

CITY PLANNING COMMISSION DISPOSITION SHEET

**PUBLIC MEETING:
WEDNESDAY, NOVEMBER 16, 2005
10:00 A.M. SPECTOR HALL
22 READE STREET, NEW YORK 10007**

**Yvette V. Gruel, Calendar Officer
22 Reade Street, Room 2E
New York, New York 10007-1216
(212) 720-3370**

CAL NO.	ULURP NO.	CD NO.	PROJECT NAME	C.P.C. ACTION
1	C 060108 ZMX	10	VILLAGE OF BAYCHESTER REZONING	Scheduled to be Heard on 12/7/05
2	C 060109 ZMX	10	BRUSH AVENUE REZONING	" "
3	C 060110 ZMX	12	WOODLAWN REZONING	" "
4	C 050471 PQX	12	WILLIAMSBRIDGE NAACP DAY CARE CENTER	" "
5	C 050435 HAM	10	CORNERSTONE SITE 1	" "
6	C 050088 ZSR	3	VERIZON MONOPOLE	" "
7	C 060084 ZMX	12	OLINVILLE REZONING/R5A TEXT AMENDMENT	Favorable Report Adopted
8	N 060083 ZRY	CW	" "	" "
9	C 010049 MMK	17	PAERDEGAT AVENUE CITY MAP CHANGE	" "
10	C 050481 PCK	16	BROOKLYN/QUEENS ATD PROGRAM	" "
11	N 060107 BDK	14	FLATBUSH-NOSTRAND JUNCTION BID	" "
12	C 050447 HAK	4	GATES PLAZA	" "
13	C 060033 ZMM	10	CORNERSTONE PROJECT SITE 10	" "
14	C 060034 HAM	10	" "	" "
15	C 050245 MMQ	6	REMSEN CEMETERY PARK	" "
16	N 060022 ZRR	1, 2, 3	LOWER DENSITY GROWTH MANAGEMENT ZONING TEXT	" "
17	N 030507 ZAR	1	DUANE READE/VICTORY BOULEVARD	Laid Over

COMMISSION ATTENDANCE:	Present (P) Absent (A)	COMMISSION VOTING RECORD:															
		In Favor - Y Oppose - N Abstain - AB Recuse - R															
Calendar Numbers:		7	8	9	10	11	12	13	14	15	16	17	18				
Amanda M. Burden, AICP, Chair	P	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y		Y		
Kenneth J. Knuckles, Esq., Vice Chairman	P	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y		Y		
Angela M. Battaglia	P	Y	Y	Y	Y	Y	R	Y	Y	Y	Y	Y	L	Y			
Irwin Cantor, P.E.	P	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	A	Y			
Angela R. Cavaluzzi, R.A.	P	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	I	Y			
Alfred C Cerullo, III	P	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	D	Y			
Richard W. Eaddy	P	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y		Y			
Jane D. Gol	P	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	O	Y			
Lisa Gomez	P	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	V	Y			
Christopher Kui	P	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	E	Y			
John Merolo	P	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	R	Y			
Karen A. Phillips	P	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y		Y			
Dolly Williams, Commissioners	P	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y		Y			

MEETING ADJOURNED AT: 12:55 p.m.

**COMPREHENSIVE
CITY PLANNING CALENDAR**

of

The City of New York

CITY PLANNING COMMISSION

WEDNESDAY, NOVEMBER 16, 2005

MEETING AT 10:00 A.M. AT SPECTOR HALL

22 READE STREET

NEW YORK, NEW YORK



Michael R. Bloomberg, Mayor

City of New York

[No. 24]

Prepared by Yvette V. Gruel, Calendar Officer

To view the Planning Commission Calendar and/or the Zoning Resolution on the World Wide Web, visit the Department of City Planning (DCP) home page at:
nyc.gov/planning

A

CITY PLANNING COMMISSION

GENERAL RULES OF PROCEDURE AS PERTAINING TO
PUBLIC MEETINGS

1. A quorum shall consist of seven members.
2. Final action by the Commission shall be by the affirmative vote of not less than seven members.
3. Except by unanimous consent, matters upon which public hearing are required by law shall lie over until the next meeting following the public hearing.
4. Matters not on the calendar may be considered by unanimous consent.

NOTE - Matters scheduled for public hearing by the City Planning Commission usually appear in three calendars: in Section I, (Scheduling Dates for Future Public Hearings), in Section II, (Reports), and in Section III, (Public Hearings). Matters scheduled for public hearing by Community Boards appear in a separate calendar available in the Calendar Information Office.

NOTICE--CALENDARS: City Planning Commission calendars and disposition sheets are now available on the Department of City Planning's web site (www.nyc.gov/planning). The availability of these documents on-line will occur earlier than the current printed documents.

If you wish to be notified of the web site availability of calendars and disposition sheets, please send your name, organization and E-mail address to the address listed below. Any individual or organization that would like to receive paper copies of the aforementioned documents will be able to do so at a fee of \$120.00 annually. Please have the certified check made out to the **City of New York -- Department of City Planning** to the attention of the Calendar Information Office, 22 Reade Street, Room 2E, New York, New York 10007-1216.

For Calendar Information: call (212) 720-3368, 3369, 3370.

Note to Subscribers: Notify us of change of address including E-mail by writing to:

City Planning Commission
Calendar Information Office
22 Reade Street - Room 2E
New York, New York 10007-1216

**B
CITY PLANNING COMMISSION**

22 Reade Street, New York, N.Y. 10007-1216

- AMANDA M. BURDEN, AICP, Chair**
- KENNETH J. KNUCKLES, Esq., Vice Chairman**
- ANGELA M. BATTAGLIA**
- IRWIN G. CANTOR, P.E.**
- ANGELA R. CAVALUZZI, R.A.**
- ALFRED C. CERULLO, III**
- RICHARD W. EADDY**
- JANE D. GOL**
- LISA A. GOMEZ**
- CHRISTOPHER KUI**
- JOHN MEROLO**
- KAREN A. PHILLIPS**
- DOLLY WILLIAMS, Commissioners**
- YVETTE V. GRUEL, Calendar Officer**

The regular public meetings of the Commission shall be held twice monthly on Wednesday at 10:00a.m. in Spector Hall, 22 Reade Street, Manhattan, unless otherwise ordered.

ORDER OF BUSINESS

WEDNESDAY, NOVEMBER 16, 2005

Roll Call; Approval Of Minutes.....	1
I. Matters To Be Scheduled for Public Hearing.....	1
II. Reports.....	6
III. Public Hearings	32
IV Schedule Of Meetings: July 1, 2005 - December 31, 2005.....	84
V Schedule Of Meetings: January 1, 2006 - July 31, 2006	85

**Community Board Public Hearing Notices are available in the
Calendar Information Office, Room 2E, 22 Reade Street,
New York, N.Y. 10007**

The next regular public meeting of the City Planning Commission is scheduled for December 7, 2005 at Spector Hall 22 Reade Street, New York, at 10:00 a.m.

C

GENERAL INFORMATION

HOW TO PARTICIPATE:

Signing up to speak: Anyone wishing to speak on any of the items listed under "Public Hearing" in this Calendar, is requested to fill out a speaker's slip supplied at the staff desk outside the hearing chambers on the day of the hearing. Speakers on each item will be called in the order these slips are submitted, with the exception that public officials will be allowed to speak first. If a large number of people wish to speak on a particular item, statements will be taken alternating every 30 minutes between those speaking in support of the proposal and those speaking in opposition.

Length of Testimony: In order to give others an opportunity to speak, all speakers are asked to limit their remarks to three minutes.

Written Comments: If you intend to submit a written statement and/or other documents please submit 20 sets of each.

Anyone wishing to present facts or to inform the Commission of their view on an item in this calendar, but who cannot or does not wish to speak at the public hearing, may fill out the form below and return it to the desk outside the hearing chambers or mail their written comments to:

**CITY PLANNING COMMISSION
Calendar Information Office - Room 2E
22 Reade Street, New York, N.Y. 10007**

(Extra copies of this form may be obtained in the Calendar Information Office at the above address.)

Subject _____

Date of Hearing _____ Calendar No. _____

Borough _____ Identification No.: _____ CB No.: _____

Position: Opposed _____
 In Favor _____

Comments:

Name: _____

Address: _____

Organization (if any) _____

Address _____ Title: _____

NOVEMBER 16, 2005

APPROVAL OF MINUTES OF Regular Meeting of November 2, 2005

**I. PUBLIC HEARINGS OF THE FOLLOWING MATTERS TO BE
SCHEDULED FOR WEDNESDAY, DECEMBER 7, 2005**

**STARTING AT 10:00 A.M.
IN SPECTOR HALL, 22 READE STREET
NEW YORK, NEW YORK**

BOROUGH OF THE BRONX

No. 1

VILLAGE OF BAYCHESTER REZONING

CD 10

C 060108 ZMX

IN THE MATTER OF an application submitted by the Department of City Planning pursuant to Sections 197-c and 201 of the New York City Charter for **an amendment of the Zoning Map, Section No. 4a:**

- 1. changing from an R3-2 District to an R3A District property bounded by Hutchinson River Parkway West, Boller Avenue and its northwesterly centerline prolongation, Stillwell Avenue, Hunter Avenue and its southeasterly centerline prolongation, the northwesterly boundary line of New York, New Haven & Hartford Rail Road Right-of Way, Bruckner Expressway and its northwesterly centerline prolongation, Stillwell Avenue and its southwesterly centerline prolongation, and Palmer Avenue and its northwesterly centerline prolongation; and**
- 2. changing from an R6 District to an R3A District property bounded by Hunter Avenue, a line 95 feet northeasterly of Boller Avenue, Stillwell Avenue, and Boller Avenue;**

as shown on a diagram (for illustrative purposes only) dated September 12, 2005.

Resolution for adoption scheduling December 7, 2005 for a public hearing.

No. 2

BRUSH AVENUE REZONING

CD 10

C 060109 ZMX

IN THE MATTER OF an application submitted by the Department of City Planning pursuant to Sections 197-c and 201 of the New York City Charter for **an amendment of the Zoning Map, Section No. 7a changing from an R4 District to an R4A District property bounded by** Wenner Place, the westerly service road of the Hutchinson River Expressway, Senger Place, Jay Place, and Brush Avenue, as shown on a diagram (for illustrative purposes only) dated September 12, 2005.

Resolution for adoption scheduling December 7, 2005 for a public hearing.

No. 3

WOODLAWN REZONING

CD 12

C 060110 ZMX

IN THE MATTER OF an application submitted by the Department of City Planning pursuant to Sections 197-c and 201 of the New York City Charter for **an amendment of the Zoning Map, Section Nos. 1c and 2a:**

1. **changing from an R4-1 District to an R4A District property bounded by** Van Cortlandt Park East, the boundary line of the City of New York, Vireo Avenue and its northerly centerline prolongation, a line perpendicular to the easterly street line of Vireo Avenue, distant 200 feet (as measured along the street line) from the point of intersection of the easterly street line of Vireo Avenue and the southerly street line of McLean Avenue, a line bisecting the angle formed by the northerly prolongations of the easterly street line of Vireo Avenue and the westerly street line of Webster Avenue, East 234th Street, Peters Place, a line 100 feet southerly of east 234th Street, a line 285 feet easterly of Katonah Avenue, East 234th Street, a line 100 feet easterly of Katonah Avenue, East 240th Street, a line 100 feet westerly of Katonah Avenue, a line midway between East 238th Street and east 239th Street, a line 325 feet westerly of Katonah Avenue, East 238th Street, a line 300 feet westerly of Katonah Avenue, a line midway between East 237th Street and East 238th Street, a line 350 feet westerly of Katonah Avenue, East 237th Street, a line 425 feet westerly of Katonah Avenue, a line midway between East 236th Street and East 237th Street, a line 100 feet westerly of Katonah Avenue, east 235th

Street, Oneida Avenue, a line 150 feet southerly of east 235th Street, Napier Avenue, East 236th Street, and a line 100 feet westerly of Oneida Avenue;

2. **changing from an R5 District to an R4A District property bounded by** Van Cortlandt Park East, a line 100 westerly of Oneida Avenue, East 236th Street, Napier Avenue, and East 235th Street; and
3. **changing from an R4-1 District to an R5B District property bounded by** a line midway between East 238th Street and East 239th Street, a line 100 feet westerly of Katonah Avenue, a line midway between East 236th Street and East 237th Street, a line 425 feet westerly of Katonah Avenue, east 237th Street, a line 350 feet westerly of Katonah Avenue, a line midway between East 237th Street and east 238th Street, a line 300 feet westerly of Katonah Avenue, East 238th Street, and a line 325 feet westerly of Katonah Avenue;

as shown on a diagram (for illustrative purposes only) dated September 12, 2005.

Resolution for adoption scheduling December 7, 2005 for a public hearing.

No. 4

WILLIAMSBRIDGE NAACP DAY CARE CENTER

CD 12

C 050471 PQX

IN THE MATTER OF an application submitted by the Administration for Children's Services and the Department of Citywide Administrative Services, pursuant to Section 197-c of the New York City Charter, for the acquisition of property located at 670-680 East 219th Street (Block 4651, Lot 44), Bronx, for continued use as a child care center.

Resolution for adoption scheduling December 7, 2005 for a public hearing.

BOROUGH OF MANHATTAN

No. 5

CORNERSTONE SITE 1

CD 10

C050435HAM

IN THE MATTER OF an application submitted by the Department of Housing Preservation and Development (HPD):

- 1) pursuant to Article 16 of the General Municipal Law of New York State for:
 - a) the designation of property located at 150 West 111th Street (Block 1820; Lot 58) as an Urban Development Action Area; and
 - b) an Urban Development Action Area Project for such area;
- 2) pursuant to Section 197-c of the New York City Charter for the disposition of such lots to a developer to be selected by HPD.

to facilitate the development of a 6-story building, tentatively known as Cornerstone Site 1, with approximately 18 residential units under the Department of Housing Preservation and Development's Cornerstone Program.

Resolution for adoption scheduling December 7, 2005 for a public hearing.

BOROUGH OF STATEN ISLAND

No. 6

VERIZON MONOPOLE

CD 3

C 050088 ZSR

IN THE MATTER OF an application submitted by New York SMSA Limited Partnership pursuant to Sections 197-c and 201 of the New York City Charter for **the grant of a special permit** pursuant to Section 107-73 of the Zoning Resolution **to modify the height and setback regulations of Section 107-43 of the Zoning Resolution to allow a 100 foot-high telecommunication tower in connection with a proposed wireless communication facility on property located at 3250 Richmond Avenue** (Block 5613, Lot 400), in an R3-2 District, within the Special South Richmond Development District.

Plans for this proposal are on file with the City Planning Commission and may be seen in Room 3N, 22 Reade Street, New York, N.Y. 10007.

Resolution for adoption scheduling December 7, 2005 for a public hearing.

II. REPORTS

BOROUGH OF THE BRONX**Nos. 7 & 8*****OLINVILLE REZONING/R5A TEXT AMENDMENT*****No. 7****CD 12****C 060084 ZMX**

IN THE MATTER OF an application submitted by the New York City Department of City Planning pursuant to Sections 197-c and 201 of the New York City Charter **for an amendment of the Zoning Map, Section Nos. 1d, 2b, 3c and 4a:**

- 1. eliminating from an existing R6 District a C1-3 District bounded by** South Oak Drive, a line perpendicular to the southerly street line of South Oak Drive distant 100 feet westerly (as measured along the street line) from the point of intersection of the southerly street line of South Oak Drive and the westerly street line of Bronxwood Avenue, a line 100 feet southerly of South Oak Drive, and Barnes Avenue;
- 2. changing from an R5 District an R4 District property bounded by** Magenta Street, Barnes Avenue, Bartholdi Street, Bronxwood Avenue, a line 50 feet northerly of Duncan Street, a line midway between Bronxwood Avenue and Radcliff Avenue, a line 100 feet northerly of Duncan Street, Colden Avenue, Magenta Street, Bronxwood Avenue, a line 100 feet southwesterly of Gun Hill Road, Lurting Avenue, a line 100 feet northerly of Duncan Street, Hone Avenue, a line 100 feet northerly of Burke Avenue, Radcliff Avenue, a line 150 feet northerly of Burke Avenue, Bronxwood Avenue, a line 100 feet northerly of Chestnut Street, Barnes Avenue, a line 170 feet southerly of Bartholdi Street, Wallace Avenue, a line 100 feet southerly of Bartholdi Street, and Holland Avenue;
- 3. changing from an R5 District to an R4A District property bounded by** a line 100 feet southerly of Bartholdi Street, Wallace Avenue, a line 170 feet southerly of Bartholdi Street, Barnes Avenue, a line 100 feet northerly of Chestnut Street, Bronxwood Avenue, South Oak Drive, a line perpendicular to the southwesterly street line of South Oak Drive distant 50 feet southeasterly (as measured along the street line) from the point of intersection of the southwesterly street line of South Oak Drive and the easterly street line of Cruger Avenue, North Oak Drive, and Holland Avenue;
- 4. changing from an R6 District to an R4A District property bounded by** South Oak Drive, a line perpendicular to the southerly street line of South Oak Drive

distant 100 feet westerly (as measured along the street line) from the point of intersection of the southerly street line of South Oak Drive and the westerly street line of Bronxwood Avenue, a line 100 feet southerly of South Oak Drive, Barnes Avenue, a line 100 feet northerly of Burke Avenue, and Wallace Avenue;

5. **changing from an R6 District to an R5 District property bounded by** Rosewood Street, a line midway between Olinville Avenue and White Plains Road, Burke Avenue, Olinville Avenue, Lester Street, a line 100 feet easterly of Olinville Avenue, Adee Avenue, Olinville Avenue, a line 100 feet northerly of Adee Avenue, a line 100 feet easterly of Barker Avenue, Lester Avenue, and Barker Avenue;
6. **changing from an R7-1 District to an R5 District property bounded by** Rosewood Street, Barker Avenue, Burke Avenue, and Bronx Boulevard;
7. **changing from an R6 District to an R5A District property bounded by:**
 - a. a line midway between East 219th Street and East 220th Street, a line 150 feet northwesterly of White Plains Road, a line 100 feet northwesterly of White Plains Road, East 213th Street, Willett Avenue, a line 350 feet southwesterly of East 213th Street, a line midway between Olinville Avenue and Willett Avenue, a line 100 feet northeasterly of East 213th Street, Olinville Avenue, East 219th Street, and a line 100 feet southeasterly of Carpenter Avenue; and
 - b. Duncomb Avenue, a line 600 feet northerly of Magenta Street, a line midway between Olinville Avenue and White Plains Road, a line 100 feet northerly of Magenta Street, Olinville Avenue, Rosewood Street, and Barker Avenue;
8. **changing from an R7-1 District to an R5A District property bounded by:**
 - a. East 219th Street, Olinville Avenue, a line 100 feet southwesterly of East 213th Street, a line midway between Bronx Boulevard and Olinville Avenue, a line 125 feet southwesterly of East 219th Street, and the southwesterly prolongation of a line 100 feet southeasterly of Carpenter Avenue; and
 - b. Duncomb Avenue, Barker Avenue, Rosewood Street, and Bronx Boulevard; and
9. **changing from an R7-1 District to an R6 District property bounded by** East 219th Street, the southwesterly prolongation of a line 100 feet southeasterly of Carpenter Avenue, a line 125 feet southwesterly of East 219th Street, a line midway between Bronx Boulevard and Olinville Avenue, a line 100 feet southwesterly of East 213th Street, Olinville Avenue, East 211th Street, and Bronx Boulevard;

as shown on a diagram (for illustrative purposes only) dated August 22, 2005.

