

*[Proposed amendments to the Zoning Resolution that would limit the development of major commercial uses within manufacturing districts.]*

IN THE MATTER OF amendments, pursuant to Section 200 of the New York City Charter, of the Zoning Resolution of The City of New York, relating to various sections concerning changes of permitted uses in Manufacturing Districts, and reclassifications of certain commercial and manufacturing uses.

(For Text, see Minutes of May 29, 1974, Cal. No. 38)

On motion, the following favorable report was unanimously adopted:

July 10, 1974

These amendments to the Zoning Resolution are proposed by the City Planning Commission to eliminate certain non-manufacturing uses from manufacturing districts and allow others only by special permit of the City Planning Commission and Board of Estimate, to allow certain light manufacturing uses in commercial districts, and to modify change of non-conforming use provisions.

I. Non-Manufacturing Uses in Manufacturing Districts

Background

The 1961 Zoning Resolution, in creating manufacturing, commercial, and residence districts, combined use categories that could co-exist compatibly. Unlike the previous ordinance, it does not allow all "higher" or cleaner uses in less restrictive zones, but instead determines land use compatibility, based on a nuisance concept. For example, new housing is not allowed in C7, C8 or manufacturing zones, and community facilities are excluded partially from M1 and C8 zones and entirely from M2 and M3 zones. The Commercial District regulations suggest that industry, by virtue of its heavy truck volumes and environmental impact is an unsuitable neighbor for retail and recreational uses. Nevertheless, manufacturing district regulations currently allow a wide range of non-manufacturing activities to occupy land that otherwise would be available for industrial uses and which generate additional traffic. We now seek to apply this premise in reverse, realizing that it is inconsistent to allow such industrial uses to locate near each other in manufacturing but not in commercial zones.

Commercial users inflate potential land values, since they often can pay more than industry. If manufacturing land is to be protected in the long term, the Zoning Resolution must clearly establish that certain areas should be set aside for manufacturing, even when the industrial land market is slow. This would take the zoning tool beyond the nuisance concept, giving it a more positive role in land allocation. Accordingly, City Planning Commission proposes to eliminate certain non-manufacturing uses from manufacturing districts and to allow others by special permit only.

### Issues

The major uses to be affected by these amendments are large commercial centers such as department stores and shopping centers. They would be allowed in M1 Districts by special permit from the City Planning Commission and Board of Estimate but would not be allowed in M2 or M3 zones. The Zoning Resolution intended major retail uses to locate primarily in commercial districts with unbroken retail frontages. One effect of this proposal will be to encourage department store location in our existing commercial hubs which are appropriately zoned C4, C5 or C6, and which have the infrastructure to handle these activities.

Retail and service uses themselves generate heavy truck, automobile and pedestrian traffic. Consequently, some residential communities have been disturbed about commercial assemblage in neighboring manufacturing districts. The Zoning Resolution fails to recognize that commercial traffic disrupts industrial as well as residential uses.

Large entertainment centers (Use Group 15) and community facilities (Use Group 4A) also occupy too much space and generate too much traffic to be allowed in manufacturing zones without review. Large amusement parks are allowed in C7, in addition to manufacturing zones, because of their impact on other types of development. Manufacturing zones should be protected from this impact.

Certain commercial uses are suitable in Manufacturing Districts. Most local retail and service uses (Use Group 6A) should remain allowed in Manufacturing Districts, because they sometimes border residential neighborhoods and occasionally are transitional or mixed areas. Food stores would be limited to 10,000 square feet to preclude large new supermarkets in outlying areas which often draw traffic through residential districts.

In M2 and M3 Districts, Use Group 6C would be limited to activities which either involve custom manufacturing or provide services to the labor force.

Other non-industrial uses, such as Group 7 (home and auto maintenance, repair, small wholesale); Group 8 (secondary shopping - lumber, upholstery; parking garages); Group 9 (business services); Group 11 (custom manufacturing, wholesale); and Group 16 (heavy services, warehouses, and automotive) are appropriate because they support industrial activities, and some of these firms engage in manufacturing as well as repairs and servicing. Certain minor exclusions of land-intensive uses under these categories are proposed.

Recommendations

1. In M1 Districts require CPC special permits for department stores and other large retail stores. Exclude Use Group 10A (large retail establishments) entirely from M2 and M3 Districts.
2. Require CPC special permits for all Use Group 4A (community facilities) in M1 Districts.
3. Exclude hotels and motels from M2 and M3 Districts. Continue to allow them in M1 Districts.
4. Limit food stores to 10,000 square feet in Manufacturing Districts.
5. In M2 and M3 Districts exclude unrestricted private clubs (Use Group 6E) and limit 6C and 9A to retail and service establishments which benefit the firms or their employees.
6. Exclude Use Group 15 (amusement parks) from M2 and M3 Districts.

II. Manufacturing Uses in Commercial Districts

Issues

In many C2 Districts, declining neighborhood retail strips have vacant storefronts that cannot be rented for retail purposes. Vacant storefronts physically and economically blight an area. To reduce the incidence of vacancy, certain types of light manufacturing uses would be allowable by special permit in these vacant storefronts. Apparel contracting, electronics, etc. would provide local employment and space for small manufacturers. Even a minimal 12 foot storefront could provide four to five jobs. The special permit would protect C2 Districts which have not declined, except for custom manufacturing and handicraft shops that should be allowed as-of-right.

Recommendations

1. In use regulations for Commercial Districts, add to the list of uses permitted by CPC special permit in C2 Districts certain light manufacturing uses, provided that they locate in no more than 5,000 sq. ft. of existing ground floor space vacant for at least one year.
  
2. Add certain custom manufacturing activities - art, needlework, hand weaving or tapestries; hand binding or tooling of books; custom ceramic products; custom hair products; jewelry manufacturing from precious metals; musical instruments except pianos and organs; watchmaking (from Use Group 11) -- for retail only and limited to 10,000 sq.ft., to Use Group 6C (retail or service establishments). In C5 Districts maintain the restriction against ground floor locations unless at least 50 feet from the street wall of the building.

IV. Non-Conforming Manufacturing Uses

Issues

Although the heavy service and commercial uses in Use Group 16 are often more noxious than Use Group 17 (light industry), the zoning regulations fail to reflect this fact. For instance, in commercial or residence districts a non-

conforming group 16 use can be changed only to another 16 use or to 11A (custom manufacturing). Thus a commercial laundry could be replaced as of right by another laundry, a carpet cleaning firm, dry cleaning or dyeing plant, or warehouse, but not a dress manufacturer. Similar regulations allow uses in Groups 17 or 18 to be changed to 11A, 16, 17 or 18. Non-conforming light manufacturing uses should not be convertible to heavy manufacturing as-of-right.

#### Recommendations

Amend the provisions for non-conforming uses in residence and commercial districts so that heavy commercial (use group 16) can be changed to light manufacturing (Use Group 17), and so that light manufacturing cannot be changed to heavy manufacturing (Use Group 18).

#### Public Hearing

On May 1, 1974 (Cal. #2) the City Planning Commission scheduled a Public Hearing on the proposed amendments. The hearing was duly held on May 29, 1974 (Cal. #38). There were two speakers.

One speaker, representing Richmond real estate concerns, opposed the amendments on the grounds that limiting development options in manufacturing districts creates a hardship for landowners. The Real Estate Board of New York also took this view in a letter to the Commission, claiming that the proposals would be confiscatory, lowering the value of land in manufacturing zones. The Commission believes it essential to the City's economy to preserve its increasingly scarce supply of industrial land and to ensure a pattern of retail growth that is consistent with both citywide and local community needs. It is in the public interest to promote opportunities for new and expanded factories which provide jobs for New York residents. A special permit requirement does not preclude major retail centers in Manufacturing Districts--rather it subjects

them to review of their appropriateness. Many existing shopping centers were enabled by a zoning change or street closing from the Commission, evidence that the review procedure does not necessarily hinder development. While the new proposed amendments would be more restrictive in M2 and M3 Districts, these zones have fewer potential development opportunities, and its impact would consequently be less severe. Generally, M2 and M3 Districts are not suitable locations for shopping centers.

A representative of Manhattan's Community Planning Board #2 requested more time to study the amendments. Board #2 subsequently adopted a motion in support of the amendments, and suggested modifications, some of which were incorporated into the text.

#### Text Changes After Public Hearing

After further review the Commission deems it appropriate that the following minor text modifications be made: (1) 42-11 ADD "All health facilities listed in Use Group 4A and requiring approval under Article 28 of the Public Health Law of the State of New York, which prior to July 10, 1974 have received approval of Part I of the required application from the Commissioner of Health, are allowed as-of-right and are not subject to the special permit provision of Sections 42-32 and 74-921. This modification will prevent undue hardship to institutions that have already invested considerable time and money in construction plans. (2) 32-32, after "Textiles, spinning, weaving, manufacturing, printing, knit goods, yarn, thread or cordage," ADD "but not dyeing," because textile dyeing sometimes produces odors which would be undesirable in commercial areas. (3) 32-32, after "laboratories, research, experimental or testing, except those that involve dangerous or potentially explosive activities," ADD "or animals," to avoid undesirable noise or odors from animal research. (4) 32-15, eliminate "Hair products, custom manufacturing..." because hair processing should be subject to review in commercial districts.

The City Planning Commission determined that the amendments as heard, and under consideration as modified, would provide appropriate modifications of the Zoning Resolution, and they were thereupon adopted, together with the following resolution, which is herewith filed with the Secretary of the Board of Estimate, in accordance with the provisions of Section 200 of the New York City Charter.

RESOLVED, by the City Planning Commission that the Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, be and the same hereby is amended by changes relating to various sections concerning changes of permitted uses in manufacturing districts, and reclassification of certain manufacturing and commercial uses, as follows:

Matter in Bold Type is new;

Matter in brackets [ ], is old, to be omitted;

Matter in italics is defined in Section 12-10.

31-10 PURPOSES OF SPECIFIC COMMERCIAL DISTRICTS

31-11

C1 Local Retail Districts

These districts are designed to provide for local shopping and include a wide range of retail stores and personal service establishments which cater to fre-

quently recurring needs. The district regulations also permit a few high-value custom manufacturing establishments of a retail nature which are compatible in a local shopping environment.

\* \* \* \*

Parking  
Requirement  
Category

32-15

Use Group 6

\* \* \* \*

C. RETAIL, [OR] SERVICE, OR CUSTOM MANUFACTURING ESTABLISHMENTS

\* \* \* \*

\*Art needlework, hand weaving or tapestries for retail, limited to 10,000 square feet of *floor area* per establishment

B

\* \* \* \*

\*Books, hand binding or tooling for retail, limited to 10,000 square feet of *floor area* per establishment

B

\* \* \* \*

\*Ceramic products, custom manufacturing for retail, limited to 10,000 square feet of *floor area* per establishment

B

\* \* \* \*

\*Clothing, custom manufacturing or altering for retail, limited to 10,000 square feet of *floor area* per establishment

B

\* \* \* \*

*Jewelry manufacturing from precious metals for retail, limited to 10,000 square feet of <i>floor area</i> per establishment	B
* * * *	
*Leather crafts from previously manufactured leather for retail, limited to 10,000 square feet of <i>floor area</i> per establishment	B
* * * *	
*Musical instruments, hand manufacturing, for retail except pianos or organs, limited to 10,000 square feet of <i>floor area</i> per establishment	B
* * * *	
*Watchmaking for retail, limited to 10,000 square feet of <i>floor area</i> per establishment	B
* * * *	

\* In a C5 District, a use in Use Group 6, marked with an asterisk, shall not be located on the ground floor of a *building* unless such use is at least 50 feet from the *street wall* of the *building* in which it is located, as provided in Section 32-423 (Limitation on ground floor location).

	Parking Requirement Category	DISTRICTS
32-30 USES PERMITTED BY SPECIAL PERMIT	* * * *	
32-32		
By the City Planning Commission		C1 C2 C3 C4 C5 C6 C7 C8
* * * *		
Light manufacturing <i>uses</i> listed in Use Group 17B in an existing <i>building</i> , limited to 5,000 square feet of <i>floor area</i> per establishment, and limited to the following uses:	F	C2
Advertising displays		
Apparel or other textile products from textiles or other materials, including hat bodies or similar products		
Brushes or brooms		
Cameras or other photographic equipment, except film		
Canvas or canvas products		
Cork products		
Cosmetics or toiletries		
Electrical appliances (small), including lighting fixtures, irons, fans, toasters, toys, or similar appliances		
Electrical equipment assembly (small), including home radio or television receivers, home movie equipment, or similar products, but not including electrical machinery		
Electrical supplies, including wire or cable assembly, switches, lamps, insulation, dry cell batteries or similar supplies		
Fur goods, not including tanning or dyeing		
Glass products from previously manufactured glass		
Hair, felt or leather products, except washing, curing or dyeing		
Hosiery		
Ice, dry or natural		
Laboratories, research, experimental or testing, except those that involve dangerous or potentially explosive activities, or animals		
Leather products, including shoes, machine belting, or similar products		
Luggage		
Machines, business, including typewriters, accounting machines, calculators, card-counting equipment, or similar products		
Machine tools—small parts only		

- Mattresses, including rebuilding or renovating
- Musical instruments
- Novelty products
- Optical or precision instruments
- Orthopedic or medical appliances, including artificial limbs, braces, supports, stretchers, or similar appliances
- Printing or publishing
- Sporting or athletic equipment, including balls, baskets, cues, gloves, bats, rods, or similar products
- Statutory, mannequins, figurines, or religious or church art, excluding foundry operations
- Textiles, spinning, weaving, manufacturing, printing, knit goods, yarn, thread
- Tobacco, including curing, or tobacco products or cordage, but not dyeing
- Tools or hardware, including bolts, nuts, screws, doorknobs, drills or similar products
- Toys
- Umbrellas
- Vehicles, children's (bicycles, etc.)
- Venetian blinds, window shades or awnings
- Wood products, cabinet making, pencils, baskets and other small products

36-20 REQUIRED ACCESSORY OFF-STREET PARKING SPACES FOR COMMERCIAL OR COMMUNITY FACILITY USES

DISTRICTS

C1 C2 C3 C4 C5 C6 C7 C8

Parking spaces required in relation to specified unit of measurement

36-21  
General Provisions \* \* \* \*

FOR COMMERCIAL USES

Light manufacturing or semi-industrial uses— Uses in parking requirement category F in Use Group 11, [or] 16, or 17B when permitted by special permit, and with a minimum of either 7,500 square feet of floor area or 15 employees	None required	C2-4 C2-5 C2-6 C2-7 C2-8	C5 C6	C8-4
	1 per 1,000 square feet of floor area or 1 per 3 employees, whichever will require a larger number of spaces	C2-1 C2-2 C2-3		C8-1 C8-2 C8-3

\* \* \* \*

42-00 GENERAL PROVISIONS

\* \* \* \*

Use Groups [4], 4B, 4C, 5, [6], 6A, 6B, 7, 8, [9], 9B, 9C, [10], 10B, 10C, 11, [12], 12A, 12C, 12D, 12E, 13, 14, [15], 16, 17, or 18, including each use listed separately therein, and certain uses listed in Use Groups 6C, 9A, 10A, or 12B are permitted in Manufacturing Districts as indicated in Section 42-11 to 42-15, inclusive.

\* \* \* \*

CHANGE CHART ON PAGE 226 TO REFLECT USE GROUP CHANGES

\* \* \* \*

	DISTRICTS		
	M1	M2	M3
42-10 USES PERMITTED AS OF RIGHT			
42-11			
Use Groups [4] 4B, 4C, 5, 6C, 6E, 7A, 9A, 10A and 12A	M1		
Use Groups [4] 4B, 4C, 5, 6C, 6E, 7A, 9A, 10A and 12A as set forth in Sections 32-14, 32-15, 32-16, 32-18, 32-19 32-21.			
Use Group 10A shall be limited to Depositories for storage of office records, microfilm, or computer tapes, or for data processing; Motion picture production studios; Office or business machine stores, sales or retail; and Radio or television studios.			

All health facilities listed in Use Group 4A and requiring approval under Article 28 of the Public Health Law of the State of New York, which, prior to July 10, 1974, have received approval of Part I of the required application from the Commissioner of Health are allowed as-of-right and are not subject to the special permit provision of Sections 42-32 and 74-921.

42-12			
Use Groups [5] [6] 6A, 6B, 6D, 6F, [7] 7B, 7C, 7D, 7E, 8, [9] 9B, 9C, [10] 10B, 10C, 11, [12] 12A, 12C, 12D, 12E, 13, 14, and 16.	M1	M2	M3
Use Groups [5] [6] 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, [7] 7B, 7C, 7D, 7E, 8, [9] 9B, 9C, [10] 10B, 10C, 11, [12] 12A, 12C, 12D, 12E, 13, 14, and 16 as set forth in Sections [32-14] 32-15 to 32-23, inclusive, and Section 32-25.			

42-13			
Use Groups 6C, 9A, and 12B [15]		M2	M3
Use Groups [15, as set forth in Section 32-24] 6C, 9A and 12B as set forth in Sections 32-15, 32-18, and 32-21.			
Use Group 6C shall be limited to Antique stores; Art galleries, commercial; Art needlework, hand weaving, or tapestries; Artists' supply stores, Automobile supply stores; Banks; Bicycle sales; Books, hand binding or tooling; Candy or ice cream stores; Ceramic products, custom manufacturing; Cigar or tobacco stores; Custom furrier shops, Frozen food lockers; Hair products, custom manufacturing; Fishing tackle or equipment, rental or sales; Jewelry manufacturing from precious metals; Jewelry or art metal craft shops; Locksmith shops; Meeting Halls; Millinery shops; Musical instruments, hand manufacture, except pianos and organs; Music stores; Newsstands, open or closed; Paint stores;			

DISTRICTS

Picture framing shops; Watchmaking; and Watch or clock repair shops.

Use Group 9A shall be limited to Blueprinting or photo-stating establishments; Business schools or colleges; Medical or dental laboratories; Musical instrument repairs; Printing establishments, Public auction rooms; Studios, art, music, dancing, or theatrical; Trade or other schools for adults; Typewriter or other small business machine sales, rental or repairs; and Umbrella repairs.

Use Group 12B shall be limited to Antique stores; Art galleries, commercial; Candy or ice cream stores; Cigar or tobacco stores; Delicatessen stores; Jewelry or art metal craft shops; Music stores; and Newsstands.

42-14

Use Group 17

Film, photographic

\* \* \* \*  
\* \* \* \*

42-15

Use Group 18

[Film, photographic]

\* \* \* \*  
\* \* \* \*

Parking  
Category

DISTRICTS

42-30 USES PERMITTED BY SPECIAL PERMIT

M1 M2 M3

\* \* \* \*

42-32

By the City Planning Commission

\* \* \* \*

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

B1 M1

\* \* \* \*

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

B M1

Department stores

B M1

\* \* \* \*

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

B M1

\* \* \* \*

Furniture stores, with no limitation on floor area per establishment

B1 M1

Television, radio, phonograph, or household appliance stores, with no limitation on floor area per establishment

B M1

\* \* \* \*

Uses listed in Use Group 4A Community Facilities

M1

\* \* \* \*

	Parking Category	DISTRICTS		
Variety stores, with no limitation on <i>floor area</i> per establishment	B	M1		

	DISTRICTS			
44-20 REQUIRED ACCESSORY OFF-STREET PARKING SPACES FOR MANUFACTURING, COMMERCIAL OR COMMUNITY FACILITIES USES	M1	M2	M3	

Parking spaces required in relation to specified unit of measurement

\* \* \* \*

FOR MANUFACTURING OR COMMERCIAL USES

\* \* \* \*

General retail or service uses—Food stores with less than 2,000 square feet of *floor area*; uses in parking requirement category B in Use Group 6, 8, 9, or 10; or uses in parking requirement category B1 in Use Group 6, 7, 8, 9, 10, 11, 14, or 16, or when permitted by special permit.

\* \* \* \*

Open commercial amusements—Uses in parking requirement category E in Use Group 13 [or 15] or when permitted by special permit

\* \* \* \*

Other commercial uses—Uses in parking requirement category H in Use Group 5, 6, 7, 12, 13, or 14, or when permitted by special permit

*Boatels* 1 per 2 guest rooms or suites



\* \* \* \*

*Hotels* Guest rooms or suites:

(a) For that *floor area* used for sleeping accommodations

None required



1 per 8



(b) For that *floor area* used for meeting halls, auditoriums, eating or drinking places, wedding chapels or banquet halls, or radio or television studios

Rated capacity:

None required



1 per 8 persons



*Motels or tourist cabins* 1 per guest room or suite



\* \* \* \*

52-30 CHANGE OF NON-CONFORMING USE

\* \* \* \*

52-33

Manufacturing or Related Uses in Residence Districts

\* \* \* \*

52-332

Other buildings or structures in Residence Districts

\* \* \* \*

From Use Group

To Use Group

11A

11A

16 or 17

11A [or], 16 or 17

[17 or] 18

11A, 16, 17 or 18

\* \* \* \*

52-35

Manufacturing or Related Uses in Commercial Districts

\* \* \* \*

From Uses Group

To Use Group

11A

11A

16 or 17

11A [or], 16 or 17

[17 or] 18

11A, 16, 17 or 18

\* \* \* \*

52-37

Non-Conforming Commercial Uses In Manufacturing Districts

In all Manufacturing Districts, any *non-conforming use* listed in Use Groups 5, 6, 7, 9, 10, 12 or 15 may be changed, initially or in any subsequent change, only to a *conforming use* or to any use listed in Use Groups 6, 9, 10 or 12.

74-92

Use Group 4A Community Facilities and Certain Large Retail Establishments in Manufacturing Districts

74-921

Use group 4A community facilities

In M1 Districts, the City Planning Commission may permit uses listed in Use Group 4A Community Facilities.

As a condition of granting a special permit for such community facilities, the Commission shall find:

(a) That within the neighborhood primarily to be served by the proposed facility there is no practical possibility of obtaining a site of adequate size located in a district wherein it is permitted as of right, because appropriate sites in such districts are occupied by substantial improvements;

(b) That the site area is of sufficient size so that yards and other open area on the same zoning lot can ensure adequate separation from noise, traffic movements and other adverse effects of the surrounding non-residential districts;

(c) That such facility is so located as to draw a minimum of vehicular traffic to and through local streets and that the streets providing access to such use will be adequate to handle the traffic generated thereby;

(d) That adequate reservoir space at the vehicular entrance and sufficient vehicular entrances and exits are provided to prevent congestion;

(e) That in selecting the site due consideration has been given to the proximity and adequacy of bus and rapid transit facilities;

(f) That such community facility is not located more than 400 feet from the boundary of a district wherein such facility is permitted as of right; and

(g) That such use will not produce traffic congestion or other adverse effects which interfere with the appropriate use of land in the district or in any adjacent district.

The Commission may prescribe additional conditions and safeguards to minimize adverse effects on the character of the surrounding area.

## Certain large retail establishments

In M1 Districts, the City Planning Commission may permit department stores; or carpet, rug, linoleum, or other floor covering stores; or clothing or clothing accessory stores; or dry goods or fabric stores; or furniture stores; or television, radio, phonograph, or household appliance stores; or variety stores; with no limitation on *floor area* per establishment.

As a condition of granting a special permit for such large retail establishments, the Commission shall find:

- (a) That the principal vehicular access for such use is not located on a local narrow *street*;
- (b) That such use is so located to draw a minimum of vehicular traffic to and through local *streets*;
- (c) That adequate reservoir space at the vehicular entrance and sufficient vehicular entrances and exits are provided to prevent congestion;
- (d) That vehicular entrances and exits are provided for such uses and are located not less than 100 feet apart;
- (e) That in selecting the site due consideration has been given to the proximity and adequacy of bus and rapid transit facilities;
- (f) That such use is so located as not to impair the essential character or the future use of or development of the surrounding area; and
- (g) That such use will not produce any adverse effects which interfere with the appropriate use of land in the district or in any adjacent district.

The Commission may prescribe additional conditions and safeguards to minimize adverse effects on the character of the surrounding area.

## Use Group 17B Light Manufacturing Industries

In C2 Districts, the City Planning Commission may permit certain light *manufacturing* uses pursuant to section 32-32 in order to revitalize commercial areas characterized by substantial vacancies.

As a condition of granting a special permit for such light *manufacturing* uses, the Commission shall find:

- (a) That such use locates in existing non-residential ground floor space that has been vacant at least one year before date of application for a special permit; and
- (b) That such use meets the performance standards of M1 Districts; and
- (c) That such use occupies no more than 5,000 square feet of *floor area* per establishment; and
- (d) That such use will have no adverse effects on the character of the surrounding area; and
- (e) That such *manufacturing use* will generate a minimum of vehicular traffic to and through local *streets* in residential areas.

The Commission may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area.

JOHN E. ZUCCOTTI, Chairman,  
 Martin Gallent, Vice Chairman,  
 Gerald R. Coleman, Alexander Cooper, Gordon J. Davis,  
 Sylvia Deutsch, Chester Rapkin, Commissioners.

BOROUGH OF MANHATTAN

No. 12

CPD 7

CP-22648

[Special use permit for the conversion of the existing 15-story Kimberly Hotel to a 468-bed domiciliary care facility to be known as the Lincoln Square Home For Adults.]

IN THE MATTER of an application, pursuant to Section 74-904 of the Zoning Resolution, from Lincoln Square Home Associates for the grant of a special permit involving the change of use of an existing 15-story building to a domiciliary care facility on property located at 201 West 74th Street, on the northeasterly corner of Broadway and West 74th Street, Borough of Manhattan.

Plans for this proposed domiciliary care facility are on file with the City Planning Commission and may be seen in Room 1500, 2 Lafayette Street, New York, N.Y.

(On April 3, 1974, Cal. No. 25, the Commission scheduled April 17, 1974, for a hearing; on April 17, 1974, Cal. No. 23, the hearing was continued to May 1, 1974, on May 1, 1974, Cal. No. 11, the hearing was continued to May 29, 1974; on May 29, 1974, Cal. No. 39, the hearing was closed.)

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No. 13

CPD 2

CP-22671

[Proposed rezoning to facilitate the conversion of an existing warehouse in the West Village section of Manhattan to a multiple dwelling with commercial uses on the ground floor.]

IN THE MATTER OF a zoning change, pursuant to Section 200 of the New York City Charter, involving an amendment of the Zoning Map, Section 12a, changing from a C8-4 District to a C1-7 District property bounded by Washington Street, a line 125 feet northerly of West 10th Street, a line 150 feet easterly of Washington Street and West 10th Street, Borough of Manhattan.

(On May 1, 1974, Cal. No. 3, the Commission scheduled May 29, 1974, for a hearing; on May 29, 1974, Cal. No. 40, the hearing was closed; on June 12, 1974, Cal. No. 14, the matter was laid over.)

July 10, 1974

The rezoning was requested by a representative of the owner of the property involved in order to facilitate the conversion of an existing warehouse in the West Village section of Manhattan to a multiple dwelling with commercial use on the ground floor.

On May 1, 1974 (Cal. #3) the Commission scheduled a PUBLIC HEARING on the proposed amendment. The hearing was duly held on May 29, 1974 (Cal. #40). The owner, his representative, and three (3) other concerned citizens appeared in favor of the proposed amendment and the hearing was closed.

5

The proposed rezoning will facilitate the conversion of a 12 story loft building into a residential building with 121 apartments and commercial stores on the ground floor. The owner has agreed to landscape and maintain 50% of the roof as tenant recreation space. The owner of the building appeared at the hearing and indicated that the loft could no longer be operated successfully. The loading docks cannot handle today's large trucks and the interior layout is inefficient.

Manufacturing and warehousing are vital to the City's economic well-being. We recognize that changing technology is rendering obsolete many buildings which were once used for this purpose. More must be done to preserve, protect and foster industrial jobs. Positive planning for modern competitive manufacturing and distribution areas with the City is essential.

However, consideration must be given to recycling exceptional older buildings and giving them a new lease of life through conversion from one use to another. The focus of the Commission in approving this zoning change is a narrow one: the merits of permitting conversion of this particular obsolete loft for residential use. We are persuaded that this loft -- because it is not suitable for its present warehousing activity -- may be appropriately recycled and become a housing resource.

The Commission is in receipt of (10) ten communications in favor of the proposed amendment including communications from the Landmarks Preservation Commission and the Environmental Protection Administration. The Landmarks Preservation Commission states that "the property is a fine example of the Romanesque style, very well built and will offer through tenancy, housing units so desperately needed in our City." The Environmental Protection Administration states that: "The project has been evaluated based on the information submitted, as not having a significant adverse impact on the physical environment." Community Planning Board #2 and the local block association supported the amendment.

The Commission, in approving this rezoning is not committing itself to a change in the overall land use pattern of the area. Major decisions related to the West Side Highway will in the long run determine the future development of this area. The decision as to the use of this building for residential use is not viewed by the Commission as having a major impact on the future of this area.

The Commission therefore considered the rezoning appropriate and adopted the following resolution, which is duly filed with the Secretary of the Board of Estimate, pursuant to Section 200 of the New York City Charter:

RESOLVED, that the Zoning Resolution of The City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended by changing the Zoning Map, Section No. 12a, so as to change from a C8-4 District to a C1-7 District property bounded by Washington Street, a line 125 feet northerly of West 10th Street, a line 150 feet easterly of Washington Street and West 10th Street, Borough of Manhattan, as shown on a diagram dated May 1, 1974.

JOHN E. ZUCCOTTI, Chairman;  
ALEXANDER COOPER, GORDON J. DAVIS, SYLVIA DEUTSCH, Commissioners.  
(Concurring statement of ALEXANDER COOPER, Commissioner, attached).  
MARTIN GALLEN, Vice-Chairman; GERALD R. COLEMAN, CHESTER RAPKIN,  
Commissioners, voting "No" (dissenting statement attached.)

CONCURRING STATEMENT BY COMMISSIONER ALEXANDER COOPER

(CP-22671)

July 10, 1974

The narrow issue involved in the Shephard Warehouse has been determined by the Commission today in favor of the conversion from manufacturing to residential use. The broader issue of the erosion of blue-collar jobs on the West Side waterfront of Manhattan has been addressed by the minority statement of three dissenting commissioners. While sharing their concern as a matter of policy, it is not inconsistent to disagree in the manner of implementing such a policy.

The minority report contends that the West Side waterfront is a "valuable and viable commercial area". I believe instead that it is an economic and social anachronism that survives only at the sufferance of an outmoded

and foolishly consistent policy: that all the lands adjacent to the waterfront are zoned uniformly for manufacturing purposes. It was intended that those lands should serve the cargo shipping activities of the waterfront. The movement of goods from ships to warehouses to general distribution throughout the City was, at the time, a rational and economically effective strategy. Many decisions by the City, such as elevating the original West Side Highway in order to maintain access between the waterfront and the upland area, were in response to that movement system.

But the realities of today are dramatically different and should not be further ignored. Reality number one - cargo shipping has left the West Side waterfront and will not return: among the 43 piers left standing between the Battery and 59th Street, only a single pier, Pier 40, now handles general cargo. Reality number two - jobs on the waterfront have vanished and will not return: there are now 1,050 jobs compared with 7,013 only 15 years ago ... a loss of 85 per cent. Reality number three - the movement of goods into Manhattan is now accomplished primarily by trucks and this shift in mode will continue: truck trips into Manhattan have remained constant .

The City in fact and in light of these realities, maintains not a "viable" commercial area, but rather a marginal commercial area. It does so by a series of indirect subsidies. The zoning designation of the area for manufacturing use is one form of subsidy. The provision of essentially free parking underneath the West Side Highway for the trucks of adjacent businesses is another indirect subsidy. It is imperative to ask at this time whether it is economically sound to continue to artificially depress land values in order to sustain a use that can otherwise be better accommodated.

Rather than continue indirect subsidies in the wrong location, it would be preferable to engage in direct subsidies in the appropriate location.

37

The two largest employers of blue-collar jobs within the City are the garment industry and the graphic arts industry. Their locational advantage in the vicinity of the Lincoln and Holland Tunnel areas, can and should be capitalized by the creation of two "Transportation/Service" districts at the entry points of the tunnels. These districts would become the focal points for the distribution of commercial goods within Manhattan. Interstate trucks, entering the island through the Hudson River tunnels, could gain immediate access to distribution centers without encumbering the local street system. Goods could then be broken down for local distribution by smaller vehicles. The availability of rail connections within the Penn Central 30th Street yards could further facilitate the transfer and movement of goods.

The presence of job-intensive, multi-level warehousing and distribution facilities would strengthen the blue-collar job market in Manhattan, as well as achieve two other major objectives: reduce the cost of goods and improve the physical environment by reducing vehicle miles traveled on the local streets.

The creation of such a facility will require the utilization of every conceivable tool for reducing costs so that the facility is financially competitive with other regional markets. The conditions and timing, however, are propitious. The 30th Street yards are in the single ownership of the Penn Central Railroad. These lands could be bought by the City. In the vicinity of the Holland Tunnel, new land, adjacent to and north of Battery Park City, could be created at minimal cost. The City's new Industrial Development Corporation, authorized by law only last month, could focus as its first priority upon implementing such an effort. The Corporation's ability to issue tax-exempt industrial revenue bonds would go far to reduce the real costs of acquiring, constructing and operating the facilities. Furthermore, this can be achieved outside the City's current debt limit, there-

by eliminating competition with other necessary facilities within the Capital Budget. Such direct subsidies would be more effective in dealing with the problem of job loss than the ineffective, indirect subsidies employed today.

These facilities could be accomplished by retaining the current manufacturing zoning between 42nd and 26th Streets and between Clarkson and Canal Streets. The area between these two, from the Chelsea piers to Pier 40, could then gradually convert to a more realistic usage. The companies presently doing business in this corridor could relocate to the more intensive distribution centers north and south of the corridor.

Consequently, the vote to approve the conversion of the Shephard Warehouse to residential use is logical and consistent with both the short-term objectives of the community and the long-term objective of a truly viable waterfront land-use policy in Manhattan. I, therefore, vote "Aye" and urge that the Board of Estimate approve the rezoning. Furthermore, I urge the Board at the same time to direct the appropriate City agencies to explore the creation of new commercial distribution centers within Manhattan, designated for the exclusive benefit of blue-collar jobs and a sensible goods movement system.

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DISSENTING STATEMENT OF VICE-CHAIRMAN MARTIN GALLENT and  
COMMISSIONERS GERALD R. COLEMAN and CHESTER RAPKIN

(CP-22671)

July 10, 1974

In the matter before us today, we are considering the rezoning of a parcel located at Washington Street and West 10th Street in Manhattan. This action will permit the conversion of a loft building utilized for warehousing to an apartment house. We do not oppose this particular conversion as a bad project, but when viewed in a larger context believe that the City has allowed a valuable and viable commercial area to become residential.

Because the City has failed to support this commercial activity with available resources it has, in fact, doomed the commercial activity by deliberately

allowing residential enclaves to develop. One of the first of these enclaves, the West Village Housing Project, was promoted by local residents who alleged that they desired the diversified atmosphere created by the varied commercial activity of this area. They further submitted that the trucking companies in the vicinity were not objectionable nor was the vehicular traffic generated by such firms. Today, successors to this project regard this commercial activity as unacceptable.

