

Court of Appeals
of the
State of New York

In the Matter of the Application of

TENANTS UNITED FIGHTING FOR THE LOWER EAST SIDE a.k.a.
TUFF-LES, CAAAV: ORGANIZING ASIAN COMMUNITIES, GOOD OLD
LOWER EAST SIDE a.k.a GOLES, LAND'S END ONE TENANTS
ASSOCIATION a.k.a. LEOTA, and LAGUARDIA HOUSES
TENANTS' ASSOCIATION,

Petitioners-Appellants,

For Judgement Pursuant to CPLR Art. 78
and a Declaration Pursuant to CPLR § 3001

— against —

CITY OF NEW YORK DEPARTMENT OF CITY PLANNING,
CITY PLANNING COMMISSION, CHERRY STREET OWNER LLC,
TWO BRIDGES SENIOR APARTMENTS, L.P., TWO BRIDGES
ASSOCIATES L.P., and LE1 SUB LLC,

Respondents-Respondents.

MOTION FOR LEAVE TO APPEAL

PAULA Z. SEGAL, ESQ.
TAKEROOT JUSTICE
Attorneys for Petitioners-Appellants
123 William Street, 16th Floor
New York, New York 10038
(646) 459-3067
psegal@takerootjustice.org.

COURT OF APPEALS
STATE OF NEW YORK

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In the Matter of:

TENANTS UNITED FIGHTING FOR THE LOWER
EAST SIDE A.K.A. TUFF-LES, CAAAV:
ORGANIZING ASIAN COMMUNITIES, GOOD
OLD LOWER EAST SIDE A.K.A. GOLES, LAND’S
END ONE TENANTS ASSOCIATION A.K.A.
LEOTA, and LAGUARDIA HOUSES TENANTS’
ASSOCIATION,

Petitioners-

Respondents

-against-

CITY OF NEW YORK DEPARTMENT OF CITY
PLANNING, CITY PLANNING COMMISSION,
CHERRY STREET OWNER LLC, TWO BRIDGES
SENIOR APARTMENTS, L.P., TWO BRIDGES
ASSOCIATES L.P., and LE1 SUB LLC,

Respondents-Appellants.

First Department
Appellate Case No.
2020-01820

County of New York
Index No 153029/19

**Notice of Motion for
Leave to Appeal to the
Court of Appeals**

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PLEASE TAKE NOTICE that Petitioners-Appellants Tenants United Fighting For
The Lower East Side a.k.a. TUFF-LES, CAAAV: Organizing Asian Communities,
Good Old Lower East Side a.k.a GOLES, Land’s End One Tenants Association
a.k.a. LEOTA, and Laguardia Houses Tenants’ Association by their undersigned
counsel, on this Motion for Leave to Appeal to the Court of Appeals, the attached

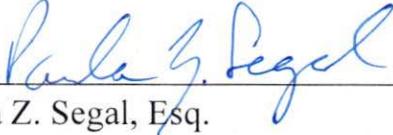
exhibits, and prior pleadings and proceedings herein, will move on March 29, 2021, at Court of Appeals Hall, 20 Eagle Street, Albany, New York, for:

- (1) an order pursuant to CPLR 5602(a)(1)(i) granting permission to appeal from the Decision and Order of the Appellate Division, First Department, entered on February 16, 2021, which reversed an Order of the New York County Supreme Court entered on February 25, 2020, denied the Petitioner-Respondents petition and dismissed the proceeding they brought pursuant to CPLR Article 78 upon the ground that this case presents both issues of importance that impact thousands of New York State residents and novel questions of law that should be reviewed by this Court, and,
- (2) a stay of enforcement of the same February 16, 2021, Decision and Order pending the Court's determination of the appeal, and
- (3) such other relief as this Court may deem just and proper.

PLEASE TAKE FURTHER NOTICE, that answering papers, if any, must be served and filed in the Clerk's Office of the Court of Appeals, with proof of service, on or before the return date of this motion pursuant to this Court's Rules of Practice 500.21(c).

Date: March 16, 2021
Brooklyn NY

Respectfully submitted,



Paula Z. Segal, Esq.

TakeRoot Justice

Attorneys for Petitioners-Appellants

123 William Street, 16th Floor

New York, New York 10038

(646) 459-3067

psegal@takerootjustice.org

To:

Clerk

Court of Appeals of the State of New York

20 Eagle Street

Albany, New York 12207-1004

Janice Mac Avoy

FRIED, FRANK, HARRIS, SHRIVER & JACOBSON LLP

Attorneys for Cherry Street Owner, LLC, Two Bridges Senior Apartments, L.P.,

Two Bridges Associates L.P., and LE1 SUB, LLC

One New York Plaza

New York, New York 10004

(212) 859-8000

Jamison Davies

NEW YORK CITY LAW DEPARTMENT

*Attorney for City of New York Department of City Planning and City Planning
Commission*

100 Church Street, Room 5-153

New York, NY 10007

(212) 356-2190

COURT OF APPEALS
STATE OF NEW YORK

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In the Matter of:

TENANTS UNITED FIGHTING FOR THE LOWER
EAST SIDE A.K.A. TUFF-LES, CAAAV:
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LOWER EAST SIDE A.K.A. GOLES, LAND'S END
ONE TENANTS ASSOCIATION A.K.A. LEOTA, and
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-against-

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York
Index No
153029/19**

CITY OF NEW YORK DEPARTMENT OF CITY
PLANNING, CITY PLANNING COMMISSION,
CHERRY STREET OWNER LLC, TWO BRIDGES
SENIOR APARTMENTS, L.P., TWO BRIDGES
ASSOCIATES L.P., and LE1 SUB LLC,

Respondents-Respondents.

X

**MEMORANDUM IN SUPPORT OF PETITIONERS-APPELLANTS'
MOTION FOR LEAVE TO APPEAL**

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Petitioners-Appellants Tenants United Fighting For The Lower East Side a.k.a. TUFF-LES, CAAAV: Organizing Asian Communities, Good Old Lower East Side a.k.a. GOLES, Land's End One Tenants Association a.k.a. LEOTA, and La Guardia Houses Tenants' Association ("Petitioners") respectfully submit this Memorandum of Law in support of their motion for leave to appeal to the Court of Appeals from the Appellate Division, First Department's (the "Appellate Division") February 16, 2021 Decision and Order (the "Decision")¹ reversing the Order of the New York County Supreme Court, entered on February 25, 2020, which had granted the Article 78 Petition and annulled December 5, 2018 determinations of respondent New York City Planning Commission ("CPC" or "Commission") approving applications to construct four megatowers in the Two Bridges Large Scale Residential Development area (the "Two Bridges LSRD"), R7-12.

The Appellate Division Decision also resolved *Lower East Side Organized Neighbors et al. v. New York City Planning Commission et al.*, S. Ct. Index No. 153024/2019, App. No. 2020-01933 (Sup. Ct. N.Y. Co.) (the "LESON case"). Decision at 2. Petitioners in that case are also seeking leave from this Court to appeal the same decision, on the same ground that the Appellate Division failed

¹ The Decision is attached as Exhibit A to the accompanying Affirmation of Paula Segal, dated March 16, 2021 ("Segal Aff.").

to consider the specific language of the 1972 Board of Estimate Resolution first recognizing the Two Bridges LSRD. The briefs in the two Motions lay out the same facts and make substantially the same arguments.²

PRELIMINARY STATEMENT

Petitioners seek leave to appeal from the three-paragraph Decision of the Appellate Division, which never so much as addressed the basic question raised by the Petition, erroneously dismissing it as foreclosed by that court's prior decision in *Council of the City of N.Y. v. Dep't of City Planning of the City of N.Y.*, 188 A.D.3d 18 (1st Dep't 2020) (the "City Council case"). Decision at 2-3.

This case challenges the lawfulness of Commission resolutions approving four enormous mostly luxury towers, one over 1,000 feet high and the others over 700 feet high, between, around, and literally on top of, existing buildings in the Two Bridges LSRD, along South Street next to the East River just north of the Manhattan Bridge overpass. *See* Petition, ¶ 1, R259.

² The only difference between them is in how each describes the findings that the Commission is required to make per ZR § 78-313. Below, the findings are described as an evaluation of *the potential impact of the proposed new buildings* on light, air, bulk, neighborhood character and the surrounding community. In the LESON brief, they are described as a re-evaluation of the impact of the waivers previously granted in the context of a new LSRD site plan with the proposed new buildings on the same elements. It is not disputed by any party to either case that no findings at all were made by the Commission in support of its 2018 Resolutions.

It presents a novel and important question of law that directly affects hundreds of thousands of residents of the dozens of LSRDs created as planned developments throughout the five boroughs of New York City pursuant to Chapter 78 of the New York City Zoning Resolution (“ZR”): Whether, when a Resolution of the Board of Estimate (which at the time exercised the land use powers of today’s City Council) or the City Council approving zoning waivers to facilitate an LSRD specifically required that “[t]he premises shall be developed in size and arrangement as stated in the application and as indicated on the plans filed with this application,” without any limitation. and further that “[a]ny alteration in the premises [be] authorized by the City Planning Commission,” R398 (the “1972 Two Bridges BOE Resolution”), the Commission can override those conditions and approve a drastic alteration of those same premises without following the Authorization procedure as defined in the LSRD Chapter of the ZR.

Per ZR Chapter 78, Commission Authorization allows it to exercise its discretion as long as it makes findings concerning light and air, bulk, neighborhood character, and other potential impacts on the LSRD and the surrounding community. *See* ZR § 78-313. If the Court does not review the Appellate Division Decision, the Commission will be permitted to avoid making these findings in its consideration of approvals of the new megatowers proposed

for Two Bridges, and for similar proposals that are and will be advanced for similar areas across the City.

Without providing any reasoning, the Appellate Division summarily and erroneously held that the question was foreclosed by its earlier decision in the City Council case. Yet Petitioners' claim here in no way conflicts with the Appellate Division's ruling in the City Council case. The Council's claim, although about the same proposed projects, was pursuant to a different regulation and sought different relief. The Council claimed that the 1995 Council and Commission Resolutions that conditioned approval of a Special Permit on site plans for a single parcel, drawn in August and September 1994, where no new construction has been proposed prohibited any future amendment of the LSRD Site Plan without Council approval. City Council case, 188 A.D.3d at 27. Rejecting this claim, the Appellate Division, found that the prohibition in the 1995 Resolution applied only to the one parcel depicted on the plans specifically listed in the Resolution, and not to the whole LSRD Site Plan. *Id.*

In contrast to the Council's claim, Petitioners' claim is based on the 1972 Board of Estimate Resolution by which LSRD zoning waivers in the Two Bridges area were first approved. Unlike the 1995 City Council and Commission Resolutions, which prohibited future changes on one parcel only, the 1972 Two Bridges BOE Resolution incorporated a Site Plan for the entirety of the 8.3-acre

LSRD site. Also unlike the 1995 Resolutions, the 1972 Resolution incorporated all the plans submitted with the initial application, without any exception, as a condition of approval and included the directive that an “authorization” by the Commission is the only permitted means of deviating from them. R398.³

The Council only sought relief under the 1995 Resolution, and not under the 1972 BOE Resolution, because a ruling on the 1972 Resolution would not have given it what it sought: the power to approve or reject the new Site Plan. As the Appellate Division correctly held, however, the 1995 Resolution does not require all future site plan changes to be by Special Permit, and therefore does require Council approval of such changes. City Council case, 188 A.D.3d at 27. In that decision the Appellate Division provided a direct response to the City Council’s claim, and took a limited look at the text of the Zoning Resolution. It did not answer the question Petitioners put to the court: whether when an LSRD Resolution, like the 1972 Two Bridges Resolution, prohibits future general site plan changes “unless authorized by the City Planning Commission,” the Commission can approve such changes without ZR § 78-313 findings. The Appellate Division failed to address the question or even acknowledge the

³ The 1972 Resolution says nothing that would restrict owners of property in the Two Bridges LSRD from seeking further waivers under the LSRD Chapter of the ZR, including additional CPC Authorizations or Special Permits.

distinctions between it and the questions that it had resolved in the City Council case.

BACKGROUND

A. Large Scale Residential Development in NYC Zoning History

At a time when towers-in-the park architecture surrounded by open space, light and air, propounded by modernist architects such as Le Corbusier, was in fashion, the 1961 Zoning Resolution enacted rules specifically intended to provide a framework for detailed consideration by the City Planning Commission before large-scale developments on superblocs like the Two Bridges LSRD would be permitted. The 1950 “Plan for Rezoning the City of New York,” a preparatory study for the 1961 Zoning Resolution,⁴ explains that such developments presented both opportunities and problems: opportunities because they allowed for flexibility and more open space; problems because the underlying zoning rules were not designed for superblocs, and could easily lead to excessive density.⁵ While “[s]uper-block development in a normal large-scale project makes possible many of the major advantages of such a project—greater amenity, more protection from street traffic, and so on”—the underlying rules “based on the

⁴ See, e.g., City Planning Department, City Planning History (“Much of [the Plan for Rezoning the City of New York’s] contents form the basis for the 1961 Zoning Resolution.”), available at <https://www1.nyc.gov/site/planning/about/city-planning-history.page?tab=3>.

⁵ Harrison, Ballard & Allen, *Plan for Rezoning the City of New York* (1950), at 71-74, available at https://www1.nyc.gov/assets/planning/download/pdf/about/city-planning-history/plan_for_rezoning.pdf#page=88.

assumption of single-lot development[]break down completely in regulating such large-scale developments.” That is because “super-block development makes available for use large amounts of land which would remain in streets in a system of gridiron development.” *Id.* at 72-73. The consequence is that

height regulations—based on the assumption of traditional blocks intersected with gridiron streets every few hundred feet—exert practically no control at all when buildings are placed in large open areas apart from streets. As a result, under the existing Zoning Resolution the zoning envelope for large-scale projects would permit huge buildings, extending from street to street, with endlessly rising set-backs and a giant tower in the center of the super-block—a wholly fantastic conception.

Id. at 71. In order to prevent such “giant tower[s],” the 1950 Plan proposed that the City Planning Commission be given the power to waive certain zoning requirements in such developments only in exchange for a better overall site plan than the underlying zoning would otherwise allow. *Id.* at 239-40 (proposed “Regulations For Large-Scale Developments”).

This concept forms the basis of the LSRD regulations ultimately adopted as Chapter 8 of Article VII of the Zoning Resolution, ZR §§ 78-01 to 78-53. As the first section of Chapter 8 states, the LSRD regulations were designed “to promote and facilitate better site planning [of large-scale developments] ... through modified application of the district regulations in such developments.” ZR

§ 78-01. “[S]everal zoning lots [would be] planned as a unit” so as to lead to “the best possible site plan.” *Id.*

In its essence, the LSRD is a compromise: in exchange for a better site plan than would be permitted under the otherwise applicable district regulations, one or more of those regulations will be waived. That compromise is embodied in the requirement that the site plan for the LSRD, and accompanying zoning calculations for all parcels covered by the plan, be submitted with each LSRD application, ZR §§ 78-05, 12-10, even if the requested waivers of underlying zoning would only apply to a single parcel. LSRD designation is only available for areas that have been “developed as a unit” and meet a minimum size. ZR § 12-10 (definition of “Large-scale residential development”).⁶ Although large scale development areas existed in the earlier Zoning Resolution (1916),⁷ the 1961 re-write for the first time introduced the requirement that the Commission make findings as a condition precedent to approving waivers based on a plan for an entire area. Those findings are, in part, that the development as proposed:

will...benefit both the residents of the large-scale residential development and the City as a whole;...

⁶ An LSRD must “have an area of at least 1.5 acres and a total of at least three principal buildings, or an area of at least three acres and a total of at least 500 dwelling units.” ZR § 12-10.

⁷ See Section 21(C) of the 1916 Zoning Resolution (1960) 45 et seq. (process for approval of large-scale residential projects, no findings required), *available at* https://www1.nyc.gov/assets/planning/download/pdf/about/city-planning-history/1960_zoning_resolution.pdf.

will not unduly increase the bulk of buildings, density of population, or intensity of use in any block, to the detriment of the occupants of buildings in the block or nearby blocks;...

will not affect adversely any other zoning lots outside the large-scale residential development by restricting access to light and air or by creating traffic congestion; [and]...

will not impair the essential character of the surrounding area and will not have adverse effects upon the access to light, air and privacy of adjacent properties.

ZR § 78-313(b)-(d), (g).

Upon evaluation of an application and site plan for the whole area, and on making the above findings, the Commission has the power to approve specific exceptions to underlying zoning. See ZR § 78-311 (“Authorizations by the City Planning Commission,” listing waivers that the Commission can grant on its own), § 78-312 (“Special permits,” listing more significant exceptions that the Commission can approve which can only be granted upon the subsequent approval of the City Council, *see* NYC Charter § 201). Developers can seek these exceptions through LSRD designation before applying to the Department of Buildings (“DOB”) for permits to build structures that the DOB would otherwise reject for their violation of the applicable zoning district rules. Once such approval is granted, the entire LSRD area is removed from the regime of as-of-right development per the district rules and is instead governed by those conditions and specific safeguards included in the resolutions that established the LSRD, per ZR

§§ 78-041, 78-042, and excused from strict adherence to the district rules. Those designations do continue to “govern,” ZR § 78-03: they remain as an upper limit on development in the entire area.

In contrast to the underlying zoning district rules, ZR § 78-313 findings serve as a guide for the Commission’s consideration, not as precise guardrails. It is up to the appointed Commissioners⁸ to deliberate and determine whether the site plan is truly “the best possible site plan,” per ZR § 78-01, whether the proposed increase in bulk would be “undu[e]” or will serve the best possible site plan, whether people living outside the LSRD area will be “adversely” impacted and what the “essential character” of the neighborhood is, and whether it will be “impair[ed].” ZR § 78-313. After such deliberation, the Commission has the power to approve, approve with modifications or disapprove each application. 62 RCNY § 2-06(g); *see also* Segal Aff. ¶ 19 (Commission disapprovals of LSRD application on the ground that it was unable to make the required findings).

⁸ The Commission has thirteen (13) appointed members. The Mayor appoints seven members, each Borough President appoints one member, and the Public Advocate appoints one member. NYC Charter § 192(a).

B. The Two Bridges LSRD

1. The 1972 Application and the CPC and Board of Estimate Resolutions

In 1972, the City's Housing and Development Administration ("HDA") submitted an Application to the City Planning Commission for approval of an LSRD to include 8.3 acres stretching along Water Street within the Two Bridges Urban Renewal Area. R7710-11 (application); R397 (site plan); *see* SR3 (clearer reproduction). HDA sought three Authorizations pursuant to ZR § 78-311 and a Special Permit pursuant to ZR § 78-312. Specifically, the agency needed Commission and BOE approval to transfer development rights for 234 "zoning rooms" (approximately 50 units) between parcels 5 and 7, which are not adjacent, *see* R7714 (authorization sought "to permit the distribution of zoning rooms without regard for zoning lot lines and district boundary lines"); R7716 (showing calculations for transfer).⁹ Such a transfer is otherwise prohibited by the ZR.¹⁰ It

⁹ Parcel 7 has the capacity for 1,046 zoning rooms, but would be built with 1,280 rooms per the LSRD plan; Parcel 5 has the capacity for 4,816 zoning rooms but would be built with 1,780 under the plan. Each dwelling unit is 5 zoning rooms, per the calculations used by the HDA, e.g. 256 dwelling units is 1,280 zoning rooms in Parcel 7 under the LSRD plan. Thus, the additional 234 zoning rooms that were permitted on Parcel 7 based on the plan for the entire site are equal to 47 dwelling units.

¹⁰ *See* Department of City Planning, Survey of Transferable Development Rights Mechanisms in New York City (2015) ("DCP's Survey"), 3-44 *available at* <https://www1.nyc.gov/assets/planning/download/pdf/plans-studies/transferable-development-rights/research.pdf> (listing the only mechanisms available in NYC for transferring zoning bulk: zoning lot mergers between contiguous tax lots within a block, transfers from Landmarked properties, Special District transfers and Large Scale Development areas).

also sought waivers of yard and height and setback regulations which are otherwise applicable in the underlying zoning districts. R7714.

HDA submitted the Site Plan that was a required part of the 1972 Application, *see* ZR § 78-05, which showed new superblocks to be created by de-mapping streets. As anticipated by the 1950 “Plan for Rezoning,” this made available for construction large amounts of land, and hence bulk, previously in roadbeds: the 1972 Site Plan shows that four blocks of Water Street, and one block each of Rutgers Slip and Jefferson Street would all be incorporated into superblocks, and building planned to be built on three sites that incorporate roadbed. SR3.

HDA’s cover letter stated that the 1972 “Large Scale Residential Development Plan” contemplated construction of “approximately 1300 units to be built on 4 sites in the project area, 52% [of which] will be low income units and 48% will be moderate income units. In addition[,] there will be two industrial sites and a [p]ublic park site.” R7710. The Application explained that the Plan would “remove all the existing substandard and blighting structures replacing them with a comprehensive and coordinated project of needed residential and community facilities, as well as related uses,” and that, “The parcels have been planned as a unit to derive the maximum benefit from the available open space and views with a minimum adverse effect on surrounding property.” R7712-13.

HDA's 1972 Application showed buildings on four large parcels with specifics including the number of dwelling units to be included in each new building and precise measurements. SR3 (LSRD General Site Plan showing buildings on Parcels 4, 5, 6 and 7) . Planned distances between the buildings and other site features are indicated down to the 1/8 of an inch. *Id.*, SR3, SR4, SR6, SR8. Parcel 4 was shown to be the location of a 19-story residential building with 225 units, parking and a building with commercial and community facility space. SR8. Parcel 5 was shown as two connected residential buildings arranged in a U shape, with six and 16 stories each and a total of 142 and 214 units, a community facility and commercial space, a day care center and parking. SR6. Parcel 6 was shown as a 30-story residential building with 352 units, parking, a community facility and a commercial building. SR4. Parcel 7 on the 1972 Plan was a 26-story building with 256 units, a community facility and parking. SR3. Parcel 8 was "to be developed as a Public Park," R7712, and was labelled as such on the Site Plan, SR3.

On May 17, 1972, the CPC approved a Resolution granting the Application for a Special Permit and Authorizations with respect to the full 8.3 acres: "property bounded generally by Pike Slip, Cherry Street, Montgomery Street, and South Street." R394-96. The CPC Report memorializing the Resolution referred twice to "the General Site Plan submitted with and made part of the

application,” R394-95, and the CPC Resolution itself also twice stated that development was to follow “the plans filed with this application,” R395, which comprised the entire LSRD site, SR3. To achieve that plan, the 1972 Resolutions allowed Parcel 7 to be built with more bulk than its zoning district allowed, as long as Parcel 5 would be built with significantly less and that plans for buildings on the surrounding Parcels demonstrated sufficient open space, light and air, R7716, all as shown on the General Site Plan submitted with the application and incorporated into the Resolutions, R397; *see also* SR3 (for clearer reproduction).

Although the 1972 CPC Report also recites that the Application was “to implement plans for a Federally-aided public housing project” which, it states, was the subject of a *separate* CPC report and action,¹¹ the Resolution itself does not mention any specific parcel or any housing project. Nor does the 1972 Application mention a federally-funded housing project on Parcel 7. It merely states that two of the five parcels (Parcels 4 and 7) of the LSRD will be developed “with Low-income housing,” while two others (Parcels 5 and 6) will have “moderate income housing.” R7712.

¹¹ R394 (“The housing project is the subject of a report (CP-21753) approved by the Commission on March 6, 1972 (Cal. #2) and by the Board of Estimate on April 20, 1972 (Cal. #61).”). In their briefing papers to the Appellate Division, Developer-Respondents erroneously claim that the 1972 Resolutions pertained to development of a federally-funded housing project on Parcel 7 only, and provided an inaccurate description of the General Site Plan. To the extent the Appellate Court was swayed by this misrepresentation, this was its error.

In approving the 1972 Resolution, the CPC made the findings required by ZR § 78-313 as a “condition precedent” to such approvals, and included conditions and safeguards for “future use and development” as permitted by ZR § 78-041 and 78-042. R395. Importantly here, those conditions and safeguards included first, that

[t]he premises shall be developed in size and arrangement as stated in the application and as indicated on the plans filed with this application,

R395, and second, that,

[a]ny 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 and Special Permit Authorizations herein granted,

R396.

The 1972 Application sought a Special Permit as well as Authorizations. Whereas Authorizations are approved by the CPC only, Special Permits must also be approved by the City Council—or, in 1972, by the Board of Estimate (“BOE”), which then exercised the same powers with respect to land use issues that the City Council exercises today. *See Friends of Van Voorhees Park, Inc. v. City of New York*, Index No. 134528/93, at 3 (S. Ct. N.Y. Co. Jan. 23, 1995), *aff’d*, 216 A.D.2d 259 (1st Dep’t 1995) (“When the Board of Estimate was

abolished its administrative and legislative power to act with respect to land use review was redistributed to the City Council”).

The approval process for Special Permits is similar to that for Zoning Resolution amendments and zoning district designations that govern as-of-right development: Under today’s Charter, both go through the Uniform Land Use Review Procedure (“ULURP”) set forth in Charter § 197-c, which involves review by the Community Board and Borough President, the CPC and, at its discretion, the City Council and the Mayor. NYC Charter § 197-c(a)(3)-(4). In 1972, both had to be approved by the CPC and the BOE. *See* Commission, Zoning Maps and Resolution (1961), § 74-10.¹² The consequence is that a BOE Resolution granting a Special Permit has virtually the same force as a provision of the Zoning Resolution. *See also* NYC Charter § 200 (describing the single process for amendment of “any existing resolution or regulation of the council, the board of estimate or of the city planning commission” regarding zoning). The conditions contained in a BOE Resolution are binding on the CPC. They can be modified by a subsequent BOE or City Council Resolution, but not by the Commission acting alone.

¹² Available at https://www1.nyc.gov/assets/planning/download/pdf/about/city-planning-history/zoning_maps_and_resolution_1961.pdf#page=254.

On May 25, 1972, the BOE approved verbatim the Two Bridges LSRD Resolution previously approved by the CPC. R398 (the BOE adopted the language of the CPC Resolution only, not the text of its full report). That Resolution contained the same description of the LSRD’s boundaries, the same references to the Site Plan, and the same conditions and safeguards limiting how the Site Plan could be modified in the future as the CPC Resolution. *Id.* Those conditions have not been changed or abrogated by any subsequent resolution.

2. Changes to the Two Bridges LSRD, 1972 to 2017

Between 1972 and the purported approval of the “minor modifications” at issue here, the 1972 LSRD Site Plan was amended on six other occasions. R3347-48. Two involved additional special permits and were accordingly approved by resolutions of both the CPC and the BOE or the City Council, and four only needed authorizations per ZR Chapter 78 and so were only approved by the CPC. *Id.* Each of these actions was accompanied by the required findings.¹³ R417-18, 7738, 421, 423-24, 428, 435-36. The 1977 BOE Special Permit approval incorporated a site plan for the entire LSRD area and re-iterated the earlier statement directing that future site plan changes be made by CPC Authorization.

¹³ Because the resolutions approving Authorizations only did not go to the Board of Estimate (or, after 1987, to the City Council), they did not contain conditions binding on the CPC.

Significantly, in 1985, the Commission authorized the removal of Parcel 8, which had been planned as a Park, from the LSRD Site Plan entirely. R423. Subsequent to Parcel 8's removal from the site plan, an 800-foot tower was built on it, apparently as-of-right. R152 (attorney for Intervenor Respondents-Appellants describing construction of One Manhattan Square on the Parcel 8 site).

The 1986 Resolution incorporated the "General Site Plan dated March 1986" as a condition of approval. R428. Subsequently, only one action authorized a change to that plan: the 1995 CPC Resolutions, which contained the condition that

[t]he property that is the subject of this application [Parcel 4B] ... shall be developed in size and arrangement substantially in accordance with the dimensions, specifications and zoning computations indicated on the following plans...:

<u>Drawing No.</u>	<u>Title</u>	<u>Last Date Revised</u>
A-4	Zoning Data	9/20/94
A-6	Site Plan, Site Sections	8/31/94

R437. Plans A-4 and A-6 show only Parcel 4B. R439, 440. This resolution was adopted by the City Council. R441-42. It did not abrogate or otherwise affect the conditions stated in the 1972 and 1977 resolutions. This resolution was the subject of the City Council case, 188 A.D.3d at 27.

In addition to the six resolutions formally approving changes to the Two Bridges LSRD Site Plan, in two instances the Commission acquiesced to

“modifications” to the LSRD without producing any report, passing any resolution or making any findings. In each instance, the record evidence suggests that the CPC never formally approved these “modifications,” and that they were not land-use actions sanctioned by any law or regulation.

The most recent instance was in 2013, when the CPC ostensibly approved a “minor modification” for a building that was ultimately not built. The only record evidence of this supposed approval is in a letter from the Department of City Planning to the Department of Buildings stating that the CPC had “determined that the modifications constituted a minor modification consistent with the original approval.” R1762. This letter does not state that the Commission approved the changes. The determination was never challenged. The second instance, also never challenged, was in 1975, when HDA proposed “a minor adjustment in the project statistics and the site plan” of Parcel 6A necessitated by the switch from one modular construction system to another cheaper system. *See* R399 et seq. In this instance too, there was no CPC report or resolution. Here too, a letter to the Department of Buildings stated that the Commission had “determined” that the proposed revisions to the Site Plan “are consistent with the original approval.” R411. Two years later, the Commission did adopt a resolution incorporating a site plan that showed the 1975 changes on it. R411, R418. Notably, too, the changes requested there were truly *de minimis*. R400.

3. Developers' 2018 Applications for "As-of-Right" Development

In 2018, the Developer-Respondents submitted three applications for approvals of "minor modification[s]" to "update the site plan and zoning calculations" of "the existing Two Bridges Large-Scale Residential Development...originally approved by the City Planning Commission (the "CPC") on May 17, 1972, application number CP-21885," to allow the construction of four enormous new towers "located...between and above portions of the existing buildings," R3346, R3351, on LSRD Parcels 4A¹⁴, 5, and 6A. The proposed buildings would be 79 stories and 1,008 feet high, 62 stories and 724 feet high, and two towers on a single base, one 62 stories and 728 feet high and one 69 stories and 798 feet high. R7335.

At CPC's Review Session on June 25, 2018, Department of City Planning ("DCP") staff stated that the applicants were only seeking to update the Two Bridges site plan and zoning calculations "so that City Planning's records are correct." R278. There was no discussion at all about whether there was evidence that adding the proposed skyscrapers to the LSRD area could actually meet the ZR § 78-313 findings, no presentation of the Site Plan that currently controls the area,

¹⁴ No building is proposed on Parcel 4B, *see* R7383, but the owner of Parcel 4A plans to utilize a zoning lot merger to add development capacity from Parcel 4B to Parcel 4A, thus Parcel 4B is included in the application.

and no opportunity for the Commission to deliberate on the findings and come to a reasoned exercise of its discretion. At a subsequent Commission review session, Department Director Marisa Lago, presented a contradictory statement about the applications before them and the controlling law.

Since the proposed projects comply with existing zoning, they would normally be considered as-of-right and would not trigger environmental review. However, since these buildings are within an existing large-scale development plan, they require an update to the large-scale plan and floor area calculations, which triggers environmental review.

R7325. As only discretionary, non-ministerial approvals trigger the SEQRA environmental review requirement, *Incorp. Vill. of Atlantic Beach v. Gavalas*, 599 N.Y.S.2d 218, 219 (1993), the Commission should have been directed to exercise its discretion. Instead, it was told repeatedly by Department staff that the only thing that was needed was the Commission's approval of a change to the Department's records to reflect the new site plan, and not an actual approval (or disapproval) of the proposed new buildings. DCP merely explained that they believed the "findings made for the previously granted authorizations and special permits on the site would remain valid." R277-78. The Commission subsequently passed resolutions purporting to approve each Owner's application for approval of an "as-of-right" development. R311, R330, R338, R356, R357, R363, R382.

This was the first time the Commission ever passed a formal resolution purportedly “modifying” the Two Bridges LSRD site plan without the Commission first making the required findings about the buildings proposed to be built. *See* R7738, R417-18, R421, R423-24, R428, R435-36 (required findings made in each prior amendment).

C. Procedural History

The Verified Petition herein was filed in Supreme Court, New York County, on March 21, 2019. R256. A verified petition in the companion case of *Lower East Side Organized Neighbors et al. v. New York City Planning Commission et al.*, S. Ct. Index No.153024/2019, App. No. 2020- 01933 (Dkt. No. 1), was filed on March 22, 2019. In addition to other claims, both petitions alleged that the CPC’s resolutions at issue here were unlawful in that they failed to make ZR § 78-313 findings. In decisions dated February 11, 2020 and February 19, 2020, the Supreme Court (Engoron, J.) granted both petitions on the same ground, *i.e.*, that findings were required and were not made. R8, R109-110. Supreme Court did not address the requirement in the 1972 BOE Resolution that any deviation from the LSRD General Site Plan be “authorized by the City Planning Commission.”

On January 27, 2021, the Appellate Division heard argument, and on February 16, 2021, it reversed. The first paragraph of the Decision is the decretal

paragraph. The second paragraph rejected the reasoning of the court below in *Lower East Side Organized Neighbors*, which addressed the claim made by petitioners in the lower court in that proceeding that Zoning Resolution § 78-043 requires findings to be made as a condition precedent to the Commission's approval of a site plan change. *See, e.g.*, Petition ¶¶ 89-103, *Lower East Side Organized Neighbors*, No. 153024/19. Petitioners in the present matter have never made such a claim, either in the Supreme Court or at the Appellate Division.

Only the short third paragraph addressed Petitioners' claim, rejecting it in one sentence:

Petitioners' alternative arguments for affirming on grounds not reached by the court, including that the project required authorizations in light of a 1972 resolution which recognized the LSRD at issue, are unavailing in the absence of any conflict with the underlying applicable zoning regulations (*see Matter of Council of the City of N.Y.*, 188 AD3d at 28).

Decision, 3. Contrary to the Appellate Division's ruling, the City Council case is not dispositive of this one.

TIMELINESS

Petitioners seek leave to appeal from a Decision & Order of the Appellate Division, First Department, entered on February 16, 2021, Segal Aff., Exh. A. That Decision reversed an Order of the New York County Supreme Court entered on February 25, 2020, granting their Petition and annulling the

determinations of respondent New York CPC, dated December 5, 2018. Segal Aff., Exh. C. On February 16, 2021, Respondents served the Decision on Petitioner-Appellants with Notice of Entry via the New York State Courts Electronic Filing System (NYSCEF), *see* Segal Aff., Exh. B. This Motion for Leave to Appeal to the Court of Appeals was made within 30 days after the service of the February 16, 2021 Notice of Entry and is, therefore, timely.

The appeal of the February 25, 2020, Order to the Appellate Division was also timely. Petitioners served it with Notice of Entry on Respondents via NYSCEF on February 25, 2020. Respondents filed and served Notices of Appeal of the Order on February 27, 2020 (Cherry Street Owner LLC, Two Bridges Senior Apartments, L.P., Two Bridges Associates L.P., And LE1 Sub LLC) and March 23, 2020 (City Of New York Department of City Planning, City Planning Commission), via NYSCEF, R3, R5, and all filed their appeals within six months, on August 10, 2020, also via NYSCEF.

JURISDICTION

Section 5602(a)(1)(i) of the CPLR authorizes direct application for permission to appeal to the Court of Appeals “from an order of the appellate division which finally determines the action and which is not appealable as of right.” The Decision meets the prerequisites of CPLR 5602(a)(1)(i).

**QUESTION OF LAW THAT SHOULD
BE REVIEWED BY THE COURT OF APPEALS**

This appeal presents a purely legal question that is novel and of public importance: what process must the Commission follow when approving the addition of buildings to an LSRD area site plan where the BOE or City Council has made a specific site plan a condition of its prior approval of zoning waivers for the area, and directed property owners that any deviations will negate those approvals “unless authorized by the City Planning Commission?”

The Court’s decision in the present matter will determine whether, when approving a proposal to add new buildings to such a site plan, the Commission must first consider whether they will “impair the essential character of the surrounding area,” “unduly increase the bulk of buildings, density of population, or intensity of use in any block,” and not “have adverse effects upon the access to light, air and privacy of adjacent properties”—all findings required “as a condition precedent to the granting of authorizations” by the LSRD chapter of the Zoning Resolution. ZR § 78-313. In answering this question, the Court will also determine whether site plans and other design controls incorporated as conditions into dozens of other BOE and City Council resolutions recognizing LSRD areas have legal weight and significance.

Petitioners raised this issue before the Supreme Court in the briefing, *see* Verified Petition, R269-70, 291-2; Reply & Opposition (June 4, 2019) (Sup.

Ct. No. 153029/2019, Dkt. No. 211), p. 5-21, and at oral argument, *see e.g.* R18-24, 30-33, 35-37, 44, 50, 54, and before the Appellate Division in the briefing, *see* Brief for Petitioner Respondents (Nov. 5, 2020) (App. Div. 2020-1820, Dckt. #27), p.56-58, and at oral argument.¹⁵

STANDARD FOR GRANTING LEAVE TO APPEAL

In determining whether to grant leave to appeal, this Court generally looks to the novelty, difficulty, and importance of the legal and public policy issues the appeal raises. *See In re Shannon B.*, 70 N.Y.2d 458, 462 (1987) (granting leave on an “important issue”); *Neidle v. Prudential Ins. Co. of Am.*, 299 N.Y. 54, 56 (1949) (granting leave because of “[t]he importance of the decision” and “its far-reaching consequences”); *see also* 22 N.Y.C.R.R. § 500.22(b)(4) (leave is merited when “the issues are novel or of public importance”).

ARGUMENT

I. THIS NOVEL CASE WILL IMPACT HUNDREDS OF THOUSANDS OF NEW YORKERS

There are at least 36 other LSRDs that are governed by Board of Estimate Resolutions with the same or virtually the same two provisions as the Two Bridges LSRD: “The premises shall be developed in size and arrangement as

¹⁵ *See* Appellate Division First Department January 27, 2021 argument video, *available at* http://wowza.nycourts.gov/vod/vod.php?source=ad1&video=AD1_Archive2021_Jan27_13-59-28.mp4 (starting at minute 25).

stated in the application and as indicated on the plans filed with this application,” and “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 and Special Permit Authorizations herein granted.” Segal Aff. ¶ 17.

The 35 LSRDs with language identical to that of Two Bridges cover an area larger than 600 acres—nearly a square mile spread across the five boroughs of New York City. Segal Aff. ¶ 10. They range from New York City Housing Authority campuses, to low-rise condominiums in Staten Island, to luxury high-rises on Manhattan’s Upper East Side. They are located in census tracts that are home to 279,329 New Yorkers. Segal Aff. ¶ 11. This is more than three times larger than the population of the City of Albany. *Id.*

If the Court does not review the Appellate Division decision, the ministerial approval made “so that City Planning’s records are correct,” R278, without any standard applied, will be used for future applications to change any of these 37 site plans: Each “application” will simply be granted. While clustering bulk on a portion of a large site and leaving the remainder as open space was the fashion in urban design in the middle of the twentieth century, today proposals for infill development on these ostensibly protected open spaces are common. *See* Segal Aff. ¶ 13. This case will determine whether or not infill housing can be built

as of right throughout all 37 LSRDs, without the CPC having to make any findings as to whether potentially enormous amounts of additional bulk will “impair the essential character of the surrounding area,” “unduly increase the bulk of buildings, density of population, or intensity of use in any block,” and “have adverse effects upon the access to light, air and privacy of adjacent properties”—all facts that the CPC must find under ZR § 78-313. In the time that this litigation has been pending, the Commission has granted at least one other such approval without making findings or considering the impacts of new buildings on the area governed by the previously-granted LSRD permits and authorizations. Segal Aff. ¶ 15 (describing Grand St Guild - Seward Park Extension LSRD approval letter sent on Dec. 4, 2020; no Commission Resolution adopted at all, no findings made).

Additional areas are governed by BOE or City Council resolutions with language carefully crafted to control the course of future development that can now be ignored under the jurisprudence of the incorrect Appellate Division Decision. Segal Aff. ¶ 14, 15. Including Two Bridges, there are 62 areas governed by BOE or City Council resolutions with similar specific conditions: nearly every one of these resolutions states that the site plan submitted to the Commission is a condition of its approval. Segal Aff. ¶ 16. The single exception highlights the import of the site plan as condition: when, instead of a site plan, the Commission

incorporated a set of Urban Design and Planning Controls (in the form of text and drawings) into its Resolution, the Commission Report explained,

The[se] Controls are binding conditions of the LSRD special permits and authorizations... Although these Controls differ from a detailed site plan, usually the basis for making the LSRD findings, the Commission believes the degree of detail is such that they establish a viable framework within which good site planning can be assured.

Id. ¶ 16(49). The Court’s review of the Appellate Division Decision is required to protect detailed frameworks for good site planning adopted for neighborhoods across the five boroughs.

This case will have a major impact on the residents of the Two Bridges neighborhood, who number in the tens of thousands and whose representative organizations are the Petitioners.¹⁶ They see that a 1,000-foot tower taller than the Manhattan Bridge now stands on former Two Bridges LSRD Parcel 8, which was removed from the LSRD area by Commission authorization in 1985.

¹⁶ The census tracts that contain the parcels where megatowers are proposed are home to 21,559 New Yorkers. Data from 2014-2018 American Community Survey via NYC Planning Labs, Population FactFinder, available at <https://popfactfinder.planning.nyc.gov/>. Land’s End One Tenants Association was formed by and represents the residents of the 256-unit existing building on LSRD Parcel 6, R942; TUFF-LES is made up of and led by residents of TUFF-LES was founded in August 2014 by resident leaders from each of the following buildings: Two Bridges Tower (on LSRD Parcel 4), Lands End One (on LSRD Parcel 6), and Lands End Two (on LSRD Parcel 5), Knickerbocker Village (two blocks from the LSRD) and the Gouverneur Gardens (one block from the LSRD), R981; the La Guardia Houses Tenants’ Association was formed by and represents the 2,600 residents of the La Guardia NYCHA development, which is on another superblock directly across the street from the LSRD. R911.

Subsequent to that removal, the tower was built “as of right:” without any consideration of its potential impacts on the character of the neighborhood, or any Commission action at all. The Parcels where Developer-Respondents seek to add megatowers today are still in the LSRD. The Appellate Division Decision which effectively eliminated the requirement that the Commission consider the potential impact of these buildings as well, leaving it only the ministerial role of approving an update to agency records and making way for four more similarly-scaled towers.

The legal issue presented here is not only important, it is also novel. No court has ever addressed the operation of the LSRD Chapter of the 1961 Zoning Resolution, and the BOE and Council Resolutions enacted per its procedures, before now. Petitioners-Respondents urge this Court to do so.

II. THE APPELLATE DIVISION IGNORED CONTROLLING LAW

A. The Court Must Clarify that 1972 BOE Resolution is Binding on the Commission

Prior to the 1987 Charter revision abolishing the Board of Estimate, applications for Special Permits like the one HDA submitted in 1972 had to be approved by both the CPC and the Board of Estimate, as the application at issue was, in a procedure very similar to that used today for Zoning Resolution amendments. *See* NYC Charter § 200. Under the current Charter, such applications

and other ZR amendments proceed through ULURP, must be approved by the CPC and are subject to review by the Council and the Mayor. The 1972 BOE Resolution has never been repealed or amended. The BOE Resolution and the text of the Zoning Resolution should thus be given equivalent weight by the courts. Yet both the Supreme Court and the Appellate Division evaded discussion of the 1972 Resolution.

B. The City Council Case did not Determine this Matter

The Appellate Division's Decision never addressed the only argument that Petitioner made on appeal: that CPC's approval of the Developers' applications as if they were as-of-right violated the binding 1972 BOE Resolution that made the site plan for the entire LSRD a condition of approvals it then granted and includes a specific safeguard that dictates how the Two Bridges LSRD General Site Plan can be amended. As to that argument, the Appellate Division only cited to its prior decision in the City Council case, in which it never considered the 1972 Resolution. This Court must grant Petitioners leave to appeal so it can consider the 1972 Resolution.

The Petitioners in the City Council case argued that the 1995 Commission and Council Resolutions mandate that any change in the General LSRD Site Plan has to be approved by the Council. The Appellate Division correctly rejected this argument because, as it stated in its Decision, the plans

referenced in the 1995 Resolution were two drawings labelled A-4 and A-6, both of which were of a building on Parcel 4B of the LSRD site. City Council case, 188 A.D.3d at 27.¹⁷ Therefore, the condition prohibiting any changes in the plans approved by that Resolution applied only to Parcel 4B. None of the proposed buildings in the present applications are on that parcel.

In contrast, the conditions in the 1972 Board of Estimate Resolution explicitly and clearly apply to the entire LSRD site, and not any single Parcel. The BOE Resolution states:

Resolved, By the City Planning Commission that the application of the Housing and Development Administration for the grant of a special permit and special permit authorizations, involving a large-scale residential development within the Two Bridges Urban Renewal Area, on property bounded generally by Pike Slip, Cherry Street,

¹⁷ The Appellate Division explained its holding in the City Council case thus:

Petitioners rely on the conditional language of the grant of the earlier special permit, which required that the property “be developed in size and arrangement substantially in accordance with the dimensions, specifications and zoning computations indicated” on drawings A4 and A6 submitted with the application. While petitioners characterize this language as applying to the entirety of the Two Bridges LSRD, the beginning of that sentence in the 1995 special permit is “the property that is the subject of this application (C 950078 ZSM).” The drawing referred to in the parentheses is drawing A6, and depicts only the 21-story mixed use building and adjacent single story commercial structure on parcel 4B west of Rutgers Slip between Cherry and South Streets that were the subject of the 1995 application. Accordingly, the language relied on by petitioners refers only to development of those structures.

188 A.D.3d at 27.

Montgomery Street, and South Street, Borough of Manhattan, be and hereby is approved ... subject to the following conditions:

1. The premises shall be developed in size and arrangement as stated in the application and as indicated on the plans filed with this application;

[...]

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 and Special Permit Authorizations herein granted.

R398 (emphasis added). *See also* R395-96, Commission Resolution (language identical). As detailed above, development on all sites on the General LSRD plan is specifically described on the plan incorporated into the Resolution. *See* R397; *see* SR3.

The lower courts likewise ignored the fact that the site plans submitted by HDA were incorporated into the BOE Resolutions as a binding condition of approval placed pursuant to ZR § 78-041. *See* Segal Aff. ¶¶ 6, 16. In the City Council case, the Appellate Division found that the plans listed explicitly in the 1995 CPC Resolution were thus incorporated; it should have considered the 1972 BOE and CPC Resolutions and held that the plans referred to in them are likewise incorporated. The 1972 Resolutions are explicit that adherence to “the plans filed with the application,” without any limitation, is literally condition #1 of approval. To find that the plans filed with the 1972 application are incorporated

would be entirely consistent with the City Council decision: each Resolution incorporates the plans named in it. Correcting this error is crucial because the 1972 grant of permission to transfer of development rights between Parcels 5 and 7 was not memorialized anywhere other than in the LSRD site plan; allowing the Commission to alter the site plan without considering impacts on the neighborhood in essence allows it to grant additional zoning bulk to property owners without going through the ULURP process that is mandatory for such rezonings.

C. The Court Must Intervene to Preserve the Commission’s Proper Role in the Governance of LSRD Areas

The Zoning Resolution explicitly provides that the Commission “may prescribe appropriate conditions and safeguards thereon.” § 78-042 (“Failure to comply with such conditions or restrictions shall constitute a violation of this Resolution, and may constitute the basis for denial or revocation of a building permit or certificate of occupancy and for all other applicable remedies.”). This Court must consider the words the BOE chose for its safeguards when adopting the 1972 Resolution: it adopted the Commission’s safeguard that any change to the LSRD site plan must be “authorized” by the Commission.¹⁸

¹⁸ There is no other mechanism, in the ZR or any applicable resolutions of the BOE or the City Council, for lawfully altering the Two Bridges LSRD General Site Plan. The ZR specifically allows “modifications of authorizations or special permits previously granted” within three specific LSRDs: (1) the West Side Urban Renewal Area, ZR § 78-06(b)(2); (2) Queens

The drafters of the 1972 Resolutions specifically chose the word “authorized” here, not the more generic “approved.”¹⁹ Per the LSRD Chapter of the ZR, authorization requires specific findings, and any Commission resolution that purports to authorize without making these findings is a nullity. As the 1995 City Council and Commission Resolutions do not contain these words at all, by relying on that prior decision, the Appellate Division avoided any discussion of the significance of these words.

“Authorization” is defined by ZR §§ 78-311, 78-041 (“Authorizations by the City Planning Commission”) (“Authorization by Commission”). ZR § 78-311 lists waivers that the Commission can grant “[w]hen a large-scale residential development includes, or will include after subdivision, two or more zoning lots.” The 1972 BOE Resolution added to this list: specifically for the Two Bridges LSRD area, the Commission must also authorize “[a]ny alteration in the premises or in the manner of operation which departs from” the General LSRD Site Plan or

Community District 7, ZR § 78-06(b)(4); and (3) the Ruppert Brewery Urban Renewal Area, ZR § 78-06(b)(7). Each of these provisions also specifies findings and conditions for these modifications. Two Bridges is not among them.

¹⁹ The Zoning Resolution uses the verb “approve” more broadly than “authorize,” to refer to discretionary actions such as special permits and authorizations, but also to non-discretionary actions such as certifications and to the actions of other agencies. See e.g., ZR § 11-62 (“In the event that the applicant has not complied with... conditions and safeguards, such non-compliance may constitute grounds... to disapprove the application for modification, renewal or extension.”). The 1972 Resolution itself uses the words “approved” and “approval” four times in the short two-and-a-half-page document, demonstrating that its drafters knew the difference.

specific building plans for parcels in the LSRD submitted in 1972. The BOE likewise granted the Commission authorization power over 35 additional LSRD site plans, each incorporated into a resolution recognizing an LSRD and granting zoning waivers. *See Segal Aff.* ¶ 17. In each of these areas, a site plan change made without Commission authorization will cause “immediate termination” of any Special Permits or Authorizations that had granted been granted to facilitate development on the LSRD.²⁰

In the Decision, the Appellate Division cites to page 28 of the City Council case, which states that “the ZR authorizes the CPC to issue special permits in the enumerated categories only where a waiver or modification of particular ZR provisions is necessary,” but that is not the whole story.

Commission and BOE resolutions approving LSRD applications can go so far as to mandate that any future modification of the site plan “require an owner to get a new special permit (with a new ULURP), even for a proposed modification that would otherwise comply with the underlying zoning,” R7633 (testimony of DCP Executive Director and former General Counsel). Thus the enumerated categories of approvals in an LSRD area are not fixed; the list can be expanded to protect “better site planning,” ZR § 78-01. In 1972, the BOE did just

²⁰ The practical effect of such termination would be that the buildings built in reliance on Permits or Authorizations that have been revoked would then be treated by the Department of Buildings the same way as any other building that does not conforming with zoning.

that to protect the Two Bridges site plan that it adopted. Since then, the Commission has been bound excursive its discretion over approvals for new development in the area covered by that plan within the structure of ZR § 78-313 findings. Before granting its approval, it must conclude that any proposed new development will benefit residents and the City, will limit increases in bulk to those that are necessary to achieve those benefits, will preserve access to light and air and will not impair the essential character of the surrounding area. A naked “modification,” made without these findings, will not do.

D. The Court Must Clarify the Role of Underlying Zoning District Designations in an LSRD Area

It is imperative that this Court reverse the Appellate Division and clarify that where a parcel is governed by both underlying zoning and an LSRD Resolution that incorporates a site plan as a condition, an owner cannot be left at liberty to ignore the LSRD. *See* ZR § 11-22 (where there are “overlapping or contradictory regulations over the use of land... that provision which is more restrictive or imposes higher standards or requirements shall govern”). Per ZR §78-01, zoning waivers are permitted pursuant to the LSRD chapter to facilitate “the best possible site plan *within the overall density and bulk controls*” (emphasis added). As the 1972 HDA application, R403, itself says, "the proposed overall development [on all the Two Bridges LSRD parcels] is within the limits

established by the Zoning Resolution... The total development proposed ... is as permitted by zoning." This is what ZR § 78-03 means when it says that LSRDs "are governed by all the ... applicable regulations of" the Zoning Resolution. It does not mean that the underlying zoning is the only zoning rule that "applies." When approving development under LSRD rules, the Commission necessarily chooses between as-of-right development and the specific LSRD is proposed for the area that it expects will be binding on all future development in the area. The Commission describes its choice when faced with an LSRD application thus:

The Commission's choices are limited: to grant the special permit and guarantee the protection of most of the open space or to reject the special permit and thus allow the developer to [build as of right]. It is the Commission's judgment that it is in the best interest of the community to protect the open space and to insure its future protection as well by granting the special permit.

Segal Aff., Exh, MM. (Glen Oaks Commission Resolution). As DCP itself has explained: the LSRD mechanism gives the Commission the ability "to evaluate and lock in a complete site plan." DCP's Survey, 41.

It would contravene the very purpose of an LSRD if, having obtained the zoning waivers of its LSRD plan by committing itself to the "best possible" site plan, an applicant could thereafter turn around and obtain a site plan modification to allow it to build the site out to the full extent allowed by the underlying zoning, without having to make any showing that doing so will not be detrimental to those

same values. That is why findings are required when an applicant seeks to change the site plan.

CONCLUSION

Petitioners respectfully request that the Court issue an order pursuant to CPLR 5602(a)(1)(i) granting them permission to appeal from the Decision and Order of the Appellate Division, First Department, entered on February 16, 2021, which reversed an Order of the New York County Supreme Court entered on February 25, 2020, denied the Petitioner-Respondents CLPR Article 78 petition and dismissed their CPLR § 3001 action seeking a declaration that any purported approval of a change in the Two Bridges LSRD site plan is not lawful if it does not contain ZR § 78-313 findings.

Petitioners also request a stay of enforcement of the Decision and Order pending the Court's determination of the appeal. Petitioner-Appellants intend to seek interim relief in this Court should Respondents take any steps during the pendency of the motion such "that immediate and irreparable injury, loss or damages will result unless" Respondents are "restrained before a hearing can be had," CPLR § 6313, including filing for any permits from the Department of Buildings in connection with the proposed megatowers. Respondents have taken no such steps in the time since the Decision and Order was entered.

Date: March 16, 2021
Brooklyn NY

Respectfully submitted,



Paula Z. Segal, Esq.
TAKERoot JUSTICE
*Attorneys for Petitioners-
Appellants*

123 William Street, 16th Floor
New York, New York 10038
(646) 459-3067
psegal@takerootjustice.org

COURT OF APPEALS
STATE OF NEW YORK

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In the Matter of:

TENANTS UNITED FIGHTING FOR THE LOWER
EAST SIDE A.K.A. TUFF-LES, CAAAV:
ORGANIZING ASIAN COMMUNITIES, GOOD
OLD LOWER EAST SIDE A.K.A. GOLES, LAND'S
END ONE TENANTS ASSOCIATION A.K.A.
LEOTA, and LAGUARDIA HOUSES TENANTS'
ASSOCIATION,

Petitioners-Appellants,

-against-

CITY OF NEW YORK DEPARTMENT OF CITY
PLANNING, CITY PLANNING COMMISSION,
CHERRY STREET OWNER LLC, TWO BRIDGES
SENIOR APARTMENTS, L.P., TWO BRIDGES
ASSOCIATES L.P., and LE1 SUB LLC,

Respondents-Respondents.

First Department
Appellate Case No.
2020-01820

County of New York
Index No 153029/19

**Affirmation in Support
of Motion for Leave to
Appeal to the Court of
Appeals**

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Paula Z. Segal, being an attorney duly licensed to practice law before the courts of
the State of New York and counsel for all Petitioners-Appellants on this Motion,
affirms the following under the penalty of perjury:

DECISION OF COURT BELOW

1. Attached as Exhibit A is the Decision & Order of the Appellate Division, First Department, in the above-captioned matter, as entered on February 16, 2021.

2. Attached as Exhibit B is the Notice of Entry of the above decision as served via ECF on February 16, 2021.

3. Attached as Exhibit C is the Decision of the Supreme Court, New York County (February 25, 2020).

LARGE SCALE RESIDENTIAL DEVELOPMENT AREAS ARE UBIQUITOUS IN NYC

4. Although there is no public record of City Planning Commission Resolutions applicable to Large Scale Residential Development (“LSRD”) areas, I was able to access these resolutions and documents relevant to specific LSRD approvals through requests to the Department of City Planning (“DCP”) under the Freedom of Information Law (“FOIL”).

5. In response to a FOIL request I made on October 16, 2019, for “all CPC reports relating to Large Scale Residential Development Areas per Z[oning] R[esolution] 78-311, 312 or 313, from 1961 to present,” DCP provided links to 474 file sets uploaded to its website for documents with City Planning Commission (“Commission”) Resolutions in them.

6. Inspection of this set of files resulted in the identification of 61 distinct additional areas in which, like in the Two Bridges LSRD area, buildings that exist today violate underlying zoning district regulations but are lawful because the Commission and the Board of Estimate (“BOE”), or the City Council, authorized or permitted the deviations on the basis of a “better” site plan.¹ Instead of the underlying zoning regulations alone, these are all governed by BOE or City Council resolutions that approved ZR § 78-311 authorizations and/or ZR § 78-312 special permits.² These Commission and BOE approvals were made on the basis of the site plans submitted per § 78-05 and the Commission’s findings per ZR § 78-313, which the BOE adopted when granting its own approvals.

7. Nearly all of these 62 Commission and BOE approvals was granted subject to the condition, placed pursuant to ZR § 78-041, that the area “shall be developed in size and arrangement as stated in the application and as indicated on

¹ There are additional Commission Resolutions approving waivers of zoning district regulations on the basis of the LSRD chapter in DCP’s records for areas where the buildings that needed the waivers were never built, or where those buildings have subsequently been torn down and new buildings that comply with underlying zoning built; those are not included in the summary I am presenting here.

² DCP’s statements that “Section 78-311 was used approximately 30 times” and “about 26 projects have used Section 78-312,” Department of City Planning, Survey of Transferable Development Rights Mechanisms in New York City (2015), at 42, available at <https://www1.nyc.gov/assets/planning/download/pdf/plans-studies/transferable-development-rights/research.pdf>, are contradicted by an examination of DCP’s own records. Many of the LSRD resolutions include both authorization per 78-311 and a permit per 78-312, so there is some overlap in the count. These provisions of the Zoning Resolution (“ZR”) have been used many more times than Respondent DCP has acknowledged.

the plans filed with this application.” *See infra* ¶ 15 (61 Resolutions that contain this precise language or similar; the Resolution adopting an LSRD for Arverne incorporates a set of Urban Design and Planning Controls and an explanation that they will serve the same purpose as the site plan that is normally incorporated). This condition is identical to the language in the 1972 Two Bridges Commission Resolution. R395.

8. Virtually identical language is likewise in the Two Bridges BOE Resolution, R398, and in every BOE resolution adopting these Commission resolutions that I have been able to access. *See infra* ¶¶ 15(2), (7); Exhibit D (Campos Plaza BOE Resolution); Exhibit F (Grand Street Guild and Essex Crossing BOE Resolution).³ Upon information and belief, each of the BOE resolutions adopts the language of the corresponding Commission resolution verbatim.

9. In addition, of these 61 areas, thirty-six (36) are governed by Commission Resolutions contain the exact same verbiage addressing potential

³ There is no online archive of BOE resolutions. I was able to access the Two Bridges Resolution, as well as several additional ones, through a physical inspection of DCP’s paper files in their office, facilitated by DCP staff in response to additional FOIL requests. These inspections were halted due to the COVID-19 pandemic, curtailing my office’s ability to create a comprehensive archive of BOE Resolutions approving the LSRD special permits on the basis of the Commission’s ZR § 78-313 findings. The resolutions I was able to access are provided as exhibits here.

future deviations from the site plan that the 1972 Two Bridges Commission and BOE Resolutions have in them:

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 and/or Authorizations] herein granted.

See 1972 Two Bridges Commission Resolution at 3; Two Bridges BOE Resolution (emphasis added); Exhibits E, G-I, L-QQ, *infra* ¶16. Each of these is also governed by a BOE Resolution that, on information and belief, includes the identical language.

10. Together, the Two Bridges LSRD and these 35 LSRD areas with language identical to the language in the 1972 Two Bridges Commission and BOE Resolutions cover an area of over 600⁴ acres. This is nearly a square mile (and larger than Brooklyn's Prospect Park).⁵

⁴ Grand Street Guild and Essex Crossing, Lower East Side, Manhattan is 10.5 acres. Exhibit F at 1. City Island Condominium, City Island, Bronx is 3.5 acres. Exhibit U at 1. Harbour Village, Brooklyn is 40 acres. Exhibit DD at 2. North Shore Towers, Glen Oaks, Queens is 106 acres. Exhibit MM at 1. East Point, Flushing, Queens is 11 acres. Exhibit HH at 1. House Beautiful Condominiums, Forest Hills, Queens is 7.75 acres. Exhibit II at 2. White Oak Court, Astoria, Queens, is 3.31 acres. Exhibit JJ at 2. Flushing View Terrace, Queens is 2.52 acres. Exhibit KK at 1. Sinclair Estates, Staten Island is 10 acres. Exhibit PP at 1. The size of remaining LSRD areas is extracted from DCP's MapPLUTO 21v1, *available at* <https://www1.nyc.gov/site/planning/data-maps/open-data/dwn-pluto-mappluto.page>.

⁵ 173.6 acres in Manhattan (13 LSRD areas), 50.7 acres in the Bronx (three areas), 151.9 acres in Brooklyn (ten areas), 167 acres in Queens (seven areas) and 56.4 acres in Staten Island (four areas).

11. These LSRD areas are diverse. They range from New York City Housing Authority (“NYCHA”) campuses to low rise condominiums in Staten Island to luxury highrises on the Upper East Side surrounded by carefully landscaped grounds. They are located in census tracts that are home to 279,329 New Yorkers.⁶ This is more than three times the population of the City of Albany. *See* U.S. Census Bureau, *QuickFacts: Albany City, New York* (2019).⁷

12. The Two Bridges LSRD on Manhattan’s Lower East Side is in a census tract where less than 10% of this total population lives, yet the present dispute will impact thousands of New Yorkers living beyond the Lower East Side. It will determine what procedure the Commission must follow when faced with requests for approvals for infill development in all 36 areas, and likely the other 61 LSRD areas where the Commission made the site plan or specific design controls a condition of approval as well.

13. Infill development in areas where existing buildings cluster bulk on a portion of a site and the remainder open space is a common proposal in 2021. *See, e.g.,* Allison Smith, *Democratic Mayoral Candidates Talk Tenants and Housing*, *Gotham Gazette* (Mar. 4, 2021) (describing support for infill development at NYCHA properties by two major New York City mayoral candidates: Brooklyn

⁶ Data from 2014-2018 American Community Survey via NYC Planning Labs, Population FactFinder, available at <https://popfactfinder.planning.nyc.gov/>.

⁷ Available at <https://www.census.gov/quickfacts/albanycitynewyork>.

Borough President Eric Adams and former Commissioner of the Department of Housing Preservation and Development Shaun Donovan);⁸ Lauren Hakimi, *With Focus on Climate, Kathryn Garcia Offers Initial Mayoral Campaign Platform Also Touching on Housing, Transit, and Policing*, Gotham Gazette (Jan. 4, 2021) (describing support for NYCHA infill by former Commissioner of the Department of Sanitation Kathryn Garcia, a third mayoral candidate).⁹ Two Bridges is not the only LSRD area where owners are looking to slot in new buildings between and above the buildings that already exist. LSRD site plans adopted to protect open space are regular targets of new building proposals that would obliterate that open space. *See, e.g., Documents Filed for New Large-Scale Residential Project at 161 Broome St.*, The Lo-Down (Aug. 15, 2019) (describing currently pending infill development on privately owned property in the Lower East Side).¹⁰

14. The Court’s decision in the present matter will determine whether the Commission will be required to consider whether such proposals will “impair the essential character of the surrounding area,” “unduly increase the bulk of buildings, density of population, or intensity of use in any block,” or “have

⁸ Available at <https://www.gothamgazette.com/city/10217-democratic-mayoral-candidates-tenants-housing-nycha-homelessness>.

⁹ Available at <https://www.gothamgazette.com/city/10037-focus-climate-kathryn-garcia-initial-mayoral-campaign-platform-housing-transit-policing>.

¹⁰ Available at <http://www.thelodownny.com/leslog/tag/161-broome-st>.

adverse effects upon the access to light, air and privacy of adjacent properties,” all findings required by ZR § 78-313, before approving the addition of new buildings.

15. If the Court does not review the Appellate Division decision, the process the Commission was led to follow here will be the one that such applications follow in the future: a ministerial approval made “so that City Planning’s records are correct,” R278, without any standard applied. Each “application” will simply be granted. In the time that this litigation has been pending, the Commission has granted at least one other such approval without making findings or considering the impacts of new buildings on the area governed by the previously-granted LSRD permits and authorizations. *See* NYC Planning Zoning Application Portal, “Grand St Guild - Seward Park Extension LSRD Mod” (approval letter sent on Dec. 4, 2020; no Commission Resolution adopted at all, no findings made).¹¹

16. A list of 61 LSRD areas created by Commission and BOE/City Council action that includes adherence to plans submitted as a condition of approval that follows. Where the resolution includes, in addition to the site plan as a condition of approval, the same language that the Two Bridges Resolutions contain that any deviations from the site plan must be “authorized by the City

¹¹ Available at <https://zap.planning.nyc.gov/projects/P2018M0127>.

Planning Commission,” I have attached the resolution as an exhibit and highlighted the relevant language.

Manhattan

1. Grand Street Guild and Essex Crossing, Lower East Side, *see* Exhibit E, Commission Resolution CP-21573 (April 14, 1971, Cal. 28) (governs area bounded by Essex Street, Broome Street, Norfolk Street, an unnamed street, Willett Street and Grand Street); Exhibit E, BOE Resolution (Apr. 22, 1971, Cal. 205) (language identical).¹²
2. Campos Plaza NYCHA campus, East Village, *see* Exhibit G, Commission Resolution CP-22059 (Sept. 6, 1972, Cal. 36) (governs property bounded by Avenue B, East 14th Street, Avenue C and East 12th Street); Exhibit D, BOE Resolution CP-22059 (Oct. 12, 1972, Cal. 52) (language identical).
3. Riverside Park (3333 Broadway), West Harlem, *see* Exhibit H, Commission Resolution CP-21999 (June 14, 1972, Cal. 28) (governs property fronting on the westerly side of Broadway, extending from

¹² This includes the area for which the Commission, on December 4, 2020, sent a letter to Department of Buildings “approving” adding two new buildings without considering the potential impact of those buildings on “the essential character of the surrounding area,” nor whether they will “unduly increase the bulk of buildings, density of population, or intensity of use in any block,” or “have adverse effects upon the access to light, air and privacy of adjacent properties.”

West 133rd Street to West 135th Street) (referred to BOE for adoption).

4. University Village, West Village, *see* Exhibit I, Commission Resolution C 780698 ZSM (April 23, 1979, Cal. 3) (governs property bounded by Bleecker Street, Mercer Street, West Houston Street, and former Greene Street) (referred to BOE for adoption).
5. West Side Urban Renewal Area (“URA”) LSRD, Upper West Side, *see* Exhibit J, Commission Resolution CP-18505 (Dec. 13, 1972, Cal. 50) (governs block bounded by Amsterdam Avenue, West 90th Street, Columbus Avenue and West 91st Street, and an additional site on the east side of Amsterdam Avenue, between West 87th Street and West 88th Street) (referred to BOE for adoption).
6. Ruppert Brewery URA, Upper East Side, *see* Exhibit K, Commission Resolution C 830264 ZSM (Feb. 2, 1983, Cal. 49) (governs area bounded by Third Avenue, East 94th Street, Second Avenue, and East 90th Street) (referred to BOE for adoption).
7. Taino Towers, East Harlem, *see* Exhibit L, Commission Resolution CP-21878 (April 5, 1972, Cal. 31) (governs block bounded by East 122nd Street, Third Avenue, East 123rd Street, and Second Avenue) (referred to BOE for adoption).

8. Harlem-East Harlem URA LSRD, *see* Exhibit M, Commission Resolution CP-21679 (Sept. 8, 1971, Cal. 30) (governs area bounded by East 126th Street, Park Avenue, East 130th Street, Lexington Avenue, East 127th Street, Third Avenue, East 128th Street, and Second Avenue) (referred to BOE for adoption).
9. Lincoln West, Upper West Side, *see* Exhibit N, Commission Resolution C 820928 ZSM (July 19, 1982, Cal. 9) (governs area bounded by West 59th Street, Hudson River, West 72nd Street, and Freedom Place) (referred to BOE for adoption).
10. Washington Street URA LSRD, West Village, *see* Exhibit O, Commission Resolution C 820185 ZSM (Mar. 1, 1982, Cal. 1) (governs area bounded by Chambers, West, Murray and Greenwich Streets) (referred to BOE for adoption).
11. Avalon Clinton Condos, Encore West Residences, Affordable Housing owned by Clinton Housing Development Corp. and several other buildings in the Clinton Urban Renewal Area on the Upper West Side, *see* Exhibit P, Commission Resolution C 860101 ZSM (Mar. 4, 1986, Cal. 5) (governs the eastern portion of the blocks bounded by Tenth Avenue, West 51st Street, Eleventh Avenue and West 53rd Street) (referred to BOE for adoption).

12. Lincoln-Amsterdam House and the Amsterdam NYCHA campus, Upper West Side, *see* Exhibit Q, Commission Resolution CP-22373 (June 15, 1973, Cal. 8) (governs property located on the easterly side of West End Avenue between West 64th Street and West 65th Street) (referred to BOE for adoption).
13. Asphalt Green, *see* Exhibit R, Commission Resolution CP-22046 (Oct. 4, 1972, Cal. 13) (governs area bounded by East 90th Street, York Avenue, East 92nd Street, and Franklin D. Roosevelt Drive) (referred to BOE for adoption).
14. Clinton Towers, Midtown, *see* Exhibit S, Commission Resolution CP-22119 (Oct. 11, 1972, Cal. 29) (governs area bounded by 10th Avenue, West 54th Street, 11th Avenue and West 56th Street) (referred to BOE for adoption).
15. 1199 Plaza, *see* Commission Resolution CP-21201 (September 9, 1970, Cal. 44) (governs area bounded by East 107th Street, 1st Avenue, East 111th Street, and Franklin D. Roosevelt Drive) (referred to BOE for adoption).¹³

¹³ Available at <https://www1.nyc.gov/assets/planning/download/pdf/about/cpc/19700909.pdf#page=30>.

Bronx

16. Morrisania Air Rights NYCHA campus & Morrisania II Apartments, *see* Exhibit T, Commission Resolution CP-21799 (Dec. 8, 1971, Cal. 42) (governs property bounded by Park Avenue, a line 200 feet northerly of East 162nd Street, Courtlandt Avenue, East 161st Street, Park Avenue, East 158th Street, Courtlandt Avenue, East 156th Street, Concourse Village East, and East 161st Street) (referred to BOE for adoption).¹⁴
17. City Island Condominium, City Island, *see* Exhibit U, Commission Resolution C 800104 ZSX (Aug. 18, 1980, Cal. 7) (governs area between Carroll Street and Schofield Street and their easterly prolongations, and extending from the southerly prolongation of Minnieford Avenue to the Long Island Sound) (referred to BOE for adoption).
18. Lambert Houses, West Farms, *see* Exhibit V, Commission Resolution CP-21387 (Nov. 4, 1970, Cal. 34) (governs area bounded by Bronx Park South, Boston Road, East 180th Street, Bronx River, East

¹⁴ This includes the area where NYCHA intends to allow a private developer to add a 171-unit building. Annual Agency Plan for Fiscal Year 2021 (Jan. 15, 2021) at 84, *available at* https://www1.nyc.gov/assets/nycha/downloads/pdf/FY21_Final_Annual_Plan_01.15.21_Submission.pdf#page=84.

Tremont Avenue, Bryant Avenue and Vyse Avenue) (referred to BOE for adoption).

19. Tracey Towers, *see* Commission Resolution CP-20560 (Jan. 29, 1969, Cal. 8) (governs area on the southwest corner of Paul Avenue and Mosholu Parkway) (referred to BOE for adoption).¹⁵

20. Rainbow Plaza, *see* Commission Resolution C 840136 ZSX, N 840135 ZAX (Dec. 19, 1983, Cal. 5, 7) (governs property bounded by East 139th Street, St. Ann's Avenue, East 141st Street, and Cypress Avenue) (referred to BOE for adoption).¹⁶

Brooklyn

21. Bedford Gardens, Williamsburg, *see* Exhibit W, Commission Resolution CP-22155 (Nov. 1, 1972, Cal. 34) (governs property bounded by Wythe Avenue, Ross Street, Bedford Avenue, and Williamsburg Street West) (referred to BOE for adoption).

22. Spring Creek LSRD, *see* Exhibit X, Commission Resolution C 880818 ZSK (Aug. 22, 1988, Cal. 5) (governs area bounded by Forbell Street, Loring Avenue, Emerald Street and the prolongation of the centerline of Stanley Avenue) (referred to BOE for adoption).

¹⁵ Available at <https://www1.nyc.gov/assets/planning/download/pdf/about/cpc/19690129.pdf#page=5>.

¹⁶ Available at <https://www1.nyc.gov/assets/planning/download/pdf/about/cpc/840136.pdf>.

23. Atlantic Terminal Houses, Downtown Brooklyn, *see* Exhibit Y, Commission Resolution CP-22206 (Jan. 17, 1973, Cal. 37) (governs area bounded by Atlantic Avenue, South Elliott Place, Hanson Place, Fulton Street, Carlton Avenue, Greene Avenue, and Clermont Avenue) (referred to BOE for adoption).
24. Kent Village, Williamsburg, *see* Exhibit Z, Commission Resolution CP-22382 (July 11, 1973, Cal. 17) (governs area bounded by Division Avenue, an irregular line roughly parallel to Bedford Avenue, Clymer Street, and Wythe Avenue) (referred to BOE for adoption).
25. Starrett City/Spring Creek Towers, Spring Creek, *see* Exhibit AA, Commission Resolution CP-21931 (May 17, 1972, Cal. 45) (governs property bounded by Shore Parkway, Louisiana Avenue, Vandalia Avenue, Pennsylvania Avenue and Flatlands Avenue) (referred to BOE for adoption).
26. Shore Hill Apartments, Bay Ridge, *see* Exhibit BB, Commission Resolution CP-22507A (Jan. 2, 1974, Cal. 13) (governs southerly portion of area bounded by 89th Street, Colonial Road, 91st Street, Shore Road, and Narrows Avenue) (referred to BOE for adoption).
27. Grove Street-Wilson Avenue LSRD Area, Bushwick, *see* Exhibit CC, Commission Resolution CP-22058 (Sept. 6, 1972, Cal. 38) (governs

property bounded by Central Avenue, Menahan Street, Wilson Avenue, and Linden Street) (referred to BOE for adoption).

28. Harbour Village, Canarsie, *see* Exhibit DD, Commission Resolution CP-21326 (Aug. 2, 1972, Cal. 36) (governs area bounded by Avenue M, East 72nd Street, Avenue N, Royce Street, Avenue T, East 70th Street, Avenue N, East 69th Street, Avenue T, East 68th Street, Avenue N and East 66th Street) (referred to BOE for adoption).

29. Riverdale Osborne Towers, Brownsville, *see* Exhibit EE, Commission Resolution CP-21398 (Nov. 18, 1970, Cal. 41) (governs property bounded by Livonia Avenue, Watkins Street, Riverdale Avenue, Thatford Avenue, a line 220 feet south of Livonia Avenue and Rockaway Avenue) (referred to BOE for adoption).

30. Plaza Residences, Brownsville, *see* Exhibit FF, Commission Resolution CP-22001 (June 14, 1972, Cal. 31) (governs property bounded by Newport Street, Mother Gaston, Hegeman Avenue and Rockaway Avenue) (referred to BOE for adoption).

31. Navy Green, *see* C 090445 ZSK (Aug. 19, 2009, Cal. 23) (governs 136-50 Flushing Avenue) (referred to City Council for adoption).¹⁷

¹⁷ Available at <https://www1.nyc.gov/assets/planning/download/pdf/about/cpc/090445.pdf>.

32. Fresh Creek Estates, *see* Commission Resolution C 900892 ZSK

(May 6, 1992, Cal. 27) (governs area bounded by Louisiana Avenue, Flatlands Avenue, Pennsylvania Avenue and Vandalia Avenue) (referred to City Council for adoption).¹⁸

33. Brighton-by-the-Sea, *see* Commission Resolution C 910480 ZSK

(July 20, 1992, Cal. 3) (governs area bounded by Brighton Beach Avenue, Seacoast Terrace, a park and Coney Island Avenue) (referred to City Council for adoption).¹⁹

34. Fulton Park URA, *see* Commission Resolution C 820377 ZSK (Mar.

10, 1982, Cal. 42) (governs area bounded by Fulton Street, Rochester Avenue, Herkimer Street, Hunterfly Place, and Atlantic Avenue) (referred to BOE for adoption).²⁰

Queens

35. Hillcrest Condominiums, Hillcrest, *see* Exhibit GG, Commission

Resolution CP-21522 (June 9, 1971, Cal. 31) (governs area on the east side of 150th Street extending from Union Turnpike to Goethals Avenue) (referred to BOE for adoption).

¹⁸ Available at <https://www1.nyc.gov/assets/planning/download/pdf/about/cpc/900892.pdf>.

¹⁹ Available at <https://www1.nyc.gov/assets/planning/download/pdf/about/cpc/910480.pdf>.

²⁰ Available at <https://www1.nyc.gov/assets/planning/download/pdf/about/cpc/820377.pdf>.

36. East Point, Flushing, *see* Exhibit HH, Commission Resolution C 860295 ZSQ (Feb. 2, 1987, Cal. 6) (governs property located on the north side of Fifth Avenue, east of College Place) (referred to BOE for adoption).
37. House Beautiful Condominiums, Oakland Gardens, *see* Exhibit II, Commission Resolution C 790768 ZSQ (May 14, 1980, Cal. 43) (governs area bounded by 64th Avenue, Springfield Boulevard, 67th Avenue, and 219th Street) (referred to BOE for adoption).
38. White Oak Court, Astoria, *see* Exhibit JJ, Commission Resolution C 790578 ZSQ (May 14, 1980, Cal. 40) (governs area bounded by Astoria Boulevard South, 79th Street, 24th Avenue, and 77th Street) (referred to BOE for adoption).
39. Flushing View Terrace, *see* Exhibit KK, Commission Resolution C 830580 ZSQ (Mar. 26, 1984, Cal. 1) (governs area bounded by 119th Street, 120th Street, 25th Road and 25th Avenue) (referred to BOE for adoption).
40. Baybridge Condominium, Bayside, *see* Exhibit LL, Commission Resolution C 790124 ZSQ (Dec. 24, 1979, Cal. 2) (governs property bounded by Clearview Expressway, Willets Point Boulevard, 208th

Place, and a line 100 feet northerly of 15th Road and its westerly prolongation) (referred to BOE for adoption).

41. North Shore Towers, Glen Oaks, *see* Exhibit MM, Commission Resolution CP-21651 (Aug. 11, 1971, Cal. 36) (governs the site of the former Glen Oaks Golf Course, located southerly and westerly of the intersection of Grand Central Parkway and the Boundary Line of The City of New York) (referred to BOE for adoption).

42. Waterpointe, *see* Commission Resolution C 080207 (A) ZSQ (Oct. 29, 2008, Cal. 11) (governs 151-45 Sixth Road, and the beds of former 6th Road and 152nd Street) (referred to City Council for adoption).²¹

43. Estates at Kew Gardens Hills, *see* Commission Resolution C 880041 ZSQ (Oct. 18, 1989, Cal. 69) (governs area bounded by 150th Street, 75th Road, 153rd Street, Parsons Boulevard and 76th Road) (referred to BOE for adoption).²²

44. Bay View Towers Apts. and Village Mall Town Houses, *see* Commission Resolution CP-22306 (June 15, 1973, Cal. 19) (governs

²¹ Available at <https://www1.nyc.gov/assets/planning/download/pdf/about/cpc/080207a.pdf>.

²² Available at <https://www1.nyc.gov/assets/planning/download/pdf/about/cpc/880041.pdf>.

area easterly of Corporal Kennedy Street, extending from 23rd Avenue to 26th Avenue) (referred to BOE for adoption).²³

45. New Laurel Condominiums, *see* Commission Resolution CP-22418 (Sept. 19, 1973, Cal. 13) (governs area between 219th Street and 141st Avenue and the right-of-way line of the Long Island Railroad) (referred to BOE for adoption).²⁴

46. Beechhurst, *see* Commission Resolution CP-23242 (July 14, 1976, Cal. 10) (governs area bounded by Riverside Drive, 154th Place, Powells Cove Boulevard, a line west of the westerly Line of 154th Place and its northerly prolongation, the United States Pierhead Line of East River, and 158th Street and its northerly prolongation) (referred to BOE for adoption).²⁵

47. Riverview at College Point & Powell Cove Estates, *see* Commission Resolution CP-23249 (July 14, 1976, Cal. 8) (governs area “in the vicinity of Powell’s Cove Boulevard, 5th Avenue and Lax Avenue”) (referred to BOE for adoption).²⁶

²³ Available at <https://www1.nyc.gov/assets/planning/download/pdf/about/cpc/19730615.pdf#page=107>.

²⁴ Available at <https://www1.nyc.gov/assets/planning/download/pdf/about/cpc/19730919.pdf#page=27>.

²⁵ Available at <https://www1.nyc.gov/assets/planning/download/pdf/about/cpc/CP23242.pdf>.

²⁶ Available at <https://www1.nyc.gov/assets/planning/download/pdf/about/cpc/CP23249.pdf>.

48. New Haven Plaza, *see* Commission Resolution CP-23276 (Oct. 18, 1976, Cal. 2) (governs area bounded by Beach 15th Street, Heyson Road, Beach 13th Street, and New Haven Avenue) (referred to BOE for adoption).²⁷

49. The entire Arverne neighborhood on the Rockaway Peninsula, *see* Commission Resolution C 900163(A) ZSQ (June 20, 1990, Cal. 15) (governs area bounded by Beach 32nd Street to the east, Beach 74th Street, Beach 81st Street and Beach 84th Street to the west, Beach Channel Drive and Rockaway Parkway to the north and the Boardwalk, the Rockaway Beach Boulevard and Hammels Boulevard to the south) (referred to BOE for adoption).²⁸ This is the only Resolution that the Commission referred to the BOE or the City Council that I have found during an examination of all 474 files provided by DCP where a site plan was not incorporated into the resolution as a condition. Instead, the Commission incorporated a set of Urban Design and Planning Controls (in the form of text and drawings). The resolution states,

The Controls are binding conditions of the LSRD special permits and authorizations... Although these Controls differ

²⁷ Available at <https://www1.nyc.gov/assets/planning/download/pdf/about/cpc/CP23276.pdf>.

²⁸ Available at <https://www1.nyc.gov/assets/planning/download/pdf/about/cpc/900163a.pdf>.

from a detailed site plan, usually the basis for making the LSRD findings, the Commission believes the degree of detail is such that they establish a viable framework within which good site planning can be assured considering the extraordinary size of the development and the length of time required to complete it.

Id. at 65.

Staten Island

50. Richmond Gardens Project-Based Section 8 Complex, Brighton

Heights, *see* Exhibit NN, Commission Resolution C 790522 ZSR

(Jan. 2, 1980, Cal. 43) (governs property with frontages on both sides

of Jersey Street extending from Crescent Avenue to Benziger Avenue)

(referred to BOE for adoption).

51. Howland Hook, Mariners Harbor, *see* Exhibit OO, Commission

Resolution CP-22223 (Dec. 13, 1972, Cal. 49) (governs northwesterly

part of area bounded by Richmond Terrace, Northfield Avenue,

Arlington Place and Holland Avenue) (referred to BOE for adoption).

52. Sinclair Estates, *see* Exhibit PP, Commission Resolution C 790443

ZSR (Jan. 16, 1980, Cal. 44) (governs property located easterly of

Bloomington Road and northerly of Sinclair Avenue) (referred to

BOE for adoption).

53. Bulls Head Condominium, *see* Exhibit QQ, Commission Resolution

CP-23056A (Sept. 19, 1979, Cal. 65) (governs area bounded by

Victory Boulevard, Signs Road, and Dinsmore Street) (referred to BOE for adoption).

54. Surfside Village I, *see* Commission Resolution C 910417 ZSR (April 27, 1998, Cal. 1) (governs area bounded by Sprague Avenue, Surf Avenue, Loretto Street and the easterly prolongation of Clermont Avenue) (referred to City Council for adoption).²⁹

55. Ardville Heights, *see* Commission Resolution CP-20636 (July 16, 1969, Cal. 9) (governs area bounded by Huguenot Avenue, Arthur Kill Road, Arden Avenue, Rosedale Avenue, and Vespa Avenue) (referred to BOE for adoption).³⁰

56. Woodbrooke Estates, *see* Commission Resolution CP-21294 (June 13, 1973, Cal. 16) (governs area bounded by Winant Avenue, West Shore Expressway, Barry Street, Rossville Avenue, and Correll Avenue) (referred to BOE for adoption);³¹ Commission Resolution N 780383 ZAR (May 2, 1979, Cal. 48) (same).³²

²⁹ Available at <https://www1.nyc.gov/assets/planning/download/pdf/about/cpc/910417.pdf>.

³⁰ Available at <https://www1.nyc.gov/assets/planning/download/pdf/about/cpc/19690716.pdf#page=8>.

³¹ Available at <https://www1.nyc.gov/assets/planning/download/pdf/about/cpc/19730613.pdf#page=15>.

³² Available at <https://www1.nyc.gov/assets/planning/download/pdf/about/cpc/780383.pdf#page=45>.

57. Elmwood Park, *see* Commission Resolution CP-22245A (May 22, 1973, Cal. 8) (governs area bounded by Marsh Avenue, Richmond Hill Road, Forest Hill Road, and Platinum Avenue) (referred to BOE for adoption).³³

58. St. George, *see* Commission Resolution CP-22524 (Dec. 12, 1973, Cal. 15) (governs area bounded by the southerly property line of the United States Government Lighthouse Department, the United States Pierhead Line, Victory Boulevard and its easterly prolongation, Bay Street, and the westerly right-of-way line of the Staten Island Railway) (referred to BOE for adoption).³⁴

59. Arden Shores, *see* Commission Resolution CP-22641 (July 10, 1974, Cal. 30) (governs area bounded by Arden Avenue, Hylan Boulevard, Woods of Arden Road, and the U.S. Bulkhead Line of Raritan Bay) (referred to BOE for adoption).³⁵

³³ Available at <https://www1.nyc.gov/assets/planning/download/pdf/about/cpc/19730522.pdf#page=25>.

³⁴ Available at <https://www1.nyc.gov/assets/planning/download/pdf/about/cpc/19731212.pdf#page=45>.

³⁵ Available at <https://www1.nyc.gov/assets/planning/download/pdf/about/cpc/19740710.pdf#page=87>.

60. Area bounded by Merrill Avenue, Crocheron Avenue, Victory Boulevard and Richmond Avenue, *see* Commission Resolution CP-22905 (Mar. 12, 1975, Cal. 4) (referred to BOE for adoption).³⁶

61. Prince's Point, *see* BOE Report R-6866 (Dec. 21, 1989, Cal. 50) (governs area bounded by Purdy Place, Wolfe's Pond Park, Raritan Bay and Lemon Creek Park).³⁷

17. The following areas are governed by Commission and BOE Resolutions with a site plan condition identical to the 1972 Two Bridges Resolution *and* a description of how any departure from the condition must be approved if such a departure is later needed. Each of the below Commission and, upon information and belief, BOE Resolutions included the adherence to the plans filed with the application as a condition and the directive that,

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 and Special Permit Authorizations] herein granted.

³⁶ Available at <https://www1.nyc.gov/assets/planning/download/pdf/about/cpc/19750312.pdf#page=40>.

³⁷ Available at <https://www1.nyc.gov/assets/planning/download/pdf/about/cpc/870058.pdf>.

Manhattan³⁸

1. Grand Street Guild and Essex Crossing, Lower East Side, Exhibit F;
2. Campos Plaza NYCHA campus, East Village, Exhibit G;
3. Riverside Park (3333 Broadway), West Harlem, Exhibit H;
4. University Village, West Village, Exhibit I;
5. Taino Towers, East Harlem, Exhibit L;
6. Harlem-East Harlem URA LSRD, Exhibit M;
7. Lincoln West, Upper West Side, Exhibit N;
8. Washington Street URA LSRD, West Village, Exhibit O;
9. Clinton Urban Renewal Area, Upper West Side, Exhibit P;
10. Amsterdam NYCHA campus, Upper West Side, Exhibit Q;
11. Asphalt Green, Upper East Side, Exhibit R;
12. Clinton Towers, Midtown, Exhibit S;

³⁸ Two additional Manhattan LSRD Commission Resolutions with identical language no longer govern modifications of the site plan: Exhibit J (resolution creating West Side URA LSRD); Exhibit K (resolution creating Ruppert Brewery URA LSRD). The Commission amended the ZR in 2003 and again in 2013 to add “method[s] for modification of [these] LSRD[s].” Commission Resolution N030404 ZRM (Sept. 10, 2003, Cal. 26), *available at* <https://www1.nyc.gov/assets/planning/download/pdf/about/cpc/030404.pdf>; *see also* Commission Resolution N 130263 ZRM (Aug. 21, 2013, No. 11), *available at* <https://www1.nyc.gov/assets/planning/download/pdf/about/cpc/130263.pdf>. The amendments added a pathway to “modify” these specific LSRDs, as long the Commission finds that specific standards are met by the application to do so. *See* ZR § 78-06(b)(3), ZR § 78-06(b)(7).

Bronx

13. Morrisania Air Rights NYCHA campus & Morrisania II Apartments,

Exhibit T;

14. City Island Condominium, City Island, Exhibit U;

15. Lambert Houses, West Farms, Exhibit V;

Brooklyn

16. Bedford Gardens, Williamsburg, Exhibit W;

17. Spring Creek LSRD, Flatlands, Exhibit X;

18. Atlantic Terminal Houses, Downtown Brooklyn, Exhibit Y;

19. Kent Village, Williamsburg, Exhibit Z;

20. Starrett City/Spring Creek Towers, Flatlands, Exhibit AA;

21. Shore Hill Apartments, Bay Ridge, Exhibit BB;

22. Grove Street-Wilson Avenue LSRD Area, Bushwick, Exhibit CC;

23. Harbour Village, Canarsie, Exhibit DD;

24. Riverdale Osborne Towers, Brownsville, Exhibit EE;

25. Plaza Residences, Brownsville, Exhibit FF;

Queens

26. Hillcrest Condominiums, Hillcrest, Exhibit GG;

27. East Point, Flushing, Exhibit HH;

28. House Beautiful Condominiums, Forest Hills, Exhibit II;

29. White Oak Court, Astoria, Exhibit JJ;

30. Flushing View Terrace, Exhibit KK;

31. Baybridge Condominium, College Point, Exhibit LL;

32. North Shore Towers, Glen Oaks, Exhibit MM;

Staten Island

33. Richmond Gardens Project-Based Section 8 Complex, Brighton

Heights, Exhibit NN;

34. Howland Hook, Mariners Harbor, Exhibit OO;

35. Sinclair Estates, Exhibit PP; and

36. Bulls Head Condominium, Exhibit QQ.

18. These Commission resolutions illustrate that the Commission makes a choice between as-of-right development and the plan that is proposed for the area as an LSRD that it expects will be binding on all future development in the area. For example, when approving zoning waivers to facilitate high rise development on the former Glen Oaks golf course, the Commission stated in the report which accompanied its resolution,

The Commission's choices are limited: to grant the special permit and guarantee the protection of most of the open space or to reject the special permit and thus allow the developer to either cover the open space with one-family homes or to build high rise apartments but no stores or underground parking. It is the Commission's judgment that it is in the best interest of the community to protect the open space and to insure its future protection as well by granting the special permit.

Exhibit MM, North Shore Towers, Glen Oaks Resolution at 6.

19. In my inspection of hundreds of Commission reports written in response to LSRD applications, I have seen several where applications were denied because the Commission determined that it could not make the required findings. *E.g.*, Commission Resolution C 770377 ZSX (Dec. 27, 1977, Cal. 8), at 6 (“[T]he Commission is unable to make the requisite finding that the proposed modifications of the topography will have minimal impact on the natural topography of the surrounding area and will blend harmoniously with it”).³⁹

CORPORATE DISCLOSURE STATEMENTS

20. For its Corporate Disclosure Statement pursuant to 22 NYCRR § 500.1(f), Tenants United Fighting For The Lower East Side a.k.a. TUFF-LES states that it is a Not-for-Profit Corporation and has no corporate parents or subsidiaries.

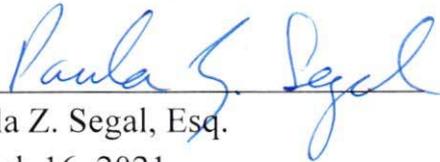
21. For its Corporate Disclosure Statement pursuant to 22 NYCRR § 500.1(f), CAAAV: Organizing Asian Communities states that it is a Not-for-Profit Corporation and has no corporate parents or subsidiaries.

22. For its Corporate Disclosure Statement pursuant to 22 NYCRR § 500.1(f), Good Old Lower East Side a.k.a GOLES states that it is a Not-for-Profit Corporation and has no corporate parents or subsidiaries.

³⁹ Available at <https://www1.nyc.gov/assets/planning/download/pdf/about/cpc/770377.pdf>.

23. For its Corporate Disclosure Statement pursuant to 22 NYCRR § 500.1(f), Land's End One Tenants Association a.k.a. LEOTA states that it is a Not-for-Profit Corporation and has no corporate parents or subsidiaries.

24. For its Corporate Disclosure Statement pursuant to 22 NYCRR § 500.1(f), La Guardia Houses Tenants' Association states that it is an unincorporated association and has no corporate parents or subsidiaries.



Paula Z. Segal, Esq.

March 16, 2021

Brooklyn, NY

Exhibit A

Supreme Court of the State of New York

Appellate Division, First Judicial Department

Manzanet-Daniels, J.P., Webber, Kennedy, Mendez, JJ.

13145-	In the Matter of TENANTS UNITED	Index No. 153029/19
13146	FIGHTING FOR THE LOWER EAST SIDE, also known as TUFF-LES, et al., Petitioners-Respondents,	153024/19 Case No. 2020-01820 2020-01933

-against-

CITY OF NEW YORK DEPARTMENT
OF CITY PLANNING, et al.,
Respondents-Appellants.

In the Matter of LOWER EAST SIDE
ORGANIZED NEIGHBORS, et al.,
Petitioners-Respondents,

-against-

THE NEW YORK CITY PLANNING
COMMISSION, et al.,
Respondents-Appellants,

TWO BRIDGES ASSOCIATES, LP, et al.,
Intervenors-Respondents-Appellants.

James E. Johnson, Corporation Counsel, New York (Jamison Davies of counsel), for
Municipal appellants.

Fried, Frank, Harris, Shriver & Jacobson LLP, New York (Janice Mac Avoy of counsel),
for Two Bridges Associates, LP, LE1 Sub LLC and Cherry Street Owner, LLC,
respondents.

TakeRoot Justice, New York (Paula Z. Segal of counsel), for Tenants United Fighting for
the Lower East Side, Organizing Asian Communities, Good Old Lower East Side and
Laguardia Housing Tenants' Association, respondents.

John R. Low-Ber, Brooklyn, for Lower East Side Organized Neighbors, Chinese Staff & Workers Association, Youth against Displacement, National Mobilization against Sweatshops, Clara Amateleon, Elvia Fernandez, Antonio Quey Lin, David Nieves and Audrey Ward, respondents.

Order, Supreme Court, New York County (Arthur F. Engoron, J.), entered February 25, 2020, which granted the petition of Tenants United Fighting for the Lower East Side, also known as TUFF-LES, among others, seeking, inter alia, to annul determinations of respondent New York City Planning Commission (CPC), dated December 5, 2018, approving applications to construct certain new buildings, to the extent of annulling the approvals, unanimously reversed, on the law, without costs, the petition denied, and the proceeding brought pursuant to CLPR article 78 dismissed. Order, same court and Justice, entered February 24, 2020, which granted the petition of Lower East Side Organized Neighbors, among others, seeking, inter alia, to annul the same determinations, to the extent of annulling the approvals, and directing CPC to make findings pursuant to New York City Zoning Resolution (ZR) § 78-313, and denied respondents' cross motion to dismiss, unanimously reversed, on the law, without costs, the petition denied, the cross motion granted, and the proceeding brought pursuant to CLPR article 78 dismissed.

The court should have deferred to CPC's reasonable interpretation of the ZR not to require the CPC to make the findings enumerated in ZR 78-313 as a condition precedent to approving modifications to a large-scale residential development (LSRD) other than special permits or authorizations (*see Matter of Council of the City of N.Y. v Department of City Planning of the City of N.Y.*, 188 AD3d 18, 28 [1st Dept 2020]). ZR § 78-043 provides: "The requirements for findings as set forth in this Chapter shall

constitute a condition precedent to the grant of any such modification by special permit or otherwise.” Respondents persuasively argue that the word “such” in that provision refers to the two immediately preceding sections, which address only authorizations and special permits (ZR 78-041, 78-042; *see Colon v Martin*, 35 NY3d 75, 78-79 [2020]). Petitioners’ interpretation of ZR 78-043 would render the word “such” meaningless. It does not avail petitioners to argue that the phrase “or otherwise” must be construed to require findings as a condition precedent to other modifications to prevent the phrase “or otherwise” from being rendered meaningless.

Petitioners’ alternative arguments for affirming on grounds not reached by the court, including that the project required authorizations in light of a 1972 resolution which recognized the LSRD at issue, are unavailing in the absence of any conflict with the underlying applicable zoning regulations (*see Matter of Council of the City of N.Y.*, 188 AD3d at 28).

THIS CONSTITUTES THE DECISION AND ORDER
OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.

ENTERED: February 16, 2021



Susanna Molina Rojas
Clerk of the Court

Exhibit B

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

In the Matter of the Application of

TENANTS UNITED FIGHTING FOR THE LOWER
EAST SIDE A.K.A. TUFF-LES, CAAAV:
ORGANIZING ASIAN COMMUNITIES, GOOD
OLD LOWER EAST SIDE A.K.A. GOLES, LAND'S
END ONE TENANTS ASSOCIATION A.K.A.
LEOTA, and LAGUARDIA HOUSES TENANTS'
ASSOCIATION,

Petitioners,

For Judgment Pursuant to CPLR Art. 78 and a
Declaration Pursuant to CPLR § 3001

- against -

CITY OF NEW YORK DEPARTMENT OF CITY
PLANNING, CITY PLANNING COMMISSION,
CHERRY STREET OWNER LLC, TWO BRIDGES
SENIOR APARTMENTS, L.P., TWO BRIDGES
ASSOCIATES L.P., and LE1 SUB LLC,

Respondents.

Index No. 153029/2019

NOTICE OF ENTRY

Motion Seq. Nos. 001, 002

PLEASE TAKE NOTICE that attached is a true and correct copy of the Decision and Order by the Appellate Division, First Department, dated and entered in the office of the Clerk of that court on February 16, 2021.

Dated: New York, New York
February 16, 2021

FRIED, FRANK, HARRIS, SHRIVER
& JACOBSON LLP

By: /s/ Janice Mac Avoy
Janice Mac Avoy
One New York Plaza
New York, New York 10004
(212) 859-8000

*Attorneys for Respondents Cherry Street
Owner LLC, Two Bridges Senior
Apartments, L.P., Two Bridges Associates
L.P., and LE1 Sub LLC*

TO: Paula Z. Segal, Esq.
TAKEROOT JUSTICE
123 William Street, 16th Floor
New York, New York 10038
(646) 459-3067

Attorneys for Petitioners

Rachel K. Moston
Assistant Corporation Counsel
ZACHARY W. CARTER
Corporation Counsel of the City of New York
100 Church Street
New York, New York 10007
(212) 356-2190

*Attorneys for Respondents City of New
York Department of City Planning and City
Planning Commission*

Supreme Court of the State of New York

Appellate Division, First Judicial Department

Manzanet-Daniels, J.P., Webber, Kennedy, Mendez, JJ.

13145-	In the Matter of TENANTS UNITED	Index No. 153029/19
13146	FIGHTING FOR THE LOWER EAST SIDE, also known as TUFF-LES, et al., Petitioners-Respondents,	153024/19 Case No. 2020-01820 2020-01933

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CITY OF NEW YORK DEPARTMENT
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respondents.

TakeRoot Justice, New York (Paula Z. Segal of counsel), for Tenants United Fighting for
the Lower East Side, Organizing Asian Communities, Good Old Lower East Side and
Laguardia Housing Tenants' Association, respondents.

John R. Low-Ber, Brooklyn, for Lower East Side Organized Neighbors, Chinese Staff & Workers Association, Youth against Displacement, National Mobilization against Sweatshops, Clara Amateleon, Elvia Fernandez, Antonio Quey Lin, David Nieves and Audrey Ward, respondents.

Order, Supreme Court, New York County (Arthur F. Engoron, J.), entered February 25, 2020, which granted the petition of Tenants United Fighting for the Lower East Side, also known as TUFF-LES, among others, seeking, inter alia, to annul determinations of respondent New York City Planning Commission (CPC), dated December 5, 2018, approving applications to construct certain new buildings, to the extent of annulling the approvals, unanimously reversed, on the law, without costs, the petition denied, and the proceeding brought pursuant to CLPR article 78 dismissed. Order, same court and Justice, entered February 24, 2020, which granted the petition of Lower East Side Organized Neighbors, among others, seeking, inter alia, to annul the same determinations, to the extent of annulling the approvals, and directing CPC to make findings pursuant to New York City Zoning Resolution (ZR) § 78-313, and denied respondents' cross motion to dismiss, unanimously reversed, on the law, without costs, the petition denied, the cross motion granted, and the proceeding brought pursuant to CLPR article 78 dismissed.

The court should have deferred to CPC's reasonable interpretation of the ZR not to require the CPC to make the findings enumerated in ZR 78-313 as a condition precedent to approving modifications to a large-scale residential development (LSRD) other than special permits or authorizations (*see Matter of Council of the City of N.Y. v Department of City Planning of the City of N.Y.*, 188 AD3d 18, 28 [1st Dept 2020]). ZR § 78-043 provides: "The requirements for findings as set forth in this Chapter shall

constitute a condition precedent to the grant of any such modification by special permit or otherwise.” Respondents persuasively argue that the word “such” in that provision refers to the two immediately preceding sections, which address only authorizations and special permits (ZR 78-041, 78-042; *see Colon v Martin*, 35 NY3d 75, 78-79 [2020]). Petitioners’ interpretation of ZR 78-043 would render the word “such” meaningless. It does not avail petitioners to argue that the phrase “or otherwise” must be construed to require findings as a condition precedent to other modifications to prevent the phrase “or otherwise” from being rendered meaningless.

Petitioners’ alternative arguments for affirming on grounds not reached by the court, including that the project required authorizations in light of a 1972 resolution which recognized the LSRD at issue, are unavailing in the absence of any conflict with the underlying applicable zoning regulations (*see Matter of Council of the City of N.Y.*, 188 AD3d at 28).

THIS CONSTITUTES THE DECISION AND ORDER
OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.

ENTERED: February 16, 2021



Susanna Molina Rojas
Clerk of the Court

Exhibit C

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. ARTHUR F. ENGORON PART IAS MOTION 37EFM

Justice

-----X

TENANTS UNITED FIGHTING FOR THE LOWER EAST SIDE A.K.A. TUFF-LES, CAAAV ORGANIZING ASIAN COMMUNITIES, GOOD OLD LOWER EAST SIDE A.K.A. GOLES, LANDS END ONE TENANTS ASSOCIATION A.K.A. LEOTA, LAGUARDIA HOUSES TENANTS ASSOCIATION,

Petitioners,

- v -

CITY OF NEW YORK DEPARTMENT OF CITY PLANNING AND CITY PLANNING COMMISSION, CHERRY STREET OWNER LLC, TWO BRIDGES SENIOR APARTMENTS, L.P, TWO BRIDGES ASSOCIATES L.P., LE1SUB LLC,

Respondents.

DECISION + ORDER ON MOTION

-----X

The following e-filed documents, listed by NYSCEF document number (Motion 001) 2, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 96, 99, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 224

were read on this motion for CPLR ARTICLE 78 RELIEF

The following e-filed documents, listed by NYSCEF document number (Motion 002) 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 223

were read on this motion to DISMISS

Upon the foregoing documents, the petitioners are hereby granted CPLR Article 78 relief, and the cross-motion to dismiss the petition is denied.

In this CPLR special proceeding, petitioners are comprised of local community organizations, non-profit groups, and residents of the "Two Bridges" neighborhood in Manhattan's Lower East Side. Petitioners seek to annul the determination of respondent the New York City Planning Commission (the "Planning Commission") that approved the proposed plans of Intervenor-Respondents Two Bridges Associates, LP, LE1 Sub, LLC, and Cherry Street Owner, LLC

(collectively hereinafter, the “Developers”) to erect several tall, mostly residential skyscrapers on the subject property, which is located in the Two Bridges Large Scale Residential Development (“Two Bridges LSRD”).

This Court has addressed the issues raised in this petition in two related special proceedings—The Council of the City of New York v The Department of City Planning, Index No. 452302/2018 and Lower East Side Organized Neighbors v The New York City Planning Commission, Index No. 153024/2019—and refers the reader to this Court’s decisions in those matters for a full recitation of the facts and arguments raised by all parties (the “Related Two Bridges Decisions”).

In short, petitioners in the instant special proceeding seek to annul the Planning Commission’s approvals of the Developers’ proposed projects on the grounds that: (1) the approvals violate the New York City Zoning Resolution (“ZR”) that controls LSRDs because the Planning Commission failed to make findings as required by ZR § 78-043 and § 78-313; (2) the Planning Commission’s declaration that the proposed projects are “minor modifications” to the existing site plan is arbitrary and capricious; and (3) the approvals violate the City Environmental Quality Review (“CEQR”) process by disregarding the proposals’ adverse impacts.

In the Related Two Bridges Decisions, this Court nullified the proposed projects and ordered that: (1) the proposed projects must undergo the New York City Uniform Land Review Process (“ULURP”); and (2) the Planning Commission must make findings pursuant to ZR § 78-313 as a condition precedent to granting approvals to any modifications to the Two Bridges LSRD.

Accordingly, the petition herein is granted solely to the extent of finding that the approvals are nullified for failure to make the required findings pursuant to ZR § 78-313 as a condition precedent to granting approvals modifying an LSRD.

The Court has considered petitioners’ other arguments and finds them unavailing and/or non-dispositive for the reasons stated in the Related Two Bridges Decisions.¹



ARTHUR F. ENGORON, J.S.C.

2/19/2020
DATE

CHECK ONE: CASE DISPOSED NON-FINAL DISPOSITION

GRANTED DENIED GRANTED IN PART OTHER

APPLICATION: SETTLE ORDER SUBMIT ORDER

CHECK IF APPROPRIATE: INCLUDES TRANSFER/REASSIGN FIDUCIARY APPOINTMENT REFERENCE

¹ There is one argument raised by petitioners in the instant special proceeding that was not raised in the Related Two Bridges Decisions—that that the Planning Commission’s decision to characterize the approvals as “minor modifications” to the existing site plan was arbitrary and capricious. While the Court agrees that it strains common sense and credulity to characterize anything that would add approximately 2.5 million square feet of new space, four new skyscrapers, and 2,775 new dwelling units as “minor modifications,” the Court need not reach that issue, as this Court found that findings pursuant to ZR § 78-043 and § 78-313 must be made as a condition precedent to granting approval for any modification to an existing LSRD.

Exhibit D

CP-22059

BOARD OF ESTIMATE
CITY OF NEW YORK

346

(Cal. No. 52)

Resolved, By the Board of Estimate, pursuant to the provisions of Section 74-10 of the Zoning Resolution of the City of New York that the resolution of the City Planning Commission adopted on September 6, 1972 (Cal. No. 36) reading as follows:

Resolved, By the City Planning Commission that the application of the New York City Housing Authority for the grant of special permits involving a large-scale residential development within the East 14th Street-Avenue B Community Development Area (Urban Renewal Area), on property bounded by Avenue B, East 14th Street, Avenue C, and East 12th Street, Borough of Manhattan, be and hereby is approved pursuant to Sections 78-311(e), 78-312(c), 78-312(d) and 78-312(f) 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 and;
 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.
- 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 and Authorization herein granted. —be and the same hereby is approved.

A true copy of resolution adopted by the Board of Estimate on October 12, 1972.

Ruth H. Whaley

Secretary

Exhibit E

**BOARD OF ESTIMATE
CITY OF NEW YORK**



(Cal. No. 205)

Resolved, By the Board of Estimate, pursuant to the provisions of Section 74-10 of the Zoning Resolution of the City of New York, that the resolution of the City Planning Commission adopted on April 14, 1971 (Cal. No. 28), reading as follows:

Resolved, By the City Planning Commission, that the application of the Housing and Development Administration for the approval of special permit authorization for a large-scale residential development to be built within the area bounded generally by Essex Street, Broome Street, Norfolk Street, an Unnamed Street, Willett Street and Grand Street, Borough of Manhattan, be and hereby is approved, pursuant to Sections 78-22, 78-311(e), 78-312(d), 78-312(f), 78-41, 78-311(a) and 74-53 of the Zoning Resolution, subject to the following conditions:

1. The premises shall be developed in size and arrangement as proposed and as indicated on the site plan, dated June 20, 1969 and revised March, 1971;
 2. The development shall comply with all applicable provisions of the Zoning Resolution, except for the modifications herein granted;
 3. The zoning computations are subject to verification and approval by the Department of Buildings, and are not to be considered as approved as part of this resolution; and
 4. The approvals herein granted apply only to Parcel 3.
- 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 Authorization herein granted.

—be and the same hereby is approved.

**A true copy of resolution adopted by the Board of
Estimate on APRIL 22, 1971.**

Ruth R. Whaley

Exhibit F

SPECIAL PERMIT AUTHORIZATIONS, pursuant to Article VII, Chapters 4 and 8 of the Zoning Resolution, involving a large-scale residential development within the Seward Park Extension Urban Renewal Area, on property bounded generally by Essex Street, Broome Street, Norfolk Street, an Unnamed Street, Willett Street and Grand Street, Borough of Manhattan. The application for the special permit authorizations involving this large-scale development was filed by the Housing and Development Administration.

The Seward Park Extension Urban Renewal Plan provides for the renewal of a 14-block area on the Lower East Side, with a mixture of housing, shopping, and community facilities.

The Urban Renewal Plan was the subject of a report (CP-18915) approved by the Commission on June 2, 1965 (Cal. #8) and by the Board of Estimate on July 22, 1965 (Cal. #155), with subsequent minor changes.

The large-scale development area, as shown on a site plan dated June 20, 1969 and revised March, 1971, involves 10.5 acres, and has been divided into seven parcels. Parcels 1 and 4 constitute Stage I and will be improved by the Housing Authority with public housing. Large-scale development authorizations for Stage I, pursuant to Sections 78-311(e), 78-312(d), and 78-41 of the Zoning Resolution, were the subject of a previous report (CP-20871) approved by the City Planning Commission on December 23, 1969 (Cal. #22) and by the Board of Estimate on January 8, 1970 (Cal. #43).

Parcel 3 constitutes Stage II, and will be improved with three moderate-income tax-abated apartment houses, a community facility building, an accessory parking garage, and a supermarket. The remaining parcels will constitute future Stages, which will be considered when specific plans develop. Large-scale development authorizations for Stage II, pursuant to Sections 78-22, 78-311(e), 78-312(d), 78-312(f), and 74-53 of the Zoning Resolution were the subject of another report (CP-21371) approved by the City Planning Commission on October 14, 1970 (Cal. #46) and by the Board of Estimate on October 29, 1970 (Cal. #97).

The present application (CP-21573) is necessitated by minor revisions in the plans for Parcel 3 (Stage II) and supersedes the former application for authorizations for Stage II (CP-21371). The present application (CP-21573) requests special permit authorizations pursuant to various sections of Article VII, Chapters 4 and 8 as follows:

1. Section 78-22. To authorize accessory commercial uses listed in Use Group 6A or 6F which in the aggregate occupy not more than two percent of the total floor area of the development, to be located on Parcel 3, as shown on the General Site Plan submitted with and made part of the application;
2. Section 78-311(e). To authorize the location of buildings without regard for the height and setback regulations which would otherwise apply along portions of streets wholly within the development, as shown on the General Site Plan submitted with and made part of the application;
3. Section 78-312(d). To authorize minor variations in the front height and setback regulations on the periphery of the development, as shown on the General Site Plan submitted with and made part of the application;
4. Section 78-312(f). To authorize modifications of the minimum spacing requirements consistent with the intent of the provisions of 23-71, as shown on Table III of the application;
5. Section 74-53. To permit group parking facilities accessory to uses in the large-scale residential development, with more than 150 spaces, as shown on the Parking Structure Plan submitted with and made part of the application;
6. Section 78-41. To authorize accessory off-street parking spaces to be located anywhere within the development without regard for zoning lot lines; and
7. Section 78-311(a). To authorize the total rooms and dwelling units permitted for all zoning lots within the development to be distributed without regard for zoning lot lines.

On March 31, 1971 (Cal. #15) the City Planning Commission scheduled a PUBLIC HEARING on the application. The hearing was duly held on April 14, 1971 (Cal. #28). There was no opposition and the hearing was closed.

As a result of investigation and study, the Commission has determined that the application conforms with the findings required under Sections 74-53, 78-22, 78-41, and 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 the Housing and Development Administration for the approval of special permit authorizations for a large-scale residential development to be built within the area bounded generally by Essex Street, Broome Street, Norfolk Street, an Unnamed Street, Willett Street, and Grand Street, Borough of Manhattan, be and hereby is approved, pursuant to Sections 78-22, 78-311(e), 78-312(d), 78-312(f), 78-41, 78-311(a) and 74-53 of the Zoning Resolution, **subject to the following conditions:**

1. **The premises shall be developed in size and arrangement as proposed and as indicated on the site plan,** dated June 20, 1969 and revised March, 1971;
2. The development shall comply with all applicable provisions of the Zoning Resolution, except for the modifications herein granted;
3. The zoning computations are subject to verification and approval by the Department of Buildings, and are not to be considered as approved as part of this resolution; and
4. The approvals herein granted apply only to Parcel 3.

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 Authorizations herein granted.

The above resolution, duly adopted by the City Planning Commission on April 14, 1971 (Cal. #29) is herewith filed with the Secretary of the Board of Estimate together with a copy of the application, General Site Plan, and Parking Structure Plan, pursuant to Sections 74-10 and 78-042 of the Zoning Resolution.

DONALD H. ELLIOTT, Chairman
GERALD R. COLEMAN, MARTIN GALLENT, IVAN A. MICHAEL,
CHESTER RAPKIN, JOHN E. ZUCCOTTI, Commissioners.

WALTER MCQUADE, Commissioner, voting "No".

Exhibit G

IN THE MATTER OF an application, pursuant to Article VII, Chapter 8 of the Zoning Resolution, from the New York City Housing Authority, for the grant of special permits and an authorization involving a large-scale residential development within the East 14th Street-Avenue B Urban Renewal Area, on property bounded by Avenue B, East 14th Street, Avenue C and East 12th Street, Borough of Manhattan.

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 July 12, 1972, Cal. No. 14, the Commission scheduled August 2, 1972, for a hearing; on August 2, 1972, Cal. No. 45, the hearing was closed.)

On motion, the following favorable report was unanimously adopted:

September 6, 1972

The application for the special permits was filed by the New York City Housing Authority, to implement plans for a Federally-aided public housing project tentatively designated as East 14th Street-Avenue B Area, which is the subject of a report (CP-20865) approved by the Commission on November 26, 1969 (Cal. #17) and by the Board of Estimate on December 4, 1969 (Cal. #194). The housing project is included within the East 14th Street-Avenue B Community Development Area (Urban Renewal Area).

The application seeks special permits and an authorization, pursuant to various sections of Article VII, Chapter 8 of the Zoning Resolution, as follows:

1. Section 78-311(e). To authorize the location of two buildings without regard for the height and setback regulations which would otherwise apply along portions of East 13th Street and the cul-de-sac on East 13th Street, wholly within the development, as shown on the site plan submitted with and made part of the application;
2. Section 78-312(c). To permit minor variations in the required rear yard for a building fronting on East 14th Street, on the periphery of the development, as shown on the site plan submitted with and made part of the application;
3. Section 78-312(d). To permit the location of two buildings without regard for the height and setback regulations which would otherwise apply along a portion of East 14th Street, on the periphery of the development, as shown on the site plan submitted with and made part of the application; and
4. Section 78-312(f). To permit modification of the minimum spacing requirements between buildings, as shown on the site plan submitted with and made part of the application.

On July 12, 1972 (Cal. #14), the City Planning Commission scheduled a PUBLIC HEARING on this application. The hearing was duly held on August 2, 1972 (Cal. #45). There were no appearances, and the hearing was closed.

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 stated in the following resolution:

RESOLVED, by the City Planning Commission that the application of the New York City Housing Authority for the grant of special permits involving a large-scale residential development within the East 14th Street-Avenue B Community Development Area (Urban Renewal Area), on property bounded by Avenue B, East 14th Street, Avenue C, and East 12th Street, Borough of Manhattan, be and hereby is approved pursuant to Sections 78-311(e), 78-312(c), 78-312(d) and 78-312(f) 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 and;
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.

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 and Authorization herein granted.

The above resolution duly adopted by the City Planning Commission on September 6, 1972 (Cal. # 36) 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 78-042 of the Zoning Resolution.

DONALD H. ELLIOTT, Chairman;
GERALD R. COLEMAN, MARTIN GALLEN,
IVAN A. MICHAEL, CHESTER RAPKIN, JOHN E. ZUCCOTTI, Commissioners.

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Exhibit H

IN THE MATTER OF an application, pursuant to Sections 74-53, 74-75, 74-842, and 78-312(c), of the Zoning Resolution, from the New York City Educational Construction Fund, for the grant of special permits, involving a combined school and residence including air rights over a school (I.S. 195, Manhattan), the staged development of a publicly-assisted housing project (Riverside Park Community, Stage I), and a large-scale residential development, on property fronting on the westerly side of Broadway, extending from West 133rd Street to West 135th Street, Borough of Manhattan. (CPD No. 9)

Plans for this proposed combined school and residence, and 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 May 17, 1972, Cal. No. 25, the Commission scheduled May 31, 1972, for a hearing; on May 31, 1972, Cal. No. 47, the hearing was closed.)

On motion, the following favorable report was unanimously adopted:

June 14, 1972

The application for the special permits was filed by the New York City Educational Construction Fund.

The New York City Educational Construction Fund proposes to develop the property with a combination School (I.S. 195, Manhattan) and publicly-assisted housing project providing approximately 1,190 apartments in a single structure varying in height from 10 to 34 stories (Riverside Park Community).

The site for I.S. 195 was approved by the Site Selection Board on January 24, 1972 (SS-586) and by the Mayor on April 3, 1972.

Riverside Park Community, a City-aided Limited-Profit rental project, is the subject of a separate report (CP-21979) approved by the Commission on June 14, 1972 (Cal. #6) pursuant to Article 2 of the Private Housing Law of New York State. In another separate report (CP-21998), approved by the Commission on June 14, 1972 (Cal. #27), the site was rezoned from M1-2 to R8, to accommodate the project. A related change in the City Map (CP-22007) was also approved by the Commission on June 14, 1972 (Cal. #17) providing for the elimination, discontinuing, and closing of West 134th Street from Broadway to a point 125 feet easterly of Riverside Drive.

The application seeks the following special permits pursuant to Section 74-72 of the Zoning Resolution:

- a) To permit the utilization of air rights for the combined school and residential structure;
- b) To modify the requirement that open area be accessible to, and usable by all persons occupying a dwelling unit on the zoning lot in order to qualify as open space;
- c) To permit ownership, control of access and maintenance of the open space to be vested in the New York City Educational Construction Fund or City agency successor in title; and

d) To permit modification of the height and setback regulations, as shown on the plans submitted with and made part of the application.

The application seeks the following special permit, pursuant to Section 74-842 of the Zoning Resolution, (Staged Development of Public or Publicly-Assisted Housing Projects):

To permit existing buildings to remain temporarily on the zoning lot, and to authorize the applicable bulk regulations of the R8 District to apply to the entire zoning lot without regard to the existence of the temporary buildings, subject to the conditions set forth in Section 74-842 of the Zoning Resolution, including the following time table of demolition of all existing buildings and the following schedule of new development and other improvements:

a) Estimated construction start: September 15, 1972.

b) Estimated time of completion for the entire Project: two to two and one-half years, or approximately by January, 1975, at which time a temporary Certificate of Occupancy will be obtained.

c) Eligible tenants from existing structures on Broadway will be re-located to the new structure. Demolition of existing buildings will commence approximately February, 1975.

The project qualifies as a large-scale residential development as defined in Section 78-02 of the Zoning Resolution, by having an area of more than three acres and more than 500 dwelling units. The application seeks special permits pursuant to the following sections of the Zoning Resolution relating to large-scale residential developments:

1. Section 74-53. To permit group parking facilities accessory to uses in the large-scale residential development, with more than 150 spaces; and
2. Section 78-312(c). To permit a minor variation in the rear yard for Building 3, as shown on the plans submitted with and made part of the application.

On May 17, 1972 (Cal. #26), the City Planning Commission scheduled a PUBLIC HEARING on this application. The hearing was duly held on May 31, 1972 (Cal. #47). There were no appearances, and the hearing was closed.

As a result of investigation and study, the Commission has determined that the application conforms with the findings required under Sections 74-53, 74-75, 74-842, and 78-313 of the Zoning Resolution, and 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 New York City Educational Construction Fund for the grant of special permits involving a combined school and residence including air rights over a school (I.S. 195, Manhattan), the staged development of a publicly-assisted housing project (Riverside Park Community, Stage I), and a large-scale residential development, on property fronting on the westerly side of Broadway, extending from West 133rd Street to West 135th Street, Borough of Manhattan, be and hereby is approved pursuant to Sections 74-53, 74-75, 74-842, and 78-312(c) of the Zoning Resolution **subject to the following conditions:**

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

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 June 14, 1972 (Cal. #28) 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.

DONALD H. ELLIOTT, Chairman;
GERALD R. COLEMAN, MARTIN GALLEN,
IVAN A. MICHAEL, CHESTER RAPKIN, JOHN E. ZUCCOTTI, Commissioners.

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Exhibit I

SPECIAL PERMIT and AUTHORIZATION pursuant to Section 197-c of the New York City Charter and Sections 78-311(b) and 78-312(f) of the Zoning Resolution, involving an amendment of a previously-approved large-scale residential development (CP-18649) within the Washington Square Southeast Urban Renewal Area, on property bounded by Bleecker Street, Mercer Street, West Houston Street, and former Greene Street, Borough of Manhattan, CB #2

The property which is the subject of the present application (C780698ZSM), bounded by Bleecker Street, Mercer Street, West Houston Street, and former Greene Street, constitutes the most easterly portion of a large-scale residential development bounded by Bleecker Street, Mercer Street, West Houston Street, and La Guardia Place which was approved by the City Planning Commission in a resolution (CP-18649) dated October 14, 1964 (Cal. #21) granting authorizations to distribute floor area, open space, rooms, and parking without regard for zoning lot lines.

The present application was filed by the Department of Housing Preservation and Development in order to facilitate the construction by New York University of a recreation facility to serve both the University and the community.

The present application seeks a special permit and an authorization pursuant to the following Sections of the Zoning Resolution:

1. Section 78-312(f). Special permit to modify the minimum spacing between buildings requirements consistent with the intent of the provisions of Section 23-71; and
2. Section 78-311(b) (as newly amended by N780697ZRY). Authorization to modify the requirements set forth in paragraph (c) of the open space definition in Section 12-10, which otherwise would require the roof open space to be directly accessible by a passageway from the building or by a ramp with a grade of less than 10 percent.

The application was certified as complete by the City Planning Commission on January 2, 1979, in accordance with Article 3 of the Uniform Land Use Review Procedure, and referred to Community Board #2.

Community Board #2 held a public hearing on the application on February 6, 1979, and voted to recommend approval of the application on February 15, 1979, in accordance with Article 4 of ULURP.

In addition to the application for the amendment of the large-scale residential development which is the subject of this report (C780698ZSM), the construction of the proposed recreation facility will require favorable action by the City Planning Commission and the Board of Estimate on the following two items, both of which are concurrently approved by the City Planning Commission on March 28, 1979.

1. N780697ZRY. Amendment of the Zoning Resolution, relating to Section 78-311(b), enabling the Commission to grant the authorization referred to above; and

2. C780696HUM. Amendment of the Washington Square Southeast Urban Renewal Plan, pursuant to Article 15 of the General Municipal Law (Urban Renewal Law) of New York State.

On February 28, 1979 (Cal. #30), the City Planning Commission scheduled a PUBLIC HEARING on this application. The hearing was duly held on March 14, 1979 (Cal. #18) in conjunction with the related hearings on the amendment of the Zoning Resolution (N780697ZRY) and the amendment of the Washington Square Southeast Urban Renewal Plan (C780696HUM). There were a number of appearances, as described in the related report on the Urban Renewal Plan, and the hearing was closed.

A full description of the proposed facility is set forth in the related report on the amendment of the Urban Renewal Plan (C780696HUM). In order to insure that residents of the large-scale residential development and residents of the community have the access to the recreational facility agreed to by New York University, and to insure the resolution of unresolved issues in the manner agreed to by the University, the granting of the special permit and authorization will be subject to certain conditions set forth below.

The Commission hereby makes the following findings, pursuant to Section 78-313 of the Zoning Resolution:

- a) The special permit and authorization will aid in achieving the general purposes and intent of Article VII, Chapter 8;
- b) The proposed distribution of open space, and the location of the recreation facility, will permit better site planning and will benefit the students and staff of New York University as well as the residents of the large-scale residential development and the City as a whole;
- c) The proposed distribution of open space, and the location of the recreation facility, will not increase the bulk of buildings, density of population, or intensity of use in any block, to the detriment of the occupants of buildings in the block or nearby blocks; and

d) The proposed distribution of open space, and the location of the recreation facility, will not affect adversely any other zoning lots outside the development, by restricting access to light and air or by creating traffic congestion.

Paragraph (c) of the open space definition in Section 12-10 now requires that roof open space shall be directly accessible by a passageway from a building, or by a ramp (with a grade of less than 10 percent). The new amendment of the Zoning Resolution (N780697ZRY) enables the Commission, pursuant to Section 78-311(b), to authorize modification of these requirements in a large-scale residential development, if the required open space on the roof of a community facility building has an equivalent access arrangement acceptable to the Commission. The Commission finds that the exterior stairway, the interior stairway, and the interior elevator of the recreation facility will constitute adequate equivalent access to the roof open space.

Consequently, the Commission determined that the application warrants approval subject to the conditions stated in the following resolution:

RESOLVED, by the City Planning Commission, pursuant to Section 197-c of the New York City Charter, that the application of the Department of Housing Preservation and Development, for the grant of a special permit and authorization involving an amendment of a previously-approved large-scale residential development (CP-18649) within the Washington Square Southeast Urban Renewal Area, on property bounded by Bleecker Street, Mercer Street, West Houston Street, and West Broadway, Borough of Manhattan, be and hereby is approved pursuant to Sections 78-311(b) and 78-312(f) of the Zoning Resolution **subject to the following conditions:**

1. The design of the roof playground, and the proposed scheduled hours of operation, shall be submitted to the City Planning Commission for review. No permanent certificate of occupancy shall be granted until the Chairman of the City Planning Commission has approved the design of the roof playground.

2. Residents of the large-scale residential development bounded by Bleecker Street, Mercer Street, West Houston Street, and La Guardia Place shall have access to the rooftop via the exterior stairway, interior stairway, and interior elevator at all times when the roof is available to other users of the facility.

3. Residents of the large-scale residential development bounded by Bleecker Street, Mercer Street, West Houston Street, and La Guardia Place shall have access to the rooftop tennis courts and playground on the same basis as the other users of the facilities;

4. The design of the improvements of the strip of land between the easterly building line and the curb of Mercer Street, shall be submitted to the City Planning Commission for review. No permanent certificate of occupancy shall be granted until the Chairman of the City Planning Commission has approved the design of that strip of land, and the improvements made pursuant to that design;

5. New York University shall allow community residents other than the residents of the large-scale residential development to use the rooftop tennis courts for 10 percent of the number of hours that the courts are available.

6. New York University shall provide for ten hours per week of community use for the facilities within the building. During the academic year, these ten hours shall be available entirely on the weekend or split between the weekend and Friday night. During the summer term, these ten hours shall be available from Monday through Friday;

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

8. 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

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

10. The entrance to the community facility shall be from Mercer Street. A revised site plan indicating this change shall be submitted to the City Planning Commission for review. No building permit shall be granted until the Chairman of the City Planning Commission has approved this revised site plan.

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 and authorization herein granted.

The above resolution duly adopted by the City Planning Commission on April 23, 1979 (Cal. #3) 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 Sections 78-311(b) and 78-312(f) of the Zoning Resolution and in accordance with the requirements of Section 197-c of the Charter.

ROBERT F. WAGNER, Jr., Chairman;
MARTIN GALLEN, Vice-Chairman,
SYLVIA DEUTSCH, JOHN P. GULINO, HOWARD B. HORNSTEIN, Commissioners.

THEODORE E. TEAH, Commissioner; not participating or voting.

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Exhibit J

CONTINUED PUBLIC HEARING in the matter of an application, pursuant to Article VII, Chapter 8 of the Zoning Resolution, from the Housing and Development Administration, for the grant of special permits and authorizations involving Site 28, on the easterly side of Amsterdam Avenue, between West 90th Street and West 91st Street, and Site 43, on the easterly side of Amsterdam Avenue, between West 87th Street and West 88th Street, within a previously approved large-scale residential development designated as the West Side Urban Renewal Area, Borough of Manhattan.

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 November 8, 1972, Cal. No. 4, the Commission scheduled November 29, 1972, for a hearing; on November 29, 1972, Cal. No. 56, the hearing was continued to December 13, 1972.)

Appearances: The Reverend Thomas Farrelly, President, and Sondra Thomas, Director, Strycker's Bay Neighborhood Council, Inc.; Robert C. Rosenberg, Deputy Commissioner, Housing and Development Administration.

On motion, it was unanimously voted to close the hearing.

On motion, Rule 105 was waived and the following favorable report was unanimously adopted:

December 13, 1972

The application for the special permits and special permit authorizations was filed by the Housing and Development Administration to implement plans for two City-aided housing projects. One project, to be known as Heywood Broun Tower, will provide 188 apartments in one 20-story building, to be located on the easterly side of Amsterdam Avenue between West 90th Street and West 91st Street, on site 28 of the West Side Urban Renewal Area, and is the subject of a separate report (CP-22072) approved by the Commission on November 1, 1972 (Cal. #15), and by the Board of Estimate on December 7, 1972 (Cal. #7). The other project, to be known as Glenn Gardens, will provide 269 apartments in one 32-story and one 5-story building to be located on the easterly side of Amsterdam Avenue between West 87th Street and West 88th Street, on site 43 of the West Side Urban Renewal Area, and is the subject of a separate report (CP-22183) approved by the Commission on December 13, 1972, (Cal. #24).

The large-scale residential development was the subject of a resolution (CP-18505) adopted by the Commission on June 17, 1964, granting certain authorizations pursuant to Article VII, Chapter 8 of the Zoning Resolution. Since then, as plans for specific projects within the large-scale development have become approved by the Commission and the Board of Estimate, the original large-scale development authorizations have had a series of modifications to accommodate the proposed projects.

The present application seeks special permits 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 distribution of floor area and zoning rooms without regard for zoning lot lines and district boundary lines;

2. 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;
3. Section 78-311(e). To authorize the location of buildings without regard for the height and setback regulations which would otherwise apply along portions of West 90th Street, a street wholly within the development; and
4. Section 78-312(d). To permit minor variations in the height and setback regulations along portions of West 87th Street and West 91st Street, streets on the periphery of the development.

On November 8, 1972 (Cal. #14), the City Planning Commission scheduled a PUBLIC HEARING on this application. The hearing was duly held on November 29, 1972 (Cal. #56), and continued on December 13, 1972 (Cal. #50), as described in the related report on Glenn Gardens (CP-22183).

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 stated in the following resolution:

RESOLVED, by the City Planning Commission that the application of the Housing and Development Administration for the grant of special permits involving Site 28, on the easterly side of Amsterdam Avenue, between West 90th Street and West 91st Street, and Site 43, on the easterly side of Amsterdam Avenue between West 87th Street and West 88th Street, within a previously approved large-scale residential development designated as the West Side Urban Renewal Area, Borough of Manhattan, be and hereby is approved pursuant to Sections 78-311(a), 78-311(d), 78-311(e) and 78-312(d) 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; and

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.

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 and Special Permit Authorizations herein granted.

The above resolution duly adopted by the City Planning Commission on December 13, 1972 (Cal. # 50) 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.

DONALD H. ELLIOTT, Chairman;
GERALD R. COLEMAN, SYLVIA DEUTSCH, MARTIN GALLENT, IVAN A. MICHAEL, CHESTER RAPKIN, JOHN E. ZUCCOTTI, Commissioners.

RR:b1

Exhibit K

Disclaimer

CITY PLANNING COMMISSION

February 2, 1983 / Calendar #49

City Planning
Commission (CPC)

C 830264 ZSM

SPECIAL PERMIT, pursuant to Section 78-312(d) of the Zoning Resolution, involving a previously approved large-scale residential development (CP-21724, CP-21855, N 820778 ZAM, and N 830109 ZAM) within the Ruppert Brewery Urban Renewal Area, located within the area bounded generally by Third Avenue, East 94th Street, Second Avenue and East 90th Street, Borough of Manhattan.

The application (C 830264 ZSM) from the Department of Housing and Preservation Development for an additional special permit pursuant to Section 78-312(d) of the Zoning Resolution relates to Stage IV of a previously approved large-scale residential development. The special permit would authorize minor variations in the front height and setback regulations along portions of East 94th Street and Third Avenue on the periphery of the Ruppert Brewery Urban Renewal Area for Parcel 4B, tentatively known as Carnegie Park, which is to be developed as a residential and commercial building ranging in height from 8 to 30 stories and will contain 397 market rate and low and moderate income units. The Ruppert Brewery Urban Renewal Area is located within the area bounded generally by Third Avenue, East 94th Street, Second Avenue, and East 90th Street, Borough of Manhattan.

In addition to the special permit which is the subject of this report (C 830264 ZSM), the implementation of the project will require approval by the City Planning Commission and Board of Estimate of a housing plan and project and related disposition of City-owned property, which are the subject of a separate report (C 830262 HPM) approved by the City Planning Commission on February 2, 1983 (Cal. No. 48).

The City Planning Commission adopted a resolution on September 22, 1971 (Calendar #14) approving an application (CP-21724) for special permits and authorizations pursuant to Sections 78-311(a), 78-311(d), 78-311(e), 78-312(d) and 74-53 of the Zoning Resolution, relating to Stage I of the large-scale residential development within the Ruppert Brewery Urban Renewal Area. The above application (CP-21724) was approved by the Board of Estimate on November 24, 1971 (Calendar #4) on which date it became effective.

The City Planning Commission adopted a resolution on January 19, 1972 (Calendar #22) approving an application (CP-21855) for authorizations pursuant to Sections 78-311(a), 78-311(e), and 78-311(h) of the Zoning Resolution, relating to Stage II of the large-scale residential development, on which date said

resolution of approval became effective, not requiring Board of Estimate approval.

The City Planning Commission adopted a resolution on May 5, 1982 (Calendar #73) approving an application (N 820778 ZAM) for authorizations pursuant to Sections 78-311(a) and 78-311(d) of the Zoning Resolution and amendment of the boundaries of the site of the previously-approved large-scale residential development by adding a site designated as a Q parcel (thereby making the boundaries of the large-scale residential development co-terminous with the boundaries of the Ruppert Brewery Urban Renewal Area) relating to Stage III of the large-scale residential development, on which date said resolution of approval became effective, not requiring Board of Estimate approval.

The City Planning Commission adopted a resolution on November 10, 1982 (Calendar #96) approving an application (N 830109 ZAM) for an authorization pursuant to Section 78-311(e) of the Zoning Resolution relating to Stage IV of the large-scale residential development. The resolution of approval, not requiring Board of Estimate approval, became effective upon the Board of Estimate approval of the related land disposition application (C 830107 HDM) on December 2, 1982 (Calendar No. 16).

The application (C 830264 ZSM), which is the subject of this report, was certified as complete by the City Planning Commission on November 22, 1982 in accordance with Article 3 of the Uniform Land Use Review Procedure (ULURP) and referred to Community Board No. 8, together with the related plan and project and related land disposition application C 830262 HPM.

Community Board No. 8 held a complying public hearing on the application and voted to recommend approval of the application on December 8, 1982 in accordance with Article 4 of ULURP, provided that the senior citizen residential building located on Site 4C (tentatively known as Yorkville Gardens) moves forward.

On January 5, 1983 (Cal. No. 17), the City Planning Commission scheduled a PUBLIC HEARING on this application. The hearing was duly held on January 19, 1983 (Cal. No. 27), in conjunction with the related hearing on the housing plan and project and related disposition of City-owned property (C 830262 HPM). There were a number of appearances, as described in the related report on the housing plan and project and related land disposition application (C 830262 HPM) and the hearing was closed.

A summary of the arguments presented at the public hearing, an analysis of the issues and consideration, and the reasons for approving the proposal

as finally adopted, are all set forth in the related report on the housing plan and project and disposition of City-owned property (C 830262 HPM).

The Commission hereby makes the following findings pursuant to Section 78-313 of the Zoning Resolution:

- (a) That the special permit granted pursuant to Section 78-312(d) will aid in achieving the general purposes and intent of this Article VII, Chapter 8 as set forth in Section 78-01 (General Purposes);
- (b) That the proposed location of building, will permit better site planning and will thus benefit both the residents of the Carnegie Park and the City as a whole;
- (c) That the proposed location of the building will not unduly increase the bulk of buildings, density of population, or intensity of use in any block, to the detriment of the occupants of buildings in the block or nearby blocks; and
- (d) That the proposed location of the building will not affect adversely any other zoning lots outside the development, by restricting access to light and air or by creating traffic congestion.

Consequently, the Commission determined that the application warrants approval subject to the conditions stated in the following resolution:

RESOLVED, by the City Planning Commission, pursuant to Section 197-c of the New York City Charter, that the application of the Department of Housing Preservation and Development for the grant of a special permit involving Parcel 4C, tentatively known as Carnegie Park, part of a large-scale residential development within the Ruppert Brewery Urban Renewal Area, located within the area bounded generally by Third Avenue, East 94th Street, Second Avenue, and East 90th Street, Borough of Manhattan, be and hereby is approved pursuant to Section 78-312(d) of the Zoning Resolution subject to the following conditions:

1. The premises shall be developed in size and arrangement as stated in the application and as indicated on the plans filed with this application;
2. The development shall conform to all applicable provisions of the Zoning Resolution except for the modifications herein granted and as shown on the plans filed with this application. All zoning computations shall be subject to approval by the Department of Buildings;
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 February 2, 1983 (Cal. #49) 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 and in accordance with the requirements of Section 197-c of the Charter.

HERBERT STURZ, Chairman;
MAX BOND, JOHN P. GULINO, HOWARD B. HORNSTEIN,
R. SUSAN MOTLEY, THEODORE E. TEAH, Commissioners.
MARTIN GALLENT, Vice-Chairman, abstaining.

LJ:b1

STATEMENT OF VICE-CHAIRMAN MARTIN GALLEN

The special permit granted here that allows variations in the front height and setback regulations along portions of East 94th Street and Third Avenue should be rethought.

The need for this height and setback waiver is a result of certain constraints placed upon the footprint of the building.

The waiver does set an unfortunate precedent in this area of high and dense buildings. The purpose of our height and setback regulations is to maximize the light and air to the street and thus to give the pedestrian area a primary and not secondary function in this urban complex.

Immediately to the north of this project, other developments are being proposed and we should not permit the degeneration of the pedestrian way. Every effort must be made to provide a comfortable, acceptable and prominent street condition as the precedent for future development of this area.

I have discussed this matter with HPD representatives and the architect of the project and I have been assured that every effort will be made to reduce---if not eliminate the need for the height and setback waiver. The time we had to review the project was not sufficient to design and test all possible configurations that would obviate or limit the need for this special permit.

As a result, I abstain from this vote.

Exhibit L

IN THE MATTER OF an application, pursuant to Article VII, Chapter 8 of the Zoning Resolution, from the Housing and Development Administration, for the grant of special permit authorizations involving a large-scale residential development located within the block bounded by East 122nd Street, Third Avenue, East 123rd Street, and Second Avenue, Borough of Manhattan. (CPD No. 11)

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 March 1, 1972, Cal. No. 9, the Commission scheduled March 14, 1972, for a hearing; on March 14, 1972, Cal. No. 48, the hearing was closed.)

On motion, the following favorable report was unanimously adopted:

April 5, 1972

The application for the special permits and special permit authorizations was filed by the Housing and Development Administration, to implement redevelopment plans for the East Harlem Pilot Block, as described in a separate report (CP-21754) approved by the Commission on October 13, 1971 (Cal. #13).

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

1. Section 78-22. To authorize the development of accessory commercial uses, which in the aggregate occupy not more than two per cent of the total floor area in the development;
2. Section 78-311(a). To authorize the total rooms permitted for all zoning lots within the development to be distributed without regard for zoning lot lines or district boundary lines;
3. Section 78-311(b). To authorize the total open space required for all zoning lots within the development to be distributed without regard for zoning lot lines or district boundary lines;
4. 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
5. Section 78-312(d). To permit the location of buildings without regard for the height and setback regulations which would otherwise apply along the periphery of the development.

On March 1, 1972 (Cal. #9), the City Planning Commission scheduled a PUBLIC HEARING on this application. The hearing was duly held on March 14, 1972 (Cal. #48). There was no opposition, and the hearing was closed.

In a related report (CP-21877), a minor change in the zoning map, necessary to implement the project, was approved by the Commission on April 5, 1972 (Cal. # 30).

As a result of investigation and study, the Commission has determined that the application conforms with the findings required under Sections 78-22 and 78-313 of the Zoning Resolution, and 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 Housing and Development Administration for the grant of special permits and special permit authorizations involving a large-scale residential development on property located within the block bounded by East 122nd Street, Third Avenue, East 123rd Street, and Third Avenue, Borough of Manhattan, be and hereby is approved pursuant to Sections 78-22, 78-311(a), 78-311(b), 78-311(d) and 78-312(d) of the Zoning Resolution **subject to the following conditions:**

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

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 and Special Permit Authorizations herein granted.

The above resolution duly adopted by the City Planning Commission on April 5, 1972 (Cal. # 31) 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.

DONALD H. ELLIOTT, Chairman;
GERALD R. COLEMAN, IVAN A. MICHAEL,
CHESTER RAPKIN, JOHN E. ZUCCOTTI, Commissioners.

BR:b1

Exhibit M

SPECIAL PERMIT AUTHORIZATIONS pursuant to Article VII, Chapter 8 of the Zoning Resolution, involving a large-scale residential development within the Harlem-East Harlem Neighborhood Development Plan Urban Renewal Area bounded generally by East 126th Street, Park Avenue, East 130th Street, Lexington Avenue, East 127th Street, Third Avenue, East 128th Street, and Second Avenue, Borough of Manhattan.

The application for the special permit authorizations was filed by the Housing and Development Administration. The East Harlem Triangle Urban Renewal Area, within the Harlem-East Harlem Neighborhood Development Area, has been divided into eight parcels. The present application relates to Parcel 2, which is to be developed with turnkey public housing and requests special permit authorizations relating to various sections of Article VII, Chapter 8, as follows:

1. Section 78-311(a). To authorize the distribution of zoning rooms without regard for lot lines;
2. Section 78-311(d). To authorize the location of buildings without regard for yard regulations which would otherwise apply along portions of streets wholly within the development, as shown on the General Site Plan submitted with and made part of the application;
3. Section 78-311(e). To authorize the location of buildings without regard for the height and setback regulations which would otherwise apply along portions of East 129th Street, a street wholly within the development, as shown on the General Site Plan submitted with and made part of the application; and
4. Section 78-312(d). To authorize minor variations in the front height and setback regulations on a portion of East 128th Street, a street on the periphery of the development.

On July 14, 1971 (Cal. #9), the City Planning Commission scheduled a PUBLIC HEARING on this application. The hearing was duly held on August 11, 1971 (Cal. #45), in conjunction with the hearing on the related rezoning from M1-2 to R7-2 (CP-21678) (Cal. #44). There was one appearance in opposition, and the hearing was closed.

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 stated in the following resolution:

RESOLVED, by the City Planning Commission that the application of the Housing and Development Administration for the grant of special permit authorizations involving a large-scale residential development within the Harlem-East Harlem Neighborhood Development Plan Urban Renewal Area bounded generally by East 126th Street, Park Avenue, East 130th Street, Lexington Avenue, East 127th Street, Third Avenue, East 128th Street, and Second Avenue, Borough of Manhattan, be and hereby is approved pursuant to Sections 78-311(a), 78-311(d), 78-311(e), and 78-312(d) of the Zoning Resolution **subject to the following conditions:**

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

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 Authorizations herein granted.

The above resolution duly adopted by the City Planning Commission on September 8, 1971 (Cal. #30) 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.

DONALD H. ELLIOTT, Chairman;
GERALD R. COLEMAN, MARTIN GALLENT, WALTER McQUADE,
IVAN A. MICHAEL, CHESTER RAPKIN, JOHN E. ZUCCOTTI, Commissioners.

RR:b1

Exhibit N

SPECIAL PERMITS AUTHORIZATIONS pursuant to Section 197-c of the New York City Charter and Sections 74-681 and various provisions of Article VII, Chapter 8 of the Zoning Resolution, involving a large-scale residential development proposed to be constructed on a platform over the 60th Street Terminal, on a site bounded generally by West 59th Street, Hudson River, West 72nd Street, and Freedom Place. Borough of Manhattan, Community Board No. 7.

The application for the special permits and authorizations was filed by Lincoln West Associates, to implement plans for a mixed-use development on a platform above the existing Penn Central 60th Street Yards. The development, as originally proposed, included 4850 units of residential housing, 400,000 square feet of commercial retail space, one million square feet of commercial office space, a 500-room hotel, parking facilities for 3,695 cars, parks and waterfront recreation areas.

In addition to the special permits and authorizations which are the subject of this report (C 820928 ZSM), implementation of the proposed development also requires favorable action by the City Planning Commission and the Board of Estimate on the following three matters:

1. A City Map modification (C 820926 MMM);
2. An amendment of the Zoning Map (C 820927 ZMM), changing from M1-4, M2-3 and M1-6 Districts to C3, C4-7, R10 and R8 Districts, and establishing a C1-5 District within the proposed R10 and R8 Districts; and
3. An amendment of Section 74-68 of the Zoning Resolution (Developments Over Certain Rights-of-Way or Yards) (N 820398 ZRY) to enable, in large-scale residential developments over railroad or transit rights-of-way or yards: the location of new railroad or trucking uses beneath the permanent covering platform, notwithstanding the zoning district; the formation of street, block and zoning lot equivalents on such platform; the location of building portions above a mapped platform street; and other incidental changes.

The above matters are the subject of separate reports approved by the City Planning Commission on July 19, 1982.

The application which is the subject of this report (C 820928 ZSM) seeks special permits and authorizations pursuant to the following sections of the Zoning

Resolution:

1. Section 78-311 (a). To authorize the distribution of floor area and rooms without regard for zoning lot lines;
2. Section 78-311 (b). To authorize the distribution of open space without regard for zoning lot lines;
3. Section 78-311 (e). To authorize the location of buildings without regard for height and setback regulations along streets wholly within the development;
4. Section 78-41. To authorize the location of accessory off-street parking spaces without regard for zoning lot lines;
5. Section 78-51 (b). To authorize the execution of a subdivision plan included in this application for special permits and authorizations;
6. Section 78-311 (d). To authorize the location of buildings without regard for yard regulations along streets or lot lines wholly within the development;
7. Section 78-312 (d). Special permit for minor variations in the height and setback regulations on the periphery of the development;
8. Section 78-312 (c). Special permit for minor variations in required front or rear yards on the periphery of the development;
9. Section 74-52. Special permit for public parking garages;
10. Section 74-681, (as amended by N820398ZRY)
 - a. To permit a large-scale residential development in railroad or transit air space for any use listed in a use group permitted by the applicable district regulations; and in connection therewith, to permit beneath a permanent platform covering such railroad or transit air space, uses accessory to such primary uses located in such railroad or transit air space, including public parking garages, public transit yards, warehouses, trucking terminals or motor freight stations, or railroads (including rights-of-way, freight terminals, yards or appurtenances, of facilities or services used or required in railroad operations);
 - b. To permit the development of buildings in the air space above platform streets, subject to the requirements of this Section;
 - c. To modify the provisions of Section 74-99 and 78-07 relating to the lapse of a special permit, to extend the period of time from three years to ten years; and

- d. To modify the provisions of Sections 23-151, 24-11, 32-43 and 33-120.5 of the Zoning Resolution relating to R10 infill; and
- e. To modify the provisions of Article I, Chapter 3 relating to accessory off-street parking.

As a result of study and investigation after the public hearing, as noted in the related report on the amendment of the Zoning Map (C820927ZMM), the Commission called for the plans to be revised. The major revisions include a reduction from 4850 to 4700 in the number of residential housing units, a reduction from 3695 to 2675 in the number of cars, and elimination of the 500-room hotel.

The application was certified as complete by the City Planning Commission on April 6, 1982 in accordance with Article 3 of the Uniform Land Use Rules of Procedure, and referred to Community Boards No. 4 and No. 7, together with other matters noted above.

Community Board No. 4 held a public hearing on the application on May 27, 1982 and voted to recommend disapproval of the application on June 2, 1982.

Community Board No. 7 held a public hearing on the application on June 8, 1982. The hearing was continued to July 13, 1982, when the Board voted to disapprove the proposal.

On June 2, 1982 (Calendar No. 27) the City Planning Commission scheduled a Public Hearing on the application for the special permits and authorizations (C820928ZSM). The hearing was duly held on June 16, 1982 (Calendar No. 78) and was continued to June 29, 1982 (Calendar No. 3) in conjunction with the related hearings on the City map modification (C820926MMM), the amendment of the Zoning Map (C820927ZMM), and the amendment of the Zoning Resolution (N 820398 ZRY). There were a number of appearances, as described in the report on the amendment of the Zoning Map (C 820927 ZMM) and the hearing was closed.

A summary of the arguments presented at the public hearing, the Community Board recommendations, the Commission's consideration on various issues, and its reasons for approving the proposal are set forth in the concurrent report on the amendment of the Zoning Map (C 820927 ZMM).

The Commission hereby makes the following findings pursuant to Section 78-313 of the Zoning Resolution:

- a. That the special permits and authorization granted pursuant to Sections 78-311 and 78-312 will aid in achieving the general purposes and intent of Article VII, Chapter 8, as set forth in Section 78-01;
- b. That the authorized location of buildings will permit better site planning and will thus benefit both the residents of the Lincoln West Development and the City as a whole;
- c. That the above location will not unduly increase the bulk of buildings, density of population, or intensity of use in any block, to the detriment of the occupants of buildings in the block or nearby blocks; and
- d. That the above location will not affect adversely any other zoning lots outside the development, by restricting access to light and air or by creating traffic congestion.

The Commission hereby makes the following findings pursuant to Section 74-52 of the Zoning Resolution, in connection with the public parking garages:

- (a) That such use will not be incompatible with, or adversely affect the growth and development of, uses comprising vital and essential functions in the general area within which such use is to be located.
- (b) That such use will not create or contribute to serious traffic congestion and will not unduly inhibit surface traffic and pedestrian flow.
- (c) That such use is so located as to draw a minimum of vehicular traffic to and through local streets in nearby residential areas.
- (d) That such use has adequate reservoir space at the vehicular entrances to accommodate automobiles equivalent in number to 20 percent of the total number of spaces up to 50 and five percent to any spaces in excess of 200, but in no event shall such reservoir space be required for more than 50 automobiles.
- (e) That the streets providing access to such use will be adequate to handle the traffic generated thereby.

The Commission hereby makes the following findings, pursuant to Section 74-681 of the Zoning Resolution, (as amended by N 820398 ZRY):

- (a) That the lot area for such large-scale residential development includes only: that portion of the right-of-way or yard which is to be completely covered over by a permanent platform (constructed in accordance with administrative code provisions where applicable and standards appropriate for public safety to be determined by the Department of Buildings, unperforated except for such suitably protected openings as may be required for ventilation, drainage or other necessary purposes); and, if any, that portion of the right-of-way or yard adjacent to and at a level below such platform, which below-platform portion is designated as lot area on the approved site plan is developed, landscaped and used exclusively for active and/or passive recreation, and is usable by and accessible to the residents of the large-scale residential development.
- (b) That adequate access to one or more streets is provided for such large-scale residential development in railroad or transit air spaced and such uses, beneath the platform.

- (c) That, considering the size of the proposed large-scale residential development in railroad or transit air space and such uses beneath such platform the streets providing access to such uses will be adequate to handle increased traffic resulting therefrom.
- (d) That, from the standpoint of effects upon the character of the surrounding areas, the floor area or number of rooms is not unduly concentrated in any portion of such large-scale residential development, including any portion located beyond the boundaries of such railroad or transit air space.
- (e) That all uses, developments, enlargements and extensions located in railroad or transit air space and beneath such platform do not adversely affect one another.
- (f) That the owner(s) or occupant(s) of such large-scale residential development which contains at least 1,000 dwelling units, will provide, in accordance with an approved development phasing plan, and will either directly or indirectly by adequate funding maintain and operate in accordance with an approved maintenance and operation plan:
- (i) a park, located on an adjoining site, which has been or is to be mapped pursuant to Section 199 of the Charter and conveyed to the City; and/or
 - (ii) a recreation area, located on an adjoining site, which, by way of a conveyance of a real property interest, is open and accessible to the general public and/or
 - (iii) a recreation area, as set forth in finding (a) of this subdivision (2), located within the site of such large-scale residential development which is designated as lot area, and, by way of a conveyance of a real property interest, is open and accessible to the general public as well as the residents of the large scale residential development.

The Commission makes the findings noted above on the basis of the revised plans submitted with and made part of the application, the related modification of the City Map (C 820926MMM), and the restrictive declaration signed by the developer. The provisions of this restrictive declaration, as set forth below, are made conditions of this special permit (C 820928 ZSM). The same restrictive declaration accompanies the amendment of the Zoning Map (C 820927 ZMM) and will be noted on the Zoning Map as D-78.

Consequently, the Commission determined that the application warrants approval subject to the conditions stated in the following resolution:

RESOLVED, by the City Planning Commission, pursuant to Section 197-c of the New York City Charter, that the application of Lincoln West Associates for the grant of special permit(s) and authorization (s) involving a large-scale residential development proposed to be constructed on a platform over the 60th Street Terminal on a site bounded generally by West 59th Street, Hudson River, West 72nd Street, and Freedom Place, Borough of Manhattan, be and hereby is approved pursuant to Section(s) 78-311(a), 78-311(b), 78-311(e), 78-41, 78-51(b), 78-311(d), 78-312(d), 78-312(c), 74-52, and 74-681 of the Zoning Resolution

subject to the following conditions:

1. The premises shall be developed in site 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 approved by the Department of Buildings;
3. The development shall conform with all applicable laws and regulations relating to construction, operation and maintenance;
4. The applicant shall not assign, transfer, convey or sell any fee or ground leasehold interest in all or substantially all of the subject property at any one time or in portions within any one-year period without the express written consent of the Chairman of the City Planning Commission; provided, however, that:
(i) such consent shall be granted if the Chairman of the City Planning Commission determines that the applicant's successors or assigns, if any, have the financial capability to implement this development; (ii) this condition shall not impair any right of any mortgagee to foreclose on all or substantially all of the subject property or to acquire a deed thereof in lieu of foreclosure; (iii) nothing herein contained shall prohibit or inhibit the applicant or the applicant's successors or assigns from assigning, transferring, conveying or selling any fee or ground leasehold interest in less than all or substantially all of the subject property; and (iv) a prospective successor or assignee of the applicant shall be deemed to be financially capable of developing the subject property if such successor or assignee has a net worth in an amount equal to or greater than that of the applicant as of the effective date of this special permit;
5. The special permits and authorizations shall automatically lapse if substantial construction has not been completed within 5 years from the date of Board of Estimate approval of the mapping agreement relating to City Map Change (C820926MMM) involving the establishment of a new street system for this development.
Substantial construction is hereby defined as the issuance by the Department of Buildings of a temporary certificate of occupancy upon completion of at least one principal residential building;
6. The 1880 parking spaces accessory to the residential dwelling units shall be used exclusively by the occupants of the residential buildings;
7. Only 220 public parking spaces shall be located north of West 66th Street;
8. Only 575 public parking spaces shall be located south of West 66th Street;
9. The final parking plans shall be submitted to the Chairman of the City Planning

Commission for certification after consultation with the Department of Transportation;

10. No building permit shall be issued for parking spaces until the Department of Buildings has received a certification of the final plans from the Chairman of the City Planning Commission;

11. This Resolution shall be effective only if the restrictive declaration attached hereto, executed by the Developer, the owner of the property subject to this Resolution, shall have been recorded and filed with the City Register in the County of New York; and

12. 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 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 special permits or 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.

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 and authorizations hereby granted.

The above resolution duly adopted by the City Planning Commission on July 19, 1982 (Cal.#9) 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 Sections 78-311(a), 78-311(b), 78-311(e), 78-41, 78-51(b), 78-311(d), 78-312(d), 78-312(c), 74-52 and 74-681 of the Zoning Resolution and in accordance with the requirements of Section 197-c of the Charter.

HERBERT STURZ, Chairman
MARTIN GALLEN, Vice-Chairman
MAX BOND, JOHN P. GULINO,
HOWARD B. HORNSTEIN, R. SUSAN MOTLEY,
THEODORE E. TEAH, Commissioners.

Exhibit O



SPECIAL PERMIT pursuant to Section 197-c of the New York City Charter and Section 78-312(d) of the Zoning Resolution, involving modification of height and setback regulations for an institutional building (College of Insurance) in a large-scale residential development on property located on the northeast corner of West Street and Murray Street, Site 5A within the Washington Street Urban Renewal Area, Borough of Manhattan, CB #1.

The application for the special permit was filed by the Department of Housing Preservation and Development in order to permit construction of a 10 story institutional building to be known as the College of Insurance. The site is zoned C6-4 and is part of a large-scale residential development within the Washington Street Urban Renewal Area.

The applicant has requested a special permit pursuant to Section 78-312(d) for a minor variation in the height and setback regulations along Murray Street, a peripheral street of the large-scale residential development which is bounded by Chambers Street on the north, Greenwich Street on the east, Murray Street on the south and West Street on the west.

In addition to the special permit, which is the subject of this report, implementation of the project will require favorable action by the City Planning Commission and the Board of Estimate on the following related applications:

C820181HUM - An amendment to the urban renewal plan for the Washington Street Urban Renewal Area; and

C820182HDM - A land disposition application for site 5A (College of Insurance) within the Washington Street Urban Renewal Area.

The application was certified as complete by the City Planning Commission on December 14, 1981, in accordance with Article 3 of the Uniform Land Use Review Procedure (ULURP) and referred to Community Board #1.

Community Board #1 held a complying public hearing on the application and voted to recommend approval of the application on February 9, 1982 in accordance with Article 4 of ULURP.

On February 3, 1982 (Cal. #82), the City Planning Commission scheduled a PUBLIC HEARING on this application. The hearing was duly held on February 24, 1982 (Cal. #59). There were 2 appearances in favor of the application and the hearing was closed.

CONSIDERATION:

The proposed large-scale residential development will comprise sites 5A, 5B and 5C of the Amended Washington Street Urban Renewal Plan. Site 5C will consist of residential development, 5B for mixed residential/commercial development and 5A for community facility use.

The College of Insurance, a community facility use, will occupy site 5A. The proposed development will be as-of-right in all respects except for height and setback requirements along Murray Street. A small portion of the building above 85 feet encroaches on the initial setback distance. The encroachment is minor and the development as proposed satisfies the general purpose and intent of the height and setback regulations.

A consideration of the Urban Renewal Plan is included in a separate report (C820181HUM) dated March 1, 1982.

The Commission hereby makes the following findings pursuant to Section 78-313 of the Zoning Resolution:

(a) That such authorizations will aid in achieving the general purposes and intent of this Chapter as set forth in Section 78-01 (General Purposes).

(b) That authorized distribution of floor area, dwelling units, rooms, rooming units, open spaces, locations of buildings, or location of primary business entrances, show windows or signs will permit better site planning and will thus benefit both the residents of the development and the City as a whole.

(c) That such distribution or location will not unduly increase the bulk of buildings, density of population, or intensity of use in any block, to the detriment of the occupants of buildings in the block or nearby blocks.

(d) That such distribution or location will not affect adversely any other zoning lots outside the development, by restricting access to light and air or by creating traffic congestion.

(e) Where portions of the total required open space are pooled in common open space areas or common parking areas, that such common areas will, by location, size, shape and other physical characteristics, and by their relationship to surrounding development and the circulation system, permit realization of the full community service advantages for which such pooled areas are designed.

(f) Where one or more zoning lots in the development do not abut mapped streets, that suitable private access to mapped streets will be provided conforming to standards which will insure adequate circulation and make adequate provision for public services.

Consequently, the Commission determined that the application warrants approval subject to the conditions stated in the following resolution:

RESOLVED, by the City Planning Commission, pursuant to Section 197-c of the New York City Charter, that the application of the Department of Housing Preservation and Development (C820185ZSM) for the grant of a special permit involving modification of height and setback regulations for an institutional building (College of Insurance) in a large-scale residential development on property located on the northeast corner of West Street and Murray Street, Site 5A within the Washington Street Urban Renewal Area, Borough of Manhattan, be and hereby is approved pursuant to Section 78-312(d) 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 March 1, 1982 (Cal. #1) 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 78-312(d) of the Zoning Resolution and in accordance with the requirements of Section 197-c of the Charter.(C820185ZSM)

HERBERT STURZ, Chairman;
MARTIN GALLEN, Vice-Chairman,
MAX BOND, HOWARD B. HORNSTEIN, Commissioners.

AP:b1

Exhibit P

Disclaimer

IN THE MATTER OF an application submitted to the City Planning Commission (CPC) of the Department of Housing Preservation and Development, pursuant to Sections 197-c of the New York City Charter, for the grant of special permits and authorizations pursuant to Sections 24-311(a), 78-311(b), 78-311(e), 78-312(c), 78-312(d) and 78-312(f) of the Zoning Resolution, involving the modification of regulations for distribution of bulk and open space, the modification of height and setback regulations, the modification of rear yard regulations, and the modification of spacing between buildings regulations, for a large-scale residential development comprising Site 8 and Site 9C within the Clinton Urban Renewal Area, and also for the grant of a special permit pursuant to Section 74-681(2) of the Zoning Resolution for the large-scale residential development to be located in air space over a railroad right-of way, and to modify the provisions of Article 1, Chapter 3 relating to accessory off-street parking, within a portion of the blocks bounded by Tenth Avenue, West 51st Street, Eleventh Avenue and West 53rd Street, Borough of Manhattan CD-4.

The application for the special permits and authorizations was filed by the Department of Housing Preservation and Development on July 24, 1985 to facilitate the redevelopment of Site 8 and Site 9C of Clinton Urban Renewal Area.

RELATED ACTIONS

In addition to the special permits and authorizations which are the subject of this report (C 860101 ZSM), implementation of the proposed development on Sites 8 and 9C of the Clinton Urban Renewal Area also requires favorable action by the City Planning Commission and the Board of Estimate on the following four applications which are the subject of separate reports dated March 4, 1986:

1. C 860097 HUM. Second Amendment to the Clinton Urban Renewal Plan;
2. C 860098 HAM. Application relating to the disposition of City-owned property, involving Site 8 within the Clinton Urban Renewal Area;
3. C 860099 HAM. Application relating to the disposition of City-owned property, involving site 9C within the Clinton Urban Renewal Area; and
4. C 860100 ZMM. Application for the amendment of the Zoning Map, Section No. 8c.

BACKGROUND

Sites 8 and 9C have an area of at least 1.5 acres and a total of at least three principal buildings, with the predominant floor area residential, and, therefore, constitute a large-scale residential development as defined in Section 78-02 of the Zoning Resolution.

The application (C 860101 ZSM), certified and referred to the Community Board, requested special permits and authorizations pursuant to the following Sections of the Zoning Resolution relating to large-scale residential developments:

1. Section 78-311(a). To authorize the total floor area, dwelling units, and rooms for all zoning lots within the development to be distributed without regard for zoning lot lines;
2. Section 78-311(b). To authorize the total open space required for all zoning lots within the development to be distributed without regard for zoning lot lines;
3. Section 78-311(e). To authorize the location of buildings without regard for the height and setback regulations which would otherwise apply along portions of the northerly side of West 52nd Street (Site 8) and the southerly side of West 52nd Street (Site 9C) wholly within the development (Sites 8 and 9C);
4. Section 78-312(c). To permit minor variations in required rear yards on the periphery of the development (Site 8);
5. Section 78-312(d). To permit minor variations in the front height and setback regulations on Tenth Avenue and on two portions of West 51st Street (Site 9C), and on Tenth Avenue and a portion of West 53rd Street (Site 8) on the periphery of the development;
6. Section 78-312(f). To permit modification of the spacing between buildings regulations by more than 15 percent of that required by Section 23-71, for both Site 8 and 9C; and
7. Section 74-681(2). To permit the large-scale residential development in railroad air space; and to modify the provisions of Article I, Chapter 3 relating to accessory off-street parking.

Subsequent to the City Planning Commission public hearing, the accessory parking garage was amended to meet the requirements of Article I, Chapter 3. Therefore, the request for the special permit pursuant to Section 74-681(2) to modify the provisions of Article I, Chapter 3 was no longer necessary.

The Department of City Planning and the Department of Environmental Protection reviewed the five related applications described above pursuant to the New York State Environmental Quality Review regulations as set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 et seq. (6 NYCRR 617.00) and the New York City Environmental Quality Review (CEQR) regulations set forth in Mayoral Executive Order No. 91 of 1977. On October 28, 1985, the departments determined that the proposed applications would have no significant effect upon the environment upon modification, as agreed to by the applicant on October 28, 1985, of the proposals to provide a minimum of 30 dB(A) window-wall noise attenuation and an alternate means of ventilation so that with windows closed the internal noise level does not exceed 45 dB(A). The departments also noted that the determination is in part based on the information provided by HPD that new development for commercial, industrial uses on Site 7 shall be limited to 100,000 square feet of floor area, and that Site 7 can accommodate all uses relocated from Sites 8 and 9C. Those not relocated to Site 7 would be accommodated in the Clinton Urban Renewal Area or other appropriate areas in city or privately owned sites. No off-site relocation of any of the not-for-profit or cultural existing tenants on Site 7 would occur.

UNIFORM LAND USE REVIEW PROCEDURE

This application and the related applications were certified as complete by the City Planning Commission on October 28, 1985, in accordance with Article 3 of the Uniform Land Use Review Procedure, and referred to Community Board 4.

Community Board Public Hearing

Community Board 4 held a public hearing on December 19, 1985 and disapproved the applications on January 2, 1986, by a vote of 26 in favor, none opposed, and one abstaining. The Community Board's recommendation is included in the related report on the urban renewal plan C 860097 HUM.

City Planning Commission Public Hearing

On December 11, 1985 (Calendar No. 18), the City Planning Commission scheduled January 15, 1986 for a public hearing on the proposed special permits and authorizations. On January 15, 1986 (Calendar No. 16), the Commission duly held the public hearing on this item, in conjunction with the public hearings on the related items (C 860097 HUM, C 860098 HAM, C 860099 HAM, and C 860100 ZMM). There were a number of appearances, and the hearing was closed. A discussion of the testimony appears in the related report on the Second Amendment to the Clinton Urban Renewal Plan (C 860097 HUM).

CONSIDERATION

A discussion of the issues and considerations relating to this application is set forth in the related report on the Second Amendment to the Clinton Urban Renewal Plan (C 860097 HUM).

FINDINGS AND RECOMMENDATIONS

The Commission hereby makes the following findings, pursuant to Section 78-313 of the Zoning Resolution:

- a. The special permit and authorizations will aid in achieving the general purposes and intent of Article VII, Chapter 8, as set forth in Section 78-01;
- b. The authorized distribution of floor area, dwelling units, rooms, open spaces, and location of buildings will permit better site planning and will thus benefit both the residents of the Clinton Urban Renewal Area and the City as a whole;
- c. The above location will not unduly increase the bulk of buildings, density of population, or intensity of use in any block, to the detriment of the occupants of buildings in the Clinton Urban Renewal Area or nearby blocks; and
- d. The above location will not affect adversely any other zoning lots outside the development, by restricting access to light and air or by creating traffic congestion.

The Commission further makes the following findings pursuant to Section 74-681(2) of the Zoning Resolution:

- a. Lot area includes only the portion of the right-of-way which is to be completely covered over by a permanent platform constructed in accordance with all rules and regulations of all authorities having jurisdiction;
- b. Adequate access to all streets (West 51st, West 52nd and West 53rd Streets) is provided for such large-scale residential development;
- c. The streets providing access to the development are adequate to handle the increased traffic resulting therefrom;
- d. Neither the floor area nor the number of rooms will be unduly concentrated in any portion of the development, including portions located beyond the boundaries of the railroad air space; and
- e and f. These findings are not applicable since there are no uses below the platform and the large-scale residential development contains less than 1,000 dwelling units.

RESOLUTION

Consequently, the Commission determined that the application warrants approval subject to the conditions stated in the following resolution:

RESOLVED, by the City Planning Commission pursuant to Section 197-c of the New York City Charter, that the application of the Department of Housing Preservation and Development for the grant of special permits and authorizations pursuant to Section 78-311(a), 78-311(b), 78-311(e), 78-312(c), 78-312(d), and 78-312(f) of the Zoning Resolution, involving the modification of regulations for distribution of bulk and open space, the modification of height and setback regulations, the modification of rear yard regulations and the modification of spacing between buildings regulations for a large-scale residential development comprising Sites 8 and 9C within the Clinton Urban Renewal Area, and also for the grant of a special permit pursuant to Section 74-681(2) of the Zoning Resolution for the large-scale residential development to be located in air space over a railroad right-of-way,

within a portion of the blocks bounded by Tenth Avenue, West 51st Street, Eleventh Avenue and West 53rd Street, Borough of Manhattan, be and hereby is approved 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.
4. The applicant shall provide a minimum of 30dB (A) window-wall attenuation, so that with windows closed the internal noise level does not exceed 45 dB(A), and an alternate means of ventilation. Alternate means of ventilation include, but are not limited to, provisions for central air conditioning and provisions for air conditioner sleeves containing air conditioners or HUD approved fans.

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 and authorizations herein granted.

The above resolution duly adopted by the City Planning Commission on March 4, 1986 (Cal. No. 5) 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 and in accordance with the requirements of Section 197-c and 200 of the Charter (C 860101 ZSM).

HERBERT STURZ, Chairman
JOHN P. GULINO, DENISE M. SCHEINBERG,
THEODORE E. TEAH, Commissioners

R. SUSAN MOTLEY, Commissioner, Voting No.

MAX BOND, Commissioner, has recused himself and did not participate in the discussions nor vote on this application.

IN THE MATTER OF the Amended Clinton Urban Plan and related matters.

DISSENTING STATEMENT
by
COMMISSIONER R. SUSAN MOTLEY

I vote no in the matter of the recommendation to amend the Clinton Urban Renewal Plan and related items.

I strongly oppose the recommendation to delete language in the plan which specifically calls for the development of housing affordable by low income families and individuals.

It is, in my judgement, unnecessarily provocative and contradicts the spirit of government - community cooperation to delete the language referencing the Clinton Planning Council and the Clinton Housing Association.

The recommended plan includes 100 units of low-income housing for the elderly (see C860099HAM) when it is publicly known that this application has been denied by HUD on several occasions. This housing is unlikely to be built unless we, the City, use extraordinary means to produce it.

Conversely, the recommended plan supports the development of two "80/20" projects which would provide over 450 market rate apartments precisely because federal subsidies are currently unavailable.

The Clinton neighborhood -- indeed the City of New York must implement creative/innovative financing techniques that would provide permanent housing for low income families and individuals. The recommended plan does not meet this need. The lack of federal subsidy funds is a problem to which all of our skills and talents are needed to resolve. This situation should not be used, however, as an

excuse to substitute market rate housing for critically needed permanent housing, which would be affordable to low income families.

I oppose the recommended plan for relocating the arts groups as well as the existing businesses, both commercial and manufacturing/industrial. The plan as recommended is both inadequate and misleading. These affected groups are critical in order to support the larger City goals of establishing a balanced revitalization of the theatre district to the east, and Manhattan as a whole.

The issue of displacement goes far beyond the 25 or so families, the businesses and cultural groups that would be directly affected. The implementation of this plan as recommended sends the unmistakable signal to real estate and development interests that low income housing is not a problem worthy of our best thoughts; that overall neighborhood planning efforts are of less importance than immediate City opportunities; that predictable negative effects are better left for a later time; and that our crown jewel, the theatre district to which we have spent tremendous amounts of time and energy to both preserve and revitalize -- can flourish in the absence of a cultural and business infrastructure.

The basis upon which a negative declaration of environmental effect was made is now questionable given the recommended changes to the Urban Renewal Plan.

The Clinton neighborhood deserves a thoughtful overall development plan, not site by site reactionary development schemes. The recommended plan is not worthy of support and indeed undermines the rationale put forth originally, which triggered the use of condemnation, our most powerful redevelopment tool.

Exhibit Q

IN THE MATTER OF an application, pursuant to Sections 78-22, 78-312(d) and 78-312(f) of the Zoning Resolution, from the Housing and Development Administration, for the grant of special permits involving accessory commercial uses, minor variations in the front height and setback regulations, and modifications of the minimum spacing requirements between buildings for a large-scale residential development on property located on the easterly side of West End Avenue between West 64th Street and West 65th Street, Borough of Manhattan.

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 May 30, 1973, Cal. No. 29, the Commission scheduled June 13, 1973 for a hearing; on June 13, 1973, Cal. No. 27, the hearing was closed.)

On motion, the following favorable report was unanimously adopted:

June 15, 1973

The application for the special permits and authorizations was filed by the Housing and Development Administration, to implement plans for a City-aided Limited-Profit co-operative housing project, to be developed by the Lincoln-Amsterdam Housing Company. This City-aided Limited-Profit co-operative project is the subject of a separate report (CP-22349) approved by the Commission on June 15, 1973 (Cal. # 7) pursuant to Article 2 of the Private Housing Finance Law of the State of New York.

The housing project is to be located on Site 1 within the Lincoln-Amsterdam Urban Renewal Area. The Amended Urban Renewal Plan for the Lincoln-Amsterdam Urban Renewal Area (CP-19181) was approved by the Commission on December 22, 1965, (Cal. #2) and by the Board of Estimate on January 27, 1966 (Cal. #5).

The application seeks special permits and special permit authorizations pursuant to the following sections of the Zoning Resolution.

1. Section 78-311(a). To authorize the distribution of floor area, dwelling units, and rooms without regard for zoning lot lines;
2. Section 78-311(b). To authorize the distribution of total open space without regard for zoning lot lines;
3. Section 78-311(d). To authorize the location of buildings without regard for yard regulations;
4. Section 78-312(d). To permit minor variations in the front height and setback regulations on the periphery of the development;
5. Section 78-312(f). To permit modifications of the minimum spacing requirements between buildings on a single zoning lot; and
6. Section 78-22. To authorize accessory commercial uses listed in Use Groups 6A or 6F which in the aggregate occupy not more than 2 per cent of

the total floor area in the development, and of which no single establishment occupies more than 15,000 square feet of floor area.

On May 30, 1973 (Cal. #29), the City Planning Commission scheduled a PUBLIC HEARING on this application. The hearing was duly held on June 13, 1973 (Cal. # 27), in conjunction with the related hearing on the City-aided Limited-Profit co-operative housing project (CP-22349). There was one appearance, as described in the related report (CP-22349) and the hearing was closed.

As a result of investigation and study, the Commission has determined that the application conforms with the findings required under Sections 78-22 and 78-313 of the Zoning Resolution, and 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 Housing and Development Administration, for the grant of special permits and special permit authorizations involving a large-scale residential development within the Lincoln-Amsterdam Urban Renewal Area on property located on the easterly side of West End Avenue between West 64th Street and West 65th Street, Borough of Manhattan, be and hereby is approved pursuant to Sections 78-22, 78-311(a), 78-311(b), 78-311(d), 78-312(d), 78-312(f), and 78-313 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; and
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.

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 and Special Permit Authorizations herein granted.

The above resolution duly adopted by the City Planning Commission on June 15, 1973 (Cal. # 8) 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, GORDON J. DAVIS,
SYLVIA DEUTSCH, JAQUELIN T. ROBERTSON, Commissioners.

GF:bl

Exhibit R

IN THE MATTER OF an application, pursuant to Sections 74-75, 74-53, and 78-22 of the Zoning Resolution, from the New York City Educational Construction Fund, for the grant of special permits and an authorization involving a combined school and residence including air rights over a school (P.S. 141 Manhattan), and a large-scale residential development, on property bounded by East 90th Street, York Avenue, East 92nd Street, and Franklin D. Roosevelt Drive, Borough of Manhattan.

Plans for this proposed combined school and residence, and 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 July 12, 1972, Cal. No. 12, the Commission scheduled August 2, 1972; for a hearing, on August 2, 1972, Cal. No. 43, the hearing was continued to September 6, 1972; on September 6, 1972, Cal. No. 52, the hearing was closed.)

On motion, the following favorable report was adopted, receiving four affirmative votes, Gerald R. Coleman and Chester Rapkin, Commissioners, voting "No":

The application for the special permits and an authorization was filed by the New York City Educational Construction Fund.

The New York City Educational Construction Fund proposes to develop the property with a combination of a school (P.S. 141 Manhattan) and two limited-profit rental housing projects: a City-aided project, known as Park Plaza East, providing approximately 893 apartments in two buildings of 40 and 45 stories, and a State-aided project, to be known as Project H.O.P.E., providing approximately 289 apartments in a single 28-story building.

The site for P.S. 141 was approved by the Site Selection Board on August 18, 1969 (SS-530) and by the Mayor on March 11, 1970. An amended site was approved by the Site Selection Board on April 17, 1972.

Park Plaza East is the subject of a separate report (CP-22047) approved by the Commission on October 4, 1972 (Cal. # 11), pursuant to Article 2 of the Private Housing Finance Law of the State of New York. Project H.O.P.E. will be the subject of a hearing and report at a future date.

In a separate report (CP-22045) approved by the Commission on October 4, 1972 (Cal. # 12), the site was rezoned from M1-4 and R7-2 Districts to an R9 District, to accommodate the project.

The application seeks the following special permits pursuant to Section 74-75 of the Zoning Resolution:

a) To permit the utilization of air rights for the combined school and residential structure;

b) To modify the requirement that open area be accessible to, and usable by all persons occupying a dwelling unit on the zoning lot in order to qualify as open space;

c) To permit ownership, control of access and maintenance of the open space to be vested in the New York City Educational Construction Fund or City agency successor in title;

d) To permit modification of the height and setback regulations, as shown on the plans submitted with and made part of the application; and

e) To permit an increase of seven (7) percent in the number of rooms permissible under the applicable district regulations.

The project qualifies as a large-scale residential development as defined in Section 78-02 of the Zoning Resolution, by having an area of more than three acres and more than 500 dwelling units. The application seeks special permits pursuant to the following sections of the Zoning Resolution relating to large-scale residential developments:

1. Section 74-53. To permit group parking facilities accessory to uses in the large-scale residential development, with more than 150 spaces; and
2. Section 78-22. To authorize accessory commercial uses which in the aggregate occupy not more than two percent of the total floor area of the large-scale residential development.

On July 12, 1972 (Cal. #12), the City Planning Commission scheduled a PUBLIC HEARING on this application. The hearing was duly held on August 2, 1972 (Cal. #43), and continued to September 6, 1972 (Cal. #52), in conjunction with the related hearings on Park Plaza East (CP-22047) and the amendment of the Zoning Map (CP-22045). There were a number of appearances, as described in the related report on Park Plaza East (CP-22047), and the hearing was closed.

As a result of investigation and study, the Commission has determined that the application conforms with the findings required under Sections 74-53, 74-75, and 78-22 of the Zoning Resolution, and 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 New York City Educational Construction Fund for the grant of special permits involving a combined school and residence including air rights over a school (P.S. 141 Manhattan), and a large-scale residential development, on property bounded by East 90th Street, York Avenue, East 92nd Street, and Franklin D. Roosevelt Drive, Borough of Manhattan, be and hereby is approved

pursuant to Sections 74-53, 74-75, and 78-22 of the Zoning Resolution subject to the following conditions:

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

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 October 4, 1972 (Cal. #13) 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.

DONALD H. ELLIOTT, Chairman;
MARTIN GALLENT, IVAN A. MICHAEL, JOHN E. ZUCCOTTI, Commissioners.

GERALD R. COLEMAN, CHESTER RAPKIN, Commissioners, voting "No".

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On motion, the Commission adjourned at 6:25 p. m., to meet Wednesday, October 11, 1972, at 10 a. m., in Room 16, City Hall, Manhattan.

GAIL BUXBAUM, Secretary.

Exhibit S

IN THE MATTER OF an application, pursuant to Article VII, Chapter 8 and Section 74-681 of the Zoning Resolution, from the Housing and Development Administration, for the grant of special permits and authorizations involving a large-scale residential development in railroad air space within the Clinton Park Urban Renewal Area, on property bounded generally by 10th Avenue, West 54th Street, 11th Avenue and West 56th Street, Borough of Manhattan.

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 September 6, 1972, Cal. No. 21, the Commission scheduled September 20, 1972, for a hearing; on September 20, 1972, Cal. No. 37, the hearing was closed.)

On motion, the following favorable report was unanimously adopted:

October 11, 1972

The application for the special permits and special permit authorizations was filed by the Housing and Development Administration, to implement plans for a City-aided housing project, to be known as Clinton Towers. The housing project is the subject of a separate report (CP-22092) approved by the Commission on October 11, 1972, pursuant to Article 2 of the Private Housing Finance Law of New York State.

The housing project is included in the Urban Renewal Plan for the Clinton Urban Renewal Area (CP-20821) approved by the Commission on August 18, 1969 (Cal. #4) and by the Board of Estimate on October 23, 1969 (Cal. #46).

The application, seeks a special permit, pursuant to Section 74-681 of the Zoning Resolution to permit the development in air space over the right-of-way of the Penn Central Railroad. The application also seeks special permit 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 for all zoning lots within the development to be distributed without regard for zoning lot lines;
2. Section 78-311(b). To authorize the total required open space to be distributed without regard for zoning lot lines;
3. Section 78-311(e). To authorize the location of buildings without regard for the height and setback regulations which would otherwise apply along a portion of West 55th Street, a street wholly within the development, as shown on the Site Plan submitted with and made part of the application;

4. Section 78-312(d). To permit the location of buildings without regard for the height and setback regulations which would otherwise apply along West 54th Street, West 56th Street, and Eleventh Avenue, on the periphery of the development, as shown on the Site Plan submitted with and made part of the application; and

5. Section 78-22. To authorize accessory commercial uses listed in Use Group 6A or 6F which in the aggregate occupy not more than two percent of the total floor area in the development, and of which no single establishment occupies more than 15,000 square feet of floor area.

On September 6, 1972 (Cal. #21), the City Planning Commission scheduled a PUBLIC HEARING on this application. The hearing was duly held on September 20, 1972 (Cal. #37). There was no opposition, and the hearing was closed.

As a result of investigation and study, the Commission has determined that the application conforms with the findings required under Sections 74-681, 78-313, and 78-22 of the Zoning Resolution, and 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 Housing and Development Administration, for the grant of special permits involving a large-scale residential development, and approval of the development in air space over the right-of-way of the Penn Central Railroad, within the Clinton Urban Renewal Area, on property bounded generally by 10th Avenue, West 54th Street, 11th Avenue, and West 56th Street, Borough of Manhattan, be and hereby is approved pursuant to Sections 74-681, 78-311(a), 78-311(b), 78-311(e), 78-312(d), and 78-22 of the Zoning Resolution **subject to the following conditions:**

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

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.

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 and Special Permit Authorizations herein granted.

The above resolution duly adopted by the City Planning Commission on October 11, 1972 (Cal. # 29) 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.

DONALD H. ELLIOTT, Chairman;
GERALD R. COLEMAN, MARTIN GALLEN,
IVAN A. MICHAEL, CHESTER RAPKIN, JOHN E. ZUCCOTTI, Commissioners.

RR:b1

Exhibit T

SPECIAL PERMITS and SPECIAL PERMIT AUTHORIZATIONS, pursuant to Section 74-681 and Article VII, Chapter 8, of the Zoning Resolution, involving a large-scale residential development, and approval of the development in air space over the right-of-way of the Penn Central Railroad, on property bounded by Park Avenue, a line 200 feet northerly of East 162nd Street, Courtlandt Avenue, East 161st Street, Park Avenue, East 158th Street, Courtlandt Avenue, East 156th Street, Concourse Village East, and East 161st Street, Borough of The Bronx.

The application for the special permits and special permit authorizations was filed by the Housing and Development Administration, to implement plans for a Federally-aided public housing project, tentatively designated as Park Avenue-Air Rights Area. The housing project is the subject of a report (CP-21652) approved by the Commission on July 14, 1971 (Cal. #57) and by the Board of Estimate on September 2, 1971 (Cal. #13).

The housing project is included in the Urban Renewal Plan for the Morrisania Urban Renewal Area (CP-21606) approved by the Commission on June 15, 1971 (Cal. #2) and by the Board of Estimate on September 2, 1971 (Cal. #13).

The application, dated November 17, 1971, seeks a special permit, pursuant to Section 74-681 of the Zoning Resolution to permit the development in air space over the right-of-way of the Penn Central Railroad. The application also seeks special permit 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 for all zoning lots within the development to be distributed without regard for zoning lot lines;
2. Section 78-311(b). To authorize the total required open space to be distributed without regard for zoning lot lines;
3. Section 78-311(e). To authorize the location of buildings without regard for the height and setback regulations which would otherwise apply along a portion of East 161st Street, as shown on the Site Plan submitted with and made part of the application;

4. Section 78-312(d). To permit the location of buildings without regard for the height and setback regulations which would otherwise apply along the periphery of the development, as shown on the Site Plan submitted with and made part of the application; and

5. Section 78-41. To permit accessory off-street parking spaces to be located anywhere within the development without regard for zoning lot lines.

A supplementary application, dated December 6, 1971, seeks a special permit, pursuant to the following section of the Zoning Resolution:

Section 74-682. To authorize the platform area over the portions of streets covered by platforms to be considered as part of the adjoining zoning lots for purposes of lot coverage and open space requirements.

On November 23, 1971 (Cal. #6), the City Planning Commission scheduled a PUBLIC HEARING on this application. The hearing was duly held on December 8, 1971 (Cal. #42), in conjunction with the hearing on the related rezoning of the entire site to R8 (CP-21784). There was no opposition, and the hearing was closed.

As a result of investigation and study, the Commission has determined that the application conforms with the findings required under Sections 74-681, 74-682, 78-313, and 78-41 of the Zoning Resolution, and 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 Housing and Development Administration, for the grant of special permits involving a large-scale residential development, and approval of the development in air space over the right-of-way of the Penn Central Railroad, on property bounded by Park Avenue, a line 200 feet northerly of East 162nd Street, Courtlandt Avenue, East 161st Street, Park Avenue, East 158th Street, Courtlandt Avenue, East 156th Street, Concourse Village East, and East 161st Street, Borough of The Bronx, be and hereby is approved pursuant to Sections 74-681, 74-682, 78-311(a), 78-311(b), 78-311(e), 78-312(d), and 78-41 of the Zoning Resolution subject to the following conditions:

1. The premises shall be developed in size and arrangement as stated in the application and as indicated on the plans filed with this application;

2. The development shall conform to all applicable provisions of the Zoning Resolution except for the modifications herein granted and as shown on the plans filed with this application. All zoning computations shall be subject to 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; and
5. The approval herein granted shall not take effect until the related rezoning of the entire site to R8 becomes effective (CP-21784).

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 and Special Permit Authorizations herein granted.

The above resolution duly adopted by the City Planning Commission on December 8, 1971 (Cal. #42) 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.

DONALD H. ELLIOTT, Chairman,
GERALD R. COLEMAN, MARTIN GALLEN, WALTER McQUADE,
IVAN A. MICHAEL, CHESTER RAPKIN, JOHN E. ZUCCOTTI, Commissioners.

RR:b1

Exhibit U

SPECIAL PERMITS pursuant to Section 197-c of the New York City Charter and Article VII, Chapter 8 of the Zoning Resolution, involving a large-scale residential development on property located generally between Carroll Street and Schofield Street and their easterly prolongations, and extending generally from the southerly prolongation of Minnieford Avenue to the Long Island Sound, within the Special City Island District, Borough of The Bronx, CB #10.

The application for the special permits was filed by the Boatyard Associates, in order to construct a 70-unit condominium townhouse development, consisting of attached and semi-detached 3-story buildings on a 3 1/2-acre waterfront site.

In addition to the special permits which are the subject of this report (C800104ZSX), implementation of the proposed development will require approval by the City Planning Commission and Board of Estimate of the following three matters, which are the subject of separate reports approved by the Commission on August 13, 1980:

1. C800103ZMX. Amendment of the Zoning Map, Section No. 4d, rezoning the site to a C3 District;
2. C800101MMX. Map modification, eliminating streets within the site of the development; and
3. C800102MLX. Proposed landfill at the easterly termini of Schofield and Carroll Streets.

This application (C800104ZSX) seeks special permits pursuant to the following Sections of the Zoning Resolution:

1. Section 78-312(c). To permit minor variations in required front and rear yards on the periphery of the development to introduce variety, improve view lines to the water and allow a more pleasing site plan;
2. Section 78-312(f). To permit modifications of the minimum spacing between buildings regulations, consistent with the intent of Section 23-71;
3. Section 78-34. To find that the development would meet the requirements of this Section, as a prerequisite for qualifying for a bonus for common open space and good site plan under Section 78-351, and as a prerequisite for qualifying for a bonus for increased room size under Section 78-354;

4. Section 78-351. Bonus for Common Open Space and Good Site Plan. To modify the permitted floor area ratio and required open space for the development as a whole, by increasing the maximum floor area ratio from 0.50 to 0.60, and reducing the open space ratio from 150.0 to 125.0, in accordance with the provisions of this Section; and

5. Section 78-354. Bonus for Increased Room Size. To further modify the floor area ratio and open space ratio for the development as a whole, by increasing the floor area ratio from 0.60 to 0.68, and reducing the open space ratio to 107.0, in accordance with the provisions of this Section, which permits a floor area ratio of up to .70, and a minimum open space ratio of 104.6. The development qualifies for these bonuses by providing an average room size of 471 square feet, which exceeds the 375 square feet required to qualify for these bonuses.

The application was certified as complete by the City Planning Commission on May 27, 1980, in accordance with Article 3 of the Uniform Land Use Review Procedure (ULURP) and referred to Community Board #10.

Community Board #10 held a public hearing on the application on June 30, 1980 and voted to recommend approval of the application on July 8, 1980.

On July 14, 1980 (Cal. #3), the Commission scheduled a PUBLIC HEARING on this application. The hearing was duly held on July 30, 1980 (Cal. #54), in conjunction with the related hearings on the amendment of the Zoning Map (C800103ZMX), the map modification (C800101MMX), and the proposed landfill (C800102MLX). A representative of the developer appeared in favor of the proposal. There were two other appearances; one in opposition, and the hearing was closed.

Consideration:

The issues taken into consideration by the City Planning Commission in approving this large-scale residential development and its related zoning map change are contained in the related report (C800103ZMX).

The Commission hereby makes the following findings pursuant to Section 78-313 of the Zoning Resolution:

a) That the special permits will aid in achieving the general purposes and intent of this Chapter as set forth in Section 78-01 (General Purposes);

b) That the authorized distribution of floor area, rooms, and open space, and location of buildings, will permit better site planning and will thus benefit both the residents of the development and the City as a whole;

c) That the distribution or location will not unduly increase the bulk of buildings, density of population, or intensity of use in any block, to the detriment of the occupants of buildings in the block or nearby blocks;

d) That the distribution or location will not affect adversely any other zoning lots outside the development, by restricting access to light and air or by creating traffic congestion;

e) That the common open space will, by location, size, shape and other physical characteristics, and by its relationship to surrounding development and the circulation system, permit realization of the full community service advantages for which such pooled areas are designed; and

f) That suitable private access to mapped streets will be provided conforming to standards which will insure adequate circulation and make adequate provision for public services.

The Commission hereby makes the following findings pursuant to Section 78-34 of the Zoning Resolution:

a) That throughout the development, the site plan provides a significantly better arrangement of the buildings in relation to one another and to their sites from the standpoints of privacy, access of light, organization of private open spaces and preservation of important natural features to a greater degree than would be possible or practical for a development composed of similar types built in strict compliance with the applicable district regulations;

b) That the public facilities and utilities in the area are adequate to meet the needs of the development or that needed additional facilities will be provided as a part of the development by the developer or owner; and

c) That the development complies with the provisions of Section 78-351 (Bonus for Common Open Space and Good Site Plan).

Consequently, the Commission determined that the application warrants approval subject to the conditions stated in the following resolution:

RESOLVED, by the City Planning Commission, pursuant to Section 197-c of the New York City Charter, that the application of the Boatyard Associates for the grant of special permits involving a large-scale residential development on property located generally between Carroll Street and Schofield Street and their easterly prolongations, and extending generally from the southerly prolongation of Minnieford Avenue to the Long Island Sound, within the Special City Island District, Borough of The Bronx, be and hereby is approved pursuant to Article VII, Chapter 8 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 permits herein granted.

The above resolution duly adopted by the City Planning Commission on August 18, 1980 (Cal. # 7) 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 Article VII, Chapter 8 of the Zoning Resolution and in accordance with the requirements of Section 197-c of the Charter.

HERBERT STURZ, Chairman;
MAX BOND, SYLVIA DEUTSCH,
HOWARD B. HORNSTEIN, THEODORE E. TEAH, Commissioners.

MARTIN GALLEN, Vice-Chairman; voting "NO".

(See dissenting statement attached to Cal. No. 6)

RR:b1

Exhibit V

Which was adopted by the following vote:

Affirmative—The Special Assistant to the Mayor, the Acting Comptroller, the President of the Council and the Acting Presidents of the Boroughs of Manhattan, Brooklyn, The Bronx, Queens and Richmond—22.

Cal. No. 102.

Housing and Development Administration—Approval of Application for Construction of Large-Scale Residential Development in Area Bounded by Bronx Park South, Boston Road, East 180th Street, Bronx River, East Tremont Avenue, Bryant Avenue and Vyse Avenue, The Bronx.

The Acting Secretary presented the following:
(CP-21387)

November 4, 1970.

Special permit authorizations, pursuant to Article VII, Chapters 4 and 8 of the Zoning Resolution, involving a large-scale residential development within the area bounded generally by Bronx Park South, Boston Road, East 180th Street, Bronx River, East Tremont Avenue, Boston Road, Bryant Avenue, East Tremont Avenue, and Vyse Avenue, Borough of The Bronx. The application for the special permit authorizations involving this large-scale residential development was filed by the Housing and Development Administration.

An amended urban renewal plan for the area was the subject of a report (CP-20694), approved by the Commission on April 30, 1969, Cal. No. 22, and by the Board of Estimate on June 26, 1969, Cal. No. 16.

In another report (CP-21299), adopted by the Commission on August 12, 1970, Cal. No. 59, and by the Board of Estimate on August 20, 1970, Cal. No. 153, special permit authorizations were granted for this large-scale residential development, applying only to Parcels 6, 7, 8a, 8b and 9.

The present application requests special permit authorizations, pursuant to various sections of Article VII, Chapters 4 and 8, of the Zoning Resolution, as follows:

1. 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, as shown on the General Site Plan submitted with and made part of the application;

2. Section 78-311(h)—To authorize the location of buildings on a single zoning lot without regard for spacing between buildings regulations, but providing that the resultant spacing will not be reduced by more than 15 percent of that required by Section 23-71;

3. Section 78-312(d)—To authorize minor variations in the front height and setback regulations on the periphery of the development, as shown on the General Site Plan submitted with and made part of the application;

4. Section 78-41—To authorize the required accessory off-street parking spaces for Parcels 1, 3, 5 and 10 to be located anywhere within the development without regard for zoning lot lines; and

5. Section 74-53—To permit group parking facilities accessory to uses in the large-scale residential development with more than 150 spaces, and to permit a portion of such parking spaces to be located on the roofs of buildings, on Parcels 9 and 10.

On October 14, 1970, Cal. No. 21, the Commission scheduled a public hearing on this application. The hearing was duly held on November 4, 1970, Cal. No. 34. There were no appearances and the hearing was closed.

As a result of investigation and study, the Commission has determined that the application conforms with the findings required under Sections 74-53, 78-313, and 78-41 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 the Housing and Development Administration, for the approval of proposed special permit authorizations for a large-scale residential development to be built within the area bounded generally by Bronx Park South, Boston Road, East 180th Street, Bronx River, East Tremont Avenue, Boston Road, Bryant Avenue, East Tremont Avenue, and Vyse Avenue, Borough of The Bronx, be and hereby is approved, pursuant to Sections 78-311(d), 78-311(h), 78-312(d), 78-41, and 74-53 of the Zoning Resolution,

subject to the following conditions:

1. The site shall be developed in size and arrangement as proposed and as shown on the General Site Plan filed with the application; and

2. The development shall conform to all applicable provisions of the Zoning Resolution except for the modifications herein granted and as shown on General Site Plan filed with this application. All zoning computations shall be subject to approval

by the Department of Buildings and;

3. The approval herein granted is not transferable prior to the effectuation of the project by the applicant without permission of the City Planning Commission.

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 Authorizations herein granted.

The above resolution duly adopted by the City Planning Commission on November 4, 1970, Cal. No. 34, 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.

DONALD H. ELLIOTT, Chairman, GERALD R. COLEMAN, MARTIN GALLEN, WALTER McQUADE, IVAN A. MICHAEL, CHESTER RAPKIN, BEVERLY M. SPATT, Commissioners.

The following resolution was offered by the Acting President of the Borough of The Bronx:

Resolved, By the Board of Estimate, pursuant to the provisions of Section 74-10 of the Zoning Resolution of The City of New York, that the resolution of the City Planning Commission adopted on November 4, 1970 (Cal. No. 34) reading as follows:

Resolved, By the City Planning Commission, that the application of the Housing and Development Administration, for the approval of proposed special permit authorizations for a large-scale residential development to be built within the area bounded generally by Bronx Park South, Boston Road, East 180th Street, Bronx River, East Tremont Avenue, Boston Road, Bryant Avenue, East Tremont Avenue, and Vyse Avenue, Borough of The Bronx, be and hereby is approved, pursuant to Sections 78-311(d), 78-311(h), 78-312(d), 78-41, and 74-53 of the Zoning Resolution, subject to the following conditions:

1. The site shall be developed in size and arrangement as proposed and as shown on the General Site Plan filed with the application; and

2. The development shall conform to all applicable provisions of the Zoning Resolution except for the modifications herein granted and as shown on General Site Plan filed with this application. All zoning computations shall be subject to approval by the Department of Buildings and;

3. The approval herein granted is not transferable prior to the effectuation of the project by the applicant without permission of the City Planning Commission.

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 Authorizations herein granted.

—be and the same hereby is approved.

Which was adopted by the following vote:

Affirmative—The Special Assistant to the Mayor, the Acting Comptroller, the President of the Council and the Acting Presidents of the Boroughs of Manhattan, Brooklyn, The Bronx, Queens and Richmond—22.

Cal. No. 103.

Property Within Area Bounded by Richmond Avenue, Shiloh Street, Steinway Avenue and Nome Avenue, Richmond—Proposed Amendment of Building Zone Resolution by Changing Zoning Map.

The Acting Secretary presented the following:
(CP-20631A)

November 4, 1970.

Petition, of Klondike Realty Corporation, for the amendment of the Zoning Map (Section 26c), establishing within an existing R3-2 district, a C1-2 district bounded by Richmond Avenue, a line 300 feet north of former Shiloh Street, Steinway Avenue, and Nome Avenue, Borough of Richmond, as shown on a diagram dated August 12, 1970.

The rezoning was requested by the owner of the property to provide small neighborhood shops for the daily family requirements of the adjoining development.

On August 12, 1970, Cal. No. 12, the City Planning Commission scheduled a public hearing on the proposed change. The hearing was held on September 9, 1970, Cal. No. 64. There were no appearances and the hearing was closed.

The Commission is in receipt of a communication from Community Planning Board No. 3 recommending approval of the proposed rezoning.

The property under consideration is undeveloped and fronts on Richmond Avenue. The property to the north is used as a greenhouse, and to the east is a sewage disposal plant. To the south is an auto salesroom.

The applicant proposes to develop the property with 34 small stores. These stores will

Exhibit W

PUBLIC HEARING in the matter of an application, pursuant to Section 74-53 and Article VII Chapter 8 of the Zoning Resolution, from the Housing and Development Administration, for the grant of special permits and authorizations involving a large-scale residential development and accessory group parking facilities within the Williamsburg Urban Renewal Area on property bounded generally by Wythe Avenue, Ross Street, Bedford Avenue, and Williamsburg Street West, Borough of Brooklyn.

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 October 11, 1972, Cal. No. 54, the Commission scheduled this day for a hearing, which has been duly advertised.)

Appearance: H. Lefkowitz, representing Rabbi Bernard Weinberger, United Jewish Organization.

On motion, it was unanimously voted to close the hearing.

On motion, Rule 105 was waived and the following favorable report was adopted, receiving four affirmative votes, Sylvia Deutsch, Commissioner, not voting:

November 1, 1972

The application was filed by the Housing and Development Administration to facilitate the construction of a City-aided housing project, to be known as Bedford Gardens. The housing project is the subject of a separate report (CP-22153) approved by the Commission on November 1, 1972, pursuant to Article 2 of the Private Housing Finance Law of New York State.

The housing project is included in the second amended urban renewal plan for the Williamsburg Urban Renewal Area (CP-21291) approved by the Commission on October 14, 1970 (Cal. #29) and by the Board of Estimate on November 13, 1970 (Cal. #13).

The application seeks a special permit, pursuant to Section 74-53 of the Zoning Resolution, to permit an underground group parking facility with more than 150 spaces as an accessory to a large scale residential development. The application also seeks special permit authorizations, pursuant to various sections of Article VII, Chapter 8 of the Zoning Resolution, as follows:

1. Section 78-22. To authorize accessory commercial uses listed in Use Group 6A or 6F which in the aggregate occupy not more than two per cent of the total floor area in the development, and of which no single establishment occupies more than 15,000 square feet of floor area;
2. Section 78-311(h). To authorize the location of buildings on the zoning lot without regard for spacing between buildings provided that the resultant spacing will not be reduced by more than 15 per cent of that required;
3. Section 78-312(d). To permit the location of buildings without regard for the height and setback regulations which would otherwise apply along the periphery of the development, as shown on the site plan submitted with and made part of the application;

4. Section 78-312(c) and 78-311(d). To authorize the locations of buildings without regard for yard regulations along portions of streets or lot lines wholly within the development. To also authorize minor variations in required front or rear yards on the periphery of the development for the purpose of introducing variety; and

5. Section 78-312(f). To authorize modifications of the minimum spacing requirements between buildings on a single zoning lot, in accordance with the provisions of this section.

On October 11, 1972 (Cal. #54), the City Planning Commission scheduled a PUBLIC HEARING on this application. The hearing was duly held on November 1, 1972 (Cal. # 34). There were no appearances and the hearing was closed.

As a result of investigation and study, the Commission has determined that the application conforms with the findings required under Sections 74-53, 78-22, and 78-313 of the Zoning Resolution, and 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 Housing and Development Administration, for the grant of special permits and authorizations involving a large scale residential development and accessory group parking facilities within the Williamsburg Urban Renewal Area on property bounded generally by Wythe Avenue, Ross Street, Bedford Avenue, and Williamsburg Street West, Borough of Brooklyn, be and hereby is approved pursuant to Sections 74-53, 78-22, 78-311(h), 78-312(d), 78-312(c), 78-311(d), and 78-312(f) 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; and
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.

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 and Special Permit Authorizations herein granted.

The above resolution duly adopted by the City Planning Commission on November 1, 1972 (Cal. # 34) 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, Acting Chairman;
GERALD R. COLEMAN, MARTIN GALLEN, CHESTER RAPKIN, Commissioners.

SYLVIA DEUTSCH, Commissioner, not voting.

GF:b1

Exhibit X

IN THE MATTER OF an application submitted by Spring Creek Associates, L.P., pursuant to Sections 197-c and 200 of the New York City Charter for the grant of a special permit pursuant to Section 78-42 of the Zoning Resolution to waive the accessory off-street parking space requirements for accessory commercial uses, for an authorization pursuant to Section 78-22 of the Zoning Resolution to permit accessory commercial uses listed in the Use Group 6A or 6F which, in the aggregate, occupy not more than two percent of the total floor area, and also for an authorization pursuant to Section 78-311(a) of the Zoning Resolution to permit the total floor area for all zoning lots within the development to be distributed without regard for zoning lot lines to facilitate the construction of a 765-unit large-scale residential development bounded by Forbell Street, Loring Avenue, Emerald Street and the prolongation of the centerline of Stanley Avenue (portions of Stanley Avenue are proposed to be eliminated and are the subject of a related application (C 880165 MMK)) (Blocks 4515, 4516 and 4517), Borough of Brooklyn, Community District 5.

The application (C 880818 ZSK) for the special permit and authorizations was filed by Spring Creek Associates, L.P. on April 29, 1988 to facilitate the construction of a 765-unit large-scale residential development (LSRD) of low-income rental housing, on a three-block area bounded by Forbell Street, Loring Avenue, Emerald Street and the prolongation of the centerline of Stanley Avenue, in the Spring Creek area of the Borough of Brooklyn.

PREVIOUS ACTION

A previous application (N 880271 ZAK) for authorizations pursuant to various sections of Article VII, Chapter 8 of the Zoning Resolution to allow the construction of the initial stage of the 765 dwelling unit Spring Creek large-scale residential development, which involved 283 dwelling units, 283 accessory parking spaces and 2,840 square feet of accessory commercial use, was approved by the City Planning Commission on November 25, 1987 (Calendar No. 63).

RELATED ACTIONS

In addition to the special permit and authorization application which is the subject of this report, implementation of the proposed development also requires action by the City Planning Commission and the Board of Estimate on an

application for an amendment of the Zoning Map (C 880817 ZMK) and an application for an amendment of the City Map (C 880165 MMK) which are being considered with this application and are the subject of separate reports dated August 22, 1988.

BACKGROUND

This large-scale residential development is located near the eastern boundary of the Borough of Brooklyn, in the Spring Creek area within Community District 5. Spring Creek is a largely undeveloped area that stretches south and southwest of the project location. The former Southeast Shore Incinerator dominates the landscape to the south. This Department of Sanitation facility now serves as a temporary sanitation vehicle garage.

Immediately to the east are several undeveloped blocks below legal grade with a scattering of older frame houses. The Lindenwood section of Queens, two blocks to the east of the project, is dominated by row houses and six-story elevator residential buildings.

Linden Plaza Houses, a complex of high rise (17 and 20-story) apartment buildings constructed over the Pitkin Avenue railroad yards, are in an R6 district north of the site of the proposed development. This area also contains two nursing home facilities, a discount department store, and a medical center. A New York City Housing Authority development, the Louis H. Pink houses, a complex of 22 eight-story buildings, is located to the west of the site.

Public transportation to the area is provided by the B10, B12 and B20 bus lines which have stops at Eldert Lane, two blocks to the west of the site. The IND A line stops at the Grant Avenue station, approximately one-quarter mile to the north of the site.

The Spring Creek proposal qualifies as a large-scale residential development and is therefore eligible for the special permit and authorizations available under Article VII, Chapter 8 of the Zoning Resolution. To qualify under Section 78-02 (Definitions) of the Zoning Resolution, a development must either have an area of at least 1.5 acres and a total of at least three principal buildings, or an area of at least three acres and a total of at least 500 dwelling units. The proposed Spring Creek development meets these requirements.

The three-block 8.81-acre large-scale residential development site is bounded by Forbell Street, Emerald Street, Loring Avenue and the prolongation of the center line of Stanley Avenue. Portions of Stanley Avenue, as well as Drew Street and Ruby Street (streets which separate the three blocks of the site), are proposed to be eliminated under a related application to amend the City Map (C 880165 MMK). The elimination of the streets will permit an integrated layout as well as additional public open space along the eliminated portions of Stanley Avenue. Drew Street, between the western and central blocks, will become the core of the Spring Creek LSRD. Pedestrians and vehicles will enter the development on Drew Street from Loring Avenue. Drew Street will be lined with trees and will lead to a large circular drive.

Under the present R4 zoning, construction has already begun on the first 283 units, which were previously approved under application N 880271 ZAK. The proposed rezoning (C 880817 ZMK) from R4 to R6 will facilitate the construction of an additional 482 units of low-income rental housing, which will result in a total of 765 dwelling units.

The developer proposes to build four-story buildings on top of landscaped decks which will be one story above grade. The 538 accessory parking spaces for residents will be at grade level, under the landscaped decks. The maximum height of the development will be five stories.

Under an authorization pursuant to Section 78-22 of the Zoning Resolution, the development will also contain 11,520 square feet of accessory commercial space. The parking requirement for these commercial uses will be waived by means of a special permit pursuant to Section 78-42 of the Zoning Resolution.

The development will be affordable to low-income New Yorkers as the project will benefit from two programs designed to stimulate the construction of low-income housing:

- o A city tax abatement program under Section 421-a of the Real Property Tax Law. Under the provisions of this program, the developer will sell to developers of luxury units in Manhattan south of 96th Street the rights to tax abatements that will be created when the low-income units are completed; and
- o Federal low-income housing tax credits. Under the Tax Reform Act of 1986, states are authorized to allocate a limited amount of federal tax credits to stimulate the development of low-income housing.

This application (C 880818 ZSK) seeks a special permit and authorizations pursuant to the following sections of the Zoning Resolution:

1. Section 78-42: A special permit to waive the requirements for off-street parking spaces accessory to the commercial uses in the large-scale residential development.
2. Section 78-22: An authorization to allow as accessory uses to a large-scale residential development any commercial uses listed in Use Groups 6A or 6F which in the aggregate occupy no more than two percent of the total floor area in the development, and of which no single establishment occupies more than 15,000 square feet.

3. Section 78-311(a): An authorization to allow the total floor area and dwelling units for all zoning lots within the development to be distributed without regard for zoning lot lines.

ENVIRONMENTAL REVIEW

This application (C 880818 ZSK), in conjunction with those for the related actions, the Zoning Map change (C 880817 ZMK) and the amendment of the City Map (C 880165 MMK), was reviewed by the Department of Environmental Protection (DEP) and the Department of City Planning pursuant to the New York State Environmental Quality Review Act (SEQRA), and the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 et seq., and the New York City Environmental Quality Review (CEQR) procedures set forth in Executive Order No.91 of 1977. The designated CEQR number is 88-025K.

The Department of Environmental Protection and the Department of City Planning, as CEQR lead agencies, have determined that, with the modifications, conditions and alterations listed below, the proposed actions will have no significant effect on the quality of the environment. A conditional negative declaration, signed by the applicant and issued on October 19, 1987, considered the rezoning action from R4 to R6, the construction of 765 dwelling units, the street elimination application (C 880165 MMK) and the authorization application (N 880271 ZAK). It was determined on May 27, 1988 that the applications for the rezoning (C 880817 ZMK) and special permit and authorizations (C 880818 ZSK) are minor modifications and do not require an additional CEQR review and that the conditional negative declaration remains valid.

The required modifications, conditions and alterations are as follows:

1. The applicant agrees to provide a minimum of five play areas on the landscaped decks programmed in the following way:

- o The northeast courtyard shall have a minimum 300 square foot play area equipped for children under 6 years old, and a minimum 1,700 square foot play area equipped to serve children between the ages of 6 to 12 years.
 - o There shall be a minimum of 1,800 square feet of play area in the courtyard west of Drew Street equipped to serve children under the age of 12.
 - o The southeast courtyard shall incorporate two play areas: one a minimum of 400 square feet equipped to serve children under 6 years old, and the other a minimum of 2,400 square feet equipped to serve children between the ages of 6 to 12 years.
2. The applicant agrees to provide at least three different types of active recreational facilities for use by persons over 12 years old. These facilities may include two basketball courts, handball, tennis, or volleyball courts, equipment for a par course and a minimum 14,000 square foot open area suitably landscaped for pick-up games.
 3. The applicant agrees to provide seating for at least 10 percent of the project generated population, including seating around the tot play area.
 4. The applicant must provide a minimum of 25 dB (A) window-wall attenuation for all the windows of the residential units facing Loring Avenue so that with the windows closed the internal noise level does not exceed 45 dB (A). An alternate means of ventilation is therefore required. An alternate means of ventilation includes but is not limited to the following:

- (a) Provision of central air conditioning
- (b) Provision of air conditioner sleeves containing air conditioners or HUD approved fans.

The above methods of ventilation should conform to sub-article 1206 of the New York City Building Code (Standards of Mechanical Ventilation).

- 5. Intake and exhaust of air circulation equipment must be directed away from adjacent residences.

- 6. The applicant must submit to the Department of Environmental Protection's Division of Hazardous Materials Program (DEP/DHMP) and the Department of Health (DOH) a proposed site assessment plan for review and approval. The plan submitted for Site 1 and Site 2 has already been reviewed and approved, and appropriate remediation has been incorporated into restrictive declaration (D-125). In addition, a plan for Site 3 will be submitted both to the New York State Department of Environmental Conservation (NYSDEC), which has jurisdiction over a portion of Site 3, and to DEP/DHMP and DOH for that portion and the remainder of the site. The applicant has agreed to provide remediation, as necessary, to the satisfaction of DEP/DHMP and DOH.

UNIFORM LAND USE REVIEW

This application (C 880818 ZSK), in conjunction with those for the related actions, was certified as complete by the City Planning Commission on June 6, 1988, in accordance with Article 3 of the Uniform Land Use Review Procedure (ULURP), and was duly referred to Community Board 5.

Community Board Public Hearing

Community Board 5 held a public hearing on this application on June 22, 1988 and adopted a resolution on that date recommending approval by a vote of 36 in favor and none opposed with no abstentions. However, in its favorable recommendation, the board raised two concerns: 1) a need to create a greater social and economic mix in the project and 2) a desire to foster neighborhood stability by offering the project's dwelling units as co-ops.

City Planning Commission Public Hearing

On July 6, 1988 (Calendar No. 6), the City Planning Commission scheduled August 3, 1988 for a public hearing on this application and the related applications C 880165 MMK, and C 880817 ZMK. The hearing was duly held on August 3, 1988 (Calendar No. 44).

There were six speakers: the project architect, a representative of the developer, the local councilperson, the councilperson for the neighboring Queens district, and the district managers from Brooklyn Community Board 5 and Queens Community Board 10. The local elected officials were primarily concerned about the 421-a Program which enables developers of low-income housing in areas outside the Manhattan core to sell tax abatement credits to developers of luxury dwelling units in Manhattan, south of 96th Street. The Brooklyn councilperson reflected concerns of Community Board 5 in that she expressed a desire to see a greater economic mix in the residents, and she also stressed the view that it would stabilize the project if co-op purchases were available to prospective residents.

CONSIDERATION

Chapter 8 of Article VII of the Zoning Resolution aims for better site and community planning. The specific purposes of Chapter 8 are "to achieve more efficient use of increasingly scarce land within the framework of the overall bulk controls, to enable open space in large-scale residential developments to be arranged in such a way as best to serve active and passive recreation needs

of the residents ... to foster a stable community by providing for a population of balanced family sizes, to encourage harmonious designs incorporating a variety of building types and variations in the siting of buildings, and thus to promote and protect public health, safety, and general welfare."

The special permit, authorizations and rezoning requested are needed to ensure the success of the Spring Creek LSRD. The security, the quality of the open space and the apartments, and the affordability of the apartments follow from the flexibility permitted by Section 78-311 of the Zoning Resolution and the increased floor area and density permitted under an R6 district. The residents of the proposed Spring Creek LSRD will live in housing of relatively modest height (four stories above the deck), facing on large open spaces at least 60 feet wide. The Pink Houses in the R4 district to the west of the project site are eight stories in height. The Linden Plaza Houses in an R6 district to the northwest are 17 to 20 stories in height.

Most of the Spring Creek buildings will front on Drew Street to give the project a focus and to allow the construction of decks which offer the largest possible recreational and landscaped areas. These areas will be surrounded by residential floors. The project has clear circulation patterns which also augment security. The affordability of the apartment is, in part, attributable to the repetition of building elements. Six building types will be built, but the variation will appear to be greater because the placement of buildings will vary in relation to streets and lot lines.

The site plan combines harmony and variety. The plan is an adaptation of designs used for luxury and moderate-income urban housing on the West Coast. The Spring Creek LSRD is the first use of this concept in New York City. When combined with the developer's commitment to a new method for building housing, the design is vitally important to residents of New York City as a prototype for high quality, affordable housing.

The Spring Creek LSRD will consist of three residential structures, each on a separate zoning lot. On the western block, one structure will run north to south along the western side of the private interior street (Drew Street). East of this core street will be two structures, each on a separate zoning lot. Both structures will front on this interior street and will be separated from each other by another roadway which will branch east from the circular drive. The portions of the Spring Creek LSRD which abut the circular drive and core street are being constructed under previously approved City Planning Commission application N 880271 ZAK for large-scale residential development authorizations and the existing R4 zoning. Convenience shops will be located at the two corners of the entrance at Drew Street along Loring Avenue within the site. At grade, residential units will line the interior core street. Behind these residences, also at grade, will be three enclosed accessory parking facilities with a total capacity of 538 cars.

Three decks will be built above three parking facilities. The decks will be reached from one-story stairs off the circular drive and by elevators in the parking areas. The decks will be ringed with four-story buildings containing 8-to-16 apartments each. All units above the decks will be entered from the deck levels. About 28 percent of the apartments will be accessible to the handicapped (from grade or the deck). Approximately 24 percent will be studio apartments, 14 percent will be one-bedroom apartments, 55 percent will be two-bedroom units and 7 percent will be three-bedroom apartments. The decks will be fully landscaped and each will contain active play areas. The stairs from the decks to the upper-floor apartments will be open to provide maximum security. The design will reinforce the feeling that the deck areas, rather than a lobby, are the project's common open space.

The Spring Creek LSRD is designed to provide and to control access to the development. Lobbies with mail boxes, and laundry rooms with large windows located at the stairs leading up to the decks, and the stairs in the buildings which will be open will make it easy for residents to observe passers-by. Within the development, residents will be able to move about freely, but access to interior spaces will be controlled. The design will give children the opportunity to play in a number of outdoor environments along the internal streets and landscaped areas on the decks, but residents will be protected from unwanted intruders.

The design of the development provides amenities unusual in a low-income residential development. The below-deck parking will be separate from other functions, making more of the site available for open space uses. The landscaped decks will be the central common open space of the development and will add light, air, and recreation space,

Only a minor distribution of floor area is sought. As discussed above, the distribution of floor area helps achieve the amenity, security and affordability the plan offers. The distribution is extremely subtle, increasing the available floor area on the westernmost zoning lot by less than 5 percent.

The proposed street-level commercial space, which will be located at the entrance to the Spring Creek LSRD, is the most convenient location for the residents. The commercial space will consist of stores that sell food and other items and services used daily. The immediate vicinity does not offer competing convenience shopping. Linden Boulevard has some comparison shopping and fast food outlets, but the nearest large supermarkets are over a mile from the site. The few closer, smaller stores are located a number of blocks to the west or to the east, away from the available public transportation routes.

The proposed commercial space will be separated from residential and recreational uses. Because there are no other residential developments nearby, it is not likely to attract customers who live outside of the proposed project. Most customers will come from the development and are likely to walk to the stores. The parking requirement for the accessory commercial uses will be waived by a special permit pursuant to Section 78-42 of the Zoning Resolution. There is no loading berth requirement. If customers drive to the LSRD's stores, they are likely to use the department store's (Times Square Store) secondary parking lot which covers the entire block located on Loring Avenue between Drew and Ruby streets and is usually empty.

The signage has not as yet been designed, but it will be discreet because it is not intended to attract clientele from a distance. The signage will comply with the requirements of the zoning resolution.

The Spring Creek development will, during the first 20 years after construction, fulfill the requirements of the 421-a tax abatement program by augmenting the city's supply of much-needed low-income housing, and the project addresses the need to find less expensive ways of constructing housing. Although a premium will be paid to create the covered parking and provide the landscaping, other aspects of the project significantly offset its cost. Corridors and enclosed staircases have been eliminated and as a result; very little unoccupied space will be built. Because the buildings are low-rise, only one-story parking-level-to-deck-level elevators are needed. A number of building code issues are less expensive to address in low-rise buildings than in high-rise buildings. Construction will be horizontal rather than vertical, permitting units to be built simultaneously on the entire site rather than sequentially as would be the case in a high-rise building. The developer plans to fabricate the walls in a factory, while the project's foundations and decks are being built. Consequently, construction will be about 30 percent faster than comparably sized high-rise buildings.

Nearby blocks do not have uses which would be adversely affected by the project. To the south is a large tract of vacant city-owned property which is zoned primarily R4. Potential development of this area for non-residential use would require a rezoning action. One block to the south is an M3-1 district (equivalent to a 4-block area) which was the site of the former Southeast Shore Incinerator. The United States Postal System is considering using the westerly part of this manufacturing district, and vacant land to the west, for a distribution center.

A buffer (play areas and landscaping) is planned in the bed of Stanley Avenue, between the Spring Creek LSRD and any development to the south. Its purpose is to assure flexibility in the use of the city-owned sites and to protect the residences from uses that may be incompatible with the residential use. To the north, across Loring Avenue, is a large discount department store, parking lot and a new group medical center. The Spring Creek LSRD's commercial space will face the department store and its parking lot.

As noted above, because the Spring Creek LSRD buildings are relatively low, the development will have little impact on the light and air that reaches other zoning lots. The site to the east, which has the potential to be developed for residential use, would have the same southern exposure as the Spring Creek LSRD. The development's traffic will proceed primarily along Drew Street for one block between the project and Linden Boulevard to the north. The uses along this route and the department store and its parking lot will not be affected by project-generated traffic. At Linden Boulevard, the traffic flows into much larger traffic patterns and will have a negligible effect on area traffic.

The Commission has determined that the granting of these authorizations and the special permit has provided a better site plan than would have been produced under the requirements of Article II of the Zoning Resolution within each separate zoning lot. The proposed development is a major private sector initiative which will produce much needed rental units in Brooklyn for low-income families.

FINDINGS

For large-scale residential developments in R3-2 through R10 districts, the City Planning Commission, pursuant to Section 78-42 of the Zoning Resolution, may, by special permit, waive the requirements for off-street parking spaces accessory to the commercial uses included in such large-scale residential development and intended primarily for the use of its residents.

The City Planning Commission hereby makes the following findings pursuant to Section 78-313 of the Zoning Resolution:

- a) That such authorization will aid in achieving the general purposes and intent of Article VII, Chapter 8, as set forth in Section 78-01 (General Purposes) of the Zoning Resolution.
- b) That authorized distribution of floor area and dwelling units, will permit better site planning and will thus benefit the residents of the development and the city as a whole.
- c) That such distribution will not unduly increase the bulk of buildings, density of population, or intensity of use in any block, to the detriment of the occupants of buildings in the block or nearby blocks.
- d) That such distribution will not affect adversely any other zoning lots outside the development by restricting access to light and air or by creating traffic congestion.
- e) Where portions of the total required open space are pooled in common open space areas or common parking areas, that such common areas will, by location, size, shape and other physical characteristics and by their relationship to surrounding development and the circulation system, permit realization of the full community service advantages for which such pooled areas are designed.

f) This finding is not applicable as all zoning lots abut mapped streets.

The City Planning Commission hereby finds, pursuant to Section 78-22 of the Zoning Resolution that the accessory commercial uses:

- a) Will be primarily for the use of the residents of the development and will provide more convenient shopping for such residents; and
- b) Are so located as to minimize interference with residential or recreational areas within the development and to avoid creation of traffic congestion or other objectionable influences affecting residences outside the development; and
- c) Comply with all the applicable bulk and off-street parking and loading regulations for such accessory commercial uses, as set forth in Article II, Chapters 3 and 5 of the Zoning Resolution; and
- d) Conform to those provisions of the following sections which are applicable to commercial uses in C1 districts: Sections 32-41 (Enclosure within Buildings), Section 32-42 (Location within Buildings), and Sections 32-61 to 32-68, inclusive, relating to Sign Regulations.

RESOLUTION

The City Planning Commission has determined that this application warrants approval subject to the conditions stated in the following resolutions:

RESOLVED, that the City Planning Commission concurs in the environmental determination of the Department of Environmental Protection and the Department of City Planning, as CEQR lead agencies, issued on October 19, 1987 with respect to CEQR No. 88-025K application; and be it Further

RESOLVED, by the City Planning Commission, pursuant to Sections 197-c and 200 of the New York City Charter, that based on the environmental determination and the consideration and findings described in this report, the application (C 880818 ZSK) of Spring Creek Associates, L.P., for the grant of a special permit pursuant to Section 78-42 of the Zoning Resolution to waive the accessory off-street parking space requirements for accessory commercial uses, for an authorization pursuant to Section 78-22 of the Zoning Resolution to permit accessory commercial uses listed in Use Group 6A or 6F which, in the aggregate, occupy not more than two percent of the total floor area, and also for an authorization pursuant to Section 78-311(a) of the Zoning Resolution to permit the total floor area for all zoning lots within the development to be distributed without regard for zoning lot lines to facilitate the construction of a 765-unit large-scale residential development bounded by Forbell Street, Loring Avenue, Emerald Street and the westerly prolongation of the centerline of the portion of 70-foot wide Stanley Avenue east of Emerald Street (portions of Stanley Avenue between Forbell and Emerald streets are proposed to be eliminated and are the subject of a related application (C 880165 MMK)) (Blocks 4515, 4516 and 4517), Borough of Brooklyn, Community District 5, is approved **subject to the following terms and conditions** and restrictive declaration D-125:

1. **The property that is the subject of this application (C 880818 ZSK) shall be developed in size and arrangement substantially in accordance with the dimensions, specifications and zoning computations indicated on the following plans prepared by the Liebman Melting Partnership, Architects and Planners, filed with this application and incorporated in this resolution:**

<u>Drawing No.</u>	<u>Description</u>	<u>Last Date Revised</u>
Z-1	Large Scale Residential Development Plan and Overall Zoning Calculations	May 11, 1988
Z-2	Zoning Calculations	May 11, 1988
Z-3	Zoning Area Plan, Location Map	April 25, 1988
Z-4	Site Plan	July 27, 1988
Z-5	Deck Level	April 25, 1988
Z-6	Ground Level Plan	May 27, 1988
Z-7	Zoning Plan	May 11, 1988
Z-8	Zoning Lot and Yard Plan	May 11, 1988
Z-9	Elevations	May 27, 1988
Z-10	Site Sections	May 11, 1988
L-1	Illustrative Deck Level Plan	July 27, 1988

2. Such development shall conform to all applicable provisions of the Zoning Resolution, except for the modifications specifically granted in this resolution and shown on the plans listed above which have been filed with this application. All zoning computations are subject to verification and approval by the New York City Department of Buildings.

3. Such development shall conform to all applicable laws and regulations relating to its construction, operation and maintenance.

4. The development shall conform to all conditions, modifications and alterations set forth in the conditional negative declaration (CEQR No. 88-025K) dated October 19, 1987, issued pursuant to the New York State and New York City Environmental Quality Review. These conditions, modifications and alterations are as follows:

- a) The applicant agrees to provide a minimum of five play areas on the landscaped decks, programmed in the following way:
- o The northeast courtyard shall have a minimum 300 square foot play area equipped for children under 6 years old, and a minimum 1,700 square foot play area equipped to serve children between the ages of 6 to 12 years.
 - o There shall be a minimum of 1,800 square feet of play area in the courtyard west of Drew Street equipped to serve children under the age of 12.
 - o The southeast courtyard shall incorporate two play areas: one, a minimum of 400 square feet equipped to serve children under 6 years old, and the other, a minimum of 2,400 square feet equipped to serve children between the ages of 6 to 12 years.
- b) The applicant agrees to provide at least three different types of active recreational facilities for use by persons over 12 years old. These facilities may include two basketball courts, handball, tennis, or volleyball courts, equipment for a par course and a minimum 14,000 square foot open area suitably landscaped for pick-up games.
- c) The applicant agrees to provide seating for at least 10 percent of the project generated population, including seating around the tot play area.

d) The applicant must provide a minimum of 25 dB (A) window-wall attenuation for all the windows of the residential units facing Loring Avenue so that with the windows closed the internal noise level does not exceed 45 dB (A). An alternate means of ventilation is therefore required. An alternate means of ventilation includes but is not limited to the following:

- (a) Provision of central air conditioning
- (b) Provision of air conditioner sleeves containing air conditioners or HUD approved fans.

The above methods of ventilation should conform to sub-article 1206 of the New York City Building Code (Standards of Mechanical Ventilation).

e) Intake and exhaust of air circulation equipment must be directed away from adjacent residences.

f) The applicant must submit to the Department of Environmental Protection's Division of Hazardous Materials Program (DEP/DHMP) and the Department of Health (DOH) a proposed site assessment plan for review and approval. The plan submitted for Site 1 and Site 2 has already been reviewed and approved, and appropriate remediation has been incorporated into a restrictive declaration (D-125). In addition, a plan for Site 3 will be submitted both to the New York State Department of Environmental Conservation (NYSDEC), which has jurisdiction over a portion of Site 3, and to DEP/DHMP and DOH for that portion and the remainder of the site. The applicant has agreed to provide remediation, as necessary, to the satisfaction of DEP/DHMP and DOH.

5. Upon failure of any party having any right, title or interest in the property that is the subject of this application or the failure of any heir, successor, assign, or legal representative of such party to observe any of the covenants, restrictions, agreements, terms, or conditions of the resolution, whose provisions shall constitute conditions of the special permit and authorizations hereby granted, the City Planning Commission may, without the consent of any other party, revoke any portion of or all of said special permit or authorizations. Such power of revocation shall be in addition to and not limited to any other powers of the City Planning Commission, or of any other agency of government, or any private person or body. Any such failure as stated above, or any alteration in the development that is the subject of this application which departs from any of the conditions listed above, is grounds for the City Planning Commission or the Board of Estimate, as applicable, to disapprove any application for modification, cancellation or amendment of the special permit and authorizations hereby granted.
6. All leases, subleases, or other agreements for use or occupancy of space at the property that is the subject of this application shall give actual notice of this special permit and the authorizations to the lessee, sublessee, or occupant.
7. Neither the City of New York nor any of its employees shall have any liability for money damages by reasons of the city's or such employees' failure to act in accordance with the provisions of the special permit and these authorizations.

Any alterations 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 and authorizations herein granted.

The above resolution duly adopted by the City Planning Commission on August 22, 1988 (Calendar No. 5) is filed with the Secretary of the Board of Estimate, together with a copy of the application and plans of the development, pursuant to Section 78-042 of the Zoning Resolution and in accordance with the requirements of Sections 197-c and 200 of the New York City Charter.

SYLVIA DEUTSCH, Chairperson
SALVATORE C. GAGLIARDO, Wm. GARRISON McNEIL,
DANIEL T. SCANNELL, STUART K. PERTZ, Commissioners.

Exhibit Y

IN THE MATTER OF an application, pursuant to Article VII, Chapter 8 of the Zoning Resolution, from the Housing and Development Administration, for the grant of special permits and authorizations involving a large-scale residential development within the Atlantic Terminal Urban Renewal Area, on property bounded generally by Atlantic Avenue, South Elliott Place, Hanson Place, Fulton Street, Carlton Avenue, Greene Avenue, and Clermont Avenue, Borough of Brooklyn.

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 November 29, 1972, Cal. No. 23, the Commission scheduled December 13, 1972, for a hearing; on December 13, 1972, Cal. No. 45, the hearing was closed.)

On motion, the following favorable report was unanimously adopted:

January 17, 1973

The application for the special permit and authorizations was filed by the Housing and Development Administration, to implement plans for two City-aided Limited-Profit Cooperative housing projects, to be known as First Atlantic Terminal Houses and Second Atlantic Terminal Houses. First Atlantic Terminal Houses is the subject of a separate report (CP-22201) approved by the Commission on December 13, 1972 (Cal. #32), and Second Atlantic Terminal Houses is the subject of a separate report (CP-22200) approved by the Commission on December 13, 1972 (Cal. #31), both pursuant to Article 2 of the Private Housing Finance Law of the State of New York.

The housing projects are included in the Amended Urban Renewal Plan for the Atlantic Terminal Urban Renewal Area (CP-22209) approved by the Commission on December 13, 1972 (Cal. #30). A related amendment of the Zoning Map, to provide appropriate zoning for the projects and Urban Renewal Plan, is the subject of a separate report (CP-22205) approved by the Commission on January 17, 1973 (Cal. #36).

The application seeks 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 for all zoning lots within the development to be distributed without regard for zoning lot lines;
2. Section 78-311(b). To authorize the total required open space to be distributed without regard for zoning lot lines;
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;

4. Section 78-311(e). To authorize the location of buildings without regard for the height and setback regulations which would otherwise apply along portions of streets wholly within the development;
5. Section 78-311(h). To authorize the location of buildings without regard for spacing between buildings regulations, provided that the resulting spacing will not be reduced by more than 15 per cent of that required by Section 23-71; and
6. Section 78-312(d). To permit minor variations in the front height and setback regulations on the periphery of the development.

On November 29, 1972 (Cal. #23), the City Planning Commission scheduled a PUBLIC HEARING on this application. The hearing was duly held on December 13, 1972 (Cal. #45), in conjunction with the related hearings on the two housing projects (CP-22200 and CP-22201), the Amended Urban Renewal Plan (CP-22209), and the Zoning Map amendment (CP-22205). There were a number of appearances, as described in the related report on the Amended Urban Renewal Plan (CP-22209), and the hearing was closed.

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 stated in the following resolution:

RESOLVED, By the City Planning Commission, that the application of the Housing and Development Administration for the grant of a special permit and authorizations involving a large-scale residential development within the Atlantic Terminal Urban Renewal Area, on property bounded generally by Atlantic Avenue, South Elliott Place, Hanson Place, Fulton Street, Carlton Avenue, Greene Avenue, and Clermont Avenue, Borough of Brooklyn, be and hereby is approved pursuant to Sections 78-311(a), 78-311(b), 78-311(d), 78-311(e), 78-311(h) and 78-312(d) 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; and
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.

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 and Authorizations herein granted.

The above resolution duly adopted by the City Planning Commission on January 17, 1973 (Cal. #37) 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.

DONALD H. ELLIOTT, Chairman

RR:b1

Exhibit Z

PUBLIC HEARING in the matter of an application, pursuant to Article VII, Chapters 4 and 8 of the Zoning Resolution, from the Housing and Development Administration, for the grant of special permits and authorizations involving a large-scale residential development within the Williamsburg Urban Renewal Area, bounded by Division Avenue, an irregular line roughly parallel to Bedford Avenue, Clymer Street, and Wythe Avenue as presently mapped, Borough of Brooklyn.

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 June 27, 1973, Cal. No. 8, the Commission scheduled this day for hearing, which has been duly advertised.)

Appearances: Luis Olmedo; Rabbi Julius Templer, representing Williamsburg Housing Project.

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 11, 1973

The application for the special permits and authorizations was filed by the Housing and Development Administration, to implement plans for a City-aided Limited-Profit housing project, to be known as Kent Village. This City-aided Limited-Profit project is the subject of a separate report (CP-22355) approved by the Commission on July 11, 1973 (Cal. # 16) pursuant to Article 2 of the Private Housing Finance Law of the State of New York.

The housing project is to be located on Site 1A within the Williamsburg Urban Renewal Area. The Amended Urban Renewal Plan for the Williamsburg Urban Renewal Area (CP-21291) was approved by the Commission on October 14, 1970 (Cal. #29) and by the Board of Estimate on November 13, 1970 (Cal. #13).

The application seeks special permits and special permit authorizations pursuant to the following sections of the Zoning Resolution:

1. Section 78-311(d). To authorize the location of buildings without regard for rear yards or rear yard equivalents which would otherwise apply;
2. Section 78-22. To authorize accessory commercial uses listed in Use Group 6A or 6F which in the aggregate occupy not more than 2 per cent of the total floor area in the development, and of which no single establishment occupies more than 15,000 square feet of floor area;
3. Section 78-42. To permit a waiver of the requirements for off-street parking spaces accessory to commercial uses within the development, so as to provide 25 spaces instead of the 39 spaces which would otherwise be required;
4. Section 78-311(e). To authorize the location of buildings C and F without regard for the height and setback regulations which would otherwise apply along portions of streets wholly within the development;

5. Section 74-842. Staged Development of Publicly-Assisted Housing Projects.

To permit existing occupied buildings to remain temporarily on the zoning lot, and to authorize the applicable bulk regulations to apply to the entire zoning lot without regard to the existence of such temporary buildings, subject to the requirements of this Section;

6. Section 78-312(a). To authorize the total zoning rooms within the development to be distributed without regard for zoning lot lines;

7. Section 74-53. To permit group parking facilities with more than 150 spaces, accessory to uses in the large-scale residential development.

On June 27, 1973 (Cal. #8), the City Planning Commission scheduled a PUBLIC HEARING on this application. The hearing was duly held on July 11, 1973 (Cal. #17), in conjunction with the related hearing on the City-aided Limited-Profit housing project (CP-22355). There were two appearances in favor of the project, and the hearing was closed.

As a result of investigation and study, the Commission has determined that the application conforms with the findings required under Sections 78-22, 78-313, 74-842 and 74-53 of the Zoning Resolution, and 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 Housing and Development Administration, for the grant of special permits and special permit authorizations involving a large-scale residential development within the Williamsburg Urban Renewal Area bounded generally by Division Avenue, an irregular line roughly parallel to Bedford Avenue, Clymer Street, and Wythe Avenue as presently mapped, Borough of Brooklyn; be and hereby is approved pursuant to Sections 78-22, 78-311(d), 78-42, 78-311(e), 74-842, 78-312(a) and 74-53 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; and
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. No final certificate of occupancy shall be issued by the Department of Buildings for the new construction until all pre-existing buildings except those buildings which are to be retained in accordance with the approved development plan are vacated, demolished and their sites are redeveloped in accordance with the approved project plan.

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 and Special Permit Authorizations herein granted.

The above resolution duly adopted by the City Planning Commission on July 11, 1973 (Cal. # 17) 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, GORDON J. DAVIS,
CHESTER RAPKIN, JAQUELIN T. ROBERTSON, Commissioners.

RR:bl

Exhibit AA

IN THE MATTER OF an application, pursuant to Article VII, Chapter 8 and Section 74-53 of the Zoning Resolution, from Twin Pines Village, Inc., for approval of special permit authorizations involving a large-scale residential development on property bounded by Shore Parkway, Louisiana Avenue, Vandalia Avenue, Pennsylvania Avenue and Flatlands Avenue, Borough of Brooklyn. (CPD No. 5)

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, New York.

(On April 5, 1972, Cal. No. 14, the Commission scheduled April 26, 1972, for a hearing; on April 26, 1972, Cal. No. 52, the hearing was closed.)

On motion, the following favorable report was unanimously adopted:

May 17, 1972

The application for the special permits and special permit authorizations was filed by Twin Pines Village, Inc., owner, to implement plans for a 5900-unit moderate-income apartment development.

The application seeks the following special permits and special permit authorizations, pursuant to various sections of the Zoning Resolution:

1. Section 78-311. To authorize the permitted floor area ratio, required open space ratio, and required lot area per room, for the portion of the development which is located in an R5 District, to be determined on the basis of a height factor (6.0) which is different from the actual height factor of such portion of the development;
2. Section 78-311. To authorize the permitted floor area ratio, required open space ratio, and required lot area per room, for the portion of the development being rezoned to C4-3 (the equivalent of R6 for residential bulk) to be determined on the basis of a height factor (13.0) which is different from the actual height factor of such portion of the development;
3. Section 78-311(a). To authorize the total floor area, dwelling units and rooms permitted for all zoning lots within the development to be distributed without regard to zoning lot lines;
4. Section 78-311(b). To authorize the total required open space to be distributed without regard to zoning lot lines;
5. Section 78-311(d). To authorize the location of buildings without regard to yard regulations which would otherwise apply along portions of streets or lot lines wholly within the development, and to authorize the location of buildings without regard to the side yard regulations of Section 23-463 relating to the maximum width of street walls which would otherwise apply, as shown on Site Plan Drawing A-4 submitted with and made part of the application;

6. Section 78-311(e). To authorize the location of buildings without regard to the height and setback regulations which would otherwise apply along portions of lot lines wholly within the development, or along side or rear lot lines abutting other zoning lots within the development, as shown on Site Plan Drawing A-4 submitted with and made part of the application;
7. Section 78-312(d). To permit the location of buildings without regard to the height and setback regulations which would otherwise apply along the periphery of the development, as shown on Site Plan Drawing A-4 submitted with and made part of the application;
8. Section 78-41. To authorize accessory off-street parking spaces to be located anywhere within the development without regard to zoning lot lines, as shown on Site Plan Drawing A-4 submitted with and made part of the application;
9. Section 78-42. To waive the requirements for off-street parking spaces accessory to any commercial or community facility use included in the large-scale residential development, as shown on Site Plan A-4 submitted with and made part of the application; and
10. Section 74-53. To permit group parking facilities accessory to uses in the large-scale residential development, with more than 150 spaces, as shown on the plans submitted with and made part of the application.

On April 5, 1972 (Cal. #14), the City Planning Commission scheduled a PUBLIC HEARING on this application. The hearing was duly held on April 26, 1972 (Cal. #52). There were no appearances, and the hearing was closed.

In a separate report (CP-21930) approved by the Commission on May 17, 1972 (Cal. #45), a C1-1 District is being established within a portion of the R5 District, and another portion of the development is being changed from R5 to C4-3, to provide for commercial and community facility uses.

As a result of investigation and study, the Commission has determined that the application conforms with the findings required under Sections 78-313, 78-41, 78-42, and 74-53 of the Zoning Resolution, and that the application warrants approval subject to the conditions stated in the following resolution:

RESOLVED, by the City Planning Commission that the application of Twin Pines Village, Inc. , for the grant of special permits involving a large-scale residential development on property bounded by Shore Parkway, Louisiana Avenue, Vandalia Avenue, Pennsylvania Avenue, and Flatlands Avenue, Borough of Brooklyn, be and hereby is approved pursuant to Sections 78-311, 78-311(a), 78-311(b), 78-311(d), 78-311(e), 78-312(d), 78-41, 78-42, and 74-53 of the Zoning Resolution **subject to the following conditions:**

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

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 and Special Permit Authorizations herein granted.

The above resolution duly adopted by the City Planning Commission on May 17, 1972 (Cal. # 45) 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.

DONALD H. ELLIOTT, Chairman;
GERALD R. COLEMAN, MARTIN GALLENT,
IVAN A. MICHAEL, JOHN E. ZUCCOTTI, Commissioners.

RR:b1

Exhibit BB

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come. The project under consideration will, by increasing the supply of housing, facilitate the clearance of these substandard areas and thus is in conformity with an overall plan for providing housing facilities for persons of low income and for the clearance, replanning, reconstruction and rehabilitation of substandard and insanitary areas throughout the City.

The City Planning Commission hereby approves, pursuant to Article 2 of the New York State Private Housing Finance Law, the Plan for the proposed project to be known as Shore Hill in the Borough of Brooklyn, on the site hereinbefore described.

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

No. 13

CPD 10

CP-22507A

IN THE MATTER OF an application, pursuant to Article VII, Chapter 8 of the Zoning Resolution, from the Housing and Development Administration, for the grant of special permit authorizations involving a large-scale residential development on the southerly portion of the area bounded by 89th Street, Colonial Road, 91st Street, Shore Road, and Narrows Avenue, Borough of Brooklyn.

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 November 19, 1973, Cal. No. 2, the Commission scheduled December 3, 1973 for a hearing; on December 3, 1973, Cal. No. 2, the hearing was closed.)

On motion, the following favorable report was adopted, receiving six affirmative votes, Alexander Cooper, Commissioner, not voting:

January 2, 1974

The application for the special permit authorizations was filed by representatives of the Lutheran Medical Center, to implement plans for a State-aided Limited-Profit Rental Housing Project for the Elderly, to be known as Shore Hill Apartments. This housing project is the subject of a separate report (CP-22494B) approved by the Commission on January 2, 1974 (Cal. #12) pursuant to Article 2 of the Private Housing Finance Law of the State of New York.

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The housing site is approximately 117,540 square feet in area and is zoned an R7-1 District.

The application seeks special permit authorizations pursuant to the following sections of the Zoning Resolution:

1. Section 78-312(c). To authorize minor variations in the required rear yard equivalent along the northerly lot line for Building No. 2;
2. Section 78-312(d). To authorize minor variations in the front height and setback regulations along 91st Street and Shore Road on the periphery of the development; and
3. Section 78-312(f). To authorize modification of the spacing between buildings required by subsection (h) of Section 78-311 by permitting the minimum spacing to be reduced by more than 15%.

On November 19, 1973 (Cal. #2), the City Planning Commission scheduled a PUBLIC HEARING on this application. The hearing was duly held on December 3, 1973 (Cal. #2) in conjunction with the related hearing on the State-aided Limited-Profit Housing Project (CP-22494B). There were a number of appearances, as described in the related report approving the housing project (CP-22494B) and the hearing was closed.

The Commission hereby makes all the findings pursuant to Section 78-313 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 Lutheran Medical Center for the grant of special permit authorizations involving a large-scale residential development on a zoning lot located on the southerly portion of the area bounded by 89th Street, Colonial Road, 91st Street, Shore Road, and Narrows Avenue, Borough of Brooklyn, be and hereby is approved pursuant to Sections 78-312(c), 78-312(d) and 78-312(f) of the Zoning Resolution **subject to the following conditions:**

- 22
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; and
 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.

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 Authorizations herein granted.

The above resolution duly adopted by the City Planning Commission on January 2, 1974 (Cal. #13) 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, GORDON J. DAVIS,
SYLVIA DEUTSCH, CHESTER RAPKIN, Commissioners.

Exhibit CC

IN THE MATTER OF an application, pursuant to Sections 74-75 and 78-312(c) of the Zoning Resolution, from the New York City Educational Construction Fund, for the grant of special permits involving a combined school and residence including air rights over a school (P.S. 60 Brooklyn), and a large-scale residential development on property bounded by Central Avenue, Menahan Street, Wilson Avenue, and Linden Street, Borough of Brooklyn.

Plans for this proposed combined school and residence, and 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 July 12, 1972, Cal. No. 16, the Commission scheduled August 2, 1972, for a hearing; on August 2, 1972, Cal. No. 38, the hearing was closed.)

On motion, the following favorable report was unanimously adopted:

September 6, 1972

The application for the special permits was filed by the New York City Educational Construction Fund.

The New York City Educational Construction Fund proposes to develop the property with a combination of a school (P.S. 60, Brooklyn), and a Federally-aided housing project, tentatively designated as the Grove Street-Wilson Avenue Area, providing approximately 530 apartments in one 14-story and two 21-story buildings.

The site for P.S. 60 was approved by the Site Selection Board on January 20, 1970 (SS-559) and by the Mayor on March 11, 1970.

The Grove Street-Wilson Avenue Area is the subject of a separate report (CP-22022) approved by the Commission on June 28, 1972 (Cal. #10) pursuant to Section 150 of the New York State Public Housing Law. In another separate report (CP-22057), approved by the Commission on September 6, 1972, the site was rezoned from R6 to R7-2, to allow sufficient floor area for the project, and an unneeded strip of C2-3 was eliminated from within the site. Two related changes in the City Map (CP-22041) and (CP-22042) to accommodate the project, were also approved by the Commission on September 6, 1972.

The application seeks the following special permits pursuant to Section 74-75 of the Zoning Resolution:

- a) To permit the utilization of air rights for the combined school and residential structure;
- b) To modify the requirement that open area be accessible to, and usable by all persons occupying a dwelling unit on the zoning lot in order to qualify as open space;
- c) To permit ownership, control of access and maintenance of the open space to be vested in the New York City Educational Construction Fund or City agency successor in title; and

d) To permit modification of the height and setback regulations, as shown on the plans submitted with and made part of the application.

The project qualifies as a large-scale residential development as defined in Section 78-02 of the Zoning Resolution, by having an area of more than three acres and more than 500 dwelling units. The application seeks a special permit pursuant to the following section of the Zoning Resolution relating to large-scale residential developments:

Section 78-312(c). To permit a minor variation in the rear yard for Building A and the school building, as shown on the plans submitted with and made part of the application.

On July 12, 1972 (Cal. #16), the City Planning Commission scheduled a PUBLIC HEARING on this application, The hearing was duly held on August 2, 1972 (Cal. #38). There were no appearances, and the hearing was closed.

As a result of investigation and study, the Commission has determined that the application conforms with the findings required under Sections 74-75 and 78-313 of the Zoning Resolution, and 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 New York City Educational Construction Fund for the grant of special permits involving a combined school and residence including air rights over a school, (P.S. 60, Brooklyn), and a large-scale residential development, on property bounded by Central Avenue, Menahan Street, Wilson Avenue, and Linden Street, Borough of Brooklyn, be and hereby is approved pursuant to Sections 74-75 and 78-312(c) of the Zoning Resolution **subject to the following conditions:**

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

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 September 6, 1972 (Cal. # 38) 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.

DONALD H. ELLIOTT, Chairman;
GERALD R. COLEMAN, MARTIN GALLEN,
IVAN A. MICHAEL, CHESTER RAPKIN, JOHN E. ZUCCOTTI, Commissioners.

RR:b1

Exhibit DD

ZONING

Borough of Brooklyn

No. 36

CPD 18

(CP-21326)

PUBLIC HEARING in the matter of an application pursuant to Article VII, Chapter 8 of the Zoning Resolution, from Harbour Village at Paerdegat, Inc. for the grant of a special permit and authorizations involving a large-scale residential development to be built on property located within the area bounded by Avenue M, East 72nd Street, Avenue N, Royce Street, Avenue T, East 70th Street, Avenue N, East 69th Street, Avenue T, East 68th Street, Avenue N and East 66th Street, Borough of Brooklyn.

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 July 12, 1972, Cal. No. 49, the Commission scheduled this day for a hearing, which has been duly advertised.)

Appearances: (See Cal. No. 34 - CP-22068).

On motion, it was unanimously voted to close the hearing.

On motion, Rule 105 was waived and the following favorable report was unanimously adopted:

August 2, 1972

The application for the special permit authorizations was filed by Harbour Village at Paerdegat, Inc., owner, to implement plans for a City-aided Limited Profit Cooperative Housing Project, to provide 904 apartments in buildings of three stories and four stories. The housing project is the subject of a report (CP-21219) approved by the Commission on February 3, 1971 (Cal. #15) and by the Board of Estimate on March 25, 1971 (Cal. #17), pursuant to Article 2 of the New York State Private Housing Finance Law.

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

1. Section 78-32. Bonus for Good Site Plan. To find that the development would qualify for a bonus for a good site plan, as a prerequisite for qualifying for a bonus for common open space under Section 78-33;
2. Section 78-33. Bonus for Common Open Space. To authorize the open space ratio otherwise required for the development as a whole to be reduced by not more than 20 percent and the permitted floor area ratio to be increased by not more than 15 percent.
3. Section 78-312(a). To permit the total floor area, dwelling units, and rooms, to be distributed without regard for zoning lot lines;
4. Section 78-312(b). To permit the total open space to be distributed without regard for zoning lot lines; and
5. Section 78-312(f). To permit modifications of the minimum requirements for spacing between buildings, in accordance with the provisions of this section, as shown on Site Plan S4, one of the plans submitted with and made part of this application.

On July 12, 1972 (Cal. #49), the City Planning Commission scheduled a PUBLIC HEARING on this application. The hearing was duly held on August 2, 1972 (Cal. #36), in conjunction with hearings on related changes in the City Map (CP-22068) and (CP-22069).

The application for the special permit was opposed by the local councilman and by representatives of Georgetowne Civic Assn., Mill Island Civic Assn., Bergen Beach Civic Assn., Joint Civic Council for Community Betterment, and of a local Republican club. Appearing in favor of the application were representatives of the architects and of the proposed builder. The hearing was closed.

Consideration

It has been more than 18 months since the City Planning Commission first approved this project on February 3, 1971 after public hearing. It was approved by the Board of Estimate on March 25, 1971. Now, it requires technical mapping and zoning approvals so it can be built.

The project before us is no different from the one we and the Board of Estimate voted approval for early in 1971. It is a much needed housing development that will provide 904 middle-income units in a series of three- and four-story buildings on 40 acres of vacant land. It is the same project that won the 1970 award of the New York Chapter of the American Institute of Architects for distinguished residential design. It is the same project that has been endorsed by leading city-wide civic organizations, including the Citizens Housing and Planning Council, the Women's City Club of New York, the Community Service Society, the Citizens Union and the American Jewish Congress.

When the project was first proposed, the Commission carefully reviewed its impact on community facilities. We found that the development would be entirely compatible with the surrounding community and place no strain on local facilities. We have reviewed those findings. They are equally true today.

We have in particular re-examined the impact of the project on local schools. Though there is some existing overcrowding at the intermediate school level, there are several options for solving that overcrowding and providing sufficient capacity for the students that would be generated

by Harbour Village.

The project is expected to generate 425 students -- 271 in kindergarten through fourth grade and 154 in grades five through eight.

However, there are four elementary schools within 10 blocks of the project which have more than 1,100 unused seats. These four schools -- P.S. 312, P.S. 236, P.S. 251 and P.S. 203 -- do not currently include the sixth grade. By including the sixth grade in these four schools, more than enough elementary and intermediate school space would be available to accommodate all Harbour Village students. This shift would also reflect the predominantly K-6 grade organization of the elementary schools in Community School District 22.

Additional intermediate school capacity could be made available at P.S. 197, a District 22 school which currently accommodates both elementary and intermediate students and has 670 extra seats, should it be needed in the future.

The district can meet its capacity problems without new construction. A new intermediate school, I.S. 387 remains in the budget, though it is not needed to meet the present overcrowding or relieve future crowding. There are better, simpler, less costly and more reasonable options available. The argument that the housing should not proceed until this low priority school is built cannot be defended on the merits.

There is another issue at stake, involving more than this one project. Based on the City's approval of this project, the developer has proceeded with plans and related work and has spent nearly \$500,000. If we retract that approval now -- when the need for this housing is, if anything, greater -- it could only be interpreted as an irresponsible breach of faith. No new facts or circumstances have been presented. Preventing the project from being built at this eleventh hour would only serve notice to every prospective sponsor of middle-income housing that the risks of building under middle-income housing programs are too great. In turning down Harbour Village, the City would place its entire middle-income housing program in jeopardy.

There is every reason to support this well-designed, badly-needed housing and no substantive responsible reason for turning it down.

Therefore, after considering all aspects of the proposal, 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 stated in the following resolution:

RESOLVED, by the City Planning Commission that the application of Harbour Village at Paerdegat, Inc., for the grant of special permit authorizations involving a large-scale residential development to be built on property located within the area bounded by Avenue M, East 72nd Street, Avenue N, Royce Street, Avenue T, East 70th Street, Avenue N, East 69th Street, Avenue T, East 68th Street, Avenue N, and East 66th Street, Borough of Brooklyn, be and hereby is approved pursuant to Sections 78-32, 78-33, 78-312(a), 78-312(b), and 78-312(f) 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 and;
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.

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 Authorizations herein granted.

The above resolution duly adopted by the City Planning Commission on August 2, 1972 (Cal. #36) 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.

IVAN A. MICHAEL, Commissioner, Acting Chairman;
GERALD R. COLEMAN, MARTIN GALLEN,
CHESTER RAPKIN, JOHN E. ZUCCOTTI, Commissioners.

Exhibit EE

Which was adopted by the following vote:

Affirmative—The Special Assistant to the Mayor, the Comptroller, the President of the Council, the Acting President of the Borough of Manhattan, the President of the Borough of Brooklyn and the Acting Presidents of the Boroughs of The Bronx and Richmond—20.

Negative—The Acting President of the Borough of Queens—2.

Cal. No. 110.

Housing and Development Administration—Approval of Application for Construction of Large-Scale Residential Development on Property Bounded by Livonia Avenue, Watkins Street, Riverdale Avenue, Thatford Avenue and Rockaway Avenue, Brooklyn.

The Secretary presented the following:

(CP-21398)

November 18, 1970.

Special permit authorizations pursuant to Article VII, Chapter 8 of the Zoning Resolution, involving a large-scale residential development on property bounded by Livonia Avenue, Watkins Street, Riverdale Avenue, Thatford Avenue, a line 220 feet south of Livonia Avenue and Rockaway Avenue, Borough of Brooklyn. The authorizations involve modifications in rear yards and in height and setback regulations, accessory commercial uses, and waiver of accessory commercial parking.

The application for the special permit authorizations involving this large-scale residential development was filed by the Housing and Development Administration. The proposal will facilitate the construction of a 524-unit housing project in the Brownsville Urban Renewal area.

An amended urban renewal plan for the renewal area was approved by the Commission on April 8, 1970, Cal. No. 33 and by the Board of Estimate on June 18, 1970, Cal. No. 5.

The application seeks special permit authorizations, pursuant to various sections of Article VII, Chapter 8 of the Zoning Resolution involving height and setback, yards, accessory commercial uses and commercial parking. The specific authorizations follow:

1. Section 78-22—To authorize accessory commercial uses listed in Use Group 6-A or 6-F which in the aggregate occupy not more than two per cent of the total floor area of the development;

2. Section 78-312(c)—To authorize minor modifications in required rear yards on the periphery of the development, as shown on the site plan submitted with and made part of the application;

3. Section 78-312(d)—To authorize minor modifications in the front height and setback regulations on the periphery of the development, as shown on the site plan submitted with and made part of the application; and

4. Section 78-42—To waive the off-street parking spaces which would otherwise be required as accessory to the accessory commercial uses located on Parcel 11-A as shown on the site plan submitted with and made part of the application.

On November 4, 1970, Cal No. 5, the City Planning Commission scheduled a public hearing on this application. The hearing was duly held on November 18, 1970, Cal. No. 41. There was no opposition and the hearing was closed.

As a result of investigation and study, the Commission has determined that the application conforms with the findings required under Sections 78-22, 78-313 and 78-42 of the Zoning Resolution, and 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 Housing and Development Administration for the approval of proposed special permit authorizations for a large-scale residential development to be built on property bounded by Livonia Avenue, Watkins Street, Riverdale Avenue, Thatford Avenue, a line 220 feet south of Livonia Avenue and Rockaway Avenue, Borough of Brooklyn, be and hereby is approved pursuant to Sections 78-22, 78-312(c), 78-312(d) and 78-42 of the Zoning Resolution subject to the following conditions:

1. The premises shall be developed in size and arrangement as stated in the application and as indicated on the plans filed with this application;

2. The development shall conform to all applicable provisions of the Zoning Resolution except for the modifications herein granted. Zoning compliance shall be subject to verification and approval by the Department of Buildings; and

3. The approval herein granted is not transferable prior to the effectuation of the project by the applicant without permission of the City Planning Commission.

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 Authorizations herein granted.

The above resolution duly adopted by the City Planning Commission on November 18, 1970, Cal. No. 41, 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.

IVAN A. MICHAEL, Acting Chairman; GERALD R. COLEMAN, MARTIN GALLENT, WALTER McQUADE, CHESTER RAPKIN, BEVERLY M. SPATT, Commissioners.

The following resolution was offered by the President of the Borough of Brooklyn: Resolved, By the Board of Estimate, pursuant to the provisions of Section 79-10 of the Zoning Resolution of The City of New York, that the resolution of the City Planning Commission adopted on November 18, 1970 (Cal No. 41), reading as follows:

Resolved, By the City Planning Commission that the application of the Housing and Development Administration for the approval of proposed special permit authorizations for a large-scale residential development to be built on property bounded by Livonia Avenue, Watkins Street, Riverdale Avenue, Thatford Avenue, a line 220 feet south of Livonia Avenue and Rockaway Avenue, Borough of Brooklyn, be and hereby is approved pursuant to Sections 78-22, 78-312(c), 78-312(d) and 78-42 of the Zoning Resolution subject to the following conditions:

1. The premises shall be developed in size and arrangement as stated in the application and as indicated on the plans filed with this application;
2. The development shall conform to all applicable provisions of the Zoning Resolution except for the modifications herein granted. Zoning compliance shall be subject to verification and approval by the Department of Buildings; and
3. The approval herein granted is not transferable prior to the effectuation of the project by the applicant without permission of the City Planning Commission.

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 Authorizations herein granted.

—be and the same hereby is approved.

Which was adopted by the following vote:

Affirmative—The Special Assistant to the Mayor, the Comptroller, the President of the Council, the Acting President of the Borough of Manhattan, the President of the Borough of Brooklyn and the Acting Presidents of the Boroughs of The Bronx, Queens and Richmond—22.

Cal. No. 111.

Property Within Area Bounded by: (1) (a) Mermaid Avenue, West 35th Street, Surf Avenue and West 37th Street; (b) Mermaid Avenue, West 24th Street, Surf Avenue and West 31st Street; and (c) Mermaid Avenue, West 19th Street, Surf Avenue, West 21st Street, West 22d Street; (2) West 20th Street, Mermaid Avenue and West 19th Street; (3) Surf Avenue, West 31st Street and West 30th Street; and (4) West 23d Street, Neptune Avenue and West 21st Street, Brooklyn—Amendment of Building Zone Resolution by Changing Zoning Map.

The Secretary presented the following:

(CP-21386)

November 18, 1970.

An amendment of the zoning map (Sections 28b and 28d): (1) changing from R5 districts to R6 districts property bounded by (a) Mermaid Avenue, West 35th Street, Surf Avenue, and West 37th Street; (b) Mermaid Avenue, West 24th Street, Surf Avenue and West 31st Street; (c) Mermaid Avenue, West 19th Street, a line 150 feet north of Surf Avenue, West 21st Street, Surf Avenue and West 22d Street; (2) establishing within a proposed R6 District a C1-2 District bounded by West 20th Street, Mermaid Avenue, West 19th Street, and a line 150 feet south of Mermaid Avenue; (3) eliminating from within an R5 District, a C1-2 District bounded by Surf Avenue, West 31st Street, a line 150 feet north of Surf Avenue, and a line 100 feet east of West 30th Street; and (4) changing from a C8-1 District to an R5 District property bounded by West 23d Street, Neptune Avenue, West 21st Street, and a line 100 feet south of Neptune Avenue; all located in the Borough of Brooklyn, as shown on a diagram dated October 14, 1970.

The rezoning was requested by the Housing and Development Administration in order to implement the Coney Island Neighborhood Development Plan. This plan, as

Exhibit FF

IN THE MATTER OF an application, pursuant to Article VII, Chapters 4 and 8 of the Zoning Resolution, from the Housing and Development Administration, for the grant of special permits and authorizations involving a large-scale residential development within the Brownsville Urban Renewal Area, on property bounded generally by Newport Street, Stone Avenue, Hegeman Avenue and Rockaway Avenue, Borough of Brooklyn. (CPD No. 16)

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 May 17, 1972, Cal. No. 29, the Commission scheduled May 31, 1972, for a hearing; on May 31, 1972, Cal. No. 53, the hearing was closed.)

On motion, the following favorable report was unanimously adopted:

June 14, 1972

The application for the special permits and authorizations was filed by the Housing and Development Administration, to implement the most recently amended Urban Renewal Plan for the Brownsville Urban Renewal Area (CP-21935) which was approved by the Commission on May 31, 1972 (Cal. #27).

The application seeks the following special permits and authorizations, pursuant to various sections of the Zoning Resolution:

1. Section 78-311(a). To authorize the total floor area, dwelling units, and rooms permitted for all zoning lots within the development to be distributed without regard for zoning lot lines;
2. Section 78-311(b). To authorize the total open space for all zoning lots within the development to be distributed without regard for zoning lot lines;
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;
4. Section 78-312(f). To permit modifications of the minimum requirements for spacing between buildings, in accordance with the provisions of this Section;
5. Section 78-42. To waive the requirements for off-street parking spaces accessory to any commercial or community facility use included in the large-scale residential development;
6. Section 78-41. To authorize the required accessory off-street parking spaces to be located anywhere within the development without regard for zoning lot lines; and
7. Section 74-53. To permit group parking facilities accessory to uses in the large-scale residential development, with more than 150 spaces.

On May 17, 1972 (Cal. #29), the City Planning Commission scheduled a PUBLIC HEARING on this application. The hearing was duly held on May 31, 1972 (Cal. #53). There were no appearances, and the hearing was closed.

The proposed changes would permit development of a more attractive site plan in the 80-acre Urban Renewal Area by allowing more flexibility in distribution of bulk. As a result of investigation and study, the Commission has determined that the application conforms with the findings required under Sections 78-313, 78-41, and 74-53 of the Zoning Resolution, and 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 Housing and Development Administration for the grant of special permits and authorizations involving a large-scale residential development within the Brownsville Urban Renewal Area, on property bounded generally by Newport Street, Stone Avenue, Hegeman Avenue, and Rockaway Avenue, Borough of Brooklyn, be and hereby is approved pursuant to Sections 78-311(a), 78-311(b), 78-311(d), 78-312(f), 78-42, 78-41, and 74-53 of the Zoning Resolution **subject to the following conditions:**

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

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 and Authorizations herein granted.

The above resolution duly adopted by the City Planning Commission on June 14, 1972 (Cal. #31) 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.

DONALD H. ELLIOTT, Chairman;
GERALD R. COLEMAN, MARTIN GALLEN, T,
IVAN A. MICHAEL, CHESTER RAPKIN, JOHN E. ZUCCOTTI, Commissioners.

RR:b1

Exhibit GG

SPECIAL PERMIT AUTHORIZATIONS pursuant to Article VII, Chapters 4 and 8 of the Zoning Resolution, involving a large-scale residential development on property located on the east side of 150th Street extending from Union Turnpike to Goethals Avenue, Borough of Queens.

The application for the special permit authorizations was filed by Village Mall at Hillcrest, Inc., owner of the property involved. The applicant proposes to erect a privately-financed development, originally planned to provide 518 apartments located in two 13-story buildings and forty-two 4-story buildings. In addition to the special permit authorizations requested herein, the development requires a zoning map amendment from an R4 District to an R6 District, which is the subject of a separate report (CP-21521) approved by the Commission on June 9, 1971 (Cal. #30). The zoning map amendment also establishes a C1-2 District within the new R6 District, to provide shopping facilities for the development.

The application, as submitted and heard, contained two drawings, designated "Z-1" and "Z-2" entitled "Zoning Information," and requests special permit authorizations pursuant to various sections of Article VII, Chapters 4 and 8, as follows:

1. Section 78-312(f). To authorize modifications of the minimum spacing requirements between buildings, as shown on the plans originally submitted;
2. Section 78-312(c). To authorize minor variations in the required rear yard equivalents for the purpose of introducing variety, as shown on the plans originally submitted; and
3. Section 74-53. To permit group parking facilities accessory to uses in the large-scale residential development with more than 150 spaces, as shown on the plans originally submitted.

On February 17, 1971 (Cal. #8), the City Planning Commission scheduled a PUBLIC HEARING on this application. The hearing was duly held on March 3, 1971 (Cal. #30). There was a number of appearances, as described in the report on the related zoning map amendment (CP-21521)

on which a hearing was held on March 3, 1971 (Cal. #29) in conjunction with this hearing. The hearing was closed.

As a result of investigation and study noted in the report on the related zoning map amendment (CP-21521), a reduction in the magnitude of the large-scale development was deemed advisable, so as to reduce the total number of dwelling units from 518 to 498, and to increase the open space available to residents of the development by adding to the floor area of the two 13-story buildings while eliminating the forty-two four-story buildings originally proposed. The applicant then submitted a revised application, dated May 18, 1971, in which the previous "Zoning Information" drawings, "Z-1" and "Z-2," were replaced by a single "Zoning Analysis" drawing "Z-1" dated May 7, 1971. The revised application also includes two additional drawings: "A-1" entitled "Site Development Plan" and "A-2" entitled "Parking Level Plans," both dated May 7, 1971.

The revised plans do not involve any modification in the minimum spacing requirements between buildings as originally requested under Section 78-312(f). The application, as revised, requests only the authorizations originally set forth under Sections 78-312(c) and 74-53.

Inasmuch as the revised application involves a lesser extent of special permit authorizations than the application originally submitted and heard, the Commission has determined that the revised application does not require a new hearing, but can be considered on the basis of the original hearing.

The Commission has further determined that the application conforms with the findings required under Sections 74-53 and 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 Village Mall at Hillcrest, Inc., for the approval of special permit authorizations for a large-scale residential development on property located on the east side of 150th Street, extending from Union Turnpike to Goethals Avenue, Borough of Queens, be and hereby is approved

pursuant to Sections 78-312(c) and 74-53 of the Zoning Resolution

subject to the following conditions:

1. The premises shall be developed in size and arrangement as stated in the revised application dated May 18, 1971 and as indicated on the plans dated May 7, 1971 filed with this revised application;
2. The development shall conform to all applicable provisions of the Zoning Resolution except for the modifications herein granted and as shown on the plans filed with this revised application. All zoning computations shall be subject to 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; and
5. The applicant shall file for recordation in the Office of The Register, Queens County, a declaration dated May 10, 1971, containing restrictions and conditions set forth therein, constituting a covenant running with the land.

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 Authorizations herein granted.

The above resolution duly adopted by the City Planning Commission on June 9, 1971 (Cal. #31) is herewith filed with the Secretary of the Board of Estimate, together with a copy of the revised application and plans of the development, pursuant to Section 74-10 of the Zoning Resolution.

IVAN A. MICHAEL, Acting Chairman;
GERALD R. COLEMAN, MARTIN GALLEN, WALTER McQUADE,
CHESTER RAPKIN, JOHN E. ZUCCOTTI, Commissioners.

RR:b1

Exhibit HH

IN THE MATTER OF an application by East Point Developers pursuant to Sections 197-c and 200 of the New York City Charter and Sections 78-34, 78-351, 78-352 and 78-313(f) of the Zoning Resolution for the grant of special permit involving a large scale residential development on property located on the north side of Fifth Avenue, east of College Place (Block 3916, Lots 1, 8, 12, 18), Borough of Queens.

The application for this special permit was filed by East Point Developers on September 23, 1985 for the construction of a large scale residential development.

RELATED ITEMS

In addition to the application for special permit (C 860295 ZSQ) which is the subject of this report, the proposed project requires favorable action by the City Planning Commission and the Board of Estimate on the following applications which are the subject of separate reports dated February 2, 1987.

C 860294 ZMQ - An application for an amendment of the Zoning Map, Section No. 7b, changing from an M2-1 District to an R4 District that is contiguous to the southeasterly corner of the proposed R4 District, and establishing within the R4 District a C2-2 District on property generally bounded by College Place, Fifth Avenue, 121st Street and the East River.

C 860296 M1Q - An application for an amendment to the City Map involving the elimination, discontinuance and closing of a portion of College Place, between Fifth Avenue and a line approximately 150 feet north of Fifth Avenue.

BACKGROUND

East Point is an 11 acre waterfront site on the East River (8 acres upland, 3 acres under water) along the northern coast of College Point. There are no significant natural features on site. The surrounding area is zoned R-4 and contains one- and two-family housing. To the west of the site is Hermon MacNeil Park, a 29 acre City park. To the east is the Riverview development, a large scale residential development which, when completed, will have 250 dwelling units. The East Point site is currently zoned M2-1 and is used as an automotive storage yard for insurance claims. The present use does not require a waterfront location and is not compatible with the adjacent residential uses.

PROJECT DESCRIPTION

The applicant's original submission was for a proposed development of 334 units in three rows of townhouses, 383 parking spaces, a waterfront esplanade, fishing pier, marina and boat launching area.

The original application requested a special permit pursuant to the following sections of the Zoning Resolution:

- A) 78-311 and 78-313 (F) - Modification of the spacing between building requirements and front height and setback requirements.
- B) 78-34 and 78-351 - Increase in the maximum permitted Floor Area Ratio (FAR) and reduction in the minimum Open Space Ratio (OSR) for provision of common open space and a good site plan
- C) 78-352 - Further reduction of the minimum OSR for provision of a Community Facility.

In an R4 District the Maximum FAR is .75 and the minimum OSR is 80. The project, as originally submitted and certified, had an FAR of .80 and an OSR of 58.70.

ENVIRONMENTAL REVIEW

This application, together with the related zoning map change application and related mapping application, were reviewed by the Department of Environmental Protection and the Department of City Planning pursuant to the New York State Environmental Quality Review (SEQR) regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617, et. seq. (6 NYCRR 617), and the New York City Environmental Quality Review (CEQR) regulations set forth in Mayoral Executive Order 91 of 1977. It was determined by the co-lead agencies that the action will not have a significant effect on the environment, and a Conditional Negative Declaration (CEQR 85-157Q) on the application was issued on September 9, 1986, and signed by the applicant. Approval was conditional upon the application's modifications in the following areas:

1. The applicant must provide a minimum of 30 db(A) window/wall attenuation so that with windows closed the internal noise level does not exceed 45db(A). An alternate means of ventilation is therefore required. Alternate means of ventilation include, but are not limited to, the following options:
 - a) Provision for central air conditioning
 - b) Provision for air conditioner sleeves containing air conditioners or HUD-approved fans
2. Proposed curb cuts must be a minimum of 25 feet wide, not including splays, for two-way traffic flow, and 15 feet wide, not including splays, for one-way traffic flow.
3. The proposed parking lot must have aisle widths of 24 feet and stall dimensions must be 18 feet by 8.5 feet.

UNIFORM LAND USE REVIEW

The application was certified as complete by the City Planning Commission on October 6, 1986 in accordance with Article 3 of the Uniform Land Use Review Procedure (ULURP) and referred to Community Board No. 7.

COMMUNITY BOARD PUBLIC HEARING

Community Board No. 7 held a complying public hearing on November 10, 1986 and on December 1, 1986 adopted a favorable recommendation. The vote was 26 in favor, 0 opposed and 3 abstaining.

The Community Board's recommendation included a provision that the applicant reduce the development by approximately 14 units. In addition the Board's Resolution stated that:

"The Developer, recognizing the East Point Development will add additional traffic and have an impact on an already congested area, has agreed to underwrite a comprehensive traffic study taking into consideration the entire downtown College Point area. This study is not to exceed the cost of \$50,000. In addition, the proposed study will be used in conjunction with the Department of City Planning's recommendations"; and that

"The Developer has further agreed to place the sum of \$250,000 into an interest bearing account to be administered by a committee, appointed by Community Board 7 members from College Point, as well as community leaders from College Point. The administration of this fund will be through an R.F.P. process."

City Planning Commission Public Hearing

On December 10, 1986 (Calendar #'s 15, 16, and 17) the City Planning Commission scheduled January 14, 1987 for a Public Hearing on the related zoning, street mapping and special permit applications. On January 14, 1987 (Calendar Nos. 18, 19 and 20) the hearing was duly held. The applicant spoke in favor of the project. The hearing was continued to January 28, 1987. The continued hearing was duly held on January 28, 1987. (Calendar Nos. 27, 28 and 29). The applicant and his attorney spoke in favor. A representative of Community Board 7 indicated that the Board acted with all good intentions and never intended that the developer give any monies directly to the Board. The hearing was closed.

CONSIDERATION

In response to the Community Board's recommendation, the applicant reduced the number of units in the development to 320 from 334. Although this reduction in units would reduce the project's FAR to .76 and would increase the OSR to 62.65, the zoning waivers originally requested are still necessary.

In granting the Zoning Map change from M2-1 to R4 the Commission recognizes that the current automotive use on the site neither requires nor utilizes its waterfront location. In the Commission's view, the M2-1 zoning is inconsistent with the surrounding developments. The site is adjacent to an existing R4 zone where 250 units of housing are under construction. MacNeil Park abuts the site to the west and 1 and 2 family homes are developed south of the site.

To grant the FAR and OSR modifications, the Commission must determine that the project demonstrates a good site plan and provides common open space. The project is designed as three rows of townhouses. Two of these rows are serpentine. This design allows all units to have water views and allows for a maximum of common open space. The majority of the parking, 273 spaces, will be underground beneath the three rows of townhouses. The remaining open spaces will be landscaped to provide a visual buffer between the parking and the townhouses. The site plan includes only one curb cut on Fifth Avenue which provides access and egress to the parking facilities and the marina. Building heights are consistent with the surrounding community and the buildings themselves define and highlight the common open space.

Since the development site is greater than four acres, the project must include community facility space pursuant to Section 78-352 of the Zoning Resolution. The applicant is providing 4,800 square feet of such space adjacent to one of the townhouse rows. This space, essentially viewed as a "community center" will be available to the public free of charge upon prior notification. The applicant has also agreed that users of the facility will be permitted to enter the development through its main gate and will also be able to use the visitors parking area.

The development will include a shorefront esplanade that will connect with MacNeil Park on the west and the esplanade for the Riverview project to the east. It will be open to the public from one hour before sunrise to one hour after sunset. The esplanade must be substantially completed before issuance of any temporary certificates of occupancy for the development. The project also includes a fishing pier and boat launching ramp that will also be available to the public during the same hours.

The project will include a marina with 28 boat slips. As the marina will be a commercial use with slips available to the public, a C2-2 overlay is required for the site. A restrictive declaration being approved concurrently will, among other things, restrict development and uses of the site to those on the approved site plan.

During the ULURP period the Commission learned that the developers of this project made a commitment to the local Community Board to provide funds for neighborhood amenities to be selected at some future date by a committee of Community Board members and neighborhood representatives, and for a traffic study of the neighborhood. This commitment appears to have been made either at the request of, or with the knowledge and support of, the community board. The Commission is concerned about the practice of voluntary contributions from developers for amenities the community boards deem important.

The community boards essential role in ULURP is to provide the Commission and the Board of Estimate with informed recommendations concerning the land use issues raised by a proposed project. The quality and scope of these recommendations may be affected, or may appear to have been affected, by negotiations between the board and the developer over commitments of this kind.

Further, the apparent lack of any criteria relating these monetary commitments to direct land use impacts of the project, or provision for supervision and accountability of the funds to be committed leaves open the possibility that abuses may occur in the definition or implementation of the commitment.

The Commission believes that these practices raise issues which require further public discussion.

FINDINGS

The Commission hereby makes the following findings pursuant to Sections 78-313 and 78-34 of the Zoning Resolution:

1. Section 78-313 with respect to modification of the spacing between building requirements and front height and setback requirements
 - (a) That such authorizations will aid in achieving the general purposes and intent of this Chapter as set forth in Section 78-01 (General Purposes).
 - (b) That authorized distribution of floor area, dwelling units, rooms, rooming units, open spaces, locations of buildings, or location of primary business entrances, show windows or signs will permit better site planning and will thus benefit both the residents of the development and the City as a whole.
 - (c) That such distribution or location will not unduly increase the bulk of buildings, density of population, or intensity of use in any block, to the detriment of the occupant of buildings in the block or nearby blocks.
 - (d) That such distribution or location will not affect adversely any other zoning lots outside the development, by restricting access to light and air or by creating traffic congestion.
 - (e) Where portions of the total required open space are pooled in common open space areas or common parking areas, that such common areas will, by location, size, shape and other physical characteristics, and by their relationship to surrounding development and the circulation system, permit realization of the full community service advantages for which such pooled areas are designed.
 - (f) Where one or more zoning lots in the development do not abut mapped streets, that suitable private access to mapped streets will be provided conforming to standards which will insure adequate circulation and make adequate provision for public services.

2. Section 78-34 with respect to a reduction in the minimum open space ratio (OSR) for provision of common open space and a good site plan.

- (a) That throughout the development the site plan provides a significantly better arrangement of the buildings in relation to one another and to their sites from the standpoints of privacy, access of light, organization of private open spaces and preservation of important natural features to a greater degree than would be possible or practical for a development composed of similar types built in strict compliance with the applicable district regulations;
- (b) That the public facilities and utilities in the area are adequate to meet the needs of the development or that needed additional facilities will be provided as a part of the development by the developer or owner;
- (c) That the development complies with the provisions of Section 78-351 (Bonus for common open space and good site plan);
- (d) That a large-scale residential development having an area of 4 acres or more complies with the provisions of Section 78-352 (Bonus for community facility space.)

RESOLUTION

THEREFORE, the Commission has determined that the application warrants approval subject to the conditions stated in the following resolution:

RESOLVED by the City Planning Commission, pursuant to Section 197-c of the New York City Charter, that the application of East Point Developers for the grant of a special permit to facilitate the construction of a large scale residential development on property located on the north side of Fifth Avenue, East of College Place, be and hereby is approved pursuant to Sections 78-34, 78-351, 78-352 and 78-313 of the Zoning Resolution, **subject to the following conditions:**

- 1. The development shall conform to all applicable provisions of the Zoning Resolution, except for the modifications herein granted as indicated by the dimensions and other specifications on the plans filed with the application. All computations are subject to verifications and approval by the Department of Buildings;
- 2. The Development shall conform to all applicable laws and regulations relating to construction, operation and maintenance;

3. **The premises shall be developed in size and arrangement substantially as proposed and as indicated by the dimensions and other specifications shown on the plans;**
4. The development shall conform to the conditions mandated in the New York City Environmental Quality Review which states that the applicant: 1) provide a minimum of 25 db (A) window wall attenuation and 2) provide an alternative means of ventilation.
3) proposed curb cuts must be a minimum of 25 feet wide, not including splays, for two-way traffic flow, and 15 feet wide, not including splays, for one-way traffic flow.
4) The proposed parking lot must have aisle widths of 24 feet and stall dimensions must be 18 feet by 8.5 feet.
5. 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 granted (C 860295 ZSQ).
6. No building, alteration, excavation or foundation permit for the development or portion thereof shall be applied for, issued or accepted unless the Chairperson of the City Planning Commission has certified to the Department of Buildings (DOB) receipt of a security to ensure the provision of the fishing pier, waterfront walkway and boat launching ramp pursuant to Section 2.04 of the restrictive declaration and receipt of liability and casualty insurance pursuant to Section 2.05 of the restrictive declaration.
7. No Temporary Certificate of Occupancy or Certificate of Occupancy pertaining to any dwelling unit within any proposed building shall be issued by DOB unless and until the Chairperson of CPC certifies to DOB that the fishing pier, the waterfront walkway and the boat launching ramp have been substantially completed, and no Certificate of Occupancy pertaining to any dwelling unit within any proposed building shall be issued by DOB unless and until the Chairperson of CPC certifies to DOB that the fishing pier, the waterfront walkway and the boat launching ramp have been completed.

8. The community facility space indicated on the plans shall be completed prior to the issuance of any Certificate of Occupancy pertaining to any dwelling unit within any proposed building. The use of such community facility space shall be limited to meetings, parties, passive game-playing or similar gatherings by persons residing on the subject property, their visitors and guests. Members of the general public shall also have the right to reserve the community facility space without charge or fee every day during any reasonable period between the hours of 9:00 AM and 9:00 PM for the aforesaid activities upon prior notice to Declarant, subject to reasonable terms and conditions commonly associated with such community facility space. Members of the general public shall gain access to the community facility space by way of the main entrance to the Subject Property located on Fifth Avenue, and shall be permitted to occupy the parking spaces reserved for visitors in connection therewith.
9. The fishing pier, the waterfront walkway and the boat launching ramp shall be open to the general public every day of the year from one (1) hour before sunrise to one (1) hour after sunset; provided, however, that Declarant may close the fishing pier, the waterfront walkway or the boat launching ramp, in whole or in part, for the time and to the extent necessary or reasonable in the event of any emergency or hazardous condition causing physical damage or a threat to public safety, or otherwise to enable repairs or general maintenance, but in no event shall closure of any such facilities continue for more than five (5) consecutive calendar days without permission from the Chairperson of CPC for such extension of closure.

10. This resolution shall be effective only if the restrictive declaration submitted, executed by the developer and the owner of the property subject to this resolution, shall have been recorded and filed with the City Register in the County of Queens;
11. 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 whose 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 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 any other agency of government or of any private person or body.

The above resolution duly adopted by the City Planning Commission on February 2, 1987 (Calendar No. 6) 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 Sections 78-34, 78-351, 78-352 and 78-313 of the Zoning Resolution and in accordance with the requirements of Section 197-c of the Charter.

SYLVIA DEUTSCH, Chairperson
SALVATORE C. GAGLIARDO,
DANIEL T. SCANNELL,
DENISE M. SCHEINBERG, Commissioners

Exhibit II

SPECIAL PERMITS pursuant to Section 197-c of the New York City Charter and Article VII, Chapter 8 of the Zoning Resolution, involving a large-scale residential development bounded by 64th Avenue, Springfield Boulevard, 67th Avenue, and 219th Street, Borough of Queens, CB #11.

The application for the special permits was filed by "House Beautiful at Bayside", in order to permit the construction of three-family units, in three-story masonry row buildings. In conjunction with this proposal, the applicant will donate 1,250 square feet in the northeast corner of the site to the City of New York for use as a fire station, the site of which was approved by the Board of Estimate on October 25, 1979 (C780011PSQ). The fire station was the subject of a special permit (C790098ZSQ) approved by the Commission on August 20, 1979 and by the Board of Estimate on October 25, 1979, pursuant to Section 74-67 of the Zoning Resolution.

In addition to the special permits which are the subject of this report (C790768ZSQ), implementation of the proposed development requires favorable action by the City Planning Commission and Board of Estimate on the following matters:

1. N800255ZRY. Amendment of Section 78-34 of the Zoning Resolution, to enable the waiver of community facility requirements for a large-scale residential development if a site is provided for a fire or police station; and
2. C790727MMQ. A map change, eliminating 220th Street between 64th Avenue and 67th Avenue.

The above matters are the subject of separate reports approved by the City Planning Commission on May 14, 1980.

This application (C790768ZSQ) seeks special permits pursuant to the following Sections of the Zoning Resolution:

1. Section 78-312(a). To permit the total floor area and rooms for all zoning lots within the development to be distributed without regard for zoning lot lines;
 2. Section 78-312(b). To permit the total open space required for all zoning lots within the development to be distributed without regard for zoning lot lines;
 3. Section 78-312(c). To permit minor variations in required front and rear yards on the periphery of the development;
 4. Section 78-312(d). To permit minor variations in the front height and set-back regulations on the periphery of the development;
-

5. Section 78-312(f). To permit modifications of the minimum spacing between buildings regulations, consistent with the intent of the provisions of Section 23-71;

6. Section 78-34. To find that the development would meet the requirements of this Section, as a prerequisite for qualifying for a bonus for common open space and good site plan under Section 78-351, and as prerequisite for qualifying for a bonus for increased room size under Section 78-354.

7. Section 78-351. Bonus for Common Open Space and Good Site Plan. To modify the permitted floor area ratio and required open space for the development as a whole, by increasing the maximum floor area ratio from 0.75 to 1.00, and reducing the open space ratio from 80.0 to 66.5, in accordance with the provisions of this Section.

8. Section 78-354. Bonus for Increased Room Size. To further modify the floor area ratio and open space ratio for the development as a whole, by increasing the floor area ratio from 1.00 to 1.075 and reducing the open space ratio to 55.5, in accordance with the provisions of this Section, which permits a floor area ratio of up to 1.20 and a minimum open space ratio of 55.5. The development qualifies for these bonuses by providing an average room size of 225 square feet.

The application was certified as complete by the City Planning Commission on February 11, 1980, in accordance with Article 3 of the Uniform Land Use Rules of Procedure (ULURP) and referred to Community Board #11.

Community Board #11 held a public hearing on the application on February 28, 1980, and voted to recommend approval of the application on March 12, 1980.

On April 16, 1980 (Cal. #16), the City Planning Commission scheduled a PUBLIC HEARING on this application. The hearing was duly held on April 30, 1980 (Cal. #30), in conjunction with the related hearings on the amendment of the Zoning Resolution (N800255ZRY) and the map change (C790727MMQ). A representative of the applicant appeared in favor of the proposal. There was no opposition, and the hearing was closed.

Consideration:

The site of this proposed large-scale residential development is bounded by Springfield Boulevard, 64th Avenue, 219th Street and 67th Avenue and contains approximately 7.75 acres. It is zoned R4 and presently vacant with the exception of a few existing attached buildings on 64th Avenue. These buildings will remain.

The application as originally submitted called for 118 3 family buildings (345 units) in attached town house configurations, assembled in 5 to 8 house clusters.

Common open space was provided at the center of the development with an opening to 219th Street. An interior private street system was proposed to minimize curb cuts and provide a better site plan.

The initial response of the City Planning Commission and local community was that while the scheme is a decided improvement to an as-of-right development it is far too dense. An as-of-right scheme would have permitted approximately 92 "two family" dwellings (which would have probably become "illegal 3's") with curb cuts along all mapped streets and in front of each unit. This building arrangement could ultimately result in traffic and parking problems, would have no common open space and would present the usual monotonous streetscape common in this type of development.

The developer, in response to the concerns raised by the Commission and community revised this proposal, reducing the number of buildings to 110 with a corresponding increase in the common open space and distance between buildings, an obvious flaw in the original scheme. This revised plan was officially certified and referred to Community Board #11 for their recommendation. The Community Board as previously indicated, approved the project.

The Commission, in its consideration of the application, still expressed dissatisfaction with the overall building layout and with the configuration of the common open space. It did not feel the site plan, as presented, warranted the FAR bonus and reduction in required open space requested for a good site plan and common open space. In response, the applicant further revised the site plan to address the concerns of the Commission.

The plan, in its present form, reduces the number of buildings to 109 (327 units) and rearranges the clusters in a manner to reduce the "barracks effect". Each building has a number of good architectural features such as low brick walls which separate driveways and lessen the visual impact of cars parked on the driveway apron. Generally, however, paved areas including driveways, sidewalks and cul de sacs will be of some form of textured or stamped colored concrete rather than asphalt.

The common open space was broken up to provide a series of landscaped areas with separation of the "passive" and "active" space and the inclusion of a "tot lot". The remainder of the "common" space will be a network of pedestrian ways which link all units on the site. These areas will be extensively landscaped, with the landscaping plan approved by the Commission at a later date.

The plan provides for no curb cuts onto Springfield Boulevard, a major artery in the community. This important feature was accomplished by means of internal streets and access roads which service most of the units. Also, the use of cul de sacs minimizes curb cuts on other surrounding streets, thereby increasing available curb parking. In addition to on-street parking each unit contains a one car garage, with space on the pad for an additional car.

The FAR of the development is now 1.075 (less than the 1.20 permitted with bonuses) with the total floor area equal to 350,212 S.F. The open space ratio is 55.5, equal to the minimum allowed.

As part of the overall approval, the developer has agreed to provide the land, at no cost to the City, for a proposed fire house at the northeast corner of the site. This is in lieu of providing a community facility, as required for large-scale developments over 250 dwelling units. In order to accomplish this, an amendment to the Zoning Resolution was required. Details of this amendment are contained in the related report (N800255ZRY).

The development will be sold as a condominium and an association formed to maintain the premises. A Restrictive Declaration signed by the applicant accompanies this Special Permit and details the obligations agreed to, the most important of which deal with landscaping, including the common open space, parks, yards, and streets; decorative paving in driveways, walks, and intersections; street lighting and fencing. The applicant will guarantee the performance of the above by posting a bond as part of the Restrictive Declaration.

The Restrictive Declaration also prohibits the conversion of the garage space within a building to a residential floor area.

The Commission hereby makes the following findings pursuant to Section 78-31e of the Zoning Resolution:

- a) That the special permits will aid in achieving the general purposes and intent of this Chapter as set forth in Section 78-01 (General Purposes);
- b) That the authorized distribution of floor area, rooms, and open space, and location of buildings, will permit better site planning and will thus benefit both the residents of the development and the City as a whole;
- c) That the distribution or location will not unduly increase the bulk of buildings, density of population, or intensity of use in any block, to the detriment of the occupants of buildings in the block or nearby blocks;

d) That the distribution or location will not affect adversely any other zoning lots outside the development, by restricting access to light and air or by creating traffic congestion;

e) That the common open space will, by location, size, shape and other physical characteristics, and by its relationship to surrounding development and the circulation system, permit realization of the full community service advantages for which such pooled areas are designed; and

f) That suitable private access to mapped streets will be provided conforming to standards which will insure adequate circulation and make adequate provision for public services.

The Commission hereby makes the following findings pursuant to Section 78-34 of the Zoning Resolution:

a) That throughout the development, the site plan provides a significantly better arrangement of the buildings in relation to one another and to their sites from the standpoints of privacy, access of light, organization of private open spaces and preservation of important natural features to a greater degree than would be possible or practical for a development composed of similar types built in strict compliance with the applicable district regulations;

b) that the public facilities and utilities in the area are adequate to meet the needs of the development or that needed additional facilities will be provided as a part of the development by the developer or owner; and

c) That the development complies with the provisions of Section 78-351 (Bonus for common open space and good site plan).

Finding (d), which would have required a large-scale residential development such as this, having an area of 4 acres or more, to comply with the provisions of Section 78-352 (Bonus for community facility space) is hereby waived pursuant to the new amendment of Section 78-34 of the Zoning Resolution (N800255ZRY) because of the previously-noted donation of a parcel in the northeast corner of the site for use as a fire station.

Consequently, the Commission determined that the application warrants approval subject to the conditions stated in the following resolution:

RESOLVED, by the City Planning Commission, pursuant to Section 197-c of the New York City Charter, that the application of House Beautiful at Bayside for the grant of special permits involving a large-scale residential development bounded by 64th Avenue, Springfield Boulevard, 67th Avenue, and 219th Street, Borough of Queens, be and hereby is approved pursuant to Sections 78-312(a), 78-312(b), 78-312(c), 78-312(d), 78-312(f), 78-34, 78-351 and 78-354 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. Developer must receive approval of the landscape plan from the City Planning Commission before the issuance of a Building Permit;
5. This Resolution shall be effective only if the restrictive declaration 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 Queens;
6. 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 attached restrictive declaration whose provisions shall constitute conditions of the special permits hereby granted, the City Planning Commission may, without the consent of any other party, revoke any or all of said special permits 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.

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 May 14, 1980 (Cal. #43) 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 Sections 78-312(a), 78-312(b), 78-312(c), 78-312(d), 78-312(f), 78-34, 78-351 and 78-354 of the Zoning Resolution and in accordance with the requirements of Section 197-c of the Charter.

HERBERT STURZ, Chairman;
MARTIN GALLEN, Vice-Chairman,
SYLVIA DEUTSCH, HOWARD B. HORNSTEIN,

Commissioners.

MAX BOND, Commissioner; not voting.

RR:b1

Exhibit JJ

SPECIAL PERMITS and AUTHORIZATIONS pursuant to Section 197-c of the New York City Charter and Article VII, Chapter 8 of the Zoning Resolution, involving a large-scale residential development on property bounded by Astoria Boulevard South, 79th Street, 24th Avenue, and 77th Street, Borough of Queens, CB #3.

The application for the special permits and authorizations was filed by Aspen Gardens Housing Corp., to permit the construction of a large-scale residential development consisting of 25 two-family units and 26 three-family units in three-story row clusters.

In addition to the special permits and authorizations which are the subject of this report (C790578ZSQ), implementation of the proposed development also requires favorable action by the City Planning Commission and the Board of Estimate on a map change (C790325MMQ) eliminating 78th Street between 24th Avenue and Astoria Boulevard, which is the subject of a separate report approved by the City Planning Commission on May 14, 1980 (Cal. # 41).

This application (C790578ZSQ) seeks special permits pursuant to the following Sections of the Zoning Resolution:

1. Section 78-312(a). To permit the total floor area and rooms for all zoning lots within the development to be distributed without regard for zoning lot lines;
2. Section 78-312(b). To permit the total open space required for all zoning lots within the development to be distributed without regard for zoning lot lines;
3. Section 78-312(c). To permit minor variations in required front and rear yards on the periphery of the development;
4. Section 78-312(d). To permit minor variations in the front height and setback regulations on the periphery of the development;
5. Section 78-312(f). To permit modifications of the minimum spacing between buildings regulations, consistent with the intent of the provisions of Section 23-71;
6. Section 78-34. To find that the development would meet the requirements of this Section, as a prerequisite for qualifying for a bonus for common open space and good site plan under Section 78-351.
7. Section 78-351. Bonus for Common Open Space and Good Site Plan. To modify the permitted floor area and required open space for the development as a whole, by increasing the maximum floor area ratio from .75 to .94, in accordance with the

provisions of this Section which permits the maximum floor area ratio to be increased to 1.00, and reducing the open space ratio from 80.0 to 69.0, in accordance with the provisions of this Section, which permits the open space ratio to be reduced to 66.5.

8. Section 78-41. Authorization to locate accessory off-street without regard for zoning lot lines;

9. Section 78-51. Authorization to subdivide the large-scale residential development into two or more zoning lots before, during, or after development;

10. Section 78-52. Authorization for common open space; and

11. Section 78-53. Authorization for common parking areas.

The application was certified as complete by the City Planning Commission on January 28, 1980, in accordance with Article 3 of the Uniform Land Use Review Procedure, and referred to Community Board #3.

On March 13, 1980 the Community Board held a public hearing on the matter and on March 20, 1980 it voted in favor of the proposal. A separate motion was also adopted, stating that the Community Board's recommendation for approval of the subject project "shall not establish a precedent relative to the density and/or configuration of future projects coming before it for consideration" and, also, "that future projects proposed at densities greater than that which is permitted as of right will be looked upon with disfavor."

On April 16, 1980 (Cal. #13) the City Planning Commission scheduled a PUBLIC HEARING on this application. The hearing was duly held on April 30, 1980 (Cal. #27) in conjunction with the related hearing on the map change (C790325MMQ). A representative of the applicant appeared in favor of the proposal. There was no opposition, and the hearing was closed.

Consideration:

The scheme, as originally presented, consisted of 2 and 3 family row houses in seven clusters totaling 137 dwelling units on a 3.31 acre site. The site is located just south of Astoria Boulevard between 77th and 79th Streets with the main access point facing 24th Avenue. In addition to the large-scale waivers requested dealing with variations in required yards, variations in height and setback regulations on the periphery of the development, modifications of spacing between buildings, etc. the applicant also requested a floor area bonus and reduction in the open space ratio based on a good site plan, the provision of common open space and increased room size.

The Commission, in reviewing the original development plan, expressed some objections to the proposed density and building arrangement. The Commission also recognizes the Community Board's concerns regarding density at various vacant sites within the Community Board area. The Commission will, in conjunction with the Community Board, explore the issues of density at these sites.

In response to the Commission's concerns and objections raised by the community, the applicant revised his site plan. The major changes involved a reduction in the number of units from 137 to 128, the change of some two family units to three family (which removed the possibility of illegal "3's") and reduction in the number of clusters from seven to six, which permitted a much improved common open space area at the northern boundary. This space, coupled with a parking area, serves as a natural buffer between the development and Astoria Boulevard. Parking is provided for 129 cars with 26 of the spaces in garages built into the units. The remainder are in parking areas and on pads in front of the units. Curb cuts have been located in a manner to provide a maximum of on-street parking.

The reduction in density brought the FAR of the development down to .94 from the .98 originally requested. The underlying zoning permits an FAR = .75 with an allowable increase to 1.0 for good site plan and common open space. The additional .19 FAR was granted on this basis. The developer also received a reduction in the required open space ratio to 66.5. The actual open space ratio is 69.

These changes were found to be an improvement by the City Planning Commission and were approved by Community Board #3.

The development will be sold as a condominium and an association formed to maintain the premises. A Restrictive Declaration signed by the applicant accompanies this Special Permit and details the obligations agreed to, the most important of which deal with landscaping, including the common open space, parks, yards, and streets; decorative paving in driveways, walks, and intersections; street lighting and fencing. The applicant will guarantee the performance of the above by posting a bond as part of the Restrictive Declaration.

The Restrictive Declaration also prohibits the conversion of the garage space within a building to a residential floor area.

The Commission hereby makes all the findings pursuant to Sections 78-313, 78-34, and 78-41 of the Zoning Resolution:

78-313 :

(a) That such authorizations will aid in achieving the general purposes and intent of this Chapter as set forth in Section 78-01 (General Purposes).

(b) That authorized distribution of *floor area, dwelling units, rooms, rooming units, open spaces*, locations of *buildings*, or location of primary business entrances, show windows or *signs* will permit better site planning and will thus benefit both the residents of the *development* and the City as a whole.

(c) That such distribution or location will not unduly increase the *bulk* of *buildings*, density of population, or intensity of *use* in any *block*, to the detriment of the occupants of *buildings* in the *block* or nearby *blocks*.

(d) That such distribution or location will not affect adversely any other *zoning lots* outside the *development*, by restricting access to light and air or by creating traffic congestion.

(e) Where portions of the total required *open space* are pooled in common *open space* areas or common parking areas, that such common areas will, by location, size, shape and other physical characteristics, and by their relationship to surrounding development and the circulation system, permit realization of the full community service advantages for which such pooled areas are designed.

(f) Where one or more *zoning lots* in the *development* do not abut mapped *streets*, that suitable private access to mapped *streets* will be provided conforming to standards which will insure adequate circulation and make adequate provision for public services.

78-34:

(a) That throughout the *development* the site plan provides a significantly better arrangement of the buildings in relation to one another and to their sites from the standpoints of privacy, access of light, organization of private *open spaces* and preservation of important natural features to a greater degree than would be possible or practical for a *development* composed of similar types built in strict compliance with the applicable district regulations;

(b) That the public facilities and utilities in the area are adequate to meet the needs of the *development* or that needed additional facilities will be provided as a part of the *development* by the developer or owner;

(c) That the *development* complies with the provisions of Section 78-351 (Bonus for common open space and good site plan).

78-41:

(a) That such off-street parking spaces will be conveniently located in relation to the *use or uses* to which such spaces are *accessory*.

(b) That such location of the off-street parking spaces will permit better site planning and will thus benefit both the owners, occupants, employees, customers, residents, or visitors of the *development* and the City as a whole.

(c) That such location of the off-street parking spaces will not increase the number of spaces in any single *block* or the traffic drawn through any one or more of the nearby local *streets* in such measure as to affect adversely other *zoning lots* outside the *development* or traffic conditions in the surrounding area.

Consequently, the Commission determined that the application warrants approval subject to the conditions stated in the following resolution:

RESOLVED, by the City Planning Commission, pursuant to Section 197-c of the New York City Charter, that the application of Aspen Gardens Housing Corp. for the grant of special permits and authorizations involving a large-scale residential development on property bounded by Astoria Boulevard South, 79th Street, 24th Avenue, and 77th Street, Borough of Queens, be and hereby is approved pursuant to Sections 78-312(a), 78-312(b), 78-312(c), 78-312(d), 78-312(f), 78-34, 78-351, 78-41, 78-51, 78-52, and 78-53 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. Developer must receive approval of the landscape plan from the City Planning Commission before the issuance of a Building Permit.
5. This Resolution shall be effective only if the restrictive declaration 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 Queens;

C790578ZSQ

6. 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 attached restrictive declaration 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 special permits or 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.

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 and authorizations herein granted.

The above resolution duly adopted by the City Planning Commission on May 14, 1980 (Cal. # 40) 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 Article VII, Chapter 8 of the Zoning Resolution and in accordance with the requirements of Section 197-c of the Charter.

HERBERT STURZ, Chairman;
MARTIN GALLENT, Vice-Chairman,
SYLVIA DEUTSCH, HOWARD B. HORNSTEIN, THEODORE E. TEAH, Commissioners.
MAX BOND, Commissioner; not voting.

RR:b1

Exhibit KK

Disclaimer

City Planning
Commission (CPC)

CITY PLANNING COMMISSION
March 26, 1984/Calendar No. 1

C 830580 ZSQ

IN THE MATTER OF an application from Flushing View Terrace Corporation requesting a special permit pursuant to Section 78-312(c) 78-312(f), 78-351 and 78-52 of the Zoning Resolution, involving a large-scale residential development fronting on the westerly side of 120th Street, extending from 25th Road to 25th Avenue, Borough of Queens.

The application for the special permit was filed by Flushing View Terrace Corporation to permit the construction of a large scale residential development.

RELATED APPLICATIONS

In addition to the special permits which are the subject of this report (C 830580 ZSQ), implementation of the proposed development will require approval by the City Planning Commission and the Board of Estimate of a concurrent map change (C 830581 MMQ) application, eliminating 119th Street, 25th Road, 25th Avenue and narrowing 120th Street around the site, and laying out public pedestrian easements and sewer easements.

PROJECT DESCRIPTION

Flushing View Terrace Corporation, the applicant, owns the vacant property bounded by 119th Street, 120th Street, 25th Road and 25th Avenue. The applicant proposes to construct a 78 unit development consisting of four 3-story row type buildings on this site of approximately 2.52 acres, with common open space and on-site parking for 84 cars. Two linear public pedestrian walkways located within the northerly border and the southerly border of the site will be developed by the applicant to provide public access to the waterfront. Wood piers at the end of the public walks will also be developed by the applicant prior to the units being occupied. A 40-foot-wide Public Pedestrian Easement is delineated immediately west of the site to protect future public access to the waterfront.

This application (C 830580 ZSQ, seeks special permits pursuant to the following Sections of the Zoning Resolution.

1. Section 78-312(c) To permit minor variations in required front and rear yards on the periphery of the development;
2. Section 78-312(f) To permit modification of the minimum spacing between buildings' regulations by more than 15 percent of that required by Section 23-71;
3. Section 78-351 Special bonus for common open space and a good site plan to modify the permitted floor area ratio for the development

as a whole, by increasing the maximum floor area - ratio from 0.75 to 0.797 in accordance with the provision of this Section, which permits the maximum floor area to be increased to 1.00 and permits the minimum open space ratio to be reduced to 66.5. The development has an open space ratio of 87.5 which far exceeds the minimum requirement.

The applicant meets the requirements of Section 78-52 (Common Open Space) by providing more than 25 percent of the total required open space in common area.

ENVIRONMENTAL REVIEW

This application has also been reviewed by the Department of Environmental Protection and the Department of City Planning, pursuant to the New York State Environmental Quality Review (SEQR) regulations, as set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 et seq. (6NYCRR 617.00) and the New York City Environmental Quality Review (CEQR) regulations, as set forth in Mayoral Executive Order No. 91 of 1977. It was determined by the co-lead agencies that the action will not have a significant effect on the environment, and a Conditional Negative Declaration was issued on November 21, 1983, and signed by the applicant (CEQR Q83-028). Approval was conditional upon the applicant's providing a minimum of 35 db(A) window/wall attenuation, so that, with windows closed, the internal noise level does not exceed 45 db(A), and providing alternate means of ventilation, such as central air conditioning sleeves containing air conditioners or HUD-approved fans.

UNIFORM LAND USE REVIEW PROCEDURE

On December 5, 1983, the City Planning Commission certified the application as complete and duly notified Queens Community Board No. 7.

Community Board Public Hearing

On January 23, 1984, the Community Board held a public hearing on the matter.

A resolution recommending the approval of the proposal, with certain conditions was not approved. The vote on that resolution was 10 in favor, 14 opposed and 2 abstaining. The defeated conditions related to the height of the buildings, the amount of parking provided, landscaping along 120th Street and pier easements and maintenance.

City Planning Commission Public Hearing

On February 1, 1984 (Calendar No. 20) the City Planning Commission scheduled a Public Hearing on the matter. The hearing was duly held on February 22, 1984 (Calendar No. 30) and continued to March 7, 1984 (Calendar No. 38). There were no appearances in opposition and the hearing was closed.

CONSIDERATION

The site is located on the western coast of College Point, with views of Flushing Bay and LaGuardia Airport. To the north is vacant land which is zoned for industrial use, immediately south is a 6-story nursing home. The rest of the area is developed with low rise residential buildings of two and three stories. The proposed three-story development on this site conforms to the general character and density of the area.

The site plan, as originally submitted, showed seven 25-foot-wide curb cuts on 120th Street. The layout was subsequently modified according to Department of City Planning staff suggestions to preserve on-street parking along 120th Street. The present layout limits the on-site parking lot to two 24-foot-wide curb cuts and retains a 350-foot-long uninterrupted curb on 120th Street. This revision allows for 17 additional parking spaces, where curb cuts would have been on 120th Street.

The 120th Street frontage of the development will be landscaped with 3 foot high planters of railroad tie construction with shrubbery planted above. This arrangement will prevent the otherwise disruptive effects of automobile headlights on the existing residential development on 120th Street.

Common open space is provided in the center of the development which includes planting and a pool facing Flushing Bay. The layout of the open space is designed to embrace the scenic waterfront in order to take advantage of the location of the site. There is a 20-foot-wide easement between the two rows of buildings to be utilized for emergency fire access and also for passive recreational use. The two public pedestrian easements will provide public access to the wood piers on the water and will further serve as buffers to the areas north and south of the development. The public pedestrian easements will be landscaped with planting and benches and be maintained by the development. Fishing is encouraged at the piers. The total open space provided exceeds the basic minimum requirements of the underlying R4 zone.

FINDINGS

The Commission hereby makes the following findings, pursuant to Section 78-313 of the Zoning Resolution:

- a. That such authorization will aid in achieving the general purposes and intent of this Chapter as set forth in Section 78-01 (General Purposes);
- b. That authorized distribution of floor area, dwelling units, rooms, rooming units, open spaces, locations of buildings, or location of primary business entrances, show windows or signs will permit better site planning and will thus benefit both the residents of the development and the City as a whole;
- c. That such distribution or location will not unduly increase the bulk of buildings, density of population, or intensity of use in any block, to the detriment of the occupants of buildings in the block or nearby blocks;
- d. That such distribution or location will not affect adversely any other zoning lots outside the development, by restricting access to light and air or by creating traffic congestion; and
- e. Where portions of the total required open space are pooled in common open space areas or common parking areas, that such common areas will, by location, size, shape and other physical characteristics, and by their relationship to surrounding development and the circulation system, permit realization of the full community service advantages for which such pooled areas are designed. This finding also satisfies the requirements of Section 78-351.

RESOLUTION

Consequently, the Commission determined that the application warrants approval subject to the conditions stated in the following resolution:

RESOLVED, by the City Planning Commission, pursuant to Section 197-c of the New York City Charter, that the application of Flushing View Terrace Corporation for the grant of special permits involving a large-scale residential development fronting on the westerly side of 120th Street, extending from 25th Road to 25th Avenue, Borough of Queens, be and hereby is approved pursuant to Sections 78-312(c), 78-312(f), 78-351 and 78-52 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. This Resolution shall be effective only if the restrictive declaration 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 Queens; (and)
5. 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 attached restrictive declaration 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 special permits or 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.

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 March 26, 1984 (Calendar No. /) 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 Sections 78-312(c), 78-312(f), 78-351 and 78-52 of the Zoning Resolution and in accordance with the requirements of Section 197-c of the Charter. (C 830580 ZSQ)

HERBERT STURZ, Chairman
MARTIN GALLEN, Vice-Chairman
MAX BOND, JOHN P. GULINO, R. SUSAN MOTLEY,
THEODORE E. TEAH, Commissioners

DENISE M. SCHEINBERG - "Not participating"

RJ/SL/ef

Exhibit LL

SPECIAL PERMIT pursuant to Section 197-c of the New York City Charter and Sections 78-312 (c) and 78-312 (f) of the Zoning Resolution, involving a largescale residential development on property bounded generally by Clearview Expressway, Willets Point Boulevard, 208th Place, and a line 100 feet northerly of 15th Road and its westerly prolongation, Borough of Queens, CB#7.

The application for the special permit was filed by the Glick Construction Corporation in order to construct a large scale residential development. A related application (C790123ZMQ) requesting a zoning map change from M1-1 to R5 for the site in question is the subject of a separate report approved by the City Planning Commission on December 24, 1979 (Cal. No. 1).

The application seeks the following special permits pursuant to Article VII, Chapter 8 of the Zoning Resolution:

1. Section 78-312(c)- Permit minor variations in required front or rear yards on the periphery of the development.
2. Section 78-312(f) - Permit modifications of the minimum spacing requirements between buildings.

Under the Uniform Land Use Review Procedure, this application (C790124ZSQ) was certified as complete by the City Planning Commission on August 20, 1979 and referred to Community Board No. 7, in conjunction with the related application (C790123ZMQ). The Department of Environmental Protection and City Planning, as co-lead agencies for the City of New York under the State Environmental Quality Review legislation (SEQR) determined that an EIS was necessary for the environmental review of this proposal. A draft EIS was prepared by the applicant. The lead agencies filed the EIS with the NYS Dept. of Environmen-

tal Conservation (DEC) and distributed copies to the local Community Board and other affected agencies. There were no comments and a final EIS was filed by the lead agencies. Community Board NO. 7 held a public hearing on the applications on October 22, 1979 and voted to recommend denial of the applications. However, as there was not a quorum present, the recommendation is non-complying.

On November 17, 1979 (Calendar No. 15), the City Planning Commission scheduled a PUBLIC HEARING on this application. The hearing was duly held on November 28, 1979 (Calendar No. 31, in conjunction with the related hearing on the zoning map amendment (C790123ZMQ). There were eight appearances in favor, four in opposition and the hearing was closed.

Appearances in opposition were made by representatives of the North Shore Council of Homeowners and a State senator representing the area. Opponents stressed the density issue, impact on surrounding areas, the parking situation, and the overloading of existing sewers, street parking, school and shopping facilities.

CONSIDERATION

The proposed site for this development, bounded by the Clearview Expressway, Willets Point Boulevard and 208th Street, was formerly occupied by the General Telephone and Electric (GT & E) Research Corporation. It is presently zoned M1-1, which was consistent with the above-mentioned facility. In the early 70's, the site was purchased by a prospective developer, with the intention of converting it to residential use. Then, as it does now, the City Planning Commission felt that a residential use for this property was appropriate. However, the amount of residential density has always been a serious issue. The proposal at that time called for a 1,500 dwelling unit development. The rezoning, however, was never approved and the site has remained zoned for manufacturing.

The present application was submitted in March, 1979, and called for a 900 dwelling unit development consisting of 300, 3-story, three family rowhouse buildings, serviced by a system of private roads. The proposal also required the demapping of certain stub end streets that were part of the original GT & E development. The elimination of these stub end streets made possible a more desirable site plan.

After the application was certified and referred to Community Board No. 7, the Board voiced objections dealing with the proposed density of the development as well as other deficiencies. In response to these objections, and to those of the Department of City Planning, which also felt the site plan was far too congested, the applicant reduced the proposal to 268 buildings, or 804 dwelling units. In addition to the reduced density, the new site plan includes three mini parks of about 5,000 square feet each, and a 12,000 square foot shopping area. The shopping area was included in response to the community's specific request for convenience shopping. Subsequent to the public hearing of the City Planning Commission, the developer further reduced the size of the development to 263 buildings (789 DU's).

The reduced proposal for 804 units and the modified site plan were presented to the Community Board for its consideration at the same time as the original proposal. The Board however rejected both schemes, citing excessive traffic congestion, insufficient parking, inadequate sewers, excessive building density, lack of shopping and community facilities, and an overall adverse impact to the surrounding area.

The City Planning Commission when confronted with the original proposal voiced concern about the density of the project and the relationship of parking and usable open space. The revised site plan is a significant improvement on the original scheme. The reduction in density has permitted a better overall site plan, more common open space resulting in three small park areas, and increased the on site parking to 142% of the dwelling units. The changes were accomplished while still maintaining a 3-story limit on the height of the buildings.

The development will be sold as a condominium and an association formed to maintain the premises. A Restrictive Declaration signed by the applicant accompanies the related zoning map change and details the obligations agreed to, the most important of which deal with landscaping, including the common open space, parks, yards, and streets; decorative paving in driveways walks, and intersections; street lighting; uses permitted in the commercial area; traffic improvements; fencing; and preservation, to the extent possible, of existing trees. The applicant has guaranteed the performance of the above by posting a bond as part of the Restrictive Declaration.

The Restrictive Declaration also prohibits the conversion of the garage space within a building to a residential floor area.

In conjunction with this application, the applicant has submitted a Draft Environmental Impact Statement which was considered by the Commission as part of their evaluation of the project. Some of the issues addressed included the traffic conditions which would be generated by the proposed street system, the adequacy of the City utilities, and the overall environmental impact of the proposal. The developer also included a traffic study as part of his application to address the traffic issues. The design of the private street system and conditions agreed to in the Restrictive Declaration reflect the conclusions and recommendations of the study. The EIS itself concluded that the available utilities in the area, such as water supply, sewers, electric service, gas, etc., were adequate to service the proposed development. In relation to the available water supply, the City intends to install two (2) 44" water mains over the Flushing Avenue bridge now under construction and an additional 20" water main in 26th Ave. extending from 212th Place South to 26th Avenue to service this area. This will insure that

adequate water supply and pressure will be available for this development by the time these homes are constructed.

The availability of school seats was also investigated and found to be adequate. The utilization of schools in this district (District #25) was 76% in 1977, with a projection of 66% for 1982. This estimate included the anticipated seats needed for the proposed "Village Mall" development, a large residential proposal in the immediate area. The new students will be a welcome addition to what would otherwise be an under-utilized school district in the near future.

After due consideration, the Commission approved the proposed large scale residential development subject to the conditions enumerated in the Restrictive Declaration attached to the Zoning Map Change.

The Commission hereby makes the following findings pursuant to Section 78-313 of the Zoning Resolution:

(a) That such authorizations will aid in achieving the general purposes and intent of this Chapter as set forth in Section 78-01 (General Purposes).

(b) That authorized distribution of *floor area, dwelling units, rooms, rooming units, open spaces*, locations of *buildings*, or location of primary business entrances, show windows or *signs* will permit better site planning and will thus benefit both the residents of the *development* and the City as a whole.

(c) That such distribution or location will not unduly increase the *bulk of buildings*, density of population, or intensity of *use* in any *block*, to the detriment of the occupants of *buildings* in the *block* or nearby *blocks*.

(d) That such distribution or location will not affect adversely any other *zoning lots* outside the *development*, by restricting access to light and air or by creating traffic congestion.

(e) Where portions of the total required *open space* are pooled in common *open space* areas or common parking areas, that such common areas will, by location, size, shape and other physical characteristics, and by their relationship to surrounding development and the circulation system, permit realization of the full community service advantages for which such pooled areas are designed.

(f) Where one or more *zoning lots* in the *development* do not abut mapped *streets*, that suitable private access to mapped *streets* will be provided conforming to standards which will insure adequate circulation and make adequate provision for public services.

Consequently, the Commission determined that the application warrants approval subject to the conditions stated in the following resolution:

RESOLVED, by the City Planning Commission, pursuant to Section 197-c of the New York City Charter, that the application of the Glick Construction Corporation for the grant of a special permit involving a large-scale residential development on property bounded generally by Clearview Expressway, Willets Point Boulevard, 208th Place, and a line 100 feet northerly of 15th Road and its westerly prolongation, Borough of Queens, be and hereby is approved pursuant to Section 78-312(c) and 78-312(f) 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 plan(s) 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 December 24, 1979 (Calendar No. 2) 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 78-312 of the Zoning Resolution and in accordance with the requirements of Section 197-c of the Charter.

MARTIN GALLEN-Acting Chairman
SYLVIA DEUTSCH, HOWARD B. HORNSTEIN,
THEODORE E. TEAH, Commissioners.

Exhibit MM

SPECIAL PERMIT AUTHORIZATIONS, pursuant to Article VII, Chapters 4 and 8 of the Zoning Resolution, involving a large-scale residential development on the site of the Glen Oaks Golf Course, located generally southerly and westerly of the intersection of Grand Central Parkway and the Boundary Line of The City of New York, Borough of Queens.

The application for the special permits was filed by Sigmund Sommer, owner of the property. The applicant proposes to erect a privately-financed development, to provide 1,740 apartments in three 32-story buildings, with accessory shopping facilities for residents of the development. The number of accessory parking spaces will be at least 50 per cent greater than the amount required under the regulations of the R3-2 District. The area of the property is approximately 106 acres. Multiple dwellings are permissible uses in an R3-2 District, and do not require any zoning change or special permit authorizations. The applicant seeks special permit authorizations which would increase the permissible floor area by not more than 15 percent and would also permit the accessory shopping.

The application requests special permits and authorizations, pursuant to various Sections of Article VII, Chapters 4 and 8 of the Zoning Resolution, as follows:

1. Section 78-32. Bonus for Good Site Plan

To find that the Development qualifies for a "bonus for good site plan" by providing a significantly better arrangement of the buildings in relation to one another and to their sites from the standpoints of privacy, access of light, organization of private open spaces, and preservation of important natural features than would be possible or practical for a development comprised of similar types built in strict compliance with the applicable district regulations;

2. Section 78-33. Bonus for Common Open Space

To authorize the open space ratio otherwise required and the lot area per room to be reduced, and the permitted floor area to be increased, in accordance with the provisions of this Section, as shown in the application;

3. Section 78-22. Accessory Uses in Large-Scale Residential Developments

To include, within the development, certain accessory commercial uses which in the aggregate occupy not more than two percent of the total floor area in the development, in accordance with the provisions of this Section, as shown in the application; and

4. Section 74-53

To permit group parking facilities accessory to uses in the large-scale residential development, with more than 150 spaces, as shown on the plans submitted with and made part of the application.

On June 9, 1971 (Calendar #21) the City Planning Commission scheduled a PUBLIC HEARING on this application. The hearing, scheduled for June 23, 1971 (Calendar #54), was continued at that time to July 14, 1971 (Calendar #42).

A number of local legislators and representatives of civic and community groups opposed the special permit. Objections centered on the height of the proposed buildings. Speakers also contended that the new residents would overtax existing schools, public transportation, sewerage and streets. Many of the opponents called on the City to acquire the property, now being used as a private golf course, and convert it into a public golf course.

A representative of the applicant appeared in favor of the project, arguing that the City needs as much new housing of every type as it can get.

The hearing was closed.

The Commission has received a number of communications opposing the development.

After investigation, the Commission has concluded that the impact of this development will not unduly strain local facilities.

A summary of the specific findings follows:

Shopping

The development will contain some 46,000 square feet of new shopping area for residents. This will be supplemented by the extensive, existing stores and services available on Union Turnpike.

Parks, Recreation and Libraries

About 100 acres of open space will be provided for the tenants, including both an indoor and an outdoor swimming pool, several tennis courts and a golf course to be used only by tenants. Alley Park is also within easy reach to the west. The North Hills Branch Library is located to the north at Marathon Parkway and Long Island Expressway; the site for a new library is now being selected near Union Turnpike east of Winchester Boulevard.

Transportation

The principal modes of transportation are automobiles and buses. The nearest stations of the Long Island Railroad are located at Great Neck, Floral Park and New Hyde Park. Terminal stations of the subway system are about five miles away.

The primary access roads serving the site are Grand Central Parkway, Northern State Parkway, Union Turnpike, Lakeville Road, Marcus Avenue, Little Neck Parkway and Long Island Expressway. Direct access to the development will be possible only from Marcus Avenue, a two-lane service road of Grand Central Parkway. Since the development will generate additional traffic on Marcus Avenue, the existing road will need improvement; widening and paving, removal of a curve and reconstruction of the entrance to Grand Central Parkway. It is understood by the developer that, before a certificate of occupancy is issued, an agreement to provide these improvements will be worked out with appropriate City agencies by June, 1972.

Public Safety, Power and Sanitation

The proposed development will have its own security employees. The 111th Police Precinct has indicated that it can provide protection as required.

The development's waste disposal facilities will utilize the latest compaction techniques required by the Building Code.

Con Edison has indicated that adequate electrical power can be supplied.

Hospitals

To the south is the Long Island Jewish Hospital. To the north, about one mile away, is Deepdale General Hospital.

Sewers and Water Supply

A sanitary sewer and a storm sewer to connect with existing facilities in Union Turnpike and Little Neck Parkway has been promised by the developer.

Water for this section of Queens is pumped from the Douglaston pumping station. To service the development, additional pumping capacity will be required at the station as well as a distribution main to the periphery of the site. The Department of Water Supply will work with the developer to provide these facilities.

Schools

The school needs generated by 1,740 units of housing will pose a problem only at the high school level and that problem will be solved upon the completion of the current construction program for the borough.

Primary School Level

The Board of Education's School Utilization Book, 1970-71 states that each of the four primary schools near the proposed development has excess classroom space. Since enrollments at each of these four schools has been declining over the past four years due to lower birth rates, there should be no difficulty in accommodating the approximately 300 primary school children expected in the new housing.

Intermediate School Level:

Approximately 110 children of intermediate school age are expected in the development. Enrollment at the neighborhood school, JHS 172, seems to have peaked in 1967-68 and has since been declining. Now underutilized, the school can easily accommodate the projected new students.

High School Level

At the most, 150 high school students will come from the new housing. They will be zoned into Martin Van Buren High School, which like other high schools in Queens, is overcrowded (122% utilization). However, when high schools now in the construction program or in the planning stage are completed, the situation will be substantially alleviated.

Fire Protection

The Commission has asked the Fire Department to review its coverage to insure adequate protection of the new development.

CONSIDERATION

Much of the testimony at the public hearing was addressed to the height of the three apartment houses. Speakers argued that 32-story structures would destroy the suburban character of the neighborhood, were visually offensive and environmentally destructive. Some speakers simply urged the Commission to reject the request for a special permit. Other speakers suggested as an alternative that the City acquire the 106 acre tract and map it as a public park.

The Commission is sympathetic to the community's desire for a new public park. However, this would be a costly solution. The property is reported to have cost the developer \$12 million. In the light of the City's limited financial resources, an outlay of this magnitude for this purpose cannot be justified.

The proposed development leaves untouched almost all of the existing open space. The ground floor area of the buildings will cover only some two percent of the site. Moreover, the open space is further protected by a covenant contained in a declaration attached herewith which prevents the owner of the property from ever building outside a certain circumscribed area regardless of what the zoning may call for in the distant future. The permanent dedication of open space under this covenant will be nearly 100 acres.

There remains the argument that the special permit should be rejected out of hand. Such an action on the part of the Commission would accomplish very little; it would not prevent the developer from building high rise apartment buildings. The property is so extensive that, under the existing R3-2 zoning, the developer can build high rise towers on his 106 acres without applying to the Commission at all. In fact, the developer is using his floor space bonus to build slightly larger apartments, which he feels will be particularly marketable, rather than taller buildings. The special permit covers parking facilities in an underground garage, which helps conserve open space, and the allowance for commercial facilities, which would reduce off-site shopping trips and which is therefore socially desirable.

If the special permit were denied, the developer would still have the as-of-right option to build more than 2,500 one-family homes. This would satisfy the community's desire to retain a low level profile, ofcourse. But it would totally destroy the golf course and open space. At least 20 percent of the area would have to be devoted to paved streets which, in turn, would substantially increase the requirement for storm sewers since the run-off would be greater. In fact, material requirements for all utilities would be much heavier for the one-family homes than for the apartment towers. The one-family development would also generate more traffic.

Ecologists who appeal to the Commission to reject the special permit overlook the fact that one-family developments place a far greater strain on the environment than do apartment buildings in park-like settings, a common practice in British and Scandinavian suburbs.

In making its decision, the Commission is not deciding whether there should or should not be high rise development on the Glen Oaks golf course. The Commission's choices are limited: to grant the special permit and guarantee the protection of most of the open space or to reject the special permit and thus allow the developer to either cover the open space with one-family homes or to build high rise apartments but no stores or underground parking. It is the Commission's judgment that it is in the best interest of the community to protect the open space and to insure its future protection as well by granting the special permit.

Therefore, after considering all aspects of the proposal, the Commission has determined that the application conforms with the findings required under the applicable Sections 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 Sigmund Sommer for the approval of special permit authorizations for a large-scale residential development on the site of the Glen Oaks Golf Course, located generally southerly and westerly of the intersection of Grand Central Parkway and the Boundary Line of The City of New York, Borough of Queens, be and hereby is approved pursuant to Sections 78-32, 78-33, 78-22, and 74-53 of the Zoning Resolution, **subject to the following conditions:**

1. **The premises shall be developed in size and arrangement substantially as proposed and as shown on the plans filed with the application;**

2. The development shall conform to all applicable provisions of the Zoning Resolution except for the modifications herein granted and as shown on the plans filed with the application. All zoning computations shall be subject to 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 Common Open Space is that designated:

"To be a golf course initially and to be maintained as such or as a recreational park facility for the sole use of residents of the development" on the plans submitted with and made a part of the application;

5. The approval herein granted is not transferable prior to the effectuation of the project by the applicant without permission of the City Planning Commission;

6. The applicant shall file for recordation in the Office of the Register, Queens County, a declaration dated August 10, 1971, containing restrictions and conditions set forth therein, constituting a covenant running with the land. A copy of the declaration is attached hereto.

7. 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 Authorizations herein granted.

The above resolution duly adopted by the City Planning Commission on August 11, 1971 (Calendar #36) 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.

DONALD H. ELLIOTT, Chairman
GERALD R. COLEMAN, MARTIN GALLENT, IVAN A. MICHAEL,
CHESTER RAPKIN, JOHN E. ZUCCOTTI, Commissioners.

RR:eg



SITE PLAN

Scale 1/4" = 200'

A.H. Salkowitz

registered architect a.i.a. - n.c.a.r.b.
87-25 Housatonic Street, Jamaica, New York 11432
Telephone no: 212 657-8300

Carl Heimberger-associate architect

EXHIBIT 'C'

SIGMUND SOMMER - OWNER

Aug. 9, 1971

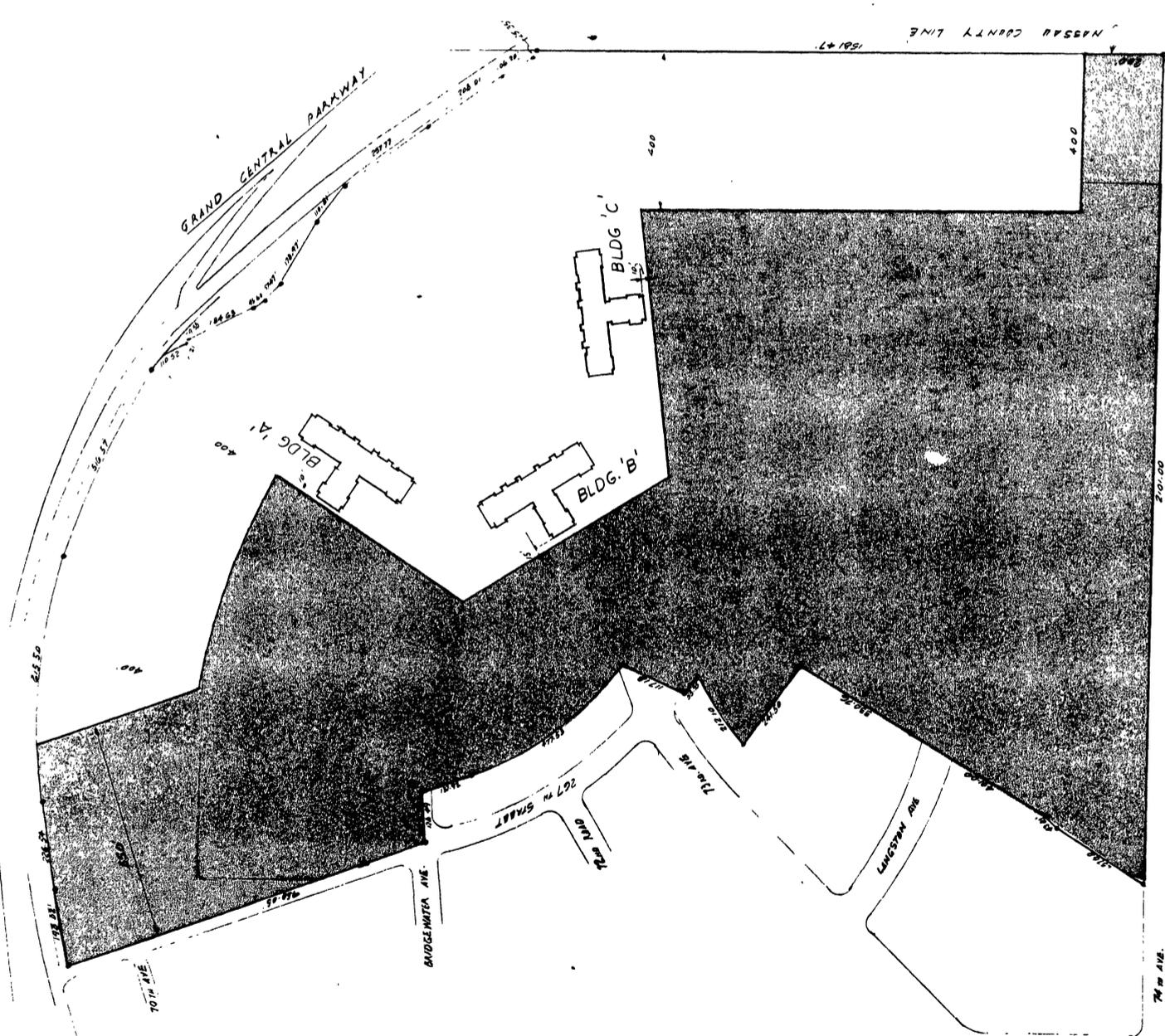


Exhibit NN



SPECIAL PERMITS and an AUTHORIZATION pursuant to Section 197-c of the New York City Charter and Sections 78-311(d), 78-312(c) and 78-312(f) of the Zoning Resolution, including a large-scale residential development within the Jersey Street Urban Renewal Area, having frontages on both sides of Jersey Street extending generally from Crescent Avenue to Benziger Avenue, Borough of Staten Island, CB #1.

The application for the special permits and an authorization was filed by the Department of Housing Preservation and Development, to implement plans for the construction of 141 dwelling units for low and moderate income families within the Jersey Street Urban Renewal Area.

The application requests an authorization pursuant to the following Section of the Zoning Resolution:

1. 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.

The application requests special permits pursuant to the following Sections of the Zoning Resolution:

2. Section 78-312(c). To permit minor variations in required front or rear yards on the periphery of the development; and

3. Section 78-312(f). To modify the minimum spacing requirements consistent with the intent of the provisions of Section 23-71 (Minimum Distance Between Buildings on a Single Zoning Lot).

In addition to the above authorization and special permits, implementation of the proposed development also requires favorable action by the City Planning Commission and the Board of Estimate on the following two matters:

1. C790432HPR Approval of the housing plan and project, and the related disposition of City-owned property, pursuant to Article V of the New York State Private Housing Finance Law; and

2. C790523ZMR Amendment of the Zoning Map, Section No. 21c, eliminating an unneeded C1-2 overlay from within the existing R5 District.

The above two matters are the subject of separate reports approved by the City Planning Commission on December 12, 1979.

The application was certified as complete by the City Planning Commission on September 7, 1979, in accordance with Article 3 of the Uniform Land Use Review Procedure (ULURP), and referred to Community Board #1.

Community Board #1 held a public hearing on the application on October 17, 1979, and voted to recommend approval of the application on November 13, 1979, in accordance with Article 4 of ULURP.

On November 7, 1979 (Cal. #18), the City Planning Commission scheduled a PUBLIC HEARING on this application. The hearing was duly held on November 28, 1979 (Cal. #35) in conjunction with the related hearings on the housing plan and project (C790432HPR) and the amendment of the Zoning Map (C790523ZMR).

A representative of Community Board #1 spoke in favor of the application, and the hearing was closed.

The Commission hereby makes the following findings pursuant to Section 78-313 of the Zoning Resolution:

a. The special permits and authorization granted pursuant to Sections 78-311 and 78-312 will aid in achieving the general purposes and intent of Article VII, Chapter 8, as set forth in Section 78-01;

b. The authorized location of buildings will permit better site planning and will thus benefit both the residents of the Jersey Street Urban Renewal Area and the city as a whole;

c. The above location will not unduly increase the bulk of buildings, density of population, or intensity of use in any block, to the detriment of the occupants of buildings in the block or nearby blocks; and

d. The above location will not affect adversely any other zoning lots outside the development, by restricting access to light and air or by creating traffic congestion.

Consequently, the Commission approves the application, subject to the conditions stated in the following resolution:

RESOLVED, by the City Planning Commission that the application of the Department of Housing Preservation and Development for the grant of special permits and an authorization involving a large-scale residential development within the Jersey Street Urban Renewal Area, having frontages on both sides of Jersey Street extending generally from Crescent Avenue to Benziger Avenue, Borough of Staten Island, be and hereby is approved pursuant to Sections 78-311(d), 78-312(c), and 78-312(f) 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 permits and authorization herein granted.

The above resolution duly adopted by the City Planning Commission on January 2, 1980 (Cal. #43) 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 Sections 78-311(d), 78-312(c) and 78-312(f) of the Zoning Resolution and in accordance with the requirements of Section 197-c of the Charter.

MARTIN GALLENT, Vice-Chairman;
SYLVIA DEUTSCH, JOHN P. GULINO,
HOWARD B. HORNSTEIN, Commissioners.

RR:b1

Exhibit OO

PUBLIC HEARING in the matter of an application, pursuant to Article VII, Chapter 8 of the Zoning Resolution, for the grant of a special permit involving a large-scale residential development on the northwesterly part of the area bounded by Richmond Terrace, Northfield Avenue, Arlington Place and Holland Avenue, 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 November 29, 1972, Cal. No. 68, the Commission scheduled this day for a hearing, which has been duly advertised.)

Appearances: (See Cal. No. 21 - CP-22222).

On motion, it was unanimously voted to close the hearing.

On motion, Rule 105 was waived and the following favorable report was unanimously adopted:

December 13, 1972

The application for the special permit and authorization was filed by the Housing and Development Administration, to implement plans for a City-aided Limited Profit rental housing project, to be known as North Shore Plaza, providing 536 dwelling units in four 13-story buildings, and a group of 2-story and 3-story town houses. North Shore Plaza is the subject of a separate report (CP-22222) approved by the Commission on December 13, 1972 (Cal. #21) pursuant to Article 2 of the Private Housing Finance Law of the State of New York.

The application seeks a special permit and authorization, pursuant to the following sections of Article VII, Chapter 8 of the Zoning Resolution:

1. Section 78-22. To authorize as accessory uses, any commercial uses listed in Use Group 6A or 6F which in the aggregate occupy not more than two per cent of the total floor area in the development, and of which no single establishment occupies more than 15,000 square feet of floor area; and
2. Section 78-312(d). To permit minor variations in the front height and setback regulations for Buildings #1 and #3 on the periphery of the development, as shown on the plan submitted with and made part of the application.

On November 29, 1972 (Cal. #68), the City Planning Commission scheduled a PUBLIC HEARING on this application. The hearing was duly held on December 13, 1972 (Cal. #49). There were a number of appearances, as described in a report on the related item (CP-22222), and the hearing was closed.

As a result of investigation and study, the Commission has determined that the application conforms with the findings required under Sections 78-22 and 78-313 of the Zoning Resolution, and 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 Housing and Development Administration for the grant of a special permit and authorization involving a large-scale residential development on the northwesterly part of the area bounded by Richmond Terrace, Northfield Avenue, Arlington Place and Holland Avenue, Borough of Richmond, be and hereby is approved pursuant to Sections 78-22 and 78-312(d) 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 the plan 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 plan 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; and
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.

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 and Authorization herein granted.

The above resolution duly adopted by the City Planning Commission on December 13, 1972 (Cal. #49) is herewith filed with the Secretary of the Board of Estimate, together with a copy of the application and plan of the development, pursuant to Section 74-10 of the Zoning Resolution.

DONALD H. ELLIOTT, Chairman;
GERALD R. COLEMAN, SYLVIA DEUTSCH, MARTIN GALLEN, T,
IVAN A. MICHAEL, CHESTER RAPKIN, JOHN E. ZUCCOTTI, Commissioners.

RR/b1

Exhibit PP

SPECIAL PERMIT, AUTHORIZATIONS, and CERTIFICATIONS pursuant to Section 197-c of the New York City Charter and various Sections of Article VII, Chapter 8 and Article X, Chapter 7 of the Zoning Resolution, involving a large-scale residential development in the Special South Richmond Development District on property located easterly of Bloomingdale Road and northerly of Sinclair Avenue, Borough of Staten Island, CB #3.

The application for the special permit, authorizations, and certifications was filed by M.W.H. Hills, Inc., in order to permit a development to be known as Sinclair Estates consisting of a maximum of 125 single-family houses on a site of about 10 acres. In addition to the matters which are the subject of this report (C790443ZSR), the implementation of the proposed development will require approval by the City Planning Commission and Board of Estimate of street map changes which are the subject of a separate report (C770429MMR) approved by the Commission on January 16, 1980.

The application requests certain authorizations pursuant to various provisions of Article VII, Chapter 8 of the Zoning Resolution relating to large-scale residential developments, as follows:

1. Section 78-311(a). To authorize the total floor area permitted in the R3-2 District to be distributed without regard for zoning lot lines;
 2. Section 78-311(b). To authorize the total open space required in the R3-2 District to be distributed without regard for zoning lot lines;
 3. Section 78-311(c). To authorize the minimum required lot area as set forth in Section 23-32 to be reduced in accordance with the provisions of this Section;
 4. 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;
 5. Section 78-51. To authorize subdivision of the development before, during or after development into two or more zoning lots, which may be in different ownerships; and
 6. Section 78-52. To authorize an area to be designated as common open space on the subdivision plan to be held in separate ownership for the use and benefit of residents occupying specified zoning lots.
-

The application requests certain certifications pursuant to various provisions of Article X, Chapter 7 of the Zoning Resolution relating to Designated Open Space, as follows:

7. Section 107-22. To certify the Designated Open Space shall be preserved in its natural state by the owner;

8. Section 107-222. To certify a public pedestrian way shall be built and maintained by the owner of the zoning lot and shall be accessible to the public at all times; and

9. Section 107-224. To certify Designated Open Space on a zoning lot may count as lot area for the purpose of applicable regulations on yards, floor area ratio, open space ratio, lot area per dwelling unit or lot area per room. Any designated open space claimed as required open space shall be accessible to and usable by all residents of the zoning lot.

The application will conform to the following provision of Article X, Chapter 7 of the Zoning Resolution relating to future subdivision:

10. Section 107-08. The proposed large-scale residential development will conform to the regulations of this Section as indicated on the supplemental drawings numbered 1 through 10, filed with and made part of the application.

The application requests certain authorizations pursuant to various provisions of Article X, Chapter 7 of the Zoning Resolution relating to the Special South Richmond Development District, as follows:

11. Section 107-62. To authorize modification of the yard or court regulations otherwise required by Section 107-46, as shown on the supplemental drawings filed with and made part of the application;

12. Section 107-64. To authorize the removal of trees of six inch caliper or more, whose removal would otherwise be prohibited under the provisions of Section 107-32; and

13. Section 107-65. To authorize the natural topography to be modified beyond the amount specified in Section 107-31.

The application requests a certification pursuant to the following provision of Article X, Chapter 7 of the Zoning Resolution relating to Public Schools:

14. Section 107-123. To certify that sufficient school seat capacity will be available in the public schools to accommodate the anticipated primary and intermediate school children of the development.

The application requests a special permit pursuant to the following Section of Article X, Chapter 7 of the Zoning Resolution:

15. Section 107-76. To allow adjustments in the boundaries of the designated open space, provided that such adjustment will not place the new boundary closer than 60 feet to a watercourse.

The application was certified as complete by the City Planning Commission on September 10, 1979, in accordance with Article 3 of the Uniform Land Use Review Procedure (ULURP), and referred to Community Board #3.

Community Board #3 held a public hearing on the application on October 10, 1979, and voted on October 23, 1979 to recommend qualified disapproval of the project to the extent that it relies on school seat certification provided for in the capital budget but not physically commenced.

On November 13, 1979 (Cal. #1) the City Planning Commission scheduled a PUBLIC HEARING on the application. The hearing was duly held on November 28, 1979 (Cal. #38). There were no appearances, and the hearing was closed.

CONSIDERATION

The proposed large-scale residential development will be built on approximately 10 acres of gently sloping land containing a few trees. It is bordered on the east by Sandy Brook which is part of the Designated Open Space network, on the west by Bloomingdale Road, and on the south by Wodale Village. The surrounding area is largely vacant except for some old one family homes along Bloomingdale Road. The property will be developed with a maximum of 125 one-family detached or semi-detached houses on a single loop street emanating from Bloomingdale Road.

The Designated Open Space will be left in its existing natural state. The approvals herein granted include a special permit for adjustments in the boundary of the Designated Open Space pursuant to Section 107-76 of the Zoning Resolution to better accommodate the natural features and the proposed development. There is no reduction in the size of the Designated Open Space.

This development along with the Wodale Village Development directly to the south, now under construction, and some other projects in the area now in the planning stage, will be the first major projects directly related to the Designated Open Space to be protected.

The Community Board's rejection of the proposed development was based largely on its concern about the availability of school seats for the expected children from this project. The board felt that the school seat approval based on schools in the Capital Budget but not yet constructed, while legal, was not in the best interest of the community. There is however a general underutilization of public school seats in the South Richmond area so that school seats at this level will be available. The present problem lies with seats at the intermediate school level. The new I.S. 75, which is currently in the Capital Budget will have sufficient capacity to accommodate the expected children from this and surrounding development.

At the time the Community Board took its vote and gave their recommendation for this proposal, an application for Site Selection and related mapping changes for the proposed I.S. 75 had not as yet been submitted by the Board of Education. These applications have now been submitted to the Department of City Planning in response to the community's concern. The Commission feels that the Board of Education, in taking these steps, is firmly committed to the construction of this school in the near future, and as such, can approve the development as planned.

The Commission hereby makes the following findings pursuant to Sections 78-313 and 107-62 of the Zoning Resolution:

- a) That such authorizations will aid in achieving the general purposes and intent, as set forth in Section 78-01 (General Purposes);
- b) That authorized distribution of floor area, dwelling units, rooms, open spaces or locations of buildings, will permit better site planning and will thus benefit both the residents of the development and the City as a whole;
- c) That such distribution or location will not unduly increase the bulk of buildings, density of population, or intensity of use in any block, to the detriment of the occupants of buildings in the block or nearby blocks; and
- d) That such distribution or location will not affect adversely any other zoning lots outside the development, by restricting access to light and air or by creating traffic congestion, or by having adverse effects on privacy.

The Commission hereby finds, pursuant to Section 107-64 of the Zoning Resolution, that the retention of some trees would cause serious disadvantage in the arrangement of open areas, impairing the usefulness of such areas, or such trees are located in areas where more than two feet of cut or fill is required,

and measures for saving the trees would be extremely difficult and impractical.

The Commission hereby finds, pursuant to Section 107-65 of the Zoning Resolution, that feasible development necessitates modification to existing topography beyond the amount specified in Section 107-31 in order to permit internal circulation systems to comply with city standards for safe and adequate circulation of the residents and public and emergency services and to accommodate active and passive recreational facilities in common open space as well as in private open space. Such modification will not cause unnecessary disturbance of the drainage pattern of the area but is necessary to permit finished grading in a manner that will provide for adequate drainage within the development. The topography as modified will have minimal, if any, impact on the existing topography of the surrounding area and will blend harmoniously with it.

The Commission hereby finds, pursuant to Section 107-76 of the Zoning Resolution, as a condition for granting the requested boundary adjustments in designated open space, that:

- a) such adjustment will result in a substantial improvement in the quality and usefulness of the designated open space; and
- b) such adjustment will provide an equivalent area replacement for the area removed from the designated open space.

Consequently, the Commission determined that the application warrants approval subject to the conditions stated in the following resolution:

RESOLVED, by the City Planning Commission, pursuant to Section 197-c of the New York City Charter, that the application of M.W.H. Hills, Inc. for the grant of a special permit, authorizations, and certifications involving a large-scale residential development in the Special South Richmond District on property located easterly of Bloomingdale Road and northerly of Sinclair Avenue, Borough of Staten Island, be and hereby is approved pursuant to Sections 78-311(a), 78-311(b), 78-311(c), 78-311(d), 78-51, 78-52, 107-22, 107-222, 107-224, 107-08, 107-62, 107-64, 107-65, 107-123, and 107-76 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. This Resolution shall be effective only if the restrictive declaration 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

5. 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 attached restrictive declaration whose provisions shall constitute conditions of the special permit, authorizations and certifications hereby granted, the City Planning Commission may, without the consent of any other party, revoke any or all of said special permit, authorizations or certifications 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.

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, authorizations and certifications herein granted.

The above resolution duly adopted by the City Planning Commission on January 16, 1980 (Cal. #44) 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 Sections 78-311(a), 78-311(b), 78-311(c), 78-311(d), 78-51, 78-52, 107-22, 107-224, 107-08, 107-62, 107-64, 107-65, 107-123, and 107-76 of the Zoning Resolution and in accordance with the requirements of Section 197-c of the Charter.

HERBERT STURZ, Chairman;
MARTIN GALLENT, Vice-Chairman,
HOWARD B. HORNSTEIN, THEODORE E. TEAH, Commissioners.

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Exhibit QQ

SPECIAL PERMITS and AUTHORIZATIONS pursuant to Article VII, Chapter 8 of the Zoning Resolution, involving a large-scale residential development on property bounded generally by Victory Boulevard, Signs Road, and Dinsmore Street, Borough of Staten Island, CB #3.

The application for the special permits and authorizations was filed by Morton Wolkoff and Stephen Wolkoff, successors to Logan Holding Corporation, the owners of the property, to permit the construction of a 189-unit condominium development. As the development consists of more than three principal buildings on a site in excess of 1.5 acres, it qualifies as a large-scale residential development in accordance with Section 78-02 of the Zoning Resolution.

In addition to the special permits and authorizations (CP-23056A) which are the subject of this report, implementation of the proposed development also requires favorable action by the City Planning Commission and the Board of Estimate on the following three matters:

1. A change in the City Map (CP-23048), approved by the Commission on November 19, 1975 (Cal. #12), eliminating a number of streets within the development;
2. An application for the grant of a special permit (CP-23057), approved by the Commission on September 19, 1979 (Cal. # 64), pursuant to Section 74-732 of the Zoning Resolution, for a private sewage pumping station to serve the large-scale residential development; and
3. An amendment of the Zoning Resolution (CP-23058) approved by the Commission on September 19, 1979 (Cal. # 63), to permit the waiving of finding (d) of Section 78-34 which otherwise would have required community facility space to be provided.

The change in the City Map (CP-23048) was adopted before the three zoning actions (CP-23056A, CP-23057, and CP-23058) in order to allow the appropriate agreement, covering the requirements of the City agencies (such as the Departments of Water Resources and Highways), to be finalized and submitted to the Board of Estimate. Both the map change and the agreement were approved by the Board of Estimate on July 19, 1979 (Cal. No. 647).

The application which is the subject of this report (CP-23056A) seeks special permits and authorizations pursuant to the following Sections of the Zoning Resolution:

1. Section 78-34. To find that the development would meet the requirements of this Section, as a prerequisite for qualifying for a bonus for common open space and good site plan under Section 78-351;
2. Section 78-34. Pursuant to the new enabling amendment of the Zoning Resolution (CP-23058), to waive finding (d) and make inapplicable the provisions of Section 78-352 which otherwise would have required community facility space to be provided even though no bonus is being sought for a community facility;
3. Section 78-351. Bonus for Common Open Space and Good Site Plan. To modify the permitted floor area ratio and required open space ratio for the development as a whole, by increasing the maximum floor area ratio from 0.50 to 0.54, and by reducing the minimum open space ratio from 150.0 to 135.0, in accordance with the provisions of this Section, which permits the maximum floor area ratio to be increased to 0.60 and permits the minimum open space ratio to be reduced to 125.0. The development qualifies for this bonus by providing more than 25 percent of the total required open space in common areas meeting the requirements of Section 78-52 (Common Open Space);
4. Section 78-312(c). Special permit to authorize minor variations in required rear yards on the periphery of the development;
5. Section 78-312(f). Special permit to modify the spacing between buildings regulations by more than 15 percent of that required by Section 23-71;
6. Section 78-23. To authorize a swimming pool as accessory to the large-scale residential development;
7. Section 78-52. Common Open Space. To provide common open space as shown on the site plan, in accordance with the provisions of this Section; and
8. Section 78-53. Common Parking Areas. To provide common off-street parking areas as shown on the site plan, in accordance with the provisions of this Section.

On October 15, 1975 (Cal. #2), the City Planning Commission scheduled a PUBLIC HEARING on this application. The hearing was held on October 29, 1975 (Cal. #11) in conjunction with the related hearings on the change in the City Map (CP-23048), the special permit for the private sewage pumping station (CP-23057), and the amendment of the Zoning Resolution (CP-23058). There was no opposition and the hearing was closed.

This proposed project, to be sold as a condominium, amply qualifies for the requested density bonus and site planning waivers. In particular, the circulation

system minimizes the area devoted to cars, keeps cars at the edge of the development, and provides for a parking ratio of approximately 1.5 spaces per unit, an increase over the 1 to 1 ratio required under existing zoning. Also, the topography and ground cover of the site have been respected as much as possible, so that significant trees would be preserved and scenic views created. The dwelling units will be built as row houses clustered in small groups.

The proposed development will be serviced by a local bus running on Victory Boulevard, bordering the site, terminating at the Ferry Terminal. Also, within a quarter mile of the site there are two express bus routes going to Manhattan. Ample neighborhood shopping facilities exist nearby on Richmond Avenue. The proposed Staten Island Industrial Park, located across Victory Boulevard, is oriented to the Davis Wildlife Refuge in the opposite direction thus minimizing any possible impact on the residential development. Elementary and intermediate schools in the area have available seating to service the development.

A restrictive declaration has been signed by the applicant, obliging him to post a common facilities bond, establish a homeowners' association and adhere to the proposed site plan.

The Commission makes the following findings, pursuant to Section 78-34 of the Zoning Resolution:

- (a) That throughout the development the site plan provides a significantly better arrangement of the buildings in relation to one another and to their sites from the standpoints of privacy, access of light, organization of private open spaces and preservation of important natural features to a greater degree than would be possible or practical for a development composed of similar types built in strict compliance with the applicable district regulations;
- (b) That the public facilities and utilities in the area are adequate to meet the needs of the development or that needed additional facilities will be provided as a part of the development by the developer or owner; and
- (c) That the development complies with the provisions of Section 78-351 (Bonus for common open space and good site plan).

Finding (d), which would have mandated compliance with the provisions of Section 78-352, requiring community facility space, is hereby waived by the Commission, pursuant to the new amendment of the Zoning Resolution (CP-23058).

The Commission makes the following findings, pursuant to Section 78-313 of the Zoning Resolution:

- (a) The authorizations and special permits granted pursuant to Sections 78-311 and 78-312 will aid in achieving the general purposes and intent of Article VII, Chapter 8, as set forth in Section 78-01;
- (b) The authorized distribution of floor area, dwelling units, rooms, open spaces, and location of buildings, will permit better site planning and will thus benefit both the residents of the development and the City as a whole;
- (c) The above distribution or location will not unduly increase the bulk of buildings, density of population, or intensity of use in any block, to the detriment of the occupants of buildings in the block or nearby blocks;
- (d) The above distribution or location will not affect adversely any other zoning lots outside the development, by restricting access to light and air or by creating traffic congestion; and
- (e) The common areas will, by location, size, shape and other physical characteristics, and by their relationship to surrounding development and the circulation system, permit realization of the full community service advantages for which such pooled areas are designed. This finding also satisfies the requirements of Section 78-351.

The Commission makes the following findings, pursuant to Section 78-23 of the Zoning Resolution:

- (a) The swimming pool is located in the common open space area, and meets all the requirements set forth in Section 78-52 (Common Open Space);
- (b) The use of the swimming pool is restricted to the residents of the large-scale residential development and their guests;
- (c) The edge of the swimming pool is located not less than 50 feet from any lot line on the periphery of the development, and is suitably screened from other areas on the same or adjacent zoning lots; and
- (d) The swimming pool complies in all other respects with the definition of "accessory use" as set forth in Section 12-10.

Consequently, the Commission 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 Morton Wolkoff and Stephen Wolkoff, successors to Logan Holding Corporation, for the grant of special permits and authorizations involving a large-scale residential development on property bounded generally by Victory Boulevard, Signs Road, and Dinsmore Street, Borough of Staten Island, be and hereby is approved pursuant to Sections 78-34, 78-351, 78-312(c), 78-312(f), 78-23, 78-52, and 78-53 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. This Resolution shall be effective only if the restrictive declaration 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
5. 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 attached restrictive declaration 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 special permits or 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.

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 and authorizations herein granted.

The above resolution duly adopted by the City Planning Commission on September 19, 1979 (Cal. #65) 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 Article VII, Chapter 8 of the Zoning Resolution.

ROBERT F. WAGNER, Jr., Chairman;
MARTIN GALLEN, Vice-Chairman,
SYLVIA DEUTSCH, HOWARD B. HORNSTEIN, THEODORE E. TEAH, Commissioners.

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STATE OF NEW YORK)
)
COUNTY OF NEW YORK)

ss.: **AFFIDAVIT OF SERVICE
BY MAIL**

I, Tyrone Heath, 2179 Washington Avenue, Apt. 19, Bronx, New York 10457, being duly sworn, depose and say that deponent is not a party to the action, is over 18 years of age and resides at the address shown above or at

On March 16, 2021

deponent served the within: **Motion for Leave to Appeal**

upon:

Janice Mac Avoy
FRIED, FRANK, HARRIS, SHRIVER & JACOBSON LLP
One New York Plaza
New York, New York 10004
(212) 859-8000
janice.macavoy@friedfrank.com
Attorneys for Respondents Cherry Street Owner LLC, Two Bridges Senior Apartments, L.P., Two Bridges Associates L.P., and LE1 Sub LLC

Rachel K. Moston
Assistant Corporation Counsel
ZACHARY W. CARTER
Corporation Counsel of the City of New York
100 Church Street
New York, New York 10007
(212) 356-2190
nycappeals@law.nyc.gov
Attorneys for Respondents City of New York Department of City Planning and City Planning Commission

the address(es) designated by said attorney(s) for that purpose by depositing 1 true copy(ies) of same, in a postpaid properly addressed wrapper in a Post Office Mail Depository, under the exclusive custody and care of the United States Postal Service, within the State of New York.

Sworn to before me on March 16, 2021

MARIA MAISONET
Notary Public State of New York
No. 01MA6204360
Qualified in Queens County
Commission Expires Apr. 20, 2021

Job# 302536