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**IN THE MATTER OF** an application submitted by the Department of Citywide Administrative Services (DCAS), pursuant to Section 197-c of the New York City Charter, for the disposition of one city-owned property located on Block 4804, p/o Lot 100, pursuant to zoning, Borough of the Bronx, Community District 12.

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This application (C 170217 PPX) for the disposition of City-owned property was filed by the Department of Citywide Administrative Services (DCAS) on January 3, 2017, in conjunction with several related actions. The proposed actions would facilitate the development of a new pedestrian-oriented open-air urban shopping complex and a single residential building containing approximately 180 units of affordable senior housing within a large-scale general development located at 1769-1771 and 1825 East Gun Hill Road (Block 4804, p/o Lot 100) in the Baychester neighborhood of the Bronx, Community District 12.

**RELATED ACTIONS**

In addition to the proposed disposition (C 170217 PPX) that is subject of this report, implementation of the proposed project also requires action by the City Planning Commission on the following applications, which are being considered concurrently with this application:

- C 170218 ZMX      Zoning map amendment changing from an M1-1 District to a C4-3 District;
  
- C 170221 ZSX      Special permit to allow the location of buildings without regard for height, setback, and rear yard requirements within a large-scale general development;
  
- C 170222 ZSX      Special permit to modify signage requirements within a large-scale general development;

C 170223 ZSX Special permit to allow an accessory group parking facility and to allow some off-street parking spaces to be located on the roof of a building within a large-scale general development; and

N 170219 ZRX Zoning text amendment to allow a physical culture or health establishment and to designate a Mandatory Inclusionary Housing (MIH) area.

### **BACKGROUND**

The applicant, Gun Hill Square LLC, is seeking to develop a new pedestrian-oriented open-air urban shopping complex and a single residential building containing approximately 180 units of affordable senior housing within a large-scale general development located at 1769-1771 and 1825 East Gun Hill Road (Block 4804, p/o Lot 100).

The project site is located in the Baychester neighborhood of the Bronx, at the southeastern tip of Bronx Community District 12. The site occupies an irregularly-shaped lot comprising approximately 12.6 acres (approximately 550,185 square feet) in area. It is located on the southern end of a larger 32-acre, U-shaped property, and is generally bounded by East Gun Hill Road to the southwest and Edson Avenue to the northeast and south. The City acquired the site in the mid-1980s, via a long-term lease, to allow for the expansion of the adjacent New York City Transit Authority (NYCTA) Gun Hill Bus Depot. The expansion plan was never realized and the site remains vacant, though the Metropolitan Transit Authority (MTA) remains in a 99-year lease with the City.

The site lies within an M1-1 zoning district, which permits light industrial uses up to a floor area ratio (FAR) of 1.0. R4 and R3A districts are mapped north of the site. These districts permit residential uses up to FARs of 0.75 and 0.5, respectively and C4-1, R4-1 and R3-2 districts are mapped in the area southwest of the site. C4-1 permits commercial uses up to an FAR of 1.0 and residential uses up to an FAR of 1.25, while the R4-1 and R3-2 districts permit residential uses up to FARs of 0.75 and 0.5, respectively.

Major thoroughfares near the site are Hutchinson River Parkway, Baychester Avenue, Edson Avenue, and Gun Hill Road. The site would be accessible from both East Gun Hill Road and Edson Avenue. An exit ramp from the New England Thoroughway northbound provides a direct connection to East Gun Hill Road in the immediate vicinity of the site. The site is accessible from the New England Thoroughway southbound via the Bartow Avenue/Co-Op City exit, which connects directly to Edson Avenue and the site.

The area surrounding the site consists of a mix of commercial, retail, light industrial, open space, and transportation-related uses that occupy relatively large sites, many over an acre in size. The areas north and southwest of the project site are predominantly residential. The south side of East Gun Hill Road, in the vicinity of the site, is lined with a mix of national and local retail stores, restaurants, and services. To the northeast of the site, along East Gun Hill Road, are a series of automotive service uses. Further to the north and southwest the area is predominantly residential. The Bay Plaza shopping center is located immediately east of New England Thoroughway (I-95) and south of the adjacent Co-op City. Co-op City, the largest cooperative housing project in the United States, has over 15,000 residential units and three shopping centers with approximately 150 stores and 40 offices. Burns Playground to the south and Haffen Park, a nine-acre site offering basketball and tennis courts, a pool and a baseball diamond, to the north are within a short walk of the site. Further east are Pelham Bay Park and the Thomas Pell Wildlife Sanctuary.

The nearest subway station is the Gun Hill Road station for the 5 train, approximately 0.6 miles away. The site is also served by the BxM10, Bx12(SBS), Bx26, Bx28, Bx31 and Bx38 bus lines. The applicant is in discussions with the MTA to extend the local bus routes to stop in front of the site.

In March 2012, the MTA and the City issued a request for proposals (RFP) to dispose of the site and build a pedestrian-oriented retail destination. The RFP was led by Economic Development Corporation (EDC) with the goal of transforming the vacant NYCTA surplus land into a destination providing retail and amenities for local residents and visitors. Senior housing was later added to the project requirements. Developers were invited to submit proposals through an open competitive bidding process and, in November 2013, the MTA and EDC announced that they had

selected Gun Hill Square, LLC. To facilitate the proposed project, DCAS is requesting disposition of the City-owned site (comprising the southern 550,185–square-foot portion of Lot 100 on Block 4804) to EDC. EDC will then sell the site to Gun Hill Square, LLC for private development pursuant to the RFP agreement that will be vetted through the Contract of Sale. The portion of the lot that is not part of the disposition comprises more than 19 acres and is occupied by the Gun Hill Bus Depot and three little league ball fields.

The site being disposed used to be a privately-operated recreational center with a golf driving range, miniature golf course, batting cage, surface accessory parking, and a restaurant/lounge that had been accessible from East Gun Hill Road from three curb cuts. There are three existing low-rise buildings on-site that had functioned as a club house and storage shed for the golf range and the restaurant/lounge. These existing buildings with a total combined floor area of approximately 12,740 square feet (approximately 0.02 FAR) are abandoned and unused. The development site is currently vacant and enclosed by fencing. All of the vehicular entrances have been gated and there is no public access.