Given the diversified industrial uses in the West Village which provide 3,000 jobs and their importance to the continued growth and operation of Manhattan firms, we believe that the City has missed a natural opportunity to enhance and support a commercial distribution center. The transportation and trucking center within the boundaries of Canal, Gansevoort, Greenwich Street and the West Side Highway, historically, has had the dual advantages of utilizing the piers for local freight cargo and using the area as a warehousing and local delivery point. This activity has been and continues to be of vital importance to existing retail, commercial and manufacturing activity in Manhattan.

It is, of course, essential to have new private and publicly-aided housing in the City. But it is equally, if not more, important to maintain the City's economic base. Although employment increased in the greater New York-Northeastern New Jersey area between 1965 and 1973, New York City experienced a decrease of 5.2% in its share of the total area's wage and salary employment as the City's job base continued to decline. Over 37,000 positions were lost between February 1973 and February 1974. Of this number, over 17,000 jobs were lost in manufacturing alone. In addition, New York City sustained a jobless rate of 6.0% in 1973 - significantly higher than the nation-wide annual average rate of 4.9%. How much longer can we sustain this continual decline in employment when combined with a higher than average unemployment rate? Even the incubator manufacturing

role of the City has declined and part of the reason is the difficulty in obtaining efficient and competitive local delivery of materials and shipments of completed production. The erosion of this distribution center and the failure to provide an alternate area will, if nothing else, exacerbate the decline of manufacturing and incubator industries in Manhattan and throughout the City.

Decisive action is necessary to reformulate our goals for the commercial transportation and distribution component of the City's economy.

Raymond Vernon summarized his intensive study of the economy of the New York Metropolitan Region in "Metropolis 1985" (Harvard Press, (1960). He saw New York's genius as its ability to adapt to new conditions and attract new commercial activity as the old left the area. That resilience and adaptability still remain but if we continue to lose and break up our transportation and delivery network and convert our commercial and manufacturing zoned areas to residential zoning, then we begin to lose the special flexibility that we rely upon to meet changing conditions. Once an area is rezoned to residential use, it will not be changed back.

In fact, this kind of residential rezoning often has a negative effect on adjacent business activity. The construction of the West Village Housing Project seriously hampered the trucking activities of the Shephard Warehouse across the street. Servicing 100 to 150 accounts prior to this residential development's construction, the firm's accounts have been reduced to 50. Construction debris narrowed the road bed and all but eliminated efficient access to their property. A rumor of a possible street narrowing led local business enterprise to fear further obstacles to their activity. Residential parking which will naturally follow a housing development only compounds the problem of vehicular pick-up and delivery for such firms. As a consequence of these developments the owner of the warehouse, who had hoped to remain and expand his business, was only too happy to sell out.

Several years ago, as a result of the Two Bridges Project on the Lower East Side, a firm that distributed foreign newspapers and magazines to all points in the City, purchased land zoned for manufacturing in the West Village area. To their dismay, this firm found the West Village Housing Project was planned for their new property and they were forced to remain at their original location --- to their own discomfort and that of their future neighbors.

The difficulties of operation near a residential development are apparent from the actions of other firms in the West Village area. A major trucking company adjacent to the West Village Housing Project is now contemplating a move to New Jersey. This firm's twenty-four-hour operation, the volume of traffic generated by 60 to 75 tractor trailers per day, and its noise-producing equipment such as loudspeakers and diesel-operated trucks, are simply incompatible with a satisfactory residential environment. New Jersey now looms as a refuge for this company, offering acreage for its terminal and the necessary space for its trucks at feasible rentals. In the process, New York City is about to lose approximately 200 well-paying, skilled jobs and the service must now be obtained from the Jersey Meadows through the tunnels.

Warehousing and local trucking activities are being threatened by these residential enclaves. If they are to remain in the City we must encourage their location in coordinated areas which will serve Manhattan and the entire City. If we do not, how will they be protected from future residential inroads that can make their very existence tenuous and unacceptable? No parallel effort now exists to protect commercial distribution centers in Manhattan and we ignore this problem to our detriment.

Therefore, we vote "NO" and urge the Board of Estimate to withhold action on this matter until such time as a coordinated effort of the responsible City agencies is begun to create a commercial distribution center in lower Manhattan. If the center is not located in the West Village area, then it must be sited in an equally acceptable and advantageous part of the Borough of Manhattan.



CITY PLANNING COMMISSION  
CITY OF NEW YORK  
DIAGRAM SHOWING PROPOSED  
ZONING CHANGE  
ON SECTIONAL MAP

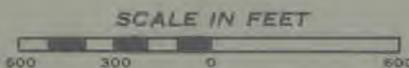
12 a

BOROUGH OF  
MANHATTAN

New York, May 1, 1974

*Louis Roberti, P.E.*  
Director, Division of Zoning

*Julius Specter, P.E.*  
DEPUTY CHIEF ENGINEER



**NOTE:**

- indicates Zoning District boundary.
- The area enclosed by the fine dotted line is proposed to be changed from a CB-4 District to a CI-7 District.

BOROUGH OF BROOKLYN

No. 14

CPD 13

CP-22663

*[Proposed assignment to the Brooklyn Public Library of a parcel of City-owned property in the Coney Island Urban Renewal Area as the site for the Coney Island West Branch Library.]*

IN THE MATTER OF a communication dated January 30, 1974 from the Assistant Director of the Brooklyn Public Library requesting the assignment of City-owned property located at the northeast corner of the intersection of Mermaid Avenue and West 33rd Street, Block 7007, Lots 47 through 50, Borough of Brooklyn, for use as the site for the Coney Island West Branch Library.

This matter was referred to the Commission by the Committee on Acquisition and Disposition of City Property of the Board of Estimate on March 11, 1974, Cal. No. 20.

On motion, the following favorable report was unanimously adopted:

July 10, 1974

The property to be assigned to the Brooklyn Public Library is within the Coney Island Urban Renewal Area and is geographically centered between the Coney Island Branch Library and the western end of Coney Island. It is in an area of new and established housing, including Gravesend Houses, West 32nd Street-Mermaid Houses, Coney Island Houses and William O'Dwyer Gardens built between 1954 and 1969; and Coney Island West, Sea Park West, Sea Park East I and Scheuer Houses built between 1972 and 1974.

The site was approved by the Site Selection Board on June 18, 1973, Calendar No.10 (SS-570) and by the Mayor on July 26, 1973.

The property to be assigned is bounded and described as follows:

Beginning at the point of intersection of the northerly line of Mermaid Avenue and the easterly line of West 33rd Street; thence running northerly along the easterly line of West 33rd Street a distance of 100 feet to the northerly line of Lot 50; thence easterly along the northerly line of Lot 50 and its prolongation a distance of 87 feet, 3 3/4 inches to the easterly line of Lot 47; thence southerly along the easterly line of Lot 47 a distance of 100 feet to the northerly line of Mermaid Avenue; thence westerly along the northerly line of Mermaid Avenue a distance of 87 feet, 3 3/4 inches to the point or place of beginning.

The area contained within the lines above described is approximately 8,731 square feet. It being intended to describe the property located at the northeast corner of the intersection of Mermaid Avenue and West 33rd Street, Block 7007, Lots 47 thru 50, Borough of Brooklyn, City and State of New York.

The City Planning Commission recommends that the assignment of the property under consideration, Block 7007, Lots 47 through 50, Borough of Brooklyn, to the Brooklyn Public Library be approved.

JOHN E. ZUCCOTTI, Chairman;  
MARTIN GALLEN, Vice-Chairman;  
GERALD R. COLEMAN, ALEXANDER COOPER, GORDON J. DAVIS,  
SYLVIA DEUTSCH, CHESTER RAPKIN, Commissioners.

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No. 15

CPD 14

CP-22664

*[Proposed assignment to the Brooklyn Public Library of a parcel of City-owned property comprising a portion of the school grounds of P.S. 139 as the site for the Dorchester Branch Library.]*

IN THE MATTER OF a communication dated January 30, 1974 from the Assistant Director of the Brooklyn Public Library requesting the assignment of City-owned property located at the northeast corner of the intersection of Coetlyou Road and Argyle Road, Block 5144, a portion of Lot 64, Borough of Brooklyn, for use as the site for the Dorchester Branch Library.

This matter was referred to the Commission by the Committee on Acquisition and Disposition of City Property of the Board of Estimate on March 11, 1974, Cal. No. 21.

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Nos. 16 and 17

*[Proposed zoning amendment and map establishing a Special Atlantic Avenue District to preserve the scale and character, including certain architectural features of buildings, of the Atlantic Avenue area between Court Street and Fourth Avenue in Brooklyn.]*

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No. 16

CP-22670

IN THE MATTER OF amendments, pursuant to Section 200 of the New York City Charter, of the Zoning Resolution of The City of New York, concerning the establishment of a Special Atlantic Avenue District.

(For Text see Minutes of June 12, 1974, Cal. No. 26)

On motion, the following favorable report was unanimously adopted:

July 10, 1974

The proposed amendment to the Zoning Resolution would establish a Special District for a part of Atlantic Avenue between Court Street and Third Avenue to preserve its scale and mixed commercial/residential character while allowing sufficient flexibility for renovation and new development. The District would reduce the permitted bulk in some locations, mandate street level commercial uses, and establish design guidelines for renovation and new construction.

On May 29, 1974 the Commission scheduled a PUBLIC HEARING on the proposed amendment. The public hearing was held on June 12, 1974 (Cal. # 26) in conjunction with the related hearing on the proposed zoning map change (CP-22669).

Speakers in favor of the proposed amendment included: A State Senator, a City Councilman, the president of the Downtown Brooklyn Development Association, the president of the Atlantic Avenue Committee, representatives of the Boerum Hill Association, Brooklyn Heights Association, the Brooklyn YWCA, and several local residents and merchants. Speaking in opposition was a representative of the owner of an affected property.

Speakers in favor of the proposal felt that the Special District was needed to preserve desirable characteristics of the avenue, encourage retail and residential uses, and guide the area's redevelopment. The speaker in opposition felt the proposal would limit the use of his property too severely. The hearing was closed.

#### CONSIDERATION

Atlantic Avenue is a major cross-borough artery; the westernmost section, from Furman Street at the East River to Third Avenue, runs through three Historic Districts: Brooklyn Heights, Cobble Hill, and Boerum Hill. Atlantic Avenue retains many examples of Victorian buildings and storefronts that merit preservation. Between Furman Street and Court Street the avenue is protected by Historic District designations, and has undergone considerable revitalization

with development of antique stores, boutiques and restaurants. Between Court Street and Third Avenue, Atlantic Avenue is an architectural continuation of the easternmost section and has the same potential for growth and redevelopment, but is not within an Historic District.

In order to protect the special character of Atlantic Avenue while allowing flexibility for appropriate renovation and new development, the Mayor's Office of Downtown Brooklyn Development and the Department of City Planning formulated the Special Atlantic Avenue District in conjunction with local merchants and residents. It incorporates controls on land use and building bulk and establishes design guidelines for renovation and new construction to insure their compatibility with the existing scale and character.

The controls on land use are aimed at encouraging retail uses along Atlantic Avenue and limiting automobile-related uses. Automotive service uses would not be permitted, except for public parking facilities of less than 100 spaces, which could be allowed by special permit of the City Planning Commission and Board of Estimate. To maintain a variety of commercial uses in a continuous frontage, new developments on lots of more than 3,500 square feet in area must have at least half the ground floor occupied by retail or local service uses. Frontage occupied by banks or offices is limited to 50 feet, and storage uses are not allowed to occupy storefronts.

The present zoning of Atlantic Avenue is different on the north and south sides - the north side being zoned C6-1 and the south side being zoned R6 with a C2-3 overlay. The present development on both sides of the avenue generally conforms to the R6/C2-3 pattern. The Special District limits commercial and community facility bulk to that permitted by R6/C2-3 zoning, without altering the presently permitted residential bulks. Height and setback regulations have been modified to limit front wall height and encourage lower buildings with greater coverage. Required open space must be landscaped, and trees planted on sidewalks abutting new developments.

A basic element of the Special District is the design guidelines which govern renovation of existing buildings and new construction. They are intended to preserve desirable features of the original 19th century buildings and to produce new development compatible in scale with the existing buildings.

New buildings must be built to the street line on Atlantic Avenue and street walls must rise without setback for a minimum of 16 feet. At least 45 per cent of the ground floor wall and at least 35 per cent of each upper story wall must be glazed.

Existing 19th century buildings retaining original architectural features are identified in the text. Renovation of these buildings must include preservation or replacement of cornices. Front walls must be repaired with the same material as the original wall; replaced front walls must be rebuilt with the same material to the original height and retain the original setback. Permitted finishes and paint colors are specified.

Design guidelines for storefronts require that new storefronts be built with large windows (60 per cent of the storefront area), recessed entrances and general proportions characteristic of the original storefronts. Existing Victorian storefronts, which are identified in the text, must be retained and restored unless removal is required by the Department of Buildings.

To reduce visual clutter on Atlantic Avenue, the District limits each commercial establishment to one sign, with a surface area of up to 150 square feet if unilluminated or 50 square feet if illuminated (these sign controls are those that apply in C2 districts). When the ground floor of a building is occupied by several stores, signs must be mounted on a common sign board. All signs and common sign boards must be located within a "sign band" which extends the full width of the building from a height of 8 feet to a height of 16 feet. No sign may be mounted in a way which obscures a cornice over a storefront.

Parking requirements for residential and commercial uses are eliminated within the Special District, and residential parking space is limited to no more than 40 per cent of the number of dwelling units. Vehicular access to parking from Atlantic Avenue is not permitted.

Demolition of buildings is prohibited, except in the case of unsafe buildings, until a building permit for new construction on the site is issued by the Department of Buildings and evidence of construction financing is shown.

As a result of investigation subsequent to the public hearing, the Commission deemed it advisable to make minor modifications of the text as follows:

Section 102-033 - technical modification to clarify the minimum commercial area requirement.

Section 102-063 - technical modification to make it clear that the requirement to build the front wall of a building for the full length of a street line applies only to the Atlantic Avenue street line.

Appendix A and Appendix B - elimination of some buildings on block 186 from lists of specified building type and specified storefront type, to reflect a modification of the Special District boundaries.

The Commission determined that the amendment as modified is appropriate and adopted the following resolution, which is duly filed with the Secretary of the Board of Estimate, pursuant to Section 200 of the New York City Charter.

RESOLVED, by the City Planning Commission that the Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended by changes relating to the establishment of a Special Atlantic Avenue District as follows:

Matter in Bold Type is new;

Matter in *italics* is defined in Section 12-10.

11-12

Establishment of Districts

\* \* \* \* \*

Establishment of the Special Atlantic Avenue District

In order to carry out the special purposes of this Resolution as set forth in Article X, Chapter 2, the *Special Atlantic Avenue District* is hereby established.

\* \* \* \* \*

12-10

Definitions

Special Atlantic Avenue District

The *Special Atlantic Avenue District* is a Special Purpose District designated by the letters "AA" in which regulations set forth in Article X, Chapter 2, apply to all zoning lots. The *Special Atlantic Avenue District* appears on the zoning maps superimposed on other districts, and its regulations supplement and modify those of the districts on which it is superimposed.

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## ARTICLE X

### SPECIAL PURPOSE DISTRICTS (continued)

#### CHAPTER 2 SPECIAL ATLANTIC AVENUE DISTRICT

102-00

General Purposes

The Special Atlantic Avenue District established in this resolution is designed to promote and protect public health, safety, welfare and amenity. These general goals include, among others, the following purposes:

- a) To protect the existing scale and form of development on Atlantic Avenue, characterized by three- and four-story attached buildings with shops, built in the 19th century;
- b) To preserve and enhance street life by maintaining a mix of residential and commercial uses, encouraging a variety of retail and service uses while limiting automotive service uses;
- c) To protect desirable architectural features of certain buildings by establishing design guidelines for renovation or alteration;
- d) To encourage design of new development which is in character with the area;
- e) To improve visual amenity by establishing special sign regulations;
- f) To promote the most desirable use of land in the area and thus to conserve the value of land and buildings, and thereby to protect the City's tax revenues.

102-01

Definitions

Special Atlantic Avenue District (repeated from Section 12-10)

The *Special Atlantic Avenue District* is a special purpose district designated by the letters "AA" in which regulations set forth in Article X, Chapter 2 apply to all zoning lots. The *Special Atlantic Avenue District* appears on the zoning maps superimposed on other districts, and its regulations supplement and modify those of the districts on which it is superimposed.

Specified Building Type

Any building within the Special District erected prior to 1900 and which:

- a) Has a front wall for the full width of the zoning lot for a height of from two to five stories;
- b) Has a front wall of brick or stone, erected coincident with or within five feet of the street line, with windows at each story and a cornice at the parapet level;
- c) Has a storefront at the basement or ground floor.

A list of the buildings within the Special District which conform to the definition of *Specified building type* appears in Appendix A.

Specified Storefront Type

Any storefront which is part of a building of the *Specified building type* and which:

- a) Has show windows projecting beyond the front wall of the building, occupying a total area of at least 35 square feet, and having a sill height of not more than 3'-0" and a total height of not less than 8'-0", measured from curb level;
- b) Has a projecting cornice above the storefront for its full width.

A list of buildings within the Special District having storefronts which conform to the definition of *Specified storefront type* appears in Appendix B.

102-02

General Provisions

Except as modified by the express provisions of this Chapter, the regulations of the underlying districts remain in effect.

102-021

Action by the Board of Estimate

The resolution of approval by the City Planning Commission, together with a copy of the application for a special permit, shall be filed with the Secretary of the Board of Estimate, and the Board of Estimate shall act upon such resolution in accordance with the provisions of Section 200 of the New York City Charter.

102-022

Requirements for applications

An application to the City Planning Commission for the grant of a special permit under the provisions of this Chapter shall include a site plan showing the location and proposed use of all buildings or other structures on the site; the location of all vehicular entrances and exits and off-street parking spaces; and such other information as may be required by the City Planning Commission.

102-023

Relationship to public improvement projects

In all cases, the Commission shall deny a special permit application, whenever the development will interfere with a public improvement project (including highways, public buildings or facilities, redevelopment of renewal projects, or rights-of-way for sewers, transit, or other public facilities) which is approved by or pending before the Board of Estimate, the City Planning Commission, or the Site Selection Board as determined from the calendar of each such agency issued prior to the date of the public hearing on the application for a special permit.

102-03

### Special Use Provisions

In order to preserve the commercial character of the area, certain use regulations of the underlying districts are modified as set forth in this Section.

102-031

#### Restricted uses

The following uses are not permitted within the Special District:

##### Automotive service stations

Automotive service establishments in Use Groups 7D, 8C and 12D, including *public parking garages* or *public parking lots*. However, the City Planning Commission after public notice and hearing and subject to action by the Board of Estimate may grant a special permit for *public parking garages* or *public parking lots* with a capacity of not more than 100 spaces provided that the regulations set forth in Section 36-53 (Location of Access to the Street), Section 36-55 (Surfacing), and Section 102-073 (Screening) are met and that no roof parking is permitted. The Commission may permit floor space on one or more *stories* and up to a height of 23 feet above *curb level* to be exempted from the definition of *floor area* as set forth in Section 12-10 (Definitions). As a condition of permitting such use, the Commission shall make the following findings:

- a) That such use is so located as to draw a minimum of vehicular traffic to and through local streets in nearby residential areas.
- b) That such use has adequate reservoir space at the vehicular entrance to accommodate a minimum of 10 automobiles or 20 percent of the spaces so provided, whichever amount is less.
- c) That, where any floor space is exempted from the definition of *floor area*, such additional floor space is needed in order to prevent excessive on-street parking demand and relieve traffic congestion.

102-032

#### Restriction on frontage and location

No bank, loan office, business or professional office, or individual use in Use Groups 9 and 11 shall occupy more than 50 feet of linear frontage on Atlantic Avenue.

Moving and storage uses in Use Group 7 are permitted on the ground floor of a *building* only if such use is located at least 50 feet from the *front wall* of the *building* in which the use is located.

102-033

#### Minimum commercial requirement

Any new development or enlargement on a zoning lot of 3500 square feet or more shall have a minimum of 50 percent of the ground floor area of the building devoted to permitted commercial uses in Use Groups 6, 7, 9 or 10. This requirement shall not apply to any new development or enlargement occupied entirely by community facility uses.

\* \* \*

102-04

#### Sign Regulations

In order to enhance the visual quality of the Special District, the following additional regulations shall apply to all *signs* within the Special District.

102-041

##### Total surface area of signs

The total *surface area* and number of all permitted *signs*, including *non-illuminated* and *illuminated signs*, shall not exceed the limitations set forth for *non-illuminated signs* in Section 102-042 (Area of non-illuminated signs).

102-042

Area of non-illuminated signs

The total surface area (in square feet) of *non-illuminated signs* on a *zoning lot* shall not exceed three times the *street frontage* of the *zoning lot* (in feet), and in no event shall exceed 150 square feet for *interior* or *through lots* or 150 square feet on each frontage for *corner lots*. Each commercial establishment shall be permitted not more than one *sign*. The vertical dimension of any *sign* shall not exceed 3'-0".

102-043

Area of illuminated signs

The total surface area (in square feet) of *illuminated signs* on a *zoning lot* shall not exceed two times the *street frontage* of the *zoning lot* (in feet), and in no event shall exceed 50 square feet for *interior* or *through lots* or 50 square feet on each frontage for *corner lots*. The vertical dimension of any *illuminated sign* shall not exceed 2'-6", nor shall *illuminated signs* project more than 10 inches from the surface to which they are affixed.

102-044

Permanent window graphics

Permanent window graphics may not occupy more than 20 percent of the total area of the window in which they are displayed. If such a permanent window graphic has letters more than 3 inches high it shall count as a *sign*.

102-045

Location of signs

If more than one commercial establishment is located on the same floor of a *building*, the *signs* *accessory* to all such establishments shall be of equal height and mounted or painted on a common sign board. All *signs* or common sign boards shall be located as follows:

- a) If *accessory* to *uses* on the ground floor of a building, the *sign* or common sign board shall be located within a band extending the full length of the *street wall*, which band shall have a lower limit of 8'-0" above the ground floor and an upper limit coincident with the bottom of the lowest window sill on the second floor, but in no event more than 16'-0" above *curb level*.
- b) if *accessory* to *uses* on the upper floor of a building, the *sign* or common sign board shall be located between the highest window lintel of the floor on which the *use* is located and the lowest window sill of the floor above, but in no case more than 25 feet above *curb level*.
- c) No *sign* may be located so as to obscure any cornice, except that a *non-illuminated sign* may be attached to a cornice if such *sign* consists of individual letters, emblems or figures mounted on open metal mesh attached to the cornice and finished to match the cornice, providing that the cornice remain visible.
- d) No *sign* or common sign board shall extend above the parapet wall or roof of the *building* on which it is displayed.

102-046

Sign materials and colors

*Signs* may be fabricated of any opaque material which does not have a glossy or reflective surface, except that glossy translucent material may be used

- a) in areas where the intent is to imitate or replace glass, as in transoms, or
- b) for individual letters in internally-lit *illuminated signs*.

Background colors for *signs* or common sign boards shall be limited to black, navy blue, dark green, maroon or bronze.

102-05

Modification of Bulk Regulations

102-051

Floor area and lot coverage regulations

For any *development* or *enlargement* within the Special District, the maximum permitted *floor area ratio* for a *residential, commercial or community facility building* or portions of a *mixed building* devoted to such uses shall not exceed the following:

<i>Use</i>	<i>Floor Area Ratio</i>
<i>Commercial building or commercial portion of a mixed building</i>	2.00
<i>Community facility building or community facility portion of a mixed building</i>	4.80
<i>Residential building or residential portion of a mixed building:</i>	
R6 or equivalent commercial district	2.43
R7 or equivalent commercial district	3.44

The maximum *floor area* in a *mixed building* shall be the maximum *floor area* permitted for either the *commercial* portion of such *building*, or the *community facility* portion of such *building*, or the *residential* portion of such *building* as set forth in this Section, whichever permits the greatest amount of *floor area*.

Any *development* or *enlargement* containing *residential* uses shall provide a minimum of 33 percent of the *lot area* of the *zoning lot* as usable, landscaped *open space* for the use of the *residential* tenants. The *residential* portion of the *building* may occupy the remaining portion of the *zoning lot*, subject to the regulations of Section 24-30 (Yard Regulations) and Section 33-20 (Yard Regulations). The *open space* shall be located either at the ground level or on the roof of the *non-residential* portion of the *development*; it shall include sitting areas and areas suitably surfaced for walking and recreational activities. When mechanical equipment is located at the same elevation as the *open space* all such mechanical equipment and emissions and noise therefrom shall be screened and buffered with no intake or exhaust facing directly into the *open space*.

102-052

Height and setback

The *front wall* of any new *development* within the Special District shall

- a) be coincident with the *street line* for a minimum height above *curb level* of 16 feet and a maximum height above *curb level* of (i) 50 feet if the *development* is located in an R6 or C2-3 district; and (ii) 60 feet if the *development* is located in a C6-1 district.
- b) have a minimum *setback* of 20 feet above the maximum height set forth in (a). At this *setback distance* the height of the wall shall be governed by the height and setback regulations of the the underlying districts.

102-06

Special Provisions

102-061

Special provisions for certain existing buildings

Any alteration, incidental alteration or minor work (including any change in, addition to or removal from the parts or materials of a building, including finishes) done to the front wall of any building of the specified building type shall comply with the following standards:

- a) Alteration or reconstruction of storefronts shall comply with the provisions of Section 102-064 (Special provisions for storefronts).
- b) Front walls which are replaced shall be erected to the same height and at the same location as the original wall. Replacement or repair of front walls shall be done with the same material as the original wall, except that stone may be replaced by another material finished in such a manner as to match the appearance of the original wall. Finishes and colors of front walls shall be of an approved type, as indicated in Appendix C.
- c) Front walls which are replaced shall have windows at each floor, the area of which shall comply with the provisions of Section 102-063 (Special provisions for new development and enlargement). Such windows shall have stone or precast lintels and sills having a minimum height of 6 inches and extending at least 4 inches beyond the window opening on either side. Existing window openings above the ground floor may not be reduced in size, but may be completely sealed if the window area provisions of Section 102-063 (Special provisions for new development and enlargement) are met. Such openings shall be completely sealed with masonry recessed at least 2 inches behind the wall and finished to match the wall. New windows shall be double-hung, fixed or casement sash finished in an approved manner, as indicated in Appendix D.
- d) No existing cornice shall be removed unless required by the Department of Buildings. A cornice which must be removed shall be replaced by a new cornice having the same height, length and projection beyond the surface of the wall and finished in an approved color, as indicated in Appendix D.

102-062

Special provisions for other existing buildings

Any alteration, incidental alteration or minor work done to the front wall of any building not of the specified building type shall comply with the following standards:

- a) Alteration or replacement of storefronts shall comply with the provisions of Section 102-064 (Special provisions for storefronts).
- b) Alteration or replacement of front walls shall comply with the provisions of Section 102-052 (Height and setback) and Section 102-063 (Special provisions for new development and enlargement).

Special provisions for new development and enlargement

The front wall of any new development or enlargement shall be built to comply with the following standards:

- a) The front wall shall extend along the full length of the Atlantic Avenue street line. It may be interrupted at the ground level by entrances or exits for off-street parking or loading spaces permitted under the provisions of Section 102-031 (Restricted uses),

*Front wall* recesses are permitted for architectural purposes provided that the aggregate length at the level of any story does not exceed 25 percent of the length of the front wall where such recesses are permitted. The depth of such recesses shall not exceed 3 feet. No recesses are permitted within 20 feet of the intersection of two street lines.

- b) Windows or glazed doors shall occupy at least 45 percent of that area of the ground floor wall not occupied by storefronts (for the purposes of calculation the height of the ground floor wall shall be measured between curb level and the ground floor ceiling).
- c) Windows shall occupy at least 35 percent of the wall area at the level of any story above the ground floor (for the purposes of calculation the wall height at any story shall be measured between the floor and ceiling of that story).
- d) Window and door framing trim shall be finished in an approved color as indicated in Appendix D.

## 102-064

Special provisions for storefronts

No storefront of the specified storefront type shall be demolished unless its demolition is required by the Department of Buildings. Reconstruction or repair of storefronts of the specified storefront type shall be done in such a manner as to retain or restore the original design and materials, except that plate glass may be replaced by transparent plastic. Such storefronts shall be finished in an approved manner, as indicated in Appendix D.

New storefronts installed in any existing or new building shall comply with the following standards:

- a) A storefront installed in a building of the specified building type shall occupy at least the same area of the front wall as the original storefront. A storefront installed in any other building shall occupy the entire frontage of the front wall devoted to commercial uses.
- b) A minimum of 50 percent of the storefront area shall be glazed with transparent materials and may include show windows, glazed transoms or glazed portions of doors. The storefront area shall be measured horizontally between the outermost framing elements and vertically between curb level and the bottom of any cornice or fascia. Show windows shall have a sill height of not more than 2'-6" above curb level and a total height of not less than 10'-0" above curb level.
- c) Storefront entrance doors shall be set back a minimum of 2'-0" behind the vertical surface of the show windows. A minimum of 50 percent of the door area shall be transparent glazed.
- d) In the case of existing buildings, no existing cornice above a storefront shall be demolished unless required by the Department of Buildings. A cornice which is removed shall be replaced by a cornice having the same length, height and projection beyond the surface of the front wall. In any building of the specified building type where the original cornice above the storefront has been previously removed, any new storefront shall incorporate a cornice or fascia extending the full length of the storefront and having a minimum height of 2'-0".

- e) If rolling security doors or grilles are installed, they shall be incorporated into the storefront in such a manner that no part of the door or grille or its enclosure or operating mechanism projects more than 10 inches beyond the surface of the *show windows*.
- f) All framing elements, trim elements, doors, etc. of the storefront shall be finished in an approved manner, as indicated in Appendix D.
- g) Any awning or canopy attached to a *building* with a storefront which incorporates a cornice shall be attached in such a manner as not to obscure or cover the cornice.

102-065

Mandatory tree planting provision

All new *developments* within the Special District shall provide and maintain trees of not less than 4-inch caliper at the time of planting on sidewalks for the entire length of the *street* frontage of the *zoning lot*. These trees shall be planted at maximum intervals of 25 feet and at a distance from the curb consistent with existing tree plantings. These trees shall be provided with metal guards in accordance with Highway Department guidelines.

102-07

Modification of Accessory Off-street Parking and Loading Requirements

102-071

Accessory off-street parking

No *accessory off-street parking facilities* are required for any *residential or commercial development or enlargement or portion thereof* within the Special District. In no case shall the number of permitted *accessory off-street parking spaces for residential use* exceed 40 percent of the number of *dwelling units*. All *accessory parking spaces* shall be designed the Special District. In no case shall the number of permitted *accessory off-street parking spaces for residential use* exceed 40 percent of the number of *dwelling units*. All *accessory parking spaces* shall be designed and operated exclusively for the long term storage of the private passenger motor vehicle used by the occupants of such *residences*. In no case shall curb cuts for vehicular access be located on Atlantic Avenue or on a *street* within 50 feet of its intersection with the *street* line of Atlantic Avenue. No *off-site accessory off-street parking facilities* for any use shall be permitted within the Special District.

The parking requirements set forth in Section 25-31 or 36-21 shall not apply to any *development or enlargement* for which the Commissioner of Buildings has certified that there is no way to provide the required parking spaces with access to a *street* in conformity with the provisions of this section.

102-072

Accessory off-street loading

Curb cuts for vehicular access to *accessory off-street loading berths* shall not be located on Atlantic Avenue or on a *street* within 50 feet of its intersection with the *street* line of Atlantic Avenue. The loading berth requirements of Section 25-72 or 36-62 shall not apply to any *development or enlargement* for which the Commissioner of Buildings has certified that there is no way to provide the required loading berths with access to a *street* in conformity with the provisions of this section.

All *accessory off-street loading berths* shall be enclosed within a *building*.

102-073

Screening

Any permitted *accessory off-street parking area* regardless of size or location shall be screened from all adjoining *zoning lots and streets* by screening which complies with the provisions of Section 36-56 (Screening) and which in the case of a wall or barrier or uniformly painted fence is finished in an approved color as indicated in Appendix D.

Any *off-street parking or loading facilities on zoning lots developed* prior to the effective date of this Chapter shall be brought into compliance with the provisions of this section within 12 months of the effective date of this Chapter.



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Appendix B

Storefronts conforming to the "Specified Storefront Type"

The following is a list of address of buildings within the Special District which contain storefronts conforming to the definition of "Specified Storefront Type" contained in Section 102-01.

**BLOCK 177**

Atlantic Avenue (NS): 371, 375, 377, 377A

Hoyt Street (ES): 75, 77

**BLOCK 178**

Atlantic Avenue (NS): 405, 407, 409

**BLOCK 179**

Atlantic Avenue (NS): 483, 501 (easterly of 2 storefronts)

**BLOCK 181**

Atlantic Avenue (SS): 232

**BLOCK 182**

Atlantic Avenue (SS): 302 (westerly of 2 storefronts), 322, 340

**BLOCK 183**

Atlantic Avenue (SS): 358, 360, 362, 364-364A, 370, 372, 374, 394, 396, 398, 402

**BLOCK 189**

Atlantic Avenue (SS): 404, 406, 408, 410, 412, 416, 420, 426

**BLOCK 185**

Atlantic Avenue (SS): 492

**BLOCK 278**

Atlantic Avenue (SS): 278

Appendix C

Permitted Wall Finishes (for Street Walls)

**Brick:** New brick shall be red or dark brown, unglazed, with normal variation in color permitted. Existing brick shall either be cleaned and left unfinished or painted one of the colors listed below.

**Stucco:** Stucco shall have a smooth trowelled finish and shall be painted one of the colors listed below.

**Stone:** Stone shall be left natural or painted one of the colors listed below.

Paint Colors

Paints shall be limited to the colors listed. Specific brands of paint are listed only as examples of proper colors; paints of any manufacture may be used if they match the sample paints in hue and intensity.

White

Limestone	—similar to Luminall "S226 Limestone" or Moorgard "16-14 Limestone Gray"
Brownstone	—similar to Luminall "S227 Brownstone" or Dutch Boy "17-34 Rustic Brown"
Red Brick	—similar to Moortone "026-21 Red Brick" or Luminall "S210 Brick Red"
Green	—similar to Lucite "1300c Live Oak Green," Moorgard "103 45 Provincial Sage," or Dutch Boy "17-86 Lexington Green"
Blue	—similar to Moorgard "8-72 Newport Blue"
Light Yellow	—similar to Lucite "1317c Colonial Gold" or Moorgard "103 10 Colonial Yellow"
Dark Yellow	—similar to Lucite "1319 c Salem Gold" Moorgard "18-16 Salem Gold," or Dutch Boy "17-48 Golden Eagle"

Appendix D

Permitted Trim Finishes (for storefronts, cornices, window sash, shutters, or trim)

Wood: All wood should be painted one or more of the colors listed below.

Metal: All metal should be painted one or more of the colors listed below, except that aluminum may have a dark bronze or black duranodic finish.

Paint Colors

Paints shall be listed to the colors listed, and should be of the semi-gloss low lustre variety. Specific brands of paint are listed only as examples of proper colors; paints of any manufacture may be used if they match the sample paints in hue and intensity.

White

Cream —similar to Red Devil "24 Bone White" or Moorgard "103 18 Ivory"

Dark Red —similar to Red Devil "29 Red" or Lucite "1807c Autumn Red"

Ochre —similar to Lucite "1804c Antique Gold" or Moorgard "103 13 Harvest Gold"

Dark Blue —similar to Lucite "1805c Mansion Blue" or Red Devil "20 Empire Blue"

Dark Green —similar to Lucite "1803c Raven Green," Red Devil "25 Wintergreen," or Moorgard "103 44 Forest Green"

Dark Brown —similar to Lucite "1808c Nutmeg," Moorgard "103 60 Manor Brown," or Red Devil "14 Walnut"

JOHN E. ZUCCOTTI, Chairman;  
MARTIN GALLENT, Vice-Chairman;  
GERALD R. COLEMAN, ALEXANDER COOPER, GORDON J. DAVIS,  
SYLVIA DEUTSCH, CHESTER RAPKIN, Commissioners.

(Concurring Statement of Martin Gallent, Vice-Chairman, attached.)

CONCURRING STATEMENT OF VICE-CHAIRMAN MARTIN GALLENT

22669  
CP-22670

July 10, 1974

I vote in favor of the Atlantic Avenue District, but the District should be extended to Fourth Avenue. The area between Third and Fourth Avenues has prime development possibilities and should be coordinated with the Atlantic Avenue District. The south side of Atlantic Avenue, which contains a subway entrance, as it stands now is neither controlled by the District nor by the Urban Renewal Area immediately to the north. I urge that appropriate land use restrictions are placed in the area that will coordinate with the Urban Renewal District and the Special Atlantic Avenue District. It would be most appropriate at this time to extend the Atlantic Avenue District to Fourth Avenue.

IN THE MATTER OF a zoning change pursuant to Section 200 of the New York City Charter, involving an amendment of the Zoning Map, Section No. 16c, establishing an AA District on property bounded by Court Street, Atlantic Avenue, a line 130 feet easterly of Smith Street, a line midway between State Street and Atlantic Avenue, a line 75 feet westerly of Hoyt Street, State Street, a line 25 feet easterly of Hoyt Street, a line midway between State Street and Atlantic Avenue, Third Avenue, Atlantic Avenue, Fourth Avenue, a line midway between Atlantic Avenue and Pacific Street, a line 100 feet easterly of Third Avenue, Pacific Street, Third Avenue, a line midway between Atlantic Avenue and Pacific Street, a line 75 feet easterly of Court Street, and Pacific Street, Borough of Brooklyn.

(On May 29, 1974, Cal. No. 3, the Commission scheduled June 12, 1974, for a hearing; on June 12, 1974, Cal. No. 27, the hearing was closed.)

On motion, the following favorable report was unanimously adopted:

July 10, 1974

This Zoning Amendment was initiated to delineate the boundaries of the new Special Atlantic Avenue District.

On May 29, 1974 (Cal. #3) the Commission scheduled a PUBLIC HEARING on the proposed amendment. The hearing was held on June 12, 1974 (Cal. #27), in conjunction with the hearing on the Special Atlantic Avenue District (CP-22670). Speakers in favor of the proposed rezoning included a local state Senator, a Councilman, the President of the Downtown Brooklyn Development Corporation, a representative of the Brooklyn Heights Association, a representative of the Young Womens Christian Association and several property owners. There was one speaker in opposition and the hearings were closed.

The provisions of the Special Atlantic Avenue District and the purposes of establishing such a district are set forth in the related report (CP-22670) adopted by the Commission on July 10, 1974 (Cal. # 17). Community Planning Board #2 has indicated its approval of this proposed rezoning.

Atlantic Avenue runs directly through several historic and landmark districts and therefore, a study was initiated to preserve and maintain the character of Atlantic Avenue. The special district will preserve that historic character while at the same time allowing for necessary new development and redevelopment.

As a result of investigation and study subsequent to the public hearing, a modification of the amendment was deemed advisable. The modification involves the deletion, from the scope of the amendment, of property bounded by Atlantic Avenue, 4th Avenue, a line midway between Atlantic Avenue and Pacific Street and a line 200 feet westerly of 4th Avenue, thereby retaining the existing zoning district designations of this property, instead of the Special Atlantic Avenue District designation as heard.

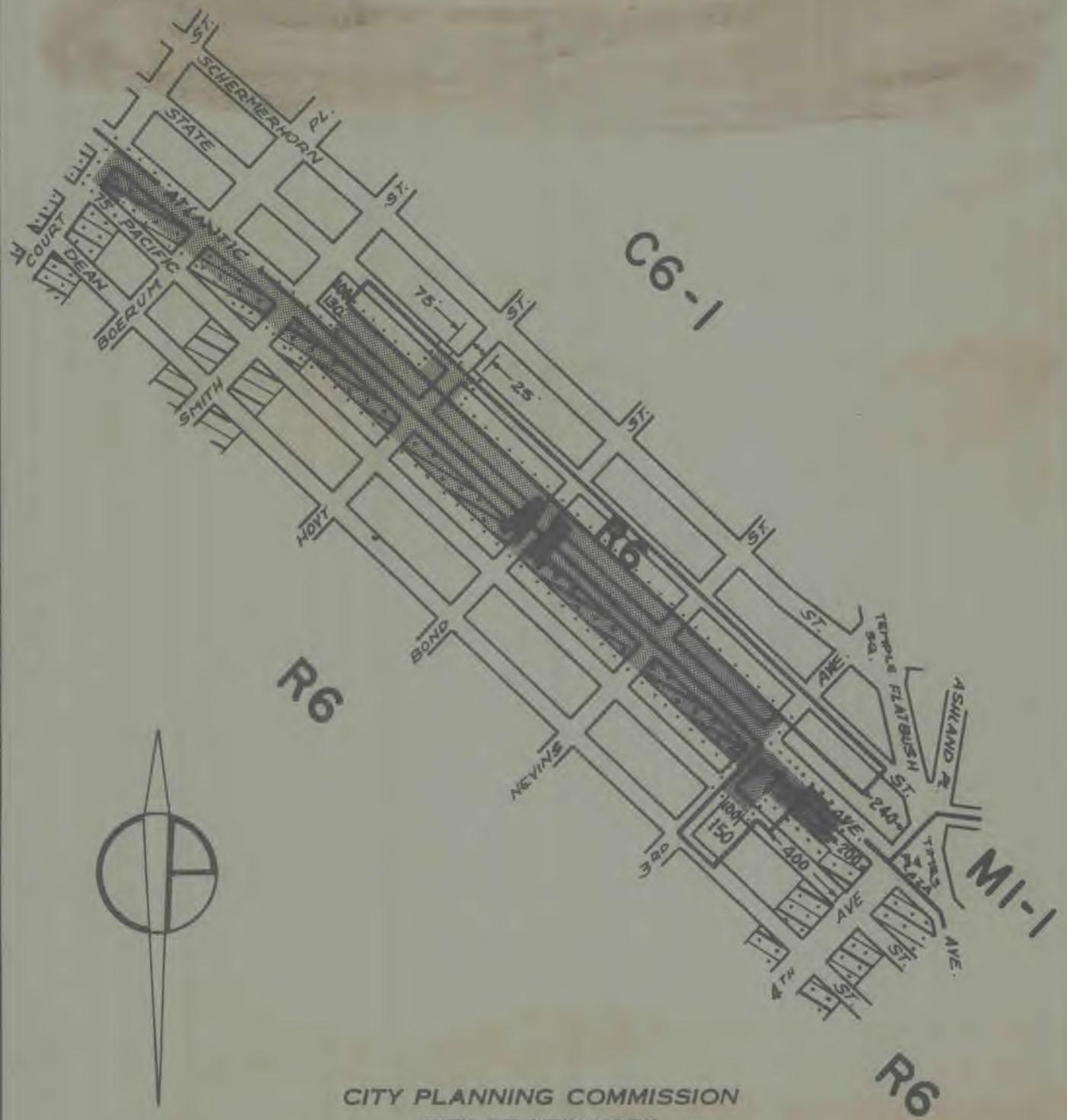
The Commission therefore considered the rezoning as modified appropriate and adopted the following resolution, which is duly filed with the Secretary of the Board of Estimate, pursuant to Section 200 of the New York City Charter:

RESOLVED, that the Zoning Resolution of The City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended by changing the Zoning Map, Section No. 16c, establishing a Special Atlantic Avenue District on property bounded by Court Street, Atlantic Avenue a line 130 feet easterly of Smith Street, a line midway between State Street and Atlantic Avenue, a line 75 feet westerly of Hoyt Street, State Street, a line 25 feet easterly of Hoyt Street, a line midway between State Street and Atlantic Avenue, 3rd Avenue, Atlantic Avenue, a line 200 feet westerly of 4th Avenue, a line midway between Atlantic Avenue and Pacific Street, a line 100 feet easterly of 3rd Avenue, Pacific Street, 3rd Avenue, a line midway between Atlantic Avenue and Pacific Street, a line 75 feet easterly of Court Street and Pacific Street, Borough of Brooklyn, as shown on a diagram dated May 1, 1974 and modified June 12, 1974.

JOHN E. ZUCCOTTI, Chairman  
MARTIN GALLEN, Vice-Chairman  
GERALD R. COLEMAN, ALEXANDER COOPER, GORDON J. DAVIS,  
SYLVIA DEUTSCH, CHESTER RAPKIN, Commissioners

(Concurring Statement of Vice-Chairman Martin Gallent attached to CP-22670)

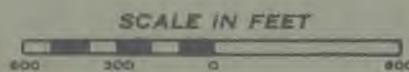
(DIAGRAM ATTACHED)



CITY PLANNING COMMISSION  
 CITY OF NEW YORK  
**DIAGRAM SHOWING PROPOSED  
 ZONING CHANGE  
 ON SECTIONAL MAP  
 16c**  
 BOROUGH OF  
 BROOKLYN

New York, May 29, 1974  
 Modified July 10, 1974

*H. Friedman* P.E.  
 Acting Director, Division of Zoning  
*John J. Smith* PE  
 Chief Engineer



- NOTE:**
- indicates Zoning District boundary.
  - ..... The area enclosed by the fine dotted line is proposed to be changed by establishing an AA District.
  - indicates a C1-3 District.
  - indicates a C2-3 District.

*[Proposed special use and bulk permits for a five-story, 196-bed health-related facility planned for the west side of 17th Avenue between 60th and 61st Streets in Brooklyn. The proposed facility would be built on the site of the existing 94-bed Augustana Home.]*

IN THE MATTER OF an application, pursuant to Sections 74-90 and 74-902 of the Zoning Resolution, from the Augustana Home for the Aged, for the grant of special permits involving use and bulk modifications for a proposed five-story, 196-bed health related facility on property located on the west side of 17th Avenue between 60th Street and 61st Street, Borough of Brooklyn.

Plans for this proposed health related facility are on file with the City Planning Commission and may be seen in Room 1500, 2 Lafayette Street, New York, N.Y.

(On May 29, 1974, Cal. No. 4, the Commission scheduled June 12, 1974, for a hearing; on June 12, 1974, Cal. No. 28, the hearing was closed.)

On motion, the following report was unanimously adopted:

July 10, 1974

The application for the special permits was filed by the Augustana Nursing Home Co., Inc. The permits will allow construction of a five story, 196 bed health related facility to replace the existing 94 bed Augustana Lutheran Home for the Aged on the west side of 17th Avenue between 60th and 61st Streets in Community Planning District #12, Brooklyn. The State Department of Health has mandated that obsolete facilities be upgraded or replaced where feasible.

A special use permit is required because CPD #12 has been designated as an area with a relative concentration of nursing home and health related facility beds. The special bulk permit is needed because the proposed building exceeds the permitted 1.27 floor area ratio in an R5 zone and requires the maximum community facility F.A.R. of 2.0.

The home is located on the edge of a residential area. The Mapleton Branch Library is across 17th Avenue and Gravesend Park is about four blocks away. Retail shopping and services exist along 18th Avenue and the area is well served by several bus lines and the BMT. Augustana Lutheran has occupied the 29,000 square foot site since 1908, gradually expanding its facility. The major building was erected in 1929. There are no other existing or planned similar facilities within many blocks of the home. A report from the Environmental Planning Section of the Department of City Planning indicates that air quality is acceptable, noise levels appear to be within Federal standards and the water and sewer utilities are adequate to serve the facility. The bounding streets are mapped as follows: 17th Avenue and 60th Street at 80 feet and 61st Street at 60 feet.

The new building will be constructed in two stages. The State Department of Health has approved the staged development because maintaining the elderly in their familiar environment is considered worth the added costs and inconvenience incurred by the effort. Phase I will be built in the rear of the existing 1929 wing and Phase II will be erected on the site of the 1929 wing after the residents are relocated to the Phase I portion.

On May 29, 1974 (Cal. #4), the City Planning Commission scheduled a PUBLIC HEARING on this application. The hearing was duly held on July 12, 1974 (Cal. #28). There were no appearances.

The hearing was closed.

Given the constraints of the staged development the site plan is acceptable. The plan provides the required 21 parking spaces, a loading berth and two small ground level outdoor terraces. There is also a solarium and sun deck on the roof served by elevators. Together they will provide about 50 square feet of open space per resident. The height of the building, five stories or 52 1/2 feet is not out of scale with the surrounding area, and the building will be set far back from each street.

Community Board #12 has recommended approval of both the special use and bulk permits.

The Commission hereby makes all the findings pursuant to Sections 74-90 and 74-902 of the Zoning Resolution and has determined that the application warrants approval subject to the conditions stated in the following resolution:

RESOLVED, by the City Planning Commission that the application of the Augustana Nursing Home Co., Inc. for the grant of special permits involving a use modification and a bulk modification involving an increase in floor area ratio from 1.27 to 2.0 for a five story, 196 bed health related facility on a zoning lot located on the west side of 17th Avenue between 60th Street and 61st Street in Community Planning District #12 in the Borough of Brooklyn, be and hereby is approved pursuant to Sections 74-90 and 74-902 of the Zoning Resolution subject to the following conditions:

1. The premises shall be developed in size and arrangement substantially as proposed and indicated on the following plans filed with the application:

- Staging Plan (Site Plan and Information)
- Site Plan and First Floor Plan
- Roof Plan
- 17th Avenue Elevation
- 60th Street Elevation
- Rear Elevation
- 61st Street Elevation

2. The applicant shall demolish the existing 1929 wing of the facility within 90 days of completing the Phase I building.

3. The development shall conform to all applicable provisions of the Zoning Resolution, except for the modifications herein granted as shown on the plans filed with the application. All zoning computations are subject to verification and approval by the Department of Buildings.

4. The development shall conform with all applicable laws and regulations related to construction, operation and maintenance.

Any alteration in the premises or in the manner of operation which departs from any of the hereinbefore specified conditions, unless authorized by the City Planning Commission shall cause an immediate termination of the special permits herein granted.

The above resolution duly adopted by the City Planning Commission on July 10, 1974 (Cal. #18) is herewith filed with the Secretary of the Board of Estimate, together with a copy of the application and plans of the development, pursuant to Section 74-10 of the Zoning Resolution.

JOHN E. ZUCCOTTI, Chairman;  
 MARTIN GALLEN, Vice-Chairman,  
 GERALD R. COLEMAN, ALEXANDER COOPER, GORDON J. DAVIS,  
 SYLVIA DEUTSCH, CHESTER RAPKIN, Commissioners.

[A proposed special use permit for Marcus Garvey Nursing Home, a four-story structure planned for the Crown Heights section of Brooklyn. The facility would contain a total of 295 beds—240 beds for nursing home patients and 55 beds for patients requiring only minimal nursing care.]

IN THE MATTER OF an application, pursuant to Section 74-90 of the Zoning Resolution, from Marcus Garvey Nursing Home, Inc. for the grant of a special permit involving a nursing home and health related facility on property located on the southerly side of St. Marks Avenue, between New York Avenue and Brooklyn Avenue, Borough of Brooklyn.

Plans for this proposed nursing home and health related facility are on file with the City Planning Commission and may be seen in Room 1500, 2 Lafayette Street, New York, N.Y.

(On May 29, 1974, Cal. No. 5, the Commission scheduled June 12, 1974, for a hearing; on June 12, 1974, Cal. No. 29, the hearing was closed.)

On motion, the following favorable report was unanimously adopted:

July 10, 1974

The application for the special permit was filed by Marcus Garvey Nursing Home, Inc. The permit will allow construction of a four-story facility, having 240 nursing home beds and 55 health-related facility beds.

At a meeting held on March 14, 1974, Community Planning Board #8 voted its qualified approval of this application for a special permit.

On May 29, 1974 (Cal. #5), the City Planning Commission scheduled a PUBLIC HEARING on this application. The hearing was duly held on June 12, 1974 (Cal. #29). A representative of the sponsor, a representative of an owner of adjacent property, and a local legislator appeared in favor of the proposal. There were no appearances in opposition, and the hearing was closed.

The Commission hereby makes all the findings pursuant to Section 74-90 of the Zoning Resolution and has determined that the application warrants approval subject to the conditions stated in the following resolution:

RESOLVED, by the City Planning Commission that the application of Marcus Garvey Nursing Home, Inc. for the grant of a special permit involving a nursing home and health related facility on property located on the southerly side of St. Marks Avenue, between New York Avenue and Brooklyn Avenue, Borough of Brooklyn, be and hereby is approved pursuant

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to Section 74-90 of the Zoning Resolution subject to the following conditions:

1. The premises shall be developed in size and arrangement substantially as proposed and as indicated on plans filed with the application;
2. The development shall conform to all applicable provisions of the Zoning Resolution, except for the modifications herein granted as shown on the plans filed with the application. All zoning computations are subject to verification and approval by the Department of Buildings; and
3. The development shall conform with all applicable laws and regulations relating to construction, operation and maintenance.

Any alteration in the premises or in the manner of operation which departs from any of the hereinbefore specified conditions, unless authorized by the City Planning Commission shall cause an immediate termination of the special permit herein granted.

The above resolution duly adopted by the City Planning Commission on July 10, 1974 (Cal. #19) is herewith filed with the Secretary of the Board of Estimate, together with a copy of the application and plans of the development, pursuant to Section 74-10 of the Zoning Resolution.

JOHN E. ZUCCOTTI, Chairman;  
MARTIN GALLEN, Vice-Chairman,  
GERALD R. COLEMAN, ALEXANDER COOPER,  
GORDON J. DAVIS, SYLVIA DEUTSCH, CHESTER RAPKIN, Commissioners.

BOROUGH OF QUEENS

No. 20

CPD 13

CP-22582

[A proposed map change that would reduce the mapped width of a section of Hook Creek Boulevard between 133rd Drive and 253rd Street in the Rosedale section of Queens to facilitate street improvements.]

IN THE MATTER OF a map modifying the lines and grades of Hook Creek Boulevard from 133rd Drive to 253rd Street, Borough of Queens, in accordance with a Map No. 4623, signed by the Borough President and dated December 10, 1973. The map was referred by the Board of Estimate on December 20, 1973 (Cal. No. 433).

(On May 29, 1974, Cal. No. 6, the Commission scheduled June 12, 1974, for a hearing; on June 12, 1974, Cal. No. 30, the hearing was closed.)

On motion, the following favorable report was unanimously adopted:

July 10, 1974

The map relates to a residential area, mainly developed with one and two story detached dwellings, in the Rosedale section of the Borough and provides primarily for the reduction in the mapped width of Hook Creek Boulevard from 100 feet to 80 feet from 133rd Drive to North Conduit Avenue and from 249th Street to 253rd Street.

The reduction in width, along this fourteen-block, 0.70 mile long portion, is to be accomplished by shifting either or both mapped street lines of Hook Creek Boulevard, and will minimize the damage which would occur to abutting residential properties if the street were improved to its presently mapped width. The proposed map change which is preparatory to contemplated physical improvements in Hook Creek Boulevard, will reduce acquisition costs of private property abutting the Hook Creek Boulevard right-of-way, as well as lessen the cost for repaving the street.

A width of about 49 feet, in the section of Hook Creek Boulevard under consideration, has been in City ownership since 1863. The subject street is now in use at an irregular winding width.

The proposed street width of 80 feet is designed to accommodate a roadway sufficiently wide to handle anticipated traffic in the area. The street north and south of the portion under discussion may be considered for a reduction in mapped width at some future time.

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The map also provides for modifications of legal grades in the immediate area so as to accommodate the street width reduction, or so as to conform more closely with existing conditions. These modifications will not adversely affect sewerage or surface drainage requirements.

On April 22, 1974, Community Planning Board No. 13 reviewed and endorsed the proposed map change.

On May 29, 1974 (Cal. No. 6), the City Planning Commission scheduled a PUBLIC HEARING on the map change. The hearing was duly held on June 12, 1974 (Cal. No. 30). At that time, the Chairlady of Community Planning Board No. 13 appeared, and asked that everything possible should be done to avoid the demolition of the fronts of buildings abutting Hook Creek Boulevard.

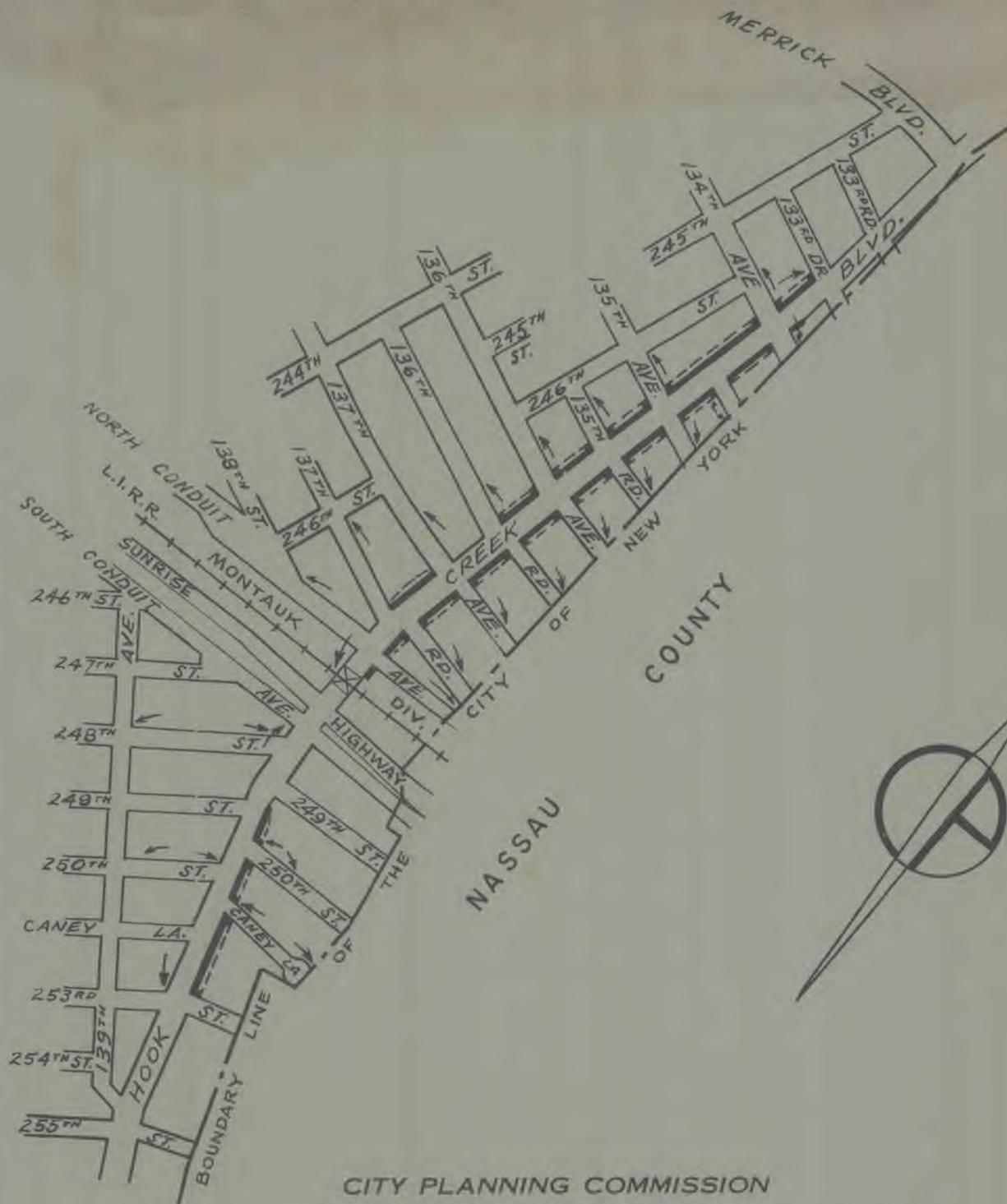
A representative of the Transportation Administration was present, and the Commission called upon him to clarify the situation. He stated that probably all structures would be saved, including those that lie partly within the new street lines. He explained that the contemplated street treatment called for 18-foot wide sidewalks containing 4-foot wide paved center strips edged by abutting planting strips. This type of sidewalk improvement would not disturb any adjoining buildings. He agreed to submit, as soon as possible, a finalized tree plan to the Commission and the hearing was closed.

The Commission considers the map change, designed to provide a basis for street improvements with a minimum of damage to abutting private property while removing, at the same time, the cloud on title to said property, to be an appropriate modification of the City Map. The map change is approved subject to the submission of a tree planting plan satisfactory to the Commission

The Commission recommends to the Board of Estimate that the map change under consideration be adopted.

JOHN E. ZUCCOTTI, Chairman  
MARTIN GALLENT, Vice Chairman  
GERALD R. COLEMAN, ALEXANDER COOPER, GORDON J. DAVIS,  
SYLVIA DEUTSCH, CHESTER RAPKIN, Commissioners

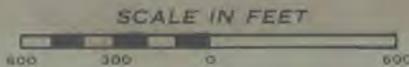
(DIAGRAM ATTACHED)



CITY PLANNING COMMISSION  
 CITY OF NEW YORK  
**DIAGRAM SHOWING PROPOSED  
 MAP CHANGE  
 ON SECTIONAL MAP  
 19**  
 BOROUGH OF  
 QUEENS

New York, May 29, 1974

*Herbert Gallon P.E.*  
 Director, Division of Mapping  
*Sam F. Smith P.E.*  
 Chief Engineer



**NOTE:**

- indicates line of street legally adopted.
- indicates line of street proposed to be established.
- - - indicates line of street proposed to be eliminated.
- ↔ indicates limits of grades proposed to be established.

BOROUGH OF THE BRONX

No. 21

CPD 1

CP-22713

[The proposed map changes closing several streets and a Public Place would permit construction of moderate income housing, commercial facilities, and Hostos Community College facilities within the Bronxchester Urban Renewal Area and facilitate the construction of moderate income housing within the South Bronx Model Cities Area.]

IN THE MATTER OF communication, dated May 6, 1974, from the President of the Borough of The Bronx, submitting a map showing the elimination of the lines and showing the discontinuing and closing of Gerard Street from Bergen Avenue to East 149th Street; a Public Place bounded by Bergen Avenue, Gerard Street and East 149th Street; East 150th Street from Brook Avenue, St. Ann's Avenue; Bergen Avenue from Grove Street to Brook Avenue; East 152nd Street from Bergen Avenue to Brook Avenue and the layout of a sewer easement therein; a triangular portion of Brook Avenue between East 156th Street and East 159th Street, Borough of The Bronx, in accordance with Map No. 11919, signed by Borough President and dated May 1, 1974.

This matter was referred to the Commission by the Board of Estimate on May 23, 1974, Cal. No. 168.

(On June 12, 1974, Cal. No. 4, the Commission scheduled June 26, 1974, for a hearing; on June 26, 1974, Cal. No. 10, the hearing was closed.)

On motion, the following favorable report was unanimously adopted:

July 10, 1974

The map relates to proposed map changes within the Bronxchester Urban Renewal Area and within the South Bronx Model Cities Area which would permit construction of moderate income housing, commercial facilities, and facilities for Hostos Community College.

The map specifically provides for the following:

1. The elimination, discontinuance, and closing of:
  - a. Gerard Street from Bergen Avenue to East 149th Street, which is mapped at a width of 50 feet;
  - b. A Public Place bounded by Bergen Avenue, Gerard Street (as previously mapped), and East 149th Street;
  - c. East 150th Street from Brook Avenue to St. Ann's Avenue, which is mapped at a width of 60 feet;
  - d. Bergen Avenue from Grove Street (East 153rd Street) to Brook Avenue, which is mapped at a width of 50 feet;
  - e. East 152nd Street from Bergen Avenue to Brook Avenue, which is mapped at a width of 50 feet, and the layout of a sewer easement therein;and

- f. A triangular portion on the easterly side of Brook Avenue, 132 feet north on East 156th Street.

These mapping proposals were requested by the Housing and Development Administration in accordance with an Urban Renewal Plan for the South Bronx Model Cities Area (Neighborhood Development Area), which includes the Bronxchester Urban Renewal Area. The latest amended plan was approved by the City Planning Commission on March 5, 1973 (Calendar No. 2, CP-22254) and was adopted by the Board of Estimate on April 12, 1973, (Calendar No.9).

The Housing and Development Administration informs us that the streets and the Public Place to be demapped are in use and are in City ownership and that the City owns the properties abutting both sides of the streets which are to be eliminated and closed.

The triangular portion of Brook Avenue between East 156th Street and East 159th Street is being demapped to be included as part of a site for which a moderate income housing project is contemplated. The site is bounded by East 159th Street, St. Ann's Avenue, East 156th Street, and Brook Avenue and is located within the South Bronx Model Cities Area. Previous mapping actions on this site were effectuated on Map No. 11889, signed by the Borough President of The Bronx, and were approved by the City Planning Commission on March 1, 1972, CP-21854 (Calendar No. 18), and adopted by the Board of Estimate on March 23, 1972, (Calendar No. 4).

The remaining streets and the Public Place which are to be demapped are located within the Bronxchester Urban Renewal Area, which is bounded by East 156th Street, St. Ann's Avenue, East 149th Street, Bergen Avenue, Grove Street (East 153rd Street), and Third Avenue. Previous mapping actions in this Urban Renewal Area were effectuated on Map No. 11881, signed by the Borough President of The Bronx, and were approved by the City Planning Commission on January 17, 1973, CP-22197 (Calendar No. 13), and adopted by the Board of Estimate on September 13, 1973, (Calendar No. 7).

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The Public Place, Gerard Street, and East 150th Street are being demapped to facilitate the development of the new Hostos Community College campus. Bergen Avenue is being demapped to be included as part of three parcels. A municipal garage is being constructed on one of the parcels. Another parcel will be developed as commercial facilities by the Puerto Rican Development Company. The third parcel will be developed for public or semi-public use. East 152nd Street is being demapped to facilitate the development of a moderate income housing project. A 35-foot wide sewer easement, centrally located about the sewer, is being mapped along the entire length of East 152nd Street from Bergen to Brook Avenue.

#### PUBLIC HEARING

On June 12, 1974 (Calendar No. 4), the City Planning Commission scheduled June 26, 1974 as the date for a Public Hearing on the proposed map changes. The hearing was duly held on June 26, 1974 (Calendar No. 10). There were no speakers and the hearing was closed.

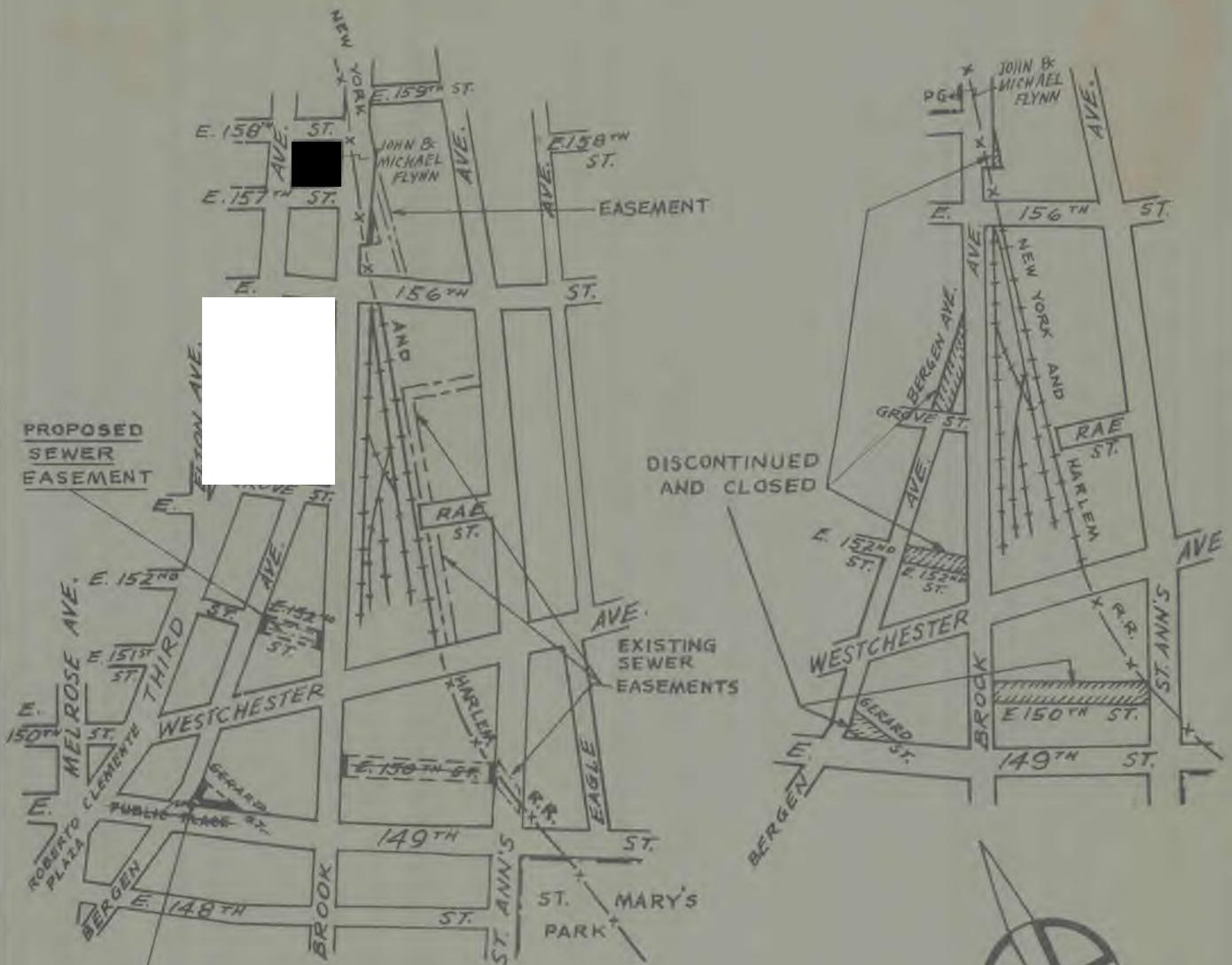
#### Approval

The Commission considers that the map changes are necessary for the development of several sites within the Bronxchester Urban Renewal Area and within the South Bronx Model Cities Urban Renewal Area and constitute an appropriate modification to the City Map.

The Commission recommends to the Board of Estimate that the map changes under consideration be adopted.

JOHN E. ZUCCOTTI, Chairman  
MARTIN GALLENT, Vice-Chairman  
GERALD R. COLEMAN, ALEXANDER COOPER, GORDON J. DAVIS,  
SYLVIA DEUTSCH, CHESTER RAPKIN, Commissioners

(DIAGRAM ATTACHED)



CITY PLANNING COMMISSION  
 CITY OF NEW YORK  
**DIAGRAM SHOWING PROPOSED  
 MAP CHANGE AND STREET CLOSING  
 ON SECTIONAL MAP**

6

BOROUGH OF  
THE BRONX

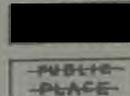
New York, June 12, 1974

*Maureen E. Carbone*  
 Director, Division of Housing  
 and Urban Renewal  
*J. J. Farrell PE*  
 Chief Engineer

SCALE IN FEET



**NOTE:**

-  indicates line of street legally adopted.
-  indicates line of street proposed to be established.
-  indicates line of street proposed to be eliminated.
-  indicates area of street proposed to be discontinued and closed.
-  indicates Public Place proposed to be eliminated.

No. 22

CPD 1

CP-22724

[Proposed rezoning to permit the construction of P.S. 212 and to allow site consolidation of a commercial site.]

IN THE MATTER OF a zoning change, pursuant to Section 200 of the New York City Charter, involving an amendment of the Zoning Map, Section Nos. 6a and 6c:

(1) changing from an M1-1 District to a C4-4 District property bounded by Grove Street, Bergen Avenue and Brook Avenue; and

(2) changing from an M1-1 District to an R7-1 District property bounded by Brook Avenue, the southeasterly prolongation of the center line of Grove Street, the southerly prolongation of the center line of former Hegney Place and Westchester Avenue, Borough of The Bronx.

(On June 12, 1974, Cal. No. 5, the Commission scheduled June 26, 1974, for a hearing; on June 26, 1974, Cal. No. 11, the hearing was closed.)

On motion, laid over.

Nos. 23 and 24

(These proposed mapping and zoning changes would facilitate appropriate development of the Soundview area by providing local street continuity, improving local access to the surrounding highway system, insuring public access to Soundview Park and conforming the zoning to existing conditions in the community.)

No. 23

CPD 8

CP-22726

IN THE MATTER OF a map initiated by the City Planning Commission pursuant to the provisions of Section 199c of the New York City Charter showing the layout of Story Avenue between Morrison Avenue and Metcalf Avenue, and of Metcalf Avenue between Seward Avenue and Bronx River Avenue; the elimination, discontinuance and closing of a portion of Randall Avenue between Metcalf Avenue and Rosedale Avenue; the elimination of Bronx River Avenue (Parkway) and Cloverleaf between the northerly line of Lafayette Avenue and a point approximately 666 feet from Lacombe Avenue; the elimination of Randall Avenue between Metcalf Avenue and the east Pierhead and Bulkhead Line of Bronx River; the elimination of sewer easements between Seward Avenue and Randall Avenue and between Morrison Avenue and Metcalf Avenue; and the adjustment of grades necessitated thereby, and the layout of an addition to Soundview Park south of Lafayette Avenue and west of Metcalf Avenue, Borough of The Bronx, in accordance with Map No. 11922, signed by the Chairman of the City Planning Commission and dated June 5, 1974.

(On June 12, 1974, Cal. No. 7, the Commission scheduled June 26, 1974, for a hearing; on June 26, 1974, Cal. No. 13, the hearing was closed.)

On motion, the following favorable report was unanimously adopted:

The map relates to an area within and adjoining Soundview Park in the Clason Point section of the borough. The map proposes the layout and elimination of a number of streets as well as the layout of an addition to Soundview Park in order to improve traffic circulation and to insure overall development of, and access to, Soundview Park.

July 10, 1974

The map specifically provides for:

1. The layout of Story Avenue between Morrison Avenue and Metcalf Avenue at a width of 80 feet;

2. The layout of Metcalf Avenue between Seward Avenue and Bronx River Avenue at a width of 80 feet;
3. The elimination, discontinuing and closing of a portion of a middle strip of Randall Avenue between Metcalf Avenue and Rosedale Avenue;
4. The elimination, discontinuing and closing of Bronx River Avenue and Cloverleaf between the south line of Lafayette Avenue and a point approximately 450 feet southerly of the south line of Randall Avenue;
5. The elimination, discontinuing and closing of Randall Avenue between Metcalf Avenue and the east pierhead and bulkhead line of the Bronx River;
6. The elimination of Bronx River Avenue (Parkway) between the north and south lines of Lafayette Avenue;
7. The layout of an addition to Soundview Park south of Lafayette Avenue and west of Metcalf Avenue;

Map No. 11922 differs from the description given in the Calendar of the City Planning Commission of June 26, 1974 by specifying that, (1) a portion of Bronx River Avenue and Cloverleaf between the south line of Lafayette Avenue and a point approximately 450 feet southerly of the south line of Randall Avenue and (2) a portion of Randall Avenue between Metcalf Avenue and the east pierhead and bulkhead line of the Bronx River are to be discontinued and closed. The Calendar description is incomplete, in that it mentions only the elimination of the above noted street lines, and not the discontinuing and closing.

The map also provides for the elimination of a 25-foot wide sewer easement between Morrison Avenue and Metcalf Avenue and the elimination of a 85-foot wide sewer easement between Seward Avenue and Randall Avenue. Since both the areas mentioned above are to be mapped as City streets in this mapping action, the easements are no longer required.

The map further provides for modifying grades within the surrounding area. Such modification will conform more closely with existing conditions and do not appear to adversely affect the surface drainage characteristics of the area.

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On June 12, 1974 (Cal. No. 7) the Commission scheduled a PUBLIC HEARING on the map change. The hearing was duly held on June 26, 1974 (Cal. No. 13). There were five appearances in favor. A representative from the New York City Housing Authority pointed out that a safe access across proposed Metcalf Avenue to Soundview Park should be provided for residents in the Soundview Houses housing project. He stated also that the strip of Randall Avenue proposed to be demapped should be developed as a parking lot and be transferred to the Housing Authority as an exchange for their present parking lot which will become part of the bed of proposed Metcalf Avenue. No opposition developed and the hearing was closed.

The Commission concurs with the Housing Authority that traffic controls should be installed to ensure safe passage to Soundview Park across Metcalf Avenue and it will request the appropriate agencies to provide adequate funds in the Capital Budget for this purpose. The Commission considers this map change, designed to provide local street continuity, to improve local access to the surrounding highway system and to expand Soundview Park and to provide improved access thereto, to be an appropriate modification of the City Map.

The Commission, therefore, recommends to the Board of Estimate that the map change under consideration be adopted.

JOHN E. ZUCCOTTI, Chairman  
MARTIN GALLENT, Vice Chairman  
GERALD R. COLEMAN, ALEXANDER COOPER, GORDON J. DAVIS,  
SYLVIA DEUTSCH, CHESTER RAPKIN, Commissioners



# CITY PLANNING COMMISSION

2 LAFAYETTE STREET, NEW YORK, N. Y. 10007

July 5, 1974

Hon. Michael J. Lazar, Administrator  
N.Y.C. Transportation Administration  
40 Worth Street  
New York, New York 10013

Re: Mapping of Metcalf Ave.  
Between Seward & Bronx  
River Avenue - The Bronx  
Study No. S-2559  
CP-22726

Dear Administrator Lazar:

On June 26, 1974 the City Planning Commission held a Public Hearing which focused on various Bronx items. Specifically related to transportation was CP-22726 which proposes a series of street mappings and demappings in the Soundview area of The Bronx. Community related comments were recorded on this item and, in particular, on one aspect of this proposal, the mapping of Metcalf Avenue, between Seward Avenue and Bronx River Avenue.

The proposed section of Metcalf Avenue to be mapped is presently used for off-street parking for the Soundview Houses project and utilized for traffic-free passage to and from Soundview Park to the west. At the Public Hearing, the Housing Authority expressed to the City Planning Commission its concern for safe pedestrian access to Soundview Park, once Metcalf Avenue is opened, and requested that proper traffic-pedestrian controls be provided.

I feel the Housing Authority has presented a legitimate request. I would appreciate your help in assuring that provision for adequate traffic control, possibly incorporating signs, signals, and channelization, will be provided once Metcalf Avenue is opened to insure safe pedestrian crossing to Soundview Park.

As stated in an earlier letter, I believe that the roadway demapping and mapping items proposed for Soundview will enhance the residential quality of the community, ensure the full development of Soundview Park and insure the continuity of local traffic flow while providing for safe access along the entire park frontage. I hope you concur with the necessity for providing a safe pedestrian environment in the vicinity of Soundview Park for residents of the area.

CHAIRMAN: JOHN E. ZUCCOTTI / VICE-CHAIRMAN: MARTIN GALLENT  
COMMISSIONERS: GERALD R. COLEMAN / ALEXANDER COOPER / GORDON J. DAVIS / SYLVIA DEUTSCH / CHESTER RAPKIN  
EXECUTIVE DIRECTOR: CHARLES M. SMITH JR.

Hon. Michael J. Lazar

July 5, 1974  
page . . . 2

My staff will be available to lend any necessary assistance which your department may require in making its plans for safe traffic control in this area.

Sincerely,

  
  
John E. Zuccotti  
CHAIRMAN

(DIAGRAM ATTACHED)

CITY OF NEW YORK  
CITY PLANNING COMMISSION  
OFFICE OF TECHNICAL CONTROLS  
BOROUGH OF THE BRONX

MAP

SHOWING THE LAYOUT OF STORY AVE.  
BETWEEN MORRISON AVE. AND METCALF AVE.  
AND OF METCALF AVE.  
BETWEEN SEWARD AVE. AND BRONX RIVER AVE.  
ALSO  
THE ELIMINATION AND THE DISCONTINUING AND  
CLOSING OF A PORTION OF RANDALL AVE.  
BETWEEN METCALF AVE. AND ROSEDALE AVE.

AND OF BRONX RIVER AVE.  
AND CLOVERLEAF BETWEEN THE SOUTH LINE OF  
LAFAYETTE AVE. AND A POINT APPROXIMATELY 450 FEET  
SOUTHERLY OF THE SOUTH LINE OF RANDALL AVE

AND OF RANDALL AVE. BETWEEN  
METCALF AVE. AND THE EAST PIERHEAD AND  
BULKHEAD LINE OF THE BRONX RIVER

AND  
THE ELIMINATION OF SEWER EASEMENTS  
BETWEEN SEWARD AVE AND RANDALL AVE.  
AND BETWEEN MORRISON AVE. AND METCALF AVE.

AND  
THE ADJUSTMENT OF GRADES NECESSITATED THEREBY  
AND THE LAYOUT OF AN ADDITION TO SOUNDVIEW PARK  
SOUTH OF LAFAYETTE AVE. AND WEST OF METCALF AVE.

AND  
THE ELIMINATION OF BRONX RIVER AVE (PARKWAY)  
BETWEEN THE NORTH AND SOUTH LINES OF LAFAYETTE AVE.

DATED: JUNE 5, 1974  
SCALE: AS SHOWN

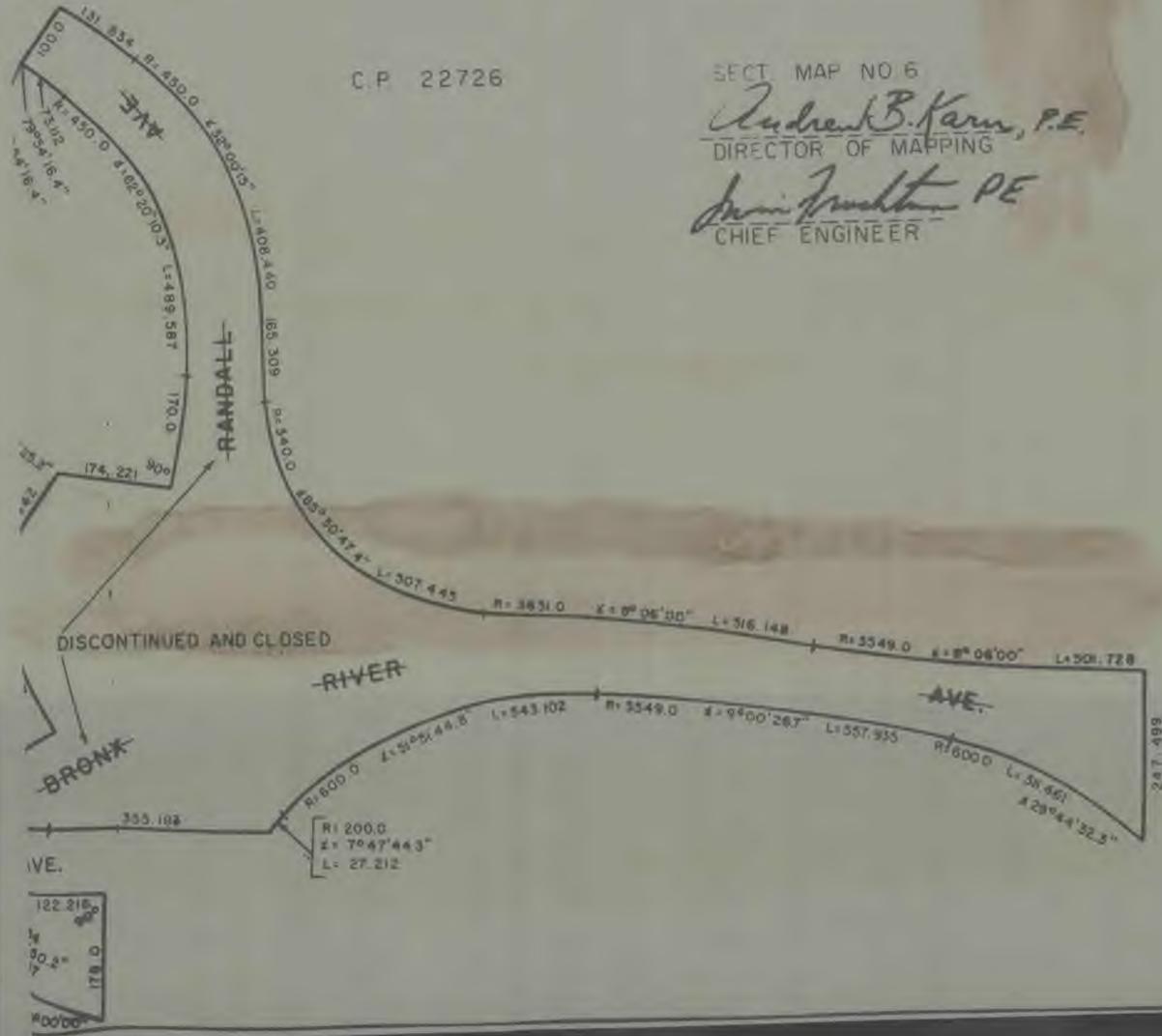
SEWER EASEMENT  
460

C.P. 22726

SECT. MAP NO. 6

*Andrew B. Karn, P.E.*  
DIRECTOR OF MAPPING

*John J. Fruchter, P.E.*  
CHIEF ENGINEER







SCALE: 1" = 150'

EXPLANATORY NOTES

- INDICATES STREET LINE HERETOFORE ESTABLISHED AND HEREBY RETAINED
- INDICATES STREET LINE HERETOFORE ESTABLISHED AND HEREBY ELIMINATED
- ..... HEREBY ESTABLISHED
- ..... THEORETICAL CURB LINE FOR GRADE PURPOSES ONLY
- ..... EASEMENT LINE HERETOFORE ESTABLISHED AND HEREBY ELIMINATED
- ..... LOCATION OF AN ELEVATION
- ..... DIMENSION OR ANGLE HERETOFORE ESTABLISHED AND HEREBY RETAINED
- ..... DIMENSION OR ANGLE HERETOFORE ESTABLISHED AND HEREBY ELIMINATED
- ..... HEREBY ESTABLISHED
- ..... ELEVATION HERETOFORE ESTABLISHED AND HEREBY RETAINED
- ..... ELEVATION HERETOFORE ESTABLISHED AND HEREBY ELIMINATED
- ..... HEREBY ESTABLISHED
- ..... TIE-IN DISTANCE HERETOFORE ESTABLISHED AND RETAINED
- ..... THEORETICAL SIDEWALK OR STREET DIMENSION HERETOFORE ESTABLISHED AND HEREBY RETAINED
- ..... THEORETICAL SIDEWALK OR STREET DIMENSION HERETOFORE ESTABLISHED AND HEREBY ELIMINATED
- ..... HEREBY ESTABLISHED
- ..... HEREBY ESTABLISHED

ELEVATIONS ON THIS MAP REFER TO THE DATUM OF THE BORDERSH OF THE BRONX WHICH IS 2.804 FEET ABOVE THE U.S.C. & G.S. DATUM AND REFER TO TOP OF CURB



- ..... PARK ADDITION HEREBY ESTABLISHED
- ..... PARK HERETOFORE ESTABLISHED AND HEREBY RETAINED

IN THE MATTER OF a zoning change, pursuant to Section 200 of the New York City Charter, involving an amendment of the Zoning Map, Section Nos. 6c, 7a and 7b:

(1) changing from an R5 District to a C3 District property bounded by Hart Street, Castle Hill Avenue, Zerega Avenue, a line 425 feet south of Norton Avenue and the U.S. Bulkhead Line, and

(2) changing from an R5 District to an R3-2 District property bounded by White Plains Road and its southerly prolongation, U.S. Pierhead Line, westerly prolongation of the center line of Cornell Avenue, Bronx River Avenue, westerly prolongation of the center line of Gildersleeve Avenue, U.S. Pierhead Line, U.S. Bulkhead line, southeasterly boundary lines of Soundview Park and O'Brien Avenue including its westerly prolongation, Borough of The Bronx.

(On June 12, 1974, Cal. No. 8, the Commission scheduled June 26, 1974, for a hearing; on June 26, 1974, Cal. No. 14, the hearing was closed.)

On motion, the following favorable report was unanimously adopted:

July 10, 1974

The proposed rezoning was requested in order to encourage a more orderly population growth which could be reasonably absorbed by existing and proposed public facilities.

On June 12, 1974 (Cal. #8) the Commission scheduled a PUBLIC HEARING on the proposed amendment. The hearing was duly held on June 26, 1974 (Cal. #14).

Chairman of Community Planning Board #8 spoke in favor of the proposed change. There were a number of appearances in favor and opposition and the hearing was closed.

The Commission feels that both rezonings are appropriate and conform to the recommendations made in its report Planning Proposals for the Soundview Peninsula. The rezoning for the Harding Park area from R5 to R3-2 will bring the zoning more in character with single family home development of this area.

The rezoning of the Castle Hill Day Camp site from R5 to C3 will allow for development that is consistent with the surrounding area which is zoned C3 and is developed with one- and two-family homes and water oriented uses. This rezoning does not preclude development of Domiciliary Care Facilities on the (DCF's) site. The C3 zone allows DCF's by special permit of the Planning Commission. This permit would also be required in the present R5 zone. The

Commission may also grant a special permit to increase the floor area of a DCF. With this permit, a facility could conceivably be built on the site that has only slightly less floor area than the one proposed. At this time, the Commission is making no comments on the merit of a proposed DCF. We have suggested to the property owner that the appropriate special permit application be filed with the Commission so that we may adequately review it.

The Commission therefore considered the rezoning appropriate and adopted the following resolution, which is duly filed with the Secretary of the Board of Estimate, pursuant to Section 200 of the New York City Charter:

RESOLVED, that the Zoning Resolution of The City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended by changing the Zoning Map Sections No. 6c, 7a and 7b, so as to (1) change from an R5 District to a C3 District property bounded by Hart Street, Castle Hill Avenue, Zerega Avenue, a line 425 feet south of Norton Avenue and the U. S. Bulkhead Line, and (2) changing from an R5 District to an R3-2 District property bounded by White Plains Road and its southerly prolongation, U. S. Pierhead Line, westerly prolongation of the center line of Cornell Avenue, Bronx River Avenue, westerly prolongation of the center line of Gildersleeve Avenue, U. S. Pierhead Line, U. S. Bulkhead Line, southeasterly boundary line of Soundview Park and O'Brien Avenue including its westerly prolongation, Borough of The Bronx, as shown on a diagram dated June 12, 1974.

JOHN E. ZUCCOTTI, Chairman  
MARTIN GALLEN, Vice-Chairman  
GERALD R. COLEMAN, ALEXANDER COOPER, GORDON J. DAVIS,  
SYLVIA DEUTSCH, CHESTER RAPKIN, Commissioners.

(DIAGRAM ATTACHED)



CITY PLANNING COMMISSION  
CITY OF NEW YORK  
**DIAGRAM SHOWING PROPOSED  
ZONING CHANGE  
ON SECTIONAL MAPS  
70, 7b & 6c  
BOROUGH OF  
THE BRONX**

*M. Friedman* P.E.  
DIRECTOR, DIVISION OF ZONING  
*John A. Smith* P.E.  
CHIEF, ENGINEER

NEW YORK June 12, 1974



NOTE:

— indicates Zoning District boundary.

— The areas enclosed by the fine dotted lines are proposed to be changed from R5 Districts to R3-2 and C3 Districts.

▨ indicates a C1-1 District.



7c

6c 7a 7b

7a 7b

EAST RIVER

[This proposed rezoning from R6 to R4 of an area in Kingsbridge was requested by Bronx Community Planning Board #14 to protect the existing one- and two-family home character of the area.]

IN THE MATTER OF a zoning change, pursuant to Section 200 of the New York City Charter, involving an amendment of the Zoning Map, Section No. 1d, changing from an R6 District to an R4 District property bounded by West 238th Street, Kingsbridge Avenue, West 232nd Street, Irwin Avenue, a line at right angles to Irwin Avenue passing through a point 266 feet south of the intersection of Irwin Avenue and West 236th Street, Greystone Avenue and Waldo Avenue, Borough of The Bronx.

(On June 12, 1974, Cal. No. 9, the Commission scheduled June 26, 1974, for a hearing; on June 26, 1974, Cal. No. 15, the hearing was closed.)

On motion, the following favorable report was unanimously adopted:

July 10, 1974

This rezoning was proposed by the City Planning Commission after an extensive study of the area, that was initiated at the request of Community Planning Board #14.

On June 12, 1974 (Cal. #9) the Commission scheduled a PUBLIC HEARING on the proposed amendment. The hearing was duly held on June 26, 1974 (Cal. #15). Speakers in favor of the proposed zoning change included an Assemblyman, the Chairman of Community Planning Board #14, several members of Community Planning Board #14, and representatives of various homeowners groups. There were two speakers in opposition and the hearing was closed.

#### CONSIDERATION

The Kingsbridge community is presently zoned as an R6 District, zoning classification which allows development of apartment houses 6 to 15 stories high. While such development does occur at the periphery, the center area, which is the subject of this proposed rezoning, is solidly developed with one and two-family attached and detached homes.

The rezoning will protect the existing homes from possible assemblage for high-rise development. Such development would be out of scale with and out of character with the rest of the neighborhood.

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On the basis of arguments presented at the hearing and subsequent study and investigation, the Commission deems it appropriate to modify the original proposal, eliminating the block frontage along Waldo Avenue between 236th Street and 238th Street, west of the mid-block line between Irwin and Waldo Avenues; and a part of a development assemblage which extends from Waldo Avenue to Irwin Avenue. The Commission notes that in general development along Waldo Avenue is primarily at R6 density, and considers the rezoning of this parcel to R4 to be inappropriate.

Lying along the hill above Irwin Avenue, the Waldo Avenue frontage is in effect part of the adjacent Riverdale Neighborhood.

The Commission also deems advisable the deletion from the scope of the amendment the undeveloped portion of the Irwin Avenue frontage, part of a larger assemblage extending through to Waldo Avenue. The owner had assembled this property several years before the present rezoning proposal was considered, and would face a hardship if his property were rezoned from R6 to R4. However, the Commission acted to preserve the character of Irwin Avenue from high-rise development, in accordance with the community sentiment expressed at the hearing by requesting the developer to limit R6 and development of his property to the Waldo Avenue frontage. The developer has agreed (enter into a restrictive declaration) to confine development of the Irwin Avenue frontage of his property to landscaping, complimentary to the surrounding property. Approximately 20,000 square feet from Irwin Avenue to the mid-block line will be landscaped to serve as a buffer between this development and the one-and two-family homes on Irwin Avenue. The developer will provide a drainage system to prevent the erosion by surface run-off of the landscaped slope. The developer also has agreed

90  
to construct the garage accessory to the planned building so that all automobile access is limited to Waldo Avenue and to landscape the Waldo Avenue frontage. The entire landscaping plan for the property is subject to approval by the City Planning Commission.

The Commission has determined that the terms of this declaration insure the preservation of the character of the Kingsbridge Community.

The modification involves the deletion, from the scope of the amendment, of property bounded by Waldo Avenue, West 238th Street, a line midway between Waldo Avenue and Irwin Avenue, a line 300 feet southerly of West 238th Street, Irwin Avenue, a line 475 feet southerly of West 238th Street, a line midway between Waldo Avenue and Irwin Avenue, a line at right angles to Irwin Avenue passing through a point 266 feet south of the intersection of Irwin Avenue and West 236th Street and Graystone Avenue, thereby retaining the R6 designation of this property, instead of the R4 designation as heard.

The Commission therefore considered the rezoning as modified appropriate and adopted the following resolution, which is duly filed with the Secretary of the Board of Estimate, pursuant to Section 200 of the New York City Charter.

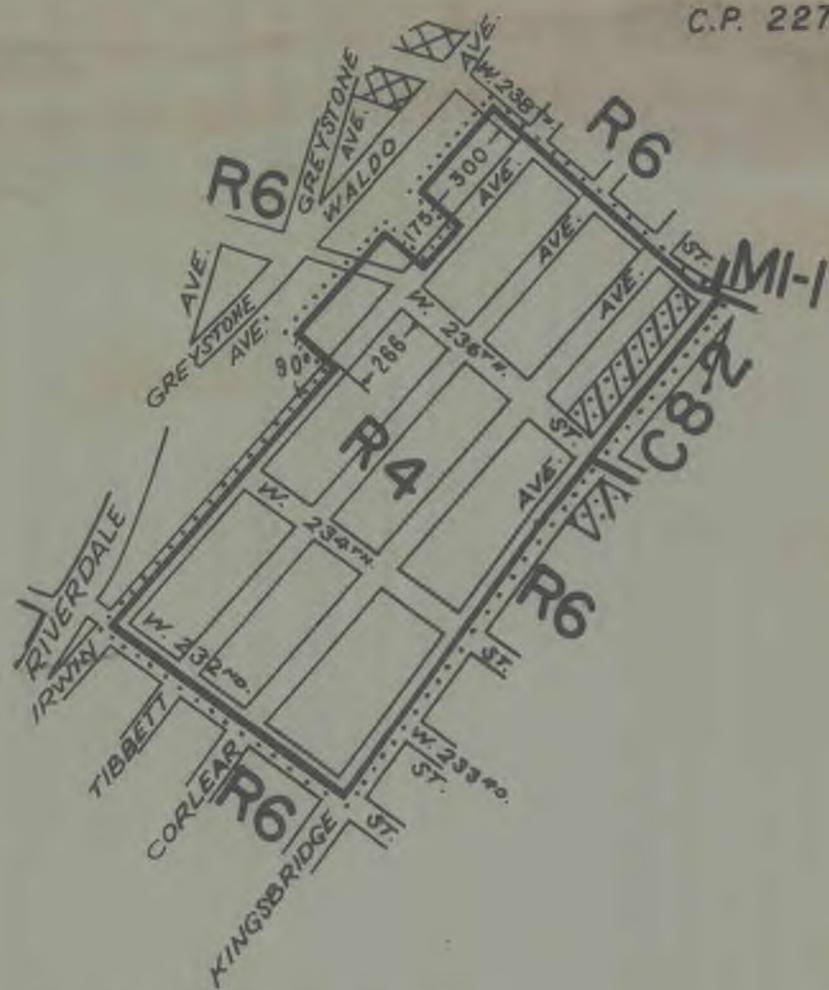
RESOLVED, that the Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended by changing the Zoning Map, Section No. 1d, so as to change from an R6 district to an R4 district property bounded by West 238th Street, Kingsbridge Avenue, West 232nd Street, Irwin Avenue, a line at right angles to Irwin Avenue passing through a point 266 feet south of the intersection of Irwin Avenue and West 236th Street, a line midway between Waldo Avenue and Irwin Avenue, a line 475 feet southerly

of West 238th Street, Irwin Avenue, a line 300 feet southerly of West 238th Street and a line midway between Waldo Avenue and Irwin Avenue, as shown on a diagram dated June 12, 1974 and modified July 10, 1974.

JOHN E. ZUCCOTTI, Chairman;  
MARTIN GALLEN, Vice-Chairman  
GERALD R. COLEMAN, ALEXANDER COOPER, GORDON J. DAVIS,  
SYLVIA DEUTSCH, CHESTER RAPKIN, Commissioners.

(DIAGRAM ATTACHED)

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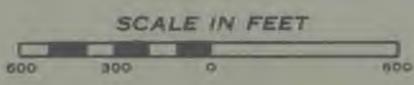


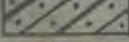
CITY PLANNING COMMISSION  
CITY OF NEW YORK  
DIAGRAM SHOWING PROPOSED  
ZONING CHANGE  
ON SECTIONAL MAP  
1d

BOROUGH OF  
THE BRONX

Modified July 10, 1974  
New York, June 12, 1974

*J. Friedman* P.E.  
Director, Division of Zoning  
*J. Smith* P.E.  
Chief Engineer



- NOTE:**
-  indicates Zoning District boundary.
  -  The area enclosed by the fine dotted line is proposed to be changed from an R6 District to an R4 District.
  -  indicates a C1-2 District.
  -  indicates a C2-3 District.

*(The proposed rezoning of Longfellow Avenue from a Manufacturing to a Residential District in order to help preserve existing housing in Hunt's Point.)*

IN THE MATTER OF a zoning change, pursuant to Section 200 of the New York City Charter, involving an amendment of the Zoning Map, Section No. 6c:

(a) changing from M2-1 and M1-1 Districts to an R6 District property bounded by Randall Avenue, Bryant Avenue, Hunt's Point Avenue, Spofford Avenue, a line midway between Bryant Avenue and Longfellow Avenue, a line 150 feet north of Seneca Avenue, Longfellow Avenue, Seneca Avenue, a line midway between Longfellow Avenue and Whittier Street, a line 250 feet north of Spofford Avenue, and Longfellow Avenue; and

(b) establishing within the proposed R6 District, a C2-4 District bounded by Randall Avenue, Bryant Avenue, Spofford Avenue, and Longfellow Avenue, Borough of The Bronx.

(On June 12, 1974, Cal. No. 10, the Commission scheduled June 26, 1974, for a hearing; on June 26, 1974, Cal. No. 16, the hearing was closed.)

On motion, the following favorable report was adopted, receiving six affirmative votes. Martin Gallent, Vice-Chairman voting "NO" (dissenting statement attached):

July 10, 1974

This zoning amendment was initiated in order to help preserve existing housing in Hunt's Point. It is intended to help establish Longfellow Avenue as a residential boundary street and eliminate the potential use of the vacant parcels of land along the street up to Randall Avenue for future industrial development.

On June 12, 1974 (Cal. #10) the Commission scheduled a PUBLIC HEARING on the proposed amendment. The hearing was duly held on June 26, 1974 (Cal. #16). A local Councilman, State Assemblyman, and Chairperson of Community Planning Board Number 2 appeared in favor of the rezoning. There were no appearances in opposition and the hearing was closed.

A representative of an owner of a vacant parcel of property on the northeast corner of Lafayette and Longfellow Avenues objected to the proposal in writing. The Commission has considered this problem carefully, as it involves potential industrial development and jobs that are sorely needed. In voting for the rezoning the prime objective is to protect the vitality of the Hunts Point residential community from further encroachments which disrupt its basic fabric. The surrounding industrial area will benefit from a stable residential community where social problems do not spill over.

The Commission therefore considered the rezoning appropriate and adopted the following resolution, which is duly filed with the Secretary of the Board of Estimate, pursuant to Section 200 of the New York City Charter:

RESOLVED, that the Zoning Resolution of The City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended by changing the Zoning Map, Section No. 6c, so as to change from M2-1 and M1-1 Districts to an R6 District property bounded by Randall Avenue, Bryant Avenue, Hunt's Point Avenue, Spofford Avenue, a line midway between Bryant Avenue and Longfellow Avenue, a line 150 feet north of Seneca Avenue, Longfellow Avenue, Seneca Avenue, a line midway between Longfellow Avenue and Whittier Street, a line 250 feet north of Spofford Avenue, and Longfellow Avenue and establish within the proposed R6 District, a C2-4 District bounded by Randall Avenue, Bryant Avenue, Spofford Avenue, and Longfellow Avenue, Borough of The Bronx, as shown on a diagram dated June 12, 1974.

JOHN E. ZUCCOTTI, Chairman;  
GERALD R. COLEMAN, ALEXANDER COOPER, GORDON J. DAVIS,  
SYLVIA DEUTSCH, CHESTER RAPKIN, Commissioners

MARTIN GALLENT, Vice-Chairman voting "NO".  
Dissenting statement attached.

#### DISSENTING STATEMENT OF VICE-CHAIRMAN MARTIN GALLENT

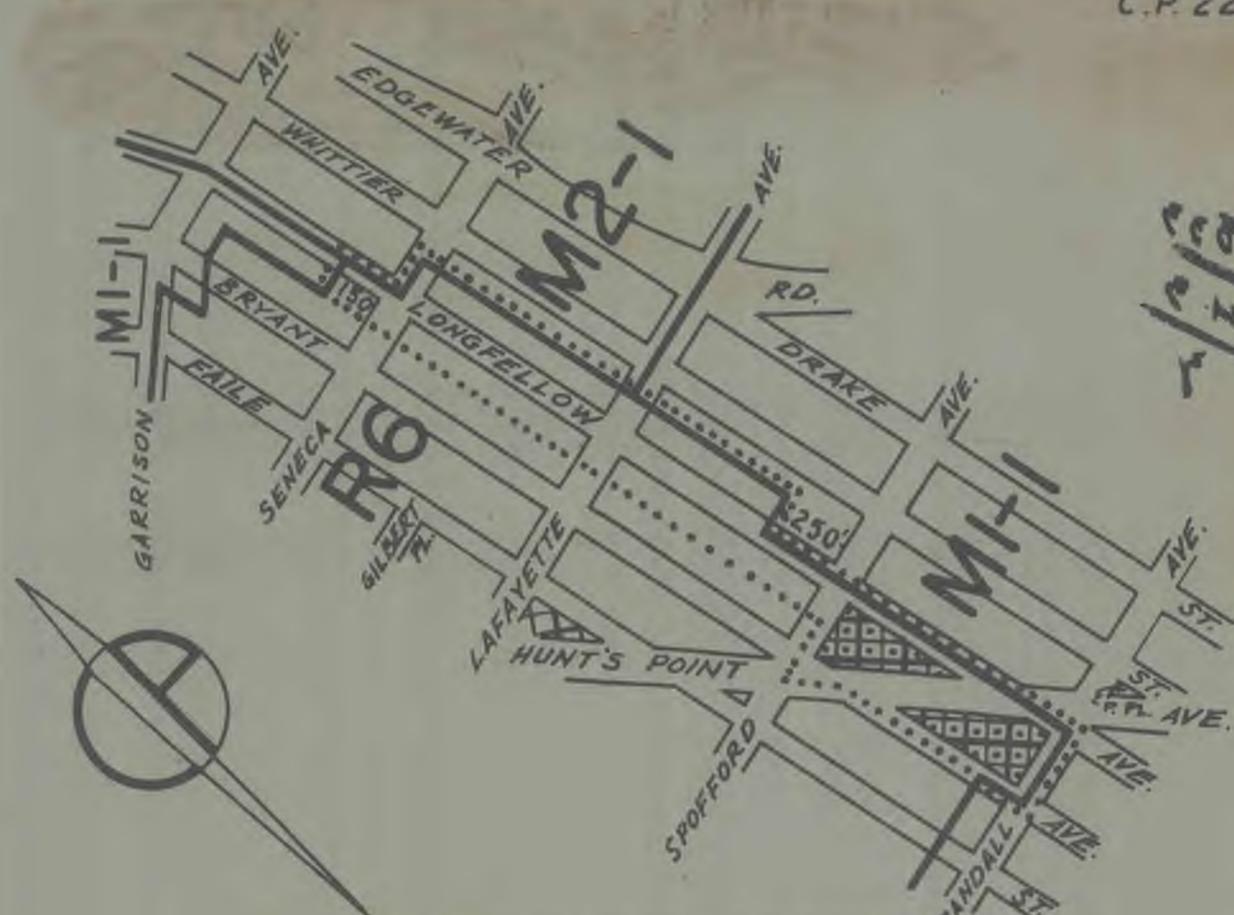
CP-22722

July 10, 1974

The appropriate zoning for this area of Hunt's Point which is, in fact, a mixed-use area should not be residential. If any rezoning is to take place in this mixed-use area, it should be rezoned to M/r. By this zoning, the manufacturing in the area and the jobs it generates, would be protected and its growth and expansion could be promoted. At the same time, the residential component of the community would be protected.

All too often, small manufacturing when it reaches the expansion point and cannot expand in the area in which it is located, elects to move out of the City. The M/r zoning would do justice to all elements of the community. Consequently, I vote "NO".

(DIAGRAM ATTACHED)



2/2/72

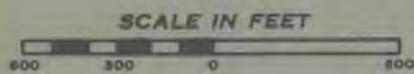
CITY PLANNING COMMISSION  
 CITY OF NEW YORK  
**DIAGRAM SHOWING PROPOSED  
 ZONING CHANGE  
 ON SECTIONAL MAP**

6c

BOROUGH OF  
THE BRONX

New York, June 12, 1972

*A. Friedman* PE  
 Acting Director, Division of Zoning  
*J. J. Smith* PE  
 Chief Engineer



**NOTE:**

- indicates Zoning District boundary.
- The area enclosed by the fine dotted line is proposed to be changed from MI-1 and M2-1 Districts to an R6 District, and by establishing a C2-4 District within a proposed R6 District.
- indicates a C2-4 District.

*[Proposed assignment to the Department of Public Works of the former 47th Police Precinct Station House in the Borough of The Bronx, for use as a community facility.]*

IN THE MATTER OF a communication dated March 26, 1974 from the Commissioner of the Department of Public Works requesting the assignment of City-owned property—former 47th Police Precinct Station House located at the northeast corner of the intersection of White Plains Road and East 229th Street, Block 4832, a portion of Lot 9, Borough of The Bronx, for use as a community facility.

This matter was referred to the Commission by the Committee on Acquisition and Disposition of City Property of the Board of Estimate on April 16, 1974, Cal. No. 40.

On motion, the following favorable report was unanimously adopted:

July 10, 1974

The subject property is a former Police Station that is currently being operated and maintained by the Department of Public Works. The building is part 2-story and part one-story with a total floor area of 16,120 square feet. Presently it is being used as a community facility and houses the local Office of Neighborhood Government and the headquarters of Community Board #13. It is also used by the Bronx Community College for evening courses and the Police Department for courses in advanced training. Additional contemplated uses are as a Day Care Center and Senior Citizens Center.

The property to be assigned is bounded and described as follows:

Beginning at the point of intersection of the northerly side of East 229th Street and the westerly side of White Plains Road; thence westerly along said northerly side of East 229th Street for a distance of 110.01 feet; thence northerly parallel with the said westerly side of White Plains Road for a distance of 86.03 feet; thence easterly parallel with the said northerly side of East 229th Street for a distance of 110.01 feet to the said westerly side of White Plains Road; thence southerly along the said westerly side of White Plains Road for a distance of 86.03 feet to the point or place of beginning.

The area contained within the lines above described is approximately 9,464 square feet. It being intended to describe the property located at the northwest corner of the intersection of White Plains Road and East 229th Street, Block 4832, part of Lot 9, Borough of The Bronx, City and State of New York.

The City Planning Commission recommends the assignment of the improved parcel under consideration (Block 4832, part of Lot 9) to the Department of Public Works be approved.

JOHN E. ZUCCOTTI, Chairman;  
MARTIN GALLEN, Vice-Chairman;  
GERALD R. COLEMAN, ALEXANDER COOPER, GORDON J. DAVIS,  
SYLVIA DEUTSCH, CHESTER RAPKIN, Commissioners.

BOROUGH OF RICHMOND

No. 28

CPD 3

CP-22630

*(Proposed map changes in the Grant City section of Staten Island updating the lines and grades of North and South Railroad Avenues from Burbank to Stobe Avenue to reflect existing conditions.)*

IN THE MATTER OF a map establishing a change in the lines and grades of North Railroad Avenue from Locust Avenue to Stobe Avenue and of South Railroad Avenue from Burbank Avenue to Stobe Avenue, Borough of Richmond, in accordance with a map No. 3885, signed by the Borough President and dated December 7, 1973. The map was referred by the Board of Estimate on March 7, 1974, (Cal. No. 272).

(On May 29, 1974, Cal. No. 8, the Commission scheduled June 12, 1974, for a hearing; on June 12, 1974, Cal. No. 32, the hearing was closed.)

On motion, the following favorable report was unanimously adopted:

July 10, 1974

The map relates to an extensively developed residential area in the Grant City section of the Borough, and provides primarily for the modification of the lines and grades of North and South Railroad Avenues, for a distance of approximately 0.9 mile therein, and the establishment of a connecting street system between these two streets.

The street system which the map proposes to establish, through modification of presently mapped streets and layout of new ones, conforms with street lines as they are in use at present. Existing conditions, within the area covered by the proposed map change, reflect the physical alterations accomplished due to grade separation work between streets and railroad track. This work, completed in 1968-1969, was part of a New York State project to eliminate crossings at grade along the Staten Island Rapid Transit right-of-way. The portions of North and South Railroad Avenues under consideration for the most part abut and run parallel to the Staten Island Rapid Transit right-of-way, a presently active mass transit line, traversing the Borough in a north-east-southwest direction.

The map specifically provides for:

A. Modifications in the lines of a 16-block length of North Railroad Avenue, from Locust Avenue to Jefferson Avenue, by:

1. Increasing the street width on its easterly side from 45 feet to 47 feet, from Locust Avenue to Lincoln Avenue;

2. Reducing the street width on both sides from 60 feet to 47 feet, from Lincoln Avenue to Bedford Avenue; and

3. Reducing the street width on its easterly side from 60 feet to a variable width of 50 feet minimum from Bedford Avenue to Barton Avenue and again from Jefferson Avenue to a point 63.40 feet southerly therefrom;

B. Modifications in the lines of a 9-block length of South Railroad Avenue, from Lincoln Avenue to Stobe Avenue, by:

1. Reducing the street width from 60 feet to 47 feet, on its westerly side from Lincoln Avenue to Jefferson Avenue, and on its easterly side from Lincoln Avenue to a point 100.58 feet northerly of Hunter Avenue;

2. Eliminating the lines of South Railroad Avenue and of Stobe Avenue, from Jefferson Avenue to Zoe Street;

3. Establishing the lines of a new continuation of South Railroad Avenue at a width of 60 feet from its intersection with Jefferson Avenue, proceeding diagonally in an easterly direction to the intersection of Zoe Street and Stobe Avenue.

(The streets to be eliminated are apparently not needed for traffic or frontage purposes. Zoe Street and Stobe Avenue, as well as the diagonal connection of South Railroad Avenue to both of these mapped streets, provide adequate access and frontage to abutting property owners);

C. Establishing the lines of three short connector streets between North and South Railroad Avenues, bridging over the tracks at regular intervals, namely:

1. Bancroft Avenue at a width of 58 feet;
2. Lincoln Avenue at a width of 80 feet; and
3. Midland Avenue at a width of 72 feet.

(The surfaces of these streets at their highest elevation shall be approximately 21 feet above the top of the track rail).

D. Retaining the mapped lines of Jefferson Avenue between North and South Railroad Avenues, but modifying the grades therein.

(This short section of street links the portions of Jefferson Avenue on either side via a tunnel under the railroad tracks, with the surface of the street at its midpoint being at an elevation of 20.5 feet below the top of the track rails); and,

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E. Establishing grades in the streets to be laid out, altering grades in the streets to be modified, and making minor modifications in grades of presently mapped streets.

These grades are designed to conform as closely as possible to the existing surface elevations and will meet sewerage and surface drainage requirements. The proposed map change will provide the basis for the preparation of any necessary minor modifications in the drainage plan of the area.

All streets to be laid out or modified in this map change are in City ownership and improved to their proposed width, and are open and in use by traffic. All acquisition of private property, to accommodate the map change, took place in conjunction with the physical alteration work previously completed, and therefore this map will not result in damage to abutting private property or to structures existing thereon.

Richmond Community Planning Board No. 3 has been apprised of the proposed map change and has no objections to it.

On May 29, 1974, (Calendar No. 8), the City Planning Commission scheduled a PUBLIC HEARING on the map change. The hearing was duly held on June 12, 1974 (Calendar No. 32). No opposition developed and the hearing was closed.

The Commission considers this map change, designed to reflect existing conditions in the area, to be an appropriate modification of the City Map.

The Commission therefore recommends to the Board of Estimate that the map change under consideration be adopted.

JOHN E. ZUCCOTTI, Chairman;  
MARTIN GALLENT, Vice Chairman;  
GERALD R. COLEMAN, ALEXANDER COOPER, GORDON J. DAVIS,  
SYLVIA DEUTSCH, CHESTER RAPKIN, Commissioners

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CITY PLANNING COMMISSION  
CITY OF NEW YORK  
DIAGRAM SHOWING PROPOSED  
MAP CHANGE  
ON SECTIONAL MAP

27

BOROUGH OF  
RICHMOND

New York, May 29, 1974

*Herbert Hallon, P.E.*  
Director, Division of Mapping  
*Jim J. Smith, P.E.*  
Chief Engineer

SCALE IN FEET



NOTE:

*[Faint, illegible text at the top of the page]*

*indicates line of street legally adopted.*  
*indicates line of street proposed to be established.*  
*indicates line of street proposed to be eliminated.*  
*indicates limits of grades proposed to be established.*



[Three items related to Arden Shores, a proposed development of 152 single-family, semi-attached houses to be constructed on a site bounded by Hylan Boulevard, Arden Avenue and Woods of Arden Road on the South Shore of Staten Island.]

No. 29

CPD 4

CP-22640

IN THE MATTER OF a zoning change, pursuant to Section 200 of the New York City Charter, involving an amendment of the Zoning Map, Section No. 33d, changing from an R1-2 District to an R3-1 District property bounded by Arden Avenue, Hylan Boulevard, Woods of Arden Road, and the U.S. Bulkhead Line of Raritan Bay, Borough of Richmond.

(On April 17, 1974, Cal. No. 5, the Commission scheduled May 1, 1974, for a hearing; on May 1, 1974, Cal. No. 18, the hearing was continued to May 29, 1974; on May 29, 1974, Cal. No. 21, the hearing was closed.)

On motion, the following favorable report was unanimously adopted:

July 10, 1974

The rezoning was requested by Arhy Equities, a New York Corporation, the builders of a large-scale residential development of 152 dwelling units, comprised of 75 attached one-family units and two one-family detached units.

Three related actions by the City Planning Commission are needed to implement this large-scale residential development:

1. CP-22639, approved by the Commission on June 12, 1974 (Cal. #22), establishing the lines and grades of a street system within the development;
2. CP-22641, approved by the Commission on July 10, 1974 (Cal. #30), involving a special permit and special permit authorizations for the large-scale residential development; and
3. CP-22642, approved by the Commission on July 10, 1974 (Cal. #31), granting a special permit pursuant to Section 74-731 of the Zoning Resolution for a sewage disposal plant to serve the development.

On April 17, 1974 (Cal. #5) the Commission scheduled a PUBLIC HEARING on the proposed amendment. The hearing was duly held on May 1, 1974 (Cal. #18), and continued to May 29, 1974 (Cal. #21), in conjunction with the related hearings on the City Map change (CP-22639), the special permit and special permit authorizations for the large-scale residential development (CP-22641), and the special permit for the sewage disposal plant (CP-22642). There were a number of appearances, as described in the report on the special permit and special permit authorizations (CP-22641), and the hearing was closed.

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The applicant has executed a declaration, limiting itself to the equivalent of R1-2 development, in the event that it does not build the large-scale residential development applied for under CP-22641. The applicant has agreed to record the declaration in the office of the Clerk, County of Richmond, immediately upon the approval, by the City Planning Commission and the Board of Estimate, of this amendment of the Zoning Map (CP-22640).

The merits of the proposed large-scale residential development, of which this rezoning is the basis, are set forth in the related report on the large-scale residential development (CP-22641).

The Commission therefore considered the rezoning appropriate and adopted the following resolution, which is duly filed with the Secretary of the Board of Estimate, pursuant to Section 200 of the New York City Charter:

RESOLVED, that the Zoning Resolution of The City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended by changing the Zoning Map, Section No. 33d, so as to change from an R1-2 District to an R3-1 District property bounded by Arden Avenue, Hylan Boulevard, Woods of Arden Road, and the U.S. Bulkhead Line of Raritan Bay, Borough of Richmond.

JOHN E. ZUCCOTTI, Chairman;  
MARTIN GALLENT, Vice-Chairman,  
GERALD R. COLEMAN, ALEXANDER COOPER,  
GORDON J. DAVIS, SYLVIA DEUTSCH, CHESTER RAPKIN, Commissioners.

(DIAGRAM ATTACHED)

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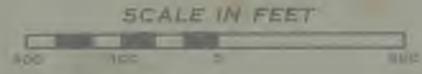


CITY PLANNING COMMISSION  
 CITY OF NEW YORK  
**DIAGRAM SHOWING PROPOSED  
 ZONING CHANGE  
 ON SECTIONAL MAP  
 33 d**

BOROUGH OF  
 RICHMOND

New York, April 3, 1974

*Louis Roberti, PE*  
 Director, Division of Zoning  
*John F. Smith, RE.*  
 Chief Engineer



**NOTE:**  
 ————— indicates Zoning District boundary.  
 ..... The area enclosed by the fine dotted line is proposed to be changed from an RI-2 District to an R3-1 District.

IN THE MATTER OF an application, pursuant to Article VII, Chapter 8 of the Zoning Resolution, from Arhy Equities Corp. for the grant of a special permit and special permit authorizations involving a large-scale residential development bounded by Arden Avenue, Hylan Boulevard, Woods of Arden Road, and the U.S. Bulkhead Line of Raritan Bay, Borough of Richmond.

Plans for this proposed large-scale residential development are on file with the City Planning Commission and may be seen in Room 1500, 2 Lafayette Street, New York, N.Y.

(On April 17, 1974, Cal. No. 6, the Commission scheduled May 1, 1974, for a hearing; on May 1, 1974, Cal. No. 19, the hearing was continued to May 29, 1974; on May 29, 1974, Cal. No. 22, the hearing was closed.)

On motion, the following favorable report was unanimously adopted:

July 10, 1974

The application for the special permit and authorizations was filed by Arhy Equities, a New York Corporation, the builder of the proposed large-scale residential development.

Three related actions by the City Planning Commission are needed to implement the application for the special permit and authorizations involving this large-scale residential development:

1. CP-22639, approved by the Commission on June 12, 1974, (Cal. #22) establishing the lines and grades of a street system within the development;
2. CP-22640, approved by the Commission on July 10, 1974, (Cal. # 29) rezoning the site from an R1-2 District to an R3-1 District; and
3. CP-22642, approved by the Commission on July 10, 1974, (Cal. # 31) granting a special permit pursuant to Section 74-731 of the Zoning Resolution for a sewage disposal plant to serve the development.

The application requests a special permit and authorizations, pursuant to various sections of Article VII, Chapter 8 of the Zoning Resolution, as follows:

1. Section 78-311(a). To authorize the total floor area and rooms permitted in an R3-1 District to be distributed without regard for zoning lot lines;
2. Section 78-311(b). To authorize the total open space required in an R3-1 District to be distributed without regard for zoning lot lines;

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3. Section 78-311(d). To authorize the location of buildings without regard for yard regulations which would otherwise apply along portions of streets or lot lines wholly within the development; and

4. Section 78-312(c). To authorize minor variations in required front or rear yards on the periphery of the development.

The development, known as Arden Shores, will be built on the upland portion of a 25.06 acre site bordering Raritan Bay. This upland portion is approximately 13.63 acres. The remaining acreage, most of which is under water will remain in its natural state. The development itself will contain 152 dwelling units comprised of 75 semi-attached one-family units, and two one-family detached units.

In order to preserve the beach and shore area as well as protect the land of adjacent properties from wave erosion, a rip-rap slope protected promenade will be built for the entire length of the property facing Raritan Bay. This promenade will be open and available for public use. The promenade and slope will be engineered and constructed for long range durability with minimum maintenance. The developer has indicated to the Commission that this will be done in accordance to the design specifications and materials outlined in the report written by the consulting firm of "Olko Engineering," titled "Report on Beach Promenade Rip-Rap Slope Protection, Arden Shores Development, Eltingville, Staten Island, New York," dated May 22, 1974.

The promenade itself will be built about 10 feet above high tide and will be a minimum of 15 feet wide. Benches and landscaping will be provided and a timber railing will be placed along the top of the rip-rap slope. Above the promenade, separated by a flat two foot slope, will be the sidewalk adjacent to the main roadway (Mayberry Promenade). The pavement will be bordered by 3 foot wide landscaped grass strips on each side.

It is estimated that the maintenance cost of the promenade will run about \$8,800 annually. This cost will be shared by the homeowners of the development and run approximately \$60 per unit.

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On April 17, 1974 (Cal. #6), the City Planning Commission scheduled May 1, 1974 as the date for a PUBLIC HEARING for this map change. The hearing was duly held on May 1, 1974 (Cal. #19), and continued to May 29, 1974 (Cal. #22), in conjunction with the related hearings on the rezoning from R1-2 to R3-1 (CP-22640), the City Map Change (CP-22639), and the Special Permit for a sewage disposal plant (CP-22642).

A local civic group, the Committee to Prevent Abusive Rezoning, appeared in opposition at both hearings as did a number of the residents of the adjacent properties. The principal objection voiced was to the proposed zone change. As a result of the change, it was contended, the neighborhood would become overcrowded and its present qualities would be greatly changed. The transfer of development rights from the water area to the upland area was criticized on two counts - that the underwater area was unprofitable for development by filling and the developer would thus realize windfall profits by not having to fill, and that fill to the Bulkhead Line was preferable, with single family detached houses, to the proposal in question. Other arguments made were that the proposed houses would lower the value of the existing homes in the area; that the proposed restrictions for this development would be unenforceable; that on-site parking would be inadequate; that the sewage treatment plant would give off offensive odors; that this development would accelerate erosion of the shore line in the adjacent properties, that the insular design of the project was not conducive to community interaction; that schools and hospitals are already overcrowded; that the processing of the proposal was conducted in complete secrecy, with only Community Board 4 aware of the proposal from its inception in the Spring of 1973 until a neighborhood meeting January 26, 1974; that there had been a possible conflict of interest between a member of Community Board 4 and the real estate broker for the property in question; that the rezoning would set a precedent for similar zones on the Island; that the developer had not presented the community with an alternate plan for development; that the developer's houses in another

development were unattractive; and that the proposed esplanade would rapidly deteriorate, becoming both an eyesore and an unfair financial burden on the residents. Specific reports read at the hearing included a real estate appraiser's evaluation of the project which cited the theory of "regression," causing the existing houses in the area to lose 5 to 10 percent of their value. The report stated that single family houses could be economically developed on the upland portion of the property. Finally, the minority report of Community Board 4 was presented. This report stated that because of the apparent unpopularity of the zone change in the immediate neighborhood and the need for a moratorium on all zone changes in South Richmond pending finalization of the South Richmond study, they could not support this zone change.

The Commission is in receipt of a number of communications in opposition to the proposal, for some of the reasons set forth above.

Speaking in favor of the proposal were members of the development team, two other professionals, and several residents of the area. It was stated that the developer had properly contacted all existing interested groups and City agencies, and particularly had established a working relationship with Community Board 4, which ultimately voted in favor of the proposal; that over a year had been spent meeting the demands of all required City agencies; that the plan conformed largely to the preliminary guidelines of the South Richmond study and of the Hylan Boulevard study; that a large number of existing trees on the site would be retained; that the internal street system respected the present condition of Woods of Arden Road and avoided its widening, causing a loss of trees; that a durable and attractive rip-rap seawall would protect the shoreline; that there was a demonstrably strong market for the houses proposed. Emphasis was placed on the 23 conditions required by Community Board 4 to insure a satisfactory project. A real estate appraiser noted that outmoded development would be necessary to develop the site as-of-right, including a grid street system and loss of trees. The considerable site improvement costs

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required to bring the development up to current standards would raise the probable cost of the houses to an upper middle income level. As-of-right houses on a properly developed site would be priced out of the present market. An architect who serves as a dean of architecture and environmental studies at a university in the area presented a report favorable to the proposal, stating that the planning was sensitive and innovative, and that there was a great need for the type of housing proposed. Lastly, a highly reputable engineer described in detail the qualities of the proposed rip-rap slope protection.

The Commission is in receipt of a number of communications supporting the proposal. Some of these communications are from other builders, and some are from residents of other developments built by the applicant, all attesting to the quality and dependability of previous construction by this applicant. The hearing was closed.

#### CONSIDERATION

In considering the development of the Arden Shores site the Commission has taken into account the need to broaden the market for housing on that site as

well as to preserve an outstanding waterfront site for the public to use and enjoy. As a condition for development of this particularly rare type of New York City property a number of planning criteria had to be met. They were achieved through the efforts of the developer's designers and through their close cooperation with Community Board 4, the City Planning Department and several other agencies. This team work has lasted over a year, and has resulted in major changes to the original proposal.

Principal considerations are:

1. The existing neighborhood would be respected. Traffic from Arden Shores would be directed only on to Arden Avenue, a cross-Island collector street. A local street, Woods of Arden Road, would be left untouched. Were additional traffic placed on this street, it would have to be widened, causing a loss of numerous mature trees. A buffer of existing trees would surround the site on

three sides. The circulation orientation towards Arden Avenue would orient the project toward the adjacent similar zone R3-2, and away from the existing R1-2 area on the opposite side of the property.

2. The South Richmond study preliminary guidelines would be used wherever applicable. Existing trees would be left undisturbed where practicable, construction fences would protect natural areas, and new tree planting would be extensive. Street design would preclude through traffic. The waterfront would be opened up to general use, and be attractively developed. It would be the first residential link in what might ultimately become a continuous waterfront park from Great Kills Harbor to Conference House Park.

3. The Hylan Boulevard study would be complied with in every detail, with a landscaped 20 foot wide buffer between the Boulevard and private yards. There would be no driveway curb cuts.

4. Common open space would be provided within the project in three distinct types: a dense grove of mature trees, an open upland area, and a waterfront esplanade. Residents would thus not be tied exclusively to their own yards.

5. Rip-rap slope protection would be provided which would be of sufficient strength to arrest a serious erosion problem.

6. The City of New York may acquire, at anytime, the area from the U.S. Bulkhead Line of Raritan Bay to Mayberry Promenade, including the rip-rap slope protection, for a good and valuable consideration of \$1.

Considering the assets being provided in the proposal, as-of-right development does not seem desirable. The considerable site preparation costs needed to bring the property up to acceptable planning standards could probably not be absorbed by the limited number of lots available.

This agency is well aware of the unpopularity of the Arden Shores proposal with many residents in the immediate vicinity. That these residents should do all in their power to maintain the character of their neighborhood is entirely

understandable. It is, by all criteria, an outstandingly attractive community. Unfortunately there is little prospect in 1974 of replicating the character of a comfortable, largely pre-Depression, neighborhood. In accepting the reality of change, and in seeking to meet the needs of New York City as a whole, we have taken every care to make no unreasonable demands on the area. The restrictive declarations agreed to by the developer will insure that the development will be compatible with its neighbors.

As a result of investigation and study, the Commission has determined that the application conforms with the findings required under Section 78-313 of the Zoning Resolution, and that the application warrants approval, subject to the conditions enumerated in the following resolution:

RESOLVED, by the City Planning Commission, that the application of Arhy Equities, a New York Corporation, for the approval of special permits and authorizations involving a large-scale residential development on property located within the area bounded by Arden Avenue, Hylan Boulevard, Woods of Arden Road, and Raritan Bay, be and hereby is approved, pursuant to Sections 78-311(a), 78-311(b), 78-311(d) and 78-312(c) of the Zoning Resolution, subject to the following conditions:

1. The premises shall be developed in size and arrangement substantially as proposed and as indicated on plans filed with the application;
2. The Development shall conform to all applicable provisions of the Zoning Resolution, except for the modifications herein granted as shown on the plans filed with the application. All zoning computations are subject to verification and approval by the Department of Buildings;
3. The Development shall conform with all applicable laws and regulations relating to construction, operation and maintenance;

4. The approval herein granted is not transferable prior to the effectuation of the project by the applicant without permission of the City Planning Commission;
5. A plan for the rip-rap slope protection shall be submitted to the Departments of City Planning and Ports and Terminals for review, and to the Department of Highways for review and approval, prior to applying for any permits to construct the rip-rap slope protection;
6. A final landscape plan, as described more fully in a restrictive declaration attached hereto, shall be submitted by a registered landscape architect to the City Planning Commission for its approval.
7. This Resolution shall be effective only if the two restrictive declarations attached hereto, executed by the Developer, the owner of the property subject to this Resolution, shall have been recorded and filed with the County Clerk of the County of Richmond; and
8. Upon the failure of any party having any right, title or interest in the property or the failure of any heir, successor, or assign of such party to observe any of the covenants, restrictions, agreements, terms, or conditions of this Resolution or of the two attached restrictive declarations, whose provisions shall constitute conditions of the special permits and authorizations hereby granted, the City Planning Commission may, without the consent of any other party, revoke any or all of said authorizations and such power of revocation shall be in addition to and not in limitation of any other powers of the City Planning Commission of any other agency of government, or of any private person or body.

The above resolution, duly adopted by the City Planning Commission on July 10, 1974 (Cal. # 30) is herewith filed with the Secretary of the Board of Estimate, together with a copy of the application and plans of the proposed large-scale residential development and the attached two restrictive declarations referred to above, pursuant to Section 74-10 of the Zoning Resolution.

JOHN E. ZUCCOTTI, Chairman;  
MARTIN GALLENT, Vice-Chairman,  
GERALD R. COLEMAN, ALEXANDER COOPER,  
GORDON J. DAVIS, SYLVIA DEUTSCH, CHESTER RAPKIN, Commissioners.

DECLARATION

This DECLARATION made by Arhy Equities, a New York Corporation, having its offices at 4607 18th Avenue, Brooklyn, New York (hereinafter called the "Declarant").

WITNESSETH:

WHEREAS, Declarant is the owner of certain real property located in the Borough of Richmond, City and State of New York, which real property is described in Article I of this Declaration and is hereinafter called the "Subject Property"; and

WHEREAS, Declarant, desiring to develop a portion of the Subject Property as a residential community having open space and facilities for the residents of the community to own, maintain, and enjoy in common, has submitted an application, designated CP - 22641, to the City Planning Commission requesting certain authorizations and special permits for a large-scale residential development under Article VII, Chapter 8 of the New York City Zoning Resolution; and

WHEREAS, Declarant, in order to make the development of the residential community with its attendant facilities possible, has submitted an application, designated CP - 22640, to the City Planning Commission requesting an amendment to the zoning map changing the designation of the Subject Property, now in an R1-2 district, to R3-1; and

WHEREAS, Declarant, intends to construct no more than 154 single-family semi-detached residences on Subject Property; and

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WHEREAS, Declarant desires to restrict further the manner in which the Subject Property may be developed, maintained, and operated intending these restrictions to benefit all the land lying within 1/2 mile of the Subject Property, including all such land owned by the City of New York; and

WHEREAS, Declarant represents and warrants that no restriction of record on the use of the Subject Property nor any present or future estate or interest in the Subject Property, nor any lien, obligation, covenant, limitations or encumbrance of any kind precludes, presently or potentially, the imposition of the restrictions, covenants, obligations, easements, and agreements of this Declaration or the development of the Subject Property in accordance therewith.

NOW, THEREFORE, Declarant does hereby declare that the Subject Property shall be held, sold, conveyed and occupied subject to the following restrictions, covenants, obligations, easements, and agreements which are for the purpose of protecting the value and desirability of the Subject Property and which shall run with such real property, binding every party having any right, title or interest in the Subject Property or any part thereof and binding all heirs, successors and assigns.

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ARTICLE I

The Subject Property

The real property that is subject to this Declaration is described as follows:

PARCEL I:

ALL that certain lot, piece or parcel of land situate, lying and being in the Borough and County of Richmond, City and State of New York, bounded and described as follows:

BEGINNING at the corner formed by the intersection of the southerly side of Hylan Boulevard with the easterly side of Arden Avenue; thence NORTH 61 degrees 16 minutes 32 seconds East along the southerly side of Hylan Boulevard, 869.62 feet to the westerly side of Woods of Arden Road, prior to widening; thence SOUTH 41 degrees 53 minutes 29 seconds East along the westerly side of Woods of Arden Road, 216.08 feet; thence SOUTH 40 degrees, 25 minutes 59 seconds East along the westerly side of Woods of Arden Road, 314.95 feet; thence NORTH 51 degrees 06 minutes 22 seconds East 40.01 feet to land now or formerly of Irene L. Launder Milch; thence SOUTH 40 degrees 24 minutes 59 seconds East along land now or formerly of Irene L. Launder Milch, 87.18 feet to the average line of mean high water, October, 1961; thence along the average line of mean high water October, 1961, the following courses and distances;

thence SOUTH 49 degrees 35 minutes 01 seconds West 14.77 feet;  
thence SOUTH 86 degrees 32 minutes 49 seconds West 25.30 feet;  
thence SOUTH 52 degrees 57 minutes 27 seconds West 43.03 feet;  
thence SOUTH 65 degrees 22 minutes 35 seconds West 52.80 feet;  
thence SOUTH 51 degrees 31 minutes 11 seconds West 149.46 feet;  
thence SOUTH 38 degrees 49 minutes 47 seconds West 52.63 feet;  
thence SOUTH 43 degrees 21 minutes 48 seconds West 99.03 feet;  
thence SOUTH 35 degrees 56 minutes 32 seconds West 49.41 feet;  
thence SOUTH 67 degrees 41 minutes 38 seconds West 42.15 feet;  
thence SOUTH 50 degrees 46 minutes 28 seconds West 63.25 feet;  
thence SOUTH 36 degrees 19 minutes 37 seconds West 42.20 feet;  
thence SOUTH 50 degrees 40 minutes 57 seconds West 149.94 feet;  
thence SOUTH 61 degrees 55 minutes 39 seconds West 150.89 feet;  
thence SOUTH 48 degrees 29 minutes 33 seconds West 51.00 feet;  
thence NORTH 67 degrees 12 minutes 35 seconds West 129.08 feet to the easterly side of Arden Avenue;  
thence NORTH 29 degrees 33 minutes 06 seconds West along the easterly side of Arden Avenue, 686.34 feet to the point or place of BEGINNING.

Excepting therefrom so much of the above described premises as was heretofore taken by the City of New York for the widening of Woods of Arden Road.

PARCEL II:

ALL that certain lot, piece or parcel of land situate, lying and being in the Borough of Richmond, City and State of New York, bounded and described as follows:

BEGINNING at a point on the easterly side of Arden Avenue at the intersection of the average line of mean high water October 1961 which said point is distant 686.34 feet southerly from the corner formed by the intersection of the easterly side of Arden Avenue with the southerly side of Hylan Boulevard;

thence along the average line of mean high water October 1961, the following courses and distances:

- thence SOUTH 67 degrees 12 minutes 34 seconds East 129.08 feet;
- thence NORTH 61 degrees 55 minutes 39 seconds East 51.00 feet;
- thence NORTH 48 degrees 29 minutes 33 seconds East 150.89 feet;
- thence NORTH 50 degrees 40 minutes 57 seconds East 149.94 feet;
- thence NORTH 36 degrees 19 minutes 37 seconds East 42.20 feet;
- thence NORTH 50 degrees 46 minutes 28 seconds East 63.25 feet;
- thence NORTH 67 degrees 41 minutes 38 seconds East 42.15 feet;
- thence NORTH 35 degrees 56 minutes 32 seconds East 49.41 feet;
- thence NORTH 43 degrees 21 minutes 48 seconds East 99.03 feet;
- thence NORTH 38 degrees 49 minutes 47 seconds East 52.63 feet;
- thence NORTH 51 degrees 31 minutes 11 seconds East 149.46 feet;
- thence NORTH 65 degrees 22 minutes 35 seconds East 52.80 feet;
- thence NORTH 52 degrees 57 minutes 27 seconds East 43.03 feet;
- thence NORTH 86 degrees 32 minutes 49 seconds East 25.30 feet;
- thence NORTH 49 degrees 35 minutes 01 seconds East 14.77 feet to the land now or formerly of Irene L. Lauder Milch;
- thence SOUTH 40 degrees 24 minutes 59 seconds East along land now or formerly of Irene L. Lauder Milch 583.45 feet to the United States Bulkhead Line approved by the Secretary of War March 4, 1890 and modified November 13, 1940;
- thence SOUTH 50 degrees 10 minutes 53 seconds West 11.98 feet;
- thence SOUTH 64 degrees 54 minutes 50 seconds West along the U.S. Bulkhead line, 1132.61 feet to the easterly side of Arden Avenue;
- thence NORTH 29 degrees 33 minutes 06 seconds West along the easterly side of Arden Avenue, 412.68 feet to the point or place of BEGINNING.

COORDINATES AND BEARINGS are in the system as established by the United States Coast and Geodetic Survey for the Borough of Richmond.

EXCEPTING therefrom so much of the above described premises as was heretofore taken by the City of New York for the Widening of Woods of Arden Road.

PARCEL III

ALL that certain lot, piece or parcel of land situate, lying and being in the Borough and County of Richmond, City and State of New York, bounded and described as follows:

BEGINNING at a point on the easterly side of Arden Avenue where said westerly side of Arden Avenue intersects the United States Bulkhead Line approved by the Secretary of War, March 4, 1890 and modified November 13, 1940; running thence SOUTH 29 degrees 33 minutes 06 seconds East to the low water line of the Frank Anderson Grant; running thence along the said low water line of Frank Anderson Grant,

2476 feet to the easterly terminus of said Frank Anderson Grant; running thence NORTH 40 degrees 24 minutes, 59 seconds West to the United States Bulk Head Line approved by the Secretary of War March 4, 1890 and modified November 13, 1940; running thence WESTERLY along said United States Bulk Head Line, to the point or place of BEGINNING.

EXCEPTING therefrom so much of the above described premises as was heretofore taken by the City of New York for the widening of WOODS OF ARDEN ROAD.

ARTICLE II

Development of the Common Open Space, Rip-Rap Sea Wall Slope Protection, Construction Phasing

The general plan for developing the common open space and the rip-rap slope protection, including the landscaping, is shown on the plans, annexed hereto as Exhibit A. The Declarant intends to develop the residential portion of the Subject Property in two phases, delineated in Exhibit A.

The Declarant covenants to complete the common open space in any construction phase, including all landscaping, and the construction and furnishing of any "tot lot" or other facility, within one year of the date when certificates of occupancy for one-half (1/2) the dwelling units constructed in such construction phase have been issued. The Declarant covenants that of all the common open space, that portion shown in Exhibit A as being in Construction Phase I will be the first completed.

To the contrary notwithstanding, the Declarant further covenants to complete the construction of the rip rap slope protection and the protective railing for the entire shorefront, prior to the issuance of any certificate of occupancy for any dwelling unit in Construction Phase II. The requirements of this Article as to the time of completion of the common open space in any construction phase shall apply as well to the completion of tree planting in that construction phase, as required in Article III following.

In order to guarantee that the common open space will be improved as shown in Exhibit A and on the final approved landscape plan, as described in Article XIII following, and within the time required in this Article, the Declarant prior to and as a condition for obtaining a building permit from the New York City Department of Buildings for any portion of this residential community shall provide a bond marked "paid" or City securities in the amount of \$75,000 to be deposited with the New York City Planning Commission. The completion of construction phase I of the common open space and of the planting of trees as described in Article III following, will be determined by the City Planning Commission.

Upon such determination the bond or City securities shall be reduced by the submission of a new bond or City securities in such reduced amount as follows:

\$40,000 after Construction Phase I is completed.

Upon the determination by the City Planning Commission that Construction Phase II of the common open space and the required planting of trees has been completed, the bond or City securities shall be returned.

In order to guarantee that the rip rap slope protection will be constructed and improved as shown on the general plan annexed hereto and on the final approved plans, as described in Article XIII follow-

ing, and within the time required in this Article, the Declarant prior to and as a condition for obtaining a building permit from the New York City Department of Buildings for any portion of this residential community shall provide a bond marked "paid" or City securities in an amount to be determined by New York City Department of Highways and to be deposited with New York City Department of Highways.

Immediately following the release and return of the bond or City securities for the construction of the rip rap slope protection, the Declarant shall provide a bond or City securities in the amount of \$20,000 to be deposited with the New York City Planning Commission for a period of two years in order to ensure the proper maintenance of the rip rap slope protection for said period of time.

#### ARTICLE I I I

##### Tree Survey, Preservation and Replanting Requirements

Declarant shall not be issued a Foundation Permit by the Department of Buildings until it has provided the Department of City Planning with a tree survey. The survey shall locate all trees having a caliper of 4 inches or greater. Tree caliper is measured one foot above the ground.

No surveyed tree having a caliper of 4 inches or greater, shall be removed except, within the building area and within eight feet of the building line, and within driveways, roads, parking areas, recreational facilities constructed within the common open space or in the path of placement of utilities.

Declarant covenants that in order to protect and preserve such trees, a construction fence four feet high shall be erected and maintained during the construction process around all areas indicated on Exhibit A. Additional trees to be preserved but lying outside the above described construction fences shall be protected during the

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construction process in a manner to be indicated on the final landscape plan. Declarant shall not be issued a Foundation or Building Permit by the Department of Buildings until such protective devices have been erected.

Trees of 4" caliper or greater, which are destroyed or removed must be replaced with a tree of equal caliper or trees with the sum of their diameters equal to the destroyed or removed tree, with at least one tree being of 3 inch caliper or greater. (Trees to be destroyed must be indicated on tree survey.)

Declarant further covenants to plant not less than 300 additional trees of at least 3" caliper. These trees are in addition to any trees planted as required in the paragraph immediately preceding. The location of these trees shall be as set forth in the final landscape plan to be submitted to the Department of City Planning for approval within one year of the date the first Certificate of Construction Occupancy relating to/Phase I as described in Article II is issued.

All trees to be planted under this Article shall be of a type approved by the New York Department of Parks.

#### ARTICLE IV

##### Title to the Common Open Space and Rip-Rap Slope Protection

The Declarant covenants to convey title to the common open space in any construction phase and rip-rap slope protection to the association formed pursuant to Article V of this Declaration prior to conveying title to any dwelling unit within such construction phase. The common open space shall be described, when conveyed, by metes and bounds and shall conform in size, location, and configuration to the common open space shown on the general plan, annexed hereto as Exhibit A.

The common open space, including that portion of the Subject Property that is presently under water shall be forever preserved as open space.

Declarant has submitted an application designated CP-22642 for a Special Permit for a sewage disposal plant to serve this large-scale residential development. In the event this system is connected to an adequate City Sewer system, the sewage disposal plant shall be dismantled within six months and the site shall be landscaped as common open space and be forever so preserved pursuant to Article VII.

## Article V

### The Association

1. Formation: The Declarant covenants to incorporate under the New York State Not-For-Profit Corporation Law an association having the purpose of exercising the duties, obligations, and functions set forth in this Declaration. The Certificate of Incorporation and by-laws of the association shall contain such provisions as may be required by this Declaration and such other reasonable provisions, not inconsistent with this Declaration, as may be necessary and proper for the association to carry out its duties, obligations and functions.
2. Membership: The Certificate of Incorporation of the Association shall provide that every person, group of persons, or legal entity, that is the record owner of one or more dwelling units for which a certificate of occupancy has been issued or in the case of the Declarant, the record owner of a lot for which a Building Permit has been issued, shall be a member of the association, but no one recorded as owner merely to secure the performance of an obligation shall be a member. Membership in the association shall be appurtenant to the ownership of a dwelling unit or a parcel of land as described above and may not be separated from such ownership. No one who is not such a record owner may be a member of the association.

3. Voting: No vote of the members shall be taken until title to the common open space in Construction Phase I has been conveyed. The Association shall have two classes of voting membership:

Class A: Class A members shall be all Owners of dwelling units for which a Certificate of Occupancy has been issued, with the exception of the Declarant, and shall be entitled to one vote for each dwelling unit owned. When more than one person holds an interest in any dwelling unit, all such persons shall be members. The vote for such dwelling unit shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any dwelling unit. A member shall be entitled to vote by proxy.

Class B: Class B member(s) shall be the Declarant and shall be entitled to two (2) votes for each lot for which a Building Permit has been issued. The Class B membership shall cease and be converted to Class A membership when the total votes outstanding in the Class A membership equals the total votes outstanding in the Class B membership.

4. Directors: The Certificate of Incorporation shall provide that the members, including the Declarant, shall elect a board of directors. The Certificate of Incorporation may provide the directors elected by the members to elect one or more additional directors, provided they do not constitute more than one-half of the Board of Directors. The Certificate of Incorporation shall provide that within three months of the issuance of the Certificate of Occupancy for half of the dwelling units in the second construction phase elections shall be conducted for a new Board of Directors.

Article VI

Assessments

1. Creation of the Lien & Personal Obligations of Assessments:

The Declarant hereby covenants, and each owner of an interest entitling such owner to membership in the association is deemed to covenant, whether or not it shall be so expressed in any deed or other instrument of conveyance, to pay to the association both annual assessments and special assessments. The annual and special assessments, together with interest, costs, and reasonable attorneys' fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorneys' fees, shall also be the personal obligation of the person, including the Declarant, who was the owner or part-owner of the property at the time such assessments fell due. Under no circumstances may an owner escape liability for the payment of assessments by refraining from using the common open space or any facility therein, by abandoning his property, or by any other means.

2. Use of Assessment Proceeds: The proceeds of the annual assessments shall be used to promote the recreation, enjoyment, health, safety and welfare of all the residents of the development. They shall be used primarily and particularly to maintain, operate and insure the common open space, including its landscaping, and all buildings, facilities, equipment, and other improvements, to maintain, operate, and insure the rip-rap slope protection, to manage the affairs of the association, and to pay the costs and expenses of the association incurred in connection with the enforcement of this Declaration. The proceeds of any special assessment shall be used only in connection with the common open spaces for capital improvements, the repair of unexpected damage, or needed replacement or reconstruction. No

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become due until the common open space in Construction Phase I shall have been completed, except for any portion or portions aggregating 10% or less of the area of such common open space left incomplete for the purpose of constructing buildings in the development pursuant to Paragraph 3 of Article VII of this Declaration. The amount of the first annual assessment shall be reduced in proportion to the amount of time elapsed in the association's fiscal year as of the date when the Board of Directors shall send notice of the assessment to the members. If more than half the fiscal year shall have elapsed at the time of such notice, then the Board of Directors shall be empowered to increase the assessment unit for the second year by any amount up to four (4) percent.

For Construction Phase II, a member shall be assessed but the assessment shall be reduced in proportion to the amount of time elapsed in the association's fiscal year, as of the date the assessment became due.

All assessments for dwelling units in such construction phase shall be abated fifty percent until the common open space in such construction phase shall have been completed, except for any portion or portions aggregating 10% or less of the area of such common open space left incomplete for the purpose of constructing buildings in the development pursuant to Paragraph 3 of Article VII of this Declaration.

4. Failure to Pay Assessments: Effect, Remedies of the Association: Any assessment of whatever kind not paid by the thirtieth day after its due date shall bear interest from the due date at the highest legal rate. The Association may suspend all membership rights of any member who is delinquent more than thirty days in paying any assessment, including his rights to vote and participate in the affairs of the association and, if such member is a resident of the devel-

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opment, his rights and those of his family and household to enjoy the common open space. But no other resident of the development who is not himself a member may be prohibited from using the common open space on the basis that the member who owns the dwelling unit in which such resident lives is delinquent in paying any assessment. The association may institute proceedings to recover from anyone personally obligated to pay the assessment and to foreclose the lien against the property, the amount recovered to include interest, attorney's fees, and all costs of the association incurred in connection with the proceeding or with any attempt by the association to collect the assessment.

5. Subordination of the Lien to Mortgages: The lien of the assessments provided for in this Article shall be subordinated to the lien of any institutional first mortgage. When any property interest entitling the owner to membership in the association is sold or transferred pursuant to foreclosure of such mortgage, or any proceeding in lien thereof, the lien of all assessments whose payments became due after the execution of such mortgages but before such sale or transfer shall be extinguished. No sale or transfer of any other kind shall affect the assessment lien. All assessments whose payments became due after any foreclosure sale or transfer shall continue to be a lien as provided in Section 1 of this Article. Assessments whose lien has been extinguished pursuant to this Section shall continue to be the personal obligation of any person who was the owner or part-owner of the property at the time the assessment fell due.

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ARTICLE VII

Rights in the Common Open Space

1. Easements of Enjoyment: Every person residing in the large-scale residential development, his guests and invitees as may be permitted in the by-laws of the association, and no other person, shall have an equal right and easement of enjoyment in the entire common open space, including all its facilities and improvements. The association shall own, operate, manage and control the common open space as an undivided whole, providing equal access to all its areas, facilities, and improvements to every resident, without regard to the location in the Subject Property of such resident's dwelling. Except for the assessments provided for in this Declaration, no charge of any kind may be exacted from any member for the exercise of the rights or the enjoyment of the easements described above.
  
2. Limitations on Easements of Enjoyment: The association, through the Board of Directors, shall have the power to establish rules and regulations governing the use and enjoyment of the common open space and to enforce them by appropriate means, including suspending anyone's rights to use and enjoy the common open space for violating such rules and regulations. No such suspension shall affect any member's obligation to pay assessments.
  
3. Use of Common Open Space during Period of Construction: Whether or not title to the common open space in any construction phase shall have been conveyed to the association, the Declarant shall have the right to enter upon, crossover, operate on or from and do whatever else may be necessary with regard to the common open space for the purpose of completing construction of the buildings in the development.

assessment proceeds of any kind shall be used in any way to fulfill the obligations of the Declarant to develop, improve, and landscape the common open space under the terms and conditions of the Resolution of the City Planning Commission designated CP-22641.

3. Establishment of Assessments: Procedure: All assessments, whether annual or special, shall be fixed in units. The number of such units assessed any member shall equal the number of dwelling units owned by such member.

For the first annual assessment, the amount of a unit shall not be less than \$50.00 nor more than \$100. For any annual assessment thereafter (except as provided below) the Board of Directors of the association may increase the unit by any amount up to eight (8) percent of the unit for the immediately preceding year. For the association's first full fiscal year after the common open space in Construction Phase II shall have been completed and for that fiscal year alone, the Board of Directors may increase the unit by any amount up to twelve (12) percent of the unit for the immediately preceding year.

The following actions shall be undertaken only if approved both by a two-thirds majority vote of the members:

- a. Increasing the annual assessment unit above the amount by which the Board of Directors is empowered to increase it;
- b. Decreasing the annual assessment unit by any amount;
- c. Fixing a special assessment, every special assessment shall require a separate vote of approval.

The Board of Directors shall notify each member of the amount of his annual assessment at least thirty days before the date when the payment of such assessment is due. For members whose dwelling unit or lot is in Construction Phase I, no payment of any assessment shall

Should this right be exercised in a construction phase of the common open space that is already completed, Declarant covenants to repair and restore it upon completing the work that necessitated the entry. In order to guarantee that the common open space will be repaired and restored, the Declarant, before exercising the right described in this section in any construction phase of the common open space that is already completed, shall deposit with the Board of Directors a bond marked "paid" in such reasonable amount, not to exceed \$5,000.00, as the Board shall require. The bond shall be returned when the last Certificate of Occupancy for such construction phase is issued and the common open space has been repaired and restored as determined by the Board of Directors.

4. Easements for Municipal or Utility Uses: No provision of this Declaration shall be construed to debar the Declarant or the Board of Directors from granting to the City of New York, or its agents, or to any other person, company or corporation, easements in or licenses to use the common open space for performing, maintaining, or providing any activity, function or service that the City or such person, company, or corporation customarily performs, maintains or provides including, but not limited to, water supply, storm water and sanitary sewerage, gas, electricity, and telephone or cable television services.

#### ARTICLE VIII

##### Utilities and Fire Call Boxes

Declarant agrees to have installed by the applicable utility, all utility lines, including but not limited to, gas, electric and gas lines, underground. The aforementioned lines shall be located, wherever possible, in the area between sidewalks and curbs in order to minimize future street cuts for repairs and connections. Prior to the placement of utilities, plans for their placement shall be sub-

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mitted to Community Board #4 in Staten Island, or its successor, for review, if available to Declarant.

Declarant further agrees that an adequate number of fire alarm boxes shall be located on the Subject Property. The location and number of these fire alarm boxes shall be approved by the New York Fire Department prior to their placement. Declarant will furnish and install all necessary lines underground as provided in paragraph immediately preceding.

#### ARTICLE IX

##### House Design

Declarant agrees to construct a minimum of four architecturally different house fronts or facings. Declarant further agrees to vary the front set-backs and roof lines.

#### ARTICLE X

##### Condition Prior To Sale

Declarant covenants that it will not sell or enter into a contract to sell any portion of the Subject Property included in the large-scale residential development or any dwelling unit therein without first informing the purchaser or contract purchaser of the general plan for the large-scale residential development. Such plan shall be consistent with all the terms, conditions, and covenants of this Declaration of the City Planning Commission's Resolution CP-22641, as adopted by the Board of Estimate. The general plan shall convey, at a minimum, the following information:

- a. The general site plan of the development, including the proposed order of construction phasing, and the location of the proposed interceptor sewer to be constructed by the City of New York,
- b. The number of dwelling units in each construction phase.

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- c. The facilities and improvements in the common open space, their location, and the schedule for completing the common open space in each construction phase, and the existence of the rip-rap slope protection and the schedule for their completion.
  - d. The arrangement for maintaining the common open space, the rip-rap slope protection, including: the binding effect of this Declaration; the existence of the association, the rights and obligations of members; and the amount of the annual assessment and of any special assessments for the association's fiscal year then current, or, if no annual assessment has yet fallen due, the amount of the first annual assessment; that the City of New York may acquire, at anytime, the area from U.S. Bulkhead Line up to Mayberry Promenade, including the rip-rap slope protection for good and valuable consideration of \$1. relieving the association of its responsibility to maintain and manage the rip-rap slope protection and area above described.
  - e. A notice, conspicuously presented, that the development is a large-scale residential development approved by the City Planning Commission and the Board of Estimate, that the plans as presented and approved are binding, and that such plans and approvals are subject to modification under the Zoning Resolution of the City of New York.

#### ARTICLE XI

##### Insurance

The Declarant covenants that, from the day that title to the first construction phase of the common open space is conveyed to the association until one year after the date when the payment of the first annual assessment is due, they will maintain insurance to protect against liability for injury, death, or damage occurring on or connected with the common open space. The amount of such insurance

shall not be less than \$100,000.00 a person and \$300,000.00 an occurrence. The Declarant hereby assumes a personal obligation to fulfill this covenant. In the event that the Declarant uses its own funds to maintain such insurance, it shall have the right of reimbursement from the association.

## ARTICLE XII

### Access to Subject Property

There shall be no ingress to or egress from Hylan Boulevard or Wood of Arden Road to the Subject Property. To the contrary notwithstanding, emergency access shall be provided to the Subject Property from Woods of Arden Road.

Declarant shall erect and the Homeowner's Association shall maintain a six foot high stockade type fence along the Hylan Boulevard frontage of the Subject Property.

## ARTICLE XIII

### Review and Approval of Plans

1. Declarant covenants to include a copy of this Declaration as part of any application pertinent to the Subject Property submitted to the New York City Department of Buildings or any agency succeeding to its jurisdiction.
2. Declarant covenants to submit a final landscape plan, which shall include but not be limited to, a) a tree survey as required in Article III, b) the location of construction fences as required in Article III, c) the method of protection for those trees not within the aforementioned construction fences, d) the location, size and species of trees to be planted, e) the location, size and species of ornamental shrubbery, f) the location, design and materials of benches,

g) the design and materials of walkways, h) the design of ornamental lighting standards, (other than for street lights) if any, i) the construction phasing of work described in Article II, and j) the location of at least one tot lot, by a registered landscape architect, to the Department of City Planning for approval prior to applying to the Department of Buildings for any building permits. The Department of City Planning will require that appropriate species of plantings be used in areas exposed to the sea.

- 3. Declarant covenants to submit final plans for the construction of the rip rap slope protection to the Department of City Planning and Department of Ports and Terminals for review and to the Department of Highways for review and approval prior to applying for any permits to construct said rip rap slope protection.
- 4. Declarant covenants to submit proposed sewage and storm drainage plans to Community Board #4, or its successor, for its review.

ARTICLE XIV

Effect and Enforcement

This Declaration shall become effective when the City Planning Commission and the Board of Estimate, acting pursuant to the Zoning Resolution of the City of New York, shall have duly approved application CP-22641 for a large-scale residential development. Upon becoming effective this Declaration runs with the land, binding the Declarants and their successors and assigns, and it shall be so construed.

The covenants, conditions, restrictions, and agreements of this Declaration shall inure to the association and to each of its members individually. The association and each member shall have right to institute any proceeding at

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law or in equity to enforce the provisions of this Declaration now or here-  
after imposed. The same rights of enforcement shall inure to the non-member  
residents of the development respecting their rights in the common open space.

The Declarant, recognizing that the City of New York is an interested party  
in this Declaration, consents to the City's enforcing the covenants, condi-  
tions, restrictions and agreements herein contained by whatever means may be  
appropriate to the situation, including letting contracts for doing any work  
required in or for the common open space and paying all labor, material, and  
other costs connected with such work from the bond or City securities that  
the Declarant is required to provide.

#### ARTICLE XV

##### Amendment and Cancellation

This Declaration may be amended or cancelled only with the approval of  
the City Planning Commission and the Board of Estimate or the agencies  
succeeding to their jurisdiction and no other approval or consent shall  
be required from any public body, private person, or legal entity of  
any kind.

#### ARTICLE XVI

##### Recording

The Declarant covenants that, when the City Planning Commission and the  
Board of Estimate have acted affirmatively on the application designated  
by the Commission CP- 22640, it shall immediately file and record  
this Declaration in the Office of the Clerk, County of Richmond, indexing  
it against the Subject Property. The Declarant further covenants to  
provide the City Planning Commission with a copy of the Declaration as  
recorded, certified by the County Clerk. The City of New York shall  
also have the right to record this Declaration. But all costs of re-  
cording and certification, whether undertaken by the Declarant or by the  
City, shall be borne by the Declarants.

ARTICLE XVII

Alternative Development

Notwithstanding anything contained in this Declaration to the contrary, the Declarant, its successors or assigns may elect not to develop the Subject Property in accordance with the application designated CP-22641 and in this event, the Declarant, its successors or assigns, <sup>shall</sup> ~~may~~ develop the Subject Property in accordance with the R1-2 zoning regulations which are in existence on the date hereof and thereby waives the benefits of the zoning change and the application referred to herein, and in such event the covenant and restrictions herein contained shall be void.

ARHY EQUITIES CORP.

BY: [Signature]

STATE OF NEW YORK )  
COUNTY OF KINGS ) SS:

On the 13<sup>th</sup> day of June 1974, before me personally came A. ROMI COHN to me known, who, being by me duly sworn, did depose and say that he resides at No. 5422 14th Avenue, Brooklyn, N.Y.; that he is the President of ARHY EQUITIES <sup>CORP.</sup>, the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation, and that he signed his name thereto by like order.

Rachel Friedman  
Notary

RACHEL FRIEDMAN  
Notary Public State of New York  
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Qualified in Kings County  
Commission Expires March 30, 1976

DECLARATION

THIS DECLARATION made by Arhy Equities, a New York corporation, having its offices at 4607 18th Avenue, Brooklyn, New York (hereinafter called the "Declarant").

WITNESSETH:

WHEREAS, the Declarant is the fee owner of certain land in the Borough of Richmond, City and State of New York, which land, hereinafter called the "Subject Property", is described in Exhibit A annexed hereto; and

WHEREAS, the Declarant intends to create on a portion of the Subject Property a large-scale residential development, for which an application, designated CP-2261, has been submitted to the New York City Planning Commission, and

WHEREAS, the Declarant, desiring to erect on a portion of the Subject Property a sewage disposal plant to serve the large-scale residential development, has submitted to the City Planning Commission an application, designated CP-2262 for a special permit for such a plant, and

WHEREAS, the Declarant desires to restrict the manner in which the Subject Property may be developed, maintained, and operated, in accordance with the provisions of this Declaration, and

WHEREAS, the Declarant represents and warrants that no restriction of record on the use of the Subject Property nor any present or future estate or interest in the Subject Property, nor any lien, obligation, covenant, limitation or encumbrance of any kind precludes, presently or potentially, the imposition of the restrictions, covenants, obligations, easements and agreements of this Declaration or the development, maintenance and operation of the Subject Property, in accordance therewith.

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NOW, THEREFORE, the Declarant does hereby declare that the Subject Property shall be held, sold, conveyed, and occupied subject to the following restrictions, covenants, obligations, easements and agreements which are for the purpose of protecting the value and desirability of the Subject Property and which shall run with such real property, binding every party having any right, title or interest in the Subject Property or any part thereof and binding all successors and assigns.

1. The Declarant covenants not to charge any user an annual fee for maintenance and provided sewage disposal service in excess of One Hundred (\$100.00) Dollars, or any amount in excess thereof, as such amount shall have been approved from time to time by the Department of Health and the Department of Water Resources.
2. The Declarant covenants to hold the City harmless against any and all claims arising out of the discharge or passage of effluent from the plant across surrounding properties. Prior to applying for any permit affecting the Subject Property, the Declarant covenants to provide a policy of liability insurance, with the City as beneficiary, in an amount as established by the Department of Water Resources and on terms satisfactory to the Corporation Counsel.
3. The Declarant covenants to landscape the perimeter of that portion of the Subject Property which contains the treatment plant. Landscaping shall be in accordance with the plan, annexed hereto as Exhibit B and the Special Permit granted by the City Planning Commission and adopted by the Board of Estimate. Declarant further covenants to maintain such landscaping including replacement of shrubs and bushes, as necessary.

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4. (a) Immediately following certification from the Departments of Water Resources and Health that the plant has been constructed and completed in accordance with the City's requirements, the Declarant shall either deposit City of New York securities having at least a five (5) year maturity date from the date of such certification, in the face amount of \$25,000 Dollars with the Department of Health of the City of New York to ensure and secure the full and faithful performance of the Declarant, with regard to his obligations to properly maintain the sewage disposal plant in such a manner as required by this Declaration and by the special permit. In lieu of such security, the Declarant, immediately following certification from the Departments of Water Resources and Health that the plant

has been constructed and completed in accordance with the City's requirements, may deposit a bond in the sum of \$25,000 Dollars whose terms and conditions shall be approved by the Corporation Counsel and satisfactory to the Departments of Water Resources and Health, to insure proper maintenance and operation of the plant, for its useful life, but in no event for more than 15 years. In the event the Declarant shall have deposited City of New York securities and then shall be in default, as provided for hereinafter, the City shall be entitled to sell so much of the securities and convert same into cash and use so much thereof as may be needed in curing the default, when and if same shall have occurred. Any excess cash resulting after such payment shall remain in the custody and control of the City for the same purpose. In the event the Declarant shall have submitted a maintenance bond and then shall be in default, as provided hereinafter, then in such event the City may make any and all necessary repairs and maintenance and collect any and all costs and expenses it may incur by reason of same from the principal or surety.

(b) The aforesaid maintenance bond or the aforementioned City of New York securities shall remain in the custody and control of the City for not less than the useful life of the plant, but in no event for more than 15 years or until presentation to it of a statement satisfactory in form and sufficiency by the Certified Public Accountant of the Declarant, prepared at its own cost and expense, showing that the revenue from the operation of the sewage disposal plant has reached a minimum gross income of \$12,500 Dollars per annum, together with a reserve amount of not less than twenty-five thousand (\$25,000.00). The City upon receipt of such a statement, satisfactory to it as to form and sufficiency, shall thereupon and forthwith release the bond or the securities and cash remaining on hand after the aforesaid reimbursements, if any, and return same to the Declarant or its successors or assigns.

(c) The Declarant, commencing with the year that such bond or securities are deposited with the City of New York, shall submit within ninety (90) days after the end of each calendar year a duly audited financial statement relating to the sewage disposal plant prepared by its Certified Public Accountant in form and sufficiency satisfactory to the Comptroller of the City of New York, the Department of Health of the City of New York, and the Department of Water Resources of the City of New York.

The statement shall contain complete financial information, including but not limited to complete information of income and expense.

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(d) Immediately following certification from the Departments of Water Resources and Health that the plant has been constructed in accordance with the City's requirements, the Declarant shall either deposit City of New York Securities having at least a five (5) year maturity date from the date of such certifications in the face amount of \$140,000 Dollars with the Department of Health of the City of New York to ensure and secure the full and faithful performance of the Declarant, with regard to his obligations to properly cover digesting tanks of the plant in such a manner and at such time as may be required by the Department of Health. In lieu of such security, the Declarant, immediately following certification from the Department of Water Resources and Health that the plant has been constructed in accordance with the City's requirements, may deposit a bond in the sum of \$140,000 Dollars, and whose terms and conditions shall be approved by the Corporation Counsel and satisfactory to the Department of Health to insure the proper covering of the digestive tanks of the plant. The securities or bond shall be released in the event the Board of Health establishes the permanent buffer around the plant.

(e) If the Declarant shall default in the performance of any covenants, provision, or obligation set forth herein, the City shall serve upon the Declarant a written notice of such default, specifying its nature, and a statement advising that if such default is not cured or corrected within ten (10) days from the date of the written notice the City will cure or correct same.

Should the Declarant, after having received such notice, fail, refuse, or neglect to comply and make this correction within <sup>the</sup> ten (10) day period, the City will cure or correct the default and shall be

entitled to reimbursement of its costs and expenses as hereinabove provided. If there is an abandonment of operation of such sewage disposal plant or an interruption of service thereof and in the opinion of the City an unsanitary or dangerous condition thereby exists, then the City shall have the right to correct such condition immediately without giving any notice. The foregoing provisions relate to a plant having a capacity of 80,000 gallons per day. In the event the capacity is enlarged, the Declarant covenants to provide such additional security as the City shall require.

5. (a) The Declarant covenants to operate and maintain said plant in accordance with the requirements of the Departments of Health and Water Resources for the useful life of the plant. Furthermore, the Declarant covenants that if it fails to meet its obligations, the City may enter the premises and operate the plant at the expense of the Declarant. The annual charge collectible from those served by said plant may be collected by the City and applied in reduction of the expense to the City arising from the failure to maintain the plant as aforesaid, and the deficiency, if any, shall be borne by the owner of the sewage disposal plant at that time. The City may elect at any time to take over the operation of the plant. In the event, the Declarant is not in default at such time, the bond or City securities shall be immediately released and returned.
- (b) The Declarant covenants to comply at its own expense with any direction from the City to discontinue the operation of the sewage disposal plant and to connect the sewers theretofore serviced by the plant to any public sewage system that the City shall have constructed, provided however, that the Declarant does not hereby waive any privilege to require the users of the sewage disposal plant to reimburse it for its actual costs incurred in discontinuing operations and making new connections to the public sewer system.

(c) The Declarant covenants to comply at its own expense with any direction from the City to connect the sewers theretofore serviced by the sewage disposal plant to the interceptor sewer that the City shall have constructed, provided however, that the Declarant does not hereby waive any privilege to require the users of the sewage disposal plant to reimburse it for its actual costs incurred in making such connection.

(d) The Declarant further covenants to comply, at its own expense, with any direction from the City to dismantle the plant and all appurtenant, accessory, or related structures and to secure its performance by posting bonds or City securities, whose terms and conditions shall be determined by the Corporation Counsel, and to submit to the City Planning Commission a plan for the re-development of that portion of the Subject Property and to contract with the City to secure the development of the approved plans.

6. The Declarant covenants to include a copy of this Declaration as part of any application pertinent to the Subject Property submitted to the New York City Department of Buildings, Department of Health or Department of Water Resources, or any agency succeeding to such Department's jurisdiction.
7. This Declaration shall become effective when the City Planning Commission and the Board of Estimate, acting pursuant to the Zoning Resolution of the City of New York, shall have duly approved application, CP-22642 for a sewage disposal plant. Upon becoming effective, this Declaration runs with the land, binding the Declarants and their successors and assigns, and it shall be so construed. The Declarant, recognizing that the City of New York is an interested party in this Declaration, consents to the City's enforcing the covenants, conditions, restrictions and agreements herein contained by whatever means may be appropriate.

- 8. This Declaration may be amended or cancelled only with the approval of the City Planning Commission and the Board of Estimate or the agencies succeeding to their jurisdiction and no other approval or consent shall be required from any public body, private person, or legal entity of any kind.
- 9. The Declarant covenants that, when the City Planning Commission and the Board of Estimate have acted affirmatively on the application designated by the Commission, CP-22642, it shall immediately file and record this Declaration in the Office of the Clerk, County of Richmond, indexing it against the Subject Property. The Declarant further covenants to provide the City Planning Commission with a copy of the Declaration as recorded, certified by the County Clerk. The City of New York shall also have the right to record this Declaration, but all costs of recording and certification, whether undertaken by the Declarant or by the City, shall be borne by the Declarant.

IN WITNESS WHEREOF, the Declarant has set its hand and seal to this instrument the 13th day of June, 1974.

ARHY EQUITIES CORP.

By: [Signature]

[ACKNOWLEDGEMENT]

STATE OF NEW YORK )  
 COUNTY OF KINGS ) ss:

On the 13th day of June, 1974, before me personally came A. ROMI COHN to me known, who, being by me duly sworn, did depose and say that he resides at No. 5422 14th Avenue, Brooklyn, N.Y.; that he is the President of ARHY EQUITIES, <sup>CORP.</sup> the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation, and that he signed his name thereto by like order.

Rachel Friedman  
 Notary

RACHEL FRIEDMAN  
 Notary Public, State of New York  
 No. 24-4517744  
 Qualified in Kings County  
 Commission Expires March 30, 1976

IN THE MATTER OF an application, pursuant to Section 74-731 of the Zoning Resolution, from Arhy Equities Corp. for the grant of a special permit involving a sewage disposal plant to serve a large-scale residential development bounded by Arden Avenue, Hylan Boulevard, Woods of Arden Road, and the U.S. Bulkhead Line of Raritan Bay, Borough of Richmond.

Plans for this proposed sewage disposal plant are on file with the City Planning Commission and may be seen in Room 1500, 2 Lafayette Street, New York, N.Y.

(On April 17, 1974, Cal. No. 7, the Commission scheduled May 1, 1974, for a hearing; on May 1, 1974, Cal. No. 20, the hearing was continued to May 29, 1974; on May 29, 1974, Cal. No. 23, the hearing was closed.)

On motion, the following favorable report was unanimously adopted:

July 10, 1974

The application for the special permit was filed by Arhy Equities, a New York Corporation, the owner of the property involved. The applicant requests approval of a sewage disposal plant with an ultimate capacity of 80,000 gallons per day, to serve a large-scale residential development of 152 dwelling units, comprised of 75 semi-attached one-family units, and two one-family detached units.

Three related actions by the City Planning Commission are needed to implement this large-scale residential development:

1. CP-22639, approved by the Commission on June 12, 1974, (Cal. #22), establishing the lines and grades of a street system within the development;
2. CP-22640, approved by the Commission on July 10, 1974, (Cal. #29), rezoning the site from an R1-2 District to an R3-1 District; and
3. CP-22641, approved by the Commission on July 10, 1974, (Cal. #30), involving a special permit and special permit authorizations for the large-scale residential development.

On April 17, 1974, (Cal. #7), the City Planning Commission scheduled a PUBLIC HEARING on this application. The hearing was duly held on May 1, 1974, (Cal. #20), and continued to May 29, 1974, (Cal. #23), in conjunction with the related hearings on the rezoning from R1-2 to R3-1 (CP-22640), the City Map change (CP-22639) and the special permit and special permit authorizations for the large-scale residential development (CP-22641). There were a number of appearances, as described in the report on the special permit and special permit authorizations (CP-22641), and the hearing was closed.

The sewage disposal plant, and the connecting sewers, are to be designed and constructed in accordance with all the requirements of the City agencies which have jurisdiction thereof.

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In reviewing the question of whether to grant a sewage disposal plant permit, the Commission takes into consideration along with narrower issues relating to the plant, the nature and quality of residential development which is planned by the applicant. The Commission believes it appropriate to use this permit as a means of achieving quality development where an otherwise conventional proposal would have been less desirable.

Opponents of the proposal contended that the plant would give off offensive odors. To protect the community against deleterious effects which might be caused by the operation of the plant, the applicant may, in the future, be required to cover the digesting tanks, if directed to do so by the Department of Health. To insure the full and faithful performance of this obligation, the applicant is required to post a bond of \$140,000, as described more fully in a restrictive declaration attached hereto.

In consequence, the Commission has determined that the proposed sewage disposal plant conforms to the requirements of Section 74-731 of the Zoning Resolution, and that the application warrants approval subject to the conditions enumerated in the following resolution:

RESOLVED, by the City Planning Commission that the application of Arhy Equities, a New York Corporation, for the grant of a special permit involving a private sewage disposal plant to serve a large-scale residential development bounded by Arden Avenue, Hylan Boulevard, Woods of Arden Road, and the U.S. Bulkhead Line of Raritan Bay, Borough of Richmond, be and is hereby approved pursuant to Section 74-731 of the Resolution subject to the following conditions:

1. All zoning computations shall be subject to approval by the Department of Buildings;
2. The plant shall conform with all applicable laws and regulations of those Departments involved with the standards of construction, operation, maintenance, health and safety;
3. No Certificate of Occupancy shall be issued by the Department of Buildings until the plant and site have been developed in size and arrangements substantially as proposed and as indicated on the plans filed as part of this application. At this location the maximum plant size shall not exceed eighty thousand gallons per day;
4. The connections authorized for the proposed large-scale residential development (CP-22641) shall be reserved for that area and shall not be transferred outside the proposed large-scale residential development (CP-22641);

5. The construction of the plant as well as the sanitary and storm water sewers built in the proposed large-scale residential development (CP-22641) shall be in accordance with the requirements of the Departments of Water Resources and Health. The outfall location and type shall also meet the requirements of the Departments of Water Resources and Health;

6. No substantial modification of the proposed treatment plant within the maximum eighty thousand gallons per day shall be made without the approval of the Departments of Water Resources, Health and the City Planning Commission:

a) Upon the failure of Arhy Equities, or its successors or assigns, to maintain said plant in accordance with the requirements of the Department of Health for the useful life of the plant, the City may enter the premises and operate said plant at the expense of Arhy Equities, or its successors or assigns who may then be the owner of the Sewage Treatment Plant. The annual collectable charge from the residents served by said plant may be collected by the City and applied in reduction of the expense to the City arising from the failure to maintain the plant as aforesaid and the deficiency, if any, shall be borne by the then owner of the sewage treatment plant. The City may elect at any time to assume operation of the plant.

b) At such time that a City storm and sanitary sewer system is provided the City may direct that the operation of the sewage treatment plant be discontinued and that the sewers theretofore serviced by the sewage treatment plant be connected to the public sewer system at the expense of the owner of the plant. Nothing herein contained shall be construed to prohibit the applicant from recouping from the users of the plant his actual costs incurred in such discontinuance of operation and providing new connections to the public sewer system. Without any cost or charge, the owner of the plant shall grant to The City of New York, its departments and agencies, such easements as may be required for men, material, and equipment needed to enter upon the property of the applicant and its treatment plant facilities in order to realign the sewage system. Said alteration and hookup will be at the expense of the applicant, its successors or assigns. In the event such easements are not granted when requested, the City may acquire the same at no cost.

c) At such time that the City's interceptor sewer system is extended to that region in the Borough of Richmond where the subject premises are located the City may direct that the applicant, at his own expense, connect the sewers theretofore serviced by the sewage treatment plant, to the City's interceptor sewer. Nothing herein contained shall be construed to prohibit the applicant from recouping from the users of the plant his actual costs incurred in making the connection to the interceptor sewer;

7. Upon the failure of any party having any right, title or interest in the property or the failure of any heir, successor, or assign of such party to observe any of the covenants, restrictions, agreements, terms, or conditions of this resolution or of the two attached restrictive declarations, which provisions shall constitute conditions of the special permit hereby granted, the City Planning Commission may without the consent of any other party, revoke any or all of said authorizations and such power of revocation shall be in addition to and not in limitation of any other powers of the City Planning Commission or of any other agency of government, or of any private person or body;

8. The applicant shall transmit a copy of this resolution to the Department of Buildings together with any application affecting the subject of this resolution (CP-22642);

9. No residential building shall be constructed on the zoning lot within 250 feet of the digesting tanks of the sewage treatment plant, except that after the plant has been in service for one year, the City Planning Commission may authorize the construction of buildings within 250 feet of but in no event less than 100 feet from, the digesting tanks, provided however, that the requirements of all other municipal agencies having jurisdiction are satisfied;

10. Any alteration in the premises or in the manner of operation which departs from any of the hereinbefore specified conditions, unless authorized by the City Planning Commission, shall cause an immediate termination of the special permit herein granted;

11. The approval herein granted is contingent upon the separate approval, by the Board of Estimate, of the related application (CP-22641) for various special permits and authorizations involving a large-scale residential development to be served by the sewage disposal plant; and

12. This Resolution shall be effective only if the two restrictive declarations attached hereto, executed by the developer, the owner of the property subject to this Resolution, shall have been recorded and filed with the County Clerk of the County of Richmond.

The above resolution, duly adopted by the City Planning Commission on July 10, 1974 (Cal. # 31) is herewith filed with the Secretary of the Board of Estimate, together with a copy of the application and plans of the proposed Sewage Disposal Plant and the two attached restrictive declarations referred to above, pursuant to Section 74-10 of the Zoning Resolution.

JOHN E. ZUCCOTTI, Chairman;  
MARTIN GALLEN, Vice-Chairman,  
GERALD R. COLEMAN, ALEXANDER COOPER,  
GORDON J. DAVIS, SYLVIA DEUTSCH, CHESTER RAPKIN, Commissioners.

D E C L A R A T I O N

THIS DECLARATION made by Arty Equities, a New York corporation, having its offices at 4607 18th Avenue, Brooklyn, New York (hereinafter called the "Declarant").

W I T N E S S E T H:

WHEREAS, the Declarant is the fee owner of certain land in the Borough of Richmond, City and State of New York, which land, hereinafter called the "Subject Property", is described in Exhibit A annexed hereto; and

WHEREAS, the Declarant intends to create on a portion of the Subject Property a large-scale residential development, for which an application, designated CP-22641, has been submitted to the New York City Planning Commission, and

WHEREAS, the Declarant, desiring to erect on a portion of the Subject Property a sewage disposal plant to serve the large-scale residential development, has submitted to the City Planning Commission an application, designated CP-22642, for a special permit for such a plant, and

WHEREAS, the Declarant desires to restrict the manner in which the Subject Property may be developed, maintained, and operated, in accordance with the provisions of this Declaration, and

WHEREAS, the Declarant represents and warrants that no restriction of record on the use of the Subject Property nor any present or future estate or interest in the Subject Property, nor any lien, obligation, covenant, limitation or encumbrance of any kind precludes, presently or potentially, the imposition of the restrictions, covenants, obligations, easements and agreements of this Declaration or the development, maintenance and operation of the Subject Property, in accordance therewith.

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NOW, THEREFORE, the Declarant does hereby declare that the Subject Property shall be held, sold, conveyed, and occupied subject to the following restrictions, covenants, obligations, easements and agreements which are for the purpose of protecting the value and desirability of the Subject Property and which shall run with such real property, binding every party having any right, title or interest in the Subject Property or any part thereof and binding all successors and assigns.

1. The Declarant covenants not to charge any user an annual fee for maintenance and provided sewage disposal service in excess of One Hundred (\$100.00) Dollars, or any amount in excess thereof, as such amount shall have been approved from time to time by the Department of Health and the Department of Water Resources.
2. The Declarant covenants to hold the City harmless against any and all claims arising out of the discharge or passage of effluent from the plant across surrounding properties. Prior to applying for any permit affecting the Subject Property, the Declarant covenants to provide a policy of liability insurance, with the City as beneficiary, in an amount as established by the Department of Water Resources and on terms satisfactory to the Corporation Counsel.
3. The Declarant covenants to landscape the perimeter of that portion of the Subject Property which contains the treatment plant. Landscaping shall be in accordance with the plan, annexed hereto as Exhibit B and the Special Permit granted by the City Planning Commission and adopted by the Board of Estimate. Declarant further covenants to maintain such landscaping including replacement of shrubs and bushes, as necessary.
4. (a) Immediately following certification from the Departments of Water Resources and Health that the plant has been constructed and completed in accordance with the City's requirements, the Declarant shall either deposit City of New York securities having at least a five (5) year maturity date from the date of such certification, in the face amount of \$25,000 Dollars with the **Department of Health of the** City of New York to ensure and secure the full and faithful performance of the Declarant, with regard to his obligations to properly maintain the sewage disposal plant in such a manner as required by this Declaration and by the special permit. In lieu of such security, the Declarant, immediately following certification from the Departments of Water Resources and Health that the plant

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has been constructed and completed in accordance with the City's requirements, may deposit a bond in the sum of \$25,000 Dollars whose terms and conditions shall be approved by the Corporation Counsel and satisfactory to the Departments of Water Resources and Health, to insure proper maintenance and operation of the plant, for its useful life, but in no event for more than 15 years. In the event the Declarant shall have deposited City of New York securities and then shall be in default, as provided for hereinafter, the City shall be entitled to sell so much of the securities and convert same into cash and use so much thereof as may be needed in curing the default, when and if same shall have occurred. Any excess cash resulting after such payment shall remain in the custody and control of the City for the same purpose. In the event the Declarant shall have submitted a maintenance bond and then shall be in default, as provided hereinafter, then in such event the City may make any and all necessary repairs and maintenance and collect any and all costs and expenses it may incur by reason of same from the principal or surety.

- (b) The aforesaid maintenance bond or the aforementioned City of New York securities shall remain in the custody and control of the City for not less than the useful life of the plant, but in no event for more than 15 years or until presentation to it of a statement satisfactory in form and sufficiency by the Certified Public Accountant of the Declarant, prepared at its own cost and expense, showing that the revenue from the operation of the sewage disposal plant has reached a minimum gross income of \$12,500 Dollars per annum, together with a reserve amount of not less than twenty-five thousand (\$25,000.00). The City upon receipt of such a statement, satisfactory to it as to form and sufficiency, shall thereupon and forthwith release the bond or the securities and cash remaining on hand after the aforesaid reimbursements, if any, and return same to the Declarant or its successors or assigns.
- (c) The Declarant, commencing with the year that such bond or securities are deposited with the City of New York, shall submit within ninety (90) days after the end of each calendar year a duly audited finan-

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cial statement relating to the sewage disposal plant prepared by its Certified Public Accountant in form and sufficiency satisfactory to the Comptroller of the City of New York, the Department of Health of the City of New York, and the Department of Water Resources of the City of New York.

The statement shall contain complete financial information, including but not limited to complete information of income and expense.

- (d) Immediately following certification from the Departments of Water Resources and Health that the plant has been constructed in accordance with the City's requirements, the Declarant shall either deposit City of New York Securities having at least a five (5) year maturity date from the date of such certifications in the face amount of \$140,000 Dollars with the Department of Health of the City of New York to ensure and secure the full and faithful performance of the Declarant, with regard to his obligations to properly cover digesting tanks of the plant in such a manner and at such time as may be required by the Department of Health. In lieu of such security, the Declarant, immediately following certification from the Department of Water Resources and Health that the plant has been constructed in accordance with the City's requirements, may deposit a bond in the sum of \$140,000 Dollars, and whose terms and conditions shall be approved by the Corporation Counsel and satisfactory to the Department of Health to insure the proper covering of the digestive tanks of the plant. The securities or bond shall be released in the event the Board of Health establishes the permanent buffer around the plant.

- (e) If the Declarant shall default in the performance of any covenants, provision, or obligation set forth herein, the City shall serve upon the Declarant a written notice of such default, specifying its nature, and a statement advising that if such default is not cured or corrected within ten (10) days from the date of the written notice the City will cure or correct same.

Should the Declarant, after having received such notice, fail, refuse, or neglect to comply and make this correction within <sup>the</sup> ten (10) day period, the City will cure or correct the default and shall be entitled to reimbursement of its costs and expenses as hereinabove

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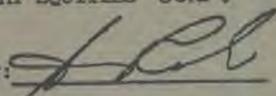
provided. If there is an abandonment of operation of such sewage disposal plant or an interruption of service thereof and in the opinion of the City an unsanitary or dangerous condition thereby exists, then the City shall have the right to correct such condition immediately without giving any notice. The foregoing provisions relate to a plant having a capacity of 80,000 gallons per day. In the event the capacity is enlarged, the Declarant covenants to provide such additional security as the City shall require.

5. (a) The Declarant covenants to operate and maintain said plant in accordance with the requirements of the Departments of Health and Water Resources for the useful life of the plant. Furthermore, the Declarant covenants that if it fails to meet its obligations, the City may enter the premises and operate the plant at the expense of the Declarant. The annual charge collectible from those served by said plant may be collected by the City and applied in reduction of the expense to the City arising from the failure to maintain the plant as aforesaid, and the deficiency, if any, shall be borne by the owner of the sewage disposal plant at that time. The City may elect at any time to take over the operation of the plant. In the event, the Declarant is not in default at such time, the bond or City securities shall be immediately released and returned.
- (b) The Declarant covenants to comply at its own expense with any direction from the City to discontinue the operation of the sewage disposal plant and to connect the sewers theretofore serviced by the plant to any public sewage system that the City shall have constructed, provided however, that the Declarant does not hereby waive any privilege to require the users of the sewage disposal plant to reimburse it for its actual costs incurred in discontinuing operations and making new connections to the public sewer system.
- (c) The Declarant covenants to comply at its own expense with any direction from the City to connect the sewers theretofore serviced by the sewage disposal plant to the interceptor sewer that the City shall have constructed, provided however, that the Declarant does not hereby waive any privilege to require the users of the sewage disposal plant to reimburse it for its actual costs incurred in making such connection.

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- (d) The Declarant further covenants to comply, at its own expense, with any direction from the City to dismantle the plant and all appurtenant, accessory, or related structures and to secure its performance by posting bonds or City securities, whose terms and conditions shall be determined by the Corporation Counsel, and to submit to the City Planning Commission a plan for the re-development of that portion of the Subject Property and to contract with the City to secure the development of the approved plans.
6. The Declarant covenants to include a copy of this Declaration as part of any application pertinent to the Subject Property submitted to the New York City Department of Buildings, Department of Health or Department of Water Resources, or any agency succeeding to such Department's jurisdiction.
7. This Declaration shall become effective when the City Planning Commission and the Board of Estimate, acting pursuant to the Zoning Resolution of the City of New York, shall have duly approved application, CP-22642 for a sewage disposal plant. Upon becoming effective, this Declaration runs with the land, binding the Declarants and their successors and assigns, and it shall be so construed. The Declarant, recognizing that the City of New York is an interested party in this Declaration, consents to the City's enforcing the covenants, conditions, restrictions and agreements herein contained by whatever means may be appropriate.
8. This Declaration may be amended or cancelled only with the approval of the City Planning Commission and the Board of Estimate or the agencies succeeding to their jurisdiction and no other approval or consent shall be required from any public body, private person, or legal entity of any kind.
9. The Declarant covenants that, when the City Planning Commission and the Board of Estimate have acted affirmatively on the application designated by the Commission, CP-22642, it shall immediately file and record this Declaration in the Office of the Clerk, County of Richmond, indexing it against the Subject Property. The Declarant further covenants to provide the City Planning Commission with a copy of the Declaration as recorded, certified by the County Clerk. The City of New York shall also have the right to record this Declaration, but all costs of recording and certification, whether undertaken by the Declarant or by the City, shall be borne by the Declarant.

IN WITNESS WHEREOF, the Declarant has set its hand and seal to this instrument the 15th day of June 1974.

ARMY EQUITIES CORP.

By: 

[ACKNOWLEDGEMENT]

STATE OF NEW YORK )  
COUNTY OF KINGS ) ss:

On the 13<sup>th</sup> day of *June*, 1974, before me personally came A. ROMI COHN to me known, who, being by me duly sworn, did depose and say that he resides at No. 5422 14<sup>th</sup> Avenue, Brooklyn, N.Y.; that he is the President of ARHY EQUITIES, <sup>CORP.</sup> the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation, and that he signed his name thereto by like order.

*Rachel Friedman*  
Notary

RACHEL FRIEDMAN  
Notary Public, State of New York  
No. 244517244  
Qualified in Kings County  
Commission Expires March 30, 1976

DECLARATION

This DECLARATION made by Arhy Equities, a New York Corporation, having its offices at 4507 18<sup>th</sup> Avenue, Brooklyn, New York (hereinafter called the "Declarant").

WITNESSETH:

WHEREAS, Declarant is the owner of certain real property located in the Borough of Richmond, City and State of New York, which real property is described in Article I of this Declaration and is hereinafter called the "Subject Property"; and

WHEREAS, Declarant, desiring to develop a portion of the Subject Property as a residential community having open space and facilities for the residents of the community to own, maintain, and enjoy in common, has submitted an application, designated CP - 22641, to the City Planning Commission requesting certain authorizations and special permits for a large-scale residential development under Article VII, Chapter 8 of the New York City Zoning Resolution; and

WHEREAS, Declarant, in order to make the development of the residential community with its attendant facilities possible, has submitted an application, designated 22640 CP - ~~22641~~, to the City Planning Commission requesting an amendment to the zoning map changing the designation of the Subject Property, now in an R1-2 district, to R3-1; and

WHEREAS, Declarant, intends to construct no more than 154 single-family semi-detached residences on Subject Property; and,

WHEREAS, Declarant desires to restrict further the manner in which the Subject Property may be developed, maintained, and operated intending these restrictions to benefit all the land lying within 1/2 mile of the Subject Property, including all such land owned by the City of New York; and

WHEREAS, Declarant represents and warrants that no restriction of record on the use of the Subject Property nor any present or future estate or interest in the Subject Property, nor any lien, obligation, covenant, limitations or encumbrance of any kind precludes, presently or potentially, the imposition of the restrictions, covenants, obligations, easements, and agreements of this Declaration or the development of the Subject Property in accordance therewith.

NOW, THEREFORE, Declarant does hereby declare that the Subject Property shall be held, sold, conveyed and occupied subject to the following restrictions, covenants, obligations, easements, and agreements which are for the purpose of protecting the value and desirability of the Subject Property and which shall run with such real property, binding every party having any right, title or interest in the Subject Property or any part thereof and binding all heirs, successors and assigns.

ARTICLE I

The Subject Property

The real property that is subject to this Declaration is described as follows:

PARCEL I:

ALL that certain lot, piece or parcel of land situate, lying and being in the Borough and County of Richmond, City and State of New York, bounded and described as follows:

BEGINNING at the corner formed by the intersection of the southerly side of Hylan Boulevard with the easterly side of Arden Avenue; thence NORTH 61 degrees 16 minutes 32 seconds East along the southerly side of Hylan Boulevard, 869.62 feet to the westerly side of Woods of Arden Road, prior to widening; thence SOUTH 41 degrees 53 minutes 29 seconds East along the westerly side of Woods of Arden Road, 216.08 feet; thence SOUTH 40 degrees, 25 minutes 59 seconds East along the westerly side of Woods of Arden Road, 314.95 feet; thence NORTH 51 degrees 06 minutes 22 seconds East 40.01 feet to land now or formerly of Irene L. Launder Milch; thence SOUTH 40 degrees 24 minutes 59 seconds East along land now or formerly of Irene L. Launder Milch, 87.18 feet to the average line of mean high water, October, 1961; thence along the average line of mean high water October, 1961, the following courses and distances;

thence SOUTH 49 degrees 35 minutes 01 seconds West 14.77 feet;  
thence SOUTH 86 degrees 32 minutes 49 seconds West 25.30 feet;  
thence SOUTH 52 degrees 57 minutes 27 seconds West 43.03 feet;  
thence SOUTH 65 degrees 22 minutes 35 seconds West 52.80 feet;  
thence SOUTH 51 degrees 31 minutes 11 seconds West 149.46 feet;  
thence SOUTH 38 degrees 49 minutes 47 seconds West 52.63 feet;  
thence SOUTH 43 degrees 21 minutes 48 seconds West 99.03 feet;  
thence SOUTH 35 degrees 56 minutes 32 seconds West 49.41 feet;  
thence SOUTH 67 degrees 41 minutes 38 seconds West 42.15 feet;  
thence SOUTH 50 degrees 46 minutes 28 seconds West 63.25 feet;  
thence SOUTH 36 degrees 19 minutes 37 seconds West 42.20 feet;  
thence SOUTH 50 degrees 40 minutes 57 seconds West 149.94 feet;  
thence SOUTH 61 degrees 55 minutes 39 seconds West 150.89 feet;  
thence SOUTH 48 degrees 29 minutes 33 seconds West 51.00 feet;  
thence NORTH 67 degrees 12 minutes 35 seconds West 129.08 feet to  
the easterly side of Arden Avenue;  
thence NORTH 29 degrees 33 minutes 06 seconds West along the  
easterly side of Arden Avenue, 686.34 feet to the point or place  
of BEGINNING.

Excepting therefrom so much of the above described premises as was  
heretofore taken by the City of New York for the widening of Woods  
of Arden Road.

PARCEL II:

ALL that certain lot, piece or parcel of land situate, lying and  
being in the Borough of Richmond, City and State of New York, bounded  
and described as follows:

BEGINNING at a point on the easterly side of Arden Avenue at the inter-  
section of the average line of mean high water October 1961 which  
said point is distant 686.34 feet southerly from the corner formed  
by the intersection of the easterly side of Arden Avenue with the  
southerly side of Hylan Boulevard;  
thence along the average line of mean high water October 1961, the  
following courses and distances:  
thence SOUTH 67 degrees 12 minutes 34 seconds East 129.08 feet;  
thence NORTH 61 degrees 55 minutes 39 seconds East 51.00 feet;  
thence NORTH 48 degrees 29 minutes 33 seconds East 150.89 feet;  
thence NORTH 50 degrees 40 minutes 57 seconds East 149.94 feet;  
thence NORTH 36 degrees 19 minutes 37 seconds East 42.20 feet;  
thence NORTH 50 degrees 46 minutes 28 seconds East 63.25 feet;  
thence NORTH 67 degrees 41 minutes 38 seconds East 42.15 feet;  
thence NORTH 35 degrees 56 minutes 32 seconds East 49.41 feet;  
thence NORTH 43 degrees 21 minutes 48 seconds East 99.03 feet;  
thence NORTH 38 degrees 49 minutes 47 seconds East 52.63 feet;  
thence NORTH 51 degrees 31 minutes 11 seconds East 149.46 feet;  
thence NORTH 65 degrees 22 minutes 35 seconds East 52.80 feet;  
thence NORTH 52 degrees 57 minutes 27 seconds East 43.03 feet;  
thence NORTH 86 degrees 32 minutes 49 seconds East 25.30 feet;  
thence NORTH 49 degrees 35 minutes 01 seconds East 14.77 feet to the  
land now or formerly of Irene L. Lauder Milch;  
thence SOUTH 40 degrees 24 minutes 59 seconds East along land now or  
formerly of Irene L. Lauder Milch 583.45 feet to the United States  
Bulkhead Line approved by the Secretary of War March 4, 1890 and  
modified November 13, 1940;  
thence SOUTH 50 degrees 10 minutes 53 seconds West 11.98 feet;  
thence SOUTH 64 degrees 54 minutes 50 seconds West along the U.S.  
Bulkhead line, 1132.61 feet to the easterly side of Arden Avenue;  
thence NORTH 29 degrees 33 minutes 06 seconds West along the  
easterly side of Arden Avenue, 412.68 feet to the point or place  
of BEGINNING.

COORDINATES AND BEARINGS are in the system as established by the  
United States Coast and Geodetic Survey for the Borough of Richmond.

EXCEPTING therefrom so much of the above described premises as was  
heretofore taken by the City of New York for the Widening of Woods  
of Arden Road.

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PARCEL III

ALL that certain lot, piece or parcel of land situate, lying and being in the Borough and County of Richmond, City and State of New York, bounded and described as follows:

BEGINNING at a point on the easterly side of Arden Avenue where said easterly side of Arden Avenue intersects the United States Bulkhead Line approved by the Secretary of War, March 4, 1890 and modified November 13, 1940; running thence SOUTH 29 degrees 33 minutes 06 seconds East to the low water line of the Frank Anderson Grant; running thence along the said low water line of Frank Anderson Grant, 2476 feet to the easterly terminus of said Frank Anderson Grant; running thence NORTH 40 degrees 24 minutes, 59 seconds West to the United States Bulk Head Line approved by the Secretary of War March 4, 1890 and modified November 13, 1940; running thence WESTERLY along said United States Bulk Head Line, to the point or place of BEGINNING.

EXCEPTING therefrom so much of the above described premises as was heretofore taken by the City of New York for the widening of WOODS OF ARDEN ROAD.

ARTICLE II

Development of the Common Open Space, Rip-Rap Sea Wall Slope Protection, Construction Phasing

The general plan for developing the common open space and the rip-rap slope protection, including the landscaping, is shown on the plans, annexed hereto as Exhibit A. The Declarant intends to develop the residential portion of the Subject Property in two phases, delineated in Exhibit A.

The Declarant covenants to complete the common open space in any construction phase, including all landscaping, and the construction and furnishing of any "tot lot" or other facility, within one year of the date when certificates of occupancy for one-half (1/2) the dwelling units constructed in such construction phase have been issued. The Declarant covenants that of all the common open space, that portion shown in Exhibit A as being in Construction Phase I will be the first completed. To the contrary notwithstanding, the Declarant further covenants to complete the construction of the rip rap slope protection and the protective railing for the entire shorefront, prior to the issuance of any certificate of occupancy for any dwelling unit in Construction Phase II.

The requirements of this Article as to the time of completion of the common open space in any construction phase shall apply as well to the completion of tree planting in that construction phase, as required in Article III following.

In order to guarantee that the common open space will be improved as shown in Exhibit A and on the final approved landscape plan, as described in Article XIII following, and within the time required in this Article, the Declarant prior to and as a condition for obtaining a building permit

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from the New York City Department of Buildings for any portion of this residential community shall provide a bond marked "paid" or City securities in the amount of \$75,000 to be deposited with the New York City Planning Commission. The completion of construction phase I of the common open space and of the planting of trees as described in Article III following, will be determined by the City Planning Commission.

Upon such determination the bond or City securities shall be reduced by the submission of a new bond or City securities in such reduced amount as follows:

\$40,000 after Construction Phase I is completed.

Upon the determination by the City Planning Commission that Construction Phase II of the common open space and the required planting of trees has been completed, the bond or City securities shall be returned.

In order to guarantee that the rip rap slope protection will be constructed and improved as shown on the general plan annexed hereto and on the final approved plans, as described in Article XIII following, and within the time required in this Article, the Declarant prior to and as a condition for obtaining a building permit from the New York City Department of Buildings for any portion of this residential community shall provide a bond marked "paid" or City securities in an amount to be determined by New York City Department of Highways and to be deposited with New York City Department of Highways.

Immediately following the release and return of the bond or City securities for the construction of the rip rap slope protection, the Declarant shall provide a bond or City securities in the amount of \$20,000 to be deposited with the New York City Planning Commission for a period of two years in order to ensure the proper maintenance of the rip rap slope protection for said period of time.

#### ARTICLE III

##### Tree Survey, Preservation and Replanting Requirements

Declarant shall not be issued a Foundation Permit by the Department of Buildings until it has provided the Department of City Planning with a tree survey. The survey shall locate all trees having a caliper of 4 inches or greater. Tree caliper is measured one foot above the ground.

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No surveyed tree having a caliper of 4 inches or greater, shall be removed except, within the building area and within eight feet of the building line, and within driveways, roads, parking areas, recreational facilities constructed within the common open space or in the path of placement of utilities.

Declarant covenants that in order to protect and preserve such trees, a construction fence four feet high shall be erected and maintained during the construction process around all areas indicated on Exhibit A. Additional trees to be preserved but lying outside the above described construction fences shall be protected during the construction process in a manner to be indicated on the final landscape plan. Declarant shall not be issued a Foundation or Building Permit by the Department of Buildings until such protective devices have been erected.

Trees of 4" caliper or greater, which are destroyed or removed must be replaced with a tree of equal caliper or trees with the sum of their diameters equal to the destroyed or removed tree, with at least one tree being of 3 inch caliper or greater. (Trees to be destroyed must be indicated on tree survey.)

Declarant further covenants to plant not less than 300 additional trees of at least 3" caliper. These trees are in addition to any trees planted as required in the paragraph immediately preceding. The location of these trees shall be as set forth in the final landscape plan to be submitted to the Department of City Planning for approval within one year of the date the first Certificate of Construction Occupancy relating to/Phase I as described in Article II is issued.

All trees to be planted under this Article shall be of a type approved by the New York Department of Parks.

#### ARTICLE IV

##### Title to the Common Open Space and Rip-Rap Slope Protection

The Declarant covenants to convey title to the common open space in any construction phase and rip-rap slope protection to the association formed pursuant to Article V of this Declaration prior to conveying title to any dwelling unit within such construction phase. The common open space shall be described, when conveyed, by metes and bounds and shall conform in size, location, and configuration to the common open space shown on the general plan, annexed hereto as Exhibit A.

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The common open space, including that portion of the Subject Property that is presently under water shall be forever preserved as open space.

Declarant has submitted an application designated CP-22642 for a Special Permit for a sewage disposal plant to serve this large-scale residential development. In the event this system is connected to an adequate City Sewer system, the sewage disposal plant shall be dismantled within six months and the site shall be landscaped as common open space and be forever so preserved pursuant to Article VII.

#### Article V

##### The Association

1. Formation: The Declarant covenants to incorporate under the New York State Not-For-Profit Corporation Law an association having the purpose of exercising the duties, obligations, and functions set forth in this Declaration. The Certificate of Incorporation and by-laws of the association shall contain such provisions as may be required by this Declaration and such other reasonable provisions, not inconsistent with this Declaration, as may be necessary and proper for the association to carry out its duties, obligations and functions.
2. Membership: The Certificate of Incorporation of the Association shall provide that every person, group of persons, or legal entity, that is the record owner of one or more dwelling units for which a certificate of occupancy has been issued or in the case of the Declarant, the record owner of a lot for which a Building Permit has been issued, shall be a member of the association, but no one recorded as owner merely to secure the performance of an obligation shall be a member. Membership in the association shall be appurtenant to the ownership of a dwelling unit or a parcel of land as described above and may not be separated from such ownership. No one who is not such a record owner may be a member of the association.
3. Voting: No vote of the members shall be taken until title to the common open space in Construction Phase I has been conveyed. The Association shall have two classes of voting membership:  
Class A: Class A members shall be all Owners of dwelling units for which a Certificate of Occupancy has been issued, with the exception of the Declarant, and shall be entitled to one vote for each dwelling unit owned. When more than one

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person holds an interest in any dwelling unit, all such persons shall be members. The vote for such dwelling unit shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any dwelling unit. A member shall be entitled to vote by proxy.

Class B: Class B member(s) shall be the Declarant and shall be entitled to two (2) votes for each lot for which a Building Permit has been issued. The Class B membership shall cease and be converted to Class A membership when the total votes outstanding in the Class A membership equals the total votes outstanding in the Class B membership.

4. Directors: The Certificate of Incorporation shall provide that the members, including the Declarant, shall elect a board of directors. The Certificate of Incorporation may provide the directors elected by the members to elect one or more additional directors, provided they do not constitute more than one-half of the Board of Directors. The Certificate of Incorporation shall provide that within three months of the issuance of the Certificate of Occupancy for half of the dwelling units in the second construction phase elections shall be conducted for a new Board of Directors.

#### Article VI

##### Assessments

1. Creation of the Lien & Personal Obligations of Assessments:

The Declarant hereby covenants, and each owner of an interest entitling such owner to membership in the association is deemed to covenant, whether or not it shall be so expressed in any deed or other instrument of conveyance, to pay to the association both annual assessments and special assessments. The annual and special assessments, together with interest, costs, and reasonable attorneys' fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorneys' fees, shall also be the personal obligation of the person, including the Declarant, who was the owner or part-owner of the property at the time such assessments fell due. Under no circumstances may an owner escape liability for the payment of assessments by refraining from using the common open space or any facility therein, by abandoning his property, or by any other means.

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2. Use of Assessment Proceeds: The proceeds of the annual assessments shall be used to promote the recreation, enjoyment, health, safety and welfare of all the residents of the development. They shall be used primarily and particularly to maintain, operate and insure the common open space, including its landscaping, and all buildings, facilities, equipment, and other improvements, to maintain, operate, and insure the rip-rap slope protection, to manage the affairs of the association, and to pay the costs and expenses of the association incurred in connection with the enforcement of this Declaration. The proceeds of any special assessment shall be used only in connection with the common open spaces for capital improvements, the repair of unexpected damage, or needed replacement or reconstruction. No assessment proceeds of any kind shall be used in any way to fulfill the obligations of the Declarant to develop, improve, and landscape the common open space under the terms and conditions of the Resolution of the City Planning Commission designated CP-22641.

3. Establishment of Assessments: Procedure: All assessments, whether annual or special, shall be fixed in units. The number of such units assessed any member shall equal the number of dwelling units owned by such member.

For the first annual assessment, the amount of a unit shall not be less than \$50.00 nor more than \$100. For any annual assessment thereafter (except as provided below) the Board of Directors of the association may increase the unit by any amount up to eight (8) percent of the unit for the immediately preceding year. For the association's first full fiscal year after the common open space in Construction Phase II shall have been completed and for that fiscal year alone, the Board of Directors may increase the unit by any amount up to twelve (12) percent of the unit for the immediately preceding year.

The following actions shall be undertaken only if approved both by a two-thirds majority vote of the members:

- a. Increasing the annual assessment unit above the amount by which the Board of Directors is empowered to increase it;
- b. Decreasing the annual assessment unit by any amount;
- c. Fixing a special assessment, every special assessment shall require a separate vote of approval.

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The Board of Directors shall notify each member of the amount of his annual assessment at least thirty days before the date when the payment of such assessment is due. For members whose dwelling unit or lot is in Construction Phase I, no payment of any assessment shall become due until the common open space in Construction Phase I shall have been completed, except for any portion or portions aggregating 10% or less of the area of such common open space left incomplete for the purpose of constructing buildings in the development pursuant to Paragraph 3 of Article VII of this Declaration. The amount of the first annual assessment shall be reduced in proportion to the amount of time elapsed in the association's fiscal year as of the date when the Board of Directors shall send notice of the assessment to the members. If more than half the fiscal year shall have elapsed at the time of such notice, then the Board of Directors shall be empowered to increase the assessment unit for the second year by any amount up to four (4) percent.

For Construction Phase II, a member shall be assessed but the assessment shall be reduced in proportion to the amount of time elapsed in the association's fiscal year as of the date the assessment became due.

All assessments for dwelling units in such construction phase shall be abated fifty percent until the common open space in such construction phase shall have been completed, except for any portion or portions aggregating 10% or less of the area of such common open space left incomplete for the purpose of constructing buildings in the development pursuant to Paragraph 3 of Article VII of this Declaration.

4. Failure to Pay Assessments: Effect, Remedies of the Association: Any assessment of whatever kind not paid by the thirtieth day after its due date shall bear interest from the due date at the highest legal rate. The Association may suspend all membership rights of any member who is delinquent more than thirty days in paying any assessment, including his rights to vote and participate in the affairs of the association and, if such member is a resident of the development, his rights and those of his family and household to enjoy the common open space. But no other resident of the development who is not himself a member may be prohibited from using the common open space on the basis that the member who owns the dwelling unit in which such resident lives is delinquent in paying any assessment. The

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association may institute proceedings to recover from anyone personally obligated to pay the assessment and to foreclose the lien against the property, the amount recovered to include interest, attorney's fees, and all costs of the association incurred in connection with the proceeding or with any attempt by the association to collect the assessment.

5. Subordination of the Lien to Mortgages: The lien of the assessments provided for in this Article shall be subordinated to the lien of any institutional first mortgage. When any property interest entitling the owner to membership in the association is sold or transferred pursuant to foreclosure of such mortgage, or any proceeding in lien thereof, the lien of all assessments whose payments became due after the execution of such mortgages but before such sale or transfer shall be extinguished. No sale or transfer of any other kind shall affect the assessment lien. All assessments whose payments became due after any foreclosure sale or transfer shall continue to be a lien as provided in Section 1 of this Article. Assessments whose lien has been extinguished pursuant to this Section shall continue to be the personal obligation of any person who was the owner or part-owner of the property at the time the assessment fell due.

#### ARTICLE VII

##### Rights in the Common Open Space

1. Easements of Enjoyment: Every person residing in the large-scale residential development, his guests and invitees as may be permitted in the by-laws of the association, and no other person, shall have an equal right and easement of enjoyment in the entire common open space, including all its facilities and improvements. The association shall own, operate, manage and control the common open space as an undivided whole, providing equal access to all its areas, facilities, and improvements to every resident, without regard to the location in the Subject Property of such resident's dwelling. Except for the assessments provided for in this Declaration, no charge of any kind may be exacted from any member for the exercise of the rights or the enjoyment of the easements described above.
2. Limitations on Easements of Enjoyment: The association, through the Board of Directors, shall have the power to establish rules and regulations governing the use and enjoyment of the common open space and to enforce them by appropriate means, including suspending anyone's

rights to use and enjoy the common open space for violating such rules and regulations. No such suspension shall affect any member's obligation to pay assessments.

- 3. Use of Common Open Space during Period of Construction: Whether or not title to the common open space in any construction phase shall have been conveyed to the association, the Declarant shall have the right to enter upon, crossover, operate on or from and do whatever else may be necessary with regard to the common open space for the purpose of completing construction of the buildings in the development.

Should this right be exercised in a construction phase of the common open space that is already completed, Declarant covenants to repair and restore it upon completing the work that necessitated the entry. In order to guarantee that the common open space will be repaired and restored, the Declarant, before exercising the right described in this section in any construction phase of the common open space that is already completed, shall deposit with the Board of Directors a bond marked "paid" in such reasonable amount, not to exceed \$5,000.00, as the Board shall require. The bond shall be returned when the last Certificate of Occupancy for such construction phase is issued and the common open space has been repaired and restored as determined by the Board of Directors.

- 4. Easements for Municipal or Utility Uses: No provision of this Declaration shall be construed to debar the Declarant or the Board of Directors from granting to the City of New York, or its agents, or to any other person, company or corporation, easements in or licenses to use the common open space for performing, maintaining, or providing any activity, function or service that the City or such person, company, or corporation customarily performs, maintains or provides including, but not limited to, water supply, storm water and sanitary sewerage, gas, electricity, and telephone or cable television services.

ARTICLE VIII

Utilities and Fire Call Boxes

Declarant agrees to have installed by the applicable utility, all utility lines, including but not limited to, gas, electric and gas lines, underground. The aforementioned lines shall be located, where-

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ever possible, in the area between sidewalks and curbs in order to minimize future street cuts for repairs and connections. Prior to the placement of utilities, plans for their placement shall be submitted to Community Board #4 in Staten Island, or its successor, for review, if available to Declarant.

Declarant further agrees that an adequate number of fire alarm boxes shall be located on the Subject Property. The location and number of these fire alarm boxes shall be approved by the New York Fire Department prior to their placement. Declarant will furnish and install all necessary lines underground as provided in paragraph immediately preceding.

#### ARTICLE IX

##### House Design

Declarant agrees to construct a minimum of four architecturally different house fronts or facings. Declarant further agrees to vary the front set-backs and roof lines.

#### ARTICLE X

##### Condition Prior To Sale

Declarant covenants that it will not sell or enter into a contract to sell any portion of the Subject Property included in the large-scale residential development or any dwelling unit therein without first informing the purchaser or contract purchaser of the general plan for the large-scale residential development. Such plan shall be consistent with all the terms, conditions, and covenants of this Declaration of the City Planning Commission's Resolution CP-22641, as adopted by the Board of Estimate. The general plan shall convey, at a minimum, the following information:

- a. The general site plan of the development, including the proposed order of construction phasing, and the location of the proposed interceptor sewer to be constructed by the City of New York.
- b. The number of dwelling units in each construction phase.
- c. The facilities and improvements in the common open space, their location, and the schedule for completing the common open space in each construction phase, and the existence of the rip-rap slope protection and the schedule for their completion.

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- d. The arrangement for maintaining the common open space, the rip-rap slope protection, including: the binding effect of this Declaration; the existence of the association, the rights and obligations of members; and the amount of the annual assessment and of any special assessments for the association's fiscal year then current, or, if no annual assessment has yet fallen due, the amount of the first annual assessment; that the City of New York may acquire, at anytime, the area from U.S. Bulkhead Line up to Mayberry Promenade, including the rip-rap slope protection for good and valuable consideration of \$1. relieving the association of its responsibility to maintain and manage the rip-rap slope protection and area above described.
- e. A notice, conspicuously presented, that the development is a large-scale residential development approved by the City Planning Commission and Board of Estimate, that the plans as presented and approved are binding, and that such plans and approvals are subject to modification under the Zoning Resolution of the City of New York.

#### ARTICLE XI

##### Insurance

The Declarant covenants that, from the day that title to the first construction phase of the common open space is conveyed to the association until one year after the date when the payment of the first annual assessment is due, they will maintain insurance to protect against liability for injury, death, or damage occurring on or connected with the common open space. The amount of such insurance shall not be less than \$100,000.00 a person and \$300,000.00 an occurrence. The Declarant hereby assumes a personal obligation to fulfill this covenant. In the event that the Declarant uses its own funds to maintain such insurance, it shall have the right of reimbursement from the association.

#### ARTICLE XII

##### Access to Subject Property

There shall be no ingress to or egress from Hylan Boulevard or Wood of Arden Road to the Subject Property. To the contrary notwithstanding, emergency access shall be provided to the Subject Property from Woods of Arden Road.

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Declarant shall erect and the Homeowner's Association shall maintain a six foot high stockade type fence along the Hylan Boulevard frontage of the Subject Property.

ARTICLE XIII

Review and Approval of Plans

1. Declarant covenants to include a copy of this Declaration as part of any application pertinent to the Subject Property submitted to the New York City Department of Buildings or any agency succeeding to its jurisdiction.
2. Declarant covenants to submit a final landscape plan, which shall include but not be limited to, a) a tree survey as required in Article III, b) the location of construction fences as required in Article III, c) the method of protection for those trees not within the aforementioned construction fences, d) the location, size and species of trees to be planted, e) the location, size and species of ornamental shrubbery, f) the location, design and materials of benches, g) the design and materials of walkways, h) the design of ornamental lighting standards, (other than for street lights) if any, i) the construction phasing of work described in Article II, and j) the location of at least one tot lot, by a registered landscape architect, to the Department of City Planning for approval prior to applying to the Department of Buildings for any building permits. The Department of City Planning will require that appropriate species of plantings be used in areas exposed to the sea.
3. Declarant covenants to submit final plans for the construction of the rip rap slope protection to the Department of City Planning and Department of Ports and Terminals for review and to the Department of Highways for review and approval prior to applying for any permits to construct said rip rap slope protection.
4. Declarant covenants to submit proposed sewage and storm drainage plans to Community Board #4, or its successor, for its review.

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ARTICLE XIV

Effect and Enforcement

This Declaration shall become effective when the City Planning Commission and the Board of Estimate, acting pursuant to the Zoning Resolution of the City of New York, shall have duly approved application CP-22 64 1 for a large-scale residential development. Upon becoming effective, this Declaration runs with the land, binding the Declarants and their successors and assigns, and it shall be so construed.

The covenants, conditions, restrictions, and agreements of this Declaration shall inure to the association and to each of its members individually. The association and each member shall have right to institute any proceeding at law or in equity to enforce the provisions of this Declaration now or hereafter imposed. The same rights of enforcement shall inure to the non-member residents of the development respecting their rights in the common open space.

The Declarant, recognizing that the City of New York is an interested party in this Declaration, consents to the City's enforcing the covenants, conditions, restrictions and agreements herein contained by whatever means may be appropriate to the situation, including letting contracts for doing any work required in or for the common open space and paying all labor, material, and other costs connected with such work from the bond or City securities that the Declarant is required to provide.

ARTICLE XV

Amendment and Cancellation

This Declaration may be amended or cancelled only with the approval of the City Planning Commission and the Board of Estimate or the agencies succeeding to their jurisdiction and no other approval or consent shall be required from any public body, private person, or legal entity of any kind.

ARTICLE XVI

Recording

The Declarant covenants that, when the City Planning Commission and the Board of Estimate have acted affirmatively on the application designated by the Commission CP- <sup>22640</sup> ~~22659~~, it shall immediately file and record this Declaration in the Office of the Clerk, County of Richmond, indexing it against the Subject Property. The Declarant further covenants to provide the City Planning Commission with a copy of the Declaration as recorded, certified by the County Clerk. The City of New York shall also have the right to record this Declaration. But all costs of recording and certification, whether undertaken by the Declarant or by the City, shall be borne by the Declarants.

ARTICLE XVII

Alternative Development

Notwithstanding anything contained in this Declaration to the contrary, the Declarant, its successors or assigns may elect not to develop the Subject Property in accordance with the application designated CP-22641 and in this event, the Declarant, its successors or assigns, <sup>shall</sup> ~~may~~ develop the Subject Property in accordance with the R1-2 zoning regulations which are in existence on the date hereof and thereby waives the benefits of the zoning change and the application referred to herein, and in such event the covenants and restrictions herein contained shall be void.

ARMY EQUITIES CORP.

*[Handwritten Signature]*  
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*[Proposed special permits for a sewage pumping station and a swimming pool for Willowbrook Apartments, a development of 138 garden apartments to be constructed on Dreyer, Hawthorne and Darcey Avenues in the Willowbrook section of Staten Island.]*

IN THE MATTER OF an application, pursuant to Sections 74-732 and 74-86 of the Zoning Resolution, from Masters Cities, Inc. for the grant of special permits involving a private sanitary sewage pumping station and an accessory outdoor swimming pool for residences, to be located not less than 50 feet from the lot line on property located on the southerly side of Dreyer Avenue, approximately 410 feet west of Hawthorne Avenue, Borough of Richmond.

Plans for this proposed sewage pumping station and swimming pool are on file with the City Planning Commission and may be seen in Room 1500, 2 Lafayette Street, New York, N. Y.

(On May 29, 1974, Cal. No. 10, the Commission scheduled June 12, 1974, for a hearing; on June 12, 1974, Cal. No. 34, the hearing was closed.)

On motion, the following favorable report was unanimously adopted:

July 10, 1974

The application for the special permits was filed by Masters Cities, Inc. The pumping station and swimming pool are designed to serve a proposed development of 132 garden apartment units on property zoned R3-2 owned by the applicant. No Commercial or Manufacturing district, where a pumping station can be built as of right, exists in the neighborhood.

A previous application for the pumping station (CP-22217) was approved by the Commission on December 13, 1972 (Cal. #48), but was subsequently denied without prejudice by the Board of Estimate on February 8, 1973 (Cal. #21) because of the lack of an approved storm water drainage scheme at that time. The present application (CP-22708) includes a storm water drainage scheme with retention basin, approved by the Department of Water Resources in a letter dated July 16, 1973. The Department of Health, in a letter dated March 18, 1974, reaffirmed its previous approval of the pumping station and made no objection to the location of the swimming pool. The Office of Environmental Impact of the Environmental Protection Administration, in a letter dated June 5, 1974, evaluated the project as "not having a significant adverse impact on the physical environment."

On May 29, 1974 (Cal. #10), the City Planning Commission scheduled a PUBLIC HEARING on this application. The hearing was duly held on June 12, 1974 (Cal. #34). There were no appearances in opposition, and the hearing was closed.

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The public facilities currently servicing the area have been examined and are adequate to provide for the increase in population projected for the proposed development.

The application plans show the buildings sited and arranged so as to not seriously disrupt the existing scenic assets and natural features, and to serve active and passive recreation needs. Further, the pumping station is so designed, located and buffered as to minimize any adverse effect its use might have on neighborhood privacy or quiet. The housing units being provided and the resulting improved storm drainage situation are clear advantages to the community at large and will serve to promote and protect the public health, safety and general welfare.

The sanitary sewers and treatment plant which will receive the flow from the pumping station meet the standards of adequacy established by the City for accommodating the anticipated future development in the area serviced by these facilities.

Community Planning Board #3 has expressed its approval of the proposed special permits.

The Commission hereby makes all the findings pursuant to Sections 74-732 and 74-86 of the Zoning Resolution and has determined that the application warrants approval subject to the conditions stated in the following resolution:

RESOLVED, by the City Planning Commission that the application of Masters Cities, Inc., for the grant of special permits involving a private sanitary sewage pumping station and an accessory outdoor swimming pool for residences to be located not less than 50 feet from the lot line on property located on the southerly side of Dreyer Avenue, approximately 410 feet west of Hawthorne Avenue, Borough of Richmond, is hereby approved pursuant to Sections 74-732 and 74-86 of the Zoning Resolution, subject to the following conditions:

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1. All zoning computations shall be subject to approval by the Department of Buildings;
  2. The pumping station and swimming pool shall conform with all applicable laws and regulations of those Departments involved with the standards of construction, operation, maintenance, health, and safety;
  3. No certificate of occupancy shall be issued by the Department of Buildings until the pumping station and site have been developed in size and arrangements substantially as proposed and as indicated on the plans filed with this application;

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  4. Connections to the pumping station shall be allowed only to residential units within the area delineated by Canterbury Avenue on the west, Hall Avenue on the south, Willowbrook Road on the east, and South Gannon Avenue and Victory Boulevard on the north;
  5. Applicant shall cause the full mapped width of Darcey Avenue, from Hawthorne Avenue to South Gannon Avenue, to be improved to Department of Highways standards;
  6. In addition to the swimming pool, the applicant will provide active recreation facilities, such as basketball and handball courts, in the recreation areas proposed within the development;
  7. Upon the failure of the applicant to maintain the pumping station in accordance with the standards of the Department of Health, the City may enter the premises and operate said pumping station at the expense of the applicant. The collectable charge from the residents served by said pumping station may be collected by the City and applied in reduction of the expense to the City arising from the failure to maintain the pumping station as aforesaid and the deficiency, if any, shall be borne by the applicant. The City may elect at any time to assume operation of the pumping station;

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8. At such time as the City gravity flow sanitary sewer system is provided, the City may direct that the operation of the pumping station be discontinued and that the sewers theretofore serviced by the pumping station be connected to the public sewer system at the owner's expense. Without any cost or charge, the owner of the pumping station shall grant to the City of New York, its departments and agencies, such easements as may be required for men, material, and equipment needed to enter upon the property of the applicant, and its pumping station in order to realign the sewage system. Said alteration and hook-up will be at the expense of the applicant. In the event such easements are not granted when requested, the City may acquire the same at no cost.

9. Upon the failure of any party having any right, title, or interest in the property to observe any of the covenants, restrictions, agreements, terms, or conditions of this resolution, or of the related Restrictive Declaration, whose provisions shall constitute conditions of the Special Permit hereby granted, the City Planning Commission may without the consent of any other party, revoke such Special Permit and such power of revocation shall be in addition to and not in limitation of any other powers of the City Planning Commission or of any other agency of government, or of any private person or body.

10. The applicant shall transmit a copy of this Resolution to the Department of Buildings together with any application affecting the subject of this resolution (CP-22708).

11. Any alteration in the premises or in the manner of operation which departs from any of the hereinbefore specified conditions, unless authorized by the City Planning Commission shall cause an immediate termination of the Special Permit herein granted.

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The above Resolution, duly adopted by the City Planning Commission on July 10, 1974 (Cal. 32) is herewith filed with the Secretary of the Board of Estimate, together with a copy of the application and plans of the proposed pumping station and swimming pool pursuant to Section 74-10 of the Zoning Resolution.

JOHN E. ZUCCOTTI, Chairman;  
MARTIN GALLENT, Vice-Chairman,  
GERALD R. COLEMAN, ALEXANDER COOPER,  
GORDON J. DAVIS, SYLVIA DEUTSCH, CHESTER RAPKIN, Commissioners.

DECLARATION

This declaration by Masters Cities, Inc., hereinafter called the "declarant," having its principal place of business at 1306 Rockland Avenue, Staten Island, New York.

WITNESSETH

WHEREAS, the declarant is the owner of certain real property located in the Borough of Richmond, City and State of New York, which real property is described more particularly in Exhibit "A" annexed hereto and is hereinafter called the "subject premises;" and

WHEREAS, the declarant, desiring to create on the subject premises a residential development to be served by a sewage pumping station, has applied, pursuant to Article VII, Chapter 8 of the Zoning Resolution of the City of New York, for the Special Permit required for the sewage pumping station, in an application, including plans, designated CP-22708; and

WHEREAS, the declarant desires to improve, operate, and maintain the subject premises in accordance with the covenants, restrictions, and easements hereinafter set forth, all of which are intended to benefit the residents of the subject premises and the real property, including the real property owned by the City of New York, within one-half mile of the subject premises; and

WHEREAS, the declarant represents that no existing lien, obligation, covenant, or restriction of record on the use of the property precludes the development of the subject premises in accordance with application CP-22708 and in accordance with the covenants, restrictions, and easements hereinafter set forth;

NOW, THEREFORE, the declarant hereby declares that the subject premises be held, sold, and conveyed subject to the following easements, restrictions, covenant and conditions, which are for the purpose of protecting the value and desirability of and shall run with such real property and be binding on all parties having any right, title, or interest in the subject premises, their heirs, successors, and assigns.

1) Along the entire perimeter of the subject premises, except where it lies along a street, the declarant will erect and maintain a fence and will screen the fence with bushes, shrubs, and other plantings having a height at maturity of not less than five feet. The declarant will plant the perimeter of the subject premises wherever it lies along a street with trees having a minimum trunk diameter, measured four feet above the ground, of three inches. Such trees shall be planted at an average distance between trunk centers not greater than twenty feet.

2) The declarant will surround all group parking areas on the subject premises with shrubs, bushes, trees and other plantings.

3) The declarant covenants to enclose the pumping station with a fence satisfying the requirements of the New York City Department of Health and to screen the fence from view by planting its outside with shrubs, bushes, or other plantings having a height at maturity not less than the height of the fences but in no event less than five feet.

4) The declarant will provide adequate maintenance, including necessary replacement, for all shrubs, bushes, trees, and other plantings described in covenants 1), 2) and 3) of this declaration.

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5) The declarant will provide recreation facilities for tenants such as swimming pool, play area and sitting area, in the recreation areas within the development and maintain same indefinitely. The pool and play areas will be situated according to Job No. 7202 of DeFiore and Giacobbe, annexed hereto as Exhibit "B".

6) The declarant covenants to allow any owner of property within the area delineated by Canterbury Avenue on the West, Hall Avenue on the South, Willowbrook Road on the East, and South Cannon Avenue and Victory Boulevard on the North, to make a connection from such property to the pumping station at their own cost and expense. In addition, any such property owner shall pay a certified pro-rated cost for the use of the pumping station. The yearly operation and maintenance charge to residents shall not be more than Seventy-five (\$75.00) Dollars per year to each resident in the delineated area.

7) The declarant shall cause the full capped width of Darcey Avenue from Westborne Avenue to South Cannon Avenue, to be improved to Department of Kings County standards.

8) The declarant agrees to provide appropriate air conditioning sleeves and adequate accompanying electrical power outlets.

9) The noise producing machinery associated with the pumping station and the swimming pool shall be enclosed and any necessary venting directed away from the dwelling units and recreation areas.

10) The covenants, restrictions, easements and conditions of this Declaration run with the land and are to be so construed.

11) The declarant recognizes that the New York City Planning Commission or the agencies succeeding to its jurisdiction, is an interested party in this Declaration and may bring action to enforce the same and no cancellation, amendment, or modification of this Declaration may be made without the Planning Commission's approval.

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12) The New York City Planning Commission, or the agencies succeeding to its jurisdiction, shall have the power to cancel, amend, or modify the requirements of this Declaration at the request of the owner of all or any portion of the subject premises if the Commission finds that such action would not be against the public interest and no other consent shall be required.

13) A copy of this Declaration shall be submitted and filed with the Department of Buildings of the City of New York upon the filing of any application affecting the subject premises.

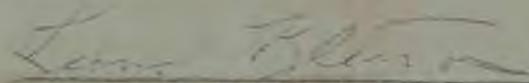
14) This Declaration shall be filed and recorded in the Office of the Register for the Borough of Richmond and indexed against the subject premises. The City may record this Declaration, all recordation costs to be borne by the Declarants. The Declarant shall provide the City Planning Commission with a copy of this Declaration as recorded, certified by the County Clerk.

15) Notwithstanding anything to the contrary contained herein, this Declaration shall not become effective and may not be recorded except if the application designated W 22708 shall have been approved and become effective.

IN WITNESS WHEREOF, the declarant has caused this Declaration to be signed this 24th day of June, 1974.

MASTERS CITIES, INC.

State of New York )  
County of New York )

  
LEONARD KLEIMAN, PRESIDENT

On the 24th day of June, 1974, before me personally came Leonard Kleiman, to me known, who being duly sworn by me, did depose and say that he resides at 92 Washington Ave., Lawrence, Long Island, New York, that he is the President of Masters Cities, Inc., the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporation seal; that it was so affixed by order of the board of directors of said corporation and that he signed his name thereto by like order.

  
Notary Public  
SEYMOUR ADELMAN  
NOTARY PUBLIC, STATE OF NEW YORK  
My Comm. Expires 12/31/75  
JUN 24 1974  
NEW YORK

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Exhibit "A"

BEGINNING at the point formed by the intersection of the southerly side of Drayer Avenue with easterly side of Canterbury Avenue.

1. Running thence along said southerly side of Drayer Avenue north 75 degrees, 15 minutes, 11 second east 100.00 feet to a point.
  2. Thence south 14 degrees, 43 minutes, 49 second east 100.00 feet to a point.
  3. Thence north 75 degrees, 15 minutes, 11 second east 110.34 feet to a point.
  4. Thence south 78 degrees, 15 minutes, 35 second east 158.51 feet to a point.
  5. Thence north 11 degrees, 44 minutes, 25 second east 100.00 feet to a point on said southerly side of Drayer Avenue.
  6. Thence along said southerly side of Drayer Avenue south 78 degrees, 15 minutes, 35 seconds east 220.00 feet to a point.
  7. Thence north 11 degrees, 44 minutes, 25 seconds east 285.49 feet to a point lying in the bed of Darcey Avenue.
  8. Thence south 78 degrees, 41 minutes, 50 seconds east on a line lying in the bed of Darcey Avenue 315.95 feet to a point.
  9. Thence south 7 degrees, 37 minutes, 50 seconds west 487.15 feet to a point on the northerly side of Hall Avenue.
  10. Thence along said northerly side of Hall Avenue north 78 degrees, 15 minutes, 35 seconds west 188.36 feet to a point.
  11. Thence south 63 degrees, 54 minutes, 07 seconds west 34.30 feet to a point.
  12. Thence south 70 degrees, 50 minutes, 00 seconds west 50.49 feet to a point.
  13. Thence north 88 degrees, 06 minutes, 00 seconds west 62.35 feet to a point.
  14. Thence north 83 degrees, 07 minutes, 00 seconds west 22.50 feet to a point on the southerly side of Hall Avenue.
  15. Thence along said southerly side of Hall Avenue north 78 degrees, 15 minutes, 35 seconds west 348.13 feet to a angle point therein.
  16. Thence, continuing along said southerly side of Hall Avenue south 75 degrees, 15 minutes, 11 seconds west 72.71 feet to a point.
  17. Thence north 14 degrees, 43 minutes, 49 seconds west 60.00 feet to a point on the northerly side of Hall Avenue.
  18. Thence along said northerly side of Hall Avenue south 75 degrees, 15 minutes, 11 seconds west 100.00 feet to a point on said easterly side of Canterbury Avenue.
  19. Thence along said easterly side of Canterbury Avenue north 14 degrees, 43 minutes, 49 seconds west 200.00 feet to the point or place of beginning.
- Subject to the rights of others, if any, in and to the beds of Hall Avenue, Hawthorne Avenue, Drayer Avenue, and Darcey Avenue.

Exhibit "B"

This consists of a set of plans for the proposed development. These plans are too voluminous to be reproduced herein, but are available in the files of the City Planning Commission.

[Request for technical corrections in a previously approved special permit for a sewage plant.]

IN THE MATTER OF a communication dated May 29, 1974, from a representative of Kaufman and Broad Homes, Inc. requesting technical corrections in a property description contained in a resolution granting a special permit to build a sewage plant on property located on the southerly side of Barry Street, west of Rossville Avenue, Borough of Richmond, which special permit was approved and became effective on May 7, 1970 under Section 74-731 of the Zoning Resolution.

On motion, the following resolution was adopted:

July 10, 1974

WHEREAS, on April 8, 1970 (Cal. #42 ) the City Planning Commission adopted a resolution granting Kaufman and Broad Homes, Inc., a special permit (CP-21032A) to construct a sewage disposal plant, pursuant to Section 74-731 of the Zoning Resolution on the above described property. On May 7, 1970 the Board of Estimate (Cal. #21 ) acted favorably on the same matter.

WHEREAS, in accordance with said resolution an Agreement dated April 9, 1970 by Kaufman and Broad Homes, Inc., and The City of New York was recorded in the office of the Clerk of Richmond County in Liber 1906 CP 352 on June 24, 1970.

WHEREAS, on April 2, 1973 a representative of the applicant applied for an amendment correcting the resolution on the grounds that technical errors were made in the description of the subject property in Attachment A to the resolution. Attachment A was intended to be a description of the property to be served by the proposed sewage treatment plant, i.e., Rossville Village, a large-scale residential development approved under CP-21294. Attachment A incorrectly described the plot on which the treatment plant itself is to be sited.

WHEREAS, on October 10, 1973 (Cal. #19) the City Planning Commission adopted a resolution correcting Attachment A. On October 25, 1973 the Board of Estimate (Cal. #126) acted favorably on the same matter.

WHEREAS, on May 29, 1974 a representative of the applicant applied for an amendment correcting the amended resolution on the grounds that technical errors were made in Description No. 1 of the amended resolution.

The Commission determined that the application is appropriate and warrants approval, subject to execution and recording of an Amended Agreement in a form satisfactory to the Corporation Counsel, as stated in in the following resolution:

RESOLVED, by the City Planning Commission that the application of Kaufman and Broad Homes, Inc., for the correction of errors in Description 1 of Attachment A of the resolution of CP-21032A be and hereby is approved as follows:

"Description 1"

Land Section 5

Block 7054 A  
7038 A

ALL that certain tract, piece or parcel of land with the buildings erected thereon, situate, lying and being in the Borough and County of Richmond, City and State of New York, bounded and described as follows:

BEGINNING at a point on the Southerly side of Barry Street (41.25 wide) distant 249.94 feet Westerly from the corner formed by the intersection of the Southerly side of Barry Street with the Westerly side of Rossville Avenue; running thence South 16 degrees 39 minutes 36 seconds East along the Westerly side of land now or formerly of Martin Banin 171.13 feet to a point; running thence North 68 degrees 51 minutes 28 seconds East 151.18 feet to a point; running thence North 73 degrees 49 minutes 57 seconds East 97.38 feet to a point on the Westerly side of Rossville Avenue distant 171.75 feet Southerly from the corner formed by the intersection of the Southerly side of Barry Street with the Westerly side of Rossville Avenue; running thence along the Westerly side of Rossville Avenue the following three (3) courses and distances:

- 1) South 15 degrees 53 minutes 45 seconds East 1190.02 feet to a point;
- 2) running thence South 18 degrees 02 minutes 45 seconds East 264.11 feet to a point;
- 3) thence South 16 degrees 37 minutes 44 seconds East 129.36 feet to a point;

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thence South 70 degrees 55 minutes 46 seconds West 1361.38 feet to lands now or formerly of Hugo McKeon; thence along the lands now or formerly of Hugo McKeon the following two courses and distances:

- 1) North 16 degrees 29 minutes 30 seconds West 129.36 feet to a point;
- 2) North 16 degrees 02 minutes 19 seconds West 262.49 feet to a point;

thence partly along the lands now or formerly of Daniel Winant North 16 degrees 02 minutes 19 seconds West 290.35 feet to a point; running thence North 16 degrees 45 minutes 43 seconds West 694.69 feet, partly along the lands formerly of Wynant and partly of Hugo McKeon and now or formerly of Anna Kunath; being also the Easterly boundary of Map. No. 1610 Richmond County; running thence North 13 degrees 19 minutes 37 seconds West and across the end of Westfield Avenue 191.12 feet to a point in a corner; running thence along the lands now or formerly of Joseph Sequine North 70 degrees 35 minutes 36 seconds East 133.03 feet; running thence along the lands of St. Joseph's Cemetery North 70 degrees 09 minutes 12 seconds East 534.68 feet to lands now or formerly of Kunath; running thence along the lands now or formerly of Kunath North 17 degrees 33 minutes 27 seconds West 178.27 feet to a monument located on the Southerly side of Barry Street, and running thence Easterly along the Southerly side of Barry Street North 70 degrees 54 minutes 48 seconds East 441.95 feet to the point or place of BEGINNING.

The above resolution duly adopted by the City Planning Commission on July 10, 1974 (Cal. No. 33) is herewith filed with the Secretary of the Board of Estimate, and a copy of the application for the correction, pursuant to Section 74-10 of the Zoning Resolution.

JOHN E. ZUCCOTTI, Chairman  
MARTIN GALLENT, Vice-Chairman;  
GERALD R. COLEMAN, ALEXANDER COOPER, GORDON J. DAVIS, SYLVIA DEUTSCH,  
CHESTER RAPKIN, Commissioners.

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III. PUBLIC HEARINGS

CITY-WIDE

No. 34

CP-22735

[Proposed amendment to the Zoning Resolution that would allow accessory air conditioning condensation units for one- or two-family residences as permitted obstruction in rear yards.]

PUBLIC HEARING in the matter of an amendment, pursuant to Section 200 of the New York City Charter, of the Zoning Resolution of the City of New York, relating to Section 23-44(b) concerning permitted obstructions in rear yards as follows:

Matter in **Bold Type** is new;

Matter in *italics* is defined in Section 12-10.

23-44

Permitted Obstructions in Required Yards or Rear Yards Equivalents

\* \* \* \* \*

(b) In any rear yard or rear yard equivalent:

*Accessory air conditioning condensation units for one- or two-family residences, provided that such units are located not less than eight feet from any lot line.*

\* \* \* \* \*

(On June 26, 1974, Cal. No. 1, the Commission scheduled this day for a hearing, which has been duly advertised.)

There were no appearances.

On motion, it was unanimously voted to close the hearing.

BOROUGH OF RICHMOND

No. 35

CPD 4

CP-22709

[Proposed rezoning from C7 to C4-2, R3-2 and C2-1 to permit the construction of a shopping center and bank south of Latourette Park in Staten Island.]

CONTINUED PUBLIC HEARING in the matter of a zoning change, pursuant to Section 200 of the New York City Charter, involving an amendment of the Zoning Map, Section Nos. 26d and 33c, changing from a C7 District to C4-2, R3-2 and C2-1 Districts property bounded by Richmond Avenue, Arthur Kill Road, a line 220 feet east of Richmond Avenue and Gurley Avenue, Borough of Richmond.

(On May 29, 1974, Cal. No. 11, the Commission scheduled June 12, 1974, for a hearing; on June 12, 1974, Cal. No. 35, the hearing was continued to July 10, 1974.)

There were no appearances.

On motion, it was unanimously voted to close the hearing.

On motion, Rule 105 was waived and the following favorable report was unanimously adopted:

July 10, 1974

This rezoning was requested by a representative of the owner of the property involved to permit the construction of a shopping center and bank.

On May 29, 1974 (Cal. #11) the Commission scheduled a PUBLIC HEARING on the proposed amendment. The hearing was duly held on June 12, 1974 (Cal. #35) and continued to July 10, 1974 (Cal. #35). There were no appearances in opposition and the hearing was closed.

At its meeting of June 25, 1974 Community Planning Board #4 voted to approve the proposed rezoning.

The developer has entered into a restrictive declaration by which he has assured the Commission that the proposed shopping center will conform to certain specifications set forth therein, including but not limited to a restriction against any development exceeding two stories in height.

The Commission therefore considered the rezoning appropriate and adopted the following resolution, which is duly filed with the Secretary of the Board of Estimate, pursuant to Section 200 of the New York City Charter:

RESOLVED, that the Zoning Resolution of The City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended by changing the Zoning Map, Section Nos. 26d and 33c, so as to change from a C7 District to C4-2, R3-2 and C2-1 Districts property bounded by Richmond Avenue, Arthur Kill Road, a line 220 feet east of Richmond Avenue and Gurley Avenue, Borough of Richmond, as shown on a diagram dated May 29, 1974.

JOHN E. ZUCCOTTI, Chairman;  
MARTIN GALLENT, Vice-Chairman,  
GERALD R. COLEMAN, ALEXANDER COOPER, GORDON J. DAVIS,  
SYLVIA DEUTSCH, CHESTER RAPKIN, Commissioners.

(DIAGRAM ATTACHED)

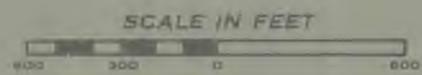


CITY PLANNING COMMISSION  
 CITY OF NEW YORK  
**DIAGRAM SHOWING PROPOSED  
 ZONING CHANGE  
 ON SECTIONAL MAPS  
 26d & 33c**

BOROUGH OF  
 RICHMOND

New York, May 29, 1974

*A. Friedman*  
 Acting Director, Division of Zoning  
*John J. Smith PE*  
 Chief Engineer



- NOTE:**
- indicates Zoning District boundary.
  - The area enclosed by the fine dotted line is proposed to be changed from a C7 District to C4-2 and R3-2 Districts and establishing a C2-1 District within the R3-2 District.
  - indicates a C2-1 District.