(On October 19, 2005, Cal. No. 10 the Commission scheduled November 2, 2005 for a public hearing. On November 2, 2005, Cal. No. 24, the hearing was closed.)

For consideration.

No. 8

Citywide

N 060083 ZRY

IN THE MATTER OF an application submitted by the Department of City Planning pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, relating to Article II, Chapter 3.

Matter in underline is new, to be added;

Matter in ~~strikeout~~ is old, to be deleted;

Matter within # # is defined in Section 12-10;

* * * indicates where unchanged text appears in the Zoning Resolution

**ARTICLE 1
GENERAL PROVISIONS**

**Chapter 1
Title, Establishment of Controls, and Interpretation of Regulations**

* * *

**11-12
Establishment of Districts**

* * *

R5 General Residence District
R5ADetached Residence District
R5BGeneral Residence District

* * *

**Chapter 3
Bulk Regulations for Residential Buildings in Residence Districts**

* * *

**23-10
OPEN SPACE AND FLOOR AREA REGULATIONS**

* * *

**23-141
Open space and floor area regulations in R1, R2, R3, R4 or R5 Districts**

R1 R2 R3 R4 R5

Except as otherwise provided in Section 23-144 (For non-profit residences for the elderly in R3, R4, R5, R6 and R7 Districts), in the districts indicated, the minimum required #open space# or #open space ratio#, the maximum #lot coverage# and the maximum #floor area ratio# for any #building# on a #zoning lot# shall be as set forth in the following tables:

* * *

(b)

District	Maximum #Lot Coverage# (in percent)	Minimum Required #Open Space# (in percent)	Maximum #Floor Area Ratio#
R3A R3X		governed by #yard# requirements	.50
R4A R4-1		governed by #yard# requirements	.75
R2X		governed by #yard# requirements	.85
R2A	30	70	.50
R3-1 R3-2	35	65	.50
R4	45	55	.75
R4B	55	45	.90
<u>R5A</u>		<u>governed by #yard# requirements</u>	<u>1.10</u>
R5	55	45	1.25
R5B	55	45	1.35

In addition, the following rules shall apply:

* * *

- (3) In R3-2, R4 and R5 Districts, except R4A, R4B, R4-1, R5A and R5B Districts, the permitted #floor area# of a #single-# or #two-family detached# or #semi-detached residence developed# after June 30, 1989, may be increased by 100 square feet if at least one enclosed #accessory# off-street parking space is provided in a garage located in the #side lot ribbon# pursuant to paragraph (f) of Section 23-12 (Permitted Obstructions in Open Space), Section 23-441 (Location of garages in side yards of corner lots) or Section 23-442 (Location of garages in side yards of other zoning lots).

* * *

- (6) In R5A Districts, the permitted #floor area# of a #single-# or #two-family detached residence# may be increased by up to 300 square feet for one parking space provided such space is in a garage located in the #side lot ribbon# pursuant to Sections 23-12, paragraph (f), 23-441 or 23-442.

* * *

23-20
DENSITY REGULATIONS

* * *

23-22
Maximum Number of Dwelling Units or Rooming Units

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, the maximum number of #dwelling units# or #rooming units# shall equal the maximum #residential floor area# permitted on the #zoning lot# divided by the applicable factor in the following table. In R1 through R5 Districts, no #rooming units# shall be permitted and any #dwelling unit# shall be occupied by only one #family#. Fractions equal to or greater than three-quarters resulting from this calculation shall be considered to be one #dwelling unit# or #rooming unit#.

* * *

**FACTOR FOR DETERMINING MAXIMUM NUMBER
 OF DWELLING UNITS OR ROOMING UNITS**

District	Factor for #Dwelling Units#	Factor for #Rooming Units#
	* * *	
R4A		1,280
R5		760
R4** R5** R5B		900
<u>R5A</u>		<u>1,560</u>
R5B***		1,350
	* * *	

- * for #single-# and #two-family detached# and #semi-detached residences#
- ** for #residences# in a #predominantly built-up area#
- *** for #buildings# subject to the provisions of Section 25-633 (Prohibition of curb cuts in certain districts)

23-221

Maximum number of dwelling units or rooming units for non-profit residences for the elderly

R3-2 R4 R5 R6 R7

In the districts indicated, except R4-1, R4A ~~and~~ R4B and R5A Districts, the maximum number of #dwelling units# or, where permitted, #rooming units# for #non-profit residences for the elderly#, shall equal the maximum #residential floor area# permitted on the #zoning lot# divided by the applicable factor in the following table. No #rooming units# shall be permitted in R3-2, R4 or R5 Districts. Fractions equal to or greater than three-quarters resulting from this calculation shall be considered to be one #dwelling unit# or #rooming unit#.

* * *

23-30

LOT AREA AND LOT WIDTH REGULATIONS

* * *

23-32

Minimum Lot Area or Lot Width for Residences

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, except as provided in Section 23-33 (Special Provisions for Existing Small Lots), no #residence# is permitted on a #zoning lot# with a total #lot area# or #lot width# less than as set forth in the following table:

REQUIRED MINIMUM LOT AREA AND LOT WIDTH

Type of #Residence#	Minimum #Lot Area# (in sq. ft.)	Minimum #Lot Width# (in feet)	District
	* * *		
#Single-# or #two-family detached# or #zero lot line# where permitted	3,800	40	R3-1 R3-2 R4-R10
	3,325	35	R3X
	2,850	30	R4A* <u>R5A</u>
	2,375	25	R3A* R4B R4-1* R5B
Any other permitted	1,700	18	R3-R10*
	* * *		

**23-40
YARD REGULATIONS**

* * *

**23-44
Permitted Obstructions in Required Yards or Rear Yard Equivalents**

In all #Residence Districts#, the following shall not be considered obstructions when located within a required #yard# or #rear yard equivalent#:

- (a) In any #yard# or #rear yard equivalent#:

* * *

Overhangs in R4 and R5 Districts, except R4A, R4-1, R4B, ~~or~~ R5A or R5B Districts, which are that portion of a #building# above the first #story# including the #basement# which projects not more than three feet into the required 18 foot

#front yard#. In no case shall the lowest level of the projected portion be less than seven feet above the level of the #front yard# at the face of the #building#. Supports for the projected portion of any #building# are permitted obstructions within the required #front yard#, provided that the total area occupied by such supports does not exceed 15 percent of the area underneath the projected portion. No support may extend beyond the three-foot projection;

* * *

**23-45
Minimum Required Front Yards**

R1 R2 R3 R4 R5

- (a) In the districts indicated, #front yards# shall be provided as set forth in the following table, except that for a #corner lot# in an R1-2 District, one #front yard# may have a depth of 15 feet and, for a #corner lot# in an R3 District, one #front yard# may have a depth of 10 feet.

Front Yard	District
20 feet	R1
15 feet	R2 R2X R3-1 R3-2
15 feet*	R2A
10 feet*	R3A R3X R4A R4-1 <u>R5A</u>
10 feet**	R4 R5
5 feet*	R4B R5B

* Except as provided in paragraphs (b) and (c) of this Section.

* * *

Furthermore, if an opening to an #accessory# off-street parking space is located within the #street wall# of a #residential building#, there shall be an open area between the opening and the #street line# which is at least 8 and 1/2 feet in width by 18 feet in depth.

R2A R3A R3X R4A R4-1 R4B R5A R5B

- (b) For the purpose of paragraphs (b) and (c) the area between the #street line# and the front building wall of adjacent #buildings# on the same or adjoining #zoning lots# shall be considered adjacent #front yards#.

Except as provided in paragraph (c) of this Section, in the districts indicated, if adjacent #residential buildings# on the same or on adjoining #zoning lots# fronting on the same #street# have #front yards# greater than the minimum set forth in paragraph (a) of this Section, then a #front yard# shall be provided which:

- (1) in R2A, R3A, R3X, R4A, ~~or R4-1~~, or R5A Districts is at least as deep as an adjacent #front yard#; and
- (2) in R4B or R5B Districts is no deeper than the deepest adjacent #front yard# and no shallower than the shallowest adjacent #front yard#.

However, a #front yard# need not exceed 20 feet in depth.

* * *

**23-46
Minimum Required Side Yards**

* * *

**23-461
Side yards for single- or two-family residences**

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

- (a) In all districts, as indicated, for #single-family detached residences# or, where permitted, for #two-family detached residences#, #side yards# shall be provided as set forth in the table in this paragraph, except that on #corner lots# in #lower density growth management areas#, and on #corner lots# in R2A Districts, one #side yard# shall be at least 20 feet in width:

MINIMUM REQUIRED SIDE YARDS

Number Required	Required Total Width (in feet)	Required Minimum Width of any #Side Yard# (in feet)	District
2	35	15	R1-1
2	20	8	R1-2

2	13	5	R2 R2A R3-1 R3-2 R4-R10
2	10	2*	R2X R3X R4A <u>R5A</u>
1	8	0*	R3A R4-1 R4B R5B

* An open area with a minimum width of eight feet, parallel to the #side lot line#, is required along a common #side lot line# between a new #development#, #enlargement# or alteration and a #residential building# on an adjacent #zoning lot#, except that the total width of #side yards# on a #zoning lot# need not exceed 13 feet, with both #side yards# at least five feet wide. However, where an adjacent #zoning lot# has an existing #detached residence# with #side yards# totaling 13 feet in width with one #side yard# at least five feet wide, or an existing #semi-detached residence# with a #side yard# at least eight feet wide, the open area shall have a minimum width of ten feet except that the total width of #side yards# on a #zoning lot# need not exceed 13 feet, with both #side yards# at least five feet wide. Only chimneys, eaves, gutters, downspouts, open #accessory# off-street parking spaces, steps, and ramps for access by the handicapped shall be permitted obstructions in such open area and such obstructions may not reduce the minimum width of the open area by more than three feet.

* * *

**23-48
Special Provisions for Existing Narrow Zoning Lots**

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, except R2X, R3A, R3X, R4A, R4-1, R4B, R5A or R5B Districts, the required total width of #side yards# for a #single-family detached# or #two-family detached residence# may be reduced by four inches for each foot by which the width of a #zoning lot# is less than that required under the provisions of Section 23-32 (Minimum Lot Area or Lot Width for Residences) if such #zoning lot# consists entirely of a tract of land which:

- (a) has less than the prescribed minimum #lot width#; and
- (b) was owned separately and individually from all other adjoining tracts of land, both on December 15, 1961 and on the date of application for a building permit.

However, in no event shall the required width of a #side yard# be less than five feet.

**23-49
Special Provisions for Party or Side Lot Line Walls**

R3-1 R3-2 R4 R5

In the districts indicated, except R4A and R5A Districts, a #residence# may be constructed so as to:

- (a) utilize a party wall or party walls, or abut an independent wall or walls along a #side lot line#, existing on December 15, 1961 or lawfully erected under the terms of this Resolution; or
- (b) incorporate a straight line extension of such a wall existing on December 15, 1961 or lawfully erected under the terms of this Resolution; or
- (c) share a party wall or party walls with other #residences# being erected at the same time on an adjoining #zoning lot# or #zoning lots#.

If a #residence# is so constructed, the #side yard# requirements shall be waived along that boundary of the #zoning lot# coincident with said party wall or party walls, or independent wall or walls along a #side lot line#, and one #side yard# shall be provided along any #side lot line# of the #zoning lot# where such a wall is not so utilized, at least eight feet wide in R3-1, R3-2, R4 or R5 Districts and four feet wide in R4-1, R4B or R5B Districts.

* * *

**23-541
Within one hundred feet of corners**

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, except within #lower density growth management areas#, ~~and~~ R2A and R5A Districts, no #rear yard# shall be required within 100 feet of the point of intersection of two #street lines# intersecting at an angle of 135 degrees or less.

**23-542
Along short dimension of block**

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, except within #lower density growth management areas# ~~and~~ R2A and R5A Districts, whenever a #front lot line# of a #zoning lot# coincides with all or

part of a #street line# measuring less than 230 feet in length between two intersecting #streets#, no #rear yard# shall be required within 100 feet of such #front lot line#.

* * *

**23-60
HEIGHT AND SETBACK REGULATIONS**

* * *

**23-621
Permitted obstructions in certain districts**

R2A R3 R4 R4A R4-1 R5A

- (a) In the districts indicated, permitted obstructions are limited to those listed in paragraphs (b), (e) and (g) of Section 23-62 (Permitted Obstructions).

* * *

**23-63
Maximum Height of Walls and Required Setbacks**

* * *

R2A R2X R3 R4 R4A R4-1 R5A

- (b) In the districts indicated, the height and setback of a #building or other structure# shall be as set forth herein except where modified pursuant to paragraphs (g) and (h) of this Section.

For the purposes of this Section, where #base planes# of different elevations apply to different portions of a #building or other structure#, each such portion of the #building# may be considered to be a separate #building#. Furthermore, for the purposes of this Section, #building segments# may be considered to be separate #buildings# and abutting #semi-detached buildings# may be considered to be one #building#.

The perimeter walls of a #building or other structure# are those portions of the outermost walls enclosing the #floor area# within a #building or other structure# at any level and height is measured from the #base plane#. Perimeter walls are subject to setback regulations at a maximum height above the #base plane# of:

21 feet	R2A R2X R3 R4A
25 feet	R4 R4-1 <u>R5A</u>

26 feet* R3 R4A R4-1 within #lower density growth management areas#

- * In R3, R4A and R4-1 Districts within #lower density growth management areas#, where a #base plane# is established at a #base flood elevation# higher than grade, the maximum perimeter wall height shall be 21 feet above such base flood elevation or 26 feet above grade, whichever is more.

Above these heights, sloping planes control the maximum height of the #building or other structure# requiring either a setback or a pitched roof. These planes start at the maximum permitted height of the perimeter walls and meet at a ridge line of 35 feet above the #base plane#. The exact locations of these planes are flexible and are determined in the steps set forth in paragraphs (1) through (5) as follows:

* * *

R2A R2X R3 R4 R4A R4-1 R5A

(6) Special Situations

- (i) For convex curved perimeter walls the #building or other structure# must be within a plane curve tapering uniformly to a vertex located at a height of 35 feet. For concave curved perimeter walls, the #building or other structure# must lie within a plane curve extending from the maximum perimeter wall height to a ridge line parallel to the prolongation of the perimeter wall at the 35 foot level. Such plane curves may not exceed a pitch of 80 degrees in relation to a plane drawn parallel to the #base plane# at the maximum height of the permitted perimeter wall. (See Figure G).

* * *

R5

- (d) In the district indicated, except R5A and R5B Districts, ...

* * *

- (g) The height and setback regulations of this Section are modified as follows:

* * *

- (3) In R5 Districts, except R5A Districts, as an alternative front setback regulation for #non-profit residences for the elderly#, ...

* * *

R3-2 R4 R5

- (h) In the districts indicated, except R4A, R4B, R4-1, R5A and R5B Districts, the City Planning Commission may authorize a #building or other structure# that penetrates the height and setback regulations set forth in paragraphs (b) and (d) above except for #buildings# utilizing the optional regulations for #predominantly built-up areas#. As a condition for granting such authorizations the Commission shall find that:

* * *

23-661

Required side and rear setbacks for tall residential buildings in low bulk districts

R1 R2 R5

* * *

In an R5 District, except R5A Districts, any portion of a #residential building# bounding a #side yard# or a #rear yard# which is more than 33 feet above the level of the #base plane# shall be set back from such #side yard# line or such #rear yard line# for a distance equal to one-half the height of that portion of the #residential building# which is higher than 33 feet above the level of the #base plane#.

* * *

23-80

COURT REGULATIONS AND MINIMUM DISTANCE BETWEEN WINDOWS AND WALLS OR LOT LINES

* * *

23-86

Minimum Distance Between Legally Required Windows and Walls or Lot Lines

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts as indicated, the minimum distance between #legally required windows# and walls or #lot lines# shall be as set forth in this Section, except that this Section shall not apply to #legally required windows# in #residential buildings#:

- (a) in R2X, R3, ~~or~~ R4 or R5A Districts, with a maximum height of 35 feet and with a maximum of three units; and
- (b) in other districts either:
 - (1) with a maximum height of 32 feet and with a maximum of three units; or
 - (2) with three #stories# if the lowest #story# is either a #basement# or is excluded from #floor area# by definition.

* * *

**25-20
REQUIRED ACCESSORY OFF-STREET PARKING SPACES FOR
RESIDENCES**

* * *

**25-23
Requirements Where Group Parking Facilities Are Provided**

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, for all new #residences developed# under single ownership or control where #group parking facilities# are provided, #accessory# off-street parking spaces shall be provided for at least that percentage of the total number of #dwelling units# set forth in the following table. Such spaces shall be kept available to the residents of the #building# or #development#, in accordance with the provisions of Section 25-41 (Purpose of Spaces, and Rental to Non-Residents).

**PARKING SPACES REQUIRED WHERE
GROUP PARKING FACILITIES ARE PROVIDED**

Percent of Total #Dwelling Units#	District
100*	R1 R2 R3 R4A R4-1
100	R4 R4B <u>R5A</u>
85	R5
70	R6
66	R5B

60	R7-1
50**	R6A R6B R7-2 R7A R7B R7X R8B***
40	R8 R9 R10

* * *

(On October 19, 2005, Cal. No. 11 the Commission scheduled November 2, 2005 for a public hearing. On November 2, 2005, Cal. No. 25, the hearing was closed.)

For consideration.

BOROUGH OF BROOKLYN

No. 9

PAERDEGAT AVENUE CITY MAP CHANGE

CD 17

C 010049 MMK

IN THE MATTER OF an application, submitted by Brooklyn Mason Supply, pursuant to Sections 197-c and 199 of the New York City Charter and Section 5-430 *et seq.* of the New York City Administrative Code, for an amendment to the City Map involving:

- the elimination, discontinuance and closing of a portion of Paerdegat Avenue between Troy Avenue and East 45th Street;
- the delineation of a sewer easement;
- the adjustment of grades necessitated thereby; and
- any acquisition or disposition of real property related thereto,

in accordance with Map Nos. X-2659 and X-2660 dated March 25, 2005 and signed by the Borough President.

(On September 28, 2005, Cal. No. 1, the Commission scheduled October 19, 2005 for a public hearing. On October 19, 2005, Cal. No 37, the hearing was closed.)

For consideration.

No. 10

BROOKLYN/QUEENS ATD PROGRAM

CD 16

C 050481 PCK

IN THE MATTER OF an application submitted by the Department of Probation and the Department of Citywide Administrative Services, pursuant to Section 197-c of the New York City Charter, for site selection and acquisition of property located at 2440 Fulton Street (Block 1554, p/o Lot 16), Brooklyn, for use as an alternative to detention program facility.

