

An amendment of the zoning map (section no. 14b and 14d), pursuant to Sections 197-c and 200 of the New York City Charter, changing from an R5 District to an M1-1 District property bounded by 124th Street, Atlantic Avenue, 125th Street and 94th Avenue, Borough of Queens, CB #9.

The application for an amendment of the zoning map was filed by Edwin Storch, P.E. to permit the expansion of an existing industrial building and gas station to include an auto emission testing building and tire & truck warehouse. The application was certified as complete by the City Planning Commission on May 17, 1982, in accordance with Article 3 of the Uniform Land Use Review Procedure (ULURP) and referred to Community Board #9.

Community Board #9 held a public hearing on the application on July 21, 1982.

There were no speakers and the hearing was closed. However, both the applicant and the owners of the property appeared before the Board and explained their desire to expand their business in a series of stages over the next five years. They stated that they are requesting a zoning change rather than a variance from the Board of Standards and Appeals due to the considerable expense and time a variance would entail with the necessary renewals and additional filings as they added new buildings to their business.

The Community Board then heard the report of its Land Use and Housing Committee and its proposed resolution which called for the Board to oppose the rezoning request and invited the applicant to apply instead for a variance which it would support. The Board unanimously adopted the resolution, 15 in favor with no abstentions and no oppositions in accordance with Article 4 of ULURP. (The vote was non-complying because a quorum was not present.) While Community Board #9 had no objection to the expansion of the present business on the site, the Board believed that a variance would offer more site control than a zoning change tied to a restrictive declaration which would preclude residential uses of the site in the future. In addition, while acknowledging that a large manufacturing district containing the Long Island Rail Road yards is directly opposite the site, the Board voiced concern about the mapping of a new manufacturing zone, M1-1, adjacent to a residential area.

On July 14, 1982 (Cal. No. 17) the Commission scheduled a Public Hearing on the proposed amendment. The hearing was duly held on August 11, 1982 (Cal. #44). There was one appearance in favor, the applicant, and one opposed, the Chairman of the Community Board #9 Land Use and Housing Committee. The hearing was closed.

Consideration

The applicant's client owns the entire square block of property to be rezoned comprising an area of 20,069 square feet. The property is currently being used as a tire selling establishment (wholesale and retail) and a gas station with auto emissions testing service. There are 34 people currently employed at the site.

The applicant needs to expand his business and wishes to build three one-story buildings on the site within the next five years. The total new square footage to be built equals 4,684 square feet. These structures will be used for tire warehousing and automotive emission testing. The applicant will be employing an additional 20 to 40 people beyond his current work force given the ability to expand his facilities.

The current land use on the site is legally non-conforming. The site, zoned R5 has been developed with auto-related uses since prior to 1961. Surrounding the site on the east is a park, to the south and west are one and two-family homes which are zoned R5. Directly opposite the site to the north are the Long Island Rail Road shops and railyards located in an M1-1 zone.

The expansion of the existing facilities on the site could be accomplished by the applicant seeking a variance. However, the applicant's wish to expand his business in stages over a 5-year period as well as the need to apply for continual variance renewals makes such a process expensive and time consuming. The rezoning of the site itself to a M1-1 district is consistent with the existing uses on the site and will correct a long-standing non-conforming use.

In addition, the Commission has received a strong letter of support for the rezoning request from New York City's Deputy Mayor for Economic Policy and Development. The letter states that the proposed expansion benefits the City and the local community through increased employment and tax revenue. Furthermore, the letter states that the City must not place unreasonable administrative and regulatory barriers in the way of business expansion in New York City.

The concern of Community Board #9 regarding the need for oversight of the expanded uses on the site and the protection of the adjacent residential areas will be met by the applicant's agreement to sign a restrictive declaration limiting the uses on the site to only those stated in his proposal. The declaration will also be tied to the proposed site plan and will contain, among others, provisions for fencing, landscaping, new sidewalks, and lighting for the site.

The proposal received a negative declaration by the Departments of City Planning and Environmental Protection under the City Environmental Quality Review Process on July 15, 1981 indicating that the project will have no adverse impacts on the environment.

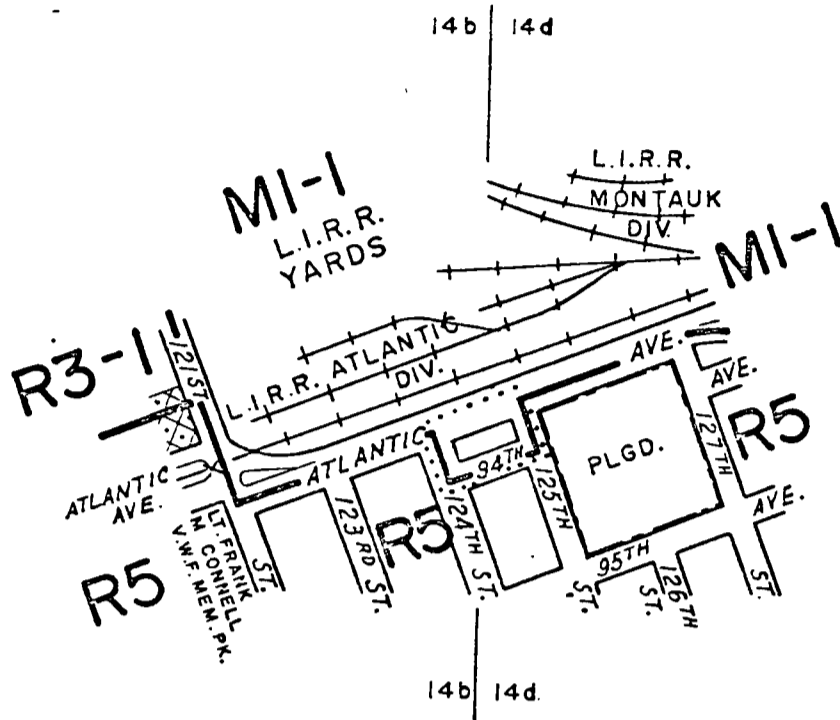
The City Planning Commission therefore considers the proposed rezoning appropriate and adopted the following resolution on September 22, 1982 (Cal. # 74) which is herewith filed with the Secretary of the Board of Estimate, in accordance with the requirements of Sections 197-c and 200 of the Charter.

RESOLVED, by the City Planning Commission, pursuant to Sections 197-c and 200 of the New York City Charter 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. 14b and 14d, so as to change from an R5 District to an M1-1 District property bounded by 124th Street, Atlantic Avenue, 125th Street and 94th Avenue, Borough of Queens, as shown on a diagram dated May 17, 1982; and be it further

RESOLVED, that a restrictive declaration (D-79), signed by Allan Taub known as Block 9441 Lots 4, 5, and 17 located within or adjacent to the rezoned area is hereby approved.

HERBERT STURZ, Chairman;
MARTIN GALLEN, Vice Chairman,
MAX BOND, JOHN P. GULINO, HOWARD B. HORNSTEIN,
~~XXXXXXXXXXXX~~, ~~XXXXXXXXXXXX~~, Commissioners.

Howard B. Hornstein, Commissioner voted no.






CITY PLANNING COMMISSION
 CITY OF NEW YORK
**DIAGRAM SHOWING PROPOSED
 ZONING CHANGE
 ON SECTIONAL MAP
 14b&14d**
 BOROUGH OF
 QUEENS

Certification Date:
 New York, May 17, 1982

Israel Rosen RE
 Director, Division of Zoning
Julius Specter RE
 Chief Engineer



- NOTE:**
-  indicates Zoning District boundary.
 -  The area enclosed by the fine dotted line is proposed to be changed from an R5 District to an MI-1 District.
 -  indicates a C2-2 District.

JR

D E C L A R A T I O N

THIS DECLARATION, made this 22nd. day of September, 1982, by South Shore Tire & Rubber Co., Inc., a domestic corporation, having offices at 124-12 Atlantic Avenue, Richmond Hill, N.Y., hereinafter referred to as "Declarant".

W I T N E S S E T H

WHEREAS, Declarant is the fee owner of real property located in the Borough of Queens, City and State of New York, Block 9441, Lots 4, 5, and 17, all of which real property is further described in Exhibit "A" annexed hereto.

WHEREAS, Declarant, believing it to be in their best interests to have the Subject Property rezoned from R5 to M1-1 for the purpose of constructing a manufacturing development, have submitted an application C800850ZMQ, to the City Planning Commission requesting said change; and

WHEREAS, Declarant desires to restrict the manner in which the Subject Property may be redeveloped, maintained and operated in the future and intend these restrictions to benefit all the land, including city'owned land, lying within one-half mile of the Subject Property; and

WHEREAS, Declarant represents and warrants that no restrictions of record on the use of the Subject Property, nor any presently existing 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 of the Subject Property in accordance therewith.

NOW, THEREFORE, Declarant declares 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.

1. Declarant covenant that if the Subject Property is rezoned, as previously described, the Subject Property and immediately adjoining areas shall be developed, landscaped and maintained as provided in the site plan annexed hereto as Exhibit B. The existing and proposed structures shall be limited to the following uses:

- a) Structure A shall be limited to tire manufacturing.
- b) Structure B shall be limited to tire warehousing.
- c) Structure C shall be limited to an automotive service station.
- d) Structures D and E shall be limited automotive emission testing.

The aforementioned uses are permitted only between the hours of 7 A.M. and 7 P.M.

2. Declarants covenant that if the Subject Property is rezoned, as previously described, the Subject Property and immediately adjoining areas shall be provided and maintained by the Declarants with the following, as provided in the site plan annexed hereto as Exhibit B;

- a) An eight foot (8') cedar wood stockade fence, which shall prevent visual access through said fence, along the southern and eastern portions of the Subject Property; and, starting at the N.W. corner of Structure A along the lot line until the western curbs cut on Atlantic Avenue existing at the time of the making of this Agreement.

- b) Vine planting or shrubbery along the street side of the fence described in 2(a); and
- c) The Subject Property shall be illuminated after dusk to the standard of an average 3-foot candle intensity; and
- d) The sidewalks surrounding the Subject Property shall be repaired and/or rebuilt as provided in 230-1.0 of the Administrative Code of the City of New York; and
- e) There shall be no parking of vehicles serviced or be serviced outside of the Subject Property;
- f) Adequate "Slow Children" signage shall be posted along the immediately adjoining streets.

3. No permanent Certificate of Occupancy for the Subject Property shall be sought unless and until the provisions of Paragraphs two (2) and three (3) have been complied with.

4. The Declarant recognizes that the City of New York is an interested party to this Declaration and consents to the City's enforcing the covenants, conditions, restrictions and agreements herein contained by whatever means may be appropriate to the situation.

5. This Declaration shall become effective when the City Planning Commission shall have duly approved the application, C800850ZMQ, for a rezoning from K5 to M1-1. This Declaration runs with the land, binding the Declarant and his successors and assigns, and it shall be construed.

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

However, the Chairman of the City Planning Commission may administratively approve what he deems to be minor modifications to this Declaration which shall not be deemed amendments requiring the approval of the City Planning Commission and Board of Estimate. The Commission shall notify the affected community board of any such modification.

7. Declarant covenants that when the City Planning Commission and the Board of Estimate have approved application, C800850ZMQ, they shall immediately file and record this Declaration in the Office of the Registrar of the City of New York, County of Queens, indexing it against the entire Subject Property, Block 9441, Lots 4, 5 and 17. Declarant further covenants to provide the City Planning Commission with a copy of the Declaration as recorded, certified by the Registrar of Queens County. The City of New York shall also have the right to record this Declaration. However, all costs of recordation and certification whether undertaken by the Declarant or by the City, shall be borne by the Declarant.

IN WITNESS WHEREOF, the Declarant has caused this Declaration to be signed this 22nd day of September 1982.

SOUTH SHORE TIRE & RUBBER CO., INC.
BY: Allan Taub , President

State of New York)

ss.:

COUNTY OF QUEENS)

On the day of September, 1982, before me personally came to me known, who, being by me duly sworn, did depose and say that he resides at New York, that he is the President of South Shore Tire & Rubber Co., 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 corporate seal; that it was so affixed by order of the board of directors of said corporation, and that he signed his name hereto by like order.