



IN THE MATTER OF an application submitted by the NYC 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 Boston Road (Block 3139, Lot 50), 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 property to a developer to be selected by HPD;

to facilitate a mixed use development containing approximately 1,665 affordable residential units, approximately 61,100 square feet of retail space and approximately 110 accessory parking spaces in Community District 6, Borough of the Bronx.

Approval of three separate matters is required:

1. The designation of property located at Boston Road (Block 3139, Lot 50), as an Urban Development Action Area; and
2. An Urban Development Action Area Project for such area; and
3. The disposition of such property to a developer selected by the Department of Housing Preservation and Development (HPD).

The application for the Urban Development Action Area designation, project approval and disposition of city-owned property (C 160286 HAX) was submitted by the NYC Department of Housing Preservation and Development (HPD) on April 21, 2016, in conjunction with several related actions, to facilitate the Lambert Houses Redevelopment, a mixed-use, affordable housing development in the West Farms neighborhood of Community District 6, Borough of the Bronx.

RELATED ACTIONS

In addition to the application for a designation, project approval and disposition of city-owned property (C 160286 HAX), which is the subject of this report, implementation of the proposed development also requires action by the City Planning Commission on the following applications, which are being considered concurrently with this application:

- M 160291 ZSX Modification of the previously approved Large Scale Residential Development (LSRD) to remove Lambert Houses from the limits of the original Large Scale Residential Development.

- C 160285 ZMX Zoning map amendment to change portions of the project area from R7-1 and R7-1/C1-4 to R8 and R8/C1-4 zoning districts.

- N 160287 ZAX Zoning Authorization pursuant to ZR Section 78-311 to allow relief from height and setback requirements and to permit distribution of the total floor area and open space without regard for zoning lot lines or zoning district boundaries.

- C 160290 ZSX Zoning Special Permit pursuant to ZR Section 78-312 for minor variations in the height and setback regulations on the periphery of the LSRD.

- N 160289 ZRX Zoning text amendment to designate a Mandatory Inclusionary Housing Area.

- N 160288 ZRX As modified, zoning text amendment to allow lot line windows adjacent to public parks in Large Scale Residential Developments.

- C 160307 ZSX Zoning Special Permit pursuant to ZR Section 78-312 to ensure that no new non-compliances are created in the modified previously approved LS

BACKGROUND

The NYC Department of Housing Preservation and Development (HPD) request approval of an Urban Development Action Area Project (UDAAP) and disposition of City-owned property to facilitate the construction of a new mixed-use building on a property located at the corner of East Tremont Avenue and Boston Road (Block 3139, Lot 50) in the West Farms neighborhood of the Bronx. The Proposed Project, four blocks bounded by East Tremont Avenue to the south, Bronx Park South to the north, Vyse Avenue to the west, and the Bronx River to the east, will replace the existing Lambert Houses with new buildings containing approximately 1,665 affordable residential units, an increase of nearly 1,000 units compared to the 731 residential units in the current buildings in Lambert Houses, as well as approximately 61,000 square feet of retail and provision of land for a new public elementary school of approximately 86,608 square.

The Department of Housing Preservation and Development states in its application that:

The HPD owned site (Block 3139, Lot 50), “the Disposition Area”, is an underutilized vacant property which tends to impair or arrest the sound development of the surrounding community, with or without physical blight. Incentives are needed in order to induce the correction of these substandard, insanitary, and blighting conditions. The project activities would protect and promote health and safety and would promote sound growth and development. The Disposition Area is therefore eligible to be an Urban Development Action Area and the proposed project is therefore eligible to be an Urban Development Action Area Project pursuant to Article 16 of the General Municipal Law.

The City of New York, through the Department of Housing Preservation and Development (HPD), is also proposing an amendment to the City Map to narrow a portion of East Tremont Avenue at the northeast corner of its intersection with Boston Road. The portion of East Tremont Avenue that would be removed from the mapped street is designated Block 3139, Lot 50 and is under the jurisdiction of HPD. This 3,786-square-foot parcel has no traffic lanes and is used as a plaza and pedestrian circulation space. The removal of this area from the mapped street would facilitate HPD’s

disposition of the land to Boston Tremont LLC or an affiliated entity controlled by Phipps Houses, and its inclusion in a new Large Scale Residential Development (LSRD) that would allow for the redevelopment of the adjacent Lambert Houses. Because the portion of East Tremont Avenue to be removed from the mapped street is used as a plaza and has no traffic lanes, there would be no changes to traffic flow resulting from the proposed project.

The proposed project also requires modifying the existing LSRD to remove the Lambert Houses parcels from the LSRD and to obtain a Special Permit to ensure that the residential buildings on Parcels 6 and 7 on the south side of East 179th Street, in an area that is currently wholly within the LSRD, but will in the future be on the periphery, continue to comply with zoning. New special permits and authorizations will be put into place to allow for the redevelopment of the Lambert Houses buildings within a new LSRD. These proposed land use actions, for which Phipps Houses is a co-applicant, will facilitate the redevelopment of Lambert Houses with an increased number of higher quality affordable housing units and improved retail spaces to better serve the neighborhood. The proposed project will integrate Lambert Houses into the neighborhood with street wall construction and activity along Boston Road and will replace Lambert's aging, inefficient, and under-performing building systems with modern, more environmentally and economically sustainable systems. With the addition of new units affordable to households other than currently supported by the Project-Based Section 8 contracts, a greater mix of household incomes will be provided for in the new development.

Of the 1,660 rental units, 728 will serve households that qualify for Section 8 rental assistance. The balance of units will be affordable to low-income households earning up to 60% and 80% of AMI. The exact income level breakdown of the non-Section 8 units are currently unavailable since the project will have multiple financings over many years.

The current Lambert Houses development consists of 14 residential buildings and a commercial complex situated on approximately 12 acres of land in the former Bronx Park South Urban Renewal Area. Constructed between 1970 and 1973, it is owned by an affiliate of Phipps Houses. The residential buildings contain a total of 731 units in interconnected groups on the blocks bounded by Bronx Park South, Vyse Avenue, East 179th Street, and the Bronx River. All of the

residential units at Lambert Houses are included in a series of three Project-Based Section 8 contracts. The commercial building, which includes approximately 40,000 square feet of retail and office space in addition to a parking garage, is located on the block bounded by East Tremont Avenue, Boston Road, East 179th Street, and the Bronx River.

The project area land was initially acquired through eminent domain by the City of New York under the Bronx Park South Urban Renewal Plan and conveyed to Lambert Houses Redevelopment Company. The land was subject to a Land Disposition Agreement, which required the conformance of the project to the Bronx Park South Urban Renewal Plan. The project area, along with several parcels on the blocks to the south and west, is part of an LSRD and governed by the Bronx Park South Large Scale Plan, created in 1969 and revised in 1970. The other properties within the LSRD included the New York Housing Authority's ("NYCHA") 1010 East 178 Street development, the New York Association of Catholic Homes' and Fordham Bedford Housing Corporation's West Farms Square development. Since the Bronx Park South Urban Renewal Plan is now expired, the Bronx Park South Large Scale Plan remains the only land use control on the project area other than zoning.

According to the applicant team, the existing Lambert Houses buildings have numerous planning, design, and construction flaws that make them difficult and expensive to operate; for this reason, the applicant team believes that demolition of the current structures and construction of new buildings is the best and most cost efficient way to improve conditions at Lambert and maximize the opportunity to create affordable housing. Lambert Houses currently consists of six mega-structures on superblocks with 14 addresses and 42 means of entry and egress. Addresses within a structure interconnect at common fire stairs that act as a "joint" that connects extremely long, narrow hallways. Duplex apartments were created in the top two floors of several buildings, resulting in an entire, unsupervised top-floor corridor that exists only to provide fire egress for the upper floor bedrooms. The structures are set back from the street, creating large undefined, unprogrammed open spaces at the property line, and the lack of street walls impedes street activity. Unvaried building heights and uniform facades create monotony while multiple, undifferentiated entries make way-finding difficult.

Lambert’s commercial complex, located on the southernmost block of the project area, offers retail spaces that are antiquated and not optimally designed for merchants or customers. The storefronts are significantly set back from the street wall in many locations and have poor frontage and inadequate storage space for merchants. A dark central “courtyard” at the center of this block, partially covered by the deck of the parking garage, creates unappealing, ungovernable open space that is difficult to secure and poses a nuisance. While Lambert’s commercial space is situated at a busy intersection of East Tremont Avenue and Boston Road, it is poorly configured for either neighborhood retail users or destination retail users and thus is a lost opportunity at a location that could potentially support better retail options for neighborhood residents.

The project area comprises the entire Bronx Park South LSRD (which includes Lambert Houses as well as parcels not controlled by Phipps) and also the small parcel of HPD-owned land at the northeast corner of East Tremont Avenue and Boston Road (Block 3139, Lot 50). The following table provides information regarding the lots associated with Lambert Houses, the lots to remain in the modified existing LSRD and each parcel’s respected owner:

Former URP Parcel #	Block/lot	Current Land Use	Owned by
<i>Lots Associated with Lambert Houses</i>			
1	3138/1	237 housing units	Phipps Houses
3	3132/1	325 housing units, Universal Pre-Kindergarten facility	Phipps Houses
5	3140/7	169 housing units	Phipps Houses
10	3139/1,19	Approx. 40,000 square feet of retail space, parking, transit easement	Phipps Houses
N/A	3139/50	Pedestrian /plaza space	HPD
<i>Lots to Remain in Modified Existing LSRD</i>			
6	3136/20	Approx. 90 housing units	Fordham Bedford Corporation
7	3136/1, 101	Approx. 204 housing units, community center	Fordham Bedford Corporation
8a	3130/20	Approx. 231 housing units	NY Association of Catholic Homes
8b	3130/100	Approx. 224 housing units, community center	NYCHA
9	3005/65	Retail, parking garage	NY Association of Catholic Homes

In addition to Lambert Houses, the current LSRD includes Parcels 6, 7, 8a, 8b, and 9, which are not part of the development site. Parcels 6 and 7 are occupied by an affordable housing development operated by the Fordham Bedford Housing Corporation. Parcel 7 also includes a community center along Boston Road. Parcel 8a consists of affordable housing development operated by the New York Association of Catholic Homes. Parcel 8b is the 21-story NYCHA public housing development called 1010 East 178th Street, which has 220 housing units and a ground floor community facility. Parcel 9, also owned by the New York Association of Catholic Homes, includes a parking garage as well as a one-story commercial building with three retail storefronts.

Description of the Development Site

The entire development site is zoned R7-1. Parcel 10 of Lambert Houses has a C1-4 commercial overlay as well. It consists of Lambert Houses (Parcels 1, 3, 5, and 10) as well as the HPD-owned lot (Block 3139, Lot 50). The total land area of the development site, including the four former urban renewal parcels and the HPD-owned site, is 11.8 acres or 514,730 square feet.

Parcel 1 of the former Bronx Park South URA is bounded by Bronx Park South, Bryant Avenue, East 180th Street, and Boston Road and contains a group of four interconnected six-story buildings with a total of 237 residential units. This 2.9-acre (126,395 square foot) parcel is also subject to two easements: a subsurface utility easement extending across this parcel between Bryant Avenue and Boston Road in an area that corresponds to a demapped former section of East 181st Street and an easement for utilities as well as pedestrian and emergency vehicle access in the area of the demapped former segment of Bryant Avenue between East 180th and East 181st streets.

Parcel 3 is located along the west side of Boston Road between East 179th and East 180th streets. The 4.5-acre (197,178 square foot) parcel contains seven interconnected six-story building addresses with a total of 325 housing units. An approximately 2,250-square foot pre- kindergarten facility, serving 30 children and operated by Phipps Neighborhoods, the human services affiliate of Phipps Houses, is located in the ground floor space of 1005 East 179th Street, one of the building addresses on this parcel. An easement providing access for pedestrians and emergency vehicles runs north-south across this superblock parcel between East 179th and East 180th streets.

Parcel 5 is on the east side of Boston Road between East 179th and East 180th streets. Its eastern border is the Bronx River Greenway. The 1.75 acre (79,612 square foot) Parcel 5 contains a group of three interconnected six-story buildings with a total of 169 housing units.

Parcel 10 does not have any residential use. This parcel is bounded to the west by Boston Road, to the south by East Tremont Avenue, to the north by East 179th Street, and to the east by the Bronx River Greenway. The 2.5-acre (107,825 square foot) parcel contains a two-story building with approximately 40,000 square feet of retail use and 375 parking spaces in an accessory garage. The elevated subway track runs over the northern portion of this parcel and, beneath the elevated structure, on the entire Lot 19 and a portion of Lot 1, there is an easement to provide MTA access for maintenance.

The City-owned site (Block 3139, Lot 50), which is subject to the UDAAP action, is adjacent to Parcel 10 and has a lot area of 3,786 square feet. This narrow portion of East Tremont Avenue at the northeast corner of its intersection with Boston Road is proposed to be removed from the mapped street through a separate City Map Change ULURP (C 160218 MMX). This lot is currently used as pedestrian circulation and plaza space.

Description of the Proposed Project

The proposed project will entail the demolition of the existing Lambert Houses buildings and the redevelopment of the project area with approximately 1,665 affordable residential units at the completion of the project, an increase of nearly 1,000 units compared to the current buildings in

the project area. The proposed project will also include approximately 61,000 square feet of retail space, 110 accessory parking spaces at grade and on the roof of the proposed retail space, and possibly a new public school. Demolition and construction will take place sequentially across the site to allow for the relocation of current Lambert residents.

The redevelopment has been designed to restore the density of the pre-Urban Renewal development of the neighborhood, creating a “downtown” sense to West Farms Square and extending it to the rest of the site. The proposed new buildings will be arranged so as to create on all blocks cohesive streets frontage. The retail building on Parcel 10 will be replaced with a mixed-use building with higher quality, better configured retail spaces at ground level and residential above. On Parcels 1 and 3, ground floor retail storefront spaces will be created along Boston Road to draw the retail corridor that exists along East Tremont Avenue north to the entrance of Bronx Park. Open space will be enclosed in courtyards surrounded by the proposed new buildings, creating a distinction between public and private space. The demapped portions of Bryant Avenue and East 181st Street will be restored as private thoroughfares for vehicular and pedestrian traffic, as well as accessory parking for the residents. In addition to restoring the street grid, view corridors extending through the blocks will create a sense of openness and “porousness” on the site and allow east-west views across the entire site from Vyse Avenue to the Bronx River.

It is likely that different design teams will be chosen to create unique identities for the sections of buildings with individual “organic” architectural expression. Building heights will vary. A key focus of planning and design will be sustainability and all of the proposed buildings will be designed to meet Enterprise Green Communities criteria. The redevelopment will be performed in a manner so that existing residents are relocated in an orderly fashion, subject to the provisions of the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

Buildings will contain laundry rooms, tenant community rooms and bike rooms. It is anticipated that each cluster of buildings will also contain a fitness center and other building amenities for residents’ use.

The Proposed Project may also include a public school. The New York City School Construction

Authority (SCA) will have the option to acquire land from the sponsor of the Proposal Project for a nominal consideration to construct a new elementary school. If constructed, the new elementary school will have approximately 500 seats and approximately 86,600 square feet of floor area. If SCA declines its option, a five-story residential building containing approximately 55 housing units (bringing the approximate total number of housing units in the Proposed Project from 1,665 to 1,720) will be constructed instead.

The Proposed Project will reintroduce the street grid in areas where streets had been demapped as part of the previous Urban Renewal Plan. East 180th Street will be extended through the Project Area between Bryant Avenue and Boston Road as a privately owned street segment open to traffic and pedestrians, as will the segments of Bryant Avenue between East 179th and East 181st streets that were previously demapped.

The heights of the proposed new residential buildings will vary from seven to ten stories, with greater heights on wide streets, primarily along Boston Road. At some locations along Boston Road and on East Tremont Avenue, portions of the buildings will rise to 15 or 16 stories. At the corner of East 180th Street at Bryant Avenue there will be a building that will rise to a maximum height of 18 stories. The new buildings on the east side of Boston Road between East Tremont Avenue and East 180th Street will step down toward the Bronx River.

Except on Parcel 10, the buildings will be constructed around private courtyards with landscaped open space with passive and active recreational amenities. Entrances to the courtyards will be from the street at monitored centralized access points to ensure security of the perimeter. Within the courtyards, there will be pathways leading to entrances to the individual residential buildings surrounding the courtyard. This arrangement will increase security by controlling perimeter access to each of the buildings and will create a sense of community and privacy surrounding the courtyard space. Most of the street frontages where residential use is located on the ground floor will have maisonette units with individual entrances onto the street to activate the streetscape. To the extent permissible, the maisonette units will have private rear yards.

The courtyard open spaces will be designed in the future as each of the proposed buildings is

designed. A Restrictive Declaration recorded against the development site will require that before each cluster of buildings surrounding a courtyard is completed, the developer will submit detailed landscape plans and obtain a City Planning Commission Chairman certification confirming that the courtyard landscape design is consistent with the design guidelines included in the application. The design guidelines incorporate principles to ensure that the courtyards and privately owned streets will be vibrant and inviting spaces. The design guidelines for the courtyards include principles aimed at creating a variety of landscape elements, sufficient access to the courtyards, adequate lighting, a variety of seating, and visibility into the courtyards. Guidelines relating to the privately owned streets address tree planting, lighting, sidewalk widths, and buffers between the sidewalks and the residential buildings.