(On September 28, 2005, Cal. No. 2, the Commission scheduled October 19, 2005 for a public hearing. On October 19, 2005, Cal. No. 38, the hearing was closed.)

For consideration.



No. 11

FLATBUSH-NOSTRAND JUNCTION BID

CD 14

N 060107 BDK

IN THE MATTER OF an application submitted by the Department of Small Business Services on behalf of the Flatbush-Nostrand Junction Business Improvement District pursuant to Section 25-405 of the Administrative Code of the City of New York, as amended, **concerning the formation of the Flatbush-Nostrand Junction Business Improvement District.**

(On September 26, 2005, Cal. No. 4, the Commission scheduled October 19, 2005 for a public hearing. On October 19, 2005, Cal. No. 39, the hearing was closed.)

For consideration.



No. 12

GATES PLAZA

CD 4

C 050447 HAK

IN THE MATTER OF an application submitted by the Department of Housing Preservation and Development (HPD):

- 1) pursuant to Article 16 of the General Municipal Law of New York State for:
 - a) the designation of property located at 1237-1255 Gates Avenue, part of site 79 (excluding lot 53), within the Bushwick II Urban Renewal Area; (Block 3332, Lots 47-53) as an Urban Development Action Area; and
 - b) an Urban Development Action Area Project for such area;
- 2) pursuant to Section 197-c of the New York City Charter for the disposition of such property to a developer to be selected by HPD;

to facilitate the development of a 6-story building, tentatively known as Gates Plaza, with approximately 83 dwelling units to be developed under HUD's Section 202 Supportive Housing Program for the Elderly.

(On October 19, 2005, Cal. No. 13, the Commission scheduled November 2, 2005 for a public hearing. On November 2, 2005, Cal. No.12, the hearing was closed.)

For consideration.

BOROUGH OF MANHATTAN

Nos. 13 & 14

CORNERSTONE PROJECT SITE 10

No. 13

CD 10

C 060033 ZMM

IN THE MATTER OF an application submitted by the Department of Housing Preservation and Development pursuant to Sections 197-c and 201 of the New York City Charter **for an amendment of the Zoning Map, Section No. 6a:**

1. **changing from an R7A District to an R8A District property bounded by West 119th Street, a line 100 feet westerly of Frederick**

Douglass Boulevard, West 118th Street, and a line 125 feet westerly of Frederick Douglass Boulevard; and

2. **establishing within a proposed R8A District a C1-4 District bounded by** West 119th Street, a line 100 feet westerly of Frederick Douglass Boulevard, West 118th Street, and a line 125 feet westerly of Frederick Douglass Boulevard;

as shown on a diagram (for illustrative purposes only) dated July 25, 2005.

(On October 19, 2005, Cal. No. 15, the Commission scheduled November 2, 2005 for a public hearing. On November 2, 2005, Cal. No. 14, the hearing was closed.)

For consideration.

No. 14

CD 10

C 060034 HAM

IN THE MATTER OF an application submitted by the Department of Housing Preservation and Development (HPD):

- 1.) pursuant to Article 16 of the General Municipal Law of New York State for:
 - a) the designation of property located at 301-303 West 118th Street; 300-304 West 119th Street; and 2187-2201 Eight Avenue (Block 1945; Lots 29, 31-36, and 136) as an Urban Development Action Area; and
 - b) an Urban Development Action Area Project for such area; and
- 2.) pursuant to Section 197-c of the New York City Charter for the disposition of such lots to a developer to be selected by HPD.

to facilitate the development of a 12-story mixed-use building, tentatively known as Cornerstone Site 10, with approximately 93 dwelling units under the Department of Housing Preservation and Development's Cornerstone Program.

(On October 19, 2005, Cal. No. 16, the Commission scheduled November 2, 2005 for a public hearing. On November 2, 2005, Cal. No. 15, the hearing was closed.)

For consideration.

BOROUGH OF QUEENS

No. 15

REMSEN CEMETERY PARK

CD 6

C 050245 MMQ

IN THE MATTER OF an application, submitted by the Department of Parks and Recreation and the Department of Transportation, pursuant to Sections 197-c and 199 of the New York City Charter, for an amendment to the City Map involving:

- the establishment of Remsen Cemetery Park between Trotting Course Lane and Alderton Street; and
- any acquisition or disposition of real property related thereto,

Community District 6, Borough of Queens, in accordance with Map No. 4981 dated July 25, 2005 and signed by the Borough President.

(On September 28, 2005, Cal. No. 3, the Commission scheduled October 19, 2005 for a public hearing. On October 19, 2005, Cal. No. 40, the hearing was continued. On November 2, 2005, Cal. No. 16, the hearing was closed.)

For consideration.

BOROUGH OF STATEN ISLAND

No. 16

LOWER DENSITY GROWTH MANAGEMENT ZONING TEXT

CD 1, 2, 3

N 060022 ZRR

IN THE MATTER OF an Application submitted by the Department of City Planning pursuant to Section 201 of the New York City Charter, **for amendments to the Zoning Resolution** of the City of New York, relating to Article II, Chapter 3 (Bulk Regulations for Residential Buildings in Residence Districts), and Article X, Chapter 7 (Special South Richmond Development District), concerning amendments to the regulations for Lower Density Growth Management Areas in the Borough of Staten Island:

Matter in underline is new, to be added;
Matter in strikeout is old, to be deleted;
Matter within # # is defined in Section 12-10;

indicates where unchanged text appears in the Zoning Resolution

* * *

**23-30
LOT AREA AND LOT WIDTH REGULATIONS**

* * *

**23-32
Minimum Lot Area or Lot Width for Residences**

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, except as provided in Section 23-33 (Special Provisions for Existing Small Lots), no #residence# is permitted on a #zoning lot# with a total #lot area# or #lot width# less than as set forth in the following table:

REQUIRED MINIMUM LOT AREA AND LOT WIDTH

Type of #Residence#	Minimum #Lot Area# (in sq. ft.)	Minimum #Lot Width# (in feet)	District
#Single-family detached#	9,500	100	R1-1
	5,700	60	R1-2
	3,800	40	R2 R2A
	2,850	30	R2X
#Single-# or #two-family detached# or #zero lot line# where permitted	3,800	40	R3-1 R3-2 R4-R10
	3,325	35	R3X
	2,850	30	R4A*
	2,375	25	R3A* R4B R4-1* R5B
Any other permitted	1,700	18	R3-R10*

However, in #lower density growth management areas# in the Borough of Staten Island, the following rules shall apply:

- (a) Where two or more #buildings# that are #single# or #two-family detached# or #semi-detached residences# are located on a #zoning lot#, the applicable minimum #lot area# requirement set forth in the table above shall be multiplied by the number of such #buildings# on the #zoning lot#.
- (b) The #lot width# requirements set forth in this Section shall be applied as set forth in the definition of #lot width# in Section 12-10, provided that the applicable lot width, in feet, set forth in the table above shall be met along at least one #street line# of the #zoning lot#, or, for #corner lots#, along each intersecting #street line#. No #residence#, or portion thereof, shall be permitted between opposing #side lot lines# where such #lot lines# would be nearer to one another at any point where such #residence# is located than the applicable minimum lot width, in feet, set forth in the table above.
- * In #lower density growth management areas#, for #two-family detached# and #two-family zero lot line residences#, where permitted, in R3A, R4A and R4-1 Districts, and for #two-family semi-detached residences# in R3-1, R3-2 and R4-1 Districts, the minimum #lot area# shall be 3,135 square feet and the minimum #lot width# shall be 33 feet.

* * *

**23-33
Special Provisions for Existing Small Lots**

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, either one #single-family detached residence# or, where permitted, one #single-# or #two-family residence# may be built upon a #zoning lot# consisting entirely of a tract of land that:

- (a) has less than the prescribed minimum #lot area# or #lot width#, or, in #lower density growth management areas# in the Borough of Staten Island does not comply with the provisions of Section 23-32 Minimum Lot Area or Lot Width for Residences);
- (b) was owned separately and individually from all other adjoining tracts of land, both on December 15, 1961 and on the date of application for a building permit, or in R2X, R3A, R3X or R4A Districts, both on the effective date of establishing such district on the #zoning maps# and on the date of application for a building permit, or in #lower density growth management areas#, both on (effective date of amendment) and on the date of application for building permit; and
- (c) if #developed# as a #two-family residence#, meets the applicable density requirement of the zoning district in which such #zoning lot# is located.

* * *

23-80

COURT REGULATIONS, AND MINIMUM DISTANCE BETWEEN WINDOWS AND WALLS OR LOT LINES AND OPEN AREA REQUIREMENTS

* * *

**23-89
Open Area Requirements for Residences in Lower Density Growth Management Areas in the Borough of Staten Island**

The provisions of this Section shall apply in #lower density growth management areas# in the Borough of Staten Island, to all #zoning lots# in #Residence Districts# with two or more #residential buildings# or #building segments#. All such #residential buildings# or #building segments# shall provide open areas as set forth below:

- (a) An open area shall be provided adjacent to the rear wall of each such #building# or #building segment#. For the purposes of this Section, the “rear wall” shall be the wall opposite the wall of each #building# or #building segment# that faces a #street# or #private road#. The width of such open area shall be equal to the width of each #building# or #building segment#, and the depth of such open area shall be at least 30 feet when measured perpendicular to each rear wall. No such open areas shall serve more than one #building# or #building segment#. Only those obstructions set forth in paragraph (b) of Section 23-44 shall be allowed, except that parking spaces, whether enclosed or unenclosed, and driveways shall not be permitted within such open areas.
- (b) For #buildings# or #building segments# that front upon two or more #streets# or #private roads#, and for #buildings# or #building segments# that do not face a #street# or #private road#, one wall of such #building# or #building segment# shall be designated the rear wall, and the open area provisions of this Section applied adjacent to such wall. However, for not more than one #building# or #building segment# located at the corner of intersecting #streets# or #private roads#, the depth of such required open area may be reduced to 20 feet.

* * *

**107-42
Minimum Lot Area
and Lot Width for Residences**

~~For the purposes of this Chapter, all #residences# permitted by the underlying district regulations shall comply with the minimum #lot area# and #lot width# requirements which shall vary with the building height as set forth in Table A.~~

For all #zoning lots# containing #residences#, the minimum #lot area# and #lot width# requirements set forth in Table A shall apply, which shall vary by building height. Where two or more #buildings# that are #single# or #two-family detached# or #semi-detached residences# are located on a #zoning lot#, the applicable minimum #lot area# requirement shall be multiplied by the number of such #buildings# on the #zoning lot#.

The #lot width# requirements set forth in this Section shall be applied as set forth in the definition of #lot width# in Section 12-10, provided that the applicable lot width, in feet, set forth in the table above shall be met along at least one #street line# of the #zoning lot#, or, for #corner lots#, along each intersecting #street line#. No #residence#, or portion thereof, shall be permitted between opposing #side lot lines# where such #lot lines# would be nearer to one another at any point where such #residence# is located than the applicable minimum lot width, in feet, set forth in the table above.

However, one #single-family detached residence# or, where permitted, one #single# or #two-family residence#, may be built upon a #zoning lot# consisting entirely of a tract of land, that:

- (a) has less than the minimum of #lot area# or ~~#lot width# prescribed in Table A~~ lot width required pursuant to this Section; and
- (b) was owned separately and individually from all other adjoining tracts of land, ~~both on September 11, 1975 and on the date of application for a building permit,~~ both on (effective date of amendment) and on the date of application for a building permit.

In all cases, the density regulations of the applicable district shall remain in effect, except that the factor for determining the maximum number of #dwelling units# shall be 1,000 in R3A and R4A Districts, 1,140 in R3X Districts, and 685 for #semi-detached residences# in R3-1 and R3-2 Districts.

TABLE A

District	Type of #Residence#	<u>Minimum</u> #Lot Area# (in sq.ft.)	Minimu m Lot Width (in feet)	Minimum Height (in stories)
R1-1	#detached#	9,500	100	1-4
R1-2	#detached#	5,700	40 50 60	1-2 3 4
R-2	#detached#	3,800	40	1-4
R3-1	#detached#	3,800	40 45	1-2 3-4
R3-1 R3-2	#semi-detached#	2,375 3,800	24 40	1-2 3-4

R3-2	#detached#	3,800 4,275	40 45	1-2 3-4
	#attached#	1,700 2,280	18 24	1-2 3-4
R3A	#detached#	3,325	35	1-3
R3X	#detached#	3,800	40	1-2
		4,750	50	3
		5,700	60	4
R4A	#detached#	3,325	35	1-3
R4-1	#semi-detached#	2,375	24	1-3
	#detached#	3,325	35	1-3

* * *

(On September 28, 2005, Cal. No. 4, the Commission scheduled October 19, 2005 for a public hearing. On October 19, 2005, Cal. No. 41, the hearing was closed.)

For consideration.

No. 17

DUANE READE/VICTORY BOULEVARD

CD 1

N 030507 ZAR

IN THE MATTER OF an application submitted by Block 247, LLC. **for the grant of authorizations** pursuant to Sections 119-311 and 119-312 of the Zoning Resolution involving the development and site alteration on a zoning lot having a steep slope of 25% or more and for certain uses within the hillsides district (commercial) **to allow for the construction of a one story commercial building at 1161 Victory Boulevard (Block 247, Lot 38) within the Special Hillsides Preservation District.**

Plans for this proposal are on file with the City Planning Commission and may be seen at the Staten Island Office of the Department of City Planning, 130 Stuyvesant Place, 6th floor, Staten Island, New York, 10301.

(On November 2, 2005, Cal. No. 10, the item was laid over.)

For consideration.



No. 18

412 FOREST AVENUE

CD 1

N 050128 ZAR

IN THE MATTER OF an application submitted by Dan Paolucci **for the grant of authorization** pursuant to Section 119-312 of the Zoning Resolution for certain uses within the Hillside District (commercial) **to allow for the enlargement of a commercial building at 412 Forest Avenue (Block 253, Lot 6) within the Special Hillside Preservation District.**

Plans for this proposal are on file with the City Planning Commission and may be seen at the Staten Island Office of the Department of City Planning, 130 Stuyvesant Place, 6th floor, Staten Island, New York, 10301.

For consideration.



III. PUBLIC HEARINGS

BOROUGH OF THE BRONX

No. 19

CROTONA PARKWAY REZONING

CD 6

C 030461 ZMX

PUBLIC HEARING:

IN THE MATTER OF an application submitted by Adar Assets Corp. pursuant to Sections 197-c and 201 of the New York City Charter **for an amendment of the Zoning Map, Section No. 3d, establishing within an existing R7-1 District a C2-4 District bounded by a line 100 feet southwesterly of East Tremont Avenue, a line 100 feet southeasterly of Crotona Parkway, Elsmere Place, a line 180 feet southeasterly of Crotona Parkway, a line 100 feet southwesterly of Elsmere Place, and Crotona Parkway,** as shown on a diagram (for illustrative purposes only) dated July 25, 2005, and subject to the conditions of CEQR Declaration No. E-150.

(On November 2, 2005, Cal. No. 1, the Commission scheduled November 16, 2005 for a public hearing which has been duly advertised.)

Close the hearing.

No. 20

NCNW CHILD DEVELOPMENT CENTER

CD 12

C 050361 PQX

CONTINUED PUBLIC HEARING:

IN THE MATTER OF an application submitted by the Administration for Children's Services and the Department of Citywide Administrative Services, pursuant to Section 197-c of the New York City Charter, for the acquisition of property located at 4035 White Plains Road (Block 4829, Lot 6), Bronx, for continued use as a day care center.

(On October 19, 2005, Cal. No. 1, the Commission scheduled November 2, 2005 for a public hearing. On November 2, 2005, Cal. No. 23, the hearing was continued.)

Close the hearing.

BOROUGH OF STATEN ISLAND

No. 21

CASTLETON REZONING

CD 1

C 060061 ZMR

CONTINUED PUBLIC HEARING:

IN THE MATTER OF an application submitted by the Department of City Planning pursuant to Sections 197-c and 201 of the New York City Charter **for an amendment of the Zoning Map**, Section No. 21a:

1. **changing from a C4-2 District to an R3-2 District** property bounded by a line 200 feet northerly of Castleton Avenue, Alaska Street, Castleton Avenue, Elizabeth Street, a line 200 feet southerly of Castleton Avenue, Roe Street, a line 240 feet southerly of Castleton Avenue, Taylor Street, a line 200 feet southerly of Castleton Avenue, Dongan Street, a line 150 feet northerly of Castleton Avenue, Taylor Street, a line 100 feet northerly of Castleton Avenue, and a line 160 feet westerly of Barker Street;
2. **changing from a C4-2 District to an R3A District** property bounded by a line 200 feet northerly of Castleton Avenue, a line 160 feet westerly of Barker Street, a line 100 feet northerly of Castleton Avenue, Taylor Street, a line 150 feet northerly of Castleton Avenue, and Dongan Street; and
3. **establishing within a proposed R3-2 District a C2-2 District bounded** by a line 200 feet northerly of Castleton Avenue, Alaska Street, Castleton Avenue, Elizabeth Street, a line 200 feet southerly of Castleton Avenue, Roe Street, a line 240 feet southerly of Castleton Avenue, Taylor Street, a line 200 feet southerly of Castleton Avenue, Dongan Street, a line 150 feet northerly of Castleton Avenue, Taylor Street, a line 100 feet northerly of Castleton Avenue, and a line 160 feet westerly of Barker Street;

as shown on a diagram (for illustrative purposes only) dated August 22, 2005.

(On October 19, 2005, Cal. No. 18, the Commission scheduled November 2, 2005 for a public hearing. On November 2, 2005, Cal. No. 18, the hearing was continued.)

Close the hearing.

BOROUGH OF BROOKLYN

No. 22

9TH AVENUE BRIDGE

CD12

C 950447 MMK

PUBLIC HEARING:

IN THE MATTER OF an application, submitted by the Department of Transportation, pursuant to Sections 197-c and 199 of the New York City Charter, for an amendment to the City Map involving:

a change of legal grades in 9th Avenue (bridges) between 37th and 39th Streets;
and any acquisition or disposition of real property related thereto;

in accordance with map No. X-2614, dated April 17, 2000, and signed by the Borough President.

(On November 2, 2005, Cal. No. 2, the Commission scheduled November 16, 2005 for a public hearing which has been duly advertised.)

Close the hearing.

