

CITY PLANNING COMMISSION

December 10, 1975/Calendar No. 8

CP-23077

Assignment to the Parks, Recreation and Cultural Affairs Administration of a parcel located on the easterly side of Zerega Avenue between Gleason and Powell Avenues, a portion of Lot No. 1, Block 3840, Borough of The Bronx, formerly under the jurisdiction of the Housing and Development Administration which is to be developed as a Little League ballfield. Assignment of the parcel was requested by the Administrator of the Parks, Recreation and Cultural Affairs Administration in a communication dated September 6, 1974. A second communication, dated October 24, 1975, from the Director of the Park Lands and Planning Division of the Department of Parks corrected the description of the parcel. The matter was referred to the City Planning Commission by the Committee on Acquisition and Disposition of City Property on August 5, 1975 (Calendar No. 72).

The parcel of City-owned property to be assigned to the Parks, Recreation and Cultural Affairs Administration was surrendered by the Housing and Development Administration by means of a letter from the Administrator dated May 15, 1975. The description of the property to be assigned to PRCA was corrected in a letter from HDA to the Department of Real Estate dated November 12, 1975.

The parcel to be assigned to the Parks, Recreation and Cultural Affairs Administration (a portion of Lot 1, Block 3840) has a northerly boundary beginning at the point of intersection of the easterly line of Zerega Avenue and the southerly line of Gleason Avenue, thence easterly along the said southerly line of Gleason Avenue a distance of approximately 361.10 feet, thence southerly deflecting 90 degrees to the right, a distance of approximately 206.13 feet, thence easterly deflecting 90 degrees to the left, a distance of 40.00 feet to the westerly line of Commerce Avenue, thence southerly deflecting 142 degrees 27 minutes and 55.2 seconds to the right, a distance of 8.21 feet, thence westerly deflecting 37 degrees 32 minutes and 04.8 seconds to the right, a distance of approximately 394.59 feet, thence northerly deflecting 90 degrees to the right, a distance of 211.13 feet to the point or place of beginning.

This parcel is located within the Zerega Avenue Industrial Urban Renewal Area and is to be part of a site for a ballfield for the Castle Hill Little League. A portion of the bed of Powell Avenue, as formerly mapped will also be included in the ballfield site.

Block 3840 was mapped as a park by a resolution adopted by the Board of Estimate on November 9, 1944, Calendar No. 24. The block was included in the area designated for the Zerega Avenue Industrial Park. An amendment to the Zerega Avenue Industrial Urban Renewal Plan was approved by the City Planning Commission on April 17, 1974, Calendar No. 21 (CP-22647) and was adopted by the Board of Estimate on June 20, 1974, Calendar No. 3. This amendment included the following provision: "Block 3840 will be used for either Industrial or Public Use. Public use is to include recreational activity."

The City Planning Commission recommends that the assignment of the parcel under consideration (a portion of Lot 1, Block 3840) to the Parks, Recreation and Cultural Affairs Administration for a ballfield be approved.

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

CITY PLANNING COMMISSION

December 10, 1975 / Calendar #9

CP-23127

Amendment of the Zoning Resolution pursuant to Section 200 of the New York City Charter relating to various Sections 12-10, 52-01 and 52-45 concerning the extension of non-conforming residential uses in M1 Districts.

This proposed text amendment is the result of a request from the Department of Buildings to ease the zoning restrictions on extending non-conforming residential uses in Manufacturing Districts.

The current definition of "designed for residential use" in Sections 12-10 and 52-01 refers only to buildings in Residence Districts. The first part of the proposed amendment broadens the definition to include all buildings which were originally designed for residential use, as long as at least twenty-five per cent of the floor area is occupied for residential use.

The current resolution does not allow the as-of-right extension of a non-conforming residential use in a residential building within M1 Districts. For example, when the owner of a residential building in a Manufacturing District desires to extend the residential use into the vacant ground floor stores, the owner must obtain a variance from the Board of Standards and Appeals.

The proposed amendment will allow the as-of-right extension of a non-conforming residential use under the following conditions:

- 1) The building must be located in an M1 District;
- 2) The building must have been built before 1961 and originally designed for residential use;
- 3) The non-conforming residential use must occupy at least fifty per cent of the building floor area before it may be extended;
- 4) The residential extension must occur on the ground floor level and must not be located on or below a story occupied by a commercial or manufacturing use; and
- 5) The total number of rooms in the building may not be increased by more than one for each 200 square feet of residential floor area created by the extension.

On November 19, 1975 (Cal. #6) the Commission scheduled a PUBLIC HEARING on the proposed amendment. The public hearing was held on December 10, 1975 (Cal. #9). There were no appearances in opposition. The hearing was closed.

The proposed amendment will, because of the limiting conditions, have little impact on industry and manufacturing jobs in the city. Hopefully, it will encourage some conversion to apartments of vacant ground level space in reasonably well-maintained residential buildings in M1 Districts. Such conversions would remove the blighting effect of boarded-up storefronts, help to maintain the economic viability and physical security of the buildings and marginally increase the supply of housing in older residential neighborhoods within M1 Districts.

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

RESOLVED, by the City Planning Commission that the Zoning Resolution of The City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended by changes relating to Sections 12-10, 52-01 and 52-45 concerning the extension of non-conforming residential uses in M1 Districts as follows:

Matter in **Bold Type** is new;

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

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

12-10 DEFINITIONS

* * *

Designed for residential use

A *building* "designed for residential use" is a *building* [located in a *Residence District*] which was originally designed for *residential use* and in which at least 25 per cent of the *floor area* is occupied for *residential use*.

52-01 Definitions (Repeat from Section 12-10)

* * *

Designed for residential use

A *building* "designed for residential use" is a *building* [located in a *Residence District*] which was originally designed for *residential use* and in which at least 25 per cent of the *floor area* is occupied for *residential use*.

* * *

52-45 Non-conforming residential uses in M1 Districts

In an M1 district, a *non-conforming residential use* occupying at least 50 per cent of the *floor area* of a *building* which was *designed for residential use* and erected prior to December 15, 1961, may be *extended* on the ground floor level provided that no *residential use* may be located on or below a story occupied by a *commercial* or *manufacturing use*. The total number of *rooms* in the building may not be increased by more than one for each 200 square feet of *residential floor area* created by such *extension*.

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

TL:b1

Amendment of the Zoning Resolution pursuant to Section 200 of the New York City Charter relating to Section 12-10 concerning a text change in the definition of Covered Pedestrian Space.

This proposed amendment would allow the enclosures at the entrances to Covered Pedestrian Spaces to begin at a height of not less than 8 feet and would further allow such entrances to be fully enclosed for that portion of the year from during the heating season provided that public access is maintained between 7 a.m. and 12 midnight or on a schedule suitable to meet public need.

On November 19, 1975 (Cal. #8) the Commission scheduled a PUBLIC HEARING on the proposed amendment. The public hearing was held on December 10, 1975 (Cal. #11), in conjunction with the related hearing CP-22483 (Cal. #12) on a modification to a special permit on property within the block bounded by East 54th Street, Third Avenue, East 53rd Street and Lexington Avenue, Borough of Manhattan.

This text change modifying the height of enclosures at the entrances of Covered Pedestrian Spaces and permitting such entrances to be enclosed during the winter months was requested by representatives of First National City Bank in conjunction with the development being constructed on the block bounded by East 54th Street, Third Avenue, East 53rd Street and Lexington Avenue, in Manhattan.

The developer proposes to secure the entrances, during the hours which it may be closed, by means of clear doors and windows. This enclosure will be hydraulically retracted beneath the surface of the entrance during the hours that the entrances are to be open. The mechanism for retracting and raising the entrance enclosure is capable of retracting only 8 feet. The applicant requested the modification to allow full enclosure during the heating season for the purpose of energy conservation. Were the entrance to remain open during the winter months a great deal of energy would be necessary to heat the space because of the loss of heat through the opening. During the months in which the entrance may be fully enclosed public access will be maintained between the hours of 7 a.m. to 12 midnight or on a schedule

which the Commission deems suitable to meet public need.

Subsequent to the public hearing the Commission determined that a modification changing the beginning date of the full enclosure portion of the year to October 15.

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

RESOLVED, by the City Planning Commission that the Zoning Resolution of The City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended by a change relating to Section 12-10 concerning the definition of Covered Pedestrian Space as follows:

12-10 DEFINITIONS

Covered Pedestrian Space

* * *
* * *

For the purpose of insuring prominent public attention to the *covered pedestrian space*, the openings at the face of the *building* for entrances to the *covered pedestrian space* shall be at least 20 feet wide, 30 feet high and unobstructed for a depth of 30 feet, except where the *covered pedestrian space* is air-conditioned the openings at the entrances may be partially enclosed. Such enclosure at the entrances shall be transparent in nature, shall commence at a height not less than [12] 8 feet above the floor level at the entrances, and shall be set back from the face of the *building* at least 12 feet. Air curtains are permitted, but shall be located at a height not less than [12] 8 feet. Such entrances are permitted to be fully enclosed only for that portion of the year between October 15 and April 15, provided, however, that such space is readily accessible to the public between 7 a.m. and 12 midnight or on a schedule suitable to meet the public need.

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

FZ:b1

AMENDMENT OF PREVIOUSLY APPROVED SPECIAL PERMITS pursuant to Sections 74-72, 74-82, 74-87 and 74-91 of the Zoning Resolution, involving modification of height and setback regulations; floor area bonuses for a through block arcade, open air concourse and covered pedestrian space for a structure combining an office tower, church, retail shopping, restaurant and parking garage on property within the block bounded by East 54th Street, Third Avenue, East 53rd Street and Lexington Avenue, Borough of Manhattan.

The application for amendment of the previously approved special permits was filed by representatives of the First National City Bank.

The applicant proposes to incorporate into the zoning lot a parcel adjacent to and directly south of the original site, said parcel containing a frontage of approximately 40 feet on the westerly side of Third Avenue and a depth of approximately 70 feet. The additional parcel and the original site are both located in a C6-6CR District.

The applicant proposes to use the additional parcel acquired to enlarge the previously approved new building. The enlargement will consist of a 6 story element with kitchen facilities on its basement level, retail use on its concourse level and first floor, retail or office use on its second floor and office use on its upper four floors. In addition, it is proposed to enclose a portion of the second floor roof area of the previously approved new building to provide a glass enclosed public restaurant and/or retail space. The total proposed additional floor area will be approximately 8 times the area of the additional parcel, substantially less than the basic maximum floor area ratio of 15 permitted by C6-6 regulations for the additional parcel.

In addition, for the purpose of preserving energy, the applicant proposes to reduce the size of the entrance opening to the covered pedestrian space at the East 53rd Street face of the building so as to provide a height of not less than 8 feet at the entrance. The applicant also proposes to provide a temporary enclosure at the East 53rd Street entrance to the covered pedestrian space which would be in place from no earlier than October 15 in any year until no later than April 15 in any year.

A related action to implement this application for amendment of previously approved special permits is the subject of a separate report (CP-23159) approved by the City Planning Commission on December 10, 1975 (Cal. #11) and relating to Section 12-10 concerning the definition of covered pedestrian space.

On November 19, 1975 (Cal. #9), the City Planning Commission scheduled a PUBLIC HEARING on this application. The hearing was duly held on December 10, 1975 (Cal. #12) in conjunction with the related hearing on the text amendment.

There were no appearances in opposition and the hearing was closed.

The Commission hereby makes all the findings pursuant to Sections 74-72, 74-82, 74-87 and 74-91 of the Zoning Resolution and has determined that the application warrants approval subject to the conditions stated in the following resolution:

RESOLVED, by the City Planning Commission that the application of the First National City Bank for the amendment previously approved of special permits involving modification of height and setback regulations; floor area bonuses for a through block arcade, open air concourse and covered pedestrian space for a structure combining an office tower, church, retail shopping, restaurant and parking garage on property within the block bounded by East 54th Street, Third Avenue, East 53rd Street and Lexington Avenue, Borough of Manhattan, be and hereby is approved pursuant to Sections 74-72, 74-82, 74-87 and 74-91 of the Zoning Resolution subject to the same conditions set forth under the previously approved special permits.

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

The above resolution duly adopted by the City Planning Commission on December 10, 1975 (Cal. #12) is herewith filed with the Secretary of the Board of Estimate, together with a copy of the application and plans of the development, pursuant to Section 74-10 of the Zoning Resolution.

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

SCG:b1

A map showing a change in the City Map by establishing grades and roadway treatment and by laying out the lines and dimensions of three easements for street purposes bordering on the easterly line of the Bowery and the northerly line of Division Street in connection with the site for Confucius Plaza and P.S. 124, Borough of Manhattan (CPD No. 3), in accordance with a map Acc. No. 30042, signed by the Borough President and dated August 4, 1975 and revised October 14, 1975. This matter was referred to the Commission by the Board of Estimate on August 14, 1975, Calendar No. 360, and on November 13, 1975, Calendar No. 216.

The map relates to three proposed easements for street purposes located within the Confucius Plaza housing development. One easement for street purposes would, in effect, widen portions of the Bowery and Division Street. The Bowery is to be effectively widened from approximately 100 feet to approximately 116 feet on its easterly side between the easterly prolongation of the northerly line of Bayard Street and Division Street. Division Street is to be effectively widened from approximately 50 feet to approximately 80 feet on its northerly side between the Bowery and a point somewhat to the west of the intersection of Market Street, which occurs on the southerly side of Division Street. An area subject to non-exclusive reservations for the construction of utility facilities and related appurtenances was also provided on the northerly side of Division Street within this easement for street purposes. A sidewalk easement, is to be located on the northerly side of Division Street, opposite the location where Market Street intersects with the southerly side of Division Street. The map also shows the easement for the existing Manhattan Bridge approach. This easement is located at the northerly portion of the housing site at the intersection of the Bowery and Canal Street. The third easement relates to the pedestrian access stairway onto the Manhattan Bridge which is located at the northerly side of Division Street.

A roadway treatment is proposed at the intersection of the Bowery and Division Street creating a turning lane to facilitate the flow of traffic from Division Street onto the Bowery and thence onto the Manhattan Bridge. Grades are to be established within the Bowery and Division Street.

Confucius Plaza is a City-aided limited-profit housing project which is under construction and is part of an Educational Construction Fund development which involves Public School No. 124. This project provides 762 apartments, a community facility, and commercial space in two semicircular structures varying in height from 19 to 44 stories. Public School No. 124 is to be a 1,200 seat elementary school. The City Planning Commission approved this project on November 29, 1972, Calendar No. 29 (CP-22147). It was adopted by the Board of Estimate on December 21, 1972, Calendar No. 7.

A City-Fund Disposition Agreement, dated June 30, 1973, transferred to the New York City Educational Fund the City-owned properties on which the Confucius Plaza development was built. This Agreement reserved to the City certain easements including the following:

An easement for the existing Manhattan Bridge approach.

A permanent and perpetual easement for the purpose of widening portions of the Bowery and Division Street, including provisions for utilities, upon such date as a Certificate of Occupancy is issued for the project.

An easement for the pedestrian access stairway to the Manhattan Bridge, located on the northerly side of Division Street.

The New York City Educational Construction Fund, in a letter dated December 5, 1975, informed the City Planning Commission that the Housing Company (Chinatown Apartments, Inc.) and the Housing and Development Administration approved the additional sidewalk easement on the northerly side of Division Street opposite Market Street.

PUBLIC HEARING

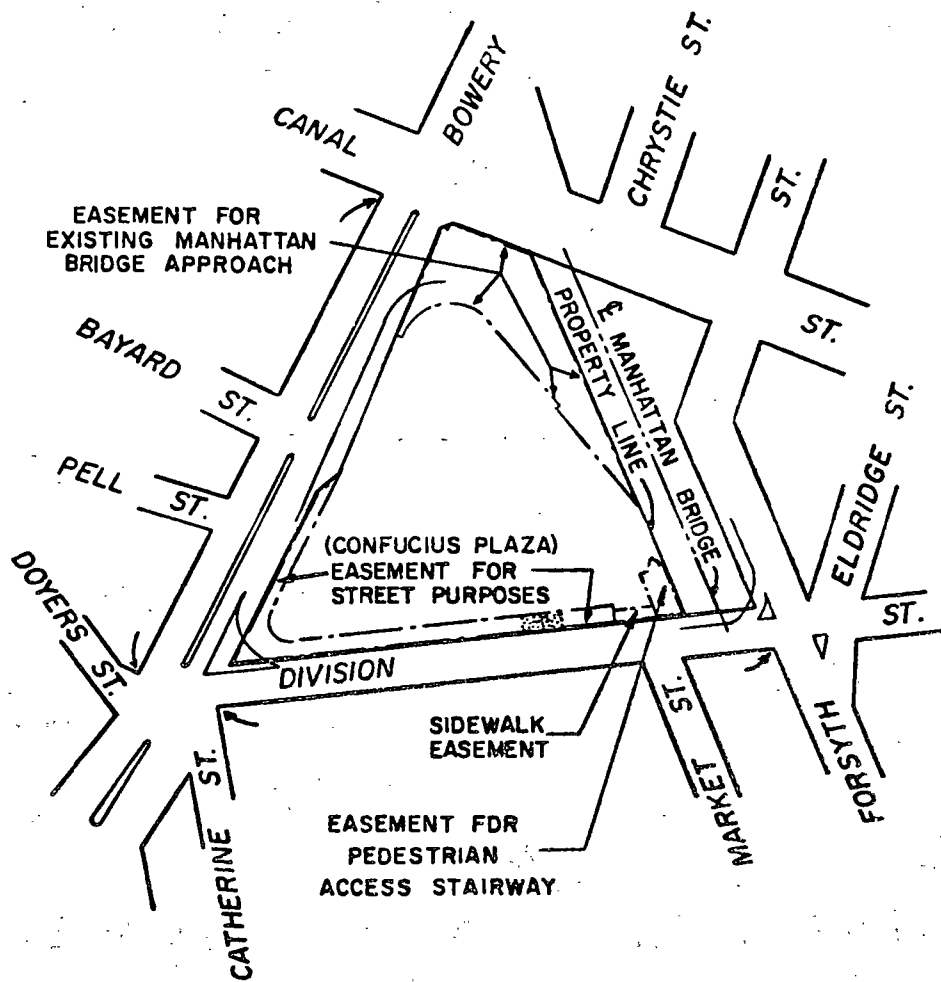
On November 19, 1975, the City Planning Commission scheduled December 10, 1975 as the date for a PUBLIC HEARING on the proposed map changes. The hearing was duly held on December 10, 1975 (Calendar No. 17). A representative from Community Planning Board No. 3 spoke in favor of the map change and offered suggestions about the traffic patterns and roadway treatment in the area. There were no other speakers and the hearing was closed.

APPROVAL

The Commission considers that the map change establishing grades and laying out the lines and dimensions of three easements for street purposes bordering on the Bowery and Division Street constitutes an appropriate modification to the City Map.

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

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



CITY PLANNING COMMISSION
 CITY OF NEW YORK
**DIAGRAM SHOWING PROPOSED
 MAP CHANGE
 ON SECTIONAL MAP
 12**

BOROUGH OF
 MANHATTAN

New York, December 10, 1975




Harold E. Ambrose

Director, Division of
 Housing & Urban Renewal

James J. [Signature]
 Chief, Office of Technical Controls



NOTE:

-  indicates line of street legally adopted.
-  indicates limits of grades proposed to be established.
-  indicates area subject to non exclusive reservations for construction of utility facilities and related appurtenances, such as transformer vaults below elevation 38.00

A map change establishing the lines and grades of Arden Avenue from Crown Avenue to Vespa Avenue, Woodrow Road from Jefferson Boulevard to Carlton Boulevard, Crown Avenue from Jefferson Boulevard to Arden Avenue, Vineland Avenue from Jefferson Boulevard to Arden Avenue and modifying the grades of Vespa Avenue from Jefferson Boulevard to Arden Avenue, Borough of Staten Island, CPD No. 4, in accordance with Map No. 3941, dated September 18, 1975 and signed by the Borough President. The map was referred by the Board of Estimate on October 2, 1975, Calendar No. 261.

The map affects a partly developed residential area within the Arden Heights section of South Richmond, and is submitted for the purpose of extending a presently mapped street system for existing and future residential development, as well as for advancing the preparation of drainage plans for the area.

The street system, which the map proposes to establish, conforms for the most part with the street lines as in use, with the street layout shown on approved tentative maps for the area, and with previously adopted maps of the adjoining street system.

The proposed map change was part of a much more extensive area-mapping action covering the Arden Heights area of the Borough and undertaken in 1965 (Map No. 3516 in 6 sheets, CP-19226, referred by the Board of Estimate on December 16, 1965, Calendar No. 200). That mapping action proved inconclusive (filed without prejudice by the Board of Estimate on December 18, 1969, Cal. No. 18) due to the numerous South Richmond area studies being conducted therein at the time.

However, parts of that map were subsequently adopted as separate mapping actions, such as CP-21031 (adopted by the Board of Estimate on December 17, 1970, Cal. No. 300).

The present map was submitted by the Office of the Borough President at the request of the City Planning Commission in order to complete the mapped street system in this location as contemplated in the previous area-mapping action.

The present map specifically provides for:

A. The layout of the lines of the following primary streets:

1. Woodrow Road from Jefferson Boulevard to Carlton Boulevard, at a width of 100 feet, so as to extend its northeastwardly mapping as an important collector thoroughfare traversing this part of the Borough.

The City has no title to this portion of Woodrow Road. A Prescriptive Street designation, granted on June 12, 1972, at a width of 40 feet presently exists in Woodrow Road between Arden Avenue and Carlton Boulevard.

2. Arden Avenue from Crown Avenue to the general vicinity of Vespa Avenue, at a width of 80 feet. This will complete the mapping of this important northwest-southeast collector street extending from the West Shore Expressway to Raritan Bay.

The City has no title to this portion of Arden Avenue. Two Prescriptive Street designations exist in the portion between Woodrow Road and Vespa Avenue:

The first, granted on June 17, 1968, at a width of 30 feet exists between Woodrow Road and a point approximately 590 feet northwestwardly therefrom.

The second, granted on January 10, 1972, at a width of 40 feet exists just south of Vespa Avenue for a limited length of 60 feet.

B. The layout of the lines of the following secondary streets:

1. Crown Avenue from Jefferson Boulevard to Arden Avenue, at a width of 60 feet. The City has no title to this portion of Crown Avenue, which was declared a Prescriptive Street on February 3, 1972 at a variable width of 30 - 40 feet.
2. Vineland Avenue from Jefferson Boulevard to Arden Avenue, at a width of 60 feet. There is no City title or other designation in this street portion.

C. The establishment of legal grades in the streets to be laid out, and the modification of certain grades in presently mapped Vespa Avenue, from Jefferson Boulevard to Arden Avenue. The new grades are designed to conform, as closely as practicable, to the existing surface elevations, and will meet sewerage and surface drainage requirements.

Community Planning Board No. 4 is cognizant of the proposed map change and has offered no opposition to it.

PUBLIC HEARING & CONCLUSIONS

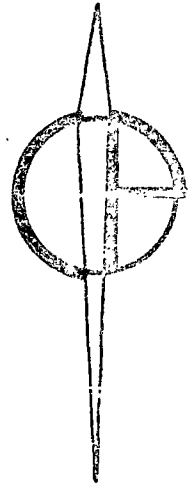
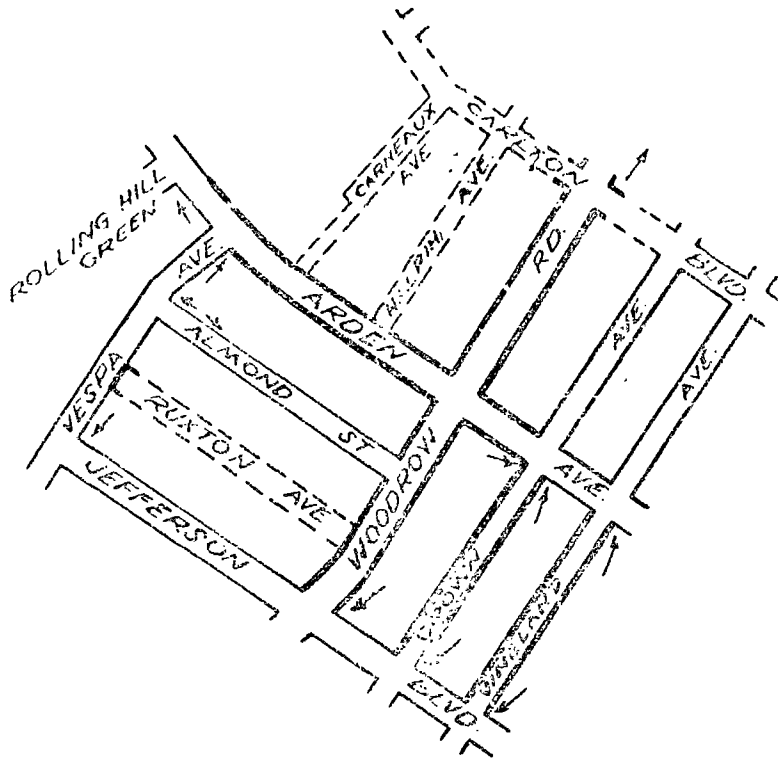
On November 19, 1975 (Calendar No. 10) the City Planning Commission scheduled a PUBLIC HEARING on the map change. The hearing was duly held on December 10, 1975 (Calendar No. 18).

The Commission considers the map change to be necessary for the preparation of drainage plans, and for the establishment of legal street frontage to accommodate existing and future development in the territory involved. This proposal therefore constitutes an appropriate modification of the City Map.