Construction of the proposed project will occur over a period of approximately 15 years, starting with the construction of Building 3A in Parcel 3, on the southwest corner of East 180th Street and Bryant Avenue. Existing tenants in Parcel 5 will be relocated to the new building. The structure on Parcel 5 will be demolished and Buildings 5A and C will be constructed, which will serve as relocation destinations for tenants on Parcel 1. Similar phasing of relocation, demolition, and reconstruction will occur in accordance with a schedule to be determined, with all current tenants being given the option of relocating into the new buildings.

Phipps Houses intends for all units in the proposed project to be permanently affordable.

Below is a detailed description of the proposed development on each of the four parcels of the former Urban Renewal Plan.

Parcel 1

Parcel 1 will include four new buildings, identified as Buildings 1A through 1D, ranging from seven to 15 stories in height and with a total of approximately 494 residential units. With the reintroduction of East 181st Street through the project area, Parcel 1 will be divided into two blocks. The northern block will have an L-shaped building (Building 1A) with frontage on Bronx Park South and Boston Road. The building will reach a height of seven and eight stories along most of the Bronx Park South and Boston Road frontages, with a portion of the building rising to 15 stories where these two streets meet. Building 1A will have approximately 135 dwelling units.

The southern section of Parcel 1 will have three buildings (Buildings 1B, 1C and 1D) arranged around a courtyard. Building 1B, the south side of East 181 Street will have heights of seven and 11 stories and Buildings 1C and 1D along the north side of East 180th Street will have heights stepping up from seven to 13 stories. Buildings 1B, 1C, and 1D will have approximately 104, 162, and 93 dwelling units, respectively.

The demapped segments of Bryant Avenue and East 181st Street that fall within Parcel 1 will be reconstructed as privately owned, unmapped streets open to pedestrian and vehicular traffic and approximately 35 accessory parking spaces will be created along the streets. The existing utility easements that correspond to these two new street segments will be continued.

Maisonette units will be constructed on the ground floor of Building 1B along East 181st Street, Building 1D along Bryant Avenue, and Buildings 1C and 1D along East 180th Street to enliven these frontages and activate the streetscape. These units will have individual entrances along the street. The Boston Road frontages of Buildings 1A and 1C will include ground floor spaces for retail or community facility use. It is anticipated that the Universal Pre-Kindergarten facility that currently operates on Parcel 3 will be relocated into one of these ground floor spaces.

Parcel 3

Six new buildings (Buildings 3A through 3F) with a total of approximately 737 units will be constructed on Parcel 3. These buildings will be arranged in two groups (Building 3A and 3F to the west and 3B, 3C, 3D and 3E to the east) centered around courtyards on either side of a newly created segment of Bryant Avenue. Bryant Avenue will be extended through Parcel 3 in the existing easement area between East 179th and East 180th streets. Like the new street segments on Parcel 1, this segment of Bryant Avenue will be an unmapped street that is open to pedestrian and vehicular traffic. Approximately 25 accessory parking spaces will be created along this street segment.

Buildings 3C and 3D along Boston Road will have base heights of eight and nine stories, with setback portions rising to 13 and 14 stories. Ground floor spaces for retail or community facility use totaling 6,000 square feet will be located along Boston Road at the corners of East 179th and East 180th Streets. Building 3C will contain approximately 125 units and 3D will contain approximately 156 units.

Maisonette units will activate the street frontages along East 180th Street, Bryant Avenue, and East 179th Street. Buildings 3B and 3E along the eastern side of the new segment of Bryant Avenue will have base heights of six and eight stories and overall heights of eight and ten stories. Building 3B will contain approximately 89 units and 3E will contain approximately 76 units.

On the west side of Bryant Avenue, Buildings 3A and 3F will have base heights of six to seven stories. Building 3F, on the south side of the block along East 179th Street, will reach a total of nine stories, while Building A, on East 180th Street, will have a maximum height of 18 stories. The greater height for Building 3A is necessary to accommodate the overall project's construction phasing, as this will be the first building constructed and must accommodate the relocation of residents for the next phase of development. Buildings 3A and 3F will contain approximately 163 and 128 units, respectively.

Because 3A will be the first building at Lambert Houses to be redeveloped, the landscape plan has been designed in detail. The courtyard of Building 3A will include a mix of paved areas, lawn, and plantings. The courtyard will be entered through the lobby of Building 3A and hardscape paths of concrete pavers lined with lighting fixtures will lead to a seating area with tables and chairs and a seating wall. Shrubs and trees would be planted along the western edge of the courtyard and adjacent to Building 3A, and there will be a lawn area near the center of the courtyard next to the seating area. The security fence around the courtyard would allow views into the courtyard from the extension of Bryant Avenue to the east of Building 3A. Eventually, once Building 3F is constructed to the south of Building 3A, the courtyard will be expanded into a larger open space shared by the two buildings.

Parcel 5

Two new buildings (Buildings 5A and 5B) with a total of approximately 301 units will be constructed on Parcel 5. Building 5A, the taller building, will front on Boston Road, with a base height of eight stories, consistent with that of the building across the street on Parcel 3. The overall height of this building will rise to 16 stories at the intersection of Boston Road and East 180th Street and it will include approximately 164 units. Building 5B, on the eastern portion of Parcel

5, will have a maximum overall height of 16 stories and will step down toward the Bronx River to seven stories. Building 5B would contain approximately 137 units. Maisonette units will be constructed at the ground floor level of both buildings along East 180th Streets. An interior courtyard between the buildings will be accessed from Boston Road.

Parcel 10

Parcel 10 will be developed with a mixed-use building containing approximately 44,568 square feet of retail space on the ground floor and approximately 133 residential units above. The building will have a base height of five stories and the upper portion will step up toward the east, increasing from nine to 16 stories, so as to step back from the elevated subway tracks along Boston Road.

New retail space will be created at the corner of Boston Road and East Tremont Avenue, where subway and bus stops create high levels of pedestrian activity. The new retail space will be better configured than the existing retail space at the location, with higher floor to ceiling heights and better access to and visibility from the adjacent streets. With these improvements, the retail in the new buildings will take advantage of this active corner to attract high quality retail tenants to serve the neighborhood. Approximately 50 accessory parking spaces will be located on the roof of the retail space in the one-story portion of the building along Boston Road. It is anticipated that 45 of these spaces would be required for the commercial use based on the C1-4 requirement of 1 space per 1,000 square feet of floor area for most types of retail use.

At the eastern edge of Parcel 10, where the Bronx River Greenway intersects with East Tremont Avenue, SCA will have the option to acquire land to construct a new school to accommodate the projected increase in the number of public school students in the Project Area and surrounding neighborhood. If constructed, the public elementary school would have approximately 500 seats and approximately 86,608 square feet of floor area. If the SCA chooses not to construct the school, this portion of the Project Area would be developed with a five-story residential building containing approximately 55 units.

Overall, the proposed project will substantially increase the number of affordable housing units on the site while producing buildings that have up-to-date mechanical systems and energy efficiency standards and that have a configuration that allows for greater resident security.

Several other related actions, including a modification of the previously approved Large Scale Residential Development (M 160291 ZSX), zoning map, city map, and zoning text amendments (C 160285 ZMX, C 160218 MMX, N 160289 ZRX, N 160288 ZRX), special permits (C 160290 ZSX and C 160307 ZSX) and an authorization (N 160287 ZAX) are needed to facilitate this project. A summary of the actions follows.

Modification of the Previously Approved Large Scale Residential Development to remove Lambert Houses from the limits of the original Large Scale Residential Development (M 160291 ZSX)

The Applicants request a modification to the previously approved LSRD to remove Lambert Houses (Parcels 1, 3, 5, and 10) from the LSRD. Parcels 6, 7, 8a, 8b, and 9 will remain in the modified LSRD.

The modified LSRD would meet the definition in 12-10 of a Large-Scale Residential Development. Parcels 6, 7, 8a, 8b, and 9 have a combined lot area of approximately 7.9 acres and thereby exceeds the minimum requirement of 1.5 acres. Additionally, the remaining LSRD includes more than three principal buildings and therefore the requirement to have at least 500 dwelling units does not apply. However, with approximately 748 dwelling units it exceeds that threshold. While these parcels are not in single ownership, they were developed pursuant to an Urban Renewal Plan and therefore were developed as a unit. These parcels also will remain located entirely within a Residence District.

As described in detail below, the modification of the previously approved LSRD will require a new special permit to ensure that no new non-compliances with respect to height and setback will be created on the periphery of the Large Scale Plan. New special permits and authorizations will also be required as part of a Large Scale Plan for the separate LSRD that will contain only Lambert Houses and will allow for their redevelopment.

The modified LSRD boundaries will comply with zoning and all of the findings pursuant to 78-50 Subdivision of a Large Scale Residential Development will be met. With the requested special permit pursuant to 78-312 described in the section below, there will be no new non-compliances with zoning regulations and therefore the General Conditions in 78-51 will be met. There is no designated common open space shared between Lambert Houses and the remainder of the LSRD and therefore the open space requirements in the modified LSRD would not be affected by the subdivision. Thus, the requirements of 78-52 would be met. Likewise, there are no designated common parking areas shared between Lambert Houses and the remainder of the LSRD and therefore the requirements of 78-52 will be met.

Zoning Special Permit pursuant to ZR Section 78-312 to ensure that no new non-compliances are created in the modified previously approved LSRD (C 160307 ZSX)

The modification to the previously approved LSRD will cause Parcel 6 and 7 within the modified LSRD along the south side of East 179th Street and the west side of Boston Road to become areas on the periphery of rather than wholly within the LSRD. Modifications of height and setback requirements in areas on the periphery of the LSRD are requested to be granted via

special permits pursuant to ZR Section 78-312 so that no new non-compliances would exist as a result of the reduced previously approved Large Scale Residential Development.

To avoid new non-compliances within the modified LSRD, the Applicants are seeking a special permit pursuant to ZR Section 78-312:

- Parcel 6: Along the south side of East 179th Street, an existing building with a height of approximately 67.26 feet rises without setback at the property line. The R7-1 zoning at this location on a narrow street has a maximum base height of 60 feet within a setback distance of 20 feet, after which a sky exposure plane of 2.7:1 applies. A special permit is requested to allow the existing building to exceed the maximum base height by approximately 7 feet and to penetrate the sky exposure plane in this area.
- Parcel 7: The portion of the existing residential building on the south side of East 179th Street rises to a height of approximately 67.26 feet rises without setback at the property line in an area zoned R7-1. A special permit is requested to allow the existing building to exceed the maximum allowed base height of 60 feet within 20 feet of the street by approximately 7 feet and to penetrate the sky exposure plane in this area

Zoning Map Amendment (C 160285 ZMX)

The project area is currently zoned R7-1 with a C1-4 commercial overlay on the block bounded by East 179th Street, Boston Road, East Tremont Avenue, and the Bronx River (Parcel 10). The proposed zoning map amendment will map R8 districts on the entire project area block south of East 179th Street (Parcel 10) and on the frontages of the blocks along Boston Road and East 180th Street (Parcels 1, 3, and 5).

The C1-4 commercial overlay that currently covers the entire block south of East 179th Street (Parcel 10) will be maintained and C1-4 overlays will be added along the project area blocks on the west side of Boston Road (portions of Parcels 1 and 3). The R8 districts will be mapped to a depth of 100 feet along the east and west sides of Boston Road (portions of Parcels 1, 3 and 5), on the south side of East 180th Street east of Boston Road (Parcel 5), on the north side of East 180th Street west of Boston Road (Parcel 3). On the south side of East 180th Street west of Boston Road

(Parcel 3) the R8 district will be mapped to a depth of 120 feet. The existing R7-1 district will remain within the rest of the project area.

The proposed R8 districts will allow for increased height along East 180th Street and Boston Road, both of which are wide streets and portions of which abut the expansive open space of Bronx Park. Extending C1-4 commercial overlays along Boston Road will allow new ground floor retail space that will enliven Boston Road and create a more active street presence for these portions of the redeveloped Lambert Houses.

The existing R7-1 zoning district is a medium-density housing district that ranges in FAR from 0.87-3.44 for height factor buildings and up to 4.0 for Quality Housing buildings. The proposed R8 zoning district ranges in FAR from 0.94-6.02 for height factor buildings and up to 7.2 for Quality Housing buildings. These districts do not have height limits when using the height factor district regulations, but the building must be set within a sky exposure plane which begins at a height of 60 feet above the street line for R7-1 zoning districts and 85 feet above the street line for R8 zoning districts and then slopes inward over the zoning lot. Within Quality Housing buildings, R7-1 districts has a 75-foot maximum base height and 80-foot maximum building height, whereas R8 districts have a 95-foot maximum base height and a 130-foot maximum building height.

The C1-4 commercial overlay is mapped within residential districts to allow ground floor commercial uses. This zoning district is mapped along streets that serve local retail needs; typical uses include neighborhood grocery stores, restaurants and beauty parlors. C1-4 has a commercial FAR of 2.0 (within R7 and R8 districts) and Use Groups 1 through 6 are permitted. With the exception of Parcel 10, there are currently no commercial uses permitted in the development project.

Parking requirements are reduced for public, publicly-assisted and government assisted housing developments. Parking is only required for any dwelling units receiving public subsidy above 80% AMI, otherwise no parking is required for affordable units. For parking above 80% AMI, parking is required for 60% of dwelling units within an R7-1 zoning district and 40% of dwelling units within an R8 zoning district.

Authorization Pursuant to ZR Section 78-311 (N 160287 ZAX)

The applicants are seeking an Authorization pursuant to ZR Section 78-311 to allow the following within the new LSRD:

- 78-311(a): To permit distribution of the total floor area permitted by the applicable district regulations without regard for zoning lot lines or zoning district boundaries. As shown in the zoning analysis on page Z-100, 76,000 square feet surplus of floor area within Parcel 3 would be transferred from the R7-1 district to the proposed R8/C1-4 and 26,497 square feet of floor area would be transferred from the R7-1 to the proposed R8 district within Parcel 5.
- 78-311(b): To permit the total open space required by the applicable district regulations to be distributed without regard for zoning lot lines or zoning district boundaries. 12,740 square feet of open space would be transferred from an R7-1 district to an R8/C1-4 within Parcel 1 and 17,428 square feet of open space would be transferred from an R7-1 district to an R8/C1-4 within Parcel 3. 6,745 square feet of open space within Parcel 5 would be transferred from an R7-1 district to an R8.
- 78-311(d): To modify the required rear yard setback for tall buildings per Section 23-663 for Buildings 3A and 3C on Parcel 3.
- 78-311(e): To permit variations in the front height and setback regulations including variation in the maximum height and number of stories of the front wall within the initial setback distance, modification of the initial setback distance, and to permit penetration of the sky exposure plane in areas wholly within the new LSRD:
- Parcel 1: Along the north side of East 180th Street, Buildings 1C and 1D would have a setback distance of 14 feet rather than the required 15 feet on a wide street. Building 1D would exceed the maximum base height of 85 feet by 3 feet 8 inches and above the base the building would encroach on the setback for additional 20 feet 4 inches. Building 1C would exceed the maximum base height on East 180th Street by 34 feet 8 inches and above that height would encroach on the required setback for an additional 20 feet 4 inches.
- Parcel 3: Along the south side of East 180th Street, Buildings 3B and 3C would have a setback distance of 14 feet rather than the required 15 feet on a wide street. Along Boston Road, Buildings 3C and 3D would have a setback distance of 8 feet rather than the required 15 feet. 3B would also exceed the

maximum base height of 85 feet by 1 foot 3 inches. At the intersection with East 180th Street, Building 3C would exceed the maximum base height of 85 feet along both Boston Road and East 180th Street by 25 feet 3 inches and above that height would encroach on the required setback for an additional 30 feet. At the intersection with East 179th Street, Building 3D would exceed the maximum base height of 85 feet by 37 feet 2 inches along Boston Road and would encroach on the required setback for an additional 30 feet above that height.

- Parcel 5: Along Boston Road, Building 5A would be set back 8 feet rather than the required 15 feet. The building's base height would exceed the permitted maximum of 85 feet by 26 feet 5 inches and above that height would encroach on the required setback for an additional 60 feet. The required sky exposure plane of 5.6:1 would be exceeded.
- 78-311(h): To permit an interim condition in which the minimum distance between buildings is waived between the new Building 3A and the existing building to the south. The interim waiver will no longer be needed once the new Building 3F is demolished.

Special Permit pursuant to ZR Section 78-312 (C 160290 ZSX)

The applicants are seeking a Special Permit pursuant to ZR Section 78-312 for minor variations in the height and setback regulations on the periphery of and within the new LSRD.

Parcel 1

On Parcel 1, Building 1A would exceed the maximum permitted base height of 85 feet by 27 feet, 11 inches along portions of Bronx Park South in the proposed R8 district. Building 1A would have a setback distance of 8 feet rather than the required 15 feet on a wide street, resulting in an encroachment on the setback requirement of an additional 49 feet 4 inches above the base. Additionally, within the R7-1 district on Bronx Park South, Building 1A would exceed the maximum base height of 60 feet by 7 feet 5 inches and would encroach on the required setback of 15 feet for a height of 16 feet 1 inch. Therefore, the required sky exposure plane of 5.6:1 above the setback would be penetrated above the setback. Along Boston Road, Building 1A would rise without setback for 27 feet 11 inches beyond the maximum 85 feet at its base and would encroach on the required setback for an additional 49 feet 4 inches above the base.