The applicant is proposing to clear the site to develop a pedestrian-focused shopping complex with retail stores, restaurants, fitness uses, a business resource center, and approximately one acre of publicly accessible open space. The proposed project would also include a residential development with approximately 180 units of affordable senior housing. 454 at-grade parking spaces would be provided and 715 parking spaces would be located within a five-story parking garage for a total of 1,169 accessory parking spaces. In total, the project would consist of 513,004 square feet of commercial floor area (0.93 FAR) and 175,215 square feet of residential floor area (0.32 FAR) for a total development of 686,709 square feet (1.25 FAR).

The shopping complex would consist of seven low-rise retail buildings distributed across much of the site. The retail buildings would range in height from approximately 38 feet to 61 feet. The five largest retail buildings (Commercial Buildings A through E) would range in size from approximately 24,595 square feet to approximately 152,709 square feet and between two to three stories in height (approximately 38 to 61 feet tall). These five buildings would be oriented near

the center of the site. The five retail buildings are designed to optimize continuous ground level retail frontage and create approximately 4,000 linear feet of transparent retail frontage.

Two small, single-story, approximately 2,490-square-foot retail buildings (Commercial Buildings F and G,) would be located along Gun Hill Road near the signalized entrances, with approximately 220 feet of transparent linear frontage along the street. An additional approximately 4,000-square-foot single-story retail space would occupy a portion of the ground floor space within the accessory garage. Two primary curb cuts would be provided along East Gun Hill Road and one curb cut would be provided along Edson Avenue to allow ingress and egress from both sides of the site. A third curb cut would be provided along East Gun Hill Road for overflow vehicular egress only from the parking garage.

The five larger retail buildings would be organized around a central publicly accessible, approximately one-acre, privately owned open space. The open space would provide passive recreational amenities, including seating areas and objects of visual interest, and would consist of a wide central north-south promenade and two east-west promenades. The two intersections of these walkways form two central squares, which would be solely accessible to pedestrians. The wide promenade and the two squares would be heavily landscaped and street-furnished, complementing the ground floor storefronts and the lobby entries to second floor retailers with patterned and decorative paving. The larger of the two squares would be located at the northern end of the wide promenade, where building density is highest. The southern square, visible from three directions, would provide a water feature at its center. Both squares would have provisions for seasonal outdoor dining and other activities.

The business resource center would be located along the front of the parking garage, providing approximately 4,000 square feet of ground floor space. The space would include a media lab and exhibition space. The business resource center would provide job training and placement programs and would include networking opportunities for entrepreneurs and local businesses.

The 180 units of affordable senior housing would be provided in a building located at the northwestern corner of the site along Gun Hill Road. The residential building would rise to 151

feet at its highest point and step down twice along Gun Hill Road to a height of 132 feet (12 stories) and 108 feet 8 inches (10 stories).

Publicly accessible open space would separate the residential building from traffic entering the site from East Gun Hill Road. An additional publicly accessible open space area would be provided northwest of the residential building to act as a buffer for the accessory garage.

In addition to the disposition of City-owned property (C 170217 PPX), Gun Hill Square LLC requests a zoning map amendment to change the zoning of the site from M1-1 to C4-3 (C 170218 ZMX); a zoning text amendment to permit a Physical Cultural or Health Establishment and to designate an MIH area (N 170219 ZRX); a zoning special permit to modify rear yard and height and setback regulations within a large-scale general development (C 170221 ZSX); a zoning special permit to allow modifications to the sign regulations for height, location, surface area, and illumination within a large-scale general development (C 170222 ZSX); and a zoning special permit to allow an accessory group parking facility with more than the prescribed maximum number of parking spaces and permit roof parking within a large-scale general development (C 170223 ZSX).

#### *Zoning map amendment (C 170218 ZMX)*

The proposed zoning map amendment would change the zoning from the existing M1-1 zoning district to a C4-3 zoning district. The proposed zoning map change would encompass the site and is the same as the zoning district mapped to the east of the New England Throughway at the Bay Plaza Shopping Center. This rezoning would allow a range of retail uses as well as residential uses that are not currently permitted.

The existing M1-1 zoning district permits light industrial uses of up to a 1.0 FAR for manufacturing uses or up to a 2.4 FAR for community facility uses. Residential uses are not permitted in M1-1 districts.

C4-3 districts are typically mapped in regional commercial centers located outside central business districts. They permit up to 4.8 FAR for community facility uses, 3.4 FAR for commercial uses, and

residential uses up to 2.43 FAR for height factor developments or 3.0 FAR for quality housing buildings.

*Zoning text amendment (N 170219 ZRX)*

Gun Hill Square LLC is also requesting a zoning text amendment allow a physical culture or health establishment (fitness center) to be located within the development. The text amendment would allow a physical culture or health establishment (Use Group 9) use within a large-scale general development in Bronx Community District 12. Physical Culture Establishments are currently permitted in C4-3 zoning districts through a Board of Standards and Appeals (BSA) special permit (Section 73-36 of the Zoning Resolution). The text amendment would obviate the need to file separate applications with the City Planning Commission (CPC) and BSA. The proposed text would require the applicant to submit a vibration and noise control mitigation plan to the Department of Buildings (DOB).

The text amendment would also designate the site as an MIH area. The applicant proposes to map Option 1, which requires that 25 percent of the residential floor area of the project be provided at rates affordable to households at 60 percent of area median income (AMI), with none of the units exceeding rates affordable to households at 130 percent of AMI. It is anticipated that 100 percent of the residential units in the proposed project will be income restricted. The proposed AMI breakdown would set all units at or below 60 percent of AMI: 25 percent would be at 60 percent of AMI, 25 percent would be at 50 percent of AMI, and 50 percent would be at 40 percent of AMI.

*Special permit pursuant to ZR Section 74-743(a)(2) to allow the location of buildings without regard for height, setback, and rear yard requirements within a large-scale general development (C 170221 ZSX)*

On the interior lot portion of the site, a rear yard of 20 feet is required. The applicant has requested a modification to allow a portion of the parking garage in that location and to obstruct the rear yard. The modification to the rear yard requirement would allow the parking garage to be placed more efficiently on an interior portion along the edge of the site. By allowing the parking garage to be moved further into the site, the development can provide more affordable senior housing units and more open space to the north of the residential building.