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

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

GS/ef



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

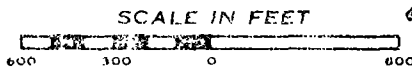
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BOROUGH OF
STATEN ISLAND

New York, November 19, 1975

Andrew Kern, P.E.
 Director, of Mapping

David J. ... P.E.
 Chief, Engineer



NOTE:

- indicates line of street legally adopted.
- indicates line of street proposed to be established.
- Indicates line of street in use or as shown on approved subdivision maps.
- ↔ indicates limits of grades proposed to be established.

Amendment of the Zoning Resolution pursuant to Section 200 of the New York City Charter relating to Section 12-10 Definitions concerning the designation of certain through-block pedestrian amenities as streets.

This amendment would allow certain public pedestrian amenities which extend from one street to another to be considered streets.

On October 15, 1975 (Cal. #19) the Commission scheduled a PUBLIC HEARING on the proposed amendment. The public hearing was held on October 29, 1975 (Cal. #6) and continued to November 19, 1975 (Cal. #4). There were no appearances and the hearing was closed. The Commission has received a communication from the Chairman of Community Board #6 which states that the Board approved the proposed amendment with reservations as to the as-of-right applicability of the proposed amendment.

Consideration

The proposed amendment as heard would have permitted certain through-block public pedestrian amenities to be deemed a street for limited purposes. Retail uses including restaurants are either encouraged or required along the bounding walls of the amenity when permitted by the applicable district regulations. Such commercial uses serve to increase the public's utilization of the amenity.

The text change was requested by representatives of Olympic Tower Associates, developers of a previously approved project located within the Special Fifth Avenue District between East 51st Street and East 52nd Street. The development contains a covered pedestrian space extending between East 51st and East 52nd Streets. The Commission in discussing the covered pedestrian space amenity in its report on the Special Fifth Avenue District (CP-21498, dated March 3, 1971) stated;

"Through-block connections provide extra space in the form of a secondary circulation system parallel to the sidewalks of Fifth Avenue".

In fulfilling the Commission's intentions the covered pedestrian space within Olympic Towers provides a variety of commercial uses including a

restaurant accessible therefrom. In order to maintain the character and quality of commercial uses within the Special Fifth Avenue District, the proposed restaurant requested a license to serve liquor from the State Liquor Authority. The license was denied in accordance with Section 64(7) of the New York Alcoholic Beverage Control Law which prohibits the issuance of a restaurant liquor license for any premises located on the same street as and within 200 feet of a church. The State Liquor Authority has indicated that it will recognize the covered pedestrian space as a street provided it is so recognized in the Zoning Resolution. Once a restaurant liquor license is obtained Olympic Towers will be able to attract a tenant that will provide a restaurant which suits the character and quality of both the project and the Special Fifth Avenue District.

After further study and review subsequent to the public hearing the Commission determined that the following modifications to the amendment were appropriate:

1) The applicability of such designation shall be limited to covered pedestrian spaces. This type of space closely approximates a street in that it provides a secondary pedestrian circulation system for the congested sidewalk conditions in the area.

2) The designation of such space as a street shall be by certification of the Commission, to insure that the requisite "streetness" is present.

3) The language dealing with the applicability of all other provisions of the Zoning Resolution was revised to clarify the Commission's intent.

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

RESOLVED, by the City Planning Commission that the Zoning Resolution of The City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended by a change relating to Section 12-10 Definitions concerning the designation of certain through-block pedestrian amenities as streets as follows:

12-10 DEFINITIONS

* * *

Street

* * *

(c) Upon application a covered pedestrian space which directly links two parallel or substantially parallel ways shown on the City Map, for which a floor area bonus may be awarded or was awarded pursuant to a prior definition of such amenity, may by certification of the City Planning Commission be deemed to be a street, provided the Commission finds that;

(i) No portion of such space is located within 50 feet of the intersection of two ways shown on the City Map,

(ii) Such space is unobstructed for a minimum width of 15 feet and a minimum height of 15 feet, except for enclosures at the entrances,

(iii) Such space is located at an elevation no more than 5 feet above or below curb level, and

(iv) The space functions as a street providing access to another street, shops and other uses and that such access is graphically and visually evident to the pedestrian.

All provisions of this resolution shall continue to be applicable to such space without being modified, varied or affected by the qualification of such space as a street.

The City Planning Commission may prescribe appropriate conditions and safeguards to achieve public utilization of the street.

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

MARTIN GALLEN, Vice-Chairman; CHESTER RAPKIN, Commissioner, voting "No".
(dissenting report attached)

DISSENTING STATEMENT BY VICE-CHAIRMAN MARTIN GALLEN AND
COMMISSIONER CHESTER RAPKIN

CP - 23086

December 10, 1975

We do not concur in the City Planning Commission's decision to amend the Zoning Resolution to change the definition of "street" to include thru-block pedestrian amenities. This redefinition is, we believe, a tortuous adjustment of language to accommodate a single development.

We find unacceptable the lack of obvious openness and accessibility for which the term "street" is normally used. The mid-block mall is just not inviting to the public. The builder could have used an air curtain for part of the year; he chose not to. The builder could have used simple opening doors; he chose not to. Revolving door access for part of the day is simply not consistent with the design and character of a street.

This change of definition of a street is nothing more than a subterfuge to permit the granting of a liquor license. This limited goal distorts the conventional usage of the term "street". Moreover, the resultant limited mid-block passage is not in harmony with the intent of the broader provisions of the Special Fifth Avenue District.

Amendment(s) of the Zoning Resolution pursuant to Section 200 of the New York City Charter relating to various Section(s) concerning limitations on Use Group 9, Physical Culture or Health Establishments

These amendments would limit the location of Physical Culture or Health Establishment within the Special Clinton District and the Special Theatre District to; a) Locations in hotels of more than 200 rooms or community facility buildings, or b) Locations where the proposed use includes enumerated sports facilities of regulation size. Establishments which do not meet these locational or facility requirements or which do not occupy at least 4500 square feet on a single floor will be amortized and terminated no later than one year following the effective date of these amendments. The amendments further provide for a City-wide moratorium on the establishment of physical culture or health establishments for one year following their effective date in order to prepare appropriate city-wide controls. However, gymnasiums used exclusively for basketball, handball, squash or tennis are exempt from the moratorium.

On October 20, 1975 (Cal. #2) the Commission scheduled a PUBLIC HEARING on the proposed amendments. The public hearing was held on November 19, 1975 (Cal. #16).

Numerous speakers appeared in favor of the proposed amendments including a Councilman; the representative of an assemblyman; the Chairman of Community Board #4; the Chairman of Community Board #6; the Chairman of the Clinton Planning Council; the Chairman of the Midtown North Community Council; the President of the Broadway Association; the Executive Director of the Association for a Better New York; the President of the Real Estate Board of New York; the Chairman of the Clinton Steering Committee; the Pastor of a Clinton Community Church; the owners of several restaurants in the Theatre District; the President of a Real Estate Corporation and representatives of the Fifth Avenue Association; the League of New York Producers; the League of New York Theatres; the Fashion Capital of the World; the Volunteers to Improve Third and Lexington Avenues; an advertising agency; Group Health Incorporated; the Franklin Savings Bank; the West Side Association of Commerce; the Holy Cross School; the Businessmen's Association of Ninth Avenue; the East Side Association the West 46th Street Association (Restaurant Row); the Association of East Side Communities; the Theatre District Business Association; the New York Chapter of the Knights of Columbus; Council #430 of the Knights of Columbus; and

several residents of the Clinton Community. In addition the Commission has received communications supporting the proposed amendments from; an Assemblyman, a Congressman; the Chairman of the Ninth Avenue Association of New York, Inc Incorporated; the Chairman of Community Board #5; the Chairman of Community Board #2; the Executive Secretary of the Avenue of Americas Association, Incorporated; the Executive Vice President of the Motel Association of New York, Incorporated; the former manager of the Royal Manhattan Hotel; Manhattan Plaza Associates; the Murray Hill Committee and many residents, restaurateurs and small businessmen of the Theatre and Clinton District communities. Many of the speakers in favor of the amendment spoke of the incompatibility of physical culture establishments with the theatres and supporting restaurants. They told of a loss of business caused by the atmosphere and quality of the area. A representative of a large advertising agency and the representative of Group Health Incorporated spoke of the difficulty in attracting employees to work in the area. The former manager of the Royal Manhattan Hotel attributed the hotels difficulties and eventual closing to the deterioration of Eighth Avenue which was brought about by the great increase in physical culture establishments. Several businessmen in their communications to the Commission have indicated that they were formerly located in either the Theatre or Clinton District but that when a physical culture establishment moved into an adjacent store their business was adversely affected to such an extent that they were forced to relocate. Residents of Clinton testified that conditions adjacent to physical culture establishments presented situations incompatible with residential living and the rearing of children. The presence of numerous schools in the area was pointed out. Owners of real estate told of the difficulty in attracting or keeping tenants when a physical culture use occupied premises in the same or an adjacent building.

Only two speakers were directly opposed to the amendment. One was a state licensed masseur not practicing in the Theatre or Clinton District and the other was a representative of the New York State Licensed Medical Masseurs and Masseuses.

Other speakers including representatives of the Clinton Housing Forum, Local 306 Motion Picture Operators Union, and the Midtown South Community Council expressed reservations as to the future effectiveness of the regulations. Some expressed the idea that the regulations were just a "first step" and did not go far enough. The hearing was closed.

Consideration

There has been an increase of over 200% in the number of physical culture establishments in the Theatre District and adjacent parts of the Clinton Special Districts since the adoption of the current zoning resolution. This use group sub-category exploded from 16 to 49 between 1961 and 1975.

Under present zoning law, it is permissible to develop provisions to restrict and abate the proliferation of an undesirable land use. If a land use is so incompatible with the predominant uses of a district's zoning as to change the character of the area it is appropriate to remove that use. The continued comparative freedom of locational choice for what has come to be regarded as an obnoxious use of land does not advance the general welfare. The thrust of the prohibition would fall upon all enterprises of this class. Such use of the zoning police power is permissible if it is commensurate with the dangers posed to the amenity, health, and welfare of the community as a whole.

The proposed zoning restrictions are not a total proscription. Physical culture facilities are permitted to locate in hotels of a certain size, community facility buildings, and as accessory uses and major principal uses where there is substantial manifestation of physical culture activity in the form of tennis courts, swimming pools, etc.

Among the land use regulations provided by the framers of the present zoning resolution enacted in 1961 is the separation of various land uses into use groups. To a large extent, the zoning text of the present resolution reflects the effects of previous zoning studies, particularly the report of October 1950 prepared by Harrison, Ballard and Allen, entitled "Plan for the Rezoning of the City of New York," and the 1938 land use survey of 800,000 parcels within the City by the Works Progress Administration of the Federal government.

In formulating the use groups for the present classifications in the zoning resolution, the earlier surveys were checked in the field. Field conditions brought changes in the text for the various district, zoning control devices, and use groups.

However, the report is careful to note that, "This attention to field conditions does not imply acceptance of existing conditions for it was found that too much reliance placed on the existing pattern of City development would prevent zoning from further improving City living conditions."

In determining use groups, the framers of the 1961 resolution gave greater weight to factors of then-current development, indicated trends and anticipated needs. In certain cases, conditions reported from the field resulted in the development of new devices and, in other cases, new districts to purposefully meet the needs of New York City, each borough and each section within each borough.

The framers of the present ordinance were aware of the need to respond to changing conditions and urged flexible zoning devices permitting change and adaptation to new, unforeseen uses as noted at page 41 of the Harrison, Ballard & Allen report.

After 1961 and particularly within the last few years, numerous physical culture establishments, spas, and massage storefront operations have proliferated in the Midtown area, first locating in the Times Square vicinity and, of late, venturing to other areas of Midtown. In location, number, and impact, the present trend is a departure from the pre-1961 locational pattern whereby such uses were largely confined to athletic or recreation facilities of hotels or community facilities, and cannot reasonably be said to have been foreseen at the drafting of the present use groups controls.

Additionally, the nuisance character of these uses in relation to existing major land uses of certain districts has developed to such a degree that substantial City efforts have been devoted to their alleviation. Numerous newspaper articles, editorials, and comments by residents and businessmen express the danger to the public welfare and morals posed by the indiscriminate proliferation of such uses throughout Midtown.

The recent proliferation of physical culture uses has greatly increased the impact of such uses on Midtown areas. The locational choice of such establishments--a trend to storefront locations--has witnessed a propensity to engage in nuisance activities to attract customers to their locations. While serving a limited clientele, aggressive hawking of such establishments adjacent to the premises is conducted at subway station access points and on pedestrian thoroughfares to the annoyance of residents and the many users of the Central Business District.

It is in the area of maximum and dramatic expansion of physical culture uses that dramatic decreases in values and expectations has occurred. Certain of these effects are magnified in the area of West Midtown. Illustrative of these trends are the recent difficulty of major land uses in the area including the Uris Building at Broadway and 50th-51st Streets, the YMCA at Eighth Avenue at 50th and 51st Streets, the original McGraw-Hill Building at 42nd Street between Eighth and Ninth Avenues, the Hotel Manhattan at Eighth Avenue at 44th and 45th Streets, as well as the controversial Manhattan Plaza housing development at 42nd and 43rd Streets between Ninth and Tenth Avenues.

Paralleling the distressed character of these major land uses been the explosion of physical culture uses. Within a period of 5 or 6 years, the numbers of establishments classified as physical culture increased substantially. Although such uses represent only a small percentage of the land area, the common perception of these uses is out of all proportion to their square footage.

A specific illustration of the detrimental effects of the proliferation of physical culture uses was furnished by The Ted Bates and Company Incorporated, Advertising Agency, located at 1515 Broadway. In testimony before the Commission, a representative from that office stated that recruitment of a talented personnel to work in this area has become very difficult and in addition, the rate of turnover has become very high. The agency attributes this phenomena to the conditions created by abundance of physical culture land uses located in the area.

The Theatre and Clinton Special Districts have the potential to be economically and socially stable communities as proven by the thriving season the theatre industry is experiencing this year. However, on the blocks in these districts where there is a proliferation of physical culture establishments surveys show a general trend toward business loss and failure. This trend is evidenced by a general drop in money sales in the area, large numbers of firms and businesses relocating to other areas, and noticeable amount of businesses closing, as well as the real estate failures and recruitment difficulties noted above. This appears to be a strong indication of the detrimental influence created by the proliferation of physical culture establishments in the area.

Among the methods available for dealing with the proliferation of massage and physical culture uses beyond the legitimate demand for those services are: Enforcement of criminal statutes regarding prostitution and solicitation; licensing; and zoning provisions sufficient to restrict and abate the proliferation and spread of an undesirable land use.

Prostitution and solicitation are crimes in New York State. The existence of the State's penal law and the present mode of its enforcement have not contributed to a decline in the number or abatement of the spread of massage parlors. If exclusive reliance is placed on dealing with massage parlors solely in the context of the criminal law, then an acceptance of the present extent and trends for such land uses is implied.

Licensing has been attempted. The Massage Institute Licensing Law was enacted in April 1973. Since June of that year, enforcement of its provisions has been enjoined by the New York Supreme Court. Additional legislation has been proposed. None has been successful.

Adding to these difficulties is the statutory scheme of the New York State Education Law which seeks not to control the practice of massage but merely the use of appellation, masseus, masseur, and massage.

Although there is room for improvement in the methods and effectiveness of the enforcement of penal statutes as well as improvement in the New York State Licensing Law and such improvement is urged, the municipality may properly direct its attention to the land use consequences of physical culture activities in its present form. That there may be other potential methods of dealing with a problem so as to abate its land use consequences does not foreclose the ability of a municipality to deal directly with the land use problems through the exercise of police power of zoning.

The basic measure for controlling land use by zoning is to establish use-zoning districts. Under traditional practice, each district is theoretically allocated to one predominant use, together with appropriate related uses and other uses needing the same type of environment. There are two methods for regulating uses. One is the development of lists of specific uses which shall be permitted or excluded; the other is the designation of performance standards which shall be met by permitted uses. New York, as well as most other cities, has elected to employ the former method of groupings of uses.

The proposed legislation restricts the location of physical culture uses to hotels and community facilities to facilitate the proper functioning of comprehensive land use planning which established such zones.

The proposed text change restricts the location of physical culture uses to certain hotels and community facilities within the Clinton and Theatre Special Districts. Numerous hotels and community facilities are found within centrally located Midtown. Physical culture uses are presently found in the resolution at Section 32-18, Use Group 9. At present, physical culture uses are permitted within the following zones: C2 local commercial, C4 general commercial, C5 restricted central commercial, C6 general central commercial, and C8 general service, as well as M1, M2 and M3. Within the C4 general commercial and C5 restricted central commercial zoning districts, physical culture uses are locationally restricted to other than the ground floor of a building unless such use is at least 50 feet from the street wall of the

building in which it is located. This restriction also applies to the following uses in Use Group 9: Blueprinting; Business Schools; Catering Clothing rental; Medical labs; Musical instrument repair; Printing; Auction rooms; Art studios; Trade Schools; Business machine sales, rental and repair; Umbrella repair; and Banquet halls.

The zoning resolution also restricts the location of other uses within the districts in which they are permitted. Such locational restrictions are found in the following sections: 32-41 Enclosure within Buildings, 32-421 Limitation on floors occupied by non-residential uses, 32-422 Location of floors occupied by non-residential uses, as well as 32-423 Limitation on ground floor location. A provision analogous to the proposed text revision exists in the present resolution with respect to eating and drinking establishments without restrictions on entertainment. Such establishments are restricted to locations in hotels pursuant to Section 32-19, Use Group 10.

The above supplementary controls regulating enclosure of uses within buildings, and restrictions of uses to specified parts of a building are an essential part of the comprehensive plan of land use as expressed in the zoning resolution. The legislative report accompanying the 1961 resolution refers to the importance of these provisions at page 110 in the following manner. "Some of them, particularly those controlling location within buildings, are so widely applicable and of such major importance that they significantly affect the character of the districts".

The locational restriction within the Clinton and Theatre Special Districts limits physical culture establishments to hotels with more than 200 rooms or community facilities provided that neither the use nor any sign advertising it fronts upon a street.

Any physical culture establishment which does not comply with the locational restrictions or which does not contain certain specified regulation size sports facilities or which does not occupy a minimum floor area on a single floor as of October 1, 1975 shall terminate one year from the effective date of this amendment. This amortization provision will result in all premises

occupied by physical culture uses which do not conform to the above locational, sports facility or size regulations to terminate such use and thereafter be used in conformance with the district regulations. Any establishment failing to comply with amortization provisions would be subject to civil proceedings pursuant to Section 715 of the Real Property Actions and Proceedings Law to effectuate eviction.

An integral part of this amendment, for those areas outside the Clinton and Theatre Special Districts, is a City-wide moratorium on physical culture land uses. This moratorium will prohibit for one year any physical culture use from locating or relocating anywhere within the areas where they are presently allowed by the Zoning Resolution.

Studies will be commencing shortly to look at this problem on a City-wide basis. When other communities were contacted and briefed on the proposed legislation through their Planning Boards, they voted both to support these measures and to encourage similar measures in their area. The action of the one year City-wide moratorium both assures all communities that physical culture establishments will not relocate into other areas and allows the Mayor's Office of Midtown Planning and Development, in conjunction with the borough staffs of the City Planning Commission, one year to conduct studies and propose additional legislation for other areas of the City.

Again the Community Planning Boards, business association, organizations, and civic groups that have been briefed on the proposed Zoning Amendments fully accept that these measures alone cannot turn around the decline of a specific area. They welcome and support these measures on the basis that the Amendments deal with one segment of a situation that can no longer be ignored.

Under the proposed legislation which tends to relate locational choice to genuine demand for physical culture facilities, the impact on legitimate enterprise should be minimal. The proposed zoning text is not a panacea, nor should it in any way be viewed as a substitute for vigorous enforcement of the penal law against criminality wherever found.

Concurrent with this amendment to the Zoning Resllution, City efforts to improve and upgrade Midtown and Times Square are underway. The objective is to ensure that the corporate headquarters functions, tourist functions, and retail functions of the Midtown area are strengthened. Specific actions in various areas have been undertaken. The Department of Sanitation has reassigned and reallocated men and equipment to improve physical appearance. The Economic Development Administration is working with businesses in the area to examine the possibility of obtaining small business loans to help upgrade or attract new businesses. The Department of Consumer Affairs is re-examining licensing procedures in the area to ensure conformance. The Department of Highways is giving special attention to the filling of potholes and the correction of highway defects in the area. The Traffic Department has been working to develop alternative traffic control schemes for the Midtown area. The Police Department is working closely with the business community to reduce street crime in the area. In addition, they are working closely with the Midtown Enforcement Task Force to ensure that businesses in the area are in conformance with all City statutes and regulations.

These actions, and the action of other City agencies fully illustrate how the amendments to the Zoning Ordinance are a part of a broad plan to improve and upgrade the overall Broadway-Times Square area. After further study and review, subsequent to the public hearing, the Commission determined that the following modifications were appropriate:

- 1) Section 11-50; the inclusion in the amendment of a provision making all provisions of the amendment inseparable from each other.
- 2) Sections 32-18, 83-03, 94-061, 95-081, 99-031 and 101-031; substituting massage establishments for the word masseurs to clarify the Commission's intent, and
- 3) Section 81-021 and 96-524; addition of specifications for regulation size sports facilities to clarify the Commission's intent.

The Commission determined that the amendments as modified are appropriate and adopted the following resolution, which is duly filed with the Secretary of the Board of Estimate, pursuant to Section 100 of the New York City Charter.

12-10 DEFINITIONS

* * *

Special Theatre District

The "Special Theatre District" is a Special Purpose District designated by the letter "T", in which special regulations set forth in Article VIII, Chapter 1 apply to developments containing one or more legitimate theatres and all other developments, enlargements, extensions, changes of use, establishment of new uses, and the continuation of existing uses. The

Special Theatre District appears on the zoning maps superimposed on other districts, and its regulations supplement those of the district on which it is superimposed.

* * *

Article VIII

Special Purpose Districts

Chapter 1 Special Theatre Districts

* * *

81-01

Definition (repeated from Section 12-10)

Special Theatre District

The "Special Theatre District" is a Special Purpose District designated by the letter "T", in which special regulations set forth in Article VIII, Chapter 1 apply to developments containing one or more legitimate theatres and all other developments, enlargements, extensions, change of use, establishment of new uses, and the continuation of existing uses. The Special Theatre District appears on the zoning maps superimposed on other districts, and its regulations supplement those of the districts on which it is superimposed.

* * *

ARTICLE X

SPECIAL PURPOSE DISTRICTS

* * *

CHAPTER 1 SPECIAL YORKVILLE-EAST 86TH STREET DISTRICT

* * *

101-031

Use Group Y

* * *

D. Retail or Service Establishments

* * *

+* 41. Physical culture or health establishments, including gymnasiums,
reducing salons, [masseurs] massage establishments or steam baths.

* * *

+ For a use listed in Use Group Y, marked with a cross, no new such uses
shall be permitted or established for an interim period of one year from
the effective date of this amendment. However, this provision shall not
apply to gymnasiums used exclusively for the following sports facilities:
basketball, handball, squash or tennis.

ARTICLE IX
SPECIAL PURPOSE DISTRICTS

* * *

CHAPTER 4 SPECIAL SHEEPSHEAD BAY DISTRICT

* * *

94-061

Uses permitted by right

* * *

- + Physical culture or health establishments, including gymnasiums, reducing salons, [masseurs] massage establishments or steam baths.

* * *

- + For a use listed in Section 94-061 (Uses permitted by right), marked with a cross, no new such uses shall be permitted or established for an interim period of one year from the effective date of this amendment. However, this provision shall not apply to gymnasiums used exclusively for the following sports facilities: basketball, handball, squash or tennis.

* * *

94-062

Use Group SB

* * *

C. Retail or Service Establishments

* * *

- +* Physical culture or health establishments, including gymnasium, having a rated capacity of not more than 50 people.

* * *

- + For a use listed in Use Group Sb, marked with a cross, no new such uses shall be permitted or established for an interim period of one year from the effective date of this amendment. However, this provision shall not apply to gymnasiums used exclusively for the following sports facilities: basketball, handball, squash or tennis.

* * *

CHAPTER 5 SPECIAL TRANSIT LAND USE DISTRICT

* * *

95-081

Use Group T

* * *

+* 39. Physical culture or health establishments, including gymnasiums, reducing salons, [masseurs] massage establishments or steam baths.

* * *

+ For a use in Use Group T, marked with a cross, no new such uses shall be permitted or established for an interim period of one year from the effective date of this amendment. However, this provision shall not apply to gymnasiums used exclusively for the following sports facilities: basketball, handball, squash or tennis.

* * *

CHAPTER 9 SPECIAL MADISON AVENUE DISTRICT

* * *

99-031

Use Group MP

* * *

B.

1. RETAIL OR SERVICE ESTABLISHMENTS

* * *

+15. *Physical culture or health establishments, including gymnasiums, reducing salons, [masseurs] massage establishments or steam baths.

* * *

+ For a use listed in Use Group MP, marked with a cross, no new such uses shall be permitted or established for an interim period of one year from the effective date of this amendment. However, this provision shall not apply to gymnasiums used exclusively for the following sports facilities: basketball, handball, squash or tennis.