No. 23

HOMECREST REZONING

CD 15

C 060129 ZMK

PUBLIC HEARING:

IN THE MATTER OF an application submitted by the Department of City Planning pursuant to Sections 197-c and 201 of the New York City Charter **for an amendment of the Zoning Map, Section Nos. 22d, 23b, 28c and 29a:**

1. **eliminating from an existing R6 District a C1-3 District bounded by** Avenue P, Ocean Avenue, a line 150 feet southeasterly of Kings Highway, East 18th Street, and a line 100 feet northwesterly of Kings Highway;
2. **changing from an R6 District to an R4-1 District property bounded by:**
 - a. Quentin Road, 19th Street, a line 100 feet southerly of Quentin Road, a line midway between 19th Street and Ocean Avenue, a line 100 feet southerly of S Avenue, a line midway between Coney Island Avenue and East 12th Street, a line 100 feet northerly of Avenue S, East 14th Street, the northerly boundary line of William E. Kelly Memorial Park, a line midway between East 14th Street and East 15th Street, Avenue R, East 15th Street, the westerly prolongation of a line 100 feet southerly of Quentin Road, a line midway between East 15th Street and East 16th Street, Moore Place and its easterly and westerly centerline prolongations, East 18th Street, a line 100 feet northerly of Avenue R, and a line midway between East 18th and East 19th Street;
 - b. a line 100 feet southerly of Avenue S, Ocean Avenue, a line 150 feet northerly of Avenue T, a line midway between Ocean Avenue and East 21st Street, a line 150 feet northerly of Avenue U, Ocean Avenue, Avenue T, and a line midway between East 19th Street and Ocean Avenue; and
 - c. a line 150 feet southerly of Avenue U, a line midway between Ocean Avenue and East 21st Street, Gravesend Neck Road, and Ocean Avenue;
3. **changing from an R6 District to an R5B District property bounded by:**
 - a. Avenue P, East 18th Street, a line 100 feet southerly of Avenue P, East 17th Street, a line 200 feet northwesterly of Kings Highway, East 15th Street, a line 180 feet southerly of Avenue P, East 14th Street, a line 200 feet northwesterly of Kings Highway, a line 200 feet northerly of Quentin Road and its easterly prolongation, and a line midway between Coney Island Avenue and East 12th Street;
 - b. a line 100 feet southerly of Quentin Road and its westerly prolongation, a line midway between East 18th Street and East 19th Street, a line 100 feet northerly of Avenue R, East 18th Street, Moore Place and its easterly and westerly centerline prolongations, and a line midway between East 15th Street and East 16th Street; and
 - c. a line 200 feet southeasterly of Kings Highway, East 15th Street, Avenue R, a line midway between East 14th Street and East 15th Street, the northerly boundary line of William E. Kelly Memorial Park, East 14th Street, a line 100 feet northerly of Avenue S, a line midway

between Coney Island Avenue and East 12th Street, Avenue R, East 13th Street, a line 100 feet northerly of Avenue R, and East 14th Street;

4. **changing from a C4-2 District to an R5B District property bounded by:**
 - a. a line 200 feet northerly of Quentin Road, 13th Street, a line 100 feet northerly of Quentin Road, and a line midway between Coney Island Avenue and East 12th Street; and
 - b. a line 100 feet southeasterly of Kings Highway, East 15th Street, a line 200 feet southeasterly of Kings Highway, and East 14th Street;

5. **changing from an R6 District to an R7A District property bounded by:**
 - a. Avenue P, Kings Highway, Nostrand Avenue, a line 200 feet southeasterly of Kings Highway, East 29th Street, a line 100 feet southeasterly of Kings Highway, Bedford Avenue, a line 100 feet northerly of Avenue P, East 24th Street, Avenue P, East 22nd Street, a line 200 feet southerly of Avenue P, a line midway between Ocean Avenue and East 21st Street, a line 150 feet northerly of Avenue T, Ocean Avenue, a line 100 feet southerly of Avenue S, a line midway between East 19th Street and Ocean Avenue, a line 100 feet southerly of Quentin Road, East 19th Street, Quentin Road, a line midway between East 18th Street and East 19th Street, a line 100 feet southerly of Quentin Road and its westerly prolongation, East 15th Street, a line 200 feet southeasterly of Kings Highway, and East 18th Street;
 - b. Avenue T, Ocean Avenue, a line 150 feet northerly of Avenue U, a line midway between Ocean Avenue and East 21st Street, a line 150 feet southerly of Avenue U, Ocean Avenue, Gravesend Neck Road, a line midway between Ocean Avenue and East 21st Street, Voorhies Avenue, and a line midway between East 19th Street and Ocean Avenue; and
 - c. a line 200 feet southeasterly of Kings Highway, East 14th Street, a line 100 feet northerly of Avenue R, East 13th Street, Avenue R, and a line midway between Coney Island Avenue and East 12th Street;

6. **changing from a C4-2 District to an R7A District property bounded by:**
 - a. a line 100 feet southeasterly of Kings Highway, East 13th Street, a line 200 feet southeasterly of Kings Highway, and a line midway between Coney Island Avenue and East 12th Street; and
 - b. a line 100 feet southeasterly of Kings Highway, East 18th Street, a line 200 feet southeasterly of Kings Highway, and East 15th Street;

7. **changing from a C8-2 District an R7A District property bounded by:**

- a. Avenue P, a line midway between Coney Island Avenue and East 12th Street, a line 200 feet northerly of Quentin Road, and Coney Island Avenue; and
- b. a line 200 feet southeasterly of Kings Highway, a line midway between Coney Island Avenue and East 12th Street, Avenue R, and Coney Island Avenue;

8. changing from a C4-2 District to a C4-4A District property bounded by:

Coney Island Avenue, a line 200 feet northerly of Quentin Road, a line midway between Coney Island Avenue and East 12th Street, a line 100 feet northerly of Quentin Road, East 13th Street, a line 200 feet northwesterly of Kings Highway, East 14th Street, a line 180 feet southerly of Avenue P, East 15th Street, a line 200 feet northwesterly of Kings Highway, East 17th Street, a line 100 feet southerly of Avenue P, East 18th Street, a line 100 feet southeasterly of Kings Highway, East 14th Street, a line 200 feet southeasterly of Kings Highway, East 13th Street, a line 100 feet southeasterly of Kings Highway, a line midway between Coney Island Avenue and East 12th Street, and a 200 feet southeasterly of Kings Highway; and

9. establishing within a proposed R7-A District a C2-3 District bounded by:

- a. Avenue P, a line midway between Coney Island Avenue and East 12th Street, a line 200 feet northerly of Quentin Road, and Coney Island Avenue;
- b. a line 100 feet southeasterly of Kings Highway, a line midway between Coney Island Avenue and East 12th Street, Avenue R, and Coney Island Avenue; and
- c. Avenue P, Ocean Avenue, a line 100 feet southeasterly of Kings Highway, and East 18th Street;

as shown on a diagram (for illustrative purposes only) dated September 26, 2005 and subject to the conditions of CEQR Declaration E-155.

(On November 2, 2005, Cal. No. 3, the Commission scheduled November 16, 2005 for a public hearing which has been duly advertised.)

Close the hearing.

Nos. 24 & 25***SHEEPSHEAD BAY REZONING & TEXT AMENDMENT*****No. 24****CD 15****C 060132 ZMK****PUBLIC HEARING:**

IN THE MATTER OF an application submitted by the Department of City Planning pursuant to Sections 197-c and 201 of the New York City Charter for **an amendment of the Zoning Map, Section No. 29a:**

- 1. eliminating from within an existing R5 District a C2-2 District bounded by:**
 - a.** a line 150 feet northerly of Emmons Avenue, Nostrand Avenue, a line 75 feet northerly of Emmons Avenue, and a line connecting two points: the first at the intersection of a line midway between Nostrand Avenue and East 29th Street and a line 75 feet northerly of Emmons Avenue, and the second on the easterly street line of East 29th Street distant 200 feet southerly (as measured along the street line) from the point of intersection of the easterly street line of East 29th Street and the southerly street line of Lief Ericson Drive;
 - b.** a line 150 feet northerly of Emmons Avenue, Haring Street, a line 75 feet northerly of Emmons Avenue, and a line 225 feet southwesterly of Haring Street; and
 - c.** a line 150 feet northerly of Emmons Avenue, a line midway between Coyle Street and Ford Street, a line 100 feet northerly of Emmons Avenue, and Brown Street;
- 2. eliminating a Special Sheepshead Bay District bounded by:**
 - a.** Lief Ericson Drive, Nostrand Avenue, a line 75 feet northerly of Emmons Avenue, a line connecting two points: the first at the intersection of a line midway between Nostrand Avenue and East 29th Street and a line 75 feet northerly of Emmons Avenue, and the second on the easterly street line of East 29th Street distant 200 feet southerly (as measured along the street line) from the point of intersection of the easterly street line of East 29th Street and the southerly street line of Lief Ericson Drive, East 29th Street, a line 100 feet southerly of Lief Ericson Drive, East 28th Street, a line 150 feet northerly of Emmons Avenue, and East 27th Street; and
 - b.** a line 150 feet northerly of Emmons Avenue, a line midway between Coyle Street and Ford Street, a line 100 feet northerly of Emmons Avenue, Brown Street, a line 75 feet northerly of Emmons Avenue, and

a line 225 feet southwesterly of Haring Street;

3. **changing from an R5 District to an R4B District property bounded by the** northerly service road of Leif Ericson Drive (Shore Parkway north), Haring Street, a line 100 feet southerly of Lief Ericson Drive, and East 28th Street;
4. **changing from an R5 District to an R4-1 District property bounded by:**
 - a. the northerly service road of Leif Ericson Drive (Shore Parkway north), East 28th Street, a line 150 feet northerly of Emmons Avenue, and East 27th Street;
 - b. a line 100 feet southerly of Lief Ericson Drive, Nostrand Avenue, a line 75 feet northerly of Emmons Avenue, a line connecting two points: the first at the intersection of a line midway between Nostrand Avenue and East 29th Street and a line 75 feet northerly of Emmons Avenue, and the second on the easterly street line of East 29th Street distant 200 feet southerly (as measured along the street line) from the point of intersection of the easterly street line of East 29th Street and the southerly street line of Lief Ericson Drive, and East 29th Street; and
 - c. the northerly service road of Leif Ericson Drive (Shore Parkway north), a line midway between Coyle Street and Ford Street, a line 100 feet northerly of Emmons Avenue, Brown Street, a line 75 feet northerly of Emmons Avenue, a line 225 feet southwesterly of Haring Street, Nostrand Avenue, a line 100 feet southerly of Lief Ericson Drive, and Haring Street;

as shown on a diagram (for illustrative purposes only) dated September 26, 2005.

(On November 2, 2005, Cal. No. 4, the Commission scheduled November 16, 2005 for a public hearing which has been duly advertised.)

Close the hearing.

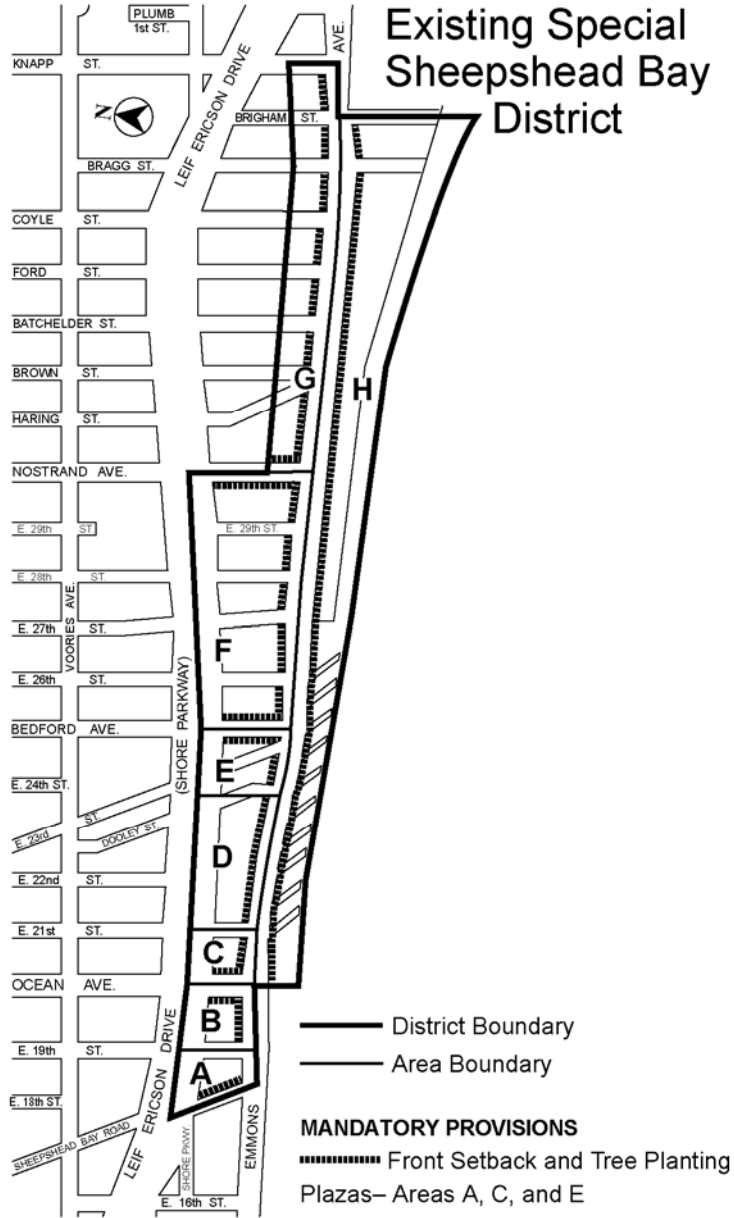
No. 25

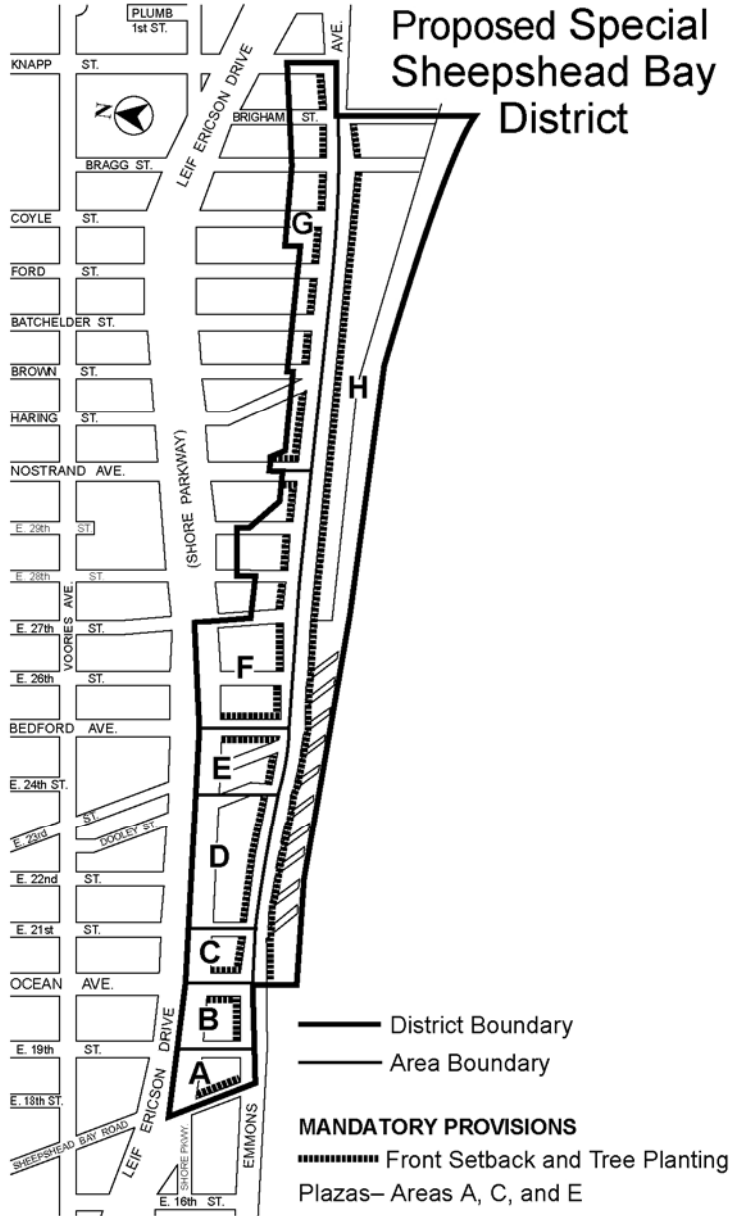
CD 15

N 060133 ZRK

PUBLIC HEARING

IN THE MATTER OF an application submitted by the Department of City Planning pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, relating to Article IX, Chapter 4 (Special Sheepshead Bay District) concerning an amendment to Appendix A.





(On November 2, 2005, Cal. No. 5, the Commission scheduled November 16, 2005 for a public hearing which has been duly advertised.)

Close the hearing.

BOROUGH OF MANHATTAN

No. 26

HUDSON YARDS FUCA

CD 4, 5

N 060046 ZRM

IN THE MATTER OF an application submitted by the Department of City Planning, Councilmember Christine Quinn, and Manhattan Community Board 4, pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, relating to Article IX, Chapter 3 (Special Hudson Yards District), Article IX Chapter 6 (Special Clinton District), and Article XII Chapter 1 (Special Garment Center District).

Underlined matter is new, to be added;

Matter in ~~strikeout~~ is old, to be deleted;

Matter within # # is defined in Section 12-10;

* * * indicates where unchanged text appears in the Zoning Resolution

* * *

ARTICLE IX: SPECIAL PURPOSE DISTRICTS
CHAPTER 3: SPECIAL HUDSON YARDS DISTRICT

* * *

93-12
Special Residential Use Regulations

* * *

93-124
Restrictions on conversions of residential use

In #commercial districts# mapped within R8A Districts, a #residential use# existing on (effective date of amendment) and located on the ground floor or within five feet of #curb level# may not be converted to a #commercial use#.

* * *

93-13
Special Office Use Regulations

93-131
Certification for office use

- (a) No temporary certificate of occupancy from the Department of Buildings may be issued for any portion of a #development# or #enlargement# in the #Hudson Yards Redevelopment Area# that includes Use Group 6B offices constructed after January 19, 2005, until the Chairperson of the Department of City Planning certifies to the Commissioner of Buildings that:

- (1) such #development# or #enlargement# does not utilize any #floor area# increases pursuant to Sections 23-90 (INCLUSIONARY HOUSING), 93-30 (SPECIAL FLOOR AREA REGULATIONS), inclusive, or 96-25 (Floor Area Bonus for New ~~Legitimate Theater~~ Live Performing Arts Use); or

**93-22
Floor Area Regulations in Subdistricts B, C, D and E**

* * *

Maximum Permitted Floor Area Ratio
within Subdistricts B through E

	Farley Corridor Subdistrict B				34th St Corridor Sub district C	Hell's Kitchen Subdistrict D			South of Port Auth. Sub district E
Subarea	Western Blocks	Central Blocks	Farley Post Office	Penn. Stn.		Subarea D1	Subarea D2	Subarea D3	
ROW A Basic maximum #floor area ratio# for non-residential buildings#	<u>10.0</u> total 10.0 C 2.0 CF	<u>12.0</u> total 12.0 C 2.0 CF	<u>10.0</u> total 10.0 C 6.0 R 2.0 CF	<u>10.0</u> total 10.0 C 2.0 CF	<u>10.0</u> total 10.0 C 10.0 CF	<u>7.5 total</u> 2.0 C 7.5 CF	<u>7.5 total</u> 2.0 C 7.5 CF	<u>7.5 total</u> 6.0 C 7.5 CF	<u>10.0</u> total 10.0 C 2.0 CF
ROW B Basic maximum FAR for #buildings# containing #residences#	NA	NA	NA	NA	<u>6.5 total</u> 6.5 C 6.5 R 6.5 CF	<u>6.5 total</u> 2.0 C 6.5 R 6.5 CF	<u>6.5 total</u> 2.0 C 6.5 R 6.5 CF	<u>7.5 total</u> 6.0 C 7.5 R 7.5 CF	NA
ROW C Maximum FAR through special #floor area# increases pursuant to Section 93-30, inclusive, Inclusionary Housing Section 93- 23, inclusive, or Section 74-79, inclusive as applicable.	<u>21.6 total</u> 21.6 C 6.0 R 2.0 CF	<u>19.0</u> total 19.0 C 4.0 R 2.0 CF	<u>10.0</u> total 10.0 C 6.0 R 2.0 CF	<u>19.5</u> total 19.5 C 2.0 CF	<u>13.0</u> total 13.0 C 12.0 R 12.0 CF	<u>15.0</u> total 3.0 C 12.0 R 12.0CF	<u>13.0</u> total 3.0 C 12.0 R 12.0CF	<u>12.0</u> total 7.2 C 7.5 R 12.0CF	<u>18.0</u> total 18.0 C 3.0 R 2.0 CF

C = Commercial FAR
CF = Community Facility FAR
R = Residential FAR

* * *

93-221

Maximum #floor area ratio# in Subdistrict B

* * *

- (b) Subarea B2

In the Central Blocks Subarea (Subarea B2) of Subdistrict B ~~and the South of Port Authority Subdistrict (Subdistrict E)~~, #residential use# shall only be permitted as part of a #development# or #enlargement# with a #commercial floor area ratio# of 15.0 or more, or as provided for phased developments in Section 93-122.

* * *

93-222

Maximum #floor area ratio# in Subdistrict C

* * *

The #floor area ratio# of any #building# containing #residences# may be increased from 6.5 pursuant to Sections 93-31 ~~or 93-32~~, and ~~pursuant to~~ Section 23-90 (INCLUSIONARY HOUSING), as modified by Section 93-23, as follows:

- (a) The #residential floor area ratio# may be increased from 6.5 to a maximum of 12.0 only if for every five square feet of #floor area# increase pursuant to Sections 93-31 ~~or 93-32~~ there is a #floor area# increase of six square feet pursuant to Section 23-90 as modified by Section 93-23.
- (b) Any #floor area# increase above a #floor area ratio# of 12.0 shall be only pursuant to Sections 93-31 ~~or 93-32~~.

~~However, notwithstanding the table in Section 93-22, for any #zoning lot# or portion thereof located within the area bounded by West 35th Street, Eighth Avenue, West 33rd Street, and a line 100 feet east of and parallel to Ninth Avenue, the basic maximum #residential floor area ratio# shall be 7.5 and may be increased from 7.5 to 10.0 only pursuant to Section 93-31, and may be further increased from 10.0 to 12.0 only pursuant to Section 23-90.~~

93-223

Maximum #floor area ratio# in Subdistrict D

- (a) Subareas D1 and D2

* * *

- (2) Any #floor area# increase above a #floor area ratio# of 12.0 shall be only pursuant to Sections 93-31 or 93-32.

~~However, notwithstanding the table in Section 93-22, for any #zoning lot# or portion thereof located in that portion of Subarea D1 between West 41st Street and the centerline of the #blocks# between West 41st and West 40th Streets, the basic maximum #residential floor area ratio# shall be 7.5 and may be increased from 7.5 pursuant to Section 93-31 or 93-32, and pursuant to Section 23-90 (INCLUSIONARY HOUSING), as modified by Section 93-23, as follows:~~

- ~~(1) The #residential floor area ratio# may be increased from 7.5 to a maximum of 12.0 only if for every five square feet of #floor area# increase pursuant to Section 93-31 or 93-32 there is a #floor area# increase of six square feet pursuant to Section 23-90 as modified by Section 93-23.~~
- ~~(2) Any #floor area# increase above a #floor area ratio# of 12.0 shall be only pursuant to Sections 93-31 or 93-32.~~

Furthermore, in Subarea D1, the #floor area ratio# on a #zoning lot# may exceed 13.0 only where the #community facility floor area ratio# is not less than the excess of such #floor area ratio# above 13.0.

(b) Subarea D3

In Subarea D3, the basic maximum #floor area ratio# may be increased only pursuant to Section 93-31 (District Improvement Fund).

~~(b)(c)~~ Subareas D4 and D5

In Subareas D4 and D5, the underlying #floor area ratio# regulations shall apply.

* * *

~~(e)(d)~~ Authorization for transfer of #floor area# for public utilities

* * *

~~(d)(e)~~ Authorization for transfer of #floor area# for public open areas

* * *

**93-23
Modifications of Inclusionary Housing Program**

* * *

**93-231
Definitions**

For the purposes of this Chapter, the following definitions in Section ~~23-92~~ 23-93 shall be modified:

Administering agent

The "administering agent" is the entity or entities identified in the #lower income housing plan# as responsible for ensuring compliance with such plan.

The #administering agent# shall be a not-for-profit organization, unless the Commissioner of Housing Preservation and Development finds that a good faith effort by the developer of the #compensated development# to secure a qualified not-for-profit organization as the #administering agent# was unsuccessful. However, the Commissioner may approve an entity that is responsible for compliance monitoring pursuant to city, state, or federal funding sources, to serve as the #administering agent# during such compliance period.

If an entity other than a not-for-profit organization is proposed to serve as the #administering agent#, and the affected Community Board objects during its review period to the approval of the proposed entity, the Commissioner shall respond in writing to the Community Board's objections prior to approving the proposed entity to serve as #administering agent#.

Fair rent

“Fair rent” shall be as defined in Section ~~23-92~~ 23-93 with respect to #standard units# occupied by #lower income households#, except that the Commissioner of Housing Preservation and Development may determine that rents satisfying the requirements of city, state or federal programs assisting #lower income housing# will be considered ‘fair rent’, provided that such rents do not exceed 30 percent of a #lower income household#’s income, and provided further that upon expiration or termination of the requirements of the city, state or federal program, rent increases and re-rentals shall be subject to the higher of the then-currently applicable Section 8 Standard or the Rent Stabilization Standard.

The following definition of “fair rent” shall apply to #moderate income households# and #middle income households#:

At initial occupancy of #lower income housing# that is occupied by a #moderate income household# or a #middle income household# as defined in this Section 93-231, “fair rent” shall include an annual rent for each such housing unit equal to not more than 30 percent of the annual income of the tenant of such housing (the “30 Percent Standard”).

Upon renewal of a lease for such an existing tenant in #lower income housing#, #fair rent# (the "Rent Stabilization Standard") ~~shall be~~ is not more than the then-current #fair rent# for such housing plus a percentage increase equal to the percentage increase for a renewal lease of the same term permitted by the Rent Guidelines Board for units subject to the rent stabilization law.

After initial occupancy, upon rental of #lower income housing# to a new tenant, #fair rent# shall be ~~is~~ not more than the higher of

- (a) the then-currently applicable "30 Percent Standard"; or
- (b) the Rent Stabilization Standard.

In order for rent to be #fair rent#, the following must also apply:

There shall be no additional charge to the tenant for the provision of heat and electric service, except that the Commissioner of Housing Preservation and Development may approve a #lower income housing plan# making a #lower income#, #moderate income# or #middle income household# responsible for the payment of utilities as long as the sum of the following do not exceed 30 percent of said #lower income#, #moderate income# or #middle income household's# income:

- (1) the initial #fair rent#; and
- (2) the monthly costs of a reasonable compensation for these utilities, by an energy conservative household of modest circumstances consistent with the requirements of a safe, sanitary and healthful living environment.

The Commissioner of Housing Preservation and Development may determine that rents satisfying the requirements of city, state or federal programs assisting #lower income housing# will be considered 'fair rent', provided that such rents do not exceed 30 percent of a #moderate income# or #middle income household#'s income, as applicable, and provided further that upon expiration or termination of the requirements of the city, state or federal program, rent increases and re-rentals shall be subject to the higher of the then-currently applicable 30 Percent Standard or the Rent Stabilization Standard.

At initial occupancy of any #lower income housing# occupied by a #lower income#, #moderate income# or #middle income household#, a portion of the fair rents may be for the payment of the principal or interest on debt, and such housing may secure debt, provided that, as of the date of the approval of the #lower income housing plan#, the Commissioner of Housing Preservation and Development finds that the total annual rent, when such interest and principal payments are deducted, is in compliance with the requirements of paragraph (c) of Section ~~23-94~~ 23-95 (Lower Income Housing Requirements), and provided that the lender agrees to enter into a written agreement which subordinates such debt to the provisions of the #lower income housing plan#.

* * *

93-233
Lower Income Housing Requirements

#Developments# that increase #floor area# in accordance with the provisions of this Section shall comply with the lower income housing requirements of Section ~~23-94~~ 23-95 (Lower Income Housing Requirements), except as modified in this Section.

* * *

(b) The provisions of paragraph (d) (Income verification) of Section ~~23-94~~ 23-95 shall apply, except that prior to renting #lower income housing#, the #administering agent# shall verify the income of each household to occupy such housing to assure that the households are #lower#, #moderate# or #middle income households# as provided by this Section and in the approved #lower income housing plan#. The #administering agent# shall submit an affidavit to the Commissioner of Housing Preservation and Development upon initial occupancy and annually thereafter attesting that all incoming occupants of #lower income housing# are #lower#, #moderate# or #middle income households# as required by the provisions of this Section and in the approved #lower income housing plan#.

(c) The provisions of paragraph (g) (Insurance) of Section 23-95 may be modified by the Commissioner of Housing Preservation and Development to provide priority for lenders participating in the financing of #lower income housing# that is assisted under city, state or federal programs.

(d) Permits and certificate of occupancy

The requirements of paragraph (f) of Section 23-95 shall not apply. In lieu thereof, the provisions of this paragraph (d) shall apply.

No building permit for any portion of the #compensated development# that utilizes #floor area# bonused pursuant to Section 93-232 (Floor area increase) shall be issued until the Commissioner of Housing Preservation and Development certifies that an acceptable #lower income housing plan# has been filed and approved.

No temporary certificate of occupancy shall be issued for any portion of the #compensated development# that utilizes #floor area# bonused pursuant to Section 93-232 until a temporary certificate of occupancy for each unit of #lower income housing# that is the subject of the #lower income housing plan# accepted by the Commissioner of Housing Preservation and Development has been issued, or, if the building has a valid certificate of occupancy and no new certificate of occupancy is required under the preservation option, until the Commissioner has certified to the Department of Buildings that the applicant has fulfilled its obligations with respect to the lower income housing. No permanent certificate of occupancy shall be issued for any portion of the #compensated development# that utilizes #floor area# bonused pursuant to Section 93-232 until a permanent certificate of occupancy for each unit of #lower income housing# that is the subject of the #lower income housing plan# accepted by the Commissioner of

Housing Preservation and Development has been issued or, if the building has a valid certificate of occupancy and no new certificate of occupancy is required under the preservation option, until the Commissioner has certified to the Department of Buildings that the applicant has fulfilled its obligations with respect to the lower income housing.

Prior to the issuance of any temporary or permanent certificate of occupancy for any portion of the #compensated development# that utilizes #floor area# bonused pursuant to Section 93-232 the Commissioner of Housing Preservation and Development shall certify that the #lower income housing# is in compliance with the #lower income housing plan#.

(e)(e) The provisions of Sections ~~23-941, 23-942 and 23-943~~ 23-951, 23-952 and 23-953 shall apply, except as follows:

(i) ~~that~~ with respect to Sections ~~23-941(a), 23-942(b), and 23-943(a); 23-951(a), 23-952(b), and 23-953(a),~~ #lower income housing# shall be maintained and leased to #lower#, #moderate# or #middle income households#, as provided in this Section, for the life of the increased #floor area#, and in accordance with the approved #lower income housing plan#.

(ii) if the lower income housing is subject to the requirements of city, state or federal programs assisting the lower income housing that have size and distribution requirements conflicting with the size and distribution requirements of Section 23-941(b), then the size and distribution requirements of Section 23-941(b) may be waived by the Commissioner of Housing Preservation and Development to facilitate the #development# of #lower income housing#, and

(iii) ~~Furthermore,~~ Section ~~23-943(a)~~ 23-953(a) shall be modified to provide that the #administering agent# shall not be required to verify the income of households in tenancy as of the date upon which the Commissioner of Housing Preservation and Development approves the #lower income housing plan#.

* * *

**93-52
Special Height and Setback Regulations in the Farley Corridor (Subdistrict B)**

The tower #lot coverage# requirements of paragraph (c) of Section 93-42 shall not apply to any #development# or #enlargement# within the Farley Corridor (Subdistrict B).

* * *

**93-63
Pedestrian Circulation Space**

In C2-8 and C6-4 Districts, all new #developments# or #enlargements# on #zoning lots# of 5,000 square feet or larger with more than 70,000 square feet of new #floor area# shall provide pedestrian circulation space in accordance with the provisions of Section 37-07 (Requirements for Pedestrian Circulation Space). In addition, for #developments# or #enlargements# that provide subway entranceways constructed after (effective date of amendment), one and one-half times the area of such entranceway accessible to the public at #street# level may qualify as pedestrian circulation space, up to a maximum amount of 3,000 square feet.

Pedestrian circulation space shall not be required if any of the following conditions exist:

- (a) The #zoning lot# is entirely occupied by a #building# of no more than one #story# in height.
- (b) The #zoning lot# is an #interior lot# fronting on a #wide street# with less than 80 feet of #street# frontage.
- (c) The #zoning lot# is a #through lot# and both #street# frontages are less than 25 feet in length.
- (d) The #zoning lot# is required to provide public access pursuant to Section 93-70 (PUBLIC ACCESS REQUIREMENTS FOR SPECIAL SITES).

* * *

93-82

Use and Location of Parking Facilities

The provisions of this Section shall apply to all off-street parking spaces within the #Special Hudson Yards District#.

- (a) ~~In Subdistricts A through E, a~~ All #accessory# off-street parking spaces may be made available for public use. However, any such space shall be made available to the occupant of a #residence# to which it is #accessory# within 30 days after written request therefore is made to the landlord. Furthermore, if #accessory# and public parking spaces are provided on the same #zoning lot#, all such spaces shall be located within the same parking facility. However, in C1-7A Districts and in C2-5 Districts mapped within R8A Districts, all #accessory# off-street parking spaces shall be used exclusively by the occupants of the #residential development#, #enlargement# or conversion. Where a parking facility is located partially within a C2-5 District mapped within an R8A District and partially within another district, all such #accessory# off-street parking spaces may be made available for public use provided more than half of the floor space of the parking facility is located outside the C2-5 District mapped within an R8A District.

* * *

93-90

Harassment

(a) Definitions

1. Anti-harassment area

“Anti-harassment area” shall mean the #Special Hudson Yards District# and Preservation Area P-2 of the #Special Garment Center District#.

2. Application date

“Application date” shall mean the date that the Department of Housing Preservation and Development accepts a completed application for a #certification of no harassment# for processing.

3. Certification of no harassment

“Certification of no harassment” shall mean a certification by the Department of Housing Preservation and Development pursuant to this Section that there has not been #harassment# of the lawful occupants of a #multiple dwelling# during the #inquiry period#.

4. Cure compliance lot

“Cure compliance lot” shall mean a #zoning lot# on which #low income housing# is provided pursuant to a #restrictive declaration# in accordance with the cure provisions of paragraph (d) of this Section. A #cure compliance lot# may be a #cure requirement lot#.

5. Cure requirement

Except as otherwise provided in paragraph (e) of this Section with respect to Subareas 4 and 5 of the #Hell's Kitchen Subdistrict# of the #Special Hudson Yards District#, “cure requirement” shall mean #floor area# in an amount not less than the greater of:

(i) 28 percent of the total #residential# and #hotel floor area# of any #multiple dwelling# to be altered or demolished in which #harassment# has occurred, or

(ii) 20 percent of the total #floor area# of any new or altered #building# on the #cure requirement lot#.

6. Cure requirement lot

“Cure requirement lot” shall mean (i) a #zoning lot# containing a #multiple dwelling# with respect to which the Department of Housing Preservation and Development has denied a #certification of no harassment#, or (ii) a #zoning lot# with respect to which an applicant, in lieu of seeking a #certification of no harassment# which would otherwise be required for the full or partial demolition or #material alteration# of a #multiple dwelling# located in the #anti-harassment area#, elects to seek a certification of compliance with the cure provisions of paragraph (d) of this Section and enters into a #restrictive declaration#.

7. Dwelling unit

“Dwelling unit” shall have the meaning set forth in the Multiple Dwelling Law.

8. Exempt hotel

“Exempt hotel” shall mean any #multiple dwelling#:

- (i) which is a #transient hotel# and was a #transient hotel# on the #referral date#, and
- (ii) in which no #residential# occupant is, or was on the #referral date#, entitled to a renewal lease or otherwise entitled to continued occupancy pursuant to the Local Housing Emergency Rent Control Act, as amended, the City Rent and Rehabilitation Law, as amended, the Rent Stabilization Law of 1969, as amended, or the Emergency Tenant Protection Act of 1974, as amended, and
- (iii) which has been exempted from the provisions of this Section by written determination of the Department of Housing Preservation and Development.

9. Exempt institutional residence

“Exempt institutional residence” shall mean any #multiple dwelling#:

- (i) the occupancy of which is restricted to non-profit institutional use and was restricted to non-profit institutional use on the #referral date#, and
- (ii) which has been exempted from the provisions of this Section by written determination of the Department of Housing Preservation and Development.

10. Harassment

“Harassment” shall mean any conduct by or on behalf of an owner of a #multiple dwelling# that includes:

- (i) the use or threatened use of force which causes or is intended to cause any person lawfully entitled to occupancy of a #dwelling unit# or #rooming unit# in such #multiple dwelling# to vacate such unit or to surrender or waive any rights in relation to such occupancy;
- (ii) the interruption or discontinuance of essential services which
 - (a) interferes with or disturbs or is intended to interfere with or disturb the comfort, repose, peace or quiet of any person lawfully entitled to occupancy of a #dwelling unit# or #rooming unit# in the use or occupancy of such #dwelling unit# or #rooming unit# and
 - (b) causes or is intended to cause such person lawfully entitled to occupancy of such #dwelling unit# or #rooming unit# to vacate such #dwelling unit# or #rooming unit# or to surrender or waive any rights in relation to such occupancy;
- (iii) a failure to comply with the provisions of subdivision (c) of section 27-2140 of article seven of subchapter five of the Housing Maintenance Code which causes or is intended to cause such person lawfully entitled to occupancy of such #dwelling unit# or #rooming unit# to vacate such unit or to waive any rights in relation to such occupancy; or
- (iv) any other conduct which prevents or is intended to prevent any person from the lawful occupancy of such #dwelling unit# or #rooming unit# or causes or is intended to cause such person lawfully entitled to occupancy of such #dwelling unit# or #rooming unit# to vacate such #dwelling unit# or #rooming unit# or to surrender or waive any rights in relation to such occupancy, including but not limited to removing the possessions of any occupant from the #dwelling unit# or #rooming unit#; removing the door at the entrance to the #dwelling unit# or #rooming unit#; removing, plugging or otherwise rendering the lock on such entrance door inoperable; or changing the lock on such entrance door without supplying the occupant with a key.