Zoning regulations require an initial setback of no less than 15 feet and then a sky exposure plane beginning at a height of 60 feet. The residential building, along Gun Hill Road, would provide no initial setback and would rise without setback at the street to an elevation of 108 feet 8 inches (10 stories) along the northernmost portion, before stepping up to 132 feet (12 stories), also penetrating the sky exposure plane.

The CPC may grant bulk waivers if the applicant makes each of the findings set forth in ZR 74-743, which require better site planning, access to light and air, adequate traffic handling and facility addition plans and timetables.

*Special permit pursuant to ZR Section 74-744(c) to modify signage requirements within a large-scale general development (C 170222 ZSX)*

Under ZR 32-641, the total surface area of all permitted signs shall not exceed the limitation established for illuminated and flashing signs as set forth in ZR 32-644. Pursuant to ZR 32-644, the total surface floor area permitted in a C4 zoning district for illuminated or flashing signs may have accessory signs with a surface area of up to 41,339.2 square feet. The permitted sign area is based on five times the street frontage (4,133.92 linear feet) multiplied by two (two stories). The applicant has requested a modification to allow accessory signs with a total surface area of 46,368 square feet, which exceeds the permitted signage by 5,028.8 square feet. The signage that exceeds the permitted signage is located above the 40 feet from the curb cut. This modification is requested for signs located on commercial buildings A, B, D and E.

Under ZR 32-655, no permitted sign may extend above curb level a height greater than 40 feet in a C4 zoning district. The applicant seeks modification of the height of signs regulations to allow five accessory signs at heights up to approximately 60 feet above average curb level and approximately seven smaller accessory signs up to approximately 54 feet above average curb level, all of which will be set back a distance of over 100 feet from the street frontage. This modification is requested for signs located on commercial buildings A, B, D and E.

Under ZR 32-656 and 32-657, no signs are permitted above or on the roof of any building in a C4 zoning district. The applicant seeks a modification of this provision to allow the same accessory signs described above to be located above and on the roof. This modification is requested for signs located on commercial buildings A, B, D and E.

*Special permit pursuant to ZR Section 74-531 to allow an accessory group parking facility and to allow some off-street parking spaces to be located on the roof of a building within a large-scale general development (C 170223 ZSX)*

Under ZR 36-12, no accessory group parking facility may contain more than 150 off-street parking spaces in excess of the required amount. The proposed project generates a parking requirement of 990 accessory parking spaces (832 spaces for the general retail or service use, 113 for the physical culture establishment, and 45 spaces for the residential use). The applicant has requested a modification to allow a total of 1,169 accessory parking spaces, which exceeds the allowed 150 spaces by 29 parking spaces.

The applicant is requesting roof parking for the proposed parking garage. Under 36-11, no off-street parking spaces can be located on the roof of a building. The rooftop parking would permit approximately 123 parking spaces.

### **ENVIRONMENTAL REVIEW**

This application (C 170217 PPX), in conjunction with the related actions (C 170218 ZMX, N 170219 ZRX, C 170221 ZSX, C 170222 ZSX, and C 170223 ZSX), was reviewed pursuant to the New York State Environmental Quality Review Act (SEQRA), and the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 et seq. and the City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The designated CEQR number is 14DME010X. The lead is the Deputy Mayor for Housing and Economic Development.

It was determined that the proposed actions may have a significant effect on the environment. Together with the Positive Declaration, a Draft Scope of Work for a DEIS was issued on July 2, 2014, and distributed, published, and filed. A public scoping meeting was held

on the Draft Scope of Work on August 13, 2014, and comments were accepted by the lead agency through August 13, 2014. A Final Scope of Work for a DEIS, reflecting the comments made during the scoping, was issued on January 13, 2017.

The applicant prepared a DEIS, and a Notice of Completion for the DEIS was issued on January 13, 2017. Pursuant to SEQRA regulations and CEQR procedures, a public hearing was held on the DEIS On May 10, 2017.

A Technical Memorandum (001) was issued on April 20, 2017, and was revised on May 5, 2017, to analyze a change in the proposed actions, to remove Block 4816, Lot 32, from the project rezoning area. That Technical Memorandum concluded that the removal of Block 4816, Lot 32, would not result in any significant adverse impacts that were not already identified in the Draft Environmental Impact Statement issued on January 13, 2017.

After a study of the potential environmental impacts of the proposed action, a Notice of Completion for the Final Environmental Impact Statement (FEIS), incorporating the changes in the Technical Memorandum and reflecting the comments made during scoping and the public hearing on the DEIS was completed and a Notice of Completion for the FEIS was issued on June 9, 2017. The FEIS included (E) designations to avoid the potential for significant adverse impacts related to noise and hazardous materials (E-410), as described below.

The (E) designation requirements related to noise and hazardous materials would apply to the project site (Block 4804, part of Lot 100).

To avoid any potential impacts associated with hazardous materials, an (E) designation (E-410) for hazardous materials will be mapped on the project site (Block 4804, part of Lot 100).

The (E) designation requirements related to hazardous materials would apply to the project site (Block 4804, part of Lot 100), as follows:

### **Task 1 - Sampling Protocol**

The applicant submits to OER, for review and approval, a Phase II of the site along with a soil, groundwater and soil vapor testing protocol, including a description of methods and a site map with all sampling locations clearly and precisely represented. If site sampling is necessary, no sampling should begin until written approval of a protocol is received from OER. The number and location of samples should be selected to adequately characterize the site, specific sources of suspected contamination (i.e., petroleum based contamination and non-petroleum based contamination), and the remainder of the site's condition. The characterization should be complete enough to determine what remediation strategy (if any) is necessary after review of sampling data. Guidelines and criteria for selecting sampling locations and collecting samples are provided by OER upon request.

### **Task 2 - Remediation Determination and Protocol**

A written report with findings and a summary of the data must be submitted to OER after completion of the testing phase and laboratory analysis for review and approval. After receiving such results, a determination is made by OER if the results indicate that remediation is necessary. If OER determines that no remediation is necessary, written notice shall be given by OER. If remediation is indicated from test results, a proposed remediation plan must be submitted to OER for review and approval. The applicant must complete such remediation as determined necessary by OER. The applicant should then provide proper documentation that the work has been satisfactorily completed. A construction-related health and safety plan should be submitted to OER and would be implemented during excavation and construction activities to protect workers and the community from potentially significant adverse impacts associated with contaminated soil, groundwater and/or soil vapor. This plan would be submitted to OER prior to implementation.