RESOLVED, by the City Planning Commission that the Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended by changes relating to various sections concerning limitations on Use Group 9 Physical Culture and Health Establishments as follows:

11-50 SEPARABILITY

* * *

(c) The provisions of amendment CP-23116 affecting Sections 32-18, 83-03 94-061, 94-062, 95-081, 99-031, 101-031, 12-10, 81-01, 81-021, and 96-524 are an entirety; should any portion be found unenforcible or invalid for any reason then this entire amendment shall be null and void in its entirety. No court of competent jurisdiction nor any administrative body may apply any doctrine of separability or severability to save any portion of amendment CP- 23116 in the event any portion is found unenforcible or invalid.

* * *

52-18

Use Group 9

Parking Requirement Category

* * *

A. Retail or Service Establishments

* * *

** Physical culture or health establishments, including gymnasiums, reducing salons, [masseurs] massage establishments or steam baths.

* * *

+For a use in Use Group 9, marked with a cross no new such uses shall be permitted or established for a interim period of one year from the effective date of this amendment, except in the Special Theatre District and the Special Clinton District where special locational restrictions apply to those uses. However, this provision shall not apply to gymnasiums used exclusively for the following sports facilities: basketball, handball, squash and tennis.

* * *

ARTICLE VIII

SPECIAL PURPOSE DISTRICTS

* * *

CHAPTER 3 SPECIAL LIMITED COMMERCIAL DISTRICT

* * *

83-03

Use Group "LC"

* * *

G. Retail or Service Establishments

* * *

+* 42. Physical culture or health establishments, including gymnasiums, reducing salons, [masseurs] massage establishments or steam baths.

* * *

+For a use in Use Group LC, marked with a cross, no new such uses shall be permitted or established for an interim period of one year from the effective date of this amendment. However, this provision shall not apply to gymnasiums used exclusively for the following sports facilities: basketball, handball, squash or tennis.

Special use regulations

When permitted by the underlying district regulations, physical culture or health establishments, however described or advertised, including without limitation, reducing salons, massage/ or steam baths, are restricted to locations in transient hotels with 200 rooms or more provided that no such use and no accessory business sign fronts upon a street or public way and community facilities or buildings predominantly occupied by a community facility. Where such physical culture or health establishments contain any of the following regulation size* sports facilities: basketball courts, handball courts, squash courts, tennis courts or a swimming pool of a minimum 1,500 sq. ft., such location restriction shall not apply. Where a use is rendered non-conforming by such locational restrictions, and where such use does not occupy at least 4,500 sq. ft. on one floor as of October 1, 1975, such use shall terminate not later than one year after the effective date of such restriction, and thereafter the space formerly occupied by such use shall be used only for a conforming use.

* * *

*Regulation size shall mean:

Basketball Courts - width 50 feet; Length 84 feet, clear height 20 feet minimum. Surrounding the perimeter there shall be a minimum of 3 feet of clear open space.

Handball Courts - Width 55 feet at back end; Length 50 feet; clear height 23 feet.

Squash Courts - Width 25 feet; length 45 feet; clear height 20 feet.

Tennis Courts - Width 60 feet; length 120 feet; clear height 32 feet at net, 8 feet at wall lines.

* * *

Special Purpose Districts

* * *

Chapter 6 Special Clinton District

* * *

96-524

Special use regulations

When permitted by the underlying district regulations, physical culture or health establishments, however described or advertised, including without limitation, reducing salons, massage or steam baths, are restricted to location in transient hotels with 200 rooms or more provided that no such use or accessory business sign fronts upon any street or public way and community facilities or buildings predominantly occupied by a community facility.

Where such physical culture or health establishments contain any of the following regulation size* sports facilities: basketball courts, bowling alleys, handball courts, squash courts, tennis courts or a swimming pool of a minimum 1,500 sq. ft., such locational restrictions shall not apply. Where a use is rendered non-conforming by such locational restrictions, and where such use does not occupy at least 4,500 sq. ft. on one floor as of October 1, 1975 such use shall terminate not later than one year after the effective date of such restriction, and thereafter the space formerly occupied by such use shall be used only for a conforming use.

*Regulation size shall mean: * * *

Basketball Courts - Width 50 feet; length 84 feet, clear height 20 feet minimum. Surrounding the perimeter there shall be a minimum of 3 feet of clear open space.

Handball Courts - Width 55 feet at back end; length 50 feet; clear height 23 feet.

Squash Courts - Width 25 feet; length 45 feet; clear height 20 feet.

Tennis Courts - Width 60 feet; length 120 feet; clear height 32 feet at net, 8 feet at wall lines.

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

An amendment of the zoning map (section no. 23c), pursuant to Section 200 of the New York City Charter, changing from C1-1 and R5 Districts to a C4-3 District property bounded by Twin Pines Drive, a line 300 feet northeasterly of Louisiana Avenue, a line 410 feet southeasterly of Twin Pines Drive and Louisiana Avenue, Borough of Brooklyn, as shown on a diagram dated November 19, 1975.

The proposed rezoning was requested by a representative of the owner of the property involved in order to increase the allowable sign area.

The Zoning Resolution restricts the size of signs in a C1 District to 50 square feet per store for illuminated non-flashing signs (Sections 32-64 and 32-643). In a C4 zone this area may be increased to 5 times the street front of the store (in feet) or 500 square feet maximum (Section 32-644).

On November 19, 1975 (Cal. #2) the Commission scheduled a PUBLIC HEARING on the proposed amendment. The hearing was duly held on December 10, 1975 (Cal. #23). There were no appearances and the hearing was closed.

Community Planning Board #5 approved the rezoning proposal conditioned upon the reopening of Pennsylvania Avenue to vehicular traffic that had been scheduled by October 1, 1975 and was opened to all traffic on December 3, 1975.

There are eight stores in the shopping center in the existing C4-3 District and are therefore under the sign regulations of a C4 District. Two stores are within 100 feet of a Residential District and their signs are restricted to those complying with C1 District regulations even after the rezoning to a C4-1 District. Seven stores have a small frontage restricting the size of their signs. There is no difference as per bulk and parking requirements between a C1-1 District and a C4-1 District.

Waldbaum's, the tenant of the supermarket requested the owner and the architect to use their well-known standard sign which is 6 feet high and about 60 feet long. The sign is attached to the wall of the supermarket facing east across the parking area toward Pennsylvania Avenue. There will be no other large sign for the market.

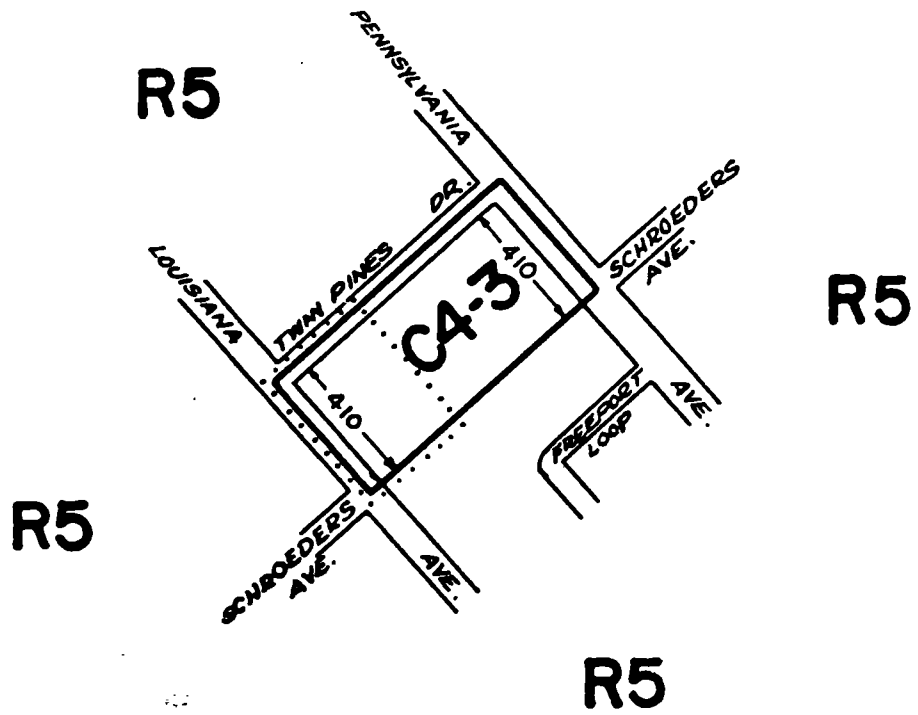
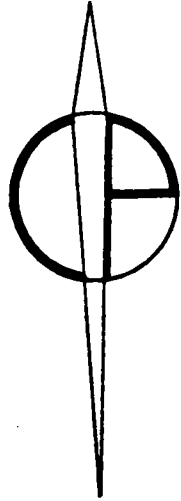
The Commission therefore considered the rezoning appropriate and adopted the following resolution, which is duly filed with the Secretary of the Board of Estimate, pursuant to Section 200 of the New York City Charter:

RESOLVED, that the Zoning Resolution of The City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended by changing the Zoning Map, Section No. 23c, so as to change from C1-1 and R5 Districts to a C4-3 District property bounded by Twin Pines Drive, a line 300 feet northeasterly of Louisiana Avenue, a line 410 feet southeasterly of Twin Pines Drive and Louisiana Avenue, Borough of Brooklyn, as shown on a diagram dated November 19, 1975.

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

AG:b1

C.P. 23101



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

23c
 BOROUGH OF
 BROOKLYN

New York, November 19, 1975

Richard Riegelhaupt P.E.
 Acting Director, Division of Zoning

Jim [Signature]
 Chief Engineer



NOTE:

- indicates Zoning District boundary.
-** The area enclosed by the fine dotted line is proposed to be changed from R5 and C1-1 Districts to a C4-3 District.

A.J.P. 11/17

An amendment of the zoning map (section nos. 28c and 29a), pursuant to Section 200 of the New York City Charter,

(a) changing from an R4 District to an R5 District property bounded by Leif Ericson Drive, Homecrest Avenue, William Court, East 12th Street, a line 280 feet northerly of Avenue Z, a line 120 feet easterly of East 12th Street, Avenue Y, East 13th Street, Avenue Z, Sheepshead Bay Road and East 14th Street; and

(b) establishing within the proposed R5 District, a C1-2 District bounded by East 14th Street, a line 200 feet southerly of Avenue Z, a line midway between East 13th Street and East 14th Street and a line 150 feet southerly of Avenue Z, Borough of Brooklyn, as shown on a diagram dated November 19, 1975.

The proposed rezoning was requested in order to conform more closely to the existing character of the neighborhood and to facilitate the construction of five two family dwellings.

On November 19, 1975 (Cal. #4) the Commission scheduled a PUBLIC HEARING on the proposed amendment. The hearing was duly held on December 3, 1975 (Cal. #5). There were no appearances and the hearing was closed.

Community Planning Board #15 is in favor of the proposed change.

The applicant's development will enhance the neighborhood and stimulate redevelopment of the East 14th Street frontage. Presently, more than fifty per cent of the blocks are already built up at more than R4 density and if not rezoned to R5 would remain non-conforming.

The southerly extension of the C1-2 District will further encourage development of underutilized and vacant lots into an attractive, vibrant neighborhood.

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

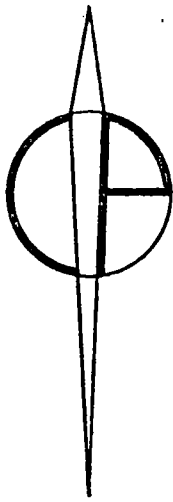
RESOLVED, that the Zoning Resolution of The City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended by changing the Zoning Map, Section Nos. 28c and 29a,

(a) changing from an R4 District to an R5 District property bounded by Leif Ericson Drive, Homecrest Avenue, William Court, East 12th Street, a line 280 feet northerly of Avenue Z, a line 120 feet easterly of East 12th Street, Avenue Y, East 13th Street, Avenue Z, Sheepshead Bay Road and East 14th Street; and

(b) establishing within the proposed R5 District, a C1-2 District bounded by East 14th Street, a line 200 feet southerly of Avenue Z, a line midway between East 13th Street and East 14th Street and a line 150 feet southerly of Avenue Z, Borough of Brooklyn, as shown on a diagram dated November 19, 1975.

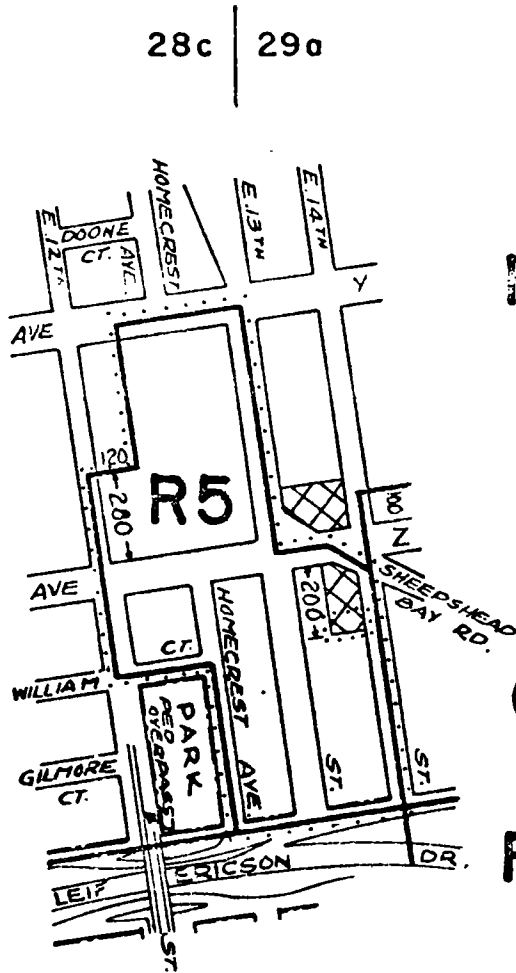
JOHN E. ZUCCOTTI, Chairman;
MARTIN GALLEN, Vice-Chairman,
GERALD R. COLEMAN, ALEXANDER COOPER,
GORDON J. DAVIS, SYLVIA DEUTSCH, CHESTER RAPKIN, Commissioners.

CSM:b1



R4

R4



R4

C4-2

R4

R6

28c | 29a

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

28c & 29a
 BOROUGH OF
 BROOKLYN

New York, November 19, 1975

Richard Riegelhaupt P.E.
 Acting Director, Division of Zoning

John Smith P.E.
 Chief Engineer



NOTE:

- indicates Zoning District boundary.
- The area enclosed by the fine dotted line is proposed to be changed from an R4 District to an R5 District and establishing a C4-2 District within the proposed R5 District.

indicates a C4-2 District.

An amendment of the zoning map (section no. 28c), pursuant to Section 200 of the New York City Charter, establishing within an existing R5 District a C1-2 District bounded by Avenue X, a line 360 feet easterly of Stillwell Avenue, a line 160 feet southerly of Avenue X, a line 100 feet easterly of Stillwell Avenue and a line 340 feet southerly of Avenue X, Borough of Brooklyn, as shown on a diagram dated November 19, 1975.

The establishment of the C1-2 District was initiated in order to make the site compatible with the present use of the surrounding area. It is also the contention of the City Planning Commission that the proposed change will restore value to the community.

On November 19, 1975 (Cal. #5) the Commission scheduled a PUBLIC HEARING on the proposed amendment. The hearing was duly held on December 3, 1975 (Cal. #6). There were no appearances and the hearing was closed.

Community Planning Board #13 has expressed their approval of the proposed amendment.

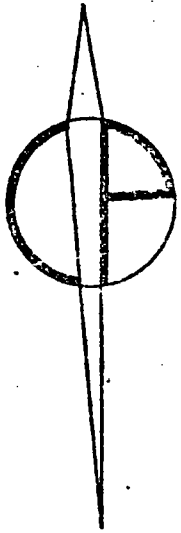
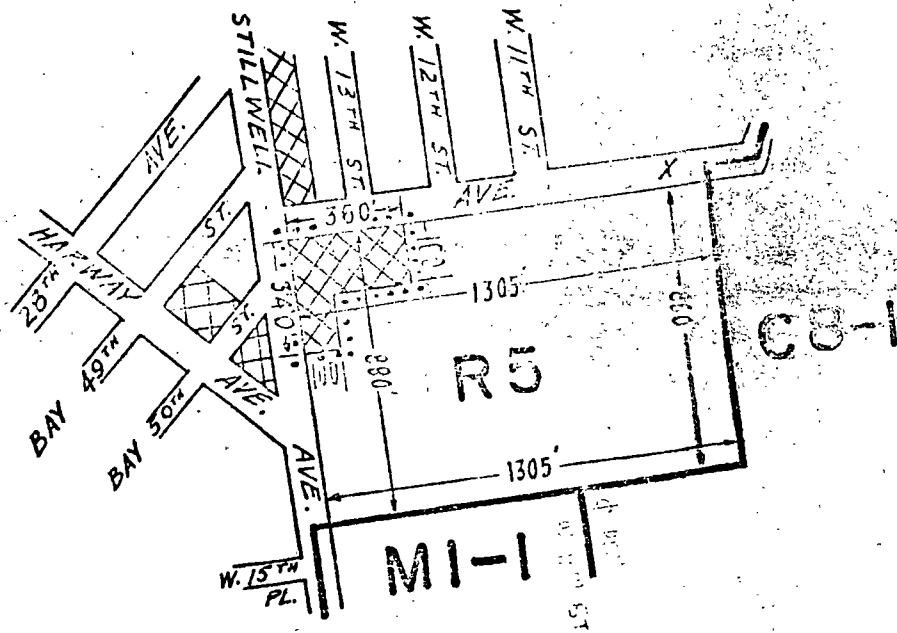
The proposed rezoning is adjacent to John Dewey High School. An elevated spur line of the BMT is at the rear of the applicant's property which greatly reduces its desirability for residential use.

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

RESOLVED, that the Zoning Resolution of The City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended by changing the Zoning Map, Section No. 28c, establishing within an existing R5 District a C1-2 District bounded by Avenue X, a line 360 feet easterly of Stillwell Avenue, a line 160 feet southerly of Avenue X, a line 100 feet easterly of Stillwell Avenue and a line 340 feet southerly of Avenue X, Borough of Brooklyn, as shown on a diagram dated November 19, 1975.

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

CSM:b1

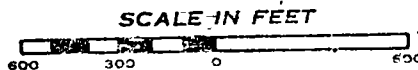


CITY PLANNING COMMISSION
 CITY OF NEW YORK
 DIAGRAM SHOWING PROPOSED
 ZONING CHANGE
 ON SECTIONAL MAP
 28c




BOROUGH OF
 BROOKLYN

New York, November 19, 1975

Richard Regelhaupt P.E.
 Acting Director, Division of Zoning
John J. ... P.E.
 Chief Engineer



NOTE:

-  indicates Zoning District boundary.
-  The area enclosed by the fine dotted line is proposed to be changed by establishing a CI-2 District within an existing R5 District.
-  indicates a CI-2 District.

An amendment of the zoning map (section no. 14a), pursuant to Section 200 of the New York City Charter, changing from R7-1 and C2-2 Districts to a C6-2 District property bounded by the Long Island Expressway, 97th Street, 62nd Drive, Junction Boulevard, a line at right angles to Junction Boulevard distant 229 feet northerly from 62nd Drive, the southerly, easterly, and northerly boundaries of Lost Battalion Hall Park, and 93rd Street, Borough of Queens.

This rezoning, together with related actions by the Commission, will permit the construction of a combined commercial and residential development known as "The Galleria and Forest Gardens," consisting of a three-level Galleria containing approximately 340,000 square feet of retail space, a twelve-story office tower over the Galleria with approximately 224,000 square feet of floor space, a seven-level commercial garage with space for 2,500 cars, and four residential towers of varying height containing a total of 1,400 apartments and garage space for 1,400 cars, as described more fully in the report on the related City Map modification (CP-23054).

In addition to the amendment of the Zoning Map which is the subject of this report (CP-23051), implementation of the proposed development also requires favorable action by the City Planning Commission and the Board of Estimate on the following three matters:

1. An amendment of the Zoning Resolution (CP-23052) establishing a new Section 74-93. This new Section enables the granting of certain special permits involving residential and commercial developments or enlargements on two or more zoning lots in single ownership, which are contiguous or would be contiguous but for their separation by a street, and located partially in a C6-2 District and partially in a C4-2 District, within the boundaries of Community Planning Board #6, Borough of Queens;
 2. An application for various special permits involving this development (CP-23053) pursuant to the above new Section 74-93, and also pursuant to Section 74-52 (Parking Garages in High Density Central Areas) and Section 74-86 (Accessory Outdoor Swimming Pools for Residences); and
 3. A City Map modification (CP-23054), eliminating, discontinuing and closing 62nd Avenue and 94th Place, between 93rd Street and Horace Harding Expressway, together with a layout of a park, park access easement, street easements and a volume of air space.
-

The above matters are the subject of separate reports approved by the City Planning Commission on December 10, 1975.

On August 11, 1975 (Cal. #8), the City Planning Commission scheduled a PUBLIC HEARING on the proposed amendment of the zoning map. The hearing was duly held on September 17, 1975 (Cal. #4) in conjunction with the related hearings on the amendment of the Zoning Resolution (CP-23052), the application for the special permits (CP-23053), and the City Map modification (CP-23054), (Cal. Nos. 5, 6, and 7 respectively). There were a number of appearances, as described in the related report on the City Map modification (CP-23054) and the hearings were closed.

The rezoning to C6-2 would apply to the portion of the site north of 62nd Drive, on which it is proposed to erect the residential buildings and commercial parking garage. The remainder of the site, south of 62nd Drive, occupied by the existing Alexander's Department Store and to be further developed with the proposed Galleria and office tower, is zoned C4-2, and does not require rezoning to implement the project.

A description of the project, and a detailed consideration, are set forth in the related report on the City Map modification (CP-23054).

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

RESOLVED, that the Zoning Resolution of The City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended by changing the Zoning Map, Section No. 14a, so as to change from R7-1 and C2-2 Districts to a C6-2 District property bounded by the Long Island Expressway, 97th Street, 62nd Drive, Junction Boulevard, a line at right angles to Junction Boulevard distant 229 feet northerly from 62nd Drive, the southerly, easterly, and northerly boundaries of Lost Battalion Hall Park, and 93rd Street, Borough of Queens; and be it further

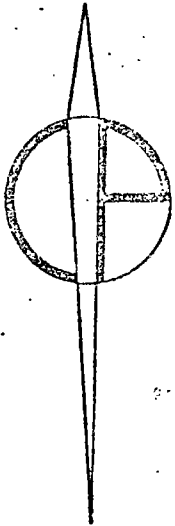
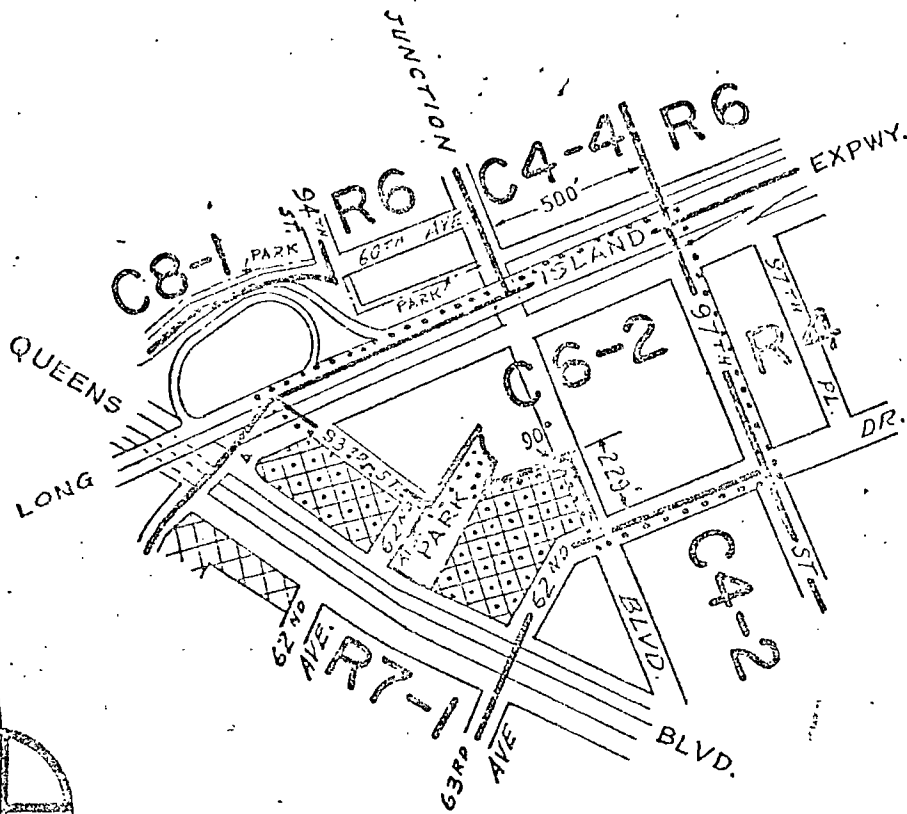
RESOLVED, that a restrictive declaration known as D-18 signed by David Muss, S. Joseph Tankoos, Jr., and Alexander's, Inc. dated December 10, 1975 governing property known as Block 2084, Lot 101; Block 2080, Lot 101; Block 2076, Lots 50, 63; and Block 2077. Lots 90, 98, located within or adjacent to the rezoned area is hereby approved.

