A shall be limited to Museums that are ancillary to existing Motion Picture Production Studios or Radio or Television Studios, provided they are located within 500 feet of such studios and do not exceed 75,000 square feet of #floor area#.

Use Groups 6A except that foodstores, including supermarkets, grocery stores, or delicatessen stores, shall be limited to 10,000 square feet of #floor area# per establishment, 6B, 6D, 6F, 7B, 7C, 7D, 7E, 8, 9B, 9C, 10A, 10B, 10C, 11, 12A, 12C, 12D, 12E, 13, 14 and 16 as set forth in Sections 32-15 to 32-23, inclusive, and Section 32-25. However, in Community District 1, in the Borough of the Bronx, in M1-4 Districts, foodstores, including supermarkets, grocery stores, or delicatessen stores, shall be limited to 30,000 square feet of #floor area# per establishment.

\* \* \*

**Article VI  
Special Regulations Applicable to Certain Areas**

\* \* \*

**Chapter 2  
Special Regulations Applying in the Waterfront Area**

\* \* \*

**62-90  
WATERFRONT ACCESS PLANS**

\* \* \*

62-92

**Borough of The Bronx**

The following Waterfront Access Plans are hereby established within the Borough of the Bronx. All applicable provisions of Article VI, Chapter 2, remain in effect within the areas delineated by such plans, except as expressly set forth otherwise in the plans:

BX-1: Harlem River, in the #Special Harlem River Waterfront District#, as set forth in Section 87-60 (Harlem River Waterfront Access Plan).

\* \* \*

Note: All text in Article VIII, Chapter 7 is new; it is not underlined.

**Article VIII**

**Special Purpose Districts**

**Chapter 7**

**Special Harlem River Waterfront District**

87-00

**GENERAL PURPOSES**

The "Special Harlem River Waterfront 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) maintain and reestablish physical and visual public access to and along the waterfront;
- (b) create a lively and attractive built environment that will provide amenities and services for the use and enjoyment of area residents, workers and visitors;
- (c) promote the pedestrian orientation of ground floor uses in appropriate locations, and thus safeguard a traditional quality of higher density areas of the City;
- (d) encourage well-designed new development that complements the built character of the neighborhood;
- (e) take advantage of the Harlem River waterfront and provide an open space network comprised of parks, public open space and public access areas;

- (f) provide flexibility of architectural design within limits established to assure adequate access of light and air to streets and public access areas, and thus to encourage more attractive and economic building forms; and
- (g) promote the most desirable use of land and building development in accordance with the District Plan for the Harlem River waterfront.

**87-01**  
**Definitions**

Parcel 1 Building Line

The “Parcel 1 Building Line” shall be:

- (a) in the event that the portion of the Major Deegan Expressway traversing Parcel 1 has been widened after (effective date of amendment), a line 22 feet west of and parallel to the as-built western edge of such expressway structure; or
- (b) in the event that the portion of the Major Deegan Expressway traversing Parcel 1 has not been widened after (effective date of amendment), a line connecting the points described below.
  - (1) a point located on the southern #street line# of East 149th Street that is 47 feet west of its intersection with Exterior Street; and
  - (2) a point on the southern boundary of Parcel 1 that is 107 feet west of its intersection with Exterior Street.

**87-02**  
**General Provisions**

In harmony with the general purpose and intent of this Resolution and the general purposes of the #Special Harlem River Waterfront District#, the regulations of the #Special Harlem River Waterfront District# shall apply to all #developments#, #enlargements#, alterations and changes of #use# within the #Special Harlem River Waterfront District#, except as otherwise provided in this Chapter. The regulations of all other Chapters of this Resolution are applicable, except as superseded, supplemented or modified by the provisions of this Chapter. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of this Chapter shall control.

**87-03**

**District Plan and Maps**

The regulations of this Chapter are designed to implement the #Special Harlem River Waterfront District# Plan as set forth in the Appendix to this Chapter. The plan area has been divided into parcels consisting of tax blocks and lots as established on (effective date of amendment), as follows:

- Parcel 1: Block 2349, Lot 112
- Parcel 2: Block 2349, Lot 100
- Parcel 3: Block 2349, Lots 46, 47 & 146
- Parcel 4: Block 2349, Lot 38
- Parcel 5: Block 2349, Lots 15 & 20
- Parcel 6: Block 2349, Lots 3 & 4
- Parcel 7: Block 2323, Lot 43
- Parcel 8: Block 2323, Lot 28
- Parcel 9: Block 2323, Lots 5, 13 & 18

The District Plan includes the following maps:

- Map 1 #Special Harlem River Waterfront District# and Parcels
- Map 2 Waterfront Access Plan: Public Access Elements

**87-04**

**Applicability of Article I, Chapter 1**

Within the #Special Harlem River Waterfront District#, Section 11-15 (Environmental Requirements) shall apply, except that prior to issuing a building permit for any #development#, or for an #enlargement#, #extension# or a change of #use#, on a lot that has an (E) designation for hazardous material contamination, noise or air quality, the Department of Buildings shall be furnished with a report from the Department of Environmental Protection of the City of New York stating:

- (a) in the case of an (E) designation for hazardous material contamination, that

environmental requirements related to the (E) designation have been met for that lot; or

- (b) in the case of an (E) designation for noise or air quality, that the plans and drawings for such #development# or #enlargement# will result in compliance with the environmental requirements related to the (E) designation.

#### **87-05**

##### **Applicability of Article VI, Chapter 2**

Parcels 1, 2, 3 and 4, as shown on Map 1 (Special Harlem River District and Parcels) shall be considered #waterfront zoning lots#, notwithstanding the mapping of any #streets# on such parcels after (effective date of amendment).