To avoid any potential impacts associated with noise, an (E) designation (E-410) for noise will be mapped on the project site (Block 4804, part of Lot 100).

The (E) designation requirements related to noise would apply to the project site (Block 4804, part of Lot 100), as follows:

For building facades requiring 28 dBA of composite building facade attenuation for residential uses, the text of the (E) designation is as follows:

To ensure an acceptable interior noise environment, street-facing building facade(s) of future residential uses above a height of 100 feet, with street frontage along East Gun Hill Road more than 880 feet west of the northernmost corner of the intersection of Edson Avenue and East Gun Hill Road, must provide a minimum of 28 dBA composite building facade attenuation with windows closed, in order to maintain an interior noise level of 45 dBA. A minimum of 28 dBA composite building facade attenuation will also be required on all adjacent non-obstructed facades for a minimum of 100 feet extending from where they meet the street-facing facade. The minimum required composite building facade attenuation for future commercial uses would be 5 dBA less than that for residential uses. To maintain a closed-window condition, an alternate means of ventilation must also be provided.

For building facades requiring 31 dBA of composite building facade attenuation for residential uses, the text of the (E) designation is as follows:

To ensure an acceptable interior noise environment, street-facing building facade(s) of future residential uses with street frontage along East Gun Hill Road more than 880 feet west of the northernmost corner of the intersection of Edson Avenue and East Gun Hill Road must provide a minimum of 31 dBA composite building facade attenuation with windows closed, in order to maintain an interior noise level of 45 dBA. A minimum of 31 dBA composite building facade attenuation will also be required on all adjacent non-obstructed facades for a minimum of 100 feet extending from where they meet the street-facing facade. The minimum required composite building facade attenuation for future commercial uses would be 5 dBA less than that for residential uses. To maintain a closed-window condition, an alternate means of ventilation must also be provided.

For building facades requiring 33 dBA of window//wall attenuation for residential uses, the text of the (E) designation is as follows:

To ensure an acceptable interior noise environment, street-facing building facade(s) of future residential uses with street frontage along East Gun Hill Road less than 880 feet west of the northernmost corner of the intersection of Edson Avenue and East Gun Hill Road must provide a minimum of 33 dBA composite building facade attenuation with windows closed, in order to maintain an interior noise level of 45 dBA. A minimum of 33 dBA composite building façade attenuation will also be required on all adjacent non-obstructed facades for a minimum of 100 feet extending from where they meet the street-facing facade. The minimum required composite building facade attenuation for future commercial uses would be 5 dBA less than that for residential uses. To maintain a closed-window condition, an alternate means of ventilation must also be provided.

For building facades requiring 35 dBA of attenuation, the text of the (E) designation is as follows:

To ensure an acceptable interior noise environment, street-facing building facade(s) of future residential uses with street frontage along Edson Avenue east of the intersection of Edson Avenue and East Gun Hill Road must provide a minimum of 35 dBA composite building façade attenuation with windows closed, in order to maintain an interior noise level of 45 dBA. A minimum of 35 dBA composite building facade attenuation will also be required on all adjacent non-obstructed facades for a minimum of 100 feet extending from where they meet the street-facing facade. The minimum required composite building facade attenuation for future commercial uses would be 5 dBA less than that for residential uses. To maintain a closed window condition, an alternate means of ventilation must also be provided.

Significant adverse impacts related to traffic would be mitigated through measures described below.

### **UNIFORM LAND USE REVIEW**

This application (C 170217 PPX), in conjunction with the applications for the related actions (C 170218 ZMX, C 170221 ZSX, C 170222 ZSX, and C 170223 ZSX), was certified as complete by the Department of City Planning on January 17, 2017, and was duly referred to Community Board 12 and the Bronx Borough President, in accordance with Title 62 of the Rules of the City of New

York, Section 2-02(b), along with the related application for a zoning text amendment (N 170219 ZRX), which was referred for information and review in accordance with the procedures for non-ULURP matters.

### **Community Board Public Hearing**

Community Board 12 held a public hearing on this application (C 170217 PPX) on March 20, 2017 and on March 23, 2017, by a vote of 29 in favor, five in opposition, and with two abstentions, adopted a resolution recommending approval of the application.

### **Borough President Recommendation**

This application (C 170217 PPX) was considered by the Bronx Borough President, who held a public hearing on April 4, 2017 and issued a recommendation on April 26, 2017 approving the application subject to the following conditions:

1. The Deed Restriction that articulates the developer's intent not to develop Baychester Square as an "Outlet Center" be codified into the final agreement between the applicant. This agreement must then run with the land.
2. The applicant and the appropriate division of the MTA establish direct bus transportation necessary to accommodate Baychester Square without adversely affecting access to Bay Plaza. Special attention must also be given to the matter by which Access-A-Ride vehicles can service the senior citizen complex to be included in this project.

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

On April 26, 2017 (Calendar No. 1), the City Planning Commission scheduled May 10, 2017 for a public hearing on this application (C 170217 PPX) and the applications for the related actions. The hearing was duly held on May 10, 2017 (Calendar No. 34). There were a total of 14 speakers at the hearing, seven in favor of the application and seven in opposition.

Five members of the applicant team spoke in favor of the project. The team included representatives from EDC, the developer, the environmental consultant, and the senior housing provider. The team described the history of the site, the RFP requirements, the proposed project and how the development would be integrated into the surrounding community. The

environmental review consultant discussed parking utilization rates and traffic mitigation measures.

The senior housing provider described the residential building and amenities and noted that the provider will work with Hebrew Home to provide additional services for the seniors. An EDC representative stated that the proceeds from the sale of the site will go back to the MTA as part of the City's contribution to the MTA capital budget.

Two additional speakers testified in favor of the application. One was a representative of a nearby retail development who stated that the development would enhance the area and that the proposed signage would not confer an unfair advantage to the new development. The other speaker was a representative of the 125<sup>th</sup> Street Business Improvement District; this speaker said that the applicant has been a strong community resource for 20 years.