JOHN E. ZUCCOTTI, Chairman;
GERALD R. COLEMAN, ALEXANDER COOPER, CHESTER RAPKIN, Commissioners.
(See concurring statement of Commissioner Cooper attached to CP-23054)

MARTIN GALLENT, Vice-Chairman; GORDON J. DAVIS, SYLVIA DEUTSCH, Commissioners;
voting "No". (See dissenting statement attached to CP-23054)

RR:b1

C.P.23051



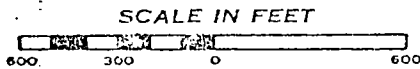
CITY PLANNING COMMISSION
 CITY OF NEW YORK
 DIAGRAM SHOWING PROPOSED
 ZONING CHANGE
 ON SECTIONAL MAP

140

BOROUGH OF
 QUEENS

New York, July 23, 1975

G. Krudner PE
 Director, Division of Zoning
John J. Smith PE
 Chief Engineer



- NOTE:**
- indicates Zoning District boundary.
 - The area enclosed by the fine dotted line is proposed to be changed from R7-1 and C2-2 Districts to a C6-2 District.
 - ▨ indicates a C1-2 District.
 - ▩ indicates a C2-2 District.

C.H. RR

THIS DECLARATION, made by ALEXANDER'S INC. ("Alexander's"), a Delaware corporation registered to do business in New York and having offices at 500 Seventh Avenue, New York, New York, DAVID MUSS ("Muss"), residing at 620 Park Avenue, New York, New York, and S. JOSEPH TANKOOS, JR. ("Tankoos"), residing at 770 Park Avenue, New York, New York (Alexander's, Muss and Tankoos are hereinafter collectively referred to as the "Declarants"),

W I T N E S S E T H :

WHEREAS, Alexander's is the owner of certain real property in the Borough of Queens, City and State of New York ("Subject Property"), consisting of four parcels, hereinafter called "Parcel 1A," "Parcel 1B," (together Tax Block 2084, lot 101), "Parcel 2," (Tax Block 2080, lot 101) and "Parcel 3" (Tax Block 2076, lot 63 and 50) ^{and Tax Block 2077, lot 90 and 98} as identified on the site plan and in the legal description annexed hereto as Exhibits A and B, respectively; and

WHEREAS, Muss and Tankoos intend to purchase Parcel 1B, Parcel 2 and Parcel 3 from Alexander's and intend to construct thereon a commercial parking garage on Parcel 2 (the "Commercial Garage"), a commercial building containing a multi-level retail establishment and an office tower on Parcel 1B (the "Galleria - Office Building") and four residential towers with accessory parking therefor on Parcels 2 and 3 (all collectively, the "Development"); and

WHEREAS, Parcel 3 is now located in a C2-2 district overlaid upon an R7-1 district, and Parcel 2 is now located in an R7-1 district and, in order to facilitate the Development, Muss and Tankoos have applied to the New York City Planning Commission ("City Planning Commission") for a zoning map change ("Rezoning") (CP-23051) for Parcel 2 and Parcel 3 from C2-2 and R7-1 to C6-2; and

WHEREAS, in order to facilitate the Development, Muss and Tankoos have applied to the City Planning Commission for special permits ("Special Permits") (CP-23053) pursuant to Sections 74-52, 74-86 and 74-93 of the New York City Zoning Resolution ("Zoning Resolution"); and

WHEREAS, (a) there will be included in the street mapping agreement to accompany Street Alteration Map No. 4580 (CP-23054), which is currently before the Board of Estimate, the agreement by The City of New York (the "City") that it and its assigns will not build any structure on that portion of the land of Lost Battalion Hall Park which lies within a line drawn thirty (30) feet from the rear walls of any residential structures which are built on Parcel 3 north and east of such park land, as shown on the drawing attached hereto as Exhibit C, and (b) there will be delivered to the Declarants the written agreement of the City's Parks, Recreation and Cultural Affairs Administration (or a successor agency having jurisdiction over parks) ("PRCA") that (i) PRCA will not build any structure on the portion of the land of

Lost Battalion Hall Park referred to above, (ii) that PRCA will, within 60 days of receipt of application therefor directed to the PRCA Construction Division, grant a construction permit authorizing Muss and Tankoos, their assigns, agents and contractors, to enter onto Lost Battalion Hall Park land for the purpose of facilitating construction of the abutting wall and other appurtenances of the accessory residential parking garage to be constructed on Parcel 3 adjacent to the Park land, which permit may forbid the delivery of construction materials or the removal of construction materials to be made across park land, may limit the construction permit area to an area not to exceed 10 feet in depth from the rear lot lines and shall not extend more than 15 feet in either direction beyond the ends of the accessory parking garage wall to be constructed on Parcel 3, may require Muss and Tankoos to use reasonable care to adequately protect the public from noxious or hazardous construction activities occurring within the construction permit area, may be conditioned upon agreement by the applicant to promptly restore any damage and to post a bond to secure performance of such agreement and may be limited to a reasonable time period, and (iii) that PRCA will, within 20 days (or, in cases of emergency, as soon as possible) after receipt of application therefor directed to the PRCA Construction Division, grant reasonable requests for temporary permits to enter onto Lost Battalion Hall Park land for purposes of maintaining and repairing the exterior

accessory parking garage wall which abuts the park land, which permits may be conditioned upon agreement by the applicant to promptly restore any damage to park areas, and to post a bond to secure performance of such agreement; and

WHEREAS, Muss and Tankoos have submitted plans including concept drawings for the Development (attached hereto as Exhibit D) to the City Planning Commission and the City Planning Commission has approved said plans; and

WHEREAS, the Declarants desire to restrict further the manner in which the Subject Property may be developed, maintained and operated, intending the restrictions to benefit all the land lying within one half mile of the Subject Property, including all such land owned by the City; and

WHEREAS, Muss and Tankoos represent and warrant that no restriction of record on the use of the Subject Property, nor any present or presently existing future estate or interest in the Subject Property, nor any lien, obligation, covenant, limitation or encumbrance of any kind precludes, presently or potentially, the imposition of the covenants, restrictions and obligations contained in this declaration or the development of the Subject Property in accordance therewith, except that, to the extent that there are covenants and restrictions affecting the Subject Property which by their terms would prohibit the construction and maintenance of any portion of the Development in accordance with the plans submitted by Muss

and Tankoos in connection with their application for the Rezoning and the Special Permits, Muss and Tankoos represent and warrant that their title insurance company has indicated that it will insure affirmatively that none of such covenants and restrictions can be enforced to prohibit the erection and maintenance of retail stores, parking of automotive vehicles, apartment houses, commercial buildings and office buildings, and except that, concerning any mortgages affecting the Subject Property, Muss and Tankoos further represent and warrant that, if, after Muss and Tankoos acquire title to Parcels 1B, 2 and 3 of the Subject Property, there may be any mortgage affecting such parcels which requires the consent of any mortgagee to the covenants, restrictions and obligations contained herein, then such consent will be obtained promptly after such acquisition.

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

ARTICLE I

Site Development

Declarants agree that the Subject Property shall hereafter be used and developed only either (a) substantially in accordance with the plans submitted by Muss and Tankoos in connection with their application for the Rezoning and the Special Permits, Exhibit D hereto, and administratively approved by the City Planning Commission pursuant to Article II hereof or (b) in accordance with the zoning of the Subject Property as it was prior to the approval of the Rezoning, except that to the extent that the regulations applicable under the prior existing zoning are less restrictive than those applicable under the Rezoning, the regulations under the Rezoning shall apply. In the event that the Subject Property is developed in accordance with (b) of this article, i.e., no development is undertaken which relies in any respect on the Rezoning or Special Permits, then Articles II through X hereof shall be of no effect. Notwithstanding the foregoing, nothing in this declaration shall be construed: (i) to be a waiver of any rights the Declarants have under the present zoning, or (ii) to prevent construction and maintenance by Muss and Tankoos of model apartments and parking lots and facilities related thereto on any portion of the Subject Property which is to be developed for residential purposes pursuant to the plans attached as Exhibit D.

ARTICLE II

Design Review

Not later than their submission to the New York City Department of Buildings ("Department of Buildings") of preliminary plans for any portion of the Development, Muss and Tankoos will submit a copy of such plans to the City Planning Commission for administrative review and certification (without a public hearing) to Muss and Tankoos and to the Department of Buildings that such plans are in substantial compliance with the concept drawings as to such portion attached hereto as Exhibit D, which certification shall not be unreasonably withheld or delayed. Approval by the Department of Buildings of such preliminary plans shall be contingent upon such certification.

Such preliminary plans shall include, as appropriate, (a) detailed plans showing the facade treatment of each building in such portion, including information as to materials and, for the appropriate portions, showing in particular detail (i) the treatment of the walls bounding Lost Battalion Hall Park including any plans necessary to assure compliance with design requirements for the accessory parking garage covered in Article V of this declaration, and (ii) the bridge to be constructed over 62nd Drive, including the treatment of the facade of the bridge and of the walls beneath the bridge, and (b) a detailed and comprehensive landscape plan for such portion showing the location, sizes and types of planting and outdoor furniture to be provided within the public or publicly-visible areas of the Subject Property as well as trees in the public sidewalks surrounding the Development.

Not later than their submission to the Department of Buildings of working drawings for any portion of the Development, Muss and Tankoos will submit a copy of such drawings to the City Planning Commission for administrative review and certification (without a public hearing)

to Muss and Tankoos and to the Department of Buildings that such working drawings are in substantial compliance with the preliminary plans as to such portion certified as provided above, which certification shall not be unreasonably withheld or delayed. Approval by the Department of Buildings of such working drawings and the issuance of any construction permit (other than permits for excavation or pile driving) based thereon shall be contingent upon such certification. Such working drawings shall include those elements required for the preliminary plans as provided above. Notwithstanding the foregoing, application for foundation permits need only show the foundations and the location thereof.

Each certification required by this article, or a written explanation why a portion of the Development does not merit such certification, shall be delivered to Muss and Tankoos within 30 days after application to the City Planning Commission therefor by Muss and Tankoos. If such certification or written explanation is not so delivered to Muss and Tankoos, then such submission shall be deemed approved and Muss and Tankoos may file an affidavit to that effect with the Department of Buildings and the requirements of this provision shall be deemed waived with respect to the portion of the Development in question.

ARTICLE III

Sign Restrictions

All signs erected or maintained on the Subject Property shall conform to the following restrictions:

- (a) On Parcel 3 and that portion of Parcel 2 north of the Commercial Garage, the sign regulations applicable to residential

districts under the Zoning Resolution shall apply.

(b) The Commercial Garage facades may have signs as follows:

1. east face - signs as permitted in C2 districts under the Zoning Resolution.
2. south and west faces - signs as permitted in C4 districts under the Zoning Resolution.

(c) Advertising signs or business signs, as such terms are defined in the Zoning Resolution, are not permitted on the bridge over 62nd Drive.

ARTICLE IV

Subway Improvements

Muss and Tankoos agree to make the following improvements to the 63rd Drive station on the Queens Boulevard IND subway line in accordance with the drawings attached hereto as Exhibit E. Plans for such improvements will be submitted to the City Planning Commission and to the New York City Transit Authority (the "TA") and are subject to approval by the TA that such plans are in substantial compliance with the plans attached hereto as Exhibit E and with TA standards. Such approval shall not be unreasonably withheld or delayed. If such approval, or reason for disapproval, is not forthcoming within 45 days after submission to the TA, said plans shall be deemed approved. The construction work performed

in connection with such improvements shall be inspected and subject to the acceptance of the TA, which acceptance shall not be unreasonably withheld or delayed. If said acceptance, or reason for denial, is not forthcoming within 45 days after submission to TA of a request therefor, such construction work shall be deemed accepted. Such improvements shall consist of:

- (a) At the subway entrance adjoining the Alexander's department store ("Northwest Entrance"), provide an entry from existing intermediate stair landing (EL 121.3') into the existing basement mezzanine at Alexander's at the same elevation. The minimum standard of lighting and surface treatment for the entry and the improved portion of the mezzanine shall be that of the Gimbels Intermediate Level Entry at the Northwest Entrance at the 86th Street station on the Lexington Avenue Manhattan IRT line in Manhattan.
- (b) Provide access stairs within Alexander's from such basement mezzanine to store basement or, at the option of Declarants, to the floor above. Minimum standard of design shall be that of the Gimbels entry above.

- (c) At the Northwest Entrance, (i) relocate the existing stair which extends from the intermediate stair landing to the sidewalk, so that the top of the banister of the top of the stairs abuts the existing column at sidewalk level; (ii) widen said stair to a clear dimension of seven feet without any banister down the middle; (iii) provide and install at least TA standard sidewalk entrance steel railings around the opening of the widened stair; and (iv) provide and install along all walls adjacent to stairs and down the middle of the intermediate EL 121.3' stair aluminum handrails at least meeting TA standards.
- (d) At the Northwest Entrance, provide and install a fiberglass canopy with structural supports and roof lighting over the stairwell opening onto the sidewalk. Such canopy shall fully cover the opening in the sidewalk, and at all points shall extend not less than three feet beyond the perimeter of such opening. Such canopy shall have a roof drainage-snow melting device, lighting and shall be translucent. Such canopy shall at least meet the standards

of design of the canopy at the
Columbus Circle station in Manhattan.

- (e) At the Northwest Entrance, provide and install (i) one new TA standard token booth, (ii) three two way turnstiles, at least to TA standards, (iii) one low aluminum swing gate in the pay zone entry area at EL 110.4' (Platform Level) at least to TA standards, (iv) one sign clearly visible at the sidewalk entry of the stairs to the Northwest Entrance indicating station name and the hours of operation of the token booth and the need of a token for the iron-maiden in that entry area. Such signage and graphics shall conform at least to TA standards, (v) one panoramic gate at EL 121.3' level (at the foot of the street entry stairs) at least to TA standards.
- (f) At the Northwest Entrance, provide and install five murals, to be supplied by Alexander's, located as follows:
One at the intermediate stair landing;
One in the "free" zone at the platform level; and
Three along the Manhattan-bound platform in the spaces which are now provided for

advertising posters located closest to the Northwest Entrance turnstile. If the murals to be donated by Alexander's are not approved by the New York City Arts Commission, the spaces intended for the murals in the free zone at the platform and intermediate stair landing levels shall be finished in accordance with (g) below.

- (g) At the Northwest Entrance, provide lighting and finishing of the ceiling, floors and walls according to the following specifications:

Lighting:

- (i) Provide and install in the sidewalk entry stairwell area, EL 121.3' level stairwell and platform areas encased strip lighting at the intersection of the ceiling and the walls on both sides in a continuous linear manner. Such lighting shall at least conform to the standards of the 47th-50th Street at Sixth Avenue station in Manhattan.
- (ii) Provide and install in the existing free zone area at EL 110.4' adjacent to the proposed turnstiles, strip

lighting, at least meeting TA standards, in the six existing ceiling coves, such that there are two fixtures per cove.

- (iii) Provide and install strip lighting, at least meeting TA standards, in the six existing ceiling coves in that portion of the Manhattan-bound platform area immediately abutting the Northwest Entrance free zone, such that there is one fixture per cove.

Finishes to be provided throughout the Northwest Entrance and immediately abutting Manhattan-bound platform:

- (i) Walls shall be glazed brick, the minimum standard of design to be that of the mezzanine of the 59th Street and Third Avenue station in Manhattan.
- (ii) Floors and stair treads shall be abrasive quarry tile, the minimum standard of design to be that of above 59th Street station mezzanine.
- (iii) Ceilings shall be cleaned and painted with two coats of paint.

Colors for tiles, bricks and paints will be coordinated and selected by Muss and Tankoos subject to plan approval as provided above.

- (h) In the Northwest Entrance, provide and install a rolled perforated metal gate minimum standard to be that used in the mezzanine pay zone area of the 47th-50th Street at Sixth Avenue station in Manhattan, to be placed across the three token turnstiles and the low aluminum swing gates when such area is unsupervised.
- (i) Provide and install ten TA standard directional board signs throughout the station. Such signage shall facilitate movement throughout the station between the Northwest Entrance and other entrances to the station including those on the south side of Queens Boulevard.
- Minimum information to be on signs shall be: location of nearest sidewalk exit, direction to Alexander's platform entry, and direction to the nearest sidewalk exit on the opposite bound platform.
- Location of Signage:
- One at the Northwest Entrance turnstiles.
- One along the Manhattan-bound platform at a minimum of 100 feet from the Northwest Entrance turnstiles.
- One at the top and one at the bottom of the northwestern most mezzanine stair on the Manhattan-bound platform.

One at the mezzanine level by the existing token booth.

One at the top and one at the bottom of the southwestern most mezzanine stair on the Continental Avenue bound platform.

One along the Continental Avenue bound platform at minimum of 100 feet from the southwest platform iron maiden.

One each at a minimum of 80 feet from the eastern most end of the station along both platforms.

All signage boards' material and graphics are to conform, at least to TA standards.

- (j) Provide two sets of seats, 20 feet between them, on the Manhattan-bound platform located a minimum distance of 20 feet from the center of the Northwest Entrance turnstiles. Such sets of seats to be at least comparable to the fiberglass multicolored sets now installed on the platform of the 63rd Drive station. Each set of seats shall contain six seats, and should be located such that they are clear of the existing wall.
- (k) Clean and paint with two coats existing iron maiden, existing revolving exit gate, and existing platform high steel fence in a color harmonious with the rest of the improved Northwest Entrance.

Muss and Tankoos will complete at least 90% of such improvements prior to and as a condition of the issuance of a certificate of occupancy for the retail portion of the Galleria Office Building. The remaining improvements, if any, shall be completed within six months of the issuance of said certificate of occupancy.

Prior to and as a condition of the issuance of a building permit for the Galleria-Office Building, Muss and Tankoos will deposit with the City either a performance bond, a developer's undertaking acceptable to the City or securities acceptable to the City to guaranty the completion of the above subway improvements in an amount equal to the lesser of (i) \$152,500, less the cost of the token booth and turnstiles, or (ii) the TA's reasonable estimate of the cost of the improvements, less the cost of the token booth and turnstiles.

The foregoing to the contrary notwithstanding, nothing in this article shall require Muss and Tankoos to spend any amount in excess of \$152,500 for construction of the above subway improvements, as adjusted for increases or decreases in the Consumer Price Index for Urban Wage Earners and Clerical Workers as determined for New York and Northern New Jersey by the U.S. Department of Labor - Bureau of Labor Statistics (1967 base data) using the month of the effective date of this declaration as the base month. In the event that the cost of the improvements set forth above exceeds \$152,500, as adjusted, the City Planning Commission shall

promptly upon request administratively determine without a public hearing the priority in which said improvements are to be executed.

In connection with the subway improvements above, Alexander's agrees for itself, its successors and assigns (i) that, upon completion of the same, it will, during store hours, keep the new passageway between its store and the intermediate stair landing at the Northwest Entrance open for public pedestrian traffic, subject only to such modifications as upon application may be approved by the Chairman of the City Planning Commission and (ii) that upon request of Muss and Tankoos or their successors or assigns at the time of the construction of the subway improvements, it will grant to the City, at no cost to the City or to the TA, an air space easement sufficient to enable the construction and maintenance of that portion of the canopy to be constructed pursuant to (d) of this article, for so long as such a canopy, or any replacement thereof, may exist, which, in accordance with the plans contained in Exhibit E hereof, is to be constructed within Alexander's property line.

ARTICLE V

Lost Battalion Hall Park Easement and Related Development

Muss and Tankoos agree to grant to the City, in fully improved condition, a fifty-one foot public access easement to Lost Battalion Hall Park. Such easement shall afford access for pedestrians and for maintenance and emergency vehicles. The location of the easement will be as set forth in Exhibit F.

Muss and Tankoos agree to develop and integrate the easement area into Lost Battalion Hall Park substantially in accordance with the landscape plan attached hereto as Exhibit G.

Muss and Tankoos agree to submit to the City Planning Commission and to the Design Division of PRCA respectively, one complete set of schematic plans, in reproduceable form, for the public access easement to Lost Battalion Hall Park, such plans to be similar in scope and detail to those plans to be submitted to the Department of Buildings pursuant to Article II hereof, for administrative review and certification (without a public hearing) to Muss and Tankoos that such plans are in substantial compliance with the landscape plan attached hereto as Exhibit G. Such plans shall indicate the proposed grades, the signs and types of planting, fencing and outdoor furniture, the revised circulation for vehicles and pedestrians and the materials to be used in the development of the easement area so as to show the integration of the easement with the adjacent park and with the private sitting area to the north. Such plans will be developed in consultation with PRCA and, at the time of submission, such plans shall have been approved by the Department of Highways, the Bureau of Gas and Electricity and any other City agency having jurisdiction thereover. The certification required above, or a written explanation of why the plans do not merit such certification, shall be delivered to Muss and Tankoos within 45 days of submission of the plans to the City Planning Commission and PRCA. If such certification or written

explanation is not so delivered to Muss and Tankoos, then such submission shall be deemed approved and Muss and Tankoos may file an affidavit to that effect with the City Planning Commission and the requirements of this provision shall be deemed waived with respect to such easement.

Muss and Tankoos further agree to provide routine daily maintenance in the easement area, including snow removal from walkways, and to make any necessary repairs to maintain the easement area in good condition until December 31, 1986, and thereafter so long as a bridge is constructed and maintained over 62nd Drive between the Commercial Garage and the Galleria-Office Building. The obligation described in the preceding sentence shall be binding upon Muss and Tankoos, their heirs and any of their assigns who take title to Parcel 3, unless another assignee of a portion of the Subject Property shall agree in a recorded document to assume all or part of such obligation, in which case such assigns of Parcel 3 shall be relieved of such obligation to the extent that it is assumed by such other persons or entities. In the event that the bridge shall be removed or discontinued, the easement area shall remain as a public access easement to Lost Battalion Hall Park in perpetuity but the foregoing responsibility for maintenance and repairs of the easement area shall terminate.

Muss and Tankoos will complete at least 90% of such improvements prior to and as a condition of the issuance of a certificate of occupancy for the Commercial Garage, except that final landscaping of seasonally planted materials may be deferred until the next suitable season if such certificate of occupancy is issued during a season which is unsuited to landscaping. Muss and Tankoos shall post a performance bond or developer's undertaking acceptable to the City to guaranty that the remaining 10% of the improvement of the easement shall be completed within six months of the issuance of said certificate of occupancy. Said easement shall be delivered to PRCA when the easement area has been fully improved according to said plans and the construction work involved therein has been inspected and approved by PRCA, which acceptance shall not be unreasonably withheld or delayed. If said acceptance, or reason for denial is not forthcoming within 45 days after submission to PRCA of a request therefor, such construction work shall be deemed approved.

All construction work within the easement area, including the replacement of dead or diseased vegetation, shall be subject to a one-year guarantee period and Muss and Tankoos agree to post a bond for the satisfaction of this guaranty.

Muss and Tankoos agree that that portion of Parcel 3 lying adjacent to and lying south of a line 49 feet north of the easement shall be used above grade only as a landscaped sitting area for the residents of the buildings on Parcel 3.

Such portion shall contain no permanent structure above finished grade other than benches, lighting fixtures and other improvements appropriate to a sitting area, and shall be landscaped so as to appear visually integral with the easement area. Any permanent fencing separating the easement area from the private sitting area shall be of or be screened by dense planting and shall not exceed four feet in height. Notwithstanding the foregoing, Muss and Tankoos may use such portion north of the easement for storage of construction materials and other construction purposes until application is made for a certificate of occupancy for the residential building adjacent thereto.

Muss and Tankoos agree that the exterior wall of the residential accessory parking garage immediately adjacent to Lost Battalion Hall Park shall not exceed 35 feet in height above the legal curb, such dimension including the parapet atop such wall. Muss and Tankoos agree that recreational facilities located atop such parking garage shall be situated so that the facilities themselves shall not be visible from any point in Lost Battalion Hall Park. Muss and Tankoos further agree that intake or exhaust vents shall not be located along the garage wall which faces Lost Battalion Hall Park, nor shall any protrusions be permitted to extend beyond the park property line.

Muss and Tankoos agree to provide at least a six foot high temporary rough, painted, plywood construction fence on their property, smooth side facing Lost Battalion Hall Park and as

close as possible to the property line of any of their property which adjoins Lost Battalion Hall Park and any related easement that has been turned over to the City (unless such a fence exists at the time they acquire such property) within sixty days after they acquire title to such property or Lost Battalion Hall Park shall be completed and open to the public, whichever is later, and to maintain such fence in good condition and appearance until construction on their adjoining property necessitates its removal.

ARTICLE VI

Lost Battalion Hall Improvements

Muss and Tankoos hereby agree to make the following improvements to Lost Battalion Hall, located at 93-29 Queens Boulevard, Rego Park, New York:

- (a) Partition off with drywall that part of the open portion of the basement in Lost Battalion Hall presently used by senior citizens (excluding portions of the basement used for boxing, weight lifting or other athletic activities, for example, and rooms used for other purposes) ("New Space") adjacent to an existing kitchen and senior citizens' room ("Old Space"),

- (b) Provide and install the following in the New Space: new resilient tile floor or all weather carpeting, new acoustic tile ceiling, new fluorescent lighting fixtures (as needed) and electrical outlets and switches (as required by the Building Code);
- (c) Provide and install central air conditioning for the Old Space and the New Space, including any necessary electrical service, however, said air conditioning shall be located at a location mutually agreeable to Muss and Tankoos and PRCA which shall minimize the cost of installation but not detract from the appearance or operation of the building;
- (d) Provide and install three window air conditioning units, one in each of the three second floor rooms presently being used by senior citizens, including any necessary electrical service;
- (e) Provide and install new three stop elevator, to the left of the main entrance as one enters the building, or at some other mutually agreeable location which shall minimize the cost of installation but not detract from the appearance or operation of the building, complete, including any electrical service;
- (f) Break through the wall in the rear of the building and provide and install an exit door with exit light, panic bar and other necessary hardware, meeting code requirements, to provide exit to an existing ramp provided by others, and provide a wheelchair ramp for the existing three step stair leading from the basement floor to the existing stair landing inside the building at the new exit door;

- (g) Provide and install adaptation for elderly and handicapped in existing toilets located in basement;
- (h) Each of the above areas will be painted, finished or redecorated as appropriate, where disturbance by construction work has occurred;
- (i) Create a new storage area for maintenance equipment over the rear stairway and exit to 62nd Avenue.