11. Inquiry period

“Inquiry period” shall mean a period which:

- (i) commences upon the later of the #referral date# or a date which is fifteen years prior to the #application date#, and
- (ii) terminates upon the #application date#:

provided, however, that the Department of Housing Preservation and Development may:

- (a) set such commencement date upon any date which is on or after the #referral date# and is more than fifteen years prior to the #application date# where it determines that such extension of the duration of the inquiry period would further the purposes of this Section, and
- (b) extend such termination date up to and including the date upon which the Department of Housing Preservation and Development determines to grant or deny a #certification of no harassment#.

12. Low income housing

“Low income housing” shall mean #dwelling units# or #rooming units# occupied or to be occupied by persons or families having an annual household income at the time of initial occupancy equal to or less than eighty percent of the median income for the primary metropolitan statistical area, as determined by the United States Department of Housing and Urban Development or its successors from time to time for a family of four, as adjusted for family size.

13. Material alteration

“Material alteration” shall mean any alteration to a #multiple dwelling# or other #building#, including, but not limited to, an alteration which reduces or increases the #floor area# of the #multiple dwelling# or other #building#, converts #floor area# from residential to non-residential use, changes the number or layout of #dwelling units# or #rooming units#, or adds or removes kitchens or bathrooms; provided, however, that #material alteration# shall not include:

- (i) an #incidental alteration# which does not change the layout of #dwelling units# or #rooming units#, or
- (ii) a repair or replacement of existing elements of such #multiple dwelling# or other #building# without materially modifying such elements.

14. Multiple dwelling

“Multiple dwelling” shall have the meaning set forth in the Multiple Dwelling Law.

15. Referral date

“Referral date” shall mean June 21, 2004.

16. Restrictive declaration

“Restrictive declaration” shall mean a legal instrument which:

- (i) provides that #low income housing# in an amount not less than the #cure requirement# shall be provided in a new or altered #multiple dwelling# located in the #anti-harassment area#.
- (ii) provides that the #low income housing# must comply with the requirements of Section 23-90, as amended by this Chapter, unless any such requirement is waived by the Department of Housing Preservation and Development.
- (iii) contains such other terms as the Department of Housing Preservation and Development shall determine.
- (iv) has been approved by the Department of Housing Preservation and Development.
- (v) runs with the land and binds all parties in interest to the #cure requirement lot# and their successors.
- (vi) runs with the land and binds all parties in interest to the #cure compliance lot# and their successors, and
- (vii) is perpetual in duration.

17. Rooming unit

“Rooming unit” shall have the meaning set forth in the Housing Maintenance Code.

(b) Permit Process

- 1. Unless the Department of Housing Preservation and Development has issued a #certification of no harassment# pursuant to paragraph (c) of this Section or has certified compliance with the cure provisions of

paragraph (d) of this Section, the Department of Buildings shall not issue a permit for:

- (i) the full or partial demolition of a #multiple dwelling# located in the #anti-harassment area#; or
- (ii) the #material alteration# of a #multiple dwelling# located in the #anti-harassment area#.

2. Any permit for alterations may be exempted from the provisions of this Section by written determination of the Department of Housing Preservation and Development that such alterations are to be performed solely for the purpose of either:

- (i) making the public areas of a #multiple dwelling# accessible to persons with disabilities without altering the configuration of any #dwelling unit# or #rooming unit#, or
- (ii) making a #dwelling unit# or a #rooming unit# accessible to persons with disabilities .

3. The following structures shall be exempt from the provisions of this Section: (i) any city-owned #multiple dwelling#; (ii) any #multiple dwelling# which is the subject of a program approved by Department of Housing Preservation and Development for the provision of housing for persons of low or moderate income and has been exempted from the provisions of this Section by written determination of the Department of Housing Preservation and Development; (iii) any #multiple dwelling# initially occupied for residential purposes after January 1, 1974, except for #buildings# which are or have been interim #multiple dwellings# pursuant to Article 7C of the Multiple Dwelling Law; (iv) any #exempt hotel#; (v) any #multiple dwelling# in which occupancy is restricted to clubhouse or school dormitory use and occupancy was restricted to clubhouse or school dormitory use on the #referral date#; and (vi) any #exempt institutional residence#.

4. Where the Department of Housing Preservation and Development has denied a #certification of no harassment# with respect to a #multiple dwelling#, the Department of Buildings shall not issue any permit with respect to any #multiple dwelling# or other #building# located on, or to be located on, the #cure requirement lot# except in accordance with paragraph (d) of this Section.

(c) Certification of No Harassment

1. The Department of Housing Preservation and Development shall determine and certify whether there has been #harassment# of the lawful occupants of a #multiple dwelling# during the #inquiry period#.

2. There shall be a rebuttable presumption that any of the acts or omissions described in paragraph (a)(10) of this Section occurring within the #inquiry period# were committed by or on behalf of the owner of such #multiple dwelling# and that such acts or omissions:
 - (i) were committed with the intent to cause a person lawfully entitled to occupancy of a #dwelling unit# or #rooming unit# in such #multiple dwelling# to vacate such unit or to surrender or waive a right in relation to such occupancy, and
 - (ii) materially advanced the demolition or alteration in furtherance of which the permit and #certification of no harassment# are sought.
3. The Department of Housing Preservation and Development may promulgate rules regarding the implementation of this Section. Such rules may include, but shall not be limited to, provisions which:
 - (i) establish the information to be required in an application for #certification of no harassment#, the form of such application, and the manner of filing of such application,
 - (ii) establish reasonable fees and charges to be collected from applicants for the administrative expenses incurred by the Department of Housing Preservation and Development, including, but not limited to, costs for publication of any notices, and
 - (iii) establish the duration for which a #certification of no harassment# will remain effective, and
 - (iv) authorize the rescission of a #certification of no harassment# if the Department of Housing Preservation and Development finds either that #harassment# has occurred after the #inquiry period# or that the application for such #certification of no harassment# contained a material misstatement of fact. Following such rescission, the Department of Buildings may revoke any permit for which such #certification of no harassment# was required.
4. The Department of Housing Preservation and Development may refuse to accept, or to act upon, an application for a #certification of no harassment# where the Department of Housing Preservation and Development finds that:

- (i) taxes, water and sewer charges, emergency repair program charges, or other municipal charges remain unpaid with respect to such #multiple dwelling#.
 - (ii) such #multiple dwelling# has been altered either without proper permits from the Department of Buildings or in a way that conflicts with the certificate of occupancy for such #multiple dwelling# (or, where there is no certificate of occupancy, any record of the Department of Housing Preservation and Development indicating the lawful configuration of such #multiple dwelling#) and such unlawful alteration remains uncorrected, or
 - (iii) the Department of Housing Preservation and Development has previously denied an application for a #certification of no harassment# pursuant to this Section.
- 5. If the Department of Housing Preservation and Development determines that an application for a #certification of no harassment# contains a material misstatement of fact, the Department of Housing Preservation and Development may reject such application and bar the submission of a new application with respect to such #multiple dwelling# for a period not to exceed three years.
- 6. Before determining whether there is reasonable cause to believe that #harassment# has occurred with respect to any #multiple dwelling#, the Department of Housing Preservation and Development shall publish a notice in such form and manner as shall be specified in the rules promulgated pursuant to paragraph (c)(3) of this Section. Such notice shall seek public comment regarding whether there has been #harassment# of the lawful occupants of such #multiple dwelling# from the #referral date# to the date of submission of comments. If the Department of Housing Preservation and Development receives comments containing material evidence that #harassment# occurred on or after the #referral date# and more than fifteen years prior to the #application date#, the Department of Housing Preservation and Development shall, in accordance with paragraph (a)(11) of this Section, set the commencement of the #inquiry period# on a date prior to the date of such alleged harassment.
- 7. The Department of Housing Preservation and Development shall determine whether there is reasonable cause to believe that #harassment# has occurred during the #inquiry period#.
 - (i) If there is no reasonable cause to believe that #harassment# has occurred during the #inquiry period#, the Department of Housing Preservation and Development shall issue a #certification of no harassment#.

(ii) If there is reasonable cause to believe that #harassment# has occurred during the #inquiry period#, the Department of Housing Preservation and Development shall cause a hearing to be held in such manner and upon such notice as shall be determined by the Department of Housing Preservation and Development, unless the applicant waives the right to a hearing. Following receipt of the report and recommendation of the hearing officer, or receipt of a waiver of the right to such a hearing from the applicant, the Department of Housing Preservation and Development shall either grant or deny a #certification of no harassment#.

8. The Department of Housing Preservation and Development may deny a #certification of no harassment# without a prior hearing if there has been a finding by the Division of Housing and Community Renewal or any court having jurisdiction that there has been harassment, unlawful eviction or arson at the #multiple dwelling# during the #inquiry period#.

(d) Certification of Cure For Harassment

1. The Department of Housing Preservation and Development shall not certify compliance with the cure provisions of this paragraph to the Department of Buildings unless all parties in interest to the #cure requirement lot# and all parties in interest to the #cure compliance lot# have entered into a #restrictive declaration#.

2. Any permit or certificate of occupancy issued by the Department of Buildings with respect to any structure located on a #cure requirement lot# or a #cure compliance lot# shall be subject to the following conditions:

(i) The Department of Buildings shall not issue any permit, except a permit for an alteration which is not a #material alteration#, with respect to any structure located on the #cure requirement lot# unless the #restrictive declaration# has been recorded in the Office of the City Register and indexed against each tax lot within the #cure requirement lot# and each tax lot within the #cure compliance lot#.

(ii) The Department of Buildings shall not issue any temporary or permanent certificate of occupancy for any new or existing structure or portion thereof on the #cure requirement lot#, other than any #low income housing# located on the #cure requirement lot#, until:

(a) the Department of Housing Preservation and Development certifies that the #low income housing# required by the #restrictive declaration# has been completed in compliance with the #restrictive declaration#, and

(b) the Department of Buildings has issued a temporary or permanent certificate of occupancy for each unit of such #low income housing#.

(iii) The Department of Buildings shall include the occupancy restrictions of the #restrictive declaration# in any temporary or permanent certificate of occupancy for any new or existing structure or portion thereof on the #cure compliance lot#. Failure to comply with the terms and conditions set forth in the #restrictive declaration# shall constitute a violation, and a basis for revocation, of any certificate of occupancy containing such restriction.

(iv) The Department of Buildings shall include the occupancy restrictions of the #restrictive declaration# in any temporary or permanent certificate of occupancy for any new or existing structure or portion thereof on the #cure requirement lot#, except where (a) the #cure requirement lot# is not the #cure compliance lot#, and (b) the management and operation of the #cure compliance lot# is wholly controlled by, and the #restrictive declaration# requires that management and operation of the #cure compliance lot# remain wholly controlled by, an independent not-for-profit administering agent that is not affiliated with the owner of the #cure requirement lot#. Failure to comply with the terms and conditions set forth in the #restrictive declaration# shall constitute a violation, and a basis for revocation, of any certificate of occupancy containing such restriction.

3. No portion of the #low income housing# required under this Section shall qualify to:

(i) increase the #floor area ratio# pursuant to the provisions of Section 23-90, as modified by the provisions of the #Special Hudson Yards District# and the #Special Garment Center District#, or

(ii) satisfy an eligibility requirement of any real property tax abatement or exemption program with respect to any #multiple dwelling# that does not contain such #low income housing#.

(e) Demolition In Subareas 4 and 5 of the #Hell's Kitchen Subdistrict#

Notwithstanding any provision of paragraph (a)(5) of this Section or paragraph (d) of this Section to the contrary, with regard to any #multiple dwelling# to be demolished in Subareas 4 and 5 of the #Hell's Kitchen Subdistrict# of the #Special Hudson Yards District#, #cure requirement# shall mean #floor area# in an amount not less than the greater of:

- (i) 40 percent of the total #residential# or #hotel floor area# of any #multiple dwelling# to be demolished in which #harassment# has occurred, or
- (ii) 30 percent of the total #floor area# of any new #building# on the same #zoning lot# as the #multiple dwelling# to be demolished.

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**Chapter 6
Special Clinton District**

* * *

**96-01
Definitions**

Definitions specially applicable to this Chapter are set forth in this Section. The definitions of other defined terms are as set forth in Section 12-10 (DEFINITIONS).

Certification of no harassment

“Certification of no harassment” shall mean a certification by the Department of Housing Preservation and Development pursuant to Section 96-110 that there has not been #harassment# of the lawful occupants of a #multiple dwelling# during the #inquiry period#, as defined in Section 96-110.

Harassment

“Harassment” shall mean any conduct by or on behalf of an owner of a #multiple dwelling# that includes:

- (i) the use or threatened use of force which causes or is intended to cause any person lawfully entitled to occupancy of a #dwelling unit# or #rooming unit# in such #multiple dwelling# to vacate such unit or to surrender or waive any rights in relation to such occupancy;
- (ii) the interruption or discontinuance of essential services which

- (a) interferes with or disturbs or is intended to interfere with or disturb the comfort, repose, peace or quiet of any person lawfully entitled to occupancy of a #dwelling unit# or #rooming unit# in the use or occupancy of such #dwelling unit# or #rooming unit# and
- (b) causes or is intended to cause such person lawfully entitled to occupancy of such #dwelling unit# or #rooming unit# to vacate such #dwelling unit# or #rooming unit# or to surrender or waive any rights in relation to such occupancy;
- (iii) a failure to comply with the provisions of subdivision (c) of section 27-2140 of article seven of subchapter five of the Housing Maintenance Code which causes or is intended to cause such person lawfully entitled to occupancy of such #dwelling unit# or #rooming unit# to vacate such unit or to waive any rights in relation to such occupancy; or
- (iv) any other conduct which prevents or is intended to prevent any person from the lawful occupancy of such #dwelling unit# or #rooming unit# or causes or is intended to cause such person lawfully entitled to occupancy of such #dwelling unit# or #rooming unit# to vacate such #dwelling unit# or #rooming unit# or to surrender or waive any rights in relation to such occupancy, including but not limited to removing the possessions of any occupant from the #dwelling unit# or #rooming unit#; removing the door at the entrance to the #dwelling unit# or #rooming unit#; removing, plugging or otherwise rendering the lock on such entrance door inoperable; or changing the lock on such entrance door without supplying the occupant with a key.

For purposes of this definition, #dwelling unit#, #referral date# and #rooming unit# shall be defined as in Section 96-110.

Material alteration

“Material alteration” shall mean any alteration to a #multiple dwelling# including, but not limited to, an alteration which reduces or increases the #floor area# of the #multiple dwelling#, converts #floor area# from residential to non-residential use, changes the number or layout of #dwelling units# or #rooming units#, or adds or removes kitchens or bathrooms; provided, however, that #material alteration# shall not include:

- (i) an #incidental alteration# which does not change the layout of #dwelling units# or #rooming units#, or
- (ii) a repair or replacement of existing elements of such #multiple dwelling# without materially modifying such elements.

For purposes of this definition, #dwelling unit# and #rooming unit# shall be defined as in Section 96-110.

Mixed building

For the purposes of this Chapter, a "mixed building" is a #building# in a #Commercial District# used partly for #residential use# and partly for #community facility# or #commercial use#, or a #building# in a #Residential District# used partly for #residential use# and partly for #community facility use#.

Multiple dwelling

"Multiple dwelling" shall have the meaning set forth in the Multiple Dwelling Law.

* * *

96-107

Special regulations for community facility uses

#Developments#, #enlargements# or #extensions# of #community facility uses# or conversions of an existing #building# to a #community facility use#, are permitted on #zoning lots# containing existing #buildings# with #residential uses# only, pursuant to the provisions of this Section. The City Planning Commission, by special permit, may permit #developments#, #enlargements# or #extensions# of #community facility uses#, provided that the Commission makes the following findings:

- (a) that the existing #building# is not eligible for rehabilitation under any active publicly-aided program under which funds are available;
- (b) that, prior to evicting or otherwise terminating the occupancy of any tenant preparatory to demolition, the developer shall have notified the ~~Commissioner~~ Department of Housing Preservation and Development of his or her intention to demolish the #building#; and
- (c) ~~that the eviction and relocation practices followed by the owner of the building satisfy all applicable legal requirements and that no harassment has occurred or, if it has been determined by the applicable governmental agency that legal relocation or eviction requirements have not been satisfied~~ Department of Housing Preservation and Development has issued a #certification of no harassment# or that harassment has occurred, that the owner has complied with Section 96-110 (Harassment and cure) (d) (Certification of Cure For Harassment).

This special permit shall be in addition to any special permits required for nursing homes, health related-facilities and domiciliary care facilities for adults, pursuant to the provisions of Section 74-90.

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

96-108

Demolition of buildings

No demolition permit or alteration permit for partial demolition involving a decrease of more than 20 percent in the amount of #residential floor area# in a #building# shall be issued by the Department of Buildings for any #building# containing #dwelling units# within the Preservation Area, unless it is an unsafe #building# and demolition is required pursuant to the provisions of Title 26, Sub-chapter 3, Article 8 of the New York City Administrative Code.

However, the City Planning Commission, by a special permit, may allow demolition of #buildings# containing #dwelling units# or #rooming units# other than unsafe #buildings# within the Preservation Area, provided that the Commission makes the following findings:

- (a) that the existing #building#:
 - (1) is not eligible for rehabilitation under any active publicly-aided program under which funds are available; or
 - ~~(2) was vacant on August 17, 1990 and is to be demolished for the purpose of implementing a publicly assisted program (exclusive of any tax abatement or tax exemption) for the construction of housing units for lower income households as defined in Section 23-923 (Definitions); and which units in the aggregate will occupy not less than one half of the #floor area# permitted on the #zoning lot# as of the date of the special permit, are to be administered by a not for profit agent and which comply with the requirements of Section 23-945 (Lower Income Housing Requirements), paragraphs (a) through (k), inclusive, and either the funds may not lawfully be used to rehabilitate the existing #building# or the project sponsor demonstrates that rehabilitation of the existing #building# is not appropriate in view of the specific requirements of the funding program as to the nature of the units to be constructed, services to be provided or population to be served; or~~
 - ~~(2)~~ (3) is to be substantially preserved and requires an alteration permit to allow the removal and replacement of 20 percent or more of the #floor area#.
- (b) that prior to evicting or otherwise terminating the occupancy of any tenant preparatory to demolition, the owner shall have notified the applicable governmental agency of its intention to demolish the #building#;
- (c) that the ~~eviction and relocation practices followed by the owner satisfy all applicable legal requirements and that no harassment has occurred or, if it has been determined by the applicable governmental agency that harassment has occurred~~ Department of Housing Preservation and Development has issued a #certification of no harassment# or if the owner has waived in writing the need for such a determination, that the owner has complied with Section 96-110 (~~Harassment and cure~~) (d) (Certification of Cure For Harassment). ~~However, the~~

~~owner has the right to withdraw its harassment determination waiver at any time prior to the issuance of a special permit pursuant to this Section; and~~

- (d) that an acceptable program for new #development# of the #zoning lot# is submitted to the Commission which indicates that to the extent permitted by the provisions of Section 96-10 (PRESERVATION AREA), the number of new #dwelling units# to be constructed is at least equal to the number of #dwelling units# to be demolished and that the #floor area# of the new #residential development# is at least equal to the #floor area# of the #dwelling units# to be demolished and that site development will commence within a period of twelve months from completion of relocation.

The Commission may prescribe appropriate conditions and safeguards to insure that any interim #uses# proposed on the site prior to any construction is in conformance with the purposes of this Special District.

96-109

Alterations of buildings

~~Prior to the issuance of an alteration permit by the Department of Buildings for an #material alteration# of a #multiple dwelling# other than an incidental alteration of a #building# containing #residential uses# within the Preservation Area, the Commissioner~~ Department of Housing Preservation and Development shall certify to the Department of Buildings that:

- (a) prior to evicting or otherwise terminating the occupancy of any tenant preparatory to alteration, the owner shall have notified the Commissioner of his or her intention to alter the #building#; and
- (b) ~~the eviction and relocation practices followed by the owner of the #building# satisfy all applicable legal requirements and that no harassment has occurred or, if it has been determined by the applicable governmental agency that legal relocation or eviction requirements have not been satisfied~~ Department of Housing Preservation and Development has issued a #certification of no harassment# or that harassment has occurred, that the owner has complied with Section 96-110 ~~(Harassment and cure)~~ (d) (Certification of Cure For Harassment).

However, a permit for alterations may be exempted from the provisions of this Section by written determination of the Department of Housing Preservation and Development that such alterations are to be performed solely for the purpose of either:

- (a) making the public areas of a #multiple dwelling# accessible to persons with disabilities without altering the configuration of any #dwelling unit# or #rooming unit#, or
- (b) making a #dwelling unit# or a #rooming unit# accessible to persons with disabilities.

For purposes of this Section, #dwelling unit# and #rooming unit# shall be defined as in Section 96-110.

96-110
Harassment and cure

(a) Definitions

1. Application date

“Application date” shall mean the date that the Department of Housing Preservation and Development accepts a completed application for a #certification of no harassment# for processing.

2. Cure compliance lot

“Cure compliance lot” shall mean a #zoning lot# on which #low income housing# is provided pursuant to a #restrictive declaration# in accordance with the cure provisions of paragraph (d) of this Section. Each #cure compliance lot# shall be located entirely within the corresponding #cure requirement lot#.

3. Cure requirement

“Cure requirement” shall mean #floor area# in an amount not less than the greater of:

(a) 28 percent of the total #residential# and #hotel floor area# of any #multiple dwelling# to be altered or demolished in which #harassment# has occurred, or

(b) 20 percent of the total #floor area# of any new or altered #building# on the #cure requirement lot#.

#Cure requirement# shall also mean any cure for harassment that was approved by the City Planning Commission or the Department of Housing Preservation and Development and was permitted by the provisions of this Section prior to (date of enactment).

4. Cure requirement lot

“Cure requirement lot” shall mean (i) a #zoning lot# containing a #multiple dwelling# with respect to which the Department of Housing Preservation and Development has denied a #certification of no harassment#, or (ii) a #zoning lot# with respect to which an applicant, in lieu of seeking a #certification of no harassment# which would

otherwise be required, elects to seek a certification of compliance with the cure provisions of paragraph (d) of this Section and enters into a #restrictive declaration#.

5. Dwelling unit

“Dwelling unit” shall have the meaning set forth in the Multiple Dwelling Law.

6. Exempt hotel

“Exempt hotel” shall mean any #multiple dwelling#:

- (i) which is a #transient hotel# and was a #transient hotel# on the #referral date#, and
- (ii) in which no #residential# occupant is, or was on the #referral date#, entitled to a renewal lease or otherwise entitled to continued occupancy pursuant to the Local Housing Emergency Rent Control Act, as amended, the City Rent and Rehabilitation Law, as amended, the Rent Stabilization Law of 1969, as amended, or the Emergency Tenant Protection Act of 1974, as amended, and
- (iii) which has been exempted from the provisions of this Section by written determination of the Department of Housing Preservation and Development.

7. Exempt institutional residence

“Exempt institutional residence” shall mean any #multiple dwelling#:

- (i) the occupancy of which is restricted to non-profit institutional use and was restricted to non-profit institutional use on the #referral date#, and
- (ii) which has been exempted from the provisions of this Section by written determination of the Department of Housing Preservation and Development.

8. Inquiry period

“Inquiry period” shall mean a period which:

- (i) commences fifteen years prior to the #application date#, and
- (ii) terminates upon the #application date#.

provided, however, that the Department of Housing Preservation and Development may:

- (a) set such commencement date upon any date which is on or after the #referral date#, and is more than fifteen years prior to the #application date# where it determines that such extension of the duration of the inquiry period would further the purposes of this Section, and
- (b) extend such termination date up to and including the date upon which the Department of Housing Preservation and Development determines to grant or deny a #certification of no harassment#.

9. Low income housing

“Low income housing” shall mean #dwelling units# or #rooming units# occupied or to be occupied by persons or families having an annual household income at the time of initial occupancy equal to or less than eighty percent of the median income for the primary metropolitan statistical area, as determined by the United States Department of Housing and Urban Development or its successors from time to time for a family of four, as adjusted for family size.

10. Referral date

“Referral date” shall mean September 5, 1973.

11. Restrictive declaration

“Restrictive declaration” shall mean a legal instrument which:

- (i) provides that #low income housing# in an amount not less than the #cure requirement# shall be provided in a new or altered #multiple dwelling# on the #cure compliance lot#;
- (ii) provides that the #low income housing# must comply with the requirements of Section 23-90, as amended by this Chapter, unless any such requirement is waived by the Department of Housing Preservation and Development. However, in the Preservation Area, paragraph (b) of Section 23-951 (On-site new construction option) shall be inapplicable and in its place and stead, paragraph (a) of Section 96-105 (Dwelling unit regulations) shall be applicable;
- (iii) contains such other terms as the Department of Housing Preservation and Development shall determine;

(iv) has been approved by the Department of Housing Preservation and Development;

(v) runs with the land and binds all parties in interest to the #cure requirement lot# and their successors;

(vi) runs with the land and binds all parties in interest to the #cure compliance lot# and their successors; and

(vii) is perpetual in duration.

11. Rooming unit

#Rooming unit# shall have the meaning set forth in the Housing Maintenance Code.

(b) Permit Process

1. Unless the Department of Housing Preservation and Development has issued a #certification of no harassment# pursuant to paragraph (c) of this Section or has certified compliance with the cure provisions of paragraph (d) of this Section, no ~~Notwithstanding any provision to the contrary contained in this Chapter,~~ a permit may be issued by the Department of Buildings pursuant to Sections 96-108, 96-109, ~~96-23~~ or 96-24, and no ~~or a~~ special permit may be granted by the City Planning Commission pursuant to Sections 96-107 or 96-108 with respect to any #building# on a #zoning lot# in which harassment or other failure to satisfy applicable legal requirements in eviction and relocation has occurred, provided that the Department of Housing Preservation and Development has determined and certified that all parties in interest to the #zoning lot#, as the term "party in interest" is defined in #zoning lot# in Section 12-10 (DEFINITIONS), have entered into a legal agreement approved by the Department of Housing Preservation and Development which shall run with the land and bind all parties in interest and their successors. Such agreement shall provide for either the #floor area# cure or land cure as set forth below;

2. The following structures shall be exempt from the provisions of this Section: (i) any city-owned #multiple dwelling#; (ii) any #multiple dwelling# which is the subject of a program approved by Department of Housing Preservation and Development for the provision of housing for persons of low or moderate income and has been exempted from the provisions of this Section by written determination of the Department of Housing Preservation and Development; (iii) any #multiple dwelling# initially occupied for residential purposes after January 1, 1974, except for #buildings# which are or have been interim #multiple dwellings# pursuant to Article 7C of the Multiple Dwelling Law; (iv) any #exempt hotel#; (v) any #multiple dwelling# in which occupancy is restricted to clubhouse or school dormitory use and occupancy was restricted to clubhouse or school dormitory use on the #referral date#; and (vi) any #exempt institutional residence#.

3. Where the Department of Housing Preservation and Development has denied a #certification of no harassment# with respect to a #multiple dwelling#, the Department of Buildings shall not issue any permit with respect to any #multiple dwelling# or other #building# located on, or to be located on, the #cure requirement lot# except in accordance with paragraph (d) of this Section.

(c) Certification of No Harassment

1. The Department of Housing Preservation and Development shall determine and certify whether there has been #harassment# of the lawful occupants of a #multiple dwelling# during the #inquiry period#.

2. There shall be a rebuttable presumption that #harassment# occurring within the #inquiry period# was committed by or on behalf of the owner of such #multiple dwelling# and that such #harassment#:

(i) was committed with the intent to cause a person lawfully entitled to occupancy of a #dwelling unit# or #rooming unit# in such #multiple dwelling# to vacate such unit or to surrender or waive a right in relation to such occupancy, and

(ii) materially advanced the demolition or alteration in furtherance of which the permit and #certification of no harassment# are sought.

3. The Department of Housing Preservation and Development may promulgate rules regarding the implementation of this Section. Such rules may include, but shall not be limited to, provisions which:

(i) establish the information to be required in an application for #certification of no harassment#, the form of such application, and the manner of filing of such application,

(ii) establish reasonable fees and charges to be collected from applicants for the administrative expenses incurred by the Department of Housing Preservation and Development, including, but not limited to, costs for publication of any notices,

(iii) establish the duration for which a #certification of no harassment# will remain effective, and

(iv) authorize the rescission of a #certification of no harassment# if the Department of Housing Preservation and Development finds either that #harassment# has occurred after the #inquiry period# or that the application for such #certification of no harassment# contained a material misstatement of fact.

Following such rescission, the Department of Buildings may revoke any permit for which such #certification of no harassment# was required.

4. The Department of Housing Preservation and Development may refuse to accept, or to act upon, an application for a #certification of no harassment# where the Department of Housing Preservation and Development finds that:
 - (i) taxes, water and sewer charges, emergency repair program charges, or other municipal charges remain unpaid with respect to such #multiple dwelling#.
 - (ii) such #multiple dwelling# has been altered either without proper permits from the Department of Buildings or in a way that conflicts with the certificate of occupancy for such #multiple dwelling# (or, where there is no certificate of occupancy, any record of the Department of Housing Preservation and Development indicating the lawful configuration of such #multiple dwelling#) and such unlawful alteration remains uncorrected, or
 - (iii) the Department of Housing Preservation and Development has previously denied an application for a #certification of no harassment# pursuant to this Section.
5. If the Department of Housing Preservation and Development determines that an application for a #certification of no harassment# contains a material misstatement of fact, the Department of Housing Preservation and Development may reject such application and bar the submission of a new application with respect to such #multiple dwelling# for a period not to exceed three years.
6. Before determining whether there is reasonable cause to believe that #harassment# has occurred with respect to any #multiple dwelling#, the Department of Housing Preservation and Development shall publish a notice in such form and manner as shall be specified in the rules promulgated pursuant to paragraph (c)(3) of this Section. Such notice shall seek public comment regarding whether there has been #harassment# of the lawful occupants of such #multiple dwelling# from the #referral date# to the date of submission of comments. If the Department of Housing Preservation and Development receives comments containing material evidence that #harassment# occurred on or after the #referral date# and more than fifteen years prior to the #application date#, the Department of Housing Preservation and Development shall, in accordance with paragraph (a)(8) of this Section, set the commencement of the #inquiry period# on a date prior to the date of such alleged harassment.

7. The Department of Housing Preservation and Development shall determine whether there is reasonable cause to believe that #harassment# has occurred during the #inquiry period#.

(i) If there is no reasonable cause to believe that #harassment# has occurred during the #inquiry period#, the Department of Housing Preservation and Development shall issue a #certification of no harassment#.

(ii) If there is reasonable cause to believe that #harassment# has occurred during the #inquiry period#, the Department of Housing Preservation and Development shall cause a hearing to be held in such manner and upon such notice as shall be determined by the Department of Housing Preservation and Development, unless the applicant waives the right to a hearing. Following receipt of the report and recommendation of the hearing officer, or receipt of a waiver of the right to such a hearing from the applicant, the Department of Housing Preservation and Development shall either grant or deny a #certification of no harassment#.

8. The Department of Housing Preservation and Development may deny a #certification of no harassment# without a prior hearing if there has been a finding by the Division of Housing and Community Renewal or any court having jurisdiction that there has been harassment, unlawful eviction or arson at the #multiple dwelling# during the #inquiry period#.

(d) Certification of Cure For Harassment

1. The Department of Housing Preservation and Development shall not certify compliance with the cure provisions of this paragraph to the Department of Buildings unless all parties in interest to the #cure requirement lot# and all parties in interest to the #cure compliance lot# have entered into a #restrictive declaration#.

2. Any permit or certificate of occupancy issued by the Department of Buildings with respect to any structure located on a #cure requirement lot# or a #cure compliance lot# shall be subject to the following conditions:

(i) The Department of Buildings shall not issue any permit, except a permit for an alteration which is not a #material alteration#, with respect to any structure located on the #cure requirement lot# unless the #restrictive declaration# has been recorded in the Office of the City Register and indexed against each tax lot within the #cure requirement lot# and each tax lot within the #cure compliance lot#.

(ii) The Department of Buildings shall not issue any temporary or permanent certificate of occupancy for any new or existing structure or portion thereof on the #cure requirement lot#, other than any #low income housing# located on the #cure requirement lot#, until:

(a) the Department of Housing Preservation and Development certifies that the #low income housing# required by the #restrictive declaration# has been completed in compliance with the #restrictive declaration#, and

(b) the Department of Buildings has issued a temporary or permanent certificate of occupancy for each unit of such #low income housing#.

(iii) The Department of Buildings shall include the occupancy restrictions of the #restrictive declaration# in any temporary or permanent certificate of occupancy for any new or existing structure or portion thereof on the #cure compliance lot#. Failure to comply with the terms and conditions set forth in the #restrictive declaration# shall constitute a violation, and a basis for revocation, of any certificate of occupancy containing such restriction.

(iv) The Department of Buildings shall include the occupancy restrictions of the #restrictive declaration# in any temporary or permanent certificate of occupancy for any new or existing structure or portion thereof on the #cure requirement lot#, except where the management and operation of the #cure compliance lot# is wholly controlled by, and the #restrictive declaration# requires that management and operation of the #cure compliance lot# remain wholly controlled by, an independent not-for-profit administering agent that is not affiliated with the owner of the #cure requirement lot#. Failure to comply with the terms and conditions set forth in the #restrictive declaration# shall constitute a violation, and a basis for revocation, of any certificate of occupancy containing such restriction.

3. No portion of the #low income housing# required under this Section shall qualify to:

(i) increase the #floor area ratio# pursuant to Section 96-21 (Special Regulations for 42nd Street Perimeter Area); Section 96-22 (Special Regulations for Eighth Avenue Perimeter Area); any #floor area ratio# increase provision of the

#Special Garment Center District, #Special Hudson Yards District#, #Special West Chelsea District#; or Section 23-90;
or

(ii) satisfy an eligibility requirement of any real property tax abatement or exemption program with respect to any #multiple dwelling# that does not contain such #low income housing#.

~~(1) — #Floor area# cure~~

~~(i) — Lower income housing, in an amount equal to at least 28 percent (the "cure percentage") of the total #residential floor area# of any #building# to be altered or demolished in which harassment (as defined in paragraph (d) of this Section) has occurred, shall be provided in a new or altered #building# on the same #zoning lot# as the #building# to be altered or demolished.~~

~~(ii) — If at the time of filing an application for a building permit or special permit, an existing #building# to be altered contains occupied units, the requirement set forth in this paragraph, (a)(1), regarding the provision of lower income housing shall be satisfied as follows:~~

~~(a) — not less than 28 percent of the #floor area# of all vacant units shall be provided for lower income housing; and~~

~~(b) — the balance of any required lower income housing shall be comprised of qualifying occupied units;~~

~~(iii) — Such designated lower income housing units shall be in compliance with the applicable regulations of Section 23-90 (INCLUSIONARY HOUSING) except that in the Preservation Area, paragraph (b) of Section 23-941 (On site new construction option) shall be inapplicable and in its place and stead, paragraph (a) of Section 96-105 (Dwelling unit regulations) shall be applicable.~~

~~(2) — Land cure~~

~~For #buildings# that were vacant on August 17, 1990 only:~~

~~(i) — that sufficient land on the same #zoning lot# has been donated or provided for nominal consideration by the owner of the land for the construction of lower income housing at a rate of 1.0 square foot of lower income housing #floor area# for~~

every 1.1 square feet of existing ~~#residential floor area#~~ of a ~~#building#~~ subject to the cure provisions;

~~(ii) — the legal instruments relating to the transfer of title to an administering agent have been approved pursuant to Section 23-90;~~

~~(iii) — the administering agent has signed an agreement with a City, State or federal housing or development agency to fully fund the construction of lower income housing;~~

~~(iv) — such lower income housing shall comply with the requirements of Section 23-90, except that the lower income housing may receive City, State or federal subsidies;~~

~~(v) — the total amount of new #residential floor area# to be provided pursuant to this Section shall in no event be less than the amount required under Section 96-108 (Demolition of buildings), paragraph (d);~~

~~(vi) — no demolition permit shall be issued by the Department of Buildings pursuant to Section 96-108 until there has been a funding closing with a City, State or federal housing or development agency to finance the construction of the lower income housing units to be constructed as required in paragraph (a)(2)(i) of this Section;~~

~~(vii) — no temporary Certificate of Occupancy shall be issued for any purpose other than lower income housing on the same #zoning lot# until a temporary Certificate of Occupancy for all units of lower income housing has been issued. No permanent Certificate of Occupancy shall be issued for any purpose other than lower income housing on the same #zoning lot# until a permanent Certificate of Occupancy for all units of lower income housing has been issued.~~

~~(b) — Any building permit or special permit issued pursuant to this Section shall be subject to the following additional conditions:~~

~~(1) — No certificate of occupancy, temporary or permanent, shall be issued by the Department of Buildings for new #buildings# and/or existing #buildings# or portions thereof which are to remain on the #zoning lot#, any one of which #buildings# requires compliance with this Section due to harassment, until the Commissioner of Housing Preservation and Development certifies that the lower income housing is in compliance with the Lower Income Housing Plan as set forth in Section 23-90 and the Department of Buildings has issued a Certificate~~

~~of Occupancy, temporary or permanent, for each unit of the lower income housing.~~