#### **87-06**

##### **Modification of Use and Bulk Regulations for Parcels Containing Newly Mapped Streets**

In the event that #streets# are mapped on Parcels 1, 2, 3 and 4 after (effective date of amendment), the area within such #streets# may continue to be considered part of the #zoning lot# for the purposes of applying all #use# and #bulk# regulations of this Zoning Resolution.

#### **87-10**

##### **SPECIAL USE REGULATIONS**

The #use# regulations of the underlying districts are modified in Sections 87-11 through 87-24, inclusive.

As used in this Section, “ground floor level” shall mean the finished floor level within five feet of an adjacent public sidewalk or any other publicly accessible open area.

#### **87-11**

##### **Vehicle Storage Establishments**

Commercial or public utility vehicle storage, open or enclosed, including #accessory# motor fuel pumps as listed in Use Group 16C shall be a permitted #use# on Parcel 5, provided that:

- (a) such #use# is the primary #use# on the parcel;

- (b) no more than 10,000 square feet of #floor area# shall be provided on Parcel 5, and
- (c) a #shore public walkway# is provided as set forth in paragraph (a) of Section 87-61 (Public Access Provisions by Parcel).

The streetscape provisions of Section 87-13, the maximum width of establishment provisions of Section 87-23 and the special height and setback regulations of Section 87-30, inclusive, shall not apply to such #use#.

## **87-12 Location of Commercial Space**

The provisions of Section 32-422 (Location of floors occupied by non-residential uses) are modified to permit #residential uses# on the same #story# as a non-#residential use# provided no access exists between such #uses# at any level containing #residences# and provided any non-#residential uses# are not located directly over any #residential use#. However, such non-#residential uses# may be located over a #residential use# by authorization of the City Planning Commission upon a finding that sufficient separation of #residential uses# from non-#residential uses# exists within the #building#.

## **87-13 Streetscape Regulations**

- (a) Ground floor #use#

All #uses# shall have a depth of at least 25 feet from #building walls# facing a #shore public walkway#, #park# or #upland connection#. Lobbies and entrances may not occupy more than 20 feet or 25 percent of such #building wall# width, whichever is less. The level of the finished ground floor shall be located not higher than two feet above nor lower than two feet below the as-built level of the adjacent public sidewalk or other publicly accessible open area.

For #buildings# on Parcels 1 through 6 that face a #shore public walkway#, #park# or #upland connection#, not less than 20 percent of the ground floor level #floor area# of such portions of #buildings#, to a depth of 25 feet shall consist of #uses# from Use Groups 6A, 6C, 6F, 8A, 8B and 10A, as set forth in Article III, Chapter 2.

- (b) Transparency

Any #building wall# containing ground floor level #commercial# and #community facility uses# that faces a #shore public walkway#, #park# or #upland connection# shall be glazed with transparent materials which may



include show windows, glazed transoms or glazed portions of doors. Such glazing shall occupy at least 70 percent of the area of each such ground floor level #building wall#, measured to a height of ten feet above the level of the adjoining public sidewalk or other publicly accessible open area or #base plane#, whichever is higher. Not less than 50 percent of the area of each such ground floor level #building wall# shall be glazed with transparent materials and up to 20 percent of such area may be glazed with translucent materials.

(c) Security Gates

All security gates that are swung, drawn or lowered to secure commercial or community facility premises shall, when closed, permit visibility of at least 75 percent of the area covered by such gate when viewed from the #street# or publicly accessible open area, except that this provision shall not apply to entrances or exits to parking garages.

**87-14**

**Location of Underground Uses**

Notwithstanding the provisions of Section 62-332 (Rear yards and waterfront yards), underground #uses#, such as parking garages, shall not be allowed in #waterfront yards#.

**87-20**

**SPECIAL FLOOR AREA REGULATIONS**

The #Special Harlem River Waterfront District# shall be an #Inclusionary Housing designated area#, pursuant to Section 12-10 (DEFINITIONS), for the purpose of making the Inclusionary Housing Program regulations of Section 23-90 (INCLUSIONARY HOUSING), inclusive, applicable as modified within the Special District.

**87-21**

**Special Residential Floor Area Regulations**

The base #floor area ratio# for any #zoning lot# containing #residences# shall be 3.0. Such base #floor area ratio# may be increased to a maximum of 4.0 through the provision of #lower income housing# pursuant to the provisions for #Inclusionary Housing designated areas# in Section 23-90 (INCLUSIONARY HOUSING), except that the height and setback regulations of paragraph (b) of Section 23-942 (In Inclusionary Housing designated areas) shall not apply. In lieu thereof, the height and setback regulations of this Chapter shall apply.

87-22

**Special Retail Floor Area Requirement**

For each square foot of #commercial floor area# in a #building# from the #uses# listed in paragraph (a) of this Section, an equal or greater amount of #residential#, #community facility# or #commercial floor area# from #uses# listed in paragraph (b) of this Section shall be provided.

(a) Use Groups 6A and 6C, except for:

Docks for ferries, other than #gambling vessels#, limited to an aggregate operational passenger load, per #zoning lot#, of 150 passengers per half hour, and

Docks for water taxis with vessel capacity limited to 99 passengers, and

Docks or mooring facilities for non-commercial pleasure boats;

The following from Use Group 10:

Carpet, rug, linoleum or other floor covering stores, with no limitation on #floor area# per establishment

Clothing or clothing accessory stores, with no limitation on #floor area# per establishment

Department stores

Dry goods or fabric stores, with no limitation on #floor area# per establishment

The following from Use Group 12:

Billiard parlor or pool halls

Bowling alleys or table tennis halls, with no limitation on number of bowling lanes per establishment

Eating or drinking establishments with entertainment and a capacity of more than 200 persons, or establishments of any capacity with dancing

The following retail establishments:

Antique stores

Art gallery, commercial  
Book stores  
Candy or ice cream stores  
Cigar and tobacco stores  
Delicatessen stores  
Drug stores  
Gift shops  
Jewelry or art metal craft shops  
Music stores  
Photographic equipment stores  
Record stores  
Stationery stores  
Toy stores

(b) All #residential uses# in Use Groups 1 and 2

All #community facility uses# from Use Group 3, 4A, and 4B, except cemeteries

All #commercial uses# from Use Groups 5A, 6B and 8A

However, the City Planning Commission may authorize a modification or waiver of this provision upon finding that such #building# includes:

- (1) a superior site plan that enables safe and efficient pedestrian connectivity to and between establishments and publicly accessible open areas;
- (2) a superior parking and circulation plan that reduces conflicts between pedestrian and vehicular traffic, minimizes open parking lots, and limits conflicts between curb cuts;

- (3) a design that enhances and is integrated with publicly accessible open areas including provision of a public entrance fronting on a #waterfront public access area#;
- (4) a variety of retail establishments; and
- (5) #uses# that do not unduly affect the #residential uses# in the nearby area or conflict with future land use and #development# of adjacent areas.

The City Planning Commission may prescribe appropriate conditions and safeguards to minimize adverse effects of any such #uses# on publicly accessible open areas.

### **87-23**

#### **Maximum Width of Establishments**

On Parcels 5 and 6, the width of any ground floor level #commercial# or #community facility# establishments facing a #shore public walkway# or #upland connection#, shall be limited to 60 feet for each #street wall# facing such #shore public walkway# or #upland connection#.

### **87-24**

#### **Location of Building Entrances**

On Parcels 1, 2, 3 and 4, the main front entrance of at least one #building#, as the term “main front entrance” is used in the New York City Fire Code, Section 502.1 (FRONTAGE SPACE), shall be located facing the #shore public walkway#. Such main front entrance of a #building# shall be:

- (a) on Parcel 1, located no less than 120 feet from 149th Street;
- (b) on Parcel 2, located no less than 95 feet from a #park#; and
- (c) on Parcels 3 and 4, located no less than 45 feet from an #upland connection#.

### **87-30**

#### **SPECIAL HEIGHT AND SETBACK REGULATIONS**

The underlying height and setback regulations shall not apply. In lieu thereof, the special height and setback regulations of this Section 87-30, inclusive, shall apply. For the purposes of applying such regulations:

- (a) a #shore public walkway#, #park#, #upland connection# or fire apparatus access road, as required by the New York City Fire Code, shall be considered a #street# and its boundary shall be considered a #street line#. However, the following shall not be considered #streets# for the purposes of applying the #street wall# location provisions of paragraph (a) of Section 87-32:
  - (1) Exterior street, and
  - (2) That portion of any other #street#, #park#, #upland connection# or fire apparatus access road that is located east of the #Parcel 1 Building Line#.
- (b) the height of all #buildings or other structures# shall be measured from the #base plane#.

**87-31  
Permitted Obstructions**

The provisions of Section 33-42 (Permitted Obstructions) shall apply to all #buildings#, except that elevator or stair bulkheads, roof water tanks, cooling towers or other mechanical equipment (including enclosures), may penetrate a maximum height limit, provided that either:

- (a) the product, in square feet, of the #aggregate width of street walls# of such obstructions facing each #street# frontage, times their average height, in feet, shall not exceed a figure equal to eight times the width, in feet, of the #street wall# of the #building# facing such frontage; or
- (b) the #lot coverage# of all such obstructions does not exceed 20 percent of the #lot coverage# of the #building#, and the height of all such obstructions does not exceed 40 feet. In addition, dormers may penetrate a maximum base height in accordance with the provisions of paragraph (c) of Section 23-621 (Permitted obstructions in certain districts).

**87-32  
Street Wall Location and Building Base**

- (a) #Street wall# location

The #street wall# of the #development# or #enlargement# shall be located within five feet of the #street line# and extend along the entire frontage of the #zoning lot#, except that:

- (1) ground floor level recesses up to three feet deep shall be permitted for access to building entrances; and
- (2) to allow for corner articulation, the #street wall# may be located anywhere within an area bounded by intersecting #street lines# and lines 15 feet from and parallel to such #street lines#; and
- (3) for #buildings# that are required to locate at least one main front entrance facing a #shore public walkway#, pursuant to Section 87-24 (Location of Building Entrances), no portion of the #street wall# containing such entrance shall be closer to the #shore public walkway# than the main front entrance; and
- (4) no portion of a #building# facing a #shore public walkway#, except on Parcel 1, shall exceed a width of 300 feet.

However, on Parcel 1, in order to accommodate a sewer easement located within an area bounded by the eastern boundary of the #shore public walkway#, East 149th Street, a line 120 feet south of and parallel to East 149th Street and a line 120 feet east of and parallel to the #shore public walkway#, no #street wall# shall be required along that portion of East 149th Street and any fire apparatus access road within such easement area. Such area not #developed# as a fire apparatus access road and open to the sky shall be at least 35 percent planted and shall not be used for parking or loading. Furthermore, in the event such area contains a driveway, it shall be screened from the #shore public walkway# and East 149th Street, except for curb cuts and pedestrian paths, with densely planted evergreen shrubs maintained at a height of three feet.

(b) Minimum and Maximum Base Heights

The #street wall# of a #development# or #enlargement# shall rise without setback to a minimum base height of six #stories# or 60 feet, or the height of the #building#, whichever is less, and a maximum base height of eight #stories# or 85 feet, whichever is less, before a setback is required. However, on Parcels 5 and 6, for #street walls# facing a #shore public walkway#, the minimum base height shall be 20 feet and the maximum base height shall be four #stories# or 40 feet, whichever is less, before a setback is required. Any portion of a #building or other structure# that does not exceed such maximum base heights shall hereinafter be referred to as a “building base”.

All portions of #buildings# that exceed the maximum base heights set forth in this paragraph, (b), shall be set back from the #street wall# of the #building# at least ten feet along a #shore public walkway#, #park# and Exterior Street, and at least 15 feet along an #upland connection#.

For #developments# or #enlargements# that exceed a height of eight #stories# or 85 feet, except on Parcels 5, 6, 7 and 9, not more than 40 percent of the #aggregate width of street walls# facing a #shore public walkway# shall rise without setback to at least a height of six #stories# or 60 feet, whichever is less, and at least 40 percent of the #aggregate width of street walls# facing a #shore public walkway# shall rise without setback to at least a height of eight #stories# or 85 feet, whichever is less.

Above the level of the second #story#, up to 30 percent of the #aggregate width of street walls# may be recessed, provided no recesses are located within 15 feet of an adjacent #building# or within 30 feet of the intersection of two #street lines#, except where corner articulation is provided as set forth in subparagraph (a)(1) of this Section.

(c) Transition heights

All #street walls#, except on Parcels 5 and 6, may rise to a maximum transition height of 115 feet, provided that, except on Parcel 7, not more than 60 percent of the #aggregate width of street walls# facing a #shore public walkway# exceeds a height of 85 feet. On Parcels 5 and 6, a #street wall# may rise to a maximum transition height of 85 feet, without limitation.

All portions of #buildings# that exceed the transition heights set forth in this paragraph, (c), shall comply with the tower provisions of Section 87-33.

### 87-33 Towers

All #stories# of a #development# or #enlargement# located partially or wholly above the applicable transition height set forth in paragraph (c) of Section 87-32 shall be considered a “tower” and shall comply with the provisions of this Section. For #zoning lots# with less than 130,000 square feet of #lot area#, only one tower shall be permitted. For #zoning lots# with 130,000 square feet of #lot area# or more, not more than two towers shall be permitted.

(a) Maximum tower height

For #zoning lots# with 100,000 square feet of #lot area# or less, the maximum height of a #building# shall be 300 feet. The maximum height of #buildings# on #zoning lots# with more than 100,000 square feet of #lot area# shall be 400 feet; however, for #zoning lots# with two towers, such maximum #building# height of

400 feet shall apply to not more than one tower, a maximum #building# height of 260 feet shall apply to the second tower, and there shall be a height differential of at least 40 feet between both towers.

(b) Location rules for #zoning lots# adjacent to #parks#

Where a tower is provided on a #zoning lot# adjacent to a #park#, such tower or portion thereof shall be located within 85 feet of such #park#, and if two towers are provided on such #zoning lot#, the second tower or portion thereof shall be located either within 120 feet of East 149<sup>th</sup> Street or within 45 feet of an #upland connection#. Where two towers are provided on a #zoning lot# adjacent to a #park#, the shorter of the towers shall be located nearer the #park#.

(c) Maximum tower size

The outermost walls of each #story# located entirely above the applicable transition height shall be inscribed within a rectangle. The maximum length of any side of such rectangle shall be 135 feet. Each #story# of a tower located entirely above the applicable transition height shall not exceed a gross area of 8,800 square feet.

(d) Tower top articulation

All #buildings# that exceed a height of 200 feet shall provide articulation in accordance with at least one of following provisions:

(1) Setbacks on each tower face

(i) For #buildings# less than 260 feet in height, the highest three #stories#, or as many #stories# as are located entirely above a height of 200 feet, whichever is less, shall have a #lot coverage# of at least 50 percent of the #story# immediately below such #stories#, and a maximum #lot coverage# of 80 percent of the #story# immediately below such #stories#.

(ii) For #buildings# 260 feet or more in height, the highest four #stories#, or as many #stories# as are located entirely above a height of 260 feet, whichever is less, shall have a #lot coverage# of at least 50 percent of the #story# immediately below such #stories#, and a maximum #lot coverage# of 80 percent of the #story# immediately below such #stories#.

Such reduced #lot coverage# shall be achieved by one or more setbacks on each face of the tower, where at least one setback on each tower face has a



depth of at least four feet, and a width that, individually or in the aggregate, is equal to at least 10 percent of the width of such respective tower face. For the purposes of this subparagraph (1), each tower shall have four tower faces, with each face being the side of a rectangle within which the outermost walls of the highest #story# not subject to the reduced #lot coverage# provisions have been inscribed. The required setbacks shall be measured from the outermost walls of the #building# facing each tower face. Required setback areas may overlap.\_

(2) Three setbacks facing Harlem River

The upper #stories# of a tower shall provide setbacks with a minimum depth of 15 feet measured from the west facing wall of the #story# immediately below. Such setbacks shall be provided at the level of three different #stories#, or as many #stories# as are located entirely above a height of 230 feet, whichever is less. The lowest level at which such setbacks may be provided is 230 feet, and the highest #story# shall be located entirely within the eastern half of the tower.

## 87-40

### SPECIAL REQUIREMENTS FOR CERTAIN ROADS AND SIDEWALKS

## 87-41

### Fire Apparatus Access Roads

Where a fire apparatus access road is provided as required by the New York City Fire Code, such road shall comply with the following requirements.

- (a) The width of a paved road bed shall be 34 feet, constructed to minimum Department of Transportation standards for public #streets#, including curbs and curb drops.
- (b) Curbs shall be provided along each side of the entire length of such road.
- (c) A minimum 13 foot paved sidewalk shall be provided adjacent to and along the entire length of the required curb.
- (d) For the purposes of making the #street# tree requirements of Section 26-41 applicable to fire apparatus access roads, a fire apparatus access road shall be considered a #street#.
- (e) All such roads shall be constructed with lighting, signage, materials and crosswalks to minimum Department of Transportation standards for public #streets#.

## 87-42

### Sidewalks

In the event that Parcel 1 is #developed# with #mixed-use buildings#, sidewalks shall be provided on Parcel 1 as follows:

- (a) Sidewalks with a depth of at least 15 feet, measured perpendicular to the curb of a #street#, shall be provided along the entire Exterior Street and 149th Street frontage of a #zoning lot#. In locations where the width of the sidewalk within the #street# is less than 15 feet, a sidewalk widening shall be provided on the #zoning lot# so that the combined width of the sidewalk within the #street# and the sidewalk widening equals 15 feet. However, existing #buildings# to remain on the #zoning lot# need not be removed in order to comply with this requirement.
- (b) A 22 foot wide walkway shall extend east of and along the #Parcel 1 Building Line#, linking East 149<sup>th</sup> Street and a #park#, or fire apparatus access road if such road is #developed# adjacent to the #park#. In the event that a parking lot is #developed# east of such walkway, the easternmost seven feet of such walkway

shall be densely planted with evergreen shrubs maintained at a maximum height of three feet above the adjoining walkway. Such walkway and planting strip may be interrupted to allow vehicular or pedestrian access.

- (b) Any driveway located east of the #Parcel 1 Building Line# that extends along a sewer easement and intersects Exterior Street shall have curbs and sidewalks with a minimum width of 13 feet along each curb, which may be interrupted to allow for vehicular access to a parking lot.

All sidewalks and sidewalk widenings shall be constructed or improved to Department of Transportation standards, shall be at the same level as the adjoining public sidewalks, and shall be accessible to the public at all times.

## **87-50 SPECIAL PARKING REGULATIONS**

The following provisions shall apply to all parking facilities:

- (a) Use of parking facilities

All #accessory# off-street parking spaces may be made available for public use; any such space, however, shall be made available to the occupant of a #residence# to which it is accessory within 30 days after written request therefore is made to the landlord.

- (b) Off-site parking

The off-site parking location provisions of Sections 36-42 and 36-43 shall not apply. In lieu thereof, all permitted or required off-#street# parking spaces may be provided on a #zoning lot# other than the same #zoning lot# to which such spaces are #accessory#, provided the lot to be used for parking is within the #Special Harlem River Waterfront District#.

- (c) Location requirements for parking facilities

No parking facility, open or enclosed, shall front upon or be visible from

- (1) a #shore public walkway#, except as provided for in paragraph (e) for Parcel 5;
- (2) any #upland connection# or #park#, or portion thereof, that is located west of the #Parcel 1 Building Line#.

(d) Design requirements for enclosed off-street parking facilities

All enclosed off-street parking facilities shall be located either entirely below the level of any #street# or publicly accessible open area upon which such facility fronts, or when located above grade, in compliance with the following provisions:

- (1) The provisions of this subparagraph (1) shall apply to facilities facing a #shore public walkway#, #upland connection#, #park#, or northern #street line# of 138th Street.

Such facilities shall be located at every level above-grade, behind #commercial#, #community facility# or #residential floor area# with a minimum depth of 25 feet as measured any #building wall# facing a #shore public walkway#, or facing that portion of an #upland connection# or #park# located west of the #Parcel 1 Building Line# so that no portion of such parking facility is visible from the #shore public walkway#, #upland connection# or #park#. All such parking facilities shall be exempt from the definition of #floor area#.

On Parcel 6, the ground floor of a #building# within 60 feet of the intersection of Exterior Street and East 138<sup>th</sup> Street shall be occupied to a depth of 25 feet with #commercial#, #community facility# or #residential floor area# so that no portion of a parking facility is visible from such portion of Exterior Street or East 138<sup>th</sup> Street.

- (2) The provisions of this subparagraph (2) shall apply to facilities not facing a #shore public walkway#, or that portion of an #upland connection# or #park# located west of the #Parcel 1 Building Line#, or northern #street line# of East 138th Street.

Such facilities shall be designed so that:

- (i) any non-horizontal parking desk structures are not visible from the exterior of the #building# in elevation view;
- (ii) opaque materials are located on the exterior #building wall# between the bottom of the floor of each parking desk and no less than three feet above such deck; and
- (iii) a total of at least 50 percent of such exterior #building wall# with adjacent parking spaces consists of opaque materials which may include permitted #signs#, graphic or sculptural art, or living plant material.

(e) Open parking lots

The requirements of Section 37-90 (PARKING LOTS) and screening requirements for open parking lots of Article VI Chapter 2 (Special Regulations Applying in the Waterfront Area) are modified as set forth in this paragraph (e).

For the purposes of applying the requirements of Section 37-90 (PARKING LOTS), a fire apparatus access road shall be considered a #street#.

On Parcel 1, for parking lots or portions thereof located east of the #Parcel 1 Building Line#, no landscaping shall be required. Such parking lots shall be screened from #streets# and any other publicly accessible areas by ornamental fencing, excluding chain link fencing, with a surface area at least 50 percent open and not more than four feet in height. However, along that portion of Exterior Street located between East 149th Street and a sewer easement, a seven foot wide strip, densely planted with evergreen shrubs maintained at a height of three feet shall be provided.

On Parcel 5, if a commercial or public utility vehicle storage #use# , as listed in Use Group 16C, is #developed# or #enlarged# as the primary #use# on the parcel, the screening requirements applicable to open parking lots set forth in Article VI, Chapter 2 shall not apply. In lieu thereof, such open parking lot shall be screened from the adjacent #shore public walkway# and #upland connection# with a wall or fence, other than a chain link fence, not more than 50 percent opaque, and at least five feet in height, but not more than six feet in height.