Along Boston Road, both Buildings 1B and 1C would have a setback distance of 8 feet rather than the required 15 feet. Portions of Building 1B would exceed the maximum permitted base height of 85 feet. The base of 1B would exceed the maximum height by 20 feet 9 inches and above that the building would encroach on the required setback for 20 feet 4 inches. The portion of Building 1C at the corner of East 180th Street would exceed the maximum permitted base height of 85 feet along Boston Road by 34 feet 8 inches and would encroach on the required setback for an additional 20 feet 4 inches above the base.

Parcel 3

On Parcel 3, Building 3A would exceed the maximum permitted base height of 85 feet by 3 feet 3 inches. This building will also encroach on the minimum setback distance for a height of 7 feet 9 inches at its uppermost portion. Along East 179th Street, Buildings 3D, 3E, and 3F would have a setback distance of 14 feet rather than the required 20 feet on a narrow street. The portion of Building 3D along East 179th Street at the corner of Boston Road would exceed the maximum permitted base height of 85 feet for 37 feet 2 inches. Above the base, the building would encroach on the required setback for an additional 30 feet.

Parcel 5

Along East 180th Street, both Buildings 5A and 5B would have a setback distance of 14 feet rather than the required 15 feet on a wide street. Building 5A would exceed the maximum base height by 26 feet 5 inches and would encroach on the required setback for an additional 60 feet above the base along East 180th Street. Building 5B would exceed the maximum base height by 5 feet 8 inches and would encroach on the required setback for an additional 19 feet 10 inches above the base.

Parcel 10

Along East Tremont Avenue, Building 10A would exceed the maximum permitted base height of 85 feet by 10 feet 11 inches and would encroach on the required sky exposure of 5.6:1 at the top of the building. The portion of Building 10A fronting on East Tremont Avenue would have a setback of 11 feet, thereby requiring relief from the required setback of 15 feet for an additional 69 feet 8 inches above the base as shown on Z-410. The portion of Building 10A fronting on Boston Road would exceed the maximum base height of 85 feet by 7 feet 2 inches as shown on Z-409.

Zoning Text Amendment to ZR Section 23-671 (N 160288 ZRX)

The applicants are proposing a zoning text amendment to ZR Section 23-671 to establish that in Large Scale Residential Developments in Bronx Community District 6, lot line windows in a building abutting a public park with an area of one-half acre or more will be considered legally required windows for required light and air.

Zoning Text Amendment to designate a Mandatory Inclusionary Housing Area (N 160289 ZRX)

The applicant proposes a zoning text amendment to designate the proposed rezoning area as a Mandatory Inclusionary Housing Area. This program will require a certain amount of new housing be provided as permanently affordable to low- or moderate-income households. The applicant has requested to incorporate Option 1, which requires that at least 25 percent of the residential floor area shall be provided as housing affordable to households at an average of 60 percent AMI, including a 10 percent band at 40 percent AMI.

City Map Amendment to eliminate a portion of East Tremont Avenue (C 160218 MMX)

The City-owned site (Block 3139, Lot 50) is adjacent to Parcel 10 and has a lot area of 3,786 square feet. This narrow portion of East Tremont Avenue at the northeast corner of its intersection with Boston Road is proposed to be removed from the mapped street through a separate City Map change application (C 160218 MMX). This lot is currently used as pedestrian circulation and plaza space.

ENVIRONMENTAL REVIEW

This application (C 160286 HAX), in conjunction with the related actions (M 160291 ZSX, C 160285 ZMX, N 160287 ZAX, C 160290 ZSX, N 160289 ZRX, N 160288 ZRX, C 160218 MMX, C 160307 ZSX), was reviewed pursuant to the New York State Environmental Quality Review Act (SEQRA), and the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 *et seq.* and the City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The designated CEQR number is 16HPD001X. The Lead Agency is the Department of Housing Preservation and Development.

It was determined that the proposed actions may have a significant effect on the environment. Together with the Positive Declaration, a Draft Scope of Work for a DEIS was issued on September 18, 2015, and distributed, published, and filed. A public scoping meeting was held on the Draft Scope of Work on October 21, 2015, and comments were accepted by the lead agency through November 2, 2015. A Final Scope of Work for a DEIS, reflecting the comments made during the scoping, was issued on April 22, 2016.

The applicant prepared a DEIS, and a Notice of Completion for the DEIS was issued on April 22, 2016. Pursuant to SEQRA regulations and CEQR procedures, a public hearing was held on the DEIS On August 10, 2016. A Final Environmental Impact Statement (FEIS) reflecting the comments made during scoping and the public hearing on the DEIS was completed and a Notice of Completion for the FEIS was issued on September 9, 2016.

The FEIS discloses the potential for significant adverse impacts related to community facilities (intermediate schools), shadows (on a historic resource and open space), and transportation (vehicular traffic and pedestrian circulation). Measures were examined to minimize or eliminate the anticipated impacts to the fullest extent practicable. These mitigation measures are discussed below. In some cases, identified impacts would remain unmitigated as no feasible or practicable measures could be identified.

PUBLIC SCHOOLS

The Development Site is located in Sub-district 2 of Community School District (CSD) 12. Since the proposed project would result in the introduction of a new residential population, which would create new demands on local school resources, the FEIS assessed the effects on school capacity within Sub-district 2 of CSD 12. As discussed in FEIS Chapter 4, “Community Facilities,” based on the public school student generation rates provided in the 2014 *CEQR Technical Manual*, the proposed project would result in 934 units over the No Action condition. These units could introduce approximately 364 elementary students, 149 intermediate school students, and 177 high school students.

Intermediate Schools

As discussed in Chapter 4, “Community Facilities,” the intermediate school students introduced by the proposed project would increase utilization in Sub-district 2/CSD 12 by 8.01 percent compared with the No Action condition. The proposed project would result in an increase in the intermediate school utilization rate of more than 5 percentage points, and therefore the proposed project would result in a significant adverse impact on intermediate schools. To mitigate these impacts in CSD 12, Sub-district 2 (projected to occur in year 2029), the Department of Education (DOE) will closely monitor school enrollment in the area during the remaining years of the current Five-Year Capital Plan for Fiscal Years 2015-2019 and the two succeeding Five-Year Capital Plans for Fiscal Years 2020-2024 and Fiscal Years 2024-2029. This monitoring will take into account DOE’s enrollment projections for the district which are updated annually as well as DOE’s annual assessment of new residential construction activity in this area of the school district. At such time as the need for additional capacity is identified, the DOE will evaluate the appropriate timing and mix of measures to address increased school enrollment. The various measures utilized by the Department to address increased school enrollments include: relocating Department administrative functions to other sites, thereby freeing up space for classrooms; restructuring or reprogramming existing school space within the district and, development of additional public school capacity through new construction or expansion of existing school facilities. If additional school construction is warranted, and funding is available, it will be identified in the Five-Year Capital Plan that covers the period in which the capacity need would occur.

SHADOWS

The FEIS concluded that new project-generated shadows could result in significant adverse shadow impacts to the east façade windows of the Beck Memorial Presbyterian Church, if they are uncovered by shutters and viewable from within a public space in the church interior. Site visits in late 2015 and early 2016 found the structure to be boarded up with plywood and locked, and all its windows sheathed in metal. Additional research found that services are no longer held in the building; that the building has been boarded up and locked for at least four years; and that the windows were covered up because of the building's generally unsafe condition. No information is currently available regarding plans to re-open or make building repairs in the near future or by the 2029 build year for the proposed project. Therefore, no feasible or practicable mitigation measures can be identified at this time to address the potential shadows impact, and the impact will remain unmitigated.

The FEIS also concluded that River Park, adjacent to Parcels 1, 3 and 5 of the Development Site, would receive approximately six hours of new shadows in the mid-day and afternoons of the fall, winter and early spring, and the use of the park during these times, although typically lower at these times of year, could consequently be significantly impacted. In the late spring and summer, new shadows on River Park would be more limited in duration and extent but would still be substantial in the final hour of the analysis day and would cause significant adverse impacts in those seasons. HPD, DCP, and DPR explored measures to mitigate this impact between publication of the DEIS and FEIS and concluded that to avoid the potential impact to the adjacent church windows and to River Park, the proposed buildings on Parcels 1, 3, and 5 would need to be substantially smaller than currently designed. The reduction in height necessary to eliminate the potential shadows impact would be substantial, and would result in the construction of fewer affordable housing units, and would thus not meet the goals of the project. Therefore, absent the implementation of feasible and practicable mitigation measures, this impact would remain unmitigated.

TRANSPORTATION

Vehicular traffic conditions were evaluated at 16 intersections for the weekday AM, midday and PM peak hours. In the 2029 With Action condition, the proposed project would result in significant adverse vehicular traffic impacts at 7 intersections. Through continued coordination with the New

York City Department of Transportation (DOT), it has been determined that the impacts at two of the seven intersections could be fully mitigated through standard practices implemented by DOT, such as signal timing adjustments and other measures identified in the FEIS. However, the impacts at the other five intersections (East Tremont Avenue at Boston Road/West Farms Road, East Tremont Avenue at Devoe Avenue/East 177th Street, East 177th Street at the Sheridan Expressway, East 178th Street at Boston Road, and East 180th Street at Boston Road) could not be mitigated.

Pedestrian circulation conditions were evaluated at 15 sidewalks, 8 corners, and 6 crosswalks for the weekday peak hours. In the 2029 With Action condition, the proposed project would result in significant adverse pedestrian impacts at two crosswalks during at least one weekday peak hour. Both the northern and southern segments of one of these crosswalks would be impacted during the weekday AM, midday, and PM peak hours, while the other crosswalk would only be impacted during the weekday AM and PM peak hours. Through continued coordination with DOT, it has been determined that these impacts could be fully mitigated by standard practices implemented by DOT, which would involve widening the impacted crosswalks.

UNIFORM LAND USE REVIEW

This application (C 160286 HAX), in conjunction with the related actions (C 160307 ZSX, C 160285 ZMX, C 160290 ZSX, C 160218 MMX), was certified as complete by the Department of City Planning on April 25, 2016, and was duly referred to Community Board 6 and the Bronx Borough President, in accordance with Title 62 of the Rules of the City of New York, Section 2-02(b), along with the related applications for a minor modification (M 160291 ZSX), zoning text amendments (N 160289 ZRX and N 160288 ZRX), and an authorization (N 160287 ZAX), which were referred for information and review in accordance with the procedures for non-ULURP matters.

Community Board Public Hearing

Community Board 6 held a public hearing on the application (C 160286 HAX) on June 22, 2016 and on that date, by a vote of 14 in favor, 7 in opposition, and 2 abstentions, adopted a resolution recommending approval of the application.

Borough President Recommendation

This application (C 160286 HAX) was considered by the Bronx Borough President, who issued a recommendation approving the application on August 4, 2016.

City Planning Commission Public Hearing

On July 27, 2016 (Calendar No. 2), the City Planning Commission scheduled August 10, 2016 for a public hearing on this application (C 160268 HAX) and related actions. The hearing was duly held on August 10, 2016 (Calendar No. 40) in conjunction with the applications for the related actions. There were six speakers in favor of the application and one in opposition.

Six members of the applicant team spoke in favor of the project. The team included representatives from HPD, AKRF, the architecture team, and two representatives from Phipps Houses. The team provided a brief description of the current conditions of the project, current developments in the area, and an overview of the guiding principles for the redevelopment plan.

The applicant team reviewed the importance of the sequencing plan to relocate current residents as a key component to retain the existing sense of community. A representative from the architect's team discussed the urban design principles of the project, including incorporating qualities of an urban neighborhood, street-oriented buildings with higher density at corners, variety in heights, reactivating demapped streets, and integrating landscaped courtyards throughout the project. A representative from HPD, the lead agency for the environmental review of the proposed project, discussed the conclusions of the Draft Environmental Impact Statement.

A representative from the 32BJ SEIU union spoke in opposition to the project. He noted the importance of union jobs and, since Phipps Houses is one of the largest affordable housing builders in New York City, stated that the project should not go forward unless Phipps Houses commits to

high-quality union jobs across its portfolio. There were no other speakers, and the hearing was closed.

CONSIDERATION

The Commission believes that this application (C 160286 HAX), in conjunction with the related actions (M 160291 ZSX, C 160285 ZMX, N 160287 ZAX, C 160290 ZSX, N 160289 ZRX, N 160288 ZRX as modified, C 160218 MMX, C 160307 ZSX), is appropriate.

The redevelopment of Lambert Houses involves the new construction of up to 1,665 units of affordable housing, of which up to 1,660 will provide permanent rental housing and five will house superintendents. Of the 1,660 rental units, 728 will serve households that qualify for Section 8 rental assistance. 1,665 affordable apartment units would have rents set at affordability levels ranging from 60 to 80 percent of the AMI, with approximately 80 percent of units designated for levels of affordability at or below 60 percent of the AMI. Phipps Houses intends for all units in the proposed project to be permanently affordable. All current tenants will be given the option of relocating into the new buildings under a phased relocation, demolition, and reconstruction plan that will be implemented in accordance with a schedule to be determined. This will help to meet the urgent affordable housing needs in the Bronx and Bronx Community Board 6.

The proposed development provides amenities intended to serve as significant assets to the residents of the development, as well as to Bronx Community Board 6. These include 61,000 square feet of retail space, 110 accessory parking spaces at grade and on the roof of the proposed retail space, and the option to build a new public school. The ground floor retail proposed along Boston Road as part of this development will provide an important link between East Tremont Avenue and the south entrance of Bronx Park. In addition, residential courtyards will be provided around most of the building clusters.

The courtyard open spaces will be designed in the future as each of the proposed buildings are designed. A Restrictive Declaration recorded against the development site will require that before each cluster of buildings surrounding a courtyard is completed, the developer will submit detailed

landscape plans and obtain a City Planning Commission Chairman certification confirming that the courtyard landscape design is consistent with the design guidelines included in the application.

During the public hearing, the applicant shared a revised interim landscape plan that changed because of a slight lot size adjustment. The revision is part of a requested authorization that facilitates an interim condition in which the minimum distance between buildings is waived between the new Building 3A and the existing building to the south. The interim waiver will no longer be needed once the new Building 3F is demolished. This minor change to the landscape plan will ensure that pedestrian paths are contiguous once the phased demolition plan is completed. The Commission finds these revisions to be appropriate and within the range of authorizations to the new LSRD considered over the course of public review.

The proposed Urban Development Action Area designation, project approval and disposition of City-owned property (C 160286 HAX) will facilitate the proposed development on an underutilized property and provide necessary affordable housing, community facilities and commercial uses. The related City Map amendment (C 160218 MMX) would eliminate the portion

of East Tremont Avenue that is designated Block 3139, Lot 50 and owned by HPD from the mapped street. This 3,786-square-foot parcel has no traffic lanes and is used as a plaza and pedestrian circulation space. The removal of this area from the mapped street would facilitate HPD's disposition of the land to Boston Tremont LLC or an affiliated entity controlled by Phipps Houses, and its inclusion in a new Large Scale Residential Development (LSRD) would allow for the redevelopment of the adjacent Lambert Houses.

The special permit (C 160307 ZSX) pursuant to ZR Section 78-312 would ensure that no new non-compliances are created in the modified previously approved LSRD. The related application for a modification of the previously approved LSRD (M 160291 ZSX) will help in the efforts to redevelop the area. The proposed project area consists of the entire Bronx Park South LSRD (which includes Lambert Houses as well as parcels not controlled by the intended project sponsor) and also the small parcel of HPD-owned land at the northeast corner of East Tremont Avenue and Boston Road (Block 3139, Lot 50). The modification to the previously approved LSRD to remove Lambert Houses (Parcels 1, 3, 5, and 10) and the creation of a new LSRD with said parcels currently owned by the intended project sponsor will help restore the density of the pre-urban renewal development of the neighborhood, creating a "downtown" sense to West Farms Square and extending it to the rest of the site. Parcels 6, 7, 8a, 8b, and 9 will remain in the modified LSRD.

The application for a Zoning Map Amendment (C 160285 ZMX) to change the zoning on the project area from R7-1 and C1-4 zoning districts to an R8 zoning district with a C1-4 commercial overlay is necessary to facilitate the development of the proposed 1,665 unit mixed-use affordable housing redevelopment that has close proximity to mass transit, public services and retail uses in the Bronx. The proposed R8 districts will allow for increased height along East 180th Street and Boston Road, both of which are wide streets and portions of which abut the expansive open space of Bronx Park. Extending the C1-4 commercial overlays along Boston Road will allow new ground floor retail space that will enliven Boston Road and create a more active street presence for these portions of the redeveloped Lambert Houses. The rezoning is appropriate and will provide a mix of housing, commercial and community facility uses consistent with the development patterns found in the surrounding area. The R8 zoning district has bulk regulations that will allow a building scale that will be compatible with the scale of other existing nearby developments.