- ~~(2) Immediately upon issuance of a building permit or special permit, the legal agreement described in paragraph (a) of this Section shall be recorded by the applicant in the Conveyance Section of the Office of the City Register in the County of New York and indexed against the subject #zoning lot#. If the applicant does not immediately so record the legal agreement, the City of New York may record the agreement at the sole cost and expense of the applicant. This occupancy restriction of paragraph (a) of this Section shall be included in both the temporary and permanent certificates of occupancy issued by the Department of Buildings for the new and/or existing #buildings#. Failure to comply with the terms and conditions set forth in the legal agreement shall constitute a violation of the permit or certificate of occupancy and may constitute a basis for revocation of the permit or Certificate of Occupancy.~~
- ~~(3) No portion of the lower income housing required under this Section shall qualify to:
 - ~~(i) increase the #floor area ratio# pursuant to Section 96-21 (Special Regulations for 42nd Street Perimeter Area) or Section 23-90; or~~
 - ~~(ii) satisfy the requirement of a program to receive tax abatement or exemptions which are not specifically limited to lower income housing.~~~~
- ~~(c) The requirements of paragraphs (a) and (b) of this Section, the two-bedroom unit distribution requirement of Section 96-105 and the provisions of Section 96-108 shall not apply to any existing #buildings# located within the #Special Clinton District# which are acquired and rehabilitated to provide low to moderate income housing units pursuant to a special permit approved by the Board of Estimate prior to February 28, 1988. In lieu thereof, and notwithstanding any provision to the contrary contained in this Chapter, the following curative measures shall apply where there has been any harassment as defined in paragraph (d) of this Section:
 - ~~(1) a building permit may be issued by the Department of Buildings when the Chairperson of the City Planning Commission has certified to the Department of Buildings that a restrictive declaration which binds the owner of the #zoning lot# and all successors in interest, in a form satisfactory to the Chairperson, has been recorded against the #zoning lot# on which the low to moderate income housing units are located, which restricts the occupancy of such units to low to moderate income persons and #families# in accordance with the terms of the special~~~~

permit, and to persons and #families# residing in such units at the time such declaration is recorded;

- (2) ~~a temporary or permanent Certificate of Occupancy may be issued by the Department of Buildings when the Chairperson of the City Planning Commission has certified that such low to moderate income housing units are in full compliance with the terms of the previously approved special permit; and~~
 - (3) ~~no portion of the lower income housing provided pursuant to paragraph (e) of this Section may be used to increase the #floor area ratio# of a #zoning lot# pursuant to Section 96-21 or Section 23-90.~~
- (d) ~~For the purposes of this Chapter, "harassment" (including other failure to satisfy applicable legal requirements in eviction and relocation practices) shall mean any conduct, as described below, by or on behalf of an owner of a #building# containing #dwelling units# or #rooming units# which materially advanced #development#, #enlargement#, demolition of a #building#, the conversion or alteration of a #building# or the #extension# of a #use# within a #building#, in the furtherance of which the permit is sought:~~
- (1) ~~the use or threatened use of force which causes or is intended to cause any person lawfully entitled to occupancy of a #dwelling unit# or #rooming unit# in such multiple dwelling to vacate such unit or to surrender or waive any rights in relation to such occupancy;~~
 - (2) ~~the interruption or discontinuance of essential services which:~~
 - (i) ~~interferes with or disturbs or is intended to interfere with or disturb the comfort, repose, peace or quiet of any person lawfully entitled to occupancy of a #dwelling unit# or #rooming unit# in the use or occupancy of such #dwelling unit# or #rooming unit#; and~~
 - (ii) ~~causes or is intended to cause such person lawfully entitled to occupancy of such #dwelling unit# or #rooming unit# to vacate such unit or to surrender or waive any rights in relation to such occupancy;~~
 - (3) ~~the failure to comply with the provisions of subdivision (c) of Section 27-2140 of Article 7 of subchapter 5 of the Housing Maintenance Code which causes or is intended to cause such person lawfully entitled to occupancy of such #dwelling unit# or #rooming unit# to vacate such unit or to waive any rights in relation to such occupancy; or~~
 - (4) ~~any other conduct which prevents or is intended to prevent any person from the lawful occupancy of such #dwelling unit# or #rooming unit# or causes or is intended to cause such person lawfully entitled to~~

~~occupancy of such #dwelling unit# to vacate such unit or to surrender or waive any rights in relation to such occupancy, including but not limited to removing the possessions of any occupant from the #dwelling unit# or #rooming unit#; removing the door at the entrance to the #dwelling unit# or #rooming unit#; removing, plugging or otherwise rendering the lock on such entrance door inoperable; or changing the lock on such entrance door without supplying the occupant with a key.~~

~~For any alleged act of harassment which has taken place within 15 years of the date of filing an application for a building permit or special permit pursuant to Sections 96-107, 96-108, 96-109, 96-23 or 96-24, there shall be a presumption, rebuttable by the applicant, that the harassment materially advanced the #development# on the #zoning lot# or the #enlargement#, #extension#, conversion or alteration of the existing #building# in furtherance of which the permit is sought.~~

~~Such determination of harassment for the purpose of this Chapter shall be made by the Department of Housing Preservation and Development after a hearing in accordance with applicable statutes and regulations, prior to certification of compliance with the aforementioned Sections 96-107, 96-108, 96-109, 96-23 or 96-24.~~

~~Notwithstanding anything set forth in this Section, no act of harassment which occurred prior to September 5, 1973, shall constitute harassment for the purposes of this Chapter.~~

* * *

**96-20
PERIMETER AREA**

* * *

**96-21
Special Regulations for 42nd Street Perimeter Area**

* * *

(b) Floor area regulations

* * *

(2) Floor area regulations in Subarea 2

In Subarea 2 of the 42nd Street Perimeter Area as shown in Appendix B, the basic #floor area ratio# of any #development# or #enlargement# shall be 10.0. However, the #floor area ratio# of any #development# or #enlargement# containing #residential use# may exceed 10.0 to a maximum of 12.0 only in accordance with the provisions of Section 23-90 (INCLUSIONARY HOUSING), except that any units for which a

#floor area# increase has been earned pursuant to Section 23-90 shall be within the #Special Clinton District#. For #developments# or #enlargements# that have fully utilized the Inclusionary Housing Program, the maximum permitted #floor area ratio# may be increased from 12.0 to 15.0 for new legitimate theater or non-profit performing arts #use# in accordance with the provisions of Section 96-25 (Floor Area Bonus for New Legitimate Theater or Non-Profit Performing Arts #Use#)

* * *

(e) Pedestrian circulation space

Within Subarea 2 of the 42nd Street Perimeter Area, as shown in Appendix A, pedestrian circulation space shall be provided in accordance with the provisions of Section 37-07 (Requirements for Pedestrian Circulation Space). In addition, for #developments# or #enlargements# that provide subway entranceways constructed after (effective date of amendment), one and one-half times the area of such entranceway accessible to the public at #street# level may qualify as pedestrian circulation space, up to a maximum amount of 3,000 square feet.

(f) Special curb cut and parking requirements

No curb cuts shall be permitted on 42nd Street. The parking requirements of the #Special Hudson Yards District# shall apply within the 42nd Street Perimeter Area, as set forth in Section 93-80 (OFF-STREET PARKING), except that such parking requirements shall not apply to any #development# or #enlargement# for which a special permit was granted prior to January 19, 2005.

Any #development# or #enlargement# for which a building permit has been lawfully issued prior to December 31, 2004 shall comply with either the parking regulations in effect at the time the permit was issued, or the requirements of this paragraph (f).

~~The provisions of this Section 96-21 shall not apply to any #development# or #enlargement# for which a building permit has been lawfully issued prior to December 31, 2004. In lieu thereof, the regulations in effect at the time such permit was issued shall apply.~~

* * *

**96-21
Special Regulations for 42nd Street Perimeter Area**

* * *

**96-24
Relocation and Demolition of Buildings in the Perimeter Area**

Prior to the issuance by the Department of Buildings of a demolition permit or a permit for any #development#, #enlargement# or #extension# on any #zoning lot# containing #residential uses# within the Perimeter Area, the ~~Commissioner~~ Department of Housing Preservation and Development shall certify to the Department of Buildings:

- (a) that prior to evicting or otherwise terminating the occupancy of any tenant in connection with vacating any #building#, the developer shall have notified the Department of Housing Preservation and Development of plans for the relocation of tenants which shall:
 - (1) to the extent possible provide for the relocation of tenants within the Clinton District; and
 - (2) provide for the satisfaction of all the requirements for the issuance of a certificate of eviction under applicable rent control and rent stabilization regulations of the State of New York; and
- (b) that the developer has complied with the relocation plan submitted pursuant to paragraph (a) of this Section and that ~~no harassment has occurred~~ the Department of Housing Preservation and Development has issued a #certification of no harassment#, or if it has been determined by the applicable governmental agency that legal relocation or eviction requirements have not been satisfied or that harassment has occurred, that the owner has complied with Section 96-110 (~~Harassment and cure~~) (d) (Certification of Cure For Harassment).

* * *

96-25

Floor Area Bonus for New Legitimate Theater or Non-Profit Performing Arts Use

Within Subarea 2 of the 42nd Street Perimeter Area as shown in Appendix B of this Chapter, for #developments# or #enlargements# located within the area bounded by West 42nd Street, Dyer Avenue, West 41st Street and Eleventh Avenue that have fully utilized a #floor area# increase pursuant to Section 23-90 (INCLUSIONARY HOUSING), three additional square feet of #floor area# may be provided for each square foot of new legitimate theater or non-profit performing arts #use#, upon certification by the Chairperson of the City Planning Commission to the Commissioner of Buildings that the following conditions shall exist:

- (a) the total #floor area ratio# on the #zoning lot# shall not exceed 15.0;
- (b) all #floor area# for which a bonus is received pursuant to this Section shall be limited to floor space ~~exclusively~~ associated with legitimate theater or non-profit performing arts #use#, including auditorium, orchestra, balconies, stage and theater equipment space, wings, dressing rooms, rehearsal spaces, lobbies, lounges, ticket offices, rest rooms, ~~and~~ circulation space, and other #accessory# floor space;

- (c) the theater or performance spaces shall be designed, arranged and used ~~exclusively~~ for live performances and rehearsals of drama, music or dance and shall have at least 99 fixed seats;
- (d) a signed lease shall be provided from a prospective theater or performance space operator, or a written commitment from the owner of the theater or performance space if such owner is also the operator, for occupancy of the theater or performance space and its operation as a legitimate theater or non-profit performing arts space for a period of not less than five years, pursuant to an operating plan and program therefor;
- (e) ~~A plan and program shall be accompanied by a~~ written commitment from such owner of the financial resources available to ensure timely completion of the identified scope of work;
- (f) a legal commitment shall be provided for inspection and ongoing maintenance of the theater or performance space to ensure its continued availability for theater or performance space #use#. Such inspection shall be conducted every five years by a licensed engineer or architect, and a report issued to the Chairperson of the City Planning Commission and notice of such report shall be published in the City Record. Such report shall describe the condition of the theater or performance space and identify any maintenance or repair work necessary to ensure the physical and operational soundness of the theater or performance space and establish a plan and program for such work, including providing that adequate resources be made available to ensure timely completion of such maintenance or repair work; and
- (g) a legal commitment shall be provided for continuance of the #use# of all #floor area# for which a bonus has been received pursuant to this Section as a legitimate theater or non-profit performing arts space for the life of the related #development#.

Such legal commitments shall be in the form of a declaration of restrictions, filed and duly recorded in the Borough Office of the Register of the City of New York, binding upon the owner and any lessee of the theater or performance space and their successors and assigns, a certified copy of which shall be submitted to the City Planning Commission. The filing of such declaration and the posting of any bond or other security required by the Chairperson of the City Planning Commission under the terms of such declaration, and receipt of ~~such~~ a certified copy of such declaration shall be preconditions to issuance of any building permit, including any foundation or alteration permit, for any #development# or #enlargement#.

The owner shall not apply for or accept a temporary certificate of occupancy for that portion of the #development# or #enlargement# identified under the terms of the declaration of restrictions as utilizing the increased #floor area# permitted pursuant to this Section, and the Department of Buildings shall not issue a temporary certificate of occupancy for such portion, until the Chairperson has certified that the theater or

performance space is substantially complete, which shall, for this purpose, mean that such theater or performance space is usable by the public. The owner shall not apply for or accept a permanent certificate of occupancy for such portion of the #development# or #enlargement#, nor shall the Department of Buildings issue a permanent certificate of occupancy for such portion, until the theater or performance space has been finally completed in accordance with the approved plans and such final completion has been certified by the Chairperson.

* * *

Article XII - Special Purpose Districts

Chapter 1

Special Garment Center District

* * *

121-31

Maximum Permitted Floor Area

The basic maximum #floor area ratio# of a non-#residential building# shall be 10.0 and may be increased to a maximum #floor area ratio# of 12.0 only pursuant to Section 93-31 (District Improvement Fund). For #buildings# containing #residences#, the basic maximum #floor area ratio# shall be 6.5. The #floor area ratio# of any #building# containing #residences# may be increased from 6.5 pursuant to Sections 93-31, and pursuant to Section 23-90 (INCLUSIONARY HOUSING), as modified by Section 93-23, provided that for every five square ~~feet~~ feet of #floor area# increase pursuant to Section 93-31 ~~or 93-32~~ there is a #floor area# increase of six square feet pursuant to Section 23-90 as modified by Section 93-23, inclusive. The maximum #residential floor area ratio# shall be 12.0.

* * *

121-50

SUPPLEMENTAL REGULATIONS IN PRESERVATION AREA P-2

In Preservation Area P-2, the provisions of Section 93-90 (HARASSMENT), inclusive, shall apply.

IV. CITY PLANNING COMMISSION 2005 SCHEDULE OF MEETINGS
July 1 to December 31

	SUN	MON	TUE	WED	THU	FRI	SAT	Notes
JULY						1	2	
	3	4 <small>INDEPENDENCE DAY</small>	5	6	7	8	9	
	10	11 <small>REVIEW SESSION</small>	12	13 <small>CPC PUBLIC MEETING</small>	14	15	16	
	17	18	19	20	21	22	23	
	24 31	25 <small>REVIEW SESSION</small>	26	27 <small>CPC PUBLIC MEETING</small>	28	29	30	
AUGUST		1	2	3	4	5	6	
	7	8 <small>REVIEW SESSION</small>	9	10 <small>CPC PUBLIC MEETING</small>	11	12	13	
	14	15	16	17	18	19	20	
	21	22 <small>REVIEW SESSION</small>	23	24 <small>CPC PUBLIC MEETING</small>	25	26	27	
28	29	30	31					
SEPTEMBER					1	2	3	
	4	5 <small>LABOR DAY</small>	6	7	8	9	10	
	11	12 <small>REVIEW SESSION</small>	13	14 <small>CPC PUBLIC MEETING</small>	15	16	17	
	18	19	20	21	22	23	24	
25	26 <small>REVIEW SESSION</small>	27	28 <small>CPC PUBLIC MEETING</small>	29	30			
OCTOBER	2	3	4 <small>ROSH HASHANAH</small>	5	6	7	8 1	
	9	10 <small>COLUMBUS DAY OBSERVED</small>	11	12	13	14	15	
	16	17 <small>REVIEW SESSION</small>	18	19 <small>CPC PUBLIC MEETING</small>	20	21	22	
	23	24	25	26	27	28	29	
	30	31 <small>REVIEW SESSION</small>						
NOVEMBER			1 <small>CPC PUBLIC MEETING</small>	2	3	4	5	
	6	7	8	9	10	11	12	
	13	14 <small>REVIEW SESSION</small>	15 <small>ELECTION DAY</small>	16 <small>CPC PUBLIC MEETING</small>	17	18	19	
	20	21	22	23	24	25	26	
	27	28	29	30 <small>THANKSGIVING</small>				
DECEMBER					1	2	3	
	4	5 <small>REVIEW SESSION</small>	6	7 <small>CPC PUBLIC MEETING</small>	8	9	10	
	11	12	13	14	15	16	17	
	18	19 <small>REVIEW SESSION</small>	20	21 <small>CPC PUBLIC MEETING</small>	22	23	24	
	25 <small>CHRISTMAS</small>	26 <small>KWANZAA HANUKKAH</small>	27	28	29	30	31	

*Review Sessions are held in Spector Hall at 22 Reade Street starting at 1:00 P.M.
Public Meetings are held in Spector Hall at 22 Reade Street starting at 10:00 A.M.*

**V. CITY PLANNING COMMISSION 2006 SCHEDULE OF MEETINGS
January 1 to June 30**

	SUN	MON	TUE	WED	THU	FRI	SAT	Notes
JANUARY	1	2 <small>NEW YEAR'S DAY OBSERVED</small>	3	4	5	6	7	
	8	9 <small>REVIEW SESSION</small>	10	11 <small>CPC PUBLIC MEETING</small>	12	13	14	
	15	16 <small>MARTIN LUTHER KING, JR. DAY</small>	17	18	19	20	21	
	22	23 <small>REVIEW SESSION</small>	24	25 <small>CPC PUBLIC MEETING</small>	26	27	28	
	29	30	31					
FEBRUARY				1	2	3	4	
	5	6 <small>REVIEW SESSION</small>	7	8 <small>CPC PUBLIC MEETING</small>	9	10	11	
	12	13 <small>LINCOLN'S BIRTHDAY</small>	14	15	16	17	18	
	19	20 <small>PRESIDENTS' DAY</small>	21 <small>*REVIEW SESSION</small>	22 <small>CPC PUBLIC MEETING</small>	23	24	25	*Review Session will be held on <u>Tuesday, February 21st</u>
	26	27	28					
MARCH				1 <small>ASH WEDNESDAY</small>	2	3	4	
	5	6 <small>REVIEW SESSION</small>	7	8 <small>CPC PUBLIC MEETING</small>	9	10	11	
	12	13	14	15	16	17	18	
	19	20 <small>REVIEW SESSION</small>	21	22 <small>CPC PUBLIC MEETING</small>	23	24 <small>ST. PATRICK'S DAY</small>	25	
	26	27	28	29	30	31		
APRIL							1	
	2	3 <small>REVIEW SESSION</small>	4	5 <small>CPC PUBLIC MEETING</small>	6	7	8	
	9	10 <small>PALM SUNDAY</small>	11	12	13	14 <small>GOOD FRIDAY</small>	15	
	16	17 <small>EASTER SUNDAY</small>	18	19	20	21	22	
	23	24 <small>REVIEW SESSION</small>	25	26 <small>CPC PUBLIC MEETING</small>	27	28	29	
	30							
MAY		1	2	3	4	5	6	
	7	8 <small>REVIEW SESSION</small>	9	10 <small>CPC PUBLIC MEETING</small>	11	12	13	
	14	15	16	17	18	19	20	
	21	22 <small>REVIEW SESSION</small>	23	24 <small>CPC PUBLIC MEETING</small>	25	26	27	
	28	29 <small>MEMORIAL DAY OBSERVED</small>	30	31				
JUNE					1	2	3	
	4	5 <small>REVIEW SESSION</small>	6	7 <small>CPC PUBLIC MEETING</small>	8	9	10	
	11	12	13	14	15	16	17	
	18	19 <small>REVIEW SESSION</small>	20	21 <small>CPC PUBLIC MEETING</small>	22	23	24	
	25	26	27	28	29	30		

Review Sessions are held in Spector Hall at 22 Reade Street starting at 1:00 P.M.
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