CITY PLANNING COMMISSION

December 16, 2015 / Calendar No. 10 N 150340 ZRR

IN THE MATTER OF an application submitted by BIRB Realty Inc., pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York modifying Appendix A of Article X, Chapter 7, concerning the boundaries of Designated Open Space, within the Special South Richmond Development District in Community District 3 in the Borough of Staten Island.

The application (N 150340 ZRR) for amendment of the Zoning Resolution was filed by BIRB Realty Inc. on April 20, 2015, to modify the boundaries of Designated Open Space (DOS) located along Durant Avenue and Ocean Road in the Great Kills neighborhood of Staten Island within the Special South Richmond Development District (SSRDD) to facilitate development of 3, two-family homes at 521-529 Durant Avenue (Block 5120, Lot 62).

RELATED ACTIONS

In addition to the proposed amendment of the Zoning Resolution, which is the subject of this report (N 150340 ZRR), implementation of the applicant's proposed development also requires action by the City Planning Commission on the following application, which is being considered concurrently:

N140172RCR	Certification of Future Subdivision to facilitate three new zoning lots within the Special South Richmond Development District.

BACKGROUND

In 1975, prompted by rapid development in the southern end of Staten Island, the City Planning Commission (CP-22972, Cal. No. 5, July 23, 1975) and the Board of Estimate adopted the Special South Richmond Development District (SSRDD) which designated a zoning classification on individual properties called Designated Open Space (DOS). These parcels, taken together, constitute the Open Space Network, which is a system of open space that protects many of South Richmond's streams, ponds, wetlands, shorelines and woods. It was designed to create an interconnected public open space system linking parkland and important open spaces with trails for walking or horseback riding in a natural setting. DOS was intended to preserve part of a site's natural landscape to help maintain the rural character of the area while allowing development to occur. The DOS zoning classification prohibits all development on that portion of a zoning lot including parking and limits to grade changes and tree removal. Many parcels mapped as DOS in 1975 have since been acquired by the NYC Department of Parks and Recreation and the NYC Department of Environmental Protection, and now help form Staten Island's Bluebelt system and network of city parks.

The parcel of DOS affecting the subject premises was established on September 11, 1975 as part of the creation of the SSRDD and has not been modified since then. There have been no prior City Planning Commission approvals on this site; the site currently remains vacant.

The development site, the site on which residential development is proposed, is located on the north street line of Durant Avenue, 104.13 ft. west of the intersection of Durant Avenue and Fieldway Avenue, with 120 feet of frontage on Durant Avenue and Ocean Road. The entirety of these merged streets located between Fieldway Avenue and Highland Road is mostly vacant and mapped as DOS to the full width of the street, approximately 60 feet. The site contains 2,441 square feet of DOS mapped along the southerly portion of the site, 11.67 feet wide at the easterly edge of the development site and 37.27 feet wide at the westerly lot line, which precludes legal street frontage for the zoning lot, as well as access to and from the site. The site currently contains 43 trees including a mix of Pine, Cherry, Sweet Gum, Maple, Magnolia, Walnut, Beech, and Ailanthus.

A waiver of General City Law 36 was granted by the Board of Standards and Appeals (BSA) on February 11, 2014 (Cal. Nos. 287-13-A and 288-13-A) to permit the proposed development to front on a portion of Durant Avenue, which is not a mapped street. Durant Avenue has a Corporation Counsel Opinion (CCO) (5/16/1995) status that extends 150 feet from the southwest intersection with Fieldway Avenue and extends approximately 46 feet in front of the development site. It is approximately at the end of this 46 feet where Durant Avenue ends and Ocean Road begins. One of the three proposed two-family homes on this site would have frontage on the CCO portion of Durant Avenue; however, the two proposed developments on the western portion of the development site require BSA approval for legal street frontage.

The proposed project area includes the 16,669 square foot development site (Block 5120, Lot 62), which contains 2,441 square feet of DOS, and 10,921 square feet of DOS located outside of the development site, within the private road and record street, for a total project area of 27,590 square feet.

The total amount of DOS proposed to be removed pursuant to this application is a 60 foot wide, 13,362 square foot parcel of DOS mapped over Ocean Road (private road), Durant Avenue (record street and partial CCO 5/16/1995), and the development site (Block 5120, Lot 62), extending from the southwest corner of Fieldway Avenue and Durant Avenue to the westerly border of the development site that is fronting Ocean Road.

The parcel of DOS that is the subject of the current application is a small, isolated parcel that does not connect to existing parks or to other parcels of South Richmond's Open Space Network. This DOS area is essentially a roadbed right-of-way that was mapped as DOS in 1975. The applicant, property owner of Block 5120, Lot 62, owns up to the centerline of Durant Avenue; the rest of the street is owned by other private entities.

Upon removal of the subject portion of the DOS, the applicant intends to construct 3 two-story detached two-family houses, each on its own zoning lot. Each of the homes will total approximately 2,700 square feet in floor area, on zoning lots that vary between 4,706 square feet and 6,386 square feet of lot area. The proposed zoning lots will access the CCO portion of Durant Avenue and a privately-owned extension of Durant Avenue through three curb cuts. The Durant Avenue extension, as approved by the BSA (February 11, 2014; Cal. Nos. 287-13-A and 288-13-A) will dead-end at the westerly lot line of the development site and will not provide pedestrian or vehicular access to any other properties.

Twenty-six of the 43 existing trees are proposed to be removed pursuant to the provisions of ZR Section 107-321 Tree preservation, due to their location in areas to be occupied by buildings, driveways, and areas for required accessory parking or within 8 feet of the proposed exterior walls. The remaining 17 trees satisfy the minimum tree planting requirements for this site pursuant to ZR Section 107-322 Tree requirements, therefore no new planting will be required.

The proposed text change (N150340ZRR), which is the subject of this report, will amend Article X Chapter 7 (District Plan – Appendix A) modifying the boundaries of the DOS within the Special South Richmond Development District (Maps 3 and 3.6), by eliminating 13,362 sq. ft. of the existing 25,577 sq. ft. area of DOS located along Durant Avenue (and its extension) between Fieldway Avenue and the southwesterly border of the development site. This action will facilitate access to a proposed development of three, two-family detached residences on the 16,669 sf vacant parcel. Although the majority of the zoning lot is not within the DOS area, the DOS runs along the southerly lot line of the site, thereby prohibiting access to the proposed development.

A City Planning Commission certification for future subdivision (N140172RCR) is also proposed to subdivide the existing zoning lot (Block 5120, Lot 62) into three new zoning lots to facilitate development of three two-family homes in an R3X zoning district.

ENVIRONMENTAL REVIEW

This application (N 150340 ZRR) was reviewed pursuant to the New York State Environmental Quality Review Act (SEQRA), and the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 et. seq. and the New York City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The designated CEQR number is 15DCP154R. The lead is the City Planning Commission.

After a study of the potential environmental effects of the proposed action, a Conditional Negative Declaration was issued. The City Planning Commission has determined that the proposed action would have no significant effect on the quality of the environment, once it is modified as follows:

1. The applicant agrees via a Restrictive Declaration to conduct archaeological identification, investigation and mitigation in accordance with the *CEQR Technical Manual* and New York City Landmarks Preservation Commission (LPC) Guidelines for Archaeological Work in New York City. The Restrictive Declaration also restricts the applicant from submitting any permit applications to the Department of Buildings (DOB) that would allow for soil disturbance on the subject property until such time that LPC provides the necessary written notice to DOB.

The applicant signed the Conditional Negative Declaration on August 14, 2015. The Conditional Negative Declaration was published in the City Record on August 31, 2015 and in the New York State Environmental Notice Bulletin on September 2, 2015. Pursuant to the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 *et seq*., a 30-day comment period followed. No comments were received and the Conditional Negative Declaration was issued on December 14, 2015.