Seven speakers testified in opposition to the application. One speaker, representing the group Speak Up For A Better Bronx, expressed concerns about increased traffic and its potential impact on air quality in an area with high asthma rates. Three additional speakers who also identified themselves as part of the group Speak Up For A Better Bronx stated that the area did not need any more shopping centers and expressed concerns about traffic and pollution. One speaker said that the group had gathered 64,000 signatures on a petition describing these concerns. A local resident not affiliated with the group spoke about the concerns with the traffic in the area and not needing more retail in the area.

One speaker read a statement that he said was provided by the Councilmember representing the area. The author of the statement said that he could not support the development in its current state, that he believed the proposed retail outlet was excessive, and that he wanted the site to provide a development that was more community oriented.

An attorney representing the operator of an adjacent shopping center stated that the vacancy rate in the environmental review was not accurate and that the operator wanted a level playing field for

the proposed development to ensure it will not be an outlet mall and will not exceed the permitted sign regulations.

There were no other speakers, and the hearing was closed.

In addition to the speakers who attended the May 10, 2017 public hearing, each City Planning Commissioner received a box of petitions with approximately 64,000 signatures opposing the application. The petitions were received on January 4, 2017 from the Speak Up For A Better Bronx group.

### **CONSIDERATION**

The Commission believes that this application (C 170217 PPX) for a disposition of City-owned property, in conjunction with the related applications, is appropriate.

The proposed project will leverage scarce City-owned property at a prominent location to create approximately 378,000 square feet of local and destination retail with restaurant and fitness uses and provide publicly accessible open space. The proposed project will also include an approximately 180 unit affordable senior housing building. These units will help address the need for more senior housing in the Bronx and the City as a whole.

The Commission notes the MTA's efforts to vacate sites they no longer need and the City's effort to dispose of the site through an RFP process. Proceeds from the sale of the site will go to the MTA as part of the City's contribution to fund future MTA capital projects.

The application for a zoning map amendment (C 170218 ZMX) is appropriate in order to facilitate the proposed development. The C4-3 zoning district is characterized by regional commercial development located outside a central business district. The Commission notes the current M1-1 zoning district would limit the retail options and limit the development potential of the site by not permitting any residential uses.

The Commission believes that the proposed project will facilitate the reactivation of this underutilized site and that the proposed development will further strengthen the area as a hub of economic activity in the Bronx.

The Commission believes that the business resource lab will be a benefit to the local community by providing a media lab and exhibition space, offering job training and placement programs, and will provide networking opportunities for entrepreneurs and local businesses, among other benefits.

The proposed zoning text amendment (N 170219 ZRX) is appropriate. Designating the project area as an MIH area will ensure permanent affordability for a portion of the units on the site. Option 1 requires that at least 20 percent of the residential floor area be provided at rates affordable to households at an average of 60 percent of AMI. Additionally, the Commission recognizes that this project, in conjunction with terms set by EDC as part of the disposition agreement, will exceed the MIH requirements and be entirely affordable. While it is not the intent of the applicant to use City funding for the development of the affordable senior housing, the applicant will work with HPD on a regulatory agreement for the residential development.

The proposed text amendment will also allow the development to provide an as-of-right fitness center, which would obviate the need to file separate applications with the CPC and the BSA for a development within a large-scale general development in Bronx Community District 12. The Commission notes that the applicant will need to submit a vibration and noise control mitigation plan to the DOB to ensure that the fitness center does not create any noise or vibration impacts on the other tenants.

The zoning special permit to modify rear yard and height and setback regulations within a large-scale general development (C 170221 ZSX) is appropriate. The Commission recognizes that by removing the rear yard requirement along a portion of the parking garage, the garage can be placed more efficiently on the project site, thereby allowing for creation of more affordable senior housing units.

The Commission also recognizes that modifications to the setback requirements of the affordable senior building, the distribution of floor area, and location of buildings will not unduly increase the bulk or obstruct access to light and air and will result in a better site plan. Occupants of the affordable senior development, the neighborhood, and the City as a whole will benefit.

The zoning special permit to allow modifications to the sign regulations for height, location, surface area, and illumination within a large-scale general development (C 170222 ZSX) is appropriate. The Commission recognizes that the majority of the signage on the development is permitted as-of-right and that the applicant is seeking to provide additional signage that will result in a better site plan by allowing aggregation of signage that will help assure the successful operation of the development. The signs requested will be critical to the identification of the shopping complex and will be appropriate to the scale and design of the buildings therein. Furthermore, the site will accommodate numerous different retail tenants, each of which will require identifying signage on the exterior of the building, in locations where it will be visible. The aggregation of the signage and the modification of the height regulations would increase the visibility of the signage, which might otherwise be obscured.

The Commission notes that the signage for which waivers are required will not face the affordable senior housing building or the Baychester residential neighborhood. Additionally, the Commission notes that this signage will primarily run parallel to the New England Thoroughway and will feature still images that change intermittently, rather than moving images that may be distracting to drivers.

The zoning special permit to allow an accessory group parking facility with more than the prescribed maximum number of parking spaces and permit roof parking within a large-scale general development (C 170223 ZSX) is appropriate. The Commission recognizes the applicant's need to provide parking and the 29-space increment over the permitted amount will provide enough parking for peak holiday shopping, but will not unduly increase traffic to and through local streets. Additionally, the Commission believes that the rooftop parking will not impair the character of the development.

The Commission recognizes the Borough President's conditional recommendation, which requests that the developer include a deed restriction prohibiting the development of the site as an "outlet mall." The Borough President's recommendation also included a condition that the applicants work with MTA to establish direct bus transit to the site without adversely affecting access to Bay Plaza and provide Access-A-Ride access to the affordable senior housing building. The applicant responded to these conditions in a letter dated April 8, 2017, stating they will include language in the Contract of Sale between Gun Hill Square, LLC and EDC that will not permit an outlet mall on the site. The Commission is also pleased that the applicant has already begun talks with the MTA and designed the site to accommodate Access-A-Ride and other shuttle services to provide seniors access to on- and off-site services.

The Commission recognizes the testimony in opposition at the public hearing from neighborhood residents and other area property owners, Speak Up For A Better Bronx, and the Councilmember.

Regarding the comments received by the Commission about traffic, and subject to review and approval by the relevant agencies, including the New York City Department of Transportation (NYCDOT), proposed mitigation measures to address these impacts include: implementation of traffic engineering improvements such as signal timing changes, lane reconfiguration, parking regulation modifications, left-turn phase signalization, improvements to the pedestrian streetscape, a right-turn ban at one location, and a curb extension at one location.

The above-listed measures would provide mitigation for the majority of the anticipated traffic impacts at all but five individual traffic movements at three intersections during the weekday AM, three individual traffic movements at two intersections during the weekday midday peak hour, eight individual traffic movements at five intersections during the weekday PM peak hour, and at eight individual traffic movements at six intersections during the Saturday midday peak hour. If prior to implementation, NYCDOT determines that an identified mitigation measure is infeasible, an alternative and equivalent mitigation may be identified. In the absence of the application of mitigation measures, the identified significant adverse impacts would remain unmitigated. The Commission further notes that the applicant has agreed to continue a traffic monitoring plan when the project opens to further traffic mitigation in the area.

Regarding comments that the community does not need any more shopping in the area, the Commission notes that in the EIS analysis, approximately \$1.7 billion in retail sales leakage comes from the northeast Bronx and that the Baychester Square development will capture less than 20 percent of that leakage.

The Commission recognizes that the community wants a more community-oriented use on the site, but notes that the goal of the RFP was to raise funds for future MTA capital needs by encouraging the highest and best use on the site. The Commission notes that the applicant has included the business resource center in the development as a community amenity, as well as open spaces that can be used by the community.

### **RESOLUTION**

**RESOLVED**, that the City Planning Commission finds that the actions described herein having considered the Final Environmental Impact Statement (FEIS), for which a Notice of Completion was issued on June 9, 2017, with respect to this application (CEQR No. 14DME010X) 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 available, the action is one which avoids or minimizes adverse environmental impacts to the maximum extent practicable; and
2. The adverse environmental impacts identified in the FEIS will be minimized or avoided to the maximum extent practicable by incorporating as conditions to the approval, those project components related to the environment and mitigation measures that were identified as practicable.

The report of the City Planning Commission, together with the FEIS, constitutes 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, pursuant to Section 197-c of the New York City Charter, that based on the environmental determination and the consideration described in this report, the application submitted by the Department of Citywide Administrative Services (DCAS), pursuant to Section 197-c of the New York City Charter, for the disposition of one city-owned property located on Block 4804, p/o Lot 100, pursuant to zoning, is approved.

The above resolution (C 170217 PPX), duly adopted by the City Planning Commission on June 21, 2017 (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.

**MARISA LAGO**, *Chair*

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

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

**JOSEPH I. DOUEK, RICHARD W. EADDY,**

**CHERYL COHEN EFFRON, HOPE KNIGHT, ANNA HAYES LEVIN,**

**ORLANDO MARIN, LARISA ORTIZ**, *Commissioners*

**MICHELLE R. DE LA UZ**, *Commissioner, opposed*











**BOROUGH PRESIDENT  
RECOMMENDATION**

**CITY PLANNING COMMISSION  
22 Reade Street, New York, NY 10007  
Fax # (212)720-3356**

**INSTRUCTIONS**

1. Return this completed form with any attachments to the Calendar Information Office, City Planning Commission, Room 2E at the above address.
2. Send one copy with any attachments to the applicant's representative as indicated on the Notice of Certification.

**APPLICATION # C 170217 PCX, 170218 ZMX, 170221 ZSX, 170222 ZSX, 170223 ZSX**

**DOCKET DESCRIPTION-PLEASE SEE ATTACHMENT FOR DOCKET DESCRIPTION**

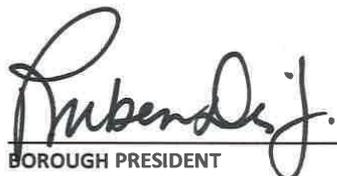
**COMMUNITY BOARD NOS. 12**

**BOROUGH: BRONX**

**RECOMMENDATION**

- APPROVE
- APPROVE WITH MODIFICATIONS/CONDITIONS (List below)
- DISAPPROVE

**EXPLANATION OF RECOMMENDATION-MODIFICATION/CONDITIONS (Attach additional sheets if necessary): PLEASE SEE ATTACHMENT FOR THE BOROUGH PRESIDENT'S RECOMMENDATION**

  
BOROUGH PRESIDENT

4/26/17  
DATE

**BRONX BOROUGH PRESIDENT'S RECOMMENDATION  
ULURP APPLICATION NOS:  
C 170217 PPX, C 170218 ZMX, C 170221 ZSX, C 170222 ZSX,  
C 170223 ZSX  
BAYCHESTER SQUARE**

**DOCKET DESCRIPTION**

**C 170217 PPX:**

**IN THE MATTER OF** an application submitted by the Department of Citywide Administrative Services, (DCAS) pursuant to Section 197-c of the New York City Charter, for the disposition of one city-owned property located on Block 4804, p/o Lot 100, pursuant to zoning.

**C 170218 ZMX:**

**IN THE MATTER OF** an application submitted by Gun Hill Square, LLC pursuant to Section 197-c and 201 of the New York City Charter for the amendment of the Zoning Map, Section No. 4a, changing from an M1-1 District to a C4-3 District property bounded by East Gun Hill Road, a line 320 feet southeasterly of Allerton Avenue and its southwesterly prolongation, a line 490 feet southwesterly of Edson Avenue, a line 465 feet southeasterly of Allerton Avenue and its northeasterly prolongation, and Edson Avenue, Borough of The Bronx, Community District #12, as shown on a diagram (for illustrative purposes only) dated January 17, 2017.

**C 170221 ZSX:**

**IN THE MATTER OF** an application submitted by Gun Hill Square, LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-743 (a)(2) of the Zoning Resolution to modify the height and setback requirements of Section 23-64 (Basic Height and Set back Requirements) and the rear yard requirements of Section 23-47 (Minimum Required Rear Yards\_ and 33-26 (Minimum Required Rear Yards), in connection with a proposed mixed-use development on a property located at 1769-1771 East Gun Hill Road (Block 4804, part of Lot 100), in a C4-3\* District, within a large-scale general development, Borough of The Bronx, Community District #12.