The request for zoning authorizations pursuant to ZR Section 78-311 would allow relief from height and setback requirements and to permit distribution of the total floor area and open space without regard for zoning lot lines or zoning district boundaries (N 160287 ZAX) within the LSRD. This will facilitate the creation of a site plan and project design that is uniquely suited to the area's surroundings while providing variety in building height, residential courtyards, keeping buildings close to the street and maintaining a pedestrian scale.

The request for a special permit pursuant to ZR Section 78-312 would allow minor variations in the height and setback regulations on the periphery of the LSRD (C 160290 ZSX). This modification to the previously approved LSRD will also cause the areas within the modified LSRD along the south side of East 179th Street and the west side of Boston Road to become areas on the periphery of, rather than wholly within, the LSRD. The Commission believes that these modifications to height and setback of buildings will not obstruct access of light and air to the detriment of the public realm.

The related application for a zoning text amendment to designate the proposed rezoning area as a Mandatory Inclusionary Housing Area (N 160289 ZRX) will ensure permanent affordability for a portion of the units on the site. The applicants seek to make Option 1 available in this area. Option 1 requires that at least 25 percent of the residential floor area shall be provided as housing affordable to households at an average of 60 percent AMI, including a 10 percent band at 40 percent AMI. The Commission strongly encourages the applicants to seek other means to ensure that all other units on the site are permanently affordable.

The request for a zoning text amendment to ZR Section 23-671 (N 160288 ZRX), which, within a limited geography, enables windows opening onto a #public park# with an area of at least one-half acre to be considered #legally required windows#, is appropriate. The Commission believes that the language for the proposed text should be modified for clarity, and that the text, given its limited applicability, would more appropriately reside in Article VII, Chapter 8 (SPECIAL REGULATIONS APPLYING TO LARGE-SCALE RESIDENTIAL DEVELOPMENTS). Neither of these modifications will alter the effect of the text amendment. The Commission believes that absent this zoning text amendment the required 30' setback from the

side lot line along the two park-facing parcels would reduce the efficiency of the building layouts on Parcels 5 and 10. Additionally, the Commission believes that permitting windows along the greenway will be a desirable result for the safety of the greenway path.

RESOLUTION

RESOLVED, that having considered the Final Environmental Impact Statement (FEIS), for which a Notice of Completion was issued on September 9, 2016, with respect to this application (CEQR No. 16HPD001X) the City Planning Commission finds that the requirements of the New York State Environmental Quality Review Act and Regulations have been met and that consistent with social, economic and other considerations:

1. From among the reasonable alternatives available, the action is one which avoids or minimizes adverse environmental impacts to the maximum extent practicable; and
2. The adverse environmental impacts identified in the FEIS will be minimized or avoided to the maximum extent practicable by the placement of (E) designations for Hazardous Materials, Air Quality, and Noise, as well as through the provisions of Sections 81-624 and 81-691(a)(3) of the Zoning Resolution, which form part of the action.

The report of the City Planning Commission, together with the FEIS, constitutes the written statement of facts, and of social, economic and other factors and standards, that form the basis of the decision, pursuant to Section 617.11(d) of the SEQRA regulations; and be it further

WHEREAS, the Department of Housing Preservation and Development has recommended the designation property located at Boston Road (Block 3139, Lot 50), in Community District 6, Borough of the Bronx, as an Urban Development Action Area; and

WHEREAS, the Department of Housing Preservation and Development has also recommended the approval of an Urban Development Action Area Project for such property;

THEREFORE, be it further **RESOLVED**, that the City Planning Commission, after due consideration of the appropriateness of the actions, certifies its unqualified approval of the following matters pursuant to the Urban Development Action Area Act:

- a) The designation of property located at Boston Road (Block 3139, Lot 50), as an Urban Development Action Area; and
- b) an Urban Development Action Area Project for such area;

BE IT FURTHER RESOLVED, by the City Planning Commission, pursuant to Section 197-c of the New York City Charter, that based on the environmental determination and the consideration described in this report, the application of the Department of Housing Preservation and Development, for the disposition of city-owned property located at Boston Road (Block 3139, Lot 50) in Community District 6, Borough of the Bronx, to a developer to be selected by the Department of Housing Preservation and Development, is approved (C 160286 HAX).

The above resolution (C 160286 HAX), duly adopted by the City Planning Commission on September 21, 2016 (Calendar No. 6), is filed with the Office of the Speaker, City Council, and the Borough President in accordance with the requirements of Section 197-d of the New York City Charter.

CARL WEISBROD, Chairman
KENNETH J. KNUCKLES, ESQ., Vice Chairman
RAYANN BESSER, ALFRED C. CERULLO, III,
MICHELLE DE LA UZ, JOSEPH DOUEK,
CHERYL COHEN EFFRON, HOPE KNIGHT, ANNA HAYES LEVIN,
ORLANDO MARÍN, LARISA ORTIZ, Commissioners

**BOROUGH PRESIDENT
RECOMMENDATION**

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

INSTRUCTIONS

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

**APPLICATION # C 160218 MMX, C 160285 ZMX, C 160286 HAX, C 160290 ZSX, C 160307 ZSX
RELATED APPLICATIONS: N 160 287 ZAX N 160288 ZRX, N 160289 ZRX, M 160291 ZXX**

DOCKET DESCRIPTION

PLEASE SEE ATTACHMENT FOR DOCKET DESCRIPTION

COMMUNITY BOARD NO. 6 BOROUGH: BRONX

RECOMMENDATION

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

EXPLANATION OF RECOMMENDATION-MODIFICATION/CONDITIONS (Attach additional sheets if necessary)

PLEASE SEE ATTACHMENT FOR BOROUGH PRESIDENT'S RECOMMENDATION



BOROUGH PRESIDENT

8/4/16

DATE

**BRONX BOROUGH PRESIDENT'S RECOMMENDATION
ULURP APPLICATION NUMBERS:
C 160218 MMX, C 160285 ZMX, C 160286 HAX, C 160290 ZSX, C 160307 ZSX
Related Applications
N 160287 ZAX, N 160288 ZRX, N 160289 ZRX, M 160291 ZXX
Lambert Houses Redevelopment
August 4, 2016**

**DOCKET DESCRIPTIONS
Matters Subject to ULURP**

C 160218 MMX

IN THE MATTER OF an application submitted by The New York City Department of Housing Preservation and Development (HPD) and Phipps Houses, 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 narrowing by elimination, discontinuance and closing of a portion of East Tremont Avenue from Boston Road to East Tremont Avenue; and
- The adjustment of grades and block dimensions necessitated thereby;

Including authorization for any acquisition or disposition of real property related thereto, in Community District #6, Borough of The Bronx, in accordance with Map No. 13137 dated April 27, 2016, and signed by the Borough President.

C 160285 ZMX

IN THE MATTER OF an application submitted by The New York City Department of Housing Preservation and Development and Phipps Houses pursuant to Sections 197-c and 201 of the New York City Charter for the amendment of the Zoning Map, Section No. 3d:

1. Changing from an R7-1 District to and R8 District property bounded by:
 - a. A line 230 feet southeasterly of Vyse Avenue, East 180th Street, a line perpendicular to the northeasterly street line of East 180th Street distant 336 feet northwesterly (as measured along the street line) from the point of intersection of the northeasterly street line of East 180th Street and the northwesterly street line of Boston Road, a line 100 feet northeasterly of East 180th Street, 100 feet northwesterly of Boston Road, 100 feet southwesterly of East 180th Street, 100 feet southeasterly of Boston Road, a line 140 feet northeasterly of East 179th Street, Boston Road, East 179th Street, 100 feet of Boston Road, and 120 feet southwesterly of East 180th Street; and

- b. Boston Road, East 179th Street, the easterly street line of former Bronx Street, East Tremont Avenue*, and West Farms Road; and
2. Establishing within a proposed R8 District a C1-4 District bounded by a line 100 feet northwesterly of Boston Road, Bronx Park South, Boston Road, and East 179th Street;

Borough of The Bronx, Community District #6, as shown on a diagram (for illustrative purposes only) dated April 25, 2016.

*Note: a portion of East Tremont Avenue is proposed to be demapped under a concurrent related application C 160218 MMX

C 160286 HAX

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 Boston Road (Block 3139, Lot 50), 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 property to a developer to be selected by HPD

To facilitate a mixed use development containing approximately 1,665 affordable residential units, approximately 86,608 square feet of retail space and approximately 110 accessory parking spaces in Community District #6, Borough of The Bronx.

C 160290 ZSX

IN THE MATTER OF an application submitted by the New York City Department of Housing Preservation and Development and Phipps Houses pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit to Section 78-312(d) of the Zoning Resolution to modify the height and setback requirements of Section 23-632 on the periphery of a large-scale residential development, in connection with a proposed mixed-use development within a proposed large-scale residential development, on property generally bounded by Bronx Park South, Boston Road, east 180th Street, the Bronx River, East Tremont Avenue*, Boston Road, East 179th Street, a line approximately 170 feet southeasterly of Boston Road, a line approximately 240 feet southwesterly of East 180th Street, Boston Road, East 179th Street, a line

approximately 230 feet southwesterly of Vyse Avenue, East 180th Street, the northwesterly street line of former Bryant Avenue, East 181st Street, and Bryant Avenue (Block 3132, Lot 1, Block 3138, Lot 1, Block 3139, Lots 1, 19 & 50, and Block 3140, Lot 7), in R7-1, R7-1/C1-4, R8*, and R8/C1-4** Districts, Borough of The Bronx, Community District 6.

*Note: a portion of East Tremont Avenue is proposed to be demapped under a concurrent related application C 160218 MMX.

**Note: portions of the site is proposed to be rezoned by changing from R7-1 District to R8 District and establishing a C1-4 District within the proposed R8 District under a concurrent application for a Zoning Map change (C 160285 ZMX).

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

C 160307 ZSX

IN THE MATER OF an application submitted by the New York City Department of Housing Preservation and Development and Phipps Houses pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit to Section 78-312(d) of the Zoning Resolution to modify the height and setback requirements of Section 23-632 on the periphery of a large scale residential development, in connection with a proposed modification of an existing large-scale residential development, on property generally bounded by Bronx Park South, Boston Road, East 180th Street, the Bronx River, East Tremont Avenue*, Boston Road, East 179th Street, a line approximately 170 feet southeasterly of Boston Road, a line approximately 240 feet southwesterly of East 180th Street, Boston Road, East 179th Street, a line approximately 230 feet southeasterly of Vyse Avenue, East 180th Street, the northwesterly street line of the former Bryant Avenue, East 181st Street, and Bryant Avenue (Block 3005, Lot 65, Block 3130, Lots 20 & 100, and Block 3136, Lots 1, 20 & 101), in an R7-1 District, Borough of The Bronx, Community District #6.

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

BACKGROUND

Approval of these applications will facilitate the demolition of what is currently referred to as the Lambert Houses and the reconstruction of an entirely new complex of residential accommodations, also to be known as the Lambert Houses. The site of this complex is located in the West Farms community of The Bronx on the former Bronx Park South Urban Development Renewal Area (the project area). Lambert Houses occupies 11.8 acres of property located on Block 3138, Lot 1, Block 3132, Lot 1, Block 3140, Lot 7, Block 3139 Lots 1 and 19 and property currently owned by the City of New York's Department of Housing Preservation and Development, Block 3139, Lot 50. Consequently, the New York City Department of Housing Preservation and Development (HPD) and Phipps Houses are co-applicants. It is anticipated that

this entire project will be completed in the year 2029, and will approximate an investment of \$600 million.

The Current Lambert Houses Complex

The current complex known as the Lambert Houses was constructed between 1970 and 1973. Consequently this complex is 43 years old and includes 14 residential buildings offering 731 dwelling units. All residences are included in a series of three Project-based Section 8 contracts. A commercial building offers 40,000 square feet of retail and office accommodation. The following sites make up a portion of the existing Large Scale Redevelopment Plan and will comprise the new Large Scale Redevelopment Plan

Parcel 1: Block 3138, Lot 1

- 2.9 acres
- 237 housing units

Parcel 3: Block 3132, Lot 1

- 4.5 acres
- 325 housing units

Parcel 5: Block 3140, Lot 7

- 1.75 acres
- 169 housing units

Parcel 10: Block 3139, Lots 1, 19

- 2.5 acres
- 40,000 sq. ft. retail & garage providing 375 spaces

Parcel 10: Block 3139, Lot 50

- 3,720 square feet pedestrian plaza

The existing development profile of Lambert Houses is composed of 14 interconnected, six and seven story buildings, located on the previously approved Large Scale Residential Development (LSRD). Several deficiencies of the current development include:

- 42 locations for access and egress making site security virtually impossible to maintain
- Long narrow corridors
- Exterior open space that is undefined and therefore perceived as dangerous
- Super-blocks that discourage street activity
- No definable entry points from the surrounding West Farms neighborhood
- Heating is entirely provided by electricity making such heating extremely costly
- Undersized waste lines for building sewage prompting frequent waste water backflow
- Poorly constructed buildings prone to wall cracks
- No sustainable elements of any kind

Given these significant flaws, the applicants have determined that the most cost effective way by which this development can best serve its residents is to adopt a plan which will allow for the

demolition of specific residential buildings while providing residents living in these buildings with a new, on-site dwelling.

The Proposed Lambert Houses Complex

As a means of accommodating residents of those buildings which will be demolished, Phipps Houses intends to construct new residences which will offer a larger number of units than are provided in those buildings being prepared for demolition. Residents in buildings set to be demolished will be relocated to appropriately accommodating units corresponding to their current family size in newly-constructed buildings. Residents not wishing to relocate to a new unit will have the option of identifying units available at other locations that are owned by Phipps. The new construction will include 12 new residential buildings, the first of which will occupy a site on which a vacant building is currently standing. This initial building will rise to 18 stories and offer 163 residential units. Highlights of this redevelopment plan include:

- Approximately 1,700 new dwelling units thereby increasing the number of such accommodations by approximately 1,000 units
- Approximately 61,000 square feet of retail space thereby increasing the amount of such space by approximately 20,000 square feet
- 110 parking spaces
- Enclosed courtyard and exterior locations for passive recreation thereby improving security
- Potential for retail development on Boston Road
- The reestablishment of previously demapped portions of East 181st Street between Bryant Avenue and Boston Road and on Bryant Avenue between East 179th Street East 181st Street. These locations will remain private property but will function as vehicular right-of-ways within the Lambert Houses complex
- The existing retail development at West Farms Square, which is also well served by both bus and subway access, will be reconstructed and serve as the area's "downtown." A new public school *may* be constructed on property included in this reconstructed community

Parcel Identification and Proposed New Development Buildout

Parcel 1: With the reintroduction of East 181st Street, this parcel will be divided into two blocks:

Block 1: Will be bounded by Bronx Park South on the north, East 181st Street on the south (which will remain a privately owned right-of-way) Bryant Avenue on the west, Boston Road on the east.

Block 2: Will be bounded by East 181st Street on the north, (which will remain a privately owned right-of-way) East 180th Street on the south, Bryant Avenue on the west, Boston Road on the east.

It is anticipated Parcel 1 will accommodate four new buildings ranging in height from seven to 15 stories. The four buildings will offer at total of 494 units.

Building 1A: 135 units
Building 1B: 104 units
Building 1C: 162 units
Building 1D: 93 units

Parcel 3: With the reintroduction of Bryant Avenue, this parcel will be divided into two blocks:

Block 1: Will be bounded by East 180th Street on the north, East 179th Street on the south, Bryant Avenue (which will remain a privately owned right-of-way) on the west, Boston Road on the east.

Block 2: Will be bounded by East 180th Street on the north and East 179th Street on the south Vyse Avenue on the west, Bryant Avenue (which will remain a privately owned right-of-way) on the east.

It is intended that the first newly constructed residential building will rise to approximately 18 stories and include 163 residential units. This building will be situated on Parcel 3A, located on the southeast corner of East 180th Street and Bryant Avenue (which will remain a privately owned right-of-way). The anticipated unit breakout for Building 3A includes:

12 Studio Units
60 1 Bedroom Units
60 2 Bedroom Units
31 3 Bedroom Units

Existing development on parcel 3A consist of a vacant building which will be demolished, thereby facilitating the new construction with no residential relocation required.

Overall, a total of six new residential buildings will be constructed on Parcel 3. These six buildings will offer 737 units, divided thusly:

Building 3A: 163 units-18 stories
Building 3B: 89 units- 8 stories
Building 3C: 125 units-13 stories, plus ground floor retail*
Building 3D: 156 units-14 stories, plus ground floor retail*

Building 3E: 76 units-10 stories

Building 3F: 128 units- 9 stories

*Retail space will approximate a grand total of 6,000 square feet (i.e. 3,000 square feet in each building)

Parcel 5: Bounded by East 180th Street on the north, East 179th Street on the south, Boston Road on the west and the Bronx River on the east. Overall, a total of two new buildings will be constructed on Parcel 5 and will include 301 residential units, divided thusly:

Building 5A: 164 units- 8 stories

Building 5B: 137 units-16 stories

Parcel 10: Bounded by East 179th Street on the north, East Tremont Avenue on the south, Boston Road on the west and the Bronx River on the east. Overall, a total of one mixed use building will be constructed and will offer 133 residential units. This building will also include 44,568 square feet of retail on the ground floor and will rise to a maximum of 15 stories.

New retail space will be situated on the northeast corner of Boston Road at East Tremont Avenue. Approximately 50 accessory parking spaces will be located on the roof of the one-story portion of the building fronting on Boston Road. Pursuant to the C1-4 requirement of one space per 1,000 square feet of floor area, 45 spaces are mandated.

The School Construction Authority (SCA) will have the option to acquire property located on the eastern edge of Parcel 10, where the Bronx River Greenway intersects East Tremont Avenue. Pending the need for additional elementary school seats approximating 500, the new school would offer 86,608 square feet of floor area. If the SCA deems this new building unnecessary, a five-story residential building offering 55 units would be constructed instead.

Summary of ULURP Actions

To facilitate this development approving the necessary ULURP applications will:

- 1) Modification of the previously approved Large Scale Residential Development (LSRD) to remove Lambert Houses from the limits of the original LSRD and a Special Permit pursuant to ZR 78-312 to ensure that no new non-compliances are created in the modified previously approved LSRD
- 2) Disposition of city-owned property pursuant to UDAAP designation and project approval
- 3) Zoning Map amendment to change portion of the Project Area from R7-1 and R7-1/C1-4, to R8 and R8/C1-4.

- 4) Zoning Authorizations pursuant to ZR 78-311 to allow relief from height and setback requirements and to permit distribution of the total floor area and open space without regard for zoning lot lines or zoning district boundaries
- 5) Zoning Special Permit pursuant to ZR 78-312 for minor variations in the height and setback regulations on the periphery of the LSRD and to permit a lot line abutting a public park to be considered a street line for the purposes of applying the requirements of Section 23-8 (Minimum Distance Between Legally Required Windows and Walls or Lot Lines)
- 6) Zoning text amendments to designate Mandatory Inclusionary Housing Area that applies to the requirement of Option 1 and to establish that in R7-1 and R8 Districts within Bronx Community District #6 where a lot line abuts a public park, such lot line may by Special Permit of the City Planning Commission be considered a street line for the purposes of applying the requirements of Section 23-86 (Minimum Distance Between Legally Required Windows and Walls or Lot Lines).
- 7) In conjunction with these actions, a concurrently related application for an amendment to the City Map (C 160218 MMX) is being proposed to eliminate a portion of East Tremont Avenue, designated Block 3139, Lot 50, which would be removed from the mapped street.

Existing development in the surrounding community includes retail activity and mass transit access at East Tremont Avenue. Here subway service via the IRT 2 and 5 trains is available, as well as bus service provided by the BX9, 21, 36, 40, 42 and Q44, and the BxM10 Express Bus. The development is also immediately served by the Cross Bronx and Sheridan Expressways and the Bronx River Parkway. Excluding the existing Lambert Houses development, residential accommodations are typified by midrise multiunit buildings and low-rise, wood-frame, one and two family dwellings. This community is also bounded by the Bronx River, along the banks of the Bronx River Greenway. Bronx Park, which includes the Bronx Zoo, is situated at the northern boundary of the Lambert Houses community.

ENVIRONMENTAL REVIEW AND ULURP CERTIFICATION

These applications have been reviewed pursuant to CEQR and SEQRA and received a Positive Declaration. The City Planning Commission certified these applications as complete on April 25, 2016.

BRONX COMMUNITY BOARD PUBLIC HEARING

A public hearing was called by Bronx Community Board #6 on June 22, 2016. A vote recommending approval of these applications was 14 in favor, seven against, two abstaining.

BOROUGH PRESIDENT'S PUBLIC HEARING

A public hearing was convened by the Bronx Borough President on July 26, 2016. Representatives of the applicants were present and spoke in favor of this application. A member of the public offering testimony on behalf of 32BJ SEIU submitted a written statement expressing opposition to the applications being considered. There being no other members of the public wishing to offer testimony, the hearing on these matters was closed.

BRONX BOROUGH PRESIDENT'S RECOMMENDATION

For decades the most critical challenge confronting the City of New York has been affordable housing for those whose income is low, or even extremely low. By way of meeting this need, the Lambert Houses were constructed by Phipps Houses between 1970-1973, at a time when so much of The Bronx was being ripped apart by arson-for-profit. A key provision of this new development was it being subject to "project-based Section 8 contracts." Essentially, this designation meant that all those residing at the Lambert Houses would benefit from the subsidies provided through Section 8, so long as they remained a resident of the Lambert Houses. This subsidy, along with the park-like surroundings that defined the Lambert Houses, made this development one of the most desired addresses a person or family with limited means could hope to acquire. Today, this model is no longer sustainable, practical or even functional. Among these shortcomings are poorly-designed common areas, lack of defensible exterior boundaries along with 42 points of entrance egress, defective construction and the use of inferior building materials, as well as a complete lack of any sustainable design and energy conservation measures. Therefore, to satisfy what we today consider to be a well thought-out, planned-out and built-out large scale development, Phipps is presenting an entirely new vision for the Lambert Houses community.

As proposed by Phipps, the new Lambert Houses will be entirely demolished over a period of approximately 15 years and completely reconstructed. The key to making this possible is that for each current building being demolished, a new building will be completed and offer more accommodations than what is being torn down. Consequently, two objectives are met. First, residents who wish to remain a resident of the Lambert Houses need not worry about being forced to relocate and thereby have to sacrifice their Section 8 benefits. Second, at a time when the demand for such housing is at historical highs, when completed the new Lambert Houses will offer 12 new buildings with 1,665 units, approximately 1,000 more than exist today.

Needless to say, I am most supportive of this proposal while noting the many benefits Phipps and those residing at the new Lambert Houses community will realize. Highlights include:

- The reintroduction of the street-grid. Rather than having large areas of unsecured open space that are considered to be unsafe by both residents and management, as proposed the new plan reintroduces the "city block." As such, people are better able to define their community and create venues for neighborly interaction. This will serve to improve security and allow for a more congenial place for all to enjoy.
- Modern, energy efficient and sustainable buildings will be constructed, including naturally lit common areas and, perhaps most importantly, the

elimination of what is now a complex entirely heated by electricity and replaced by state-of-the-art climate control services.

- Enclosed courtyard areas, which will improve security and afford residents an amenity they will feel at ease using.
- Interior common areas that can be monitored for both security and ease of maintenance.
- Venues for additional retail activity on Boston Road and construction of a major retail site at West Farms Square.
- Buildings that are well constructed and served by new water and sewage systems that are appropriately designed.
- Increasing the residential density of the Lambert Houses, mindful of its proximity to both subway and bus services.
- A site allocated for the potential construction of a new 500-seat elementary school, pending the determination that the new Lambert Houses requires such a facility.

I support the vision as proposed by Phipps. I am confident that the \$600 million investment that this redevelopment represents will assist our city's neediest families, a community from which all who live here will realize a sense of dignity and pride. This is truly a legacy project that will help define the future of affordable housing in New York City.

I recommend approval of this application.

7/6/16



Community/Borough Board Recommendation
Pursuant to the Uniform Land Use Review Procedure

Application #: **C 160218 MMX**

Project Name: **LAMBERT HOUSES CITY MAP CHANGE**

CEQR Number: 16HPD001X

Borough(s): **THE BRONX**
Community District Number(s): **06**

Please use the above application number on all correspondence concerning this application

SUBMISSION INSTRUCTIONS

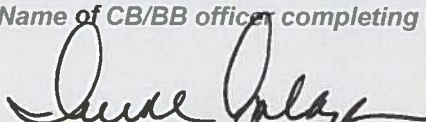
- Complete this form and return to the Department of City Planning by one of the following options:
 - EMAIL (recommended):** Send email to CalendarOffice@planning.nyc.gov and include the following subject line: (CB or BP) Recommendation + (6-digit application number), e.g., "CB Recommendation #C100000ZSQ"
 - MAIL:** Calendar Information Office, City Planning Commission, Room 2E, 22 Reade Street, New York, NY 10007
 - FAX:** (212) 720-3356 and note "Attention of the Calendar Office"
- Send one copy of the completed form with any attachments to the applicant's representative at the address listed below, one copy to the Borough President, and one copy to the Borough Board, when applicable.

Docket Description:

IN THE MATTER OF an application, submitted by The New York City Department of Housing Preservation and Development and Phipps Houses, 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 narrowing by elimination, discontinuance and closing of a portion of East Tremont Avenue from Boston Avenue to East Tremont Avenue; and
- the adjustment of grades and block dimensions necessitated thereby;

including authorization for any acquisition or disposition of real property related thereto, in Community District 6, borough of The Bronx, in accordance with Map No. 13137 dated April 27, 2016 and signed by the Borough President.

Applicant(s): NYC Department Housing Preservation and Development 100 Gold Street New York, NY 10038		Applicant's Representative: Winifred Campbell NYC HPD 100 Gold Street, Room 9G-10 New York, NY 10038 212.863.6522	
Recommendation submitted by: Bronx Community Board 6			
Date of public hearing: June 22, 2016		Location: Wings Academy High School 1122 East 180th Street, Bronx, NY 10460	
Was a quorum present? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>		<i>A public hearing requires a quorum of 20% of the appointed members of the board, but in no event fewer than seven such members.</i>	
Date of Vote: June 22, 2016		Location: Wings Academy High School 1122 East 180th Street, Bronx, NY 10457	
RECOMMENDATION <input checked="" type="checkbox"/> Approve <input type="checkbox"/> Approve With Modifications/Conditions <input type="checkbox"/> Disapprove <input type="checkbox"/> Disapprove With Modifications/Conditions			
<u>Please attach any further explanation of the recommendation on additional sheets, as necessary.</u>			
Voting # In Favor: 14 # Against: 7 # Abstaining: 2 Total members appointed to the board: 28			
Name of CB/BB officer completing this form  Ivine Galarza		Title District Manager	Date June 28, 2016

7/6/16



Community/Borough Board Recommendation

Pursuant to the Uniform Land Use Review Procedure

Application #: **C 160285 ZMX**

Project Name: **Lambert Houses Redevelopment**

CEQR Number: 16HPD001X

Borough(s): **Bronx**
Community District Number(s): **06**

Please use the above application number on all correspondence concerning this application

SUBMISSION INSTRUCTIONS

- Complete this form and return to the Department of City Planning by one of the following options:
 - EMAIL (recommended):** Send email to CalendarOffice@planning.nyc.gov and include the following subject line: (CB or BP) Recommendation + (6-digit application number), e.g., "CB Recommendation #C100000ZSQ"
 - MAIL:** Calendar Information Office, City Planning Commission, 120 Broadway, 31st Floor, New York, NY 10271
 - FAX:** to (212) 720-3488 and note "Attention of the Calendar Office"
- Send one copy of the completed form with any attachments to the applicant's representative at the address listed below, one copy to the Borough President, and one copy to the Borough Board, when applicable.


Docket Description:

IN THE MATTER OF an application submitted by the NYC Department of Housing Preservation and Development and Phipps Houses pursuant to Section 197-c and 201 of the New York City Charter for the amendment of the Zoning Map, Section No. 3d:

- changing from an R7-1 District to an R8 District property bounded by:
 - a line 230 feet southeasterly of Vyse Avenue, East 180th Street, a line perpendicular to the northeasterly street line of East 180th Street distant 335 feet northwesterly (as measured along the streetline) from the point of intersection of the northeasterly street line of East 180th Street and the northwesterly street line of Boston Road, a line 100 feet northeasterly of East 180th Street, 100 feet northwesterly of Boston Road, Bronx Park South, Boston Road, East 180th Street, a line 280 feet southeasterly of Boston Road, 100 feet southwesterly of East 180th Street, 100 feet southeasterly of Boston Road, a line 140 feet northeasterly of East 179th Street, Boston Road, East 179th Street, 100 feet northwesterly of Boston Road, and 120 feet southwesterly of East 180th Street, and
 - Boston Road, East 179th Street, the easterly street line of former Bronx Street, East Tremont Avenue*, and West Farms Road, and
- establishing within a proposed R8 District a C1-4 District bounded by a line 100 feet northwesterly of Boston Road, Bronx Park South, Boston Road, and East 179th Street;

Borough of Bronx, Community District 6, as shown on a diagram (for illustrative purposes only) dated April 25, 2016.

* Note: a portion of East Tremont Avenue is proposed to be demapped under a concurrent related application C 160218 MMX

Applicant(s): NYC Department of Housing Preservation & Development 100 Gold Street New York, NY 10038		Applicant's Representative: Winfred Campbell NYC Department of Housing Preservation & Development 100 Gold Street, Room 9X New York, NY 10038	
Recommendation submitted by: Bronx Community Board 6			
Date of public hearing: June 22, 2016		Location: Wings Academy High School 1122 East 180th Street, Bronx, NY 10460	
Was a quorum present? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>		<i>A public hearing requires a quorum of 20% of the appointed members of the board, but in no event fewer than seven such members.</i>	
Date of Vote: June 22, 2016		Location: Wings Academy High School 1122 East 180th Street, Bronx, New York 10460	
RECOMMENDATION <input checked="" type="checkbox"/> Approve <input type="checkbox"/> Approve With Modifications/Conditions <input type="checkbox"/> Disapprove <input type="checkbox"/> Disapprove With Modifications/Conditions			
Please attach any further explanation of the recommendation on additional sheets, as necessary.			
Voting # In Favor: 14 # Against: 7 # Abstaining: 2 Total members appointed to the board: 28			
Name of CB/BB officer completing this form  Ivine Galarza		Title District Manager	Date June 28, 2016

7/6/16



Community/Borough Board Recommendation

Pursuant to the Uniform Land Use Review Procedure

Application #: **C 160286 HAX**

Project Name: **Lambert Houses Redevelopment**

CEQR Number: 16HPD001X

Borough(s): **Bronx**
Community District Number(s): **6**

Please use the above application number on all correspondence concerning this application

SUBMISSION INSTRUCTIONS

- Complete this form and return to the Department of City Planning by one of the following options:
 - EMAIL (recommended):** Send email to CalendarOffice@planning.nyc.gov and include the following subject line: (CB or BP) Recommendation + (6-digit application number), e.g., "CB Recommendation #C100000ZSQ"
 - MAIL:** Calendar Information Office, City Planning Commission, 120 Broadway, 31st Floor, New York, NY 10271
 - FAX:** to (212) 720-3488 and note "Attention of the Calendar Office"
- Send one copy of the completed form with any attachments to the applicant's representative at the address listed below, one copy to the Borough President, and one copy to the Borough Board, when applicable.

Docket Description:

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:

- the designation of property located at Boston Road (Block 3139, Lot 50), as an Urban Development Action Area; and
- 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 property to a developer to be selected by HPD;

to facilitate a mixed use development containing approximately 1,665 affordable residential units, approximately 86,608 square feet of retail space and approximately 110 accessory parking spaces in Community District 6, Borough of the Bronx.

Applicant(s): Department of Housing Preservation and Development 100 Gold Street New York, NY 10038	Applicant's Representative: Winifred Campbell NYC Housing Preservation & Development 100 Gold Street, Room 9G - 10 New York, NY 10038
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Recommendation submitted by:
Bronx Community Board #6

Date of public hearing: June 22, 2016 **Location: 1122 East 180th Street, Bronx, NY 10460**

Was a quorum present? YES NO *A public hearing requires a quorum of 20% of the appointed members of the board, but in no event fewer than seven such members.*

Date of Vote: June 22, 2016 **Location: 1122 East 180th Street, Bronx, NY 10460**

RECOMMENDATION

Approve Approve With Modifications/Conditions
 Disapprove Disapprove With Modifications/Conditions

Please attach any further explanation of the recommendation on additional sheets, as necessary.

Voting

In Favor: **14** # Against: **7** # Abstaining: **2** Total members appointed to the board: **28**

<i>Name of CB/BB officer completing this form</i>  Ivine Galarza	<i>Title</i> District Manager	<i>Date</i> June 28, 2016
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7/6/16



Community/Borough Board Recommendation

Pursuant to the Uniform Land Use Review Procedure

Application #: **C 160290 ZSX**

CEQR Number: 16HPD001X

Project Name: **Lambert Houses Redevelopment**

Borough(s): **Bronx**

Community District Number(s): **06**

Please use the above application number on all correspondence concerning this application

SUBMISSION INSTRUCTIONS

1. Complete this form and return to the Department of City Planning by one of the following options:
 - **EMAIL (recommended)**: Send email to CalendarOffice@planning.nyc.gov and include the following subject line: (CB or BP) Recommendation + (6-digit application number), e.g., "CB Recommendation #C100000ZSQ"
 - **MAIL**: Calendar Information Office, City Planning Commission, 120 Broadway, 31st Floor, New York, NY 10271
 - **FAX**: to (212) 720-3488 and note "Attention of the Calendar Office"
2. Send one copy of the completed form with any attachments to the applicant's representative at the address listed below, one copy to the Borough President, and one copy to the Borough Board, when applicable.

Docket Description:

IN THE MATTER OF an application submitted by the New York City Department of Housing Preservation and Development and Phipps Houses pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit to Section 78-312(d) of the Zoning Resolution to modify the height and setback requirements of Section 23-632 on the periphery of a large-scale residential development, in connection with a proposed mixed-use development within a proposed large-scale residential development, on property generally bounded by Bronx Park South, Boston Road, East 180th Street, the Bronx River, East Tremont Avenue*, Boston Road, East 179th Street, a line approximately 170 feet southeasterly of Boston Road, a line approximately 240 feet southwesterly of East 180th Street, Boston Road, East 179th Street, a line approximately 230 feet southeasterly of Vyse Avenue, East 180th Street, the northwesterly street line of former Bryant Avenue, East 181st Street, and Bryant Avenue (Block 3132, Lot 1, Block 3138, Lot 1, Block 3139, Lots 1, 19 & 50, and Block 3140, Lot 7), in R7-1, R7-1/C1-4, R8*, and R8/C1-4** Districts, Borough of the Bronx, Community District 6.

*Note: a portion of East Tremont Avenue is proposed to be demapped under a concurrent related application C 160218 MMX

**Note: Portions of the site is proposed to be rezoned by changing from R7-1 District to a R8 District and establishing a C1-4 District within the proposed R8 District under a concurrent related application for a Zoning Map change (C 160285 ZMX).

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

Applicant(s): NYC Department of Housing Preservation & Development 100 Gold Street New York, NY 10038	Applicant's Representative: Winfred Campbell NYC Department of Housing Preservation & Development 100 Gold Street, Room 9X New York, NY 10038
Recommendation submitted by: Bronx Community Board 6	
Wings Academy High School	
Date of public hearing: June 22, 2016	Location: 1122 East 180th Street, Bronx, NY 10457
Was a quorum present? YES <input checked="checked" type="checkbox"/> NO <input type="checkbox"/> <small>A public hearing requires a quorum of 20% of the appointed members of the board, but in no event fewer than seven such members.</small>	
Wings Academy High School	
Date of Vote: June 22, 2016	Location: 1122 East 180th Street, Bronx, NY 10460
RECOMMENDATION	
<input checked="checked" type="checkbox"/> Approve	
<input type="checkbox"/> Disapprove	
<input type="checkbox"/> Approve With Modifications/Conditions	
<input type="checkbox"/> Disapprove With Modifications/Conditions	
Please attach any further explanation of the recommendation on additional sheets, as necessary.	
Voting	
# In Favor: 14 # Against: 7 # Abstaining: 2 Total members appointed to the board: 28	
Name of CB/BB officer completing this form Ivine Galarza	Title District Manager
Date June 28, 2016	

LARGE-SCALE RESIDENTIAL DEVELOPMENT

RESTRICTIVE DECLARATION

Dated as of [], 2016

Bronx County
Block 3132, Lot 1
Block 3138, Lot 1
Block 3139, Lot 1, 19 & 50
Block 3140, Lot 7

RECORD AND RETURN TO:

Holland & Knight LLP
31 West 52nd Street
New York, New York 10019
Attention: Barak A. Wrobel, Esq.

RESTRICTIVE DECLARATION

THIS DECLARATION (the "**Declaration**"), made as of this _____ of _____, 201[] by Boston Tremont Housing Development Fund Corporation, a domestic not-for-profit corporation, having an address at 902 Broadway, New York, New York 10038 (the "**Declarant**")

WHEREAS, the Declarant is the fee owner of certain real property located in the Borough of the Bronx, Bronx County, City and State of New York, designated for real property tax purposes as Block 3132, Lot 1, Block 3138, Lot 1, Block 3139, Lots 1, 19 and 50, and Block 3140, Lot 7, which real property is more particularly described in **Exhibit A** annexed hereto and made a part hereof (the "**Subject Property**");

WHEREAS, Declarant desires to improve the Subject Property as a "large-scale residential development" meeting the requirements of the definition of "large-scale residential development" set forth in Section 12-10 of the Zoning Resolution of the City of New York, effective December 15, 1961, as amended from time to time (the "**Zoning Resolution**" or "**ZR**") (such proposed improvement of the Subject Property, the "**Proposed Project**");

WHEREAS, in connection with the Proposed Project, Declarant, together with its co-applicant, the New York City Department of Housing Preservation and Development ("**HPD**"), filed applications with the New York City Department of City Planning ("**City Planning**") for approval by the City Planning Commission of the City of New York (the "**Commission**") of (i) modification of the existing Bronx Park South Large-Scale Residential Development to remove Lambert Houses (Parcels 1, 3, 5 and 10) from the boundaries of such Large-Scale Residential Development, with the remaining parcels (Parcels 6, 7, 8a, 8b and 9) remaining within a modified Bronx Park South Large-Scale Residential Development; (ii) a Zoning Map Amendment to change portions of Section 3d of the Zoning Map from a R7-1 district and R7-1 district with a C1-4 commercial district overlay, to R8 district and R8 district with a C1-4 commercial district overlay (C 160285 ZMX (the "**Zoning Map Amendment**"); (iii) Authorizations pursuant to ZR Section 78-311(a), (b), (d), (e) and (h) to permit distribution of floor area and open space without regard for zoning lot lines or zoning district

boundaries, to modify rear yard setback requirements, to permit variations of height and setback requirements, and to modify minimum distance between buildings (N 160287 ZAX) (the “**Large-Scale Authorizations**”); (iv) a Special Permit pursuant to ZR Section 78-312(c) to allow minor variations of height and setback requirements along the periphery of a large-scale residential development (C 160290 ZSX) (the “**Large-Scale Special Permit**”, the Large-Scale Special Permit together with the Large-Scale Authorizations, the “**Large-Scale Applications**”); (v) Zoning Text amendments to (a) ZR Section 23-671 to treat a public park adjacent to the Proposed Project as a street for purposes of legally required window (N 160288 ZRX), and (b) to designate a Mandatory Inclusionary Housing Area (N 160289 ZRX); (the “**Text Amendment**”); (vi) an amendment to the City Map to remove lot 50 from the mapped street, and (vii) disposition of city-owned property and Urban Development Action Area Designation and project approval (C 160286 HAX) (collectively, the “**Applications**”);

WHEREAS, in connection with the Large-Scale Applications this Declaration is entered into pursuant to Sections 78-041 and 78-042 of the Zoning Resolution;

WHEREAS, to ensure that (i) the development of the Subject Property is consistent with the analysis in the Final Environmental Impact Statement (“FEIS”) issued for City Environmental Quality Review Application No. 16HPD001X pursuant to Executive Order No. 91 of 1977, as amended, and the regulations promulgated thereunder at 62 RCNY § 5-01 et seq. (“CEQR”) and the State Environmental Quality Review Act, New York State Environmental Conservation Law § 8-0101 et seq. and the regulations promulgated thereunder at 6 NYCRR Part 617 (“SEQRA”) and incorporates certain requirements for mitigation of significant adverse environmental impacts in the CEQR technical areas of community facilities and transportation, and (ii) the development of the Subject Property includes certain project components related to the environment which were material to the analysis of environmental impacts in the FEIS (“PCREs”), including an institutional control (E-designation) to be mapped on all parcels in connection with the zoning map amendment [E-__] to address potential hazardous materials, noise, and air quality impacts, and the implementation of construction protection plans (“CPPs”) to preclude construction related impacts on identified historic resources within 90 feet of proposed development on parcels 1, 3, and 5,

Declarant has agreed to restrict the development, operation, use and maintenance of the Subject Property in certain respects, which restrictions are set forth in the FEIS and in this Declaration;

WHEREAS, [Title Company] has certified in a certification annexed hereto as **Exhibit B** and made a part hereof, that as of [Date], Declarant is the only party in interest to the Subject Property as such term is defined in subdivision (c) of the definition of “zoning lot” in Zoning Resolution Section 12-10 (“**Party-In-Interest**”);

WHEREAS, all Parties-In-Interest to the Subject Property have either executed this Declaration or waived their right to execute and subordinated their interest in the Subject Property to this Declaration by written instruments annexed hereto as **Exhibit B:2** and made a part hereof, which instruments are intended to be recorded in the Office of the City Register, Bronx County, New York (the “**Register’s Office**”), simultaneously with this Declaration; and

WHEREAS, Declarant desires to restrict the manner in which the Subject Property is developed, redeveloped, maintained and operated now and in the future, and intends these restrictions to benefit the Subject Property.

NOW, THEREFORE, Declarant hereby declares the Subject Property shall be held, sold, conveyed, developed, used, occupied, operated and maintained subject to the following restrictions, covenants, obligations and agreements, which shall run with the Subject Property and bind Declarant and its heirs, successors and assigns as follows:

ARTICLE I
DEFINITIONS

“Applications” shall have the meaning set forth in the Recitals to this Declaration.

“Approvals” shall mean the approvals issued by the Commission and/or City Council of the Large-Scale Applications to implement the development of the Proposed Project on the Subject Property.

“Building 10” shall mean the building depicted on Parcel 10 on the Plans, which shall mean those improvements labeled as building 10 and depicted on drawings Z-206.00, Z-409.00 and Z-410.00 on the Plans should the SCA exercise the School Purchase Option in accordance with this

Declaration, and where SCA does not exercise the School Purchase Option, Building 10 shall mean those improvements shown on drawings Z-207.00 and Z-411.00 on the Plans.

“Building Permit” shall mean the issuance of a permit by DOB whether in the form of (i) an excavation permit, authorizing excavations, including those made for the purposes of removing earth, sand, gravel, or other material from the Subject Property; (ii) a foundation permit, authorizing foundation work at the Subject Property; (iii) a demolition permit, authorizing the dismantling, razing or removal of a building or structure, including the removal of structural members, floors, interior bearing walls and/or exterior walls or portions thereof; (iv) a work permit under a New Building application authorizing construction of the New Building (as hereinafter defined); or (v) any other permit normally associated with the development of a building.

“Chairperson” shall mean the Chairperson of the Commission from time to time or any successor to the jurisdiction thereof.

“City” shall mean the City of New York.

“City Council” shall mean the City Council of the City of New York or any successor to the jurisdiction thereof.

“City Planning” shall mean the New York City Department of City Planning or any successor to the jurisdiction thereof.

“Commission” shall mean the City Planning Commission of the City of New York, or any successor to the jurisdiction thereof.

“Courtyard” shall mean the landscaped open areas that New Buildings shall face upon, as depicted on the Plans.

“Courtyard Certification” shall have the meaning set forth in **Section 4.1** hereof.

“Cure Period” shall have the meaning set forth in **Section 5.3** hereof.

“Default” shall have the meaning set forth in **Section 5.1** hereof.

“Default Notice” shall have the meaning set forth in **Section 5.2** hereof.

“Delay Notice” shall have the meaning set forth in **Section 5.5** hereof.

“DOB” shall mean the Department of Buildings of the City of New York or any successor to its jurisdiction.

“Effective Date” shall have the meaning set forth in **Section 6.1** of this Declaration.

“Final Approval” shall mean approval of the Large-Scale Authorization by the Commission pursuant to the Zoning Resolution, and the approval or the Large-Scale Special

Permit by the Commission pursuant to New York City Charter Section 197-c, with or without modifications, which shall be effective on the date that the City Council's period of review has expired without action by the City Council, provided that if (a) pursuant to New York City Charter Section 197-d(b), the City Council reviews the decisions of the Commission approving the Large-Scale Special Permit and takes final action pursuant to New York City Charter Section 197-d approving the Large-Scale Special Permit, with or without modifications, "Final Approval" shall mean such approval of such Large-Scale Special Permit by the City Council or (b) the City Council disapproves Large-Scale Special Permit and the Mayor files a written disapproval of the City Council's action pursuant to New York City Charter Section 197-d(e), and the City Council does not override the Mayor's disapproval, "Final Approval" shall mean the date of the Mayor's written disapproval of such Council action with respect to such Large-Scale Special Permit pursuant to such New York City Charter Section 197-d(e).

"Force Majeure" shall mean that a Force Majeure Event has occurred and the applicable Declarant has provided the Delay Notice in accordance with **Section 5.5** hereof.

Force Majeure Event" shall mean an occurrence beyond the reasonable control of Declarant which causes the delay of the performance of Declarant's Obligations hereunder, provided that Declarant has taken all reasonable steps reasonably necessary to control or to minimize such delay, and which occurrences shall include, but not be limited to: (i) a strike, lockout or labor dispute; (ii) the inability to obtain labor or materials or reasonable substitutes therefor; (iii) acts of God; (iv) restrictions, regulations, orders, controls or judgments of any Governmental Authority; (v) undue material delay in performance of any work or processing and/or issuance of approvals of any applications or agreements or other actions required in order to permit Declarant to carry out its Obligations pursuant to this Declaration by any Governmental Authority, provided that such delay is not caused by any act or omission of Declarant; (vi) enemy or hostile government action, civil commotion, insurrection, terrorism, revolution or sabotage; (vii) fire or other casualty; (viii) a taking of the whole or any portion of the Subject Property by condemnation or eminent domain; (ix) inclement weather substantially delaying construction of any relevant portion of the Subject Property; (x) unforeseen underground or soil conditions, provided that Declarant did not and could not reasonably have anticipated the existence thereof as of the date hereof; (xi) the denial of access to adjoining real property, notwithstanding the existence of a right of access to such real property in favor of Declarant arising by contract or Legal Requirements, if such access is required to accomplish the Obligations of Declarant pursuant to this Declaration; (xii) failure or inability of a public utility to provide adequate power, heat or light or any other utility service; (xiii) orders of any court of competent jurisdiction which prohibit, or the pendency of any litigation which has the effect of prohibiting Declarant from performing its obligations hereunder. The time to perform any Obligation under this Declaration may be extended as a result of a Force Majeure Event only pursuant to the procedures set forth in **Section 5.5** hereof.

"Governmental Authority" shall mean any governmental authority (including any federal, state, city or county governmental authority or quasi-governmental authority, or any political subdivision thereof, or any agency, department, commission, board or instrumentality of any thereof) having jurisdiction over the matter in question.

“HPD” shall have the meaning set forth in the Recitals to this Declaration.

“Initial Review Period” shall have the meaning set forth in **Section 4.1(b)** hereof.

“Landscape Design Principles” shall mean the design criteria and landscape design principles applicable to the Courtyard, as set forth in **Exhibit D**.

“Large-Scale Applications” shall have the meaning set forth in the Recitals to this Declaration.

“Large-Scale Authorizations” shall have the meaning set forth in the Recitals to this Declaration.

“Large-Scale Special Permit” shall have the meaning set forth in the Recitals to this Declaration.

“Mortgage” shall mean a mortgage set forth as security for a loan in respect of all or any portion of the Subject Property, other than a mortgage secured by any condominium unit or other residential unit located within the Subject Property.

“Mortgagee” shall mean the holder of a Mortgage.

“New Building” shall mean the buildings constructed or redeveloped on any portion Subject Property pursuant to the Approvals.

“New Building Permit” shall mean a permit issued by DOB authorizing the construction of a New Building.

“New York City Charter” shall mean the Charter of the City of New York, effective as of January 1, 1990, as amended from time to time.

“Notice” shall have the meaning set forth in **Section 7.1** of this Declaration.

“Notice of Availability of Funds” shall mean the documentation SCA furnishes to Declarant evidencing funding is included in the SCA’s approved Five-Year Capital Plan to fund reimbursements to Declarant for costs associated with testing Parcel 10 as set forth in **Section 4.2** hereof, and for SCA to undertake design, development and construction of the School Development.

“Obligation” shall mean any requirement imposed on Declarant by the restrictions, covenants, obligations and agreements set forth in this Declaration.

“Party-in-Interest” shall have the meaning set forth in the Recitals to this Declaration.

“PCO” shall mean a Permanent Certificate of Occupancy issued by DOB.

“Plans” shall mean the drawings for the Proposed Project prepared by Dattner Architects, as approved pursuant to the Approvals, reduced-size copies of which are attached as **Exhibit C** to this Declaration, as more particularly set forth in **Section 2.2** hereof.

“Possessory Interest” shall mean either (1) a fee interest in, coupled with possession of, the Subject Property or a portion thereof or (2) the lessee’s estate in a ground lease of all or substantially all the Subject Property, or a portion thereof.

“Proposed Project” shall have the meaning set forth in the Recitals to this Declaration.

“Register’s Office” shall have the meaning set forth in the Recitals to this Declaration.

“SCA” shall mean the New York City School Construction Authority or any successor to its jurisdiction.

“SCA Notice of Intent” shall have the meaning set forth in **Section 4.2(a)(iii)** hereof.

“SCA Option Period” shall have the meaning set forth in **Section 4.2(a)(iii)** hereof.

“SCA Purchase Option” shall have the meaning set forth in **Section 4.2** hereof.

“School Development” shall mean a public school building and accessory open space containing no more than 87,000 square feet of Floor Area and a maximum capacity of approximately 500 seats serving pre-kindergarten through fifth grade students, to be constructed by, and at the sole cost of, the SCA and operated by the New York City Department of Education, which may be located on the School Site, pursuant to the SCA Purchase Agreement.

“School Option Agreement” shall mean the agreement between SCA and Declarant, to be entered into only if SCA exercises the SCA Purchase Option in accordance with the provisions of **Section 4.2(a)**, which shall include terms surrounding collaboration between Declarant and SCA on the design of the façade and exterior of the School Development.

“School Option Notice” shall have the meaning set forth in **Section 4.2(a)(i)** hereof.

“School Site” shall mean certain real property located on Parcel 10 having an area of approximately 36,865 square feet, which is currently designated for real property tax purposes as a portion of Tax Lots 1 and 19 on Block 3139 in the Borough of the Bronx, City and State of New York, is bounded by Bronx Park to the East, 179th Street to the North, East Tremont Avenue to the South and a to-be-formed tax lot boundary to the west, as shown in more detail in **Exhibit E** hereto.

“Subject Property” shall have the meaning set forth in the Recitals to this Declaration.

“Subsequent Review Period” shall have the meaning set forth in **Section 4.1(c)** hereof.

“TCO” shall mean a Temporary Certificate of Occupancy issued by DOB.

“Zoning Map Amendment” shall have the meaning set forth in the Recitals to this Declaration.

“Zoning Resolution” or “ZR” shall have the meaning set forth in the Recitals to this Declaration.

“Zoning Text Amendment” shall have the meaning set forth in the Recitals to this Declaration.

ARTICLE II
LARGE-SCALE DEVELOPMENT OF THE SUBJECT PROPERTY

2.1 Declarant hereby declares and agrees that, following the Effective Date, the Subject Property, if developed pursuant to the Approvals, shall be treated as a large-scale residential development site and shall be developed and enlarged as a single unit.

2.2 If the Subject Property is developed in whole or part in accordance with the Approvals, Declarant covenants that the New Buildings in the Proposed Project shall be developed in substantial compliance with the following plans, prepared by Dattner Architects, approved as part of the Approvals and annexed hereto in **Exhibit C** and made a part hereof (the “**Plans**”):

Drawing No.	Title	Date
T-00.00	Cover Sheet	4/20/16
T-00.01	Subdivision of Large Scale Residential Development	4/20/16
Z-100.00	Zoning Calculations – Large Scale Residential Development	4/20/16
Z-101.00	Zoning Calculations – Parcel 10 Residential Alternate – Floor Area Schedule	4/20/16

Z-200.00	Curb Level Calculations	4/20/16
Z-201.00	Large Scale Residential Development Site Plan	4/20/16
Z-202.00	Open Space Calculations	4/20/16
Z-203.00	Parcel 1 Site Plan	4/20/16
Z-204.00	Parcel 3 Site Plan	4/20/16
Z-205.00	Parcel 5 Site Plan	4/20/16
Z-206.00	Parcel 10 Site Plan	4/20/16
Z-207.00	Parcel 10 Site Plan No School	4/20/16
Z-300.00	Parcel 1 Waiver Plan	4/20/16
Z-301.00	Parcel 3 Waiver Plan	4/20/16
Z-302.00	Parcel 3 Interim Waiver	4/20/16
Z-303.00	Parcel 5 Waiver Plan	4/20/16
Z-304.00	Parcel 10 Waiver Plan	4/20/16
Z-400.00	Parcel 1 Sections – Buildings 1A, 1B, 1D	4/20/16
Z-401.00	Parcel 1 Sections – Buildings 1A – 1C	4/20/16
Z-402.00	Parcel 1 Sections – Buildings 1B	4/20/16
Z-403.00	Parcel 1 Sections – Buildings 1C	4/20/16
Z-404.00	Parcel 3 Sections – Buildings 3A, 3B, 3E, 3F	4/20/16
Z-405.00	Parcel 3 Sections – Buildings 3A-3D	4/20/16

Z-406.00	Parcel 3 Sections – Buildings 3D-3F	4/20/16
Z-407.00	Parcel 5 Sections – Buildings 5B	4/20/16
Z-408.00	Parcel 5 Sections – Buildings 5A, 5B	4/20/16
Z-409.00	Parcel 10 Sections – Building 10A with School Option	4/20/16
Z-410.00	Parcel 10 Sections – School	4/20/16
Z-411.00	Parcel 10 Sections with Residential 10B	4/20/16
Z-500.00	Illustrative Streetscape Elevations	4/20/16
Z-501.00	Illustrative Streetscape Elevations	4/20/16
Z-600.00	Massing Illustrations - Illustrative	4/20/16
L-000.00	Master Plan – Overall Site Diagram	4/20/16
L-001.00	Parcel 3 – Conceptual Site Plan	4/20/16
L-002.00	Master Plan Section	4/20/16
L-003.00	Master Plan Section	4/20/16
L-004.00	Master Plan Section	4/20/16
L-010.00	Schematic Plan – 3A-3F Courtyard	4/20/16
L-011.00	3A-3F Courtyard Vignettes	4/20/16
L-110.00	Materials and Layout Plan – 3A Courtyard	4/20/16
L-210.00	Grading and Drainage Plan – 3A Courtyard	4/20/16
L-310.00	Planting Plan – 3A Courtyard	4/20/16

L-410.00	Landscape Site Details I	4/20/16
L-411.00	Landscape Site Details II	4/20/16
L-510.00	Planting Details	4/20/16

ARTICLE III

OTHER DEVELOPMENT OF THE SUBJECT PROPERTY

3.1 In the event that Declarant seeks to develop the Subject Property other than pursuant to the Large Scale Applications, Declarant may not develop the Subject Property except as permitted by the zoning district regulations and any other restrictions made applicable to the Subject Property pursuant to the Zoning Map Amendment and other actions accompanying the Large Scale Applications.

ARTICLE IV

CONDITIONS OF DEVELOPMENT

4.1 **Courtyard Certification.** With the exception of Building 3A located on Parcel 3, as depicted on the Plans, whose Courtyard shall be developed in accordance with drawings L-110.00, L-210.00, L-310.00, L-410.00, L-411.00 and L-510.00 of the Plans, Declarant shall not accept a New Building Permit from DOB for the final New Building under development facing a Courtyard until the Chairperson certifies to DOB that the design of such Courtyard is sufficiently consistent with the Landscape Design Principles (the “**Courtyard Certification**”) attached as Exhibit D, in accordance with the following provisions:

(a) **Application.** To initiate Chairperson review of each Courtyard, Declarants shall submit drawings, including dimensioned site plan for the Courtyard associated with the New Building for which it intends to accept a New Building Permit, with sufficient details

to enable the Chairperson to determine whether the Courtyard is sufficiently consistent with Courtyard Design Guidelines.

(b) **Initial Review**. Within thirty (30) days of such submission (the “**Initial Review Period**”), the Chairperson shall either (A) issue the Courtyard Certification, or (B) notify Declarant in writing of any design criteria or landscape design principles set forth in the Courtyard Design Guidelines that the Courtyard is not sufficiently consistent with, in which case Declarant shall submit revised drawings addressing such deficiencies.

(c) **Subsequent Review**. Within fifteen (15) days of a submission responsive to notification pursuant to clause (B) of Section 4.3 hereof (the “**Subsequent Review Period**”), the Chairperson shall either (A) issue the Courtyard Certification, or (B) notify Declarant in writing of any design criteria or landscape design principles set forth in the Courtyard Design Guidelines that the Courtyard design is not sufficiently consistent with, in which case Declarant shall submit revised drawings addressing such deficiencies.

(d) Notwithstanding anything to the contrary set forth in this **Section 4.1**, if, within the Initial Review Period, or the Subsequent Review Period, as applicable, the Chairperson does not issue the Courtyard Certification, and fails to notify the Declarant in writing of any design criteria or landscape design principles set forth in the Courtyard Design Guidelines that the Courtyard design is not sufficiently consistent with, the Courtyard Certification shall, upon notice to the Chairperson, be deemed issued and Declarant may accept a New Building Permit from DOB for the Courtyard that was subject to such request from the Chairperson for the Courtyard Certification.

4.2 **Public School Option**. The Declarant shall provide the SCA the option to purchase the School Site for One Dollar (\$1.00) for the School Development (the “**SCA Purchase Option**”). Declarant shall implement the SCA Purchase Option in accordance with the following provisions:

(a) **Exercise of the SCA Purchase Option**.

(i) Declarant shall provide written notice to SCA of the SCA Purchase Option (the “**School Option Notice**”) within sixty (60) days of the Effective Date.

(ii) Declarant shall provide notice to SCA when it is beginning preliminary design of Building 10 (the “**Termination Notice**”).

(iii) Declarant shall convey the School Site to the SCA, only if the SCA has provided Declarant a Notice of Availability of Funds and a written notice to Declarant of its intent to exercise the SCA Purchase Option (the “**SCA Notice of Intent**”) at any time between its receipt of the School Option Notice and ninety (90) days subsequent to its receipt of the Termination Notice (the “**SCA Option Period**”).

(iv) In the event SCA notifies Declarant in writing during the SCA Option Period that it does not intend to exercise the SCA Purchase Option, or, if within ninety (90) days of its receipt of the Termination Notice, SCA fails to provide the Notice of Availability of Funds and the SCA Notice of Intent to Declarant, the SCA Purchase Option shall expire and Declarant shall have no further obligation to convey the School Site to the SCA.

(v) Notwithstanding anything to the contrary set forth herein, the Termination Notice shall not be deemed to have been received by the SCA until the results of the hazardous materials testing of the School Site described in **Section 4.2(e)** have been delivered to SCA.

(b) Notices.

(i) Should the SCA Purchase Option be exercised by the SCA in accordance with the provisions of **Section 4.2(a)** hereof, Declarant shall provide the SCA notice of the following events within 30 days of each occurrence:

1) Issuance of a notice to proceed to Declarant’s contractor regarding construction of Building 10.

2) Fifty percent (50%) completion of Building 10, as determined by the project architect.

3) Substantial completion of Building 10, as evidenced by issuance of a TCO.

4) The issuance of a PCO.

(c) Access. Should the SCA Purchase Option be exercised by the SCA in accordance with the provisions of **Section 4.2(a)** hereof, subsequent to the demolition of the existing building on the School Site, Declarant shall provide SCA and its agents access to the School Site during construction of Building 10 to perform standard predevelopment work upon not less than five days-notice, provided (i) any such predevelopment work to be performed by the SCA and its agents is coordinated with Declarant and its contractor, and (ii) SCA provides evidence of insurance satisfactory to Declarant prior to entering the School Site.

(d) Design. Commencing only after the SCA exercises the SCA Purchase Option in accordance with the provisions of **Section 4.2(a)** hereof, but not prior to delivery to SCA of the Termination Notice, Declarant shall cooperate with the SCA in negotiating and entering into the School Option Agreement, and thereafter engage in a collaborative design process with SCA pursuant to the terms set forth in the School Option Agreement.

(e) Remediation.

(i) Should the SCA Purchase Option be exercised by the SCA in accordance with the provision of **Section 4.2(a)** hereof, the SCA will reimburse Declarant for its pro-rata share of the costs associated with (i) the testing for any existing hazardous materials on Parcel 10, and (ii) remediation of hazardous materials pursuant to a Remedial Action Plan approved by the New York City Mayor's Office of Environmental Remediation or the New York State Department of Environmental Conservation on Parcel 10, with the agency overseeing the Remedial Action Plan shall be chosen by Declarant.

(ii) SCA's pro rata share shall be based on the quotient of the square footage of the School Site land divided by the land comprising Parcel 10, however, if testing shows that remediation areas do not comprise the entire Parcel 10, the pro rata share will be adjusted to be based on only those areas requiring the actions described above in **Section 4.2(e)(i)**.

(iii) If, upon testing, it is determined that no remediation is required with respect to hazardous materials for the School Site, then SCA shall not be responsible for any associated costs beyond the required testing.

(iv) If Declarant has paid or payment is due for the actions described above in **Section 4.2(e)(i)**, SCA shall reimburse or make payment to Declarant for costs associated with such actions at the time SCA exercises the SCA Purchase Option.

(v) Declarant shall provide SCA with the results of the hazardous material testing associate with Parcel 10 promptly following completion thereof.

(f) Delivery of School Site.

(i) Should the SCA Purchase Option be exercised by the SCA in accordance with the provision of **Section 4.2(a)** hereof, Declarant shall deliver possession of the School Site to SCA vacant and lien-free.

(ii) Declarant shall provide delivery of the School Site to the SCA no sooner than sixty (60) days after a PCO has been issued for Building 10.

(iii) Notwithstanding anything to the contrary set forth herein, if SCA fails to reimburse Declarant for testing and remediation required in connection with Parcel 10 as set forth in **Section 4.2(e)(i)**, Declarant shall have no obligation to deliver the School Site to the SCA.

ARTICLE V

DEFAULTS; ENFORCEMENT; DELAYS

5.1 **Default.** If a Declarant fails to perform any of Declarant's Obligations under this Declaration (a "**Default**"), the Chairperson shall have the right, subject to **Section 5.2** hereof, to enforce the performance of such Obligation against Declarant, provided that this Declaration shall not be deemed to diminish Declarant's or any other Party In Interest's right to exercise any and all administrative, legal, or equitable remedies otherwise available to it, and provided further, that the City's rights to enforcement shall be subject to the cure provisions and periods set forth in **Section 5.2** hereof.

5.2 **Notice and Cure.**

(a) **Notice.** Prior to the City instituting any proceeding to enforce the performance of an Obligation resulting from an alleged Default, the City shall give all Declarants, Mortgagees, and all Parties In Interest, whom the City has received Notice in accordance with Section 7.1 hereof, written notice of such alleged Default (the “**Default Notice**”), which shall be delivered by registered or certified mail, postage pre-paid, return receipt requested.

(b) **Cure Period.** Upon the receipt of a Default Notice, Declarant shall have forty-five (45) business days to effect a cure of such alleged Default or to demonstrate to the City why the alleged default has not occurred. If Declarant commences to effect such cure within such forty-five (45) day period (or if cure is not capable of being commenced within such forty-five (45) day period, Declarant commences to effect such cure when such commencement is reasonably possible), and thereafter proceeds diligently toward the effectuation of such cure, the aforesaid forty-five (45) day period (as such may be extended in accordance with the preceding clause) shall be extended for so long as Declarant continues to proceed diligently with the effectuation of such cure (such time period to effectuate such cure, the “**Cure Period**”). The Cure Period shall be subject to extension due to the delay in the performance of an Obligation resulting from the occurrence of a Force Majeure Event, pursuant to procedures set forth in **Section 5.4** hereof.

(c) **Rights to Cure.** The right to cure an alleged Default that is the subject of a Default Notice shall apply equally to all Declarants, Mortgagees and Parties In Interest. If a Mortgagee or Party in Interest performs any Obligation or effects any cure Declarant is required to perform or cure pursuant to this Declaration, such performance or cure shall be deemed performance on behalf of Declarant and shall be accepted by any person or entity benefited hereunder, including the Commission and City, as if performed by Declarant.

5.3 **Enforcement.**

(a) If, after a Default Notice is issued by the City, the Declarant fails to cure the alleged Default that is the subject of a Default Notice within the Cure Period, the City shall have the right to exercise any remedy available at law or in equity or by way of administrative enforcement to obtain or compel Declarant’s performance under this Declaration and may decline

to approve and may disapprove any amendment, modification or cancellation of this Declaration on the sole ground that Declarant is in Default under this Declaration.

(b) Declarant acknowledges the City is an interested party to this Declaration and consents to the enforcement by the City, administratively or at law or equity, of the Obligations contained herein, including revocation by the City of any certificate of occupancy, temporary or permanent, for any portion of the Proposed Project on the Subject Property subject to the Large Scale Applications, which does not comply with the terms of this Declaration; provided, however, that such right of revocation shall not permit or be construed to permit the revocation of any certificate of occupancy for any use or improvement that exists on the Subject Property as of the date of this Declaration.

(c) No person or entity other than Declarants, the City or a successor, assign or legal representative of any such party, shall be entitled to enforce, or assert any claim arising out of or in connection with, this Declaration. This Declaration shall not create any enforceable interest or right in any person or entity other than the parties named above in this **Section 5.3(b)**, and nothing contained herein shall be deemed to allow any other person or entity, public or private, any interest or right of enforcement of any provision of this Declaration or any document or instrument executed or delivered in connection with the Applications.

5.4 **Indemnification.** If one or more Declarants are found by a court of competent jurisdiction to have been in default in the performance of an Obligation and such finding is upheld on final appeal, or the time for future review of such finding on appeal or by other proceeding has lapsed, such Declarants shall indemnify and hold harmless the City from and against all of its reasonable legal and administrative expenses arising out or in connection with the enforcement of such Obligation. If any judgment is obtained against one or more Declarants from a court of competent jurisdiction in connection with this Declaration and such judgment is upheld on final appeal, or the time for further review of such judgment or finding on appeal or by other proceeding has lapsed, such Declarants shall indemnify and hold harmless the City from and against all of its reasonable legal and administrative expenses arising out or in connection with the enforcement of such judgment.

5.5 **Force Majeure**. If Declarant is unable to perform any Obligation by reason of a Force Majeure Event (i) at the time or times required by this Declaration, (ii) at the date set forth in this Declaration for such action if a specific date for such requirement is set forth herein, or (iii) prior to the receipt of a Building Permit or TCO or PCO for which such Obligation is a condition precedent, Declarant shall promptly, after the occurrence of a Force Majeure Event becomes apparent, so notify the Chairperson in writing. Such notice (the “**Delay Notice**”) shall include a description of the Force Majeure Event, and, if known to Declarant, its cause and probable duration. In the exercise of its reasonable judgment the Chairperson shall, within ten (10) days of the receipt of the Delay Notice, (a) certify in writing that the Force Majeure Event has occurred, or (b) notify Declarant(s) that it does not reasonably believe that the Force Majeure Event has occurred. If the Chairperson certifies that a Force Majeure Event does not exist, the Chairperson shall set forth with reasonable specificity, in the certification, the reasons therefor, in which case Declarant shall have the opportunity to provide additional information it believes supports a determination that a Force Majeure Event has occurred, and where Declarant submits such additional information the Chairperson shall, within ten (10) days of the receipt of such additional information, (a) certify in writing that the Force Majeure Event has occurred, or (b) notify Declarant(s) that it does not reasonably believe that the Force Majeure Event has occurred. Failure to respond within such initial, or subsequent, ten (10) day period shall be deemed to be a certification by the City that the Force Majeure Event has occurred. Upon a certification or deemed certification that a Force Majeure Event has occurred, the Chairperson shall grant Declarant appropriate relief, including notifying DOB that a Building Permit, TCO or a PCO (as applicable) may be issued for a New Buildings, or portion thereof, affected by the Force Majeure Event. Declarant’s requirement to perform an Obligation that has been delayed by reason of a Force Majeure Event shall be deemed suspended for so long as the Force Majeure Event continues. Upon cessation of the Force Majeure Event, Declarant shall be required to promptly recommence the performance of the affected Obligation. As a condition for granting such relief, the Chairperson may require that Declarant post a bond, letter of credit or other security in a form reasonably acceptable to the City in order to ensure that the Obligation will be completed in accordance with the provisions of this Declaration. If Declarant fails to resume performance of the applicable Obligation upon cessation of the Force Majeure Event causing delay, the City may undertake to

perform the Obligation and draw upon the aforesaid Completion Letter of Credit, to the extent required to perform the Obligation. Upon performance of Obligation, the City shall return the aforesaid security (or the undrawn balance thereof) to Declarant. Declarant hereby grants the City a license to enter upon such portions of the Subject Property as shall be required to exercise the aforesaid self-help rights conferred upon the City.

ARTICLE VI

EFFECTIVE DATE; RECORDATION; MODIFICATION & CANCELLATION;

6.1 **Effective Date.** This Declaration and the provisions and covenants hereof shall become effective only upon Final Approval of the Large Scale Applications (the “**Effective Date**”).

6.2 **Recordation.** Prior to accepting any New Building Permit for the construction of a New Building on the Subject Property, Declarants shall file and record this Declaration and any related waivers executed by Mortgagees or other Parties-in-Interest or other documents executed and delivered in connection with the Applications and required by this Declaration to be recorded in public records, in the Register’s Office, indexing them against the entire Subject Property, and deliver to the Commission within ten (10) days from any such submission for recording, a copy of such documents as submitted for recording, together with an affidavit of submission for recordation, or in the alternative, a copy of such document as recorded in the New York City Department of Finance’s Automated City Register Information System database. Declarants shall deliver, promptly upon receipt thereof, copies of all such documents, as recorded, certified by the Register’s Office, to the Commission and any Mortgagees. If Declarants fail to so record such documents, then the City may record duplicate originals of such documents; however, all fees paid or payable for the purpose of recording such documents, whether undertaken by Declarants or by the City, shall be borne by Declarants.

6.3 **Amendment, Modification and Cancellation.**

(a) Subject to the provisions of **Section 6.3** hereof, this Declaration may be amended, modified or cancelled only upon application by Declarant and subject to the approval of the Commission, and no other approval or consent shall be required from any public body for such amendment, modification or cancellation.

(b) Notwithstanding the provisions of **Section 6.3(a)** above, any modification to this Declaration proposed by Declarants and submitted to the Chairperson, which the Chairperson deems to be a minor modification of this Declaration, may, by express written consent, be approved administratively by the Chairperson and no other approval or consent shall be required from the Commission, any other public body, private person or legal entity of any kind, including, without limitation, any present or future Party-in-Interest.

(c) Development of the Subject Property pursuant to the underlying zoning district regulations shall deem the Approvals surrendered and shall not require modification to this Declaration; such development may require modification to other restrictions made applicable to the Subject Property by actions accompanying the Zoning Map Amendment and Large-Scale Applications, as well as additional environmental review.

(d) Notwithstanding anything to the contrary contained in this Declaration, if the Approvals are declared invalid or otherwise voided by a final judgment of any court of competent jurisdiction from which no appeal can be taken or for which no appeal has been taken within the applicable statutory period provided for such appeal, then, upon entry of said judgment or the expiration of the applicable statutory period for such appeal, this Declaration shall be cancelled and shall be of no further force or effect and an instrument discharging it may be recorded. Prior to the recordation of such instrument, Declarants shall notify the Chairperson of Declarants' intent to discharge this Declaration and request the Chairperson's approval, which approval shall be limited to insuring that such discharge and termination is in proper form and provides the proper provisions which are not discharged survive such termination. Upon recordation of such instrument, Declarants shall provide a copy thereof to the Commission so certified by the Register's Office. If portions of the Approvals given in connection with the

Applications are declared invalid, then Declarants may apply for modification, amendment or cancellation of this Declaration in accordance with **Section 6.3** hereof.

ARTICLE VII
MISCELLANEOUS

7.1 **Notices.** All notices, demands, requests consents, approval, and other communications (each, a “**Notice**”) which may be or are permitted, desirable or required to be given under this Declaration shall be in writing and shall be sent or delivered as follows:

(a) if to Declarants: Phipps Houses
902 Broadway
New York, New York 10038
Attention: Adam Weinstein, President and
CEO

With copy to: Holland & Knight LLP
31 West 52nd Street
New York, New York 10019
Attention: Barak A. Wrobel, Esq.

Hirschen Singer & Epstein LLP
902 Broadway, 13th Floor
New York, New York 10010
Attention: Russell A. Kivler

(b) if to the Commission: Chairperson
City Planning Commission of the City of
New York
120 Broadway – 31st Floor
New York, New York 10271
(or the then official address)

With copy to: Department of City Planning
Office of Counsel
120 Broadway – 31st Floor
New York, New York 10271
(or the then official address)

(c) if to [Mortgagee/Lender]:

at the address provided in writing to the Commission in accordance with this Section 7.1

- (d) if to a Party-in-Interest other than Declarant or Mortgagees:
at the address provided in writing to the Commission in accordance with this **Section 7.1**
- (e) if to a Mortgagee other than []:
at the address provided in writing to the Commission in accordance with this **Section 7.1**

Declarants, the Commission, any Party-in-Interest, or any Mortgagee may, by notice provided in accordance with this **Section 7.1**, change any name or address for purposes of this Declaration. In order to be deemed effective any Notice shall be sent or delivered in at least one of the following manners: (A) sent by registered or certified mail, postage pre-paid, return receipt requested, in which case the Notice shall be deemed delivered for all purposes hereunder five (5) days after actually being mailed; (B) sent by overnight courier service, in which case the Notice shall be deemed delivered for all purposes hereunder on the date the Notice was actually received or was refused; or (C) delivered by hand, in which case the Notice will be deemed delivered for all purposes hereunder on the date the Notice was actually received or was refused. Any Notice from the City or the Commission shall be provided to all Declarants of whom the Commission has notice.

7.2 **Binding Effect.**

(a) The provisions of this Declaration shall be covenants running with the land and shall inure to the benefit of, and bind, the respective heirs, successors, legal representatives and assigns of Declarant, including any Mortgagee (provided that Mortgagees shall have no Obligation under this Declaration unless and until such Mortgagee succeeds to a Possessory Interest), and all holders of mortgages secured by any condominium unit or other individual residential or commercial unit located within the Subject Property (provided that no such individual unit mortgagee shall have any Obligation under this Declaration unless and until such mortgagee succeeds to a Possessory Interest) and references to Declarants shall be deemed to include such heirs, successors, legal representatives and assigns as well as successors to Declarant's Possessory Interests in the Subject Property. Reference in this Declaration to agencies or instrumentalities of the City shall be deemed to include agencies or instrumentalities succeeding

to the jurisdiction thereof pursuant to the laws of the State of New York and the New York City Charter.

7.3 **Limitation of Liability.**

(a) The City shall look solely to the fee or leasehold estate and interest of Declarant and any or all of its successors and assigns in the Subject Property, on an *in rem* basis only, for the collection of any money judgment recovered against Declarant or its successors and assigns, and no other property of any such party or its principals, disclosed or undisclosed, or its partners, shareholders, directors, members, officers or employees, or said successors, assigns and holders, shall be subject to levy, execution or other enforcement procedure for the satisfaction of the remedies of the City or of any other person or entity with respect to this Declaration, and no such party shall have any personal liability under this Declaration.

(b) The restrictions, covenants and agreements set forth in this Declaration shall bind a Declarant and any successors-in-interest of such Declarant only for the period during which such Declarant and any such successor-in-interest is the holder of a fee interest in, or is a Party-in-Interest of the Subject Property, and only to the extent of such fee interest or the interest rendering such Declarant a Party-in-Interest. At such time as the named Declarant has no further fee interest in the Subject Property and is no longer a Party-in-Interest in the Subject Property, such Declarant's Obligations and liability with respect to this Declaration shall wholly cease and terminate from and after the conveyance of Declarant's interest and Declarant's successors-in-interest in the Subject Property by acceptance of such conveyance automatically shall be deemed to assume Declarant's obligations and liabilities hereunder to the extent of such successor-in-interest's interest.

(c) Notwithstanding the foregoing, nothing in this **Section 7.3** shall be deemed to preclude, qualify, limit or prevent any of the City's governmental rights, powers or remedies, including without limitation, with respect to the satisfaction of the remedies of the City, under any laws, statutes, codes or ordinances.

(d) In interpreting and applying the provisions of this Declaration Obligations and liabilities of a Declarant shall be limited to the portion of the Subject Property in which such Declarant has a Possessory Interest, and the terms used in this Declaration, including, without limitation, “Declarant”, “Mortgage”, “Mortgagee”, and “Subject Property”, shall be construed accordingly. No Declarant shall have any liability with respect to the Obligation of any other Declarant or Declarants under this Declaration that pertains to a portion of the Subject Property in which such Declarant does not have a Possessory Interest, except to the extent such Obligation is of general applicability to all Declarants and the entire Subject Property hereunder.

7.4 **Applicable Law.** This Declaration shall be governed and construed by the laws of the State of New York, without regard to principles of conflicts of law.

7.5 **Severability.** In the event that any provision of this Declaration shall be deemed, decreed, adjudged or determined to be invalid or unlawful by a court of competent jurisdiction and the judgment of such court shall be upheld on final appeal, or the time for further review of such judgment on appeal or by other proceeding has lapsed, such provision shall be severable, and the remainder of this Declaration shall continue to be of full force and effect.

7.6 **Applications.** Declarants shall reference this Declaration in any application pertaining to the Subject Property (as to which provisions of this Declaration are applicable) submitted to the DOB or any other interested governmental agency or department having jurisdiction over the Subject Property.

7.7 **Exhibits.** Any and all exhibits, appendices and attachments referred to herein are hereby incorporated fully and made an integral part of this Declaration by reference.

7.8 **Acknowledgment of Covenants.** Declarants acknowledge that the restrictions, covenants, obligations and agreements in this Declaration will protect the value and desirability of the Subject Property as well as benefit the City of New York and all property owners within a one-half mile radius of the Subject Property.

7.9 **Representations.** Declarant hereby represents and warrants that there is no restriction of record on the development, enlargement, or use of the Subject Property, nor any present or presently existing estate or interest in the Subject Property, nor any existing lien, obligation, covenant, easement, limitation or encumbrance of any kind that shall preclude, presently or potentially, the imposition of the restrictions, covenants, obligations, [easements] and agreements of this Declaration.

7.10 **Certificates.** The City will at any time and from time to time upon not less than thirty (30) days' prior notice by a Declarant or a Mortgagee, which has notified the City of its interest in the Subject Property pursuant to **Section 7.1** hereof, execute, acknowledge and deliver to such Declarant or such Mortgagee, as the case may be, a statement in writing certifying (a) that this Declaration is unmodified and in full force and effect (or if there have been modifications or supplements that the same is in full force and effect, as modified or supplemented, and stating the modifications of supplements), (b) whether or not, to the best knowledge of the signer of such certificate, Declarant is in Default in the performance of any Obligation contained in this Declaration, and, if so, specifying such Default of which the signer may have knowledge, and (c) as to such further matters as such Declarant or such Mortgagee may reasonably request. If the City fails to respond within such thirty (30) day period, Declarant may send a second written notice to the City request such statement (which notice shall state in bold upper case type both at the top of the first page thereof and on the front of the envelope thereof the following: "SECOND NOTICE PURSUANT TO SECTION 7.10 OF THE LAMBERT HOUSE DECLARATION"). If the City fails to respond within ten (10) days after receipt of such second notice, it shall be deemed to have certified (i) that this Declaration is unmodified and in full force and effect (of if there have been modifications or supplements that the same is in full force and effect, as modified or supplemented), (ii) that to the best knowledge of the signer of such certificate Declarant is not in default in the performance of any obligation contained in this Declaration, and (iii) as to such further matters as such Declarant or such Mortgagee has requested, and such deemed certification may be relied on by such Declarant or such Mortgagee.

7.11 **Condominium / Cooperative.** In the event that all or any part of a Building in the Proposed Project is subjected to a condominium, cooperative or similar regime, a summary of the

terms of this Declaration shall be included in any offering plan issued in connection therewith and the related declaration of condominium, by-laws, proprietary lease and/or other governing documents shall provide for the fulfillment of the applicable obligations of this Declaration by such cooperative or condominium.

7.12 **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be an original and all of which, together, shall constitute one agreement.

[Signature page follows]

IN WITNESS WHEREOF, Declarants have executed this Declaration as of the day and year first above written.

PHIPPS HOUSES

By: _____

Name:

Title:

CERTIFICATE OF ACKNOWLEDGMENT

STATE OF NEW YORK)

).ss.:

COUNTY OF _____)

On the ____ day of _____ in the year 2011 before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity (ies), and that by his/her/their signature on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Notary Public

Exhibit A

Legal Descriptions

Exhibit B

Certification of Parties-in-Interest

(attached behind)

Exhibit B:2

Waivers of Execution and Subordination of Mortgages

(attached behind)

Exhibit C

Plans

(attached behind)

EXHIBIT D

LAMBERT HOUSES – LANDSCAPE DESIGN PRINCIPLES

In order to meet the finding of a superior site plan (Pursuant to ZR Section 78-313) for each of the phases of the development the applicant will submit for Chair Certification a landscape plan (Including plan drawings, sections, sketches and views as necessary) which demonstrates that the following design principles have been satisfied before a New Building permit is issued for the last building(s) enclosing each courtyard by the Department of Buildings.

General Principles

The proposed Lambert Houses development includes courtyards and private streets which are vital open spaces for the residents for active and passive recreation. The quality of the open space is critical in creating a safe living environment, ensuring that the spaces are well used and enhancing the aesthetic character of the development. The landscape plan should demonstrate that the open spaces in the development are inviting, provide a variety of experiences to its users and integrate well with the surrounding community. The spaces should incorporate features to serve users of all ages.

Courtyards

- **Variety of landscape elements:** The courtyards should incorporate a variety of landscape features including accessible and inaccessible softscape, space for active uses such as play equipment, wide walking paths and hardscape. A variety of planting type, paving materials and landscape features should be provided in order to create visual interest.
- **Access to the courtyard:** Each residential building to have access to the courtyard through a common area in the building. Because the courtyards are private open spaces for use by the residents of the adjacent buildings and their guests, access to the courtyards will be through the lobbies of the residential buildings in order to maintain security. Having multiple access points of this kind are preferable to access each courtyard. Where rear yards of the maisonette units overlook the courtyard, a visual buffer between the courtyard and the rear yard is recommended. However, fences should not be higher than 6 feet and chain link fences should not be utilized. Incorporating greening strategies as a buffer is preferable as well. To encourage its recurrent usage, most buildings will have their main entrance through the courtyard (except for buildings with a doorman office or the maisonette units).
- **Adequate lighting:** Adequate lighting of the walking paths and the open area to create a safe and usable space.
- **Variety of seating:** A variety of seating options should be provided to allow extended use of the space.
- **Visibility from street:** Fences between the street and the courtyards must allow visibility into the open space for safety. To avoid monotony, fences in locations adjacent to 24-hour building staff should incorporate landscaping strategies and articulations of visual and spatial interest whenever possible. Chain link fences should not be utilized.
- **Courtyard walls:** the plan should demonstrate a visual variety of the inner façades, especially for the ground floor, that contribute to the activation of the courtyard. Special

care should be given to common/shared spaces facing the courtyard, transparency, access points and variety of materials are preferred.

Private Streets

- **Sidewalk:** Wide sidewalks with at least an 8-9 feet wide clear path to allow pedestrian movement is recommended.
- **Trees:** Following NYC Department of Parks and Recreation's Tree Planting Standards, tree pits should be as large as possible to allow for ample growing space for tree roots and crown, and to prevent future sidewalk lifting. Optimal tree pit size would be 4 feet by 10 feet or 5 feet by 10 feet. For the purposes of these guidelines, tree pits that are at least 4' wide (and 30 square feet in area) and tree trunks that are 25' apart are strongly recommended.
- **Lighting:** Street lamps provided at a regular interval to allow adequate lighting.
- **Buffer for ground floor residences:** Planted buffers are recommended where ground floor windows overlook the street. Raising the units a few feet from the street is also encouraged.

Entrance to Maisonette units

- Demonstrate through plans, sketches and sections a thoughtful transition from public space to private space using planting buffers, low fences, accessibility ramps or other landscape elements.

EXHIBIT E

Proposed School Site

(attached behind)