PUBLIC REVIEW

On August 17, 2015 this application (N 150340 ZRR) was duly referred to Community Board 3 and the Borough President for information and review in accordance with the procedure for referring non-ULURP matters.

Community Board Public Hearing

Community Board 3 held a public hearing on this application on October 14, 2015, and by a vote of 35 in favor, with 3 opposed and 0 abstentions on October 27, 2015, passed a resolution recommending disapproval of the application.

Borough President Recommendation

This application was considered by the Staten Island Borough President who issued a recommendation approving the application on October 30, 2015.

City Planning Commission Public Hearing

On November 2, 2015 (Calendar No. 3), the City Planning Commission scheduled November 18, 2015 for a public hearing on this application (N 150340 ZRR). The hearing was duly held on November 18, 2015 (Calendar No.15).

There was one speaker in favor of the application, none opposed and the hearing was closed.

The speaker in favor of the application was the applicant's land use attorney, who described the proposed action. He stated that the Community Board's vote was based on their general policy to not support the removal of Designated Open Space. He further stated that the Board's

unanimous approval of the Board of Standards and Appeals application for a waiver of General City Law 36 for the proposed development on the site should be considered by the Commission with respect to this application.

There were no other speakers and the hearing was closed.

Waterfront Revitalization Program Consistency Review

This application 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 est seq.). The designated WRP number is 14-041.

The City Planning Commission, acting as the City Coastal Commission, having reviewed the waterfront aspects of this action, find that the actions will not substantially hinder the achievement of any WRP policy and herby determines that this action is consistent with WRP policies.

CONSIDERATION

The Commission believes that this amendment to the Zoning Resolution is appropriate.

The zoning text amendment would facilitate access to a proposed development of three, two-family detached residences on a 16,669 square feet vacant parcel. The Commission notes that eliminating the 13,362 square foot portion of the existing 25,577 square foot parcel of Designated Open Space would allow for the opening of a 120 foot portion of Durant Ave, as well as the extension of Durant Avenue into a private drive, from which driveways to the three proposed homes would be accessed via three curb cuts. Each of the homes would be located on its own zoning lot and each one would meet the South Richmond minimum zoning lot requirements for the underlying R3X district.

The Commission believes that this portion of Designated Open Space does not meet the original goals of the Special District and is not part of a planned “open space network”. The “open space network” is defined as a planned system of #open spaces# as shown on the District Plan, which includes #public parks#, #park streets#, #designated open space# and the #waterfront esplanade#. This small, isolated parcel of Designated Open Space is located on the roadbed right- of- way of Ocean Road and Durant Avenue, and it is not adjacent to parks or wetlands or other portions of the Open Space Network.

RESOLUTION

Resolved, that having considered the Environmental Assessment Statement (EAS) for which a Conditional Negative Declaration (CND) was issued on December 14, 2015 with respect to this application (CEQR No. 15DCP154R), the City Planning Commission finds that the action described herein will have no significant impact on the environment as described above; 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, that the City Planning Commission, pursuant to Section 200 of the New York City Charter, that based on the environmental determination and consideration described in this report, the Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended as follows:

ARTICLE X
SPECIAL PURPOSE DISTRICTS

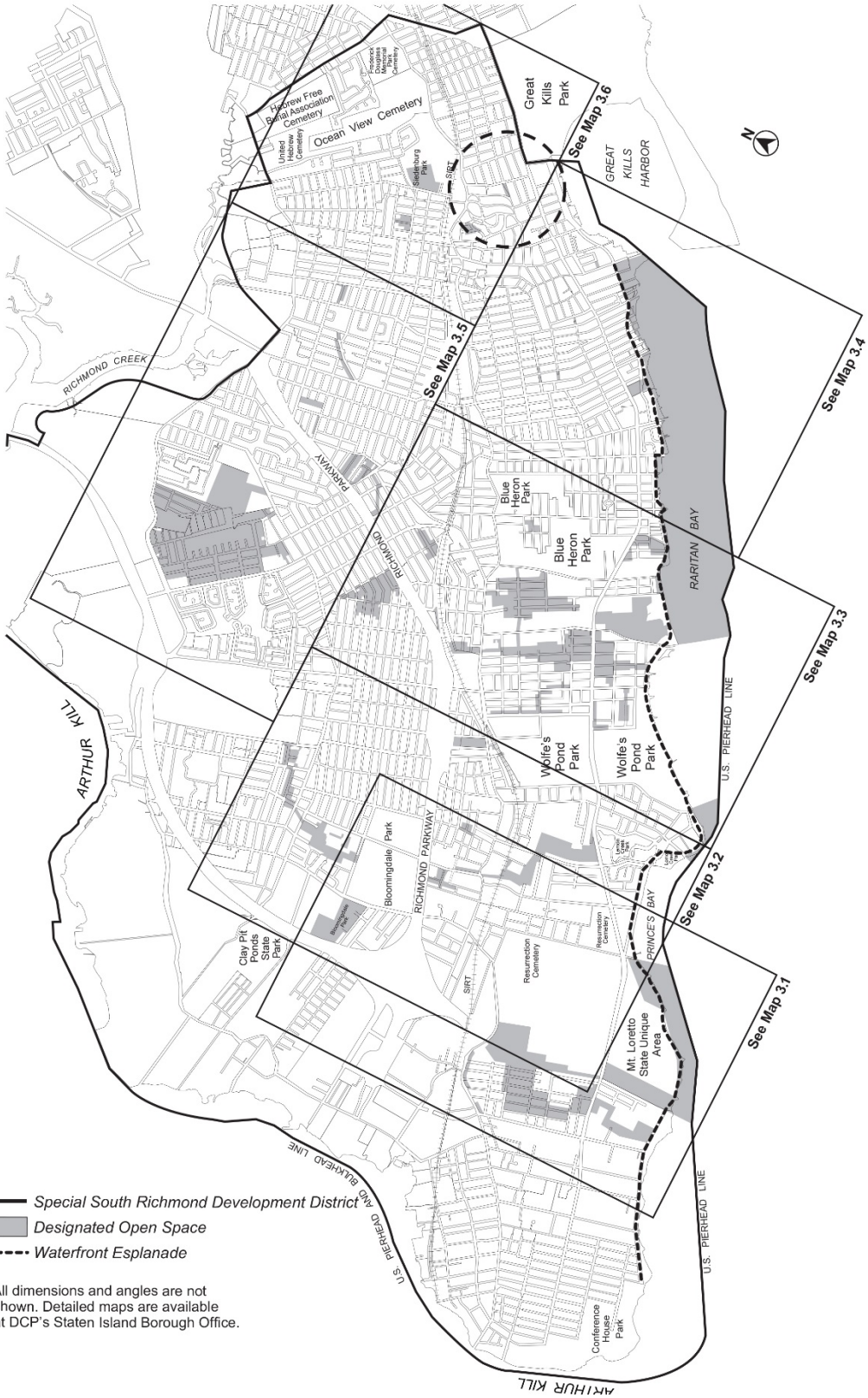
Chapter 7
Special South Richmond Development District

* * *

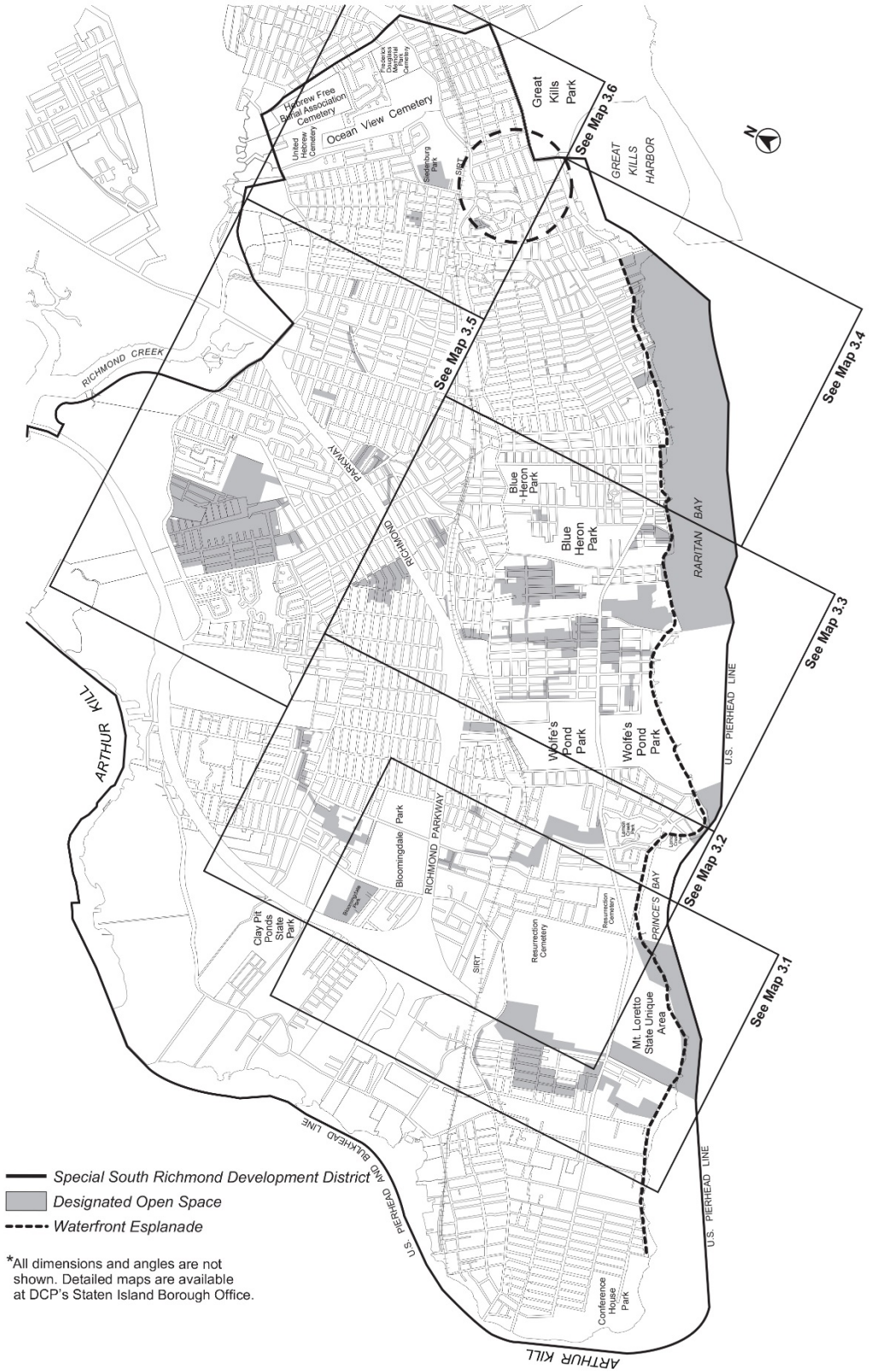
Appendix A
Special South Richmond Development District Plan

* * *

Map 3: Open Space Network [Existing]



Map 3: Open Space Network [Proposed]



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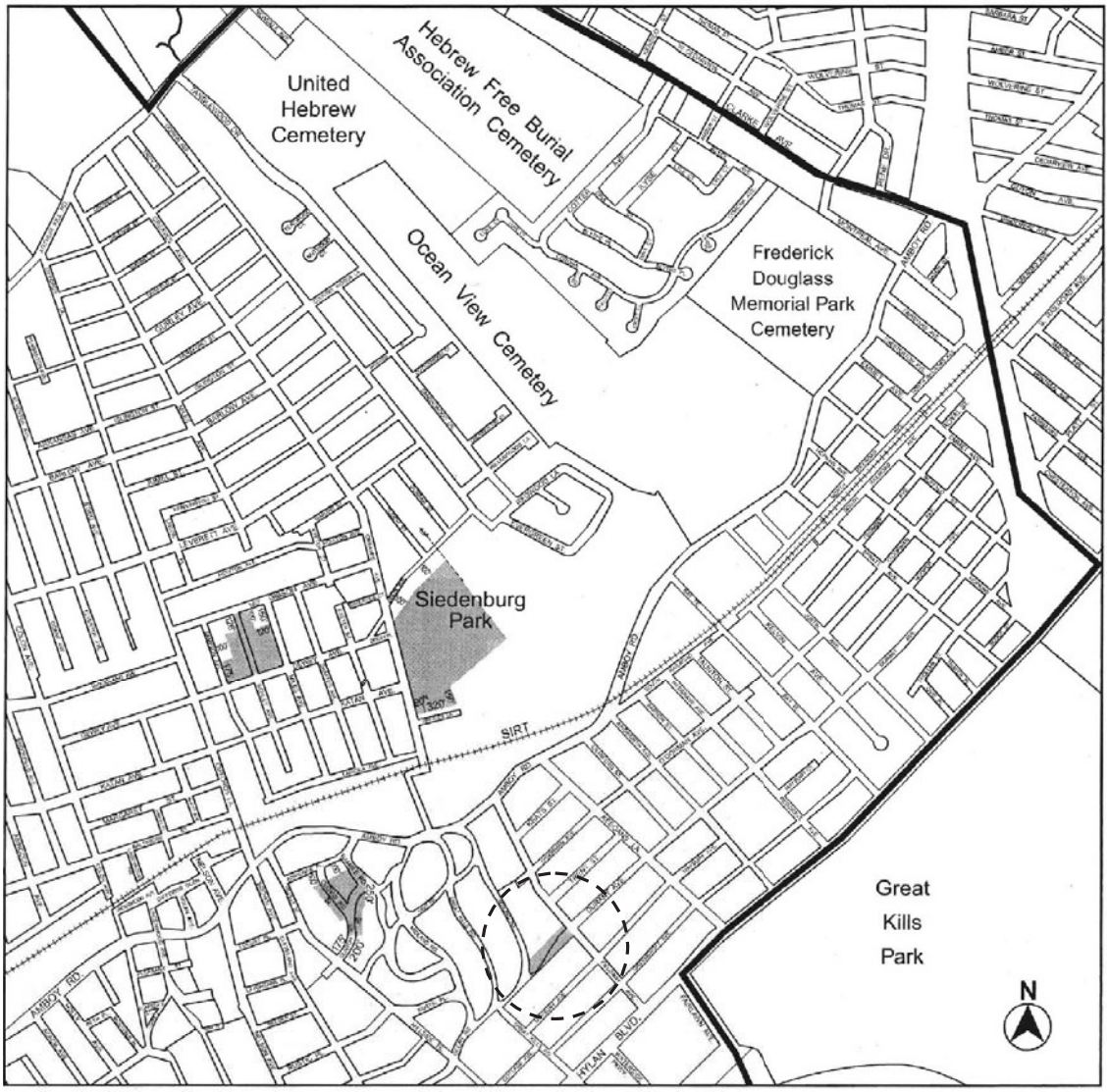
Map 3.6: Open Space Network [Existing]

Special South Richmond Development District

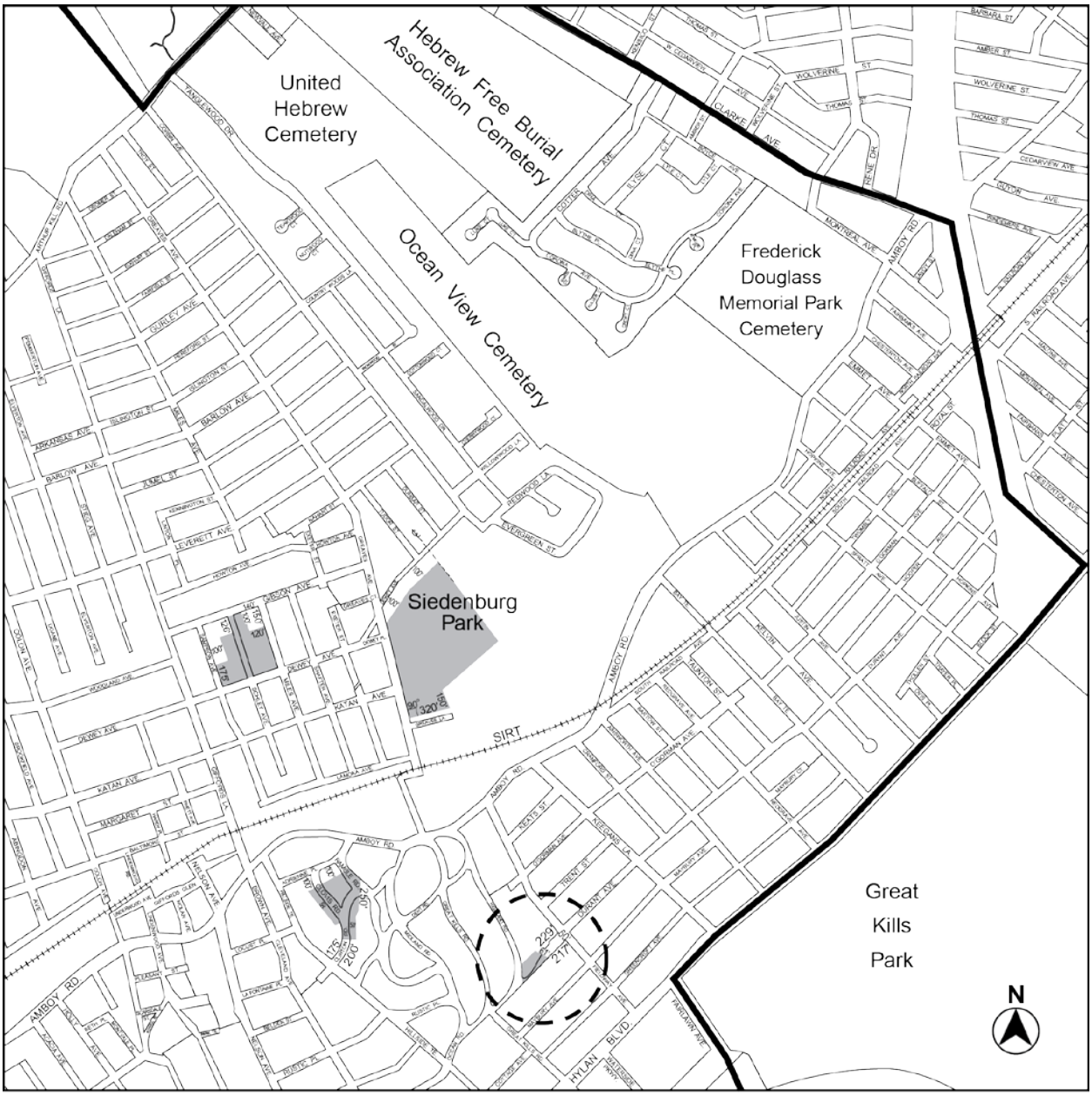
Designated Open Space



Map 3.6: Open Space Network [Proposed]

Special South Richmond Development District

Designated Open Space



* * *

The above resolution (N 150340 ZRR), duly adopted by the City Planning Commission on December 16, 2015, (Calendar No.10), is filed with the Office of the Speaker, City Council, and the Borough President in accordance with the requirements of Section 197-d of the New York City Charter.

CARL WEISBROD, *Chairman*

KENNETH J. KNUCKLES, *Esq., Vice Chairman*

RAYANN BESSER, IRWIN G. CANTOR, P.E., ALFRED C. CERULLO, III,

MICHELLE DE LA UZ, RICHARD W. EADDY, CHERYL COHEN EFFRON,

JOSEPH I. DOUEK, ANNA HAYES LEVIN, ORLANDO MARIN, LARISA ORTIZ,
Commissioners

NYCPLANNING
DEPARTMENT OF CITY PLANNING CITY OF NEW YORK

Community/Borough Board Recommendation

Pursuant to the Uniform Land Use Review Procedure

Application #: **N150340ZRR**	Project Name: **521-529 Durant Avenue**
CEQR Number:	Borough(s): Staten Island Community District Number(s): 3

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

SUBMISSION INSTRUCTIONS

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

Docket Description:

An application submitted by Adam W. Rothkrug, Esq. Rothkrug Rothkrug and Spector, LLP on behalf of Birb Realty Inc., Pursuant to Zoning Resolution Section 107/06 to modify the map of District Plan Appendix A of the Zoning Resolution to modify the boundaries of the Designated Open Space within the Special South Richmond Development District.

Applicant(s): Birb Realty Inc. 92 Tompkins Street Staten Island, NY 10305	Applicant's Representative: Adam W. Rothkrug, Esq. Rothkrug Rothkrug & Spector, LLP 55 Watermill Lane Great Neck, NY 11021

Recommendation submitted by:
Staten Island Community Board 3

Date of public hearing: October 14, 2015 Location: 655-218 Rossville Avenue, S.I. N.Y. 10309

Was a quorum present? YES ☒ NO ☐ *A public hearing requires a quorum of 20% of the appointed members of the board, but in no event fewer than seven such members*

Date of Vote: October 27, 2015 Location: 1075 Woodrow Road, S.I. N.Y. 10309

RECOMMENDATION

☐ Approve ☐ Approve With Modifications/Conditions

☒ Disapprove ☐ Disapprove With Modifications/Conditions

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

Voting

In Favor: 35 # Against: 3 # Abstaining: Total members appointed to the board: **50**

Name of CB/BB officer completing this form	Title	Date
Frank Morano	Chairman of the Board	10/28/2015

NYCPLANNING
DEPARTMENT OF CITY PLANNING CITY OF NEW YORK

BOROUGH PRESIDENT RECOMMENDATION
Pursuant to the Uniform Land Use Review Procedure

Application #: N 150340 ZRR CEQR #:	Project Name: **521-529 DURANT AVENUE** Borough(s): **STATEN ISLAND** Community District Number(s): **503**

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

Docket Description:

IN THE MATTER OF an application submitted by the Bill Andrade of BIRB Realty Inc., pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York modifying Appendix A of Article X, Chapter 7, concerning the boundaries of Designated Open Space, within the Special South Richmond Development District.

Recommendation:

- [x] **Approve**
- [ ] **Approve With Modifications/Conditions**
- [ ] **Disapprove**
- [ ] **Disapprove With Modifications/Conditions**

Explanation of Recommendation, Conditions or Modification:

Related Applications:

Contact:
Address questions about this recommendation to:
OFFICE OF THE STATEN ISLAND BOROUGH PRESIDENT
ATTN: LAND USE DIRECTOR

Address: 10 Richmond Terrace, Staten Island, NY 10301 (Room G-12)
Phone: 718.816.2112
Fax: 718.816.2060

James S. Oddo

30 October 2015

James S. Oddo
President of the Borough of Staten Island

DATE