**C 170222 ZSX:**

**IN THE MATTER OF** an application submitted by Gun Hill Square, LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-744(c) of the Zoning Resolution to modify the signage regulations of Sections 32-641 (Total Surface Area of Signs), 32-642 (Non-Illuminated Signs), 32-644 (Illuminated or flashing signs in C4, C5-4, C6 or C7 Districts), 32655 (Height of signs in all other Commercial Districts), 32-656 (Height of signs above roof) and 32-657 (Roof signs), in connection with a proposed mixed-use development on a property located at 1769-1771 East Gun Hill Road (Block 4804, part of Lot 100), in a C4-3\* District, within a large scale-development, Borough of The Bronx, Community District #12.

\*Note; the site is proposed to be rezoned by changing an M1-1 District to a C4-3 District under a concurrent related application for a Zoning Map change (C 170218 ZMX).

Plans for this proposal are on file with the City Planning Commission and may be seen at 120 Broadway, 31<sup>st</sup> Floor, New York, New York 10271-0001.

**C 170223 ZSX:**

**IN THE MATTER OF** an application submitted by Gun Hill Square, LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-531 of the Zoning Resolution to modify the requirements of:

1. Section 36-12 (Maximum Size of Accessory Group Parking Facilities ) to allow an accessory group parking facility with a maximum capacity of 1,169 spaces; and
2. Section 36-11 (General Provisions) to allow some of such off-street parking to be located on the roof of a building.

In connection with a proposed mixed-use development on a property located at 1769-1771 East Gun Hill Road (Block 4804, part of Lot 100) in C4-3\* District, within a large-scale general development, Borough of The Bronx, Community District #12.

\*Note: The site is proposed to be rezoned by changing an M1-1 District to a C4-3 District under a concurrent related application for a Zoning Map Change (C 170218 ZMX).

Plans for this proposal are on file with the City Planning Commission and may be seen at 120 Broadway, 31<sup>st</sup> Floor, New York, New York 10271-0001.

**BACKGROUND**

Approval of these applications will facilitate construction of a retail shopping complex and a residence for senior citizens. The site is located on East Gun Hill Road, and is generally bounded by Edson Avenue and Allerton Avenue, (1769-1771 East Gun Hill Road, Block 4804, p/o Lot 100). The total site these applications are considering is composed of 12.6 acres and is currently vacant. Previous uses on the site included a golf driving range and prior to that, it was used as a parking facility for bus equipment operated by the New York City Transportation Authority (NYCT), a division of the Metropolitan Transportation Authority, (MTA). This property is owned by the City of New York and is zoned M1-1. It is in Bronx Community District #12.

Amending the Zoning Map (application #C 170218 ZMX) will eliminate the current M1-1 District and subsequently establish a C4-3 District. This change of zone is necessary to facilitate development of the proposed shopping complex to be located on Block 4804, p/o Lot 100.

## **BAYCHESTER SQUARE**

### **Proposed Non-Residential Development**

It is proposed by Gun Hill Square, LLC (the applicant), to construct a shopping complex which will offer 376,206 square feet of commercial space. The applicant projects that this new facility will create 1,200 permanent jobs and 830 construction jobs. Highlights of this new commercial development include:

- A total of 7 buildings composed of 1, 2 and 3 stories, designed to accommodate approximately fifty retail venues:
  - 5 buildings, ranging in height between 2 and 3 stories, to be situated around two plaza-areas which will be interconnected via sidewalks. These buildings will range in size from 24,595 gross square feet, to approximately 152,709 gross square feet.
  - 2 “stand-alone” buildings, (1 story in height) to be situated adjacent to East Gun Hill Road. The buildings will approximate 2,490 gross square feet.
- Approximately 1 acre of open space accessible to the public, this includes
  - 2 plaza areas (a north square being the larger of the two) the focus of which will include outdoor dining locations and a fountain to be situated in the southern square
  - Extensive landscaping
  - Benches and other amenities for passive recreation
  - Pedestrian walkways will be designed to accommodate emergency vehicles if such services are necessary
- This complex will meet LEED Silver requirements

The 5 larger retail buildings will be designed to optimize continuous grand level retail frontage, offering 4,000 linear feet of transparent continuous ground level retail frontage. The two smaller buildings located along East Gun Hill Road will offer 220 feet of transparent linear frontage.

Non-retail uses to be located within the shopping complex include:

- Approximately 4,000 square feet will be occupied by a business resource center
- A media lab will be located in the center (approximately 30,000 square feet)
- Approximately 40,000 square feet for fitness related uses
- On-site parking for 1,169 vehicles, including
  - At grade parking to accommodate 454 spaces
  - 5-story garage to accommodate 715 spaces
  - 2-curb cuts will be provided on East Gun Hill Road, 1-curb cut on Edson Avenue. A third curb cut onto East Gun Hill Road will allow for egress only from the parking garage.

This retail complex would be active from approximately 7 a.m. through 10 p.m. on a daily basis.

## Proposed Residential Development

In addition to the proposed retail development, the applicant is proposing to construct a residence for residents over the age of 55. This development will consist of 2-phases and, when complete, will offer 180 units. Phase 1 will provide 100 units. Phase 2 will provide 80 units. This complex will be located on the northwest corner of the project site, fronting onto East Gun Hill Road. The specific plans for this building include:

- A total of 180 units of affordable housing for senior citizens
- The building will rise 13 stories, approximately 151 feet in height
- Unit size will range from a minimum of 595 gross square feet to a maximum of 832 gross square feet (actual living area within each unit will be less)
- Phase 1 will feature:
  - 9 units will be located on stories 2-11.
  - 5 units will be located on stories 12 & 13
  - Interior space for activities and support services will approximate 2,517 square feet
  - Wellness and support service area will approximate 857 square feet
  - An outdoor terrace accessible from 12<sup>th</sup> story
- Phase 2 will feature:
  - 8 units will be located on stories 2-10
  - 4 units will be located on stories 11-12
  - Interior space for activities and support services will approximate 1,910 square feet
  - Wellness and support services area will approximate 888 square feet
  - An outdoor terrace accessible from 12<sup>th</sup> story
- A common exterior garden area for passive recreation featuring
  - Built in benches
  - Movable tables and chairs
  - Barbeque area
- Affordable units will offer accommodations for
  - 50% of all units will be at 40% AMI
  - 25% of all units will be at 50% AMI
  - 25% of all units will be at 60% AMI
- Mechanical services for the complex will be located on the top story

Development of the surrounding community is typified by retail venues that occupy substantial size lots and include a Home Depot. As typical of such development, a significant portion of these locations is devoted to off-street parking lots. Additional retail uses on East Gun Hill Road include numerous auto-related venues.

The remaining 19 acres of property that makes up Block 4804, Lot 100 includes three Little League softball fields and a bus garage and parking facility operated by the Metropolitan Transportation Authority's New York City Transit Division. Residential development in much of the surrounding community includes low-rise multi-unit buildings, one and two family homes and nursing home facilities. Co-op City, which consists of approximately 15,000 units of housing, is within one mile of Block 4804, Lot 100. The Bay Plaza Shopping Mall is situated on Bartow Avenue, adjacent to the southern boundary of the Co-op City community.

The surrounding community is also dominated by the New England Thruway (Interstate 95) and the Hutchinson River Parkway. Ample bus transportation is available throughout this community. No subway service is accessible within a two mile radius of Block 4804, Lot 100.

#### **ENVIRONMENTAL REVIEW AND ULURP CERTIFICATION**

These applications have been reviewed pursuant to CEQR and SEQR and received a Type I, Positive Declaration. These applications have been certified as complete by the New York City Planning Commission on January 17, 2017.

#### **BRONX COMMUNITY BOARD PUBLIC HEARING**

Bronx Community Board #12 held a public hearing on these applications on March 23, 2017. A vote on each application recommending approval of these applications was 29 in favor, 5 against, and 2 abstaining. The vote tally was exactly the same for each application associated with the Baychester Square matter.

#### **BOROUGH PRESIDENT'S PUBLIC HEARING**

A public hearing was convened by the Bronx Borough President on April 4, 2017. The applicant was present and spoke in favor of these applications. A representative of City Council Member Andy King was present and read a statement indicating the Council Members' opposition to the proposed Baychester Square development. The Chairman and District manager of Bronx Community District #12 spoke in favor of these applications. A majority of the testimony offered by members of the public expressed opposition to these applications. A total of 23 people spoke, 18 expressed opposition, 5 offered support. There being no other members of the public wishing to speak, the hearing was closed.

#### **BRONX BOROUGH PRESIDENT'S RECOMMENDATION**

Baychester Square will successfully integrate retail development and activity, a senior citizen residence, a media lab, fitness center and human resource center into a "walkable community setting" featuring extensive landscaping, areas for passive recreation and relaxation. This development will transform what is now a 12-acre vacant building lot into a vibrant destination for the Baychester community. Best of all, it can be anticipated that approximately 1,200 permanent jobs will be available to our Bronx residents.

Reasons for my support for Baychester Square include:

- A private sector investment of approximately \$300 million
- Construction of a retail complex offering over 376,000 square feet of space
- A health club approximating 40,000 square feet
- A business resource center approximating 4,000 square feet
- On-site parking for approximately 1,200 vehicles
- A food and restaurant venues approximating 37,500 square feet
- An education and medical-health center approximating 20,000 square feet
- Walkable open space approximately 104,500 square feet

What I especially appreciate is that Baychester Square will also include development of a senior citizen residence offering 180 units and 181,000 square feet of accommodation that the highly regarded RiverSpring Health/Hebrew Home for the Aged will oversee. Affordable units will offer accommodations at:

- 40% of Area Median Income (AMI)---50% of the total units will serve this demographic
- 50% of AMI---25% of the total units will serve this demographic
- 60% of AMI---25% of the total units will serve this demographic

Much is being made of how Baychester Square will undermine the functionality of Bay Plaza, specifically the concern that Baychester Square will serve as an “Outlet Center.” The developer has informed our office that it will agree to a deed restriction that would assure that no more than 40 percent of manufacturers selling off-price merchandise would be permitted on-site. We expect the developer and EDC to assure that the deed restriction run with the land. This includes “factory outlet” stores, such as those found in Woodbury Commons. I encourage the City Council to continue negotiating the cap to assure all interested stakeholders are satisfied with the aforementioned deed restriction, and the unambiguous prohibition of an “Outlet Center.”

Given the proximity of Bay Plaza to Co-op City, its profile as a regional shopping complex and the fact that Baychester Square will be located on the opposite side of the New England Thruway (Interstate 95) I do believe that the two retail centers will complement each other, attracting even more businesses to the Northeast Bronx.

I am also encouraged that Baychester Square’s proximity to a significant residential community, meaning that those who reside in this area would have an appealing place to visit and shop, as the intent of this development will be to cater more so to the local customer rather than the region.

During my public hearing the applicant offered what I believe to be a forward thinking perspective on how to integrate a retail complex into an urban community. The extensive inclusion of benches, landscaped garden areas, moveable tables and chairs, along with a water feature will all serve to draw the curious shopper and stroller into the complex. Senior citizens residing within this complex means Baychester Square will be a full functioning community.

I am aware of those who oppose the construction of Baychester Square, particularly as it pertains to traffic. I am not persuaded however, that this will add significantly more traffic as those shopping at Bay Plaza and Bartow Mall, will be those who patronize Baychester Square. I am also cognizant that retail industry will sustain many changes in the future. Nonetheless, I believe given the unique way this development incorporates retail, health and professional functions, open space and senior residences, suggests that if the current vision must change Baychester Square's layout makes such change easily achievable.

I am pleased to support Bronx Community District #12's endorsement of Baychester Square pending inclusion of two critical modifications:

- 1) The Deed Restriction that articulates the developer's intent not to develop Baychester Square as an "Outlet Center" and all the necessary language that pertains to this matter be codified into the final agreement between the applicant, the Economic Development Corporation of the City of New York (EDC), This agreement must then run with the land.
- 2) The applicant and the appropriate division of the Metropolitan Transportation Authority (MTA) establish direct bus transportation necessary to accommodate Baychester Square without adversely affecting access to Bay Plaza. Special attention must also be given to the manner by which Access-A-Ride vehicles can service the senior citizen complex to be included in this project.

With these modifications included, I recommend approval of this application.