(f) Roof parking

Any roof of a facility containing off-street parking spaces, not otherwise covered by a #building#, which is larger than 400 square feet shall be landscaped. Up to five percent of such roof area may be used for mechanical equipment, provided that such mechanical equipment is screened from view by a fence which is at least 75 percent opaque or by at least three feet of dense planting. Up to 25 percent of such roof area may be accessible solely from an adjacent #dwelling unit# and the remaining roof area shall be accessible for the recreational use of the occupants of the building in which it is located. Hard surfaced areas shall not cover more than 60 percent of such roof area.

## 87-51

### Curb Cut Restrictions

On Parcels 1, 2, 3 and 4, no curb cuts shall be provided facing a #shore public walkway# and, further, on Parcel 2, no curb cuts shall be provided facing a #park#.

## 87-60

### HARLEM RIVER WATERFRONT ACCESS PLAN

Map 2 (Waterfront Access Plan: Public Access Elements) in the Appendix to this Chapter shows the boundaries of the area comprising the Harlem River Waterfront Access Plan and the location of certain features mandated or permitted by the Plan.

## 87-61

### Special Public Access Provisions

The provisions of 62-50 (GENERAL REQUIREMENTS FOR VISUAL CORRIDORS AND WATERFRONT PUBLIC ACCESS AREAS) shall apply as follows:

- (a) Shore public walkways
  - (1) The #shore public walkway# shall be constructed at an elevation of two feet above the highest level of the Oak Point Rail Link, except that:
    - (i) on Parcels 6 and 7, no such elevation requirement shall apply.
    - (ii) on Parcel 5, if commercial or public utility vehicle storage, as listed in Use Group 16C, is #developed# or #enlarged# as the primary #use# on the #zoning lots#, such elevation requirement shall not apply. However, if commercial or public utility vehicle storage, as listed in Use Group 16C, is not #developed# or #enlarged# as the primary #use# on the #zoning lots#, such elevation requirement shall only apply along the westernmost section of the #shore public walkway# to a depth of 40 feet.
    - (iii) on all #zoning lots#, a #shore public walkway# shall be required to meet the grade of an existing adjacent #street#, which may include deviating from such elevation requirement where necessary.
  - (2) A dead-end fire apparatus access road turnaround, as defined in the New York City Fire Code Section 503.2.5 (Dead-ends), may by certification extend into a designated #shore public walkway# as set forth in Section 87-73 (Certification to Allow Fire Apparatus Access Road Turnaround in Shore Public Walkways).
  - (3) In the event that a portion of a #waterfront zoning lot# is within 40 feet of the #shoreline#, yet does not abut the #shoreline# because of an intervening #zoning lot#, a #shore public walkway# shall be provided on such upland portion. The width of the #shore public walkway# on such

portion shall be 40 feet measured from the #shoreline# of the intervening #zoning lot# and shall include the width of the intervening #zoning lot#. The portion of such #shore public walkway# located upland of the intervening #zoning lot# shall be improved with a circulation path at least ten feet wide, and any required planted screening buffer shall have a width of at least four feet.

- (4) On Parcel 5, if a commercial or public utility vehicle storage #use# is #developed# or #enlarged# as the primary #use# on the parcel, the #shore public walkway# requirements set forth in Section 62-62 shall apply except that:
- (i) the required width of the #shore public walkway# may be reduced to a minimum of 20 feet along the northern edge of the inlet and may be reduced to a minimum of 30 feet along the eastern edge of the inlet.
  - (ii) the circulation path required in paragraph (a)(1) of Section 62-62 shall be modified to a minimum width of 10 feet along the northern and eastern edge of the inlet,
  - (iii) the screening provisions of paragraph (c)(2) of Section 62-62 shall not apply. In lieu thereof, a planted screening buffer with a width of four feet shall be provided. Such planted buffer shall consist of densely planted shrubs or multi-stemmed screening plants, with at least 50 percent being evergreen species. Shrubs shall have a height of at least four feet at the time of planting; and
  - (iv) in the event that the #upland connection# on Parcel 6 has not been #developed#, a ten foot wide pedestrian walkway between the #shore public walkway# and Exterior Street shall be provided on Parcel 5 adjacent to such #upland connection# location.

(b) Upland connections

#Upland connections# shall be located on Parcels 3, 4 and 6, as designated on Map 2 in the Appendix to this Chapter.

The provisions of Sections 62-50 (GENERAL REQUIREMENTS FOR VISUAL CORRIDORS AND WATERFRONT PUBLIC ACCESS AREAS) are modified as follows:

- (1) Parcel 3 may provide the #upland connection# at either of the two optional locations indicated on Map 2 in the Appendix to this Chapter.

- (2) The required width for an #upland connection# on Parcel 6, as indicated on Map 2, is reduced to 12 feet. Such #upland connection# shall be subject only to the applicable pedestrian path provisions.

(c) Supplemental public access areas

#Supplemental public access areas# pursuant to this Plan shall be provided on Parcels 1 and 2, as indicated on Map 2 in the Appendix to this Chapter, however, the requirement may be waived by certification by the Chairperson of the City Planning Commission as set forth in Section 87-62 (Certification to Waive Supplemental Public Access Area Requirement).

(d) Visual Corridors

#Visual corridors# shall be located within Parcels 1 and 4, and the #park#, as indicated on Map 2 in the Appendix to this Chapter.

### **87-62**

#### **Certification to Waive Supplemental Public Access Area Requirement**

For Parcels 1 and 2, the requirement to provide a designated #supplemental public access area#, as indicated on Map 2 in the Appendix to this Chapter, may be waived by the Chairperson of the City Planning Commission upon finding that:

- (a) the site plan includes a vehicular connection through the #zoning lot# pursuant to the design guidelines set forth in Section 87-41 (Fire Apparatus Access Roads); and
- (b) a declaration of restrictions has been provided pursuant to Section 87-64 (Declaration of Restrictions); and
- (c) the design meets all applicable connection requirements set forth in Section 87-66 (Connection with adjacent zoning lots); and
- (d) such a vehicular connection either:
  - (1) on Parcel 1, provides access between East 149<sup>th</sup> Street and Exterior Street, serving all #buildings# along the #shore public walkway# and #park#; or
  - (2) on Parcel 2, provides a bidirectional connection between Exterior Street at its intersection with East 144<sup>th</sup> Street and the southernmost #lot line# of the #development#.



### **87-63**

#### **Certification to Allow Fire Apparatus Access Road Turnaround in Shore Public Walkways**

On Parcels 2, 3 and 4, a dead-end fire apparatus access road turnaround, as defined in the New York City Fire Code Section 503.2.5 (Dead-ends), may by certification, extend into the designated #shore public walkway#, provided that:

- (a) a declaration of restrictions has been provided pursuant to Section 87-64; and
- (b) a fire apparatus access road abutting the shared #zoning lot line# between the #development# seeking certification under this section and Parcels 2, 3 or 4 does not exist; and
- (c) the fire apparatus access road serves as a segment of a bidirectional loop road along the #shore public walkway#, providing a connection to Exterior Street at the northeast corner of Parcel 2 and a connection to Exterior Street at the southeast corner of Parcel 4.

Such turnaround shall have a diameter of 70 feet and be located at the end of the fire apparatus access road, abutting the adjacent #lot line#. At no point may the turnaround extend into the #shore public walkway# for a distance greater than 23 feet. Sidewalks shall not be required adjacent to the turnaround. The portion of the turnaround that lies within a #shore public walkway# shall remain clear of obstacles, shall be composed of permeable materials, and shall meet all applicable requirements set forth in the New York City Fire Code Section 503.1.1 (Fire apparatus access roads). In addition, the roadbed material of a fire apparatus access road leading to a vehicular turnaround may be extended into the turnaround provided the area of the turnaround paved with such material is not wider than the roadbed leading to the turnaround. The remaining portions of the turnaround shall be paved with distinct materials to facilitate pedestrian usage. In addition, the level of the area within the turnaround shall be raised to be flush of the level of adjoining sidewalks.

### **87-64**

#### **Declaration of Restrictions**

For any fire apparatus access road proposed for certification pursuant to Sections 87-62 or 87-63, a declaration of restrictions shall be provided to guarantee the construction, improvement, operation, maintenance and repair of such road, to guarantee that such road remains open, unobstructed and accessible to all members of the public, except as necessary to avoid public dedication, and to ensure compliance with all applicable provisions. Such declaration of restrictions shall be prepared in a form acceptable to the Department of City Planning, shall be filed and duly recorded in the Borough Office of

the Register of the City of New York and indexed against the property. Filing and recording of the declaration of restrictions shall be a precondition for the Chairperson's certification under Section 87-62 and 87-63, where applicable.

For certifications proposed pursuant to Section 87-63, at the time a declaration of restrictions has been provided by the adjacent #development#, pursuant to this section, permitting vehicular connection between #zoning lots#, the #zoning lot# containing a previously constructed fire apparatus access turnaround shall be responsible for the following actions on the portion of the connection on such #zoning lot#:

- (a) deconstructing the fire apparatus access road turnaround; and
- (b) re-landscaping the area that had extended into the #shore public walkway#, so as to create the conditions of the immediately surrounding #shore public walkway#, which may include any combination of tree planting, laying sod, removing pavers, or any other required landscaping action; and
- (c) extending all required sidewalks that had remained short of the #lot line# to the shared #lot line# to connect to the required adjacent sidewalks and enable pedestrian movement across #developments#; and
- (d) complying with all applicable waterfront rules, street regulations and the New York City Fire Code.

#### **87-65**

##### **Applicability of Waterfront Regulations**

In the event that #streets# are mapped on Parcels 1, 2, 3 and 4 after (effective date of amendment), the area within such #streets# may continue to be considered part of the #zoning lot# for the purposes of applying all waterfront regulations of the Zoning Resolution.

#### **87-66**

##### **Connection with Adjacent Zoning Lots**

The following provisions apply to #developments# pursuing certification pursuant to either Section 87-62 (Certification to Waive Supplemental Public Access Area Requirement) or Section 87-63 (Certification to Allow Fire Apparatus Access Road Turnaround in Shore Public Walkways).




On each of Parcels 2, 3 and 4, and only among Parcels 2, 3 and 4, a #development# shall provide a connection for bidirectional vehicular travel at an adjacent #zoning lot line# if such adjacent #zoning lot# has previously constructed a connection that terminates at the shared #lot line#. Any connection of fire apparatus access roads across a shared #zoning

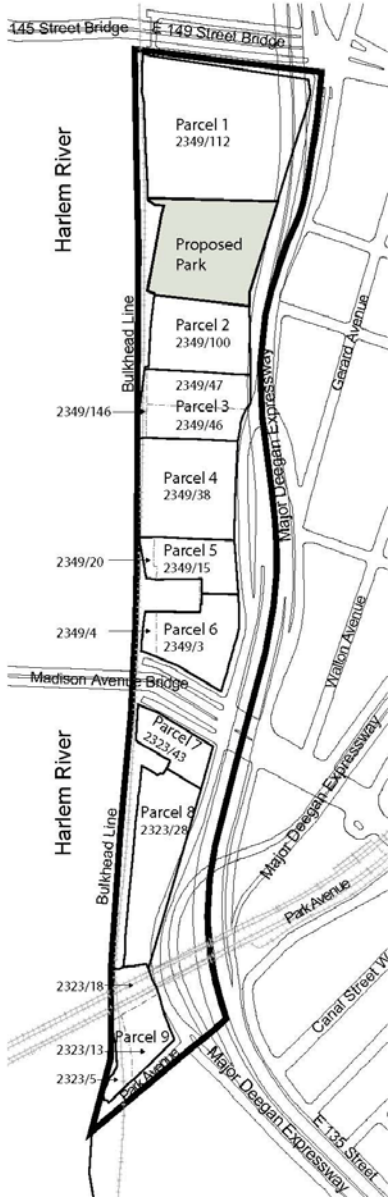
lot line# must meet the grade of and maintain the street width of the existing adjacent private street. In addition to such physical shared #lot line# connection, a private road declaration shall be provided pursuant to the provisions of Section 87-74 of this Chapter. A connection need not be opened unless and until such declaration of restrictions, in accordance with 87-74, has been recorded against the adjacent #zoning lot#.

When no connection for vehicular travel terminating at the opposite side of a shared #zoning lot line# exists, one may, by certification pursuant to Section 87-63, construct a dead-end fire apparatus access road turnaround that may extend into the designated #shore public walkway#. Such certification is also contingent upon providing a declaration of restrictions, in accordance with Section 87-64.

# APPENDIX

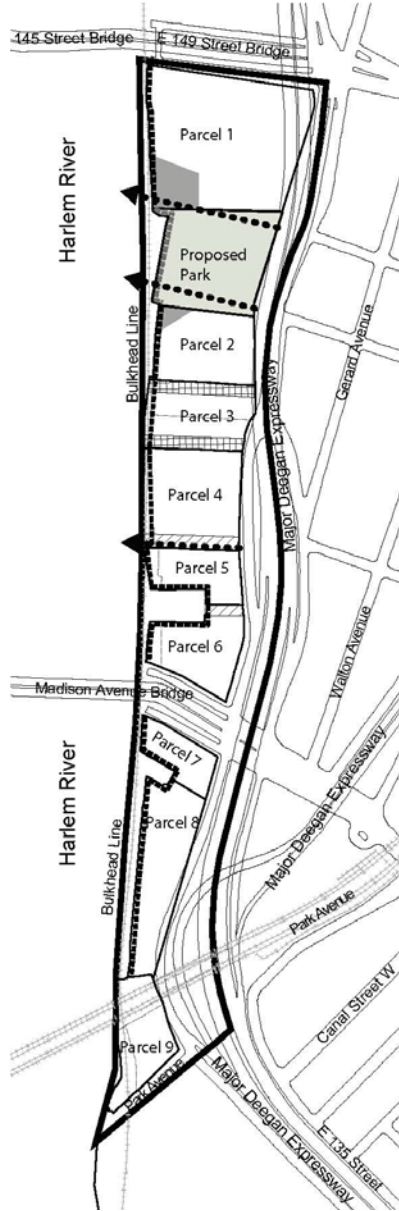
Map 1: Special Harlem River Waterfront District and Parcels

-  Special Harlem River District
-  Parcel line
-  Tax lot line
- 2349/112 Tax block/Lot number



Map 2: Waterfront Access Plan : Public Access Elements

-  Special Harlem River District
-  Shore Public Walkway / Waterfront Yard
-  Shore Public Walkway in Park
-  Visual Corridor (Designated Location)
-  Upland Connection (Designated Location)
-  Upland Connection (Variable Location)
-  Supplemental Public Access Area (Designated Location)



\* \* \*

Note: Only underlined text is new in the following Section.

**Article XII - Special Purpose Districts**

\* \* \*

**Chapter 3  
Special Mixed Use District**

\* \* \*

**123-66  
Height and Setback Regulations**

\* \* \*

**123-662  
All buildings in Special Mixed Use Districts with R6, R7, R8, R9 and R10 District designations**

\* \* \*

**TABLE B**

\* \* \*

In addition, in #Special Mixed-Use District# 13 in the Borough of The Bronx, at least 70 percent of the #aggregate width of street walls# shall be located within eight feet of the #street line# and shall extend to at least the minimum base height specified for the applicable district as set forth in Table B above, or the height of the #building#, whichever is less. The remaining 30 percent of the #aggregate width of street walls# may be located beyond eight feet of the #street line#. Existing #buildings# may be vertically #enlarged# by up to one #story# or 15 feet without regard to the #street wall# location provisions of this paragraph.

\* \* \*

**123-90  
SPECIAL MIXED USE DISTRICTS SPECIFIED**

The #Special Mixed Use District# is mapped in the following areas:

\* \* \*

#Special Mixed Use District# - 13: (effective date)

Lower Concourse, Bronx

The #Special Mixed Use District# - 13 is established in the Lower Concourse in  
The Bronx as indicated on the #zoning maps#.

The above resolution (N 090302 ZRX), duly adopted, by the City Planning Commission on May 20, 2009 (Calendar No. 11), is filed with the Office of the Speaker, City Council, and the Borough President in accordance with the requirements of Section 197-d of the New York City Charter.

**AMANDA M. BURDEN, FAICP, Chair**  
**ANGELA M. BATTAGLIA, IRWIN G. CANTOR, P.E.,**  
**ANGELA R. CAVALUZZI, AIA, MARIA M. DEL TORO,**  
**NATHAN LEVENTHAL, SHIRLEY A. McRAE,**  
**JOHN MEROLO, KAREN A. PHILLIPS Commissioners**