Final plans for such improvements will be submitted to the City Planning Commission and to the Design Division of PRCA and are subject to approval by PRCA that such plans provide for the above listed improvements. Such approval shall not be unreasonably withheld or delayed. Such plans shall be developed in consultation with PRCA and, at the time of submission, shall have been approved by the Department of Buildings and any other City agencies having jurisdiction thereover. If approval of such plans, or reason for their disapproval, is not forthcoming within 45 days after submission to PRCA, said plans shall be deemed approved. The construction work performed in connection with such improvements shall be inspected and subject to the acceptance of PRCA that it is in substantial compliance with the approved plans, which acceptance shall not be unreasonably withheld or delayed. If such acceptance, or reason for denial, is not forthcoming within 45 days after submission to PRCA of a request therefor, such construction work shall be deemed accepted. Furthermore, in the event that the Department of Buildings is prepared to certify, for the

purpose of issuing a certificate of occupancy, that the construction work performed in connection with such improvements is in substantial compliance with the plans for such work, such certification shall be evidence that such work was satisfactorily performed.

Muss and Tankoos will complete at least 90% of such improvements prior to and as a condition of the issuance of a certificate of occupancy for the first residential building to be constructed or for the retail portion of the Galleria-Office Building, whichever is earlier. The remaining improvements, if any, shall be completed within six months of the issuance of said certificate of occupancy.

Prior to and as a condition of the issuance of a building permit for the Lost Battalion Hall Park improvements, Muss and Tankoos will deposit with the City either a performance bond, a developer's undertaking acceptable to the City or securities acceptable to the City to guaranty the completion of the Lost Battalion Hall Park improvements in an amount equal to PRCA's reasonable estimate of the cost of constructing such improvements.

ARTICLE VII

Street Improvements

Muss and Tankoos hereby agree to construct the street improvements required by the New York City Department of Traffic pursuant to the street mapping agreement to be entered into in

connection with Street Alteration Map No. 4680 (CP 23054), which improvements are indicated on New York City Department of Traffic Drawing No. CD-207, dated May 9, 1975 ("CD-207"), consisting of two sheets. Muss and Tankoos will complete at least 90% of such improvements prior to and as a condition of the issuance of a certificate of occupancy for the Galleria-Office Building or the last of the residential buildings, whichever is later. Muss and Tankoos shall post a performance bond or a developer's undertaking acceptable to the City to guaranty that the remaining 10% of the improvements shall be completed within six months of the issuance of said certificate of occupancy.

On or prior to a date 30 days after the commencement of construction on the first major building of the Development Muss and Tankoos will clear, temporarily pave and make available for public traffic the full roadway of Junction Boulevard adjacent to and opposite Parcel 2 in accordance with CD-207, reserving, however, the right to obstruct any portion or all of such widening as may be necessary in connection with construction of the commercial garage, without imposition of any fees or charges therefor.

Muss and Tankoos will complete at least 90% of the construction of the "U" turn and sidewalk improvements to be constructed on Junction Boulevard under the Long Island Expressway, the full widening and temporary roadway paving of the portion of the Long Island Expressway-South Service Road ("South Service Road") adjacent to the Development and east of Junction Boulevard, together with the improvements to the southwest corner of the Junction Boulevard - South Service Road intersection, in accordance with CD-207,

and the permanent paving of streets abutting the first major building of the development prior to and as a condition of the issuance of a certificate of occupancy for such building. Muss and Tankoos shall post a performance bond or developer's undertaking acceptable to the City to guaranty that the remaining 10% of such improvements shall be completed within six months of the issuance of said certificate of occupancy.

ARTICLE VIII

Commercial Floor Area

Commercial floor area, as such term is defined in the Zoning Resolution, on Parcel 2 shall not exceed 429,000 square feet, including a commercial garage not exceeding 406,000 square feet and other commercial space not exceeding 23,000 square feet. No commercial floor area shall be permitted on Parcel 3. Muss and Tankoos agree not to receive a final certificate of occupancy for the office tower to be erected on Parcel 1B until after five years from the effective date of this declaration.

ARTICLE IX

Parking Space

Commercial parking on Parcel 2 shall be limited to 2,500 vehicles. Accessory residential parking on Parcel 2 shall be limited to 930 vehicles. Accessory residential parking on Parcel 3 shall be limited to 470 vehicles. No parking shall be permitted on Parcel 1B.

ARTICLE X

Lapse of Right to Construct

Muss and Tankoos agree that construction of the Development shall proceed in a phased process culminating in completion of substantial construction on all portions of the development not later than 10 years after the effective date of this declaration, except as provided below.

Muss and Tankoos agree that the right to construct the portions of the Development set out below shall lapse in accordance with the provisions below. The time periods set out below shall commence with the effective date of this declaration or, if judicial proceedings to review the Rezoning or the Special Permits shall have been instituted, then with the date of entry of the final order in such proceedings, including all appeals (the "Commencement Date"). In addition, the time periods below shall be suspended and tolled up to one year for such time as may be necessary to obtain an indirect source permit and any other environmental approvals from applicable agencies as may be required by law.

(a) The right to construct the commercial garage shall lapse two years after the Commencement Date unless substantial construction of one of the following shall have been completed prior to such date:

1. the Commercial Garage, or
2. of each of the following: the improvement to the park easement pursuant to Article V hereof; the "U" turn, the full widening and temporary

paving of Junction Boulevard and the full widening and temporary roadway paving of the portion of the South Service Road adjacent to the Development and east of Junction Boulevard, together with the improvements to the southwest corner of the Junction Boulevard - South Service Road intersection in accordance with CD-207, or

3. one residential building and the improvements to Lost Battalion Hall pursuant to Article VI hereof; the park easement, pursuant to Article V hereof; the "U" turn and the full widening and temporary paving of Junction Boulevard and the full widening and temporary roadway paving of the portion of the South Service Road east of Junction Boulevard, together with the improvements to the southwest corner of the Junction Boulevard - South Service Road intersection in accordance with CD-207.

- (b) The right to construct the Commercial Garage shall lapse three years after the Commencement Date unless substantial construction of the garage shall have been completed within such three year period or unless, within two years of the Commencement Date, Muss and Tankoos shall have fulfilled the requirements of (a)-3, above.

- (c) The right to construct the residential buildings shall lapse four years after the Commencement Date unless one of the following shall have been completed within such four year period:
1. substantial construction on one residential building, or
 2. the improvements to the 63rd Drive subway station pursuant to Article IV hereof.
- (e) The right to construct the Commercial Garage shall lapse five years after the Commencement Date unless substantial construction of the Commercial Garage shall have been completed within such five year period.
- (f) The right to construct the Galleria-Office Building shall lapse five years after the Commencement Date unless substantial construction of the Galleria-Office Building shall have been completed within such five year period.
- (g) The right to construct the residential buildings shall lapse five years after the Commencement Date unless substantial construction of one residential building shall have been completed within such five year period.
- (h) The right to construct the residential buildings shall lapse ten years after

the Commencement Date unless substantial construction of all the residential buildings shall have been completed within such ten year period.

For the purpose of this Article, substantial construction of a portion of the Development shall be deemed to mean at least one-half of the piling required to support the foundations for such portion of the Development where pilings are required.

For the purpose of this article, the improvements set forth above shall be deemed complete if, within the time periods set forth above, Muss and Tankoos shall have completed at least 90% of such improvements and shall have posted a performance bond or developer's undertaking acceptable to the City to guaranty that the remaining 10% of the improvements shall be completed within six months of the expiration of such time periods.

The time periods set above shall be suspended and tolled during any period of delay caused by "force majeure," as hereinafter defined. For purposes of this section, "force majeure" shall include without limitation, acts of God, war, insurrection, riot, earth movement, flooding, labor disputes, fire and other casualties. The City Planning Commission may, upon application, extend any period set out in the above article in the manner provided in Rule F-601 of the Rules of Procedure of the City Planning Commission or its successor in function.

ARTICLE XI

Effective Date and Enforcement

This declaration shall become effective when the City Planning Commission and the Board of Estimate, acting pursuant to the New York City Charter and the Zoning Resolution, shall have duly approved the Rezoning and the Special Permits, CP-23051 and CP-23053.

The Declarants recognize that the City is an interested party in this declaration and consent to the City's enforcing the covenants, conditions, restrictions and agreements herein contained by whatever means may be appropriate to the situation.

This declaration, and the covenants, restrictions and requirements herein contained, are intended to run with the land and shall be so construed.

ARTICLE XII

Amendment and Cancellation

This declaration may be amended, modified or cancelled only upon application by the Declarants or their heirs, successors and assigns and with the approval of the City Planning Commission and the Board of Estimate or the agencies succeeding to their jurisdiction, and no other approval or consent shall be required from any public body, private person or legal entity of any kind.

In connection with development in accordance with (a) of Article I hereof, modifications of the plan submitted by Muss and Tankoos in connection with their application for the Rezoning and the Special Permits which are treated by the City Planning Commission as minor modifications of such plans for the purposes of conformity to the conditions of such permits shall not be deemed to be amendments or modifications of this declaration for the purposes of this article, provided however that the applicant shall record the revised plans and accompanying letter in the manner provided in Article XIII hereof.

ARTICLE XIII

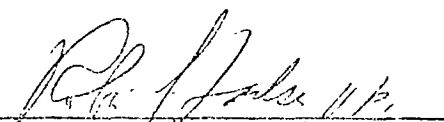
Recordation


Muss and Tankoos covenant that, when the City Planning Commission and the Board of Estimate have approved the Rezoning and the Special Permits, CP-23051 and CP-23053, they shall immediately file and record this declaration in the Office of the Register of the City of New York, County of Queens, indexing it against the Subject Property. Muss and Tankoos further covenant to provide the City Planning Commission with a copy of this declaration as recorded, certified by the Register of The City of New York, County of Queens. The City of New York shall also have the right to record this declaration. However, all costs of recordation and certification, whether undertaken by Muss and Tankoos or by

the City, shall be borne by Muss and Tankoos.

IN WITNESS WHEREOF, the Declarants have executed this
declaration this 10th day of December, 1975.

ALEXANDER'S, INC.

By: 
Robin L. Farkas


DAVID MUSS


S. JOSEPH TANKOOS, JR.

Exhibit List

- 1) Exhibit "A" General site plan of the Subject Property.
- 2) Exhibit "B" Legal descriptions of Parcel 1A, Parcel 1B, Parcel 2, and Parcel 3 (Parcel 1A is the Alexander's site, Parcel 1B is the Galleria site).
- 3) Exhibit "C" Drawing showing 30' from the rear wall of the residential structure which is to be built north and east of Lost Battalion Hall Park.
- 4) Exhibit "D" Plans submitted with special permit application.
- 5) Exhibit "E" Plan of subway improvements.
- 6) Exhibit "F" Legal description for the Lost Battalion Hall Park Easement.
- 7) Exhibit "G" Landscape plan for Lost Battalion Hall Park Easement area.

STATE OF NEW YORK)
 : SS.:
COUNTY OF NEW YORK)

On this 12th day of December, 1975, before me came David Muss and S. Joseph Tankoos, Jr. to me known to be the individuals described in, and who executed, the foregoing instrument, and acknowledged that they executed the same.

Robert A. Kandel
Notary Public

ROBERT A. KANDEL
Notary Public, State of New York
No. 31-4521595
Qualified in New York County,
Term Expires March 30, 1976

STATE OF NEW YORK)
 : SS.:
COUNTY OF NEW YORK)

On this 10th day of December, 1975 before me personally came Robin L. Farkas to me known, who being by me duly sworn, did depose and say that he resides at No. 730 Park Avenue, N.Y., N.Y. ; that he is the a Senior Vice President of Alexander's, Inc., the corporation described in, and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation and that he signed his name thereto by like order.

Edward J. Madden

Notary Public

EDWARD J. MADDEN
NOTARY PUBLIC, State of New York
No. 81-7703370
Qualified in New York State
Commission Expires March 22, 1976

Exhibits "D" and "G" have been removed for the purpose of reproduction. These exhibits are available in the files of the City Planning Commission.

LONG AND EXPREL WAY

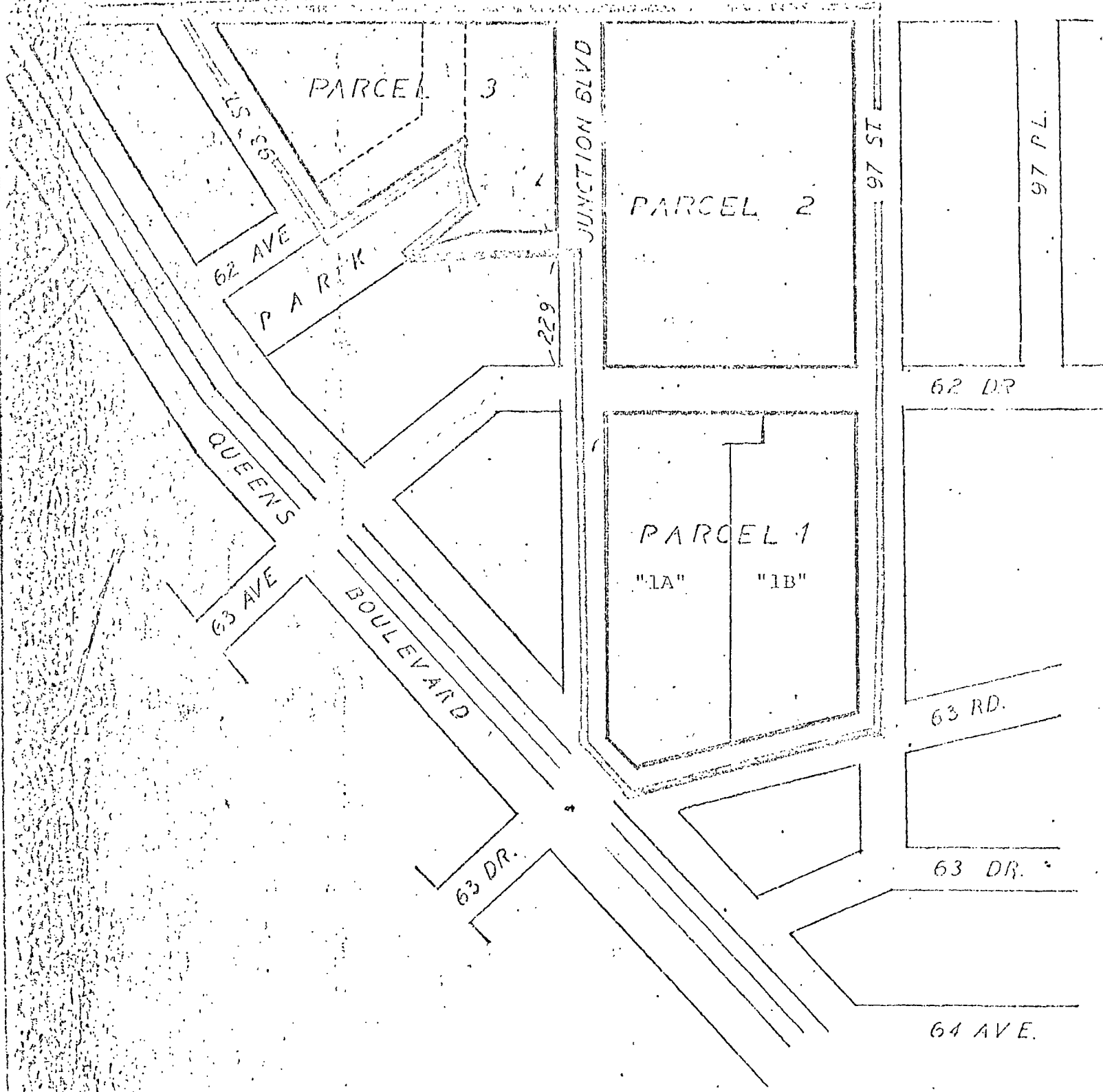


DIAGRAM SHOWING BOUNDARY OF DEVELOPMENT

EXHIBIT "A"

COMPOSITE
DESCRIPTION
OF PARCELS 1A AND 1B

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

BEGINNING at the corner formed by the intersection of the easterly side of Junction Boulevard (80 feet wide) and the southerly side of 62nd Drive, (80 feet wide), formerly Urquhart Street, as said Boulevard and Drive are shown on the Topographical Map of the City of New York for the Borough of Queens; running thence easterly along the southerly side of 62nd Drive, 456.35 feet to the corner formed by the intersection of said 62nd Drive and the westerly side of 97th Street; thence southerly along the westerly side of 97th Street, 529.99 feet to the northwesterly side of 63rd Road (80 feet wide) as said 63rd Road is shown on the Topographical Map of the City of New York for the Borough of Queens; thence southwesterly along the northwesterly side of 63rd Road, 436.23 feet to the corner formed by the intersection of the said northwesterly side of 63rd Road and the northeasterly side of Queens Boulevard (200 feet wide) as shown on the Final Topographical Map of the City of New York; thence northwesterly along the northeasterly side of Queens Boulevard, 85 feet to the corner formed by the intersection of the said northeasterly side of Queens Boulevard and the easterly side of said Junction Boulevard; thence northerly along the easterly side of Junction Boulevard, 549.82 feet to the corner at the point or place of BEGINNING.

"EXHIBIT B"

DESCRIPTION

PARCEL 1A

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

BEGINNING at the corner formed by the intersection of the easterly side of Junction Boulevard (80 feet wide) and the southerly side of 62nd Drive, (80 feet wide), formerly Urquhart Street, as said Boulevard and Drive are shown on the Topographical Map of the City of New York for the Borough of Queens; running thence easterly along the southerly side of 62nd Drive, 203.18 feet to the corner formed by the intersection of said 62nd Drive and the westerly side of 96th Street, (50 feet wide) as said 96th Street was shown on the Topographical Map of the City of New York for the Borough of Queens, prior to the adoption on December 20, 1951 of Alteration Map No. 3530; thence southerly along the westerly side of said 96th Street, 552.66 feet to the northwesterly side of 63rd Road (80 feet wide) as said 63rd Road is shown on the Topographical Map of the City of New York for the Borough of Queens; thence southwesterly along the northwesterly side of said 63rd Road, 147.63 feet to the corner formed by the intersection of the said northwesterly side of 63rd Road and the northeasterly side of Queens Boulevard (200 feet wide) as shown on the Final Topographical Map of the City of New York; thence northwesterly along the northeasterly side of Queens Boulevard, 86 feet to the corner formed by the intersection of the said northeasterly side of Queens Boulevard and the easterly side of said Junction Boulevard; thence northerly along the easterly side of Junction Boulevard, 549.82 feet to the corner at the point or place of BEGINNING.

DESCRIPTION

PARCEL 1B

ALL that certain plot, piece or parcel of land, situate, lying and being in the Borough and County of Queens, City and State of New York, bounded and described as follows:- All of the Streets referred to being as the same were shown and laid out on the Final Topographical Map of the City of New York for the Borough of Queens, prior to the adoption of Alteration Map No. 3530 on December 20, 1951:-

BEGINNING at the corner formed by the intersection of the southerly side of 62nd Drive with the westerly side of 97th Street; running thence southerly along the westerly side of 97th Street, 529.99 feet to the corner formed by the intersection of the northerly side of 63rd Road with the westerly side of 97th Street; running thence westerly along the northerly side of 63rd Road, 258.59 feet; thence northerly along a line forming an interior angle of 78 degrees 14 minutes 50.9 seconds with the said side of 63rd Road, 582.66 feet to the southerly side of 62nd Drive and thence easterly along the southerly side of 62nd Drive, 253.17 feet to the corner at the point or place of BEGINNING.

DESCRIPTION

PARCEL 2

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

BEGINNING at the corner formed by the intersection of the southerly side of Horace Harding Expressway, formerly Horace Harding Boulevard and Nassau Boulevard, 260 feet wide, and the easterly side of Junction Boulevard, 80 feet wide, as said Horace Harding Expressway and Junction Boulevard are now laid out on the Final Topographical Map of the City of New York and running thence easterly along the southerly side of Horace Harding Expressway, 456.35 feet to the westerly side of 97th Street, 60 feet wide, as shown on the Final Topographical Map of the City of New York, prior to the adoption of the Alteration Map No. 3530 on December 20th, 1951; thence southerly along the said westerly side of 97th Street, 630 feet to the northerly side of 62nd Drive, 80 feet wide, as shown on the Final Topographical Map of the City of New York; thence westerly along the northerly side of 62nd Drive, 456.35 feet to the easterly side of Junction Boulevard; thence northorly along the easterly side of Junction Boulevard, 630 feet to the point or place of BEGINNING.

DESCRIPTION

PARCEL 3

ALL that certain plot, place or parcel of land, situate, lying and being in the Borough and County of Queens, City and State of New York, bounded and described as follows:-

BEGINNING at the corner formed by the intersection of the southerly side of Horace Harding Expressway as widened and vested in The City of New York with the westerly side of Junction Boulevard as now laid out on the Final Topographical Map of the City of New York (80 feet wide); running thence southerly along the westerly side of Junction Boulevard, 379.04 feet to the corner formed by the intersection of the westerly side of Junction Boulevard with the northerly side of 62nd Road as now laid out on said Final Topographical Map with the westerly side of Junction Boulevard; thence westerly along the northerly side of 62nd Road, 205.04 feet to an angle in said Road; thence southwesterly along the northerly or northwesterly side of 62nd Road, 36.52 feet to land now of The City of New York; thence northeasterly along land now of The City of New York and along a line forming an interior angle of 9 degrees 40 minutes 26 seconds with the said side of 62nd Road, 185.10 feet; thence northerly along a line forming an exterior angle of 132 degrees 22 minutes 48 seconds with the last mentioned course, 34.19 feet; thence still northerly along a line forming an exterior angle of 174 degrees 04 minutes 33 seconds with the last mentioned course, 29.32 feet; thence still northerly along a line forming an exterior angle of 191 degrees 15 minutes 20 seconds with the last mentioned course, 71.49 feet; thence southwesterly along a line forming an exterior angle of 53 degrees 29 minutes 07 seconds with the last mentioned course, 113.37 feet to the easterly side of 9th Place as legally opened (50 feet wide); thence northerly along the easterly side of 9th Place, 184.77 feet to the corner formed by the intersection of the easterly side of 9th Place with the southerly side of Horace Harding Expressway and thence easterly along the southerly side of Horace Harding Expressway, 200.46 feet to the corner at the point or place of BEGINNING.

Excepting from the above described premises all those two lots known and designated on the Tax Assessment Map of The City of New York for the Borough of Queens as and by Section 12-Block 2077-lots 80 and 181.

AS SAID MAP WAS OR RECEIVED 18, 1964.

DESCRIPTION

PARCEL 3 (continued)

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

BEGINNING at the corner formed by the intersection of the southerly side of Horace Harding Expressway, as widened and vested in The City of New York with the westerly side of 94th Place as legally opened (50 feet wide); running thence southerly along the westerly side of 94th Place, 152.54 feet to the corner formed by the intersection of the westerly side of 94th Place with the northwesterly side of 62nd Avenue as legally opened (50 feet wide); thence southwestwardly along the northwesterly side of 62nd Avenue, 241.92 feet to the corner formed by the intersection of the northwesterly side of 62nd Avenue with the northeasterly side of 93rd Street as legally opened (50 feet wide); thence northwesterly along the northeasterly side of 93rd Street, 264.10 feet; thence northeasterly along a line forming an interior angle of 85 degrees 38 minutes 58 seconds with the said side of 93rd Street, 97.84 feet to the southerly side of Horace Harding Expressway and thence easterly along the southerly side of Horace Harding Expressway, 248.85 feet to the corner at the point or place of BEGINNING.

Together with those portions of the beds of 94th Place and 62nd Avenue that are to be demapped as a part of the street mapping agreement to accompany street map number 4680 which is currently before the Board of Estimate of The City of New York.

Indicates area within park
 to be permanently owned and
 maintained by building
 to meet requirements for
 building of Forest Building
 College Development

JUNCTION BUILDING

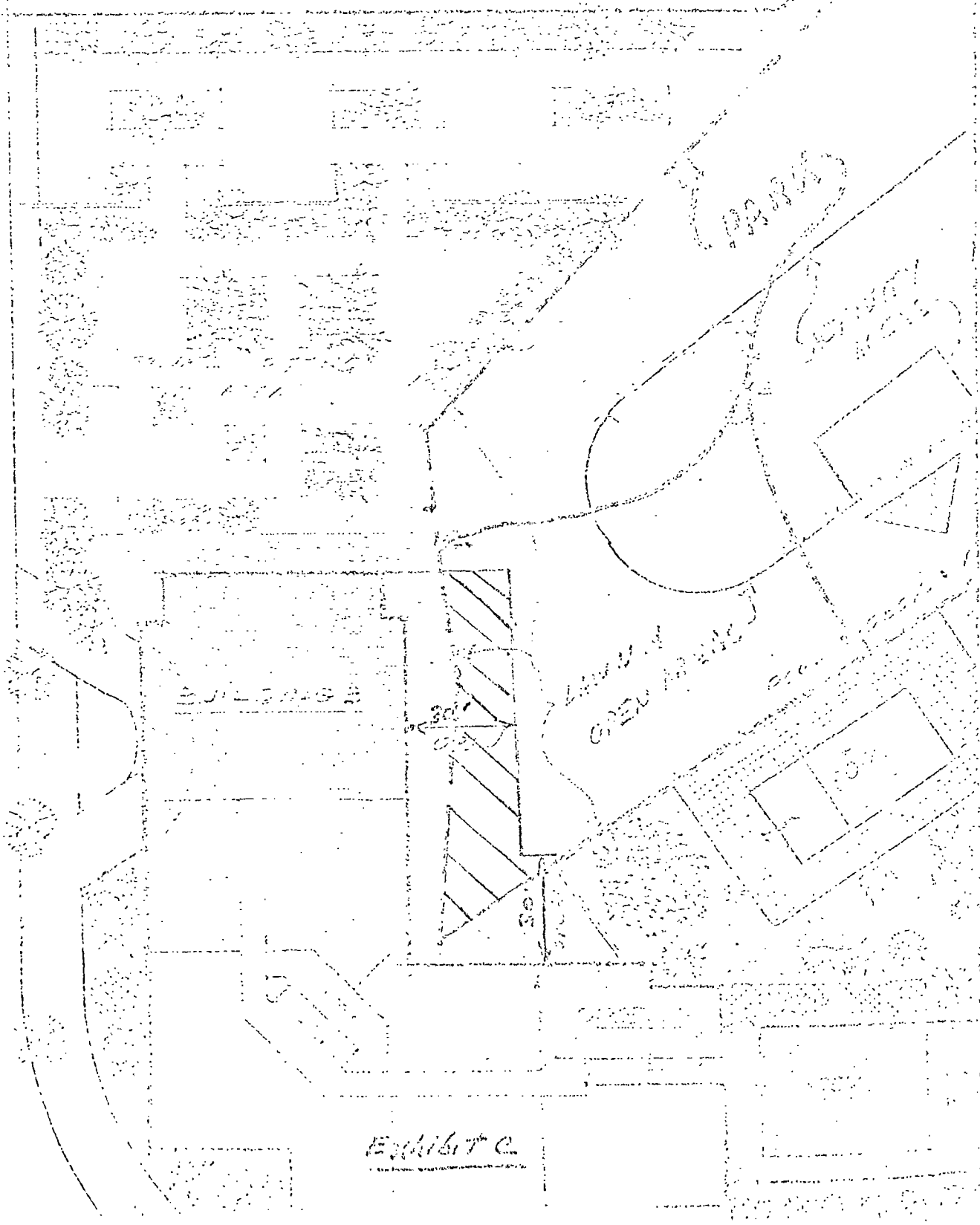
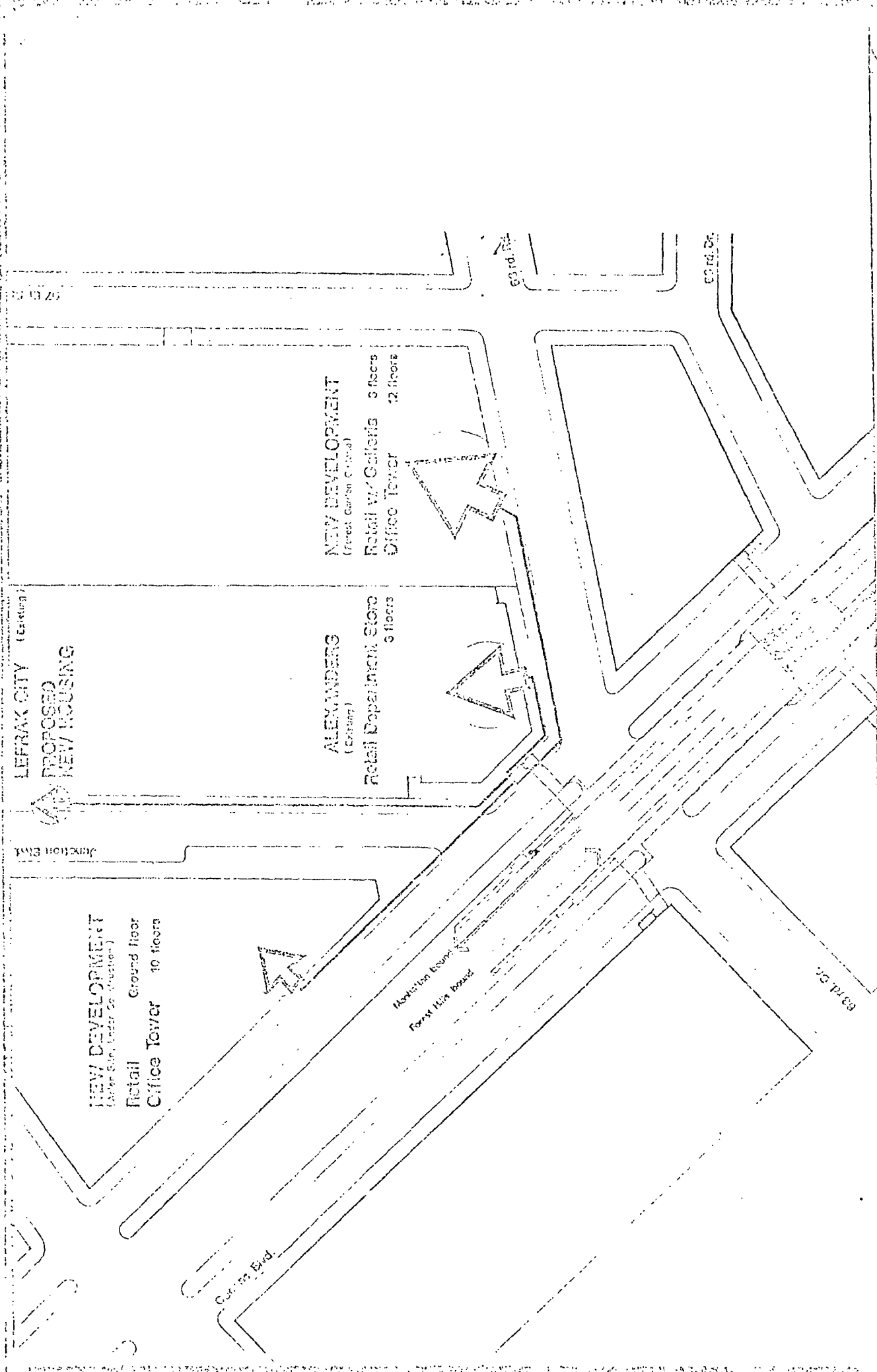
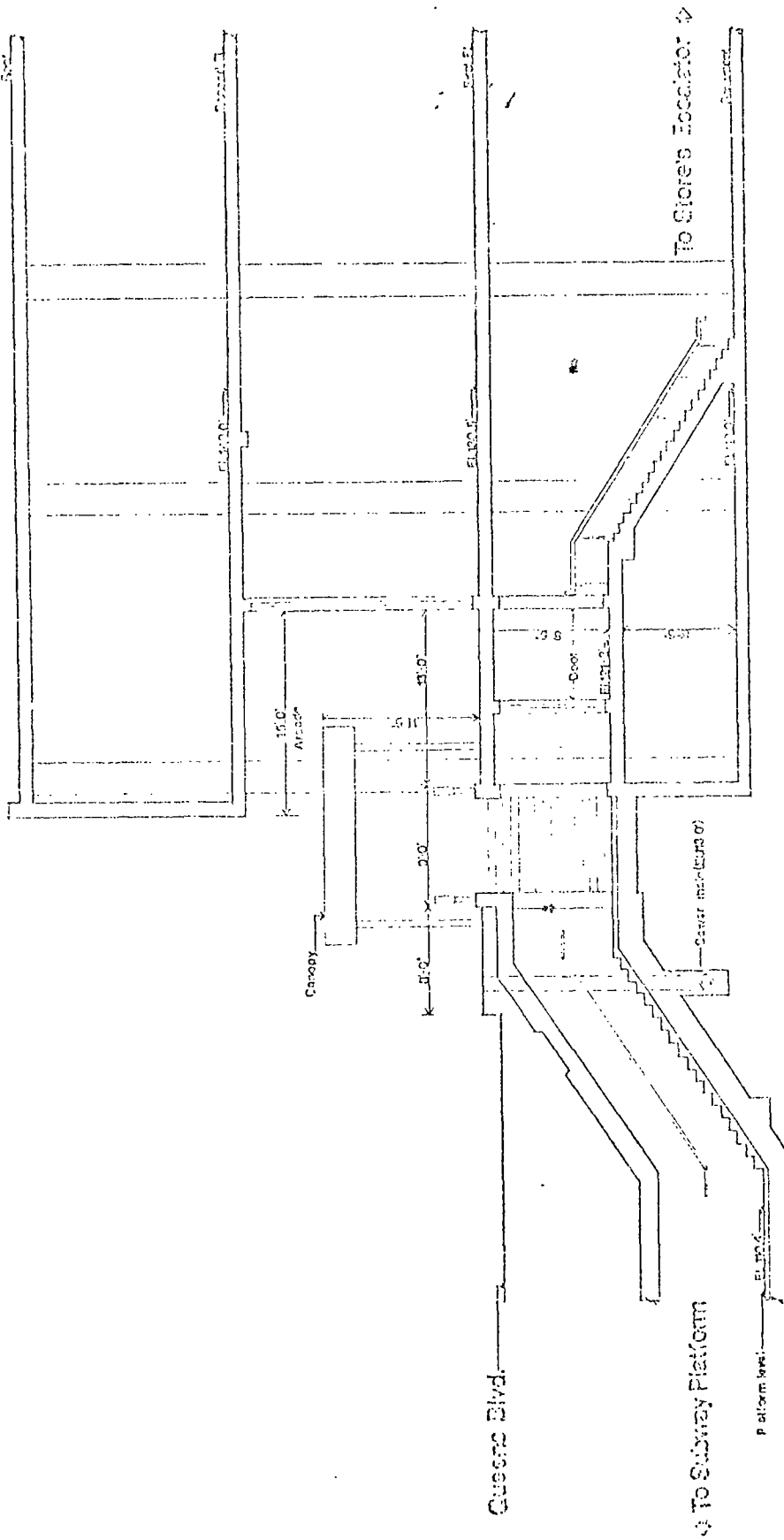


Exhibit C



<p>Scale: 1" = 20'</p>	<p>1961 102</p>
<p>City Planning Commission 220 West Erie St. Chicago, Ill. 60601</p>	
<p>City Planning Commission 220 West Erie St. Chicago, Ill. 60601</p>	<p>ENHIDIT "E"</p>



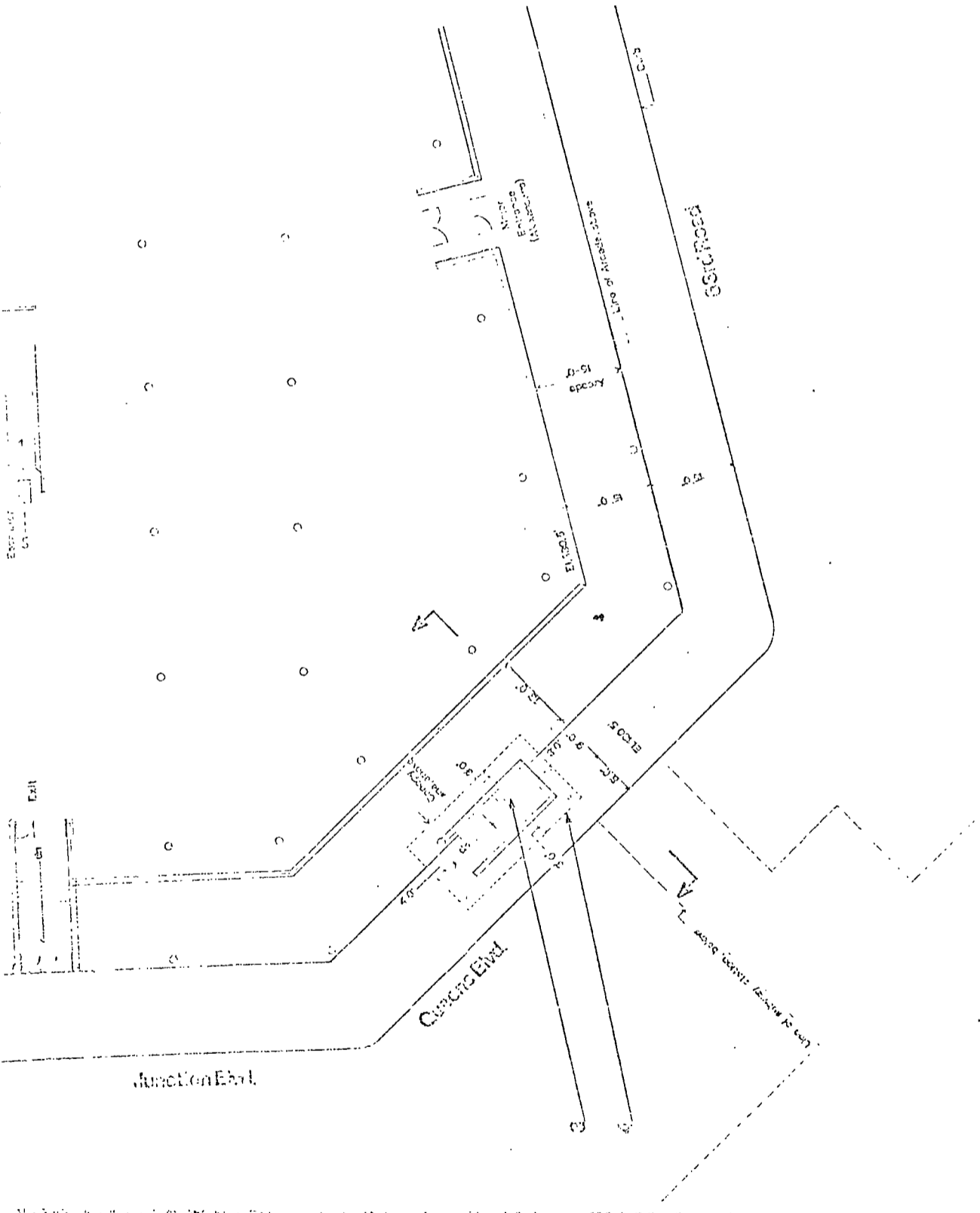
City Planning Commission
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Grand Transportation Improvement Project of
 Boston MA (Proposed)

Proposed Improvements

→ 66th St

1. Ticket Entry
2. Stairs w/ Turn
3. Platform
4. Conveyer for Street Stairs
5. Ticket Booth and Turnstile
6. Murals
7. Lighting, Floor, Wall and Ceiling Finishes
8. Round Reinforced Metal Gate
9. Direction Signs
10. Platform Seats
11. Printing of High Resolution Signs and Maps



City Planning Commission
 Date: _____
 City Planning Commission
 Date: _____

66th Street Station Improvement Project
 66th Street Station (Platform)

SECTION BVD.

SECTION BVD.

Investments

Garfield

Lot 10 (part of existing)

Garfield

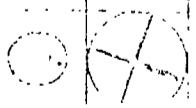
car

Garfield Improvement Project Grading Plan (Preliminary)

Scale 0 2 5 10'

Date Oct 75

City Planning Commission



M E M O R A N D U M

TO: W. Donohoe
R. Ramati

DATE: November 24, 1975

FROM: Rolando Laveira

RE: 63rd Drive Station
Improvement: Phase I.
Cost Estimates *(Based on 11/75
T.A.'s Current Contractor Bid
Sheets)
*These estimates do not reflect
consultant or additional design fee

cc: Norman Marcus
Irwin Frachtman

<u>ITEM</u>	<u>UNIT PURCHASE AND INSTALLATION COST</u>	<u>TOTAL COST</u>
Lighting	Cost \$ 15 per sq. ft.	
	i) Street stair Entry Area- 142 sq.ft.	
	ii) El. 121.3' Land'g Area- 161 sq.ft.	
	iii) Intermediate Stair Area- 192 sq.ft.	
	iv) El. 110.4' Free Zone Area- 719 sq.ft.	
	v) Immediate Plat. Pay Zone Area- 354 sq.ft.	
	vi) El. 121.3' Alex: Entry + Stair Area - 430 sq.ft.	
	vii) Canopy Roof Area - 318 sq.ft.	
	Total Lighted Area	-2,316 sq.ft. \$ 34,740
Wall Finishes	Glazed Brick \$6.50 per sq.ft.	
	i) Street Stair Entry Area - 172 sq.ft.	
	ii) El. 121.3' Land'g. Area - 256 sq.ft.	
	iii) Intermediate Stair Area - 198 sq.ft.	
	iv) El. 110.4' Free Zone Area - 701 sq.ft.	
	v) Immediate Plat. Pay Zone Area- 100 sq.ft.	
	vi) El. 121.3' Alex's Entry Area- 270 sq.ft.	
	Total Wall Finished Area	-1,697 sq.ft. \$ 11,031
Seating	Fiberglass set of 6 seats- \$100 ca. - 2 sets' -	\$ 200
Token Booth	T.A. Standard w. Air conditioning- \$40,000 ca. -	\$ 40,000
Street Stair Gate	Panoramic Gate at El. 121.3' Landing- \$12 per sq.ft.-63 sq.ft. -	\$ 756

<u>ITEM</u>	<u>UNIT PURCHASE AND INSTALLATION COST</u>	<u>TOTAL COST</u>
Floor Finishes	Abrasive Quarry Tile \$6 per sq. ft.	
	i) Street stair Entry Landing Area - 28 sq. ft.	
	ii) El. 121.3' Landing Area - 179 sq. ft.	
	iii) El. 110.4' Free Zone Area - 719 sq. ft.	
	iv) Immediate Plat. Pay Zone Area- 354 sq. ft.	
	v) El. 121.3' Alex's Entry Area- 224 sq. ft.	
	<hr/>	
	Total Floor Finished Area - 1,504 sq. ft.	\$ 9,024
Exit Gate	Low Aluminum Gate- \$500 ea. 1 gate	500
Roll Mesh Gate	Stainless Steel Mesh-\$15 per sq. ft. Area 128 sq. ft.	1,920
Conductor Boards	Aluminum Conductor Board-\$40 per lin. ft. 1 Board is avg. 4 lin ft.- 11 boards 44 lin. ft. & Station Sign: Total 50 lin. ft.	2,000
Stair Finishes	Abrasive Quarry Tile Treads \$6 per sq. ft.	
	i) Street Entry Stairs- 96 sq. ft.	
	ii) Intermediate Stairs- 192 sq. ft.	
	<hr/>	
	Total Subway Area Stair Finish-288 sq. ft.	1,728
	iii) Non Slip Tile Finish Treads-\$10 per lin. ft. El. 121.3' Alex's Entry stairs- 240 lin. ft.	2,400
Handrails	Aluminum Handrails \$25 per lin. ft	
	i) Street Entry Stair Area- 30 lin. ft.	
	ii) Intermediate Stair Area- 51 lin. ft.	
	iii) El. 121.3' Alex's Entry Stair Area - 54 lin. ft.	
	<hr/>	
	Total Am't. of Handrail 135 lin. ft.	\$ 3,375
Street Entrance Railing	Steel Rail \$50 lin. ft. Sidewalk Entry Area - 71 lin. ft.	\$ 3,550
Canopy	Fiberglass Materials w. metal struct. (sup-ports) \$65 per sq. ft. (includes weather proofed struts, rain drained, snow melting, translucent roof)- 318 sq. ft.	\$ 20,670

<u>ITEM</u>	<u>UNIT PURCHASE AND INSTALLATION COST</u>	<u>TOTAL COST</u>
Turnstiles	Two-way turnstile- \$1,400 ea. 3	\$ 4,200
Painting	Avg. Cost for cleaning and two coats- \$.75 per sq. ft. i) Street stair Entry Ceiling- 96 sq. ft. ii) El. 121.3' Land'g Ceiling- 179 sq. ft. iii) Intermediate Stair Ceiling- 192 sq. ft. iv) El. 110.4' Free Zone Ceiling- 719 sq. ft. v) Immediate Plat. Pay Zone Ceiling 354 sq. ft. vi) El. 121.3' Alex's Entry Ceiling- 169 sq. ft. vii) Existing High Gates & Fence - 194 sq. ft.	
	Total Painted Area - 1,903 sq. ft.	\$ 1,427
Installation of Widened Stair	Structural Work	\$ 10,700
Installation of El. 121.3' Alex Entry	8 Glass doors- \$800 per door- \$6,400	\$ 6,400
Installation of El. 121.3' Entry Stair	Structural Work	\$ 10,000
Installation of Murals		
Removal of Existing Panel to Alex's at El. 121.3' Level	Knock out panel \$20 per lin. ft. Total amount of linear feet of panel 24 lin. ft.	\$ 480
Removal of Existing street Stairs	Removal cost of \$20 per lin. ft. Total Amount of stairs 75 lin. ft.	\$ 1,500
Removal of Existing wall for Stair Widening	Cost \$150 cub. yd. Total am't of wall- 4 cub. yds.	\$ 600
Removal of Exist- ing Street Entrance Railing	Cost \$20 per lin. ft. Total amount of railing- 40 lin. ft.	\$ 800

<u>ITEM</u>	<u>UNIT PURCHASE AND INSTALLATION COST</u>	<u>TOTAL COST</u>
Removal of Existing Platform Fence & Gate	Cost \$20 per lin. ft. Total amount of fence- 16 lin. ft. El. 121.3' landing gate- 5 lin.ft.	\$ 320 \$ 100
Removal of Existing lighting	Cost \$6 per sq. ft. i) Street stair gate area- 89 sq. ft. ii) El. 121.3' landing Area-161 sq. ft. iii) Intermediate stair area-192 sq. ft. iv) El. 110.4' Free Zone Area-719 sq.ft. v) Immediate Plat.Pay Zone Area- -354 sq.ft.	
Total Lighted Area Removal-1,515 sq.ft.		\$ 9,090
Grand Total		\$177,511
Grand Total + 10% Contingency		\$195,262

Park Access Easement

Beginning at the point of intersection of the northerly line of Park with the westerly line of Street easement, said point being located the following courses and dimensions from the corner formed by the intersection of the westerly line of Junction Boulevard with the southerly line of Horace Harding Expressway, as said streets and easements are laid out on the Final Map of the Borough of Queens known as Map No. 4680, adopted by the Board of Estimate:

A - southerly along the westerly line of Junction Boulevard, for 379.04 feet to the northerly line of Park,

B - thence westerly along the northerly line of Park, perpendicular to the westerly line of Junction Boulevard, for 5.00 feet to the westerly line of Street easement; the point or place of beginning:

- No. 1 running thence westerly along the northerly line of Park, for 200.04 feet to the northwesterly line of Park,
- No. 2 thence southwestwardly along the northwesterly line of Park, forming an interior angle of 215 degrees 14 minutes 05.1 seconds with the last mentioned course, for 36.52 feet to the easterly line of Park,
- No. 3 thence northerly along the easterly line of Park, forming an interior angle of 9 degrees, 40 minutes, 26 seconds with the last mentioned course, for 102.08 feet to the northerly line of Park Access Easement,
- No. 4 thence easterly along the northerly line of Park Access Easement forming an interior angle of 23 degrees, 01 minutes, 36.9 seconds with the last mentioned course, for 156.90 feet to the westerly line of Street easement,
- No. 5 thence southerly along the westerly line of Street Easement, forming an interior angle of 90 degrees, 45 minutes, 20.7 seconds with the last mentioned course, for 51.00 feet to the northerly line of Park, the point or place of beginning.

"EXHIBIT F"

Amendments of the Zoning Resolution pursuant to Section 200 of the New York City Charter relating to new Section 74-93 concerning special permits in special commercial-residential developments in certain commercial districts within the boundaries of Community Planning Board No. 6, Borough of Queens.

This amendment of the Zoning Resolution, together with related actions by the Commission, will permit the construction of a combined commercial and residential development known as "The Galleria and Forest Gardens," consisting of a three-level Galleria containing approximately 340,000 square feet of retail space, a seven-level commercial garage with space for 2,500 cars, and four residential towers of varying height containing a total of 1,400 apartments and garage space for 1,400 cars, as described more fully in the report on the related City Map modification (CP-23054).

In addition to the amendment of the Zoning Resolution which is the subject of this report (CP-23052), implementation of the proposed development also requires favorable action by the City Planning Commission and the Board of Estimate on the following three matters:

1. An amendment of the Zoning Map, (CP-23051), Section No. 14a, changing from R7-1 and C2-2 Districts to a C6-2 District property bounded by the Long Island Expressway, 97th Street, 62nd Drive, Junction Boulevard, a line at right angles to Junction Boulevard distant 229 feet northerly from 62nd Drive, the southerly, easterly, and northerly boundaries of Lost Battalion Hall Park, and 93rd Street, Borough of Queens. This rezoning applies to the portion of the site north of 62nd Drive, on which it is proposed to erect the residential buildings and commercial garage. The remainder of the site, south of 62nd Drive, is zoned C4-2. The amendment of the Zoning Map (CP-23051) places the site partially in a C6-2 District and partially in a C4-2 District, in compliance with one of the requirements set forth in the enabling amendment of the Zoning Resolution (CP-23052) establishing new Section 74-93, which is the subject of this report.

2. An application for various special permits involving this development (CP-23053) pursuant to the above new Section 74-93, and also pursuant to Section 74-52 (Parking Garages in High Density Central Areas) and Section 74-86 (Accessory Outdoor Swimming Pools for Residences).
3. A City Map modification (CP-23054), eliminating, discontinuing and closing 62nd Avenue and 94th Place, between 93rd Street and the Long Island Expressway, together with a layout of a park, park access easement, street easements and a volume of air space.
4. A restrictive declaration accompanies these actions and is attached to the report on the amendment of the Zoning Map (CP-23051) and the application for various Special Permits (CP-23053).

The above matters are the subject of separate reports approved by the City Planning Commission on December 10, 1975.

On August 11, 1975 (Cal. #9), the City Planning Commission scheduled a PUBLIC HEARING on the amendment of the Zoning Resolution. The hearing was duly held on September 17, 1975 (Cal. #5) in conjunction with the related hearings on the amendment of the Zoning Map (CP-23051), the application for the special permits (CP-23053), and the City Map modification (CP-23054), (Cal. Nos. 4, 6, and 7 respectively). There were a number of appearances, as described in the related report on the City Map modification (CP-23054) and the hearings were closed.

A description of the project, and a detailed consideration, are set forth in the related report on the City Map modification (CP-23054).

Due to the magnitude of the proposed development, a modification of the amendment as heard was deemed advisable, adding a clause exempting new Section 74-93 from the provisions of Section 74-99 which otherwise would have caused the special permits to lapse after only one year.

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

RESOLVED, by the City Planning Commission that the Zoning Resolution of The City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended by establishing new Section 74-93 concerning special permits in special commercial-residential developments in certain commercial districts within the boundaries of Community Planning Board No. 6, Borough of Queens, as follows:

Matter in **Bold Type** is new;

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

74-93

Special Commercial-Residential Developments in Certain Commercial Districts

Within the boundaries of Community Planning Board #6, Borough of Queens, for *residential and commercial developments or enlargements* on two or more *zoning lots* in single ownership, which are contiguous or would be contiguous but for their separation by a *street*, and located partially in a C6-2 District and partially in a C4-2 district, the City Planning Commission may permit upon application:

- (a) modification of the restriction on the elevation of roof areas which otherwise would qualify as required *open space*, provided that such *open space* is at least two and one-half feet below the sill level of legally required windows opening on such roof areas;
- (b) modification of the restriction on location of *floors* occupied by non-residential uses as set forth in Section 32-422 (Location of floors occupied by non-residential uses), provided that the layout and design of the development provide a suitable separation between *residential and non-residential uses*;
- (c) modification of the applicable district regulations pertaining to *yards*, spacing between *buildings*, height and setback regulations in order to achieve good design objectives and to permit adequate access of light and air to surrounding *streets* and properties;
- (d) modification of applicable district regulations pertaining to minimum distance between legally required windows and *lot lines* adjoining a *public park* where an open unobstructed equivalent area comprising the *zoning lot* and *public park* is provided.
- (e) *accessory group parking facilities* subject to the applicable provisions of Section 74-53 (Accessory Group Parking Facilities for Uses in Large-Scale Residential Development or Large-Scale Community Facility Developments), to be located anywhere within the development without regard for *zoning lot lines*;
- (f) *accessory off-street parking spaces* to be provided in a *public parking garage* within the development for uses *not* located on the same *zoning lot*;
- (g) any closed and demapped air space above a *street* to be considered as a part of the development and to be used for enclosed pedestrian ways and retail uses, provided the Commission finds that:
 - (i) the air space *building* over the *street* bed utilizes only unused *floor area* from an adjoining *zoning lot* within the development and that no *floor area* credit is generated from the demapped air space;
 - (ii) the air space *building* adjoins *zoning lots* which are wholly within the development;
 - (iii) the *curb levels* of the adjoining *zoning lots* are not affected by the closing and demapping of such air space;
 - (iv) all *street frontages* of the *zoning lots* under the air space *building* are provided with fenestration or natural lighting along a substantial portion of such frontages; and
 - (v) a landscaped *open space* for public use at *street level*, linked with the pedestrian circulation system, which is at least equivalent to the *street* area covered by the air-space *building* is provided in one location within the development and such *open space* is maintained with planting and seating facilities, by the owner of the *development* or his designee.

The Commission may impose additional conditions and safeguards to improve the quality of the development and minimize adverse effects on the character of the surrounding area, including restrictions on permitted *commercial uses*, *signs* and location of curb cuts to ease vehicular and pedestrian circulation in the area.

Section 74-99 (Lapse of Permit) shall not apply to a special use permit granted for a development or enlargement undertaken pursuant to a permit under this Section.

For the purposes of this Section:

(1) the tower regulations of Section 23-55 may apply to all *residential and commercial developments or enlargements* or portions thereof, which at any given level in aggregate occupies not more than 40 percent of the lot area of a zoning lot;

(2) an adjoining *public park* shall not be considered a *street*; and

(3) the *zoning lots* within the *development or enlargement* may be subdivided before, during or after development and conveyed or disposed of to different owners. Such subdivision shall be deemed not to alter the status of the *zoning lots* upon which the terms, conditions and limitations of the special permit are based. Covenants running with the land which shall permit of public or private enforcement reflecting the terms, conditions and limitations of the approved special permit shall be incorporated in the deed to each parcel conveyed or otherwise disposed of.

JOHN E. ZUCCOTTI, Chairman;

GERALD R. COLEMAN, ALEXANDER COOPER, CHESTER RAPKIN, Commissioners.

(See concurring statement of Commissioner Cooper attached to CP-23054)

MARTIN GALLENT, Vice-Chairman; GORDON J. DAVIS, SYLVIA DEUTSCH, Commissioners;
voting "No". (See dissenting statement attached to CP-23054)

RR:b1

SPECIAL PERMITS pursuant to Sections 74-55, 74-68, and new Section 74-93 of the Zoning Resolution, involving a special commercial-residential development located within the boundaries of Community Planning Board No. 6 and located partially in a C6-2 District and partially in a C4-2 District, within the area bounded generally by Horace Harding Expressway, 97th Street, 63rd Road, Junction Boulevard, a line at right angles to Junction Boulevard distant 229 feet northerly from 62nd Drive, and 93rd Street, Borough of Queens.

The application for the special permits was filed by David Muss and S. Joseph Tankoos, Jr., to implement plans for a combined commercial and residential development known as "The Galleria and Forest Gardens," consisting of a three-level Galleria containing approximately 340,000 square feet of retail space, a twelve-story office tower over the Galleria with approximately 224,000 square feet of floor space, a seven-level commercial garage with space for 2,500 cars, and four residential towers of varying height containing a total of 1,400 apartments and garage space for 1,400 cars, as described more fully in the report on the related City Map modification (CP-23054).

In addition to the special permits which are the subject of this report (CP-23053), implementation of the proposed development also requires favorable action by the City Planning Commission and the Board of Estimate on the following three matters:

1. An amendment of the Zoning Map, (CP-23051) Section No. 14a, changing from R7-1 and C2-2 Districts to a C6-2 District property bounded by the Long Island Expressway, 97th Street, 62nd Drive, Junction Boulevard, a line at right angles to Junction Boulevard distant 229 feet northerly from 62nd Drive, the southerly, easterly, and northerly boundaries of Lost Battalion Hall Park, and 93rd Street, Borough of Queens. This rezoning applies to the portion of the site north of 62nd Drive, on which it is proposed to erect the residential buildings and commercial garage. The remainder of the site, south of 62nd Drive, is zoned C4-2;
2. An amendment of the Zoning Resolution (CP-23052) establishing a new Section 74-93. This new Section enables the granting of certain special permits involving residential and commercial developments or enlargements on two or

more zoning lots in single ownership, which are contiguous or would be contiguous but for their separation by a street, and located partially in a C6-2 District and partially in a C4-2 District, within the boundaries of Community Planning Board #6, Borough of Queens; and

3. A City Map modification (CP-23054), eliminating, discontinuing and closing 62nd Avenue and 94th Place, between 93rd Street and the Long Island Expressway, together with a layout of a park, park access easement, street easements and a volume of air space.

The above matters are the subject of separate reports approved by the City Planning Commission on December 10, 1975.

The application which is the subject of this report (CP-23053) seeks special permits, pursuant to the following existing sections of the Zoning Resolution:

1. Section 74-52 (Parking Garages in High Density Central Areas). To permit a public parking garage in the proposed C6-2 District, as shown on the plans submitted with and made part of the application, and also to exempt all floor space, having a finished floor elevation of less than 23 feet above curb level from the definition of floor area as set forth in Section 12-10 (Definitions);

2. Section 74-86 (Accessory Outdoor Swimming Pools for Residences). To permit, as accessory to the residential development, outdoor swimming pools, with a waiver of the minimum distance requirements between the edges of such pools and any lot line.

This application (CP-23053) also seeks special permits for the following, all pursuant to the aforementioned new Section 74-93, established by the related amendment of the Zoning Resolution (CP-23052):

(a) modification of the restriction on the elevation of roof areas which otherwise would qualify as required open space, provided that such open space is at least two and one-half feet below the sill level of legally required windows opening on such roof areas;

(b) modification of the restriction on location of floors occupied by non-residential uses as set forth in Section 32-422 (Location of floors occupied by non-residential uses), provided that the layout and design of the development provide a suitable separation between residential and non-residential uses;

(c) modification of the applicable district regulations pertaining to yards, spacing between buildings, height and setback regulations in order to achieve good design objectives and to permit adequate access of light and air to surrounding streets and properties;

(d) modification of applicable district regulations pertaining to minimum distance between legally required windows and lot lines adjoining a public park where an open unobstructed equivalent area comprising the zoning lot and public park is provided;

(e) accessory group parking facilities subject to the applicable provisions of Section 74-53 (Accessory Group Parking Facilities for Uses in Large-Scale Residential Development or Large-Scale Community Facility Developments), to be located anywhere within the development without regard for zoning lot lines;

(f) accessory off-street parking spaces to be provided in a public parking garage within the development for uses not located on the same zoning lot;

(g) any closed and demapped air space above a street to be considered as a part of the development and to be used for enclosed pedestrian ways and retail uses, provided the Commission finds that:

(i) the air space building over the street bed utilizes only unused floor area from an adjoining zoning lot within the development and that no floor area credit is generated from the demapped air space;

(ii) the air space building adjoins zoning lots which are wholly within the development;

(iii) the curb levels of the adjoining zoning lots are not affected by the closing and demapping of such air space;

(iv) all street frontages of the zoning lots under the air space building are provided with fenestration or natural lighting along a substantial portion of such frontages; and

(v) a landscaped open space for public use at street level, linked with the pedestrian circulation system, which is at least equivalent to the street area covered by the air-space building is provided in one location within the development and such open space is maintained with planting and seating facilities, by the owner of the development or his designee.

The Commission makes the above findings, on the basis of the plans submitted with and made part of the application, the related modification of the City Map

(CP-23054) and the restrictive declaration signed by the developer. The provisions of this restrictive declaration, as set forth below, are made conditions of these special permits (CP-23053). The same restrictive declaration accompanies the amendment of the Zoning Map (CP-23051) and will be noted on the Zoning Map as D-18.

On August 11, 1975 (Cal. #10), the City Planning Commission scheduled a PUBLIC HEARING on the application. The hearing was duly held on September 17, 1975 (Cal. #6) in conjunction with the related hearings on the amendment of the Zoning Map (CP-23051), the amendment of the Zoning Resolution (CP-23052), and the City Map modification (CP-23054), (Cal. Nos. 4, 5 and 7 respectively). There were a number of appearances, as described in the related report on the City Map modification (CP-23054) and the hearings were closed.

A description of the project, and a detailed consideration, are set forth in the related report on the City Map modification (CP-23054).

In addition to making the previously-noted findings required under new Section 74-93, the Commission makes the following findings required under Section 74-52:

a) The proposed public parking garage for 2,500 cars will not be incompatible with, or adversely affect the growth and development of, uses comprising vital and essential functions in the general area the development;

b) The proposed public parking garage for 2,500 cars will not create or contribute to serious traffic congestion and will not unduly inhibit surface traffic and pedestrian flow;

c) The proposed public parking garage for 2,500 cars is so located as to draw a minimum of vehicular traffic to and through local streets in nearby residential areas;

d) The proposed public parking garage for 2,500 cars has more than adequate reservoir spaces at the vehicular entrances;

e) The streets providing access to the proposed public parking garage for 2,500 cars will be adequate to handle the traffic generated thereby;

f) (not applicable); and

g) The additional floor space, resulting from the exemption from the definition of floor area of all space having a finished floor elevation of less than 23 feet above curb level, is needed to prevent excessive on-street parking demand and relieve traffic congestion.

The Commission also finds, pursuant to Section 74-86, that the accessory swimming pools are so located as not to impair the essential character of the residential neighborhood, and that the design operates as a suitable buffer to justify waiving the minimum distance between the edges of the swimming pools and any lot lines.

As a result of study and investigation after the hearing, the Commission recommended certain minor design changes, that have been reflected in revised plans submitted by the developer's architects. These minor changes include new facade treatments, the deletion of retail frontage from the commercial garage on the westerly side of 97th Street north of 62nd Drive, and the submission of three new sheets showing landscaping treatment.

Consequently, the Commission approves the application, subject to the conditions enumerated in the following resolution:

RESOLVED, by the City Planning Commission, that the application of David Muss and S. Joseph Tankoos, Jr., for the grant of special permits involving a special commercial-residential development located within the boundaries of Community Planning Board No. 6 and located partially in a C6-2 District and partially in a C4-2 District, within the area bounded generally by Horace Harding Expressway, 97th Street, 63rd Road, Junction Boulevard, a line at right angles to Junction Boulevard distant 229 feet northerly from 62nd Drive, and 93rd Street, Borough of Queens, be and hereby is approved, pursuant to Sections 74-52, 74-86 and new Section 74-93 of the Zoning Resolution; subject to the following conditions:

1. The premises shall be developed in size and arrangement substantially as proposed and as indicated on plans filed with the application;
2. The development shall conform to all applicable provisions of the Zoning Resolution, except for the modifications herein granted as shown on the plans filed with the application. All zoning computations are subject to verification and approval by the Department of Buildings;
3. The development shall conform with all applicable laws and regulations relating to construction, operation and maintenance;
4. This Resolution shall be effective only if the restrictive declaration attached hereto, executed by the Developer and the present owner of the property subject to this Resolution, shall have been recorded and filed with the County Clerk of the County of Queens; and

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

The above resolution, duly adopted by the City Planning Commission on December 10, 1975 (Cal. #20) is herewith filed with the Secretary of the Board of Estimate, together with a copy of the application and plans of the proposed combined commercial and residential development and the attached restrictive declaration referred to above, pursuant to Section 74-10 of the Zoning Resolution.

JOHN E. ZUCCOTTI, Chairman;
GERALD R. COLEMAN, ALEXANDER COOPER, CHESTER RAPKIN, Commissioners.
(See concurring statement of Commissioner Cooper attached to CP-23054)

MARTIN GALLENT, Vice-Chairman; GORDON J. DAVIS, SYLVIA DEUTSCH, Commissioners;
voting "No". (See dissenting statement attached to CP-23054)

RR:b1

THIS DECLARATION, made by ALEXANDER'S INC. ("Alexander's"), a Delaware corporation registered to do business in New York and having offices at 500 Seventh Avenue, New York, New York, DAVID MUSS ("Muss"), residing at 620 Park Avenue, New York, New York, and S. JOSEPH TANKOOS, JR. ("Tankoos"), residing at 770 Park Avenue, New York, New York (Alexander's, Muss and Tankoos are hereinafter collectively referred to as the "Declarants"),

W I T N E S S E T H :

WHEREAS, Alexander's is the owner of certain real property in the Borough of Queens, City and State of New York ("Subject Property"), consisting of four parcels, hereinafter called "Parcel 1A," "Parcel 1B," (together Tax Block 2084, lot 101), "Parcel 2," (Tax Block 2080, lot 101) and "Parcel 3" (Tax Block 2076, lot 63 and 50) ^{and Tax Block 2077, lots 90 and 98} as identified on the site plan and in the legal description annexed hereto as Exhibits A and B, respectively; and

WHEREAS, Muss and Tankoos intend to purchase Parcel 1B, Parcel 2 and Parcel 3 from Alexander's and intend to construct thereon a commercial parking garage on Parcel 2 (the "Commercial Garage"), a commercial building containing a multi-level retail establishment and an office tower on Parcel 1B (the "Galleria - Office Building") and four residential towers with accessory parking therefor on Parcels 2 and 3 (all collectively, the "Development"); and

WHEREAS, Parcel 3 is now located in a C2-2 district overlaid upon an R7-1 district, and Parcel 2 is now located in an R7-1 district and, in order to facilitate the Development, Muss and Tankoos have applied to the New York City Planning Commission ("City Planning Commission") for a zoning map change ("Rezoning") (CP-23051) for Parcel 2 and Parcel 3 from C2-2 and R7-1 to C6-2; and

WHEREAS, in order to facilitate the Development, Muss and Tankoos have applied to the City Planning Commission for special permits ("Special Permits") (CP-23053) pursuant to Sections 74-52, 74-86 and 74-93 of the New York City Zoning Resolution ("Zoning Resolution"); and

WHEREAS, (a) there will be included in the street mapping agreement to accompany Street Alteration Map No. 4680 (CP-23054), which is currently before the Board of Estimate, the agreement by The City of New York (the "City") that it and its assigns will not build any structure on that portion of the land of Lost Battalion Hall Park which lies within a line drawn thirty (30) feet from the rear walls of any residential structures which are built on Parcel 3 north and east of such park land, as shown on the drawing attached hereto as Exhibit C, and (b) there will be delivered to the Declarants the written agreement of the City's Parks, Recreation and Cultural Affairs Administration (or a successor agency having jurisdiction over parks) ("PRCA") that (i) PRCA will not build any structure on the portion of the land of

Lost Battalion Hall Park referred to above, (ii) that PRCA will, within 60 days of receipt of application therefor directed to the PRCA Construction Division, grant a construction permit authorizing Muss and Tankoos, their assigns, agents and contractors, to enter onto Lost Battalion Hall Park land for the purpose of facilitating construction of the abutting wall and other appurtenances of the accessory residential parking garage to be constructed on Parcel 3 adjacent to the Park land, which permit may forbid the delivery of construction materials or the removal of construction materials to be made across park land, may limit the construction permit area to an area not to exceed 10 feet in depth from the rear lot lines and shall not extend more than 15 feet in either direction beyond the ends of the accessory parking garage wall to be constructed on Parcel 3, may require Muss and Tankoos to use reasonable care to adequately protect the public from noxious or hazardous construction activities occurring within the construction permit area, may be conditioned upon agreement by the applicant to promptly restore any damage and to post a bond to secure performance of such agreement and may be limited to a reasonable time period, and (iii) that PRCA will, within 20 days (or, in cases of emergency, as soon as possible) after receipt of application therefor directed to the PRCA Construction Division, grant reasonable requests for temporary permits to enter onto Lost Battalion Hall Park land for purposes of maintaining and repairing the exterior

accessory parking garage wall which abuts the park land, which permits may be conditioned upon agreement by the applicant to promptly restore any damage to park areas, and to post a bond to secure performance of such agreement; and

WHEREAS, Muss and Tankoos have submitted plans including concept drawings for the Development (attached hereto as Exhibit D) to the City Planning Commission and the City Planning Commission has approved said plans; and

WHEREAS, the Declarants desire to restrict further the manner in which the Subject Property may be developed, maintained and operated, intending the restrictions to benefit all the land lying within one half mile of the Subject Property, including all such land owned by the City; and

WHEREAS, Muss and Tankoos represent and warrant that no restriction of record on the use of the Subject Property, nor any present or presently existing future estate or interest in the Subject Property, nor any lien, obligation, covenant, limitation or encumbrance of any kind precludes, presently or potentially, the imposition of the covenants, restrictions and obligations contained in this declaration or the development of the Subject Property in accordance therewith, except that, to the extent that there are covenants and restrictions affecting the Subject Property which by their terms would prohibit the construction and maintenance of any portion of the Development in accordance with the plans submitted by Muss

and Tankoos in connection with their application for the Rezoning and the Special Permits, Muss and Tankoos represent and warrant that their title insurance company has indicated that it will insure affirmatively that none of such covenants and restrictions can be enforced to prohibit the erection and maintenance of retail stores, parking of automotive vehicles, apartment houses, commercial buildings and office buildings, and except that, concerning any mortgages affecting the Subject Property, Muss and Tankoos further represent and warrant that, if, after Muss and Tankoos acquire title to Parcels 1B, 2 and 3 of the Subject Property, there may be any mortgage affecting such parcels which requires the consent of any mortgagee to the covenants, restrictions and obligations contained herein, then such consent will be obtained promptly after such acquisition.

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

ARTICLE I

Site Development

Declarants agree that the Subject Property shall hereafter be used and developed only either (a) substantially in accordance with the plans submitted by Muss and Tankoos in connection with their application for the Rezoning and the Special Permits, Exhibit D hereto, and administratively approved by the City Planning Commission pursuant to Article II hereof or (b) in accordance with the zoning of the Subject Property as it was prior to the approval of the Rezoning, except that to the extent that the regulations applicable under the prior existing zoning are less restrictive than those applicable under the Rezoning, the regulations under the Rezoning shall apply. In the event that the Subject Property is developed in accordance with (b) of this article, i.e., no development is undertaken which relies in any respect on the Rezoning or Special Permits, then Articles II through X hereof shall be of no effect. Notwithstanding the foregoing, nothing in this declaration shall be construed: (i) to be a waiver of any rights the Declarants have under the present zoning, or (ii) to prevent construction and maintenance by Muss and Tankoos of model apartments and parking lots and facilities related thereto on any portion of the Subject Property which is to be developed for residential purposes pursuant to the plans attached as Exhibit D.

ARTICLE II

Design Review

Not later than their submission to the New York City Department of Buildings ("Department of Buildings") of preliminary plans for any portion of the Development, Muss and Tankoos will submit a copy of such plans to the City Planning Commission for administrative review and certification (without a public hearing) to Muss and Tankoos and to the Department of Buildings that such plans are in substantial compliance with the concept drawings as to such portion attached hereto as Exhibit D, which certification shall not be unreasonably withheld or delayed. Approval by the Department of Buildings of such preliminary plans shall be contingent upon such certification.

Such preliminary plans shall include, as appropriate, (a) detailed plans showing the facade treatment of each building in such portion, including information as to materials and, for the appropriate portions, showing in particular detail (i) the treatment of the walls bounding Lost Battalion Hall Park including any plans necessary to assure compliance with design requirements for the accessory parking garage covered in Article V of this declaration, and (ii) the bridge to be constructed over 62nd Drive, including the treatment of the facade of the bridge and of the walls beneath the bridge, and (b) a detailed and comprehensive landscape plan for such portion showing the location, sizes and types of planting and outdoor furniture to be provided within the public or publicly-visible areas of the Subject Property as well as trees in the public sidewalks surrounding the Development.

Not later than their submission to the Department of Buildings of working drawings for any portion of the Development, Muss and Tankoos will submit a copy of such drawings to the City Planning Commission for administrative review and certification (without a public hearing)

to Muss and Tankoos and to the Department of Buildings that such working drawings are in substantial compliance with the preliminary plans as to such portion certified as provided above, which certification shall not be unreasonably withheld or delayed. Approval by the Department of Buildings of such working drawings and the issuance of any construction permit (other than permits for excavation or pile driving) based thereon shall be contingent upon such certification. Such working drawings shall include those elements required for the preliminary plans as provided above. Notwithstanding the foregoing, application for foundation permits need only show the foundations and the location thereof.

Each certification required by this article, or a written explanation why a portion of the Development does not merit such certification, shall be delivered to Muss and Tankoos within 30 days after application to the City Planning Commission therefor by Muss and Tankoos. If such certification or written explanation is not so delivered to Muss and Tankoos, then such submission shall be deemed approved and Muss and Tankoos may file an affidavit to that effect with the Department of Buildings and the requirements of this provision shall be deemed waived with respect to the portion of the Development in question.

ARTICLE III

Sign Restrictions

All signs erected or maintained on the Subject Property shall conform to the following restrictions:

- (a) On Parcel 3 and that portion of Parcel 2 north of the Commercial Garage, the sign regulations applicable to residential

districts under the Zoning Resolution shall apply.

(b) The Commercial Garage facades may have signs as follows:

1. east face - signs as permitted in C2 districts under the Zoning Resolution.
2. south and west faces - signs as permitted in C4 districts under the Zoning Resolution.

(c) Advertising signs or business signs, as such terms are defined in the Zoning Resolution, are not permitted on the bridge over 62nd Drive.

ARTICLE IV

Subway Improvements

Muss and Tankoos agree to make the following improvements to the 63rd Drive station on the Queens Boulevard IND subway line in accordance with the drawings attached hereto as Exhibit E. Plans for such improvements will be submitted to the City Planning Commission and to the New York City Transit Authority (the "TA") and are subject to approval by the TA that such plans are in substantial compliance with the plans attached hereto as Exhibit E and with TA standards. Such approval shall not be unreasonably withheld or delayed. If such approval, or reason for disapproval, is not forthcoming within 45 days after submission to the TA, said plans shall be deemed approved. The construction work performed

in connection with such improvements shall be inspected and subject to the acceptance of the TA, which acceptance shall not be unreasonably withheld or delayed. If said acceptance, or reason for denial, is not forthcoming within 45 days after submission to TA of a request therefor, such construction work shall be deemed accepted. Such improvements shall consist of:

- (a) At the subway entrance adjoining the Alexander's department store ("Northwest Entrance"), provide an entry from existing intermediate stair landing (EL 121.3') into the existing basement mezzanine at Alexander's at the same elevation. The minimum standard of lighting and surface treatment for the entry and the improved portion of the mezzanine shall be that of the Gimbels Intermediate Level Entry at the Northwest Entrance at the 86th Street station on the Lexington Avenue Manhattan IRT line in Manhattan.
- (b) Provide access stairs within Alexander's from such basement mezzanine to store basement or, at the option of Declarants, to the floor above. Minimum standard of design shall be that of the Gimbels entry above.

- (c) At the Northwest Entrance, (i) relocate the existing stair which extends from the intermediate stair landing to the sidewalk, so that the top of the banister of the top of the stairs abuts the existing column at sidewalk level; (ii) widen said stair to a clear dimension of seven feet without any banister down the middle; (iii) provide and install at least TA standard sidewalk entrance steel railings around the opening of the widened stair; and (iv) provide and install along all walls adjacent to stairs and down the middle of the intermediate EL 121.3' stair aluminum handrails at least meeting TA standards.
- (d) At the Northwest Entrance, provide and install a fiberglass canopy with structural supports and roof lighting over the stairwell opening onto the sidewalk. Such canopy shall fully cover the opening in the sidewalk, and at all points shall extend not less than three feet beyond the perimeter of such opening. Such canopy shall have a roof drainage-snow melting device, lighting and shall be translucent. Such canopy shall at least meet the standards

of design of the canopy at the
Columbus Circle station in Manhattan.

- (e) At the Northwest Entrance, provide and install (i) one new TA standard token booth, (ii) three two way turnstiles, at least to TA standards, (iii) one low aluminum swing gate in the pay zone entry area at EL 110.4' (Platform Level) at least to TA standards, (iv) one sign clearly visible at the sidewalk entry of the stairs to the Northwest Entrance indicating station name and the hours of operation of the token booth and the need of a token for the iron-maiden in that entry area. Such signage and graphics shall conform, at least to TA standards, (v) one panoramic gate at EL 121.3' level (at the foot of the street entry stairs) at least to TA standards.
- (f) At the Northwest Entrance, provide and install five murals, to be supplied by Alexander's, located as follows:
One at the intermediate stair landing;
One in the "free" zone at the platform level; and
Three along the Manhattan-bound platform in the spaces which are now provided for

advertising posters located closest to the Northwest Entrance turnstile. If the murals to be donated by Alexander's are not approved by the New York City Arts Commission, the spaces intended for the murals in the free zone at the platform and intermediate stair landing levels shall be finished in accordance with (g) below.

- (g) At the Northwest Entrance, provide lighting and finishing of the ceiling, floors and walls according to the following specifications:

Lighting:

- (i) Provide and install in the sidewalk entry stairwell area, EL 121.3' level stairwell and platform areas encased strip lighting at the intersection of the ceiling and the walls on both sides in a continuous linear manner. Such lighting shall at least conform to the standards of the 47th-50th Street at Sixth Avenue station in Manhattan.
- (ii) Provide and install in the existing free zone area at EL 110.4' adjacent to the proposed turnstiles, strip

lighting, at least meeting TA standards, in the six existing ceiling coves, such that there are two fixtures per cove.

- (iii) Provide and install strip lighting, at least meeting TA standards, in the six existing ceiling coves in that portion of the Manhattan-bound platform area immediately abutting the Northwest Entrance free zone, such that there is one fixture per cove.

Finishes to be provided throughout the Northwest Entrance and immediately abutting Manhattan-bound platform:

- (i) Walls shall be glazed brick, the minimum standard of design to be that of the mezzanine of the 59th Street and Third Avenue station in Manhattan.
- (ii) Floors and stair treads shall be abrasive quarry tile, the minimum standard of design to be that of above 59th Street station mezzanine.
- (iii) Ceilings shall be cleaned and painted with two coats of paint.

Colors for tiles, bricks and paints will be coordinated and selected by Muss and Tankoos subject to plan approval as provided above.

- (h) In the Northwest Entrance, provide and install a rolled perforated metal gate minimum standard to be that used in the mezzanine pay zone area of the 47th-50th Street at Sixth Avenue station in Manhattan, to be placed across the three token turnstiles and the low aluminum swing gates when such area is unsupervised.
- (i) Provide and install ten TA standard directional board signs throughout the station. Such signage shall facilitate movement throughout the station between the Northwest Entrance and other entrances to the station including those on the south side of Queens Boulevard. Minimum information to be on signs shall be: location of nearest sidewalk exit, direction to Alexander's platform entry, and direction to the nearest sidewalk exit on the opposite bound platform.
- Location of Signage:
- One at the Northwest Entrance turnstiles.
- One along the Manhattan-bound platform at a minimum of 100 feet from the Northwest Entrance turnstiles.
- One at the top and one at the bottom of the northwestern most mezzanine stair on the Manhattan-bound platform.

One at the mezzanine level by the existing token booth.

One at the top and one at the bottom of the southwestern most mezzanine stair on the Continental Avenue bound platform.

One along the Continental Avenue bound platform at minimum of 100 feet from the southwest platform iron maiden.

One each at a minimum of 80 feet from the eastern most end of the station along both platforms.

All signage boards' material and graphics are to conform, at least to TA standards.

- (j) Provide two sets of seats, 20 feet between them, on the Manhattan-bound platform located a minimum distance of 20 feet from the center of the Northwest Entrance turnstiles. Such sets of seats to be at least comparable to the fiberglass multicolored sets now installed on the platform of the 63rd Drive station. Each set of seats shall contain six seats, and should be located such that they are clear of the existing wall.
- (k) Clean and paint with two coats existing iron maiden, existing revolving exit gate, and existing platform high steel fence in a color harmonious with the rest of the improved Northwest Entrance.

Muss and Tankoos will complete at least 90% of such improvements prior to and as a condition of the issuance of a certificate of occupancy for the retail portion of the Galleria Office Building. The remaining improvements, if any, shall be completed within six months of the issuance of said certificate of occupancy.

Prior to and as a condition of the issuance of a building permit for the Galleria-Office Building, Muss and Tankoos will deposit with the City either a performance bond, a developer's undertaking acceptable to the City or securities acceptable to the City to guaranty the completion of the above subway improvements in an amount equal to the lesser of (i) \$152,500, less the cost of the token booth and turnstiles, or (ii) the TA's reasonable estimate of the cost of the improvements, less the cost of the token booth and turnstiles.

The foregoing to the contrary notwithstanding, nothing in this article shall require Muss and Tankoos to spend any amount in excess of \$152,500 for construction of the above subway improvements, as adjusted for increases or decreases in the Consumer Price Index for Urban Wage Earners and Clerical Workers as determined for New York and Northern New Jersey by the U.S. Department of Labor - Bureau of Labor Statistics (1967 base data) using the month of the effective date of this declaration as the base month. In the event that the cost of the improvements set forth above exceeds \$152,500, as adjusted, the City Planning Commission shall

promptly upon request administratively determine without a public hearing the priority in which said improvements are to be executed.

In connection with the subway improvements above, Alexander's agrees for itself, its successors and assigns (i) that, upon completion of the same, it will, during store hours, keep the new passageway between its store and the intermediate stair landing at the Northwest Entrance open for public pedestrian traffic, subject only to such modifications as upon application may be approved by the Chairman of the City Planning Commission and (ii) that upon request of Muss and Tankoos or their successors or assigns at the time of the construction of the subway improvements, it will grant to the City, at no cost to the City or to the TA, an air space easement sufficient to enable the construction and maintenance of that portion of the canopy to be constructed pursuant to (d) of this article, for so long as such a canopy, or any replacement thereof, may exist, which, in accordance with the plans contained in Exhibit E hereof, is to be constructed within Alexander's property line.

ARTICLE V

Lost Battalion Hall Park Easement and Related Development

Muss and Tankoos agree to grant to the City, in fully improved condition, a fifty-one foot public access easement to Lost Battalion Hall Park. Such easement shall afford access for pedestrians and for maintenance and emergency vehicles. The location of the easement will be as set forth in Exhibit F.

Muss and Tankoos agree to develop and integrate the easement area into Lost Battalion Hall Park substantially in accordance with the landscape plan attached hereto as Exhibit G.

Muss and Tankoos agree to submit to the City Planning Commission and to the Design Division of PRCA respectively, one complete set of schematic plans, in reproduceable form, for the public access easement to Lost Battalion Hall Park, such plans to be similar in scope and detail to those plans to be submitted to the Department of Buildings pursuant to Article II hereof, for administrative review and certification (without a public hearing) to Muss and Tankoos that such plans are in substantial compliance with the landscape plan attached hereto as Exhibit G. Such plans shall indicate the proposed grades, the signs and types of planting, fencing and outdoor furniture, the revised circulation for vehicles and pedestrians and the materials to be used in the development of the easement area so as to show the integration of the easement with the adjacent park and with the private sitting area to the north. Such plans will be developed in consultation with PRCA and, at the time of submission, such plans shall have been approved by the Department of Highways, the Bureau of Gas and Electricity and any other City agency having jurisdiction thereover. The certification required above, or a written explanation of why the plans do not merit such certification, shall be delivered to Muss and Tankoos within 45 days of submission of the plans to the City Planning Commission and PRCA. If such certification or written

explanation is not so delivered to Muss and Tankoos, then such submission shall be deemed approved and Muss and Tankoos may file an affidavit to that effect with the City Planning Commission and the requirements of this provision shall be deemed waived with respect to such easement.

Muss and Tankoos further agree to provide routine daily maintenance in the easement area, including snow removal from walkways, and to make any necessary repairs to maintain the easement area in good condition until December 31, 1986, and thereafter so long as a bridge is constructed and maintained over 62nd Drive between the Commercial Garage and the Galleria-Office Building. The obligation described in the preceding sentence shall be binding upon Muss and Tankoos, their heirs and any of their assigns who take title to Parcel 3, unless another assignee of a portion of the Subject Property shall agree in a recorded document to assume all or part of such obligation, in which case such assigns of Parcel 3 shall be relieved of such obligation to the extent that it is assumed by such other persons or entities. In the event that the bridge shall be removed or discontinued, the easement area shall remain as a public access easement to Lost Battalion Hall Park in perpetuity but the foregoing responsibility for maintenance and repairs of the easement area shall terminate.

Muss and Tankoos will complete at least 90% of such improvements prior to and as a condition of the issuance of a certificate of occupancy for the Commercial Garage, except that final landscaping of seasonally planted materials may be deferred until the next suitable season if such certificate of occupancy is issued during a season which is unsuited to landscaping. Muss and Tankoos shall post a performance bond or developer's undertaking acceptable to the City to guaranty that the remaining 10% of the improvement of the easement shall be completed within six months of the issuance of said certificate of occupancy. Said easement shall be delivered to PRCA when the easement area has been fully improved according to said plans and the construction work involved therein has been inspected and approved by PRCA, which acceptance shall not be unreasonably withheld or delayed. If said acceptance, or reason for denial is not forthcoming within 45 days after submission to PRCA of a request therefor, such construction work shall be deemed approved.

All construction work within the easement area, including the replacement of dead or diseased vegetation, shall be subject to a one-year guarantee period and Muss and Tankoos agree to post a bond for the satisfaction of this guaranty.

Muss and Tankoos agree that that portion of Parcel 3 lying adjacent to and lying south of a line 49 feet north of the easement shall be used above grade only as a landscaped sitting area for the residents of the buildings on Parcel 3.

Such portion shall contain no permanent structure above finished grade other than benches, lighting fixtures and other improvements appropriate to a sitting area, and shall be landscaped so as to appear visually integral with the easement area. Any permanent fencing separating the easement area from the private sitting area shall be of or be screened by dense planting and shall not exceed four feet in height. Notwithstanding the foregoing, Muss and Tankoos may use such portion north of the easement for storage of construction materials and other construction purposes until application is made for a certificate of occupancy for the residential building adjacent thereto.

Muss and Tankoos agree that the exterior wall of the residential accessory parking garage immediately adjacent to Lost Battalion Hall Park shall not exceed 35 feet in height above the legal curb, such dimension including the parapet atop such wall. Muss and Tankoos agree that recreational facilities located atop such parking garage shall be situated so that the facilities themselves shall not be visible from any point in Lost Battalion Hall Park. Muss and Tankoos further agree that intake or exhaust vents shall not be located along the garage wall which faces Lost Battalion Hall Park, nor shall any protrusions be permitted to extend beyond the park property line.

Muss and Tankoos agree to provide at least a six foot high temporary rough, painted, plywood construction fence on their property, smooth side facing Lost Battalion Hall Park and as

close as possible to the property line of any of their property which adjoins Lost Battalion Hall Park and any related easement that has been turned over to the City (unless such a fence exists at the time they acquire such property) within sixty days after they acquire title to such property or Lost Battalion Hall Park shall be completed and open to the public, whichever is later, and to maintain such fence in good condition and appearance until construction on their adjoining property necessitates its removal.

ARTICLE VI

Lost Battalion Hall Improvements

Muss and Tankoos hereby agree to make the following improvements to Lost Battalion Hall, located at 93-29 Queens Boulevard, Rego Park, New York:

- (a) Partition off with drywall that part of the open portion of the basement in Lost Battalion Hall presently used by senior citizens (excluding portions of the basement used for boxing, weight lifting or other athletic activities, for example, and rooms used for other purposes) ("New Space") adjacent to an existing kitchen and senior citizens' room ("Old Space"),

- (b) Provide and install the following in the New Space: new resilient tile floor or all weather carpeting, new acoustic tile ceiling, new flourescent lighting fixtures (as needed) and electrical outlets and switches (as required by the Building Code);
- (c) Provide and install central air conditioning for the Old Space and the New Space, including any necessary electrical service, however, said air conditioning shall be located at a location mutually agreeable to Muss and Tankoos and PRCA which shall minimize the cost of installation but not detract from the appearance or operation of the building;
- (d) Provide and install three window air conditioning units, one in each of the three second floor rooms presently being used by senior citizens, including any necessary electrical service;
- (e) Provide and install new three stop elevator, to the left of the main entrance as one enters the building, or at some other mutually agreeable location which shall minimize the cost of installation but not detract from the appearance or operation of the building, complete, including any electrical service;
- (f) Break through the wall in the rear of the building and provide and install an exit door with exit light, panic bar and other necessary hardware, meeting code requirements, to provide exit to an existing ramp provided by others, and provide a wheelchair ramp for the existing three step stair leading from the basement floor to the existing stair landing inside the building at the new exit door;

- (g) Provide and install adaptation for elderly and handicapped in existing toilets located in basement;
- (h) Each of the above areas will be painted, finished or redecorated as appropriate, where disturbance by construction work has occurred;
- (i) Create a new storage area for maintenance equipment over the rear stairway and exit to 62nd Avenue.

Final plans for such improvements will be submitted to the City Planning Commission and to the Design Division of PRCA and are subject to approval by PRCA that such plans provide for the above listed improvements. Such approval shall not be unreasonably withheld or delayed. Such plans shall be developed in consultation with PRCA and, at the time of submission, shall have been approved by the Department of Buildings and any other City agencies having jurisdiction thereover. If approval of such plans, or reason for their disapproval, is not forthcoming within 45 days after submission to PRCA, said plans shall be deemed approved. The construction work performed in connection with such improvements shall be inspected and subject to the acceptance of PRCA that it is in substantial compliance with the approved plans, which acceptance shall not be unreasonably withheld or delayed. If such acceptance, or reason for denial, is not forthcoming within 45 days after submission to PRCA of a request therefor, such construction work shall be deemed accepted. Furthermore, in the event that the Department of Buildings is prepared to certify, for the

purpose of issuing a certificate of occupancy, that the construction work performed in connection with such improvements is in substantial compliance with the plans for such work, such certification shall be evidence that such work was satisfactorily performed.

Muss and Tankoos will complete at least 90% of such improvements prior to and as a condition of the issuance of a certificate of occupancy for the first residential building to be constructed or for the retail portion of the Galleria-Office Building, whichever is earlier. The remaining improvements, if any, shall be completed within six months of the issuance of said certificate of occupancy.

Prior to and as a condition of the issuance of a building permit for the Lost Battalion Hall Park improvements, Muss and Tankoos will deposit with the City either a performance bond, a developer's undertaking acceptable to the City or securities acceptable to the City to guaranty the completion of the Lost Battalion Hall Park improvements in an amount equal to PRCA's reasonable estimate of the cost of constructing such improvements.

ARTICLE VII

Street Improvements

Muss and Tankoos hereby agree to construct the street improvements required by the New York City Department of Traffic pursuant to the street mapping agreement to be entered into in

connection with Street Alteration Map No. 4680 (CP 23054), which improvements are indicated on New York City Department of Traffic Drawing No. CD-207, dated May 9, 1975 ("CD-207"), consisting of two sheets. Muss and Tankoos will complete at least 90% of such improvements prior to and as a condition of the issuance of a certificate of occupancy for the Galleria-Office Building or the last of the residential buildings, whichever is later. Muss and Tankoos shall post a performance bond or a developer's undertaking acceptable to the City to guaranty that the remaining 10% of the improvements shall be completed within six months of the issuance of said certificate of occupancy.

On or prior to a date 30 days after the commencement of construction on the first major building of the Development Muss and Tankoos will clear, temporarily pave and make available for public traffic the full roadway of Junction Boulevard adjacent to and opposite Parcel 2 in accordance with CD-207, reserving, however, the right to obstruct any portion or all of such widening as may be necessary in connection with construction of the commercial garage, without imposition of any fees or charges therefor.

Muss and Tankoos will complete at least 90% of the construction of the "U" turn and sidewalk improvements to be constructed on Junction Boulevard under the Long Island Expressway, the full widening and temporary roadway paving of the portion of the Long Island Expressway-South Service Road ("South Service Road") adjacent to the Development and east of Junction Boulevard, together with the improvements to the southwest corner of the Junction Boulevard - South Service Road intersection, in accordance with CD-207,

and the permanent paving of streets abutting the first major building of the development prior to and as a condition of the issuance of a certificate of occupancy for such building. Muss and Tankoos shall post a performance bond or developer's undertaking acceptable to the City to guaranty that the remaining 10% of such improvements shall be completed within six months of the issuance of said certificate of occupancy.

ARTICLE VIII

Commercial Floor Area

Commercial floor area, as such term is defined in the Zoning Resolution, on Parcel 2 shall not exceed 429,000 square feet, including a commercial garage not exceeding 406,000 square feet and other commercial space not exceeding 23,000 square feet. No commercial floor area shall be permitted on Parcel 3. Muss and Tankoos agree not to receive a final certificate of occupancy for the office tower to be erected on Parcel 1B until after five years from the effective date of this declaration.

ARTICLE IX

Parking Space

Commercial parking on Parcel 2 shall be limited to 2,500 vehicles. Accessory residential parking on Parcel 2 shall be limited to 930 vehicles. Accessory residential parking on Parcel 3 shall be limited to 470 vehicles. No parking shall be permitted on Parcel 1B.

ARTICLE X

Lapse of Right to Construct

Muss and Tankoos agree that, construction of the Development shall proceed in a phased process culminating in completion of substantial construction on all portions of the development not later than 10 years after the effective date of this declaration, except as provided below.

Muss and Tankoos agree that the right to construct the portions of the Development set out below shall lapse in accordance with the provisions below. The time periods set out below shall commence with the effective date of this declaration or, if judicial proceedings to review the Rezoning or the Special Permits shall have been instituted, then with the date of entry of the final order in such proceedings, including all appeals (the "Commencement Date"). In addition, the time periods below shall be suspended and tolled up to one year for such time as may be necessary to obtain an indirect source permit and any other environmental approvals from applicable agencies as may be required by law.

(a) The right to construct the commercial garage shall lapse two years after the Commencement Date unless substantial construction of one of the following shall have been completed prior to such date:

1. the Commercial Garage, or
2. of each of the following: the improvement to the park easement pursuant to Article V hereof; the "U" turn, the full widening and temporary

paving of Junction Boulevard and the full widening and temporary roadway paving of the portion of the South Service Road adjacent to the Development and east of Junction Boulevard, together with the improvements to the southwest corner of the Junction Boulevard - South Service Road intersection in accordance with CD-207, or

3. one residential building and the improvements to Lost Battalion Hall pursuant to Article VI hereof; the park easement, pursuant to Article V hereof; the "U" turn and the full widening and temporary paving of Junction Boulevard and the full widening and temporary roadway paving of the portion of the South Service Road east of Junction Boulevard, together with the improvements to the southwest corner of the Junction Boulevard - South Service Road intersection in accordance with CD-207.

- (b) The right to construct the Commercial Garage shall lapse three years after the Commencement Date unless substantial construction of the garage shall have been completed within such three year period or unless, within two years of the Commencement Date, Muss and Tankoos shall have fulfilled the requirements of (a)-3, above.

- (c) The right to construct the residential buildings shall lapse four years after the Commencement Date unless one of the following shall have been completed within such four year period:
1. substantial construction on one residential building, or
 2. the improvements to the 63rd Drive subway station pursuant to Article IV hereof.
- (e) The right to construct the Commercial Garage shall lapse five years after the Commencement Date unless substantial construction of the Commercial Garage shall have been completed within such five year period.
- (f) The right to construct the Galleria-Office Building shall lapse five years after the Commencement Date unless substantial construction of the Galleria-Office Building shall have been completed within such five year period.
- (g) The right to construct the residential buildings shall lapse five years after the Commencement Date unless substantial construction of one residential building shall have been completed within such five year period.
- (h) The right to construct the residential buildings shall lapse ten years after

the Commencement Date unless substantial construction of all the residential buildings shall have been completed within such ten year period.

For the purpose of this Article, substantial construction of a portion of the Development shall be deemed to mean at least one-half of the piling required to support the foundations for such portion of the Development where pilings are required.

For the purpose of this article, the improvements set forth above shall be deemed complete if, within the time periods set forth above, Muss and Tankoos shall have completed at least 90% of such improvements and shall have posted a performance bond or developer's undertaking acceptable to the City to guaranty that the remaining 10% of the improvements shall be completed within six months of the expiration of such time periods.

The time periods set above shall be suspended and tolled during any period of delay caused by "force majeure," as hereinafter defined. For purposes of this section, "force majeure" shall include without limitation, acts of God, war, insurrection, riot, earth movement, flooding, labor disputes, fire and other casualties. The City Planning Commission may, upon application, extend any period set out in the above article in the manner provided in Rule F-601 of the Rules of Procedure of the City Planning Commission or its successor in function.

ARTICLE XI

Effective Date and Enforcement

This declaration shall become effective when the City Planning Commission and the Board of Estimate, acting pursuant to the New York City Charter and the Zoning Resolution, shall have duly approved the Rezoning and the Special Permits, CP-23051 and CP-23053.

The Declarants recognize that the City is an interested party in this declaration and consent to the City's enforcing the covenants, conditions, restrictions and agreements herein contained by whatever means may be appropriate to the situation.

This declaration, and the covenants, restrictions and requirements herein contained, are intended to run with the land and shall be so construed.

ARTICLE XII

Amendment and Cancellation

This declaration may be amended, modified or cancelled only upon application by the Declarants or their heirs, successors and assigns and with the approval of the City Planning Commission and the Board of Estimate or the agencies succeeding to their jurisdiction, and no other approval or consent shall be required from any public body, private person or legal entity of any kind.

In connection with development in accordance with (a) of Article I hereof, modifications of the plan submitted by Muss and Tankoos in connection with their application for the Rezoning and the Special Permits which are treated by the City Planning Commission as minor modifications of such plans for the purposes of conformity to the conditions of such permits shall not be deemed to be amendments or modifications of this declaration for the purposes of this article, provided however that the applicant shall record the revised plans and accompanying letter in the manner provided in Article XIII hereof.

ARTICLE XIII

Recordation

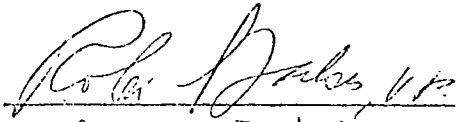
Muss and Tankoos covenant that, when the City Planning Commission and the Board of Estimate have approved the Rezoning and the Special Permits, CP-23051 and CP-23053, they shall immediately file and record this declaration in the Office of the Register of the City of New York, County of Queens, indexing it against the Subject Property. Muss and Tankoos further covenant to provide the City Planning Commission with a copy of this declaration as recorded, certified by the Register of The City of New York, County of Queens. The City of New York shall also have the right to record this declaration. However, all costs of recordation and certification, whether undertaken by Muss and Tankoos or by

the City, shall be borne by Muss and Tankoos.

IN WITNESS WHEREOF, the Declarants have executed this
declaration this 10th day of December, 1975.

ALEXANDER'S, INC.

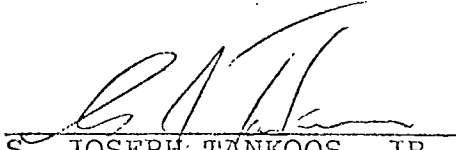
BY:



Robin L. Farkas



DAVID MUSS



S. JOSEPH TANKOOS, JR.

Exhibit List

- 1) Exhibit "A" General site plan of the Subject Property.
- 2) Exhibit "B" Legal descriptions of Parcel 1A, Parcel 1B, Parcel 2, and Parcel 3 (Parcel 1A is the Alexander's site, Parcel 1B is the Galleria site).
- 3) Exhibit "C" Drawing showing 30' from the rear wall of the residential structure which is to be built north and east of Lost Battalion Hall Park.
- 4) Exhibit "D" Plans submitted with special permit application.
- 5) Exhibit "E" Plan of subway improvements.
- 6) Exhibit "F" Legal description for the Lost Battalion Hall Park Easement.
- 7) Exhibit "G" Landscape plan for Lost Battalion Hall Park Easement area.

STATE OF NEW YORK)
 : SS.:
COUNTY OF NEW YORK)

On this 10th day of December, 1975 before me personally came Robin L. Farkas to me known, who being by me duly sworn, did depose and say that he resides at No. 730 Park Avenue, N.Y., N.Y. ; that he is the Senior Vice President of Alexander's, Inc., the corporation described in, and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation and that he signed his name thereto by like order.

Edward J. Martin
Notary Public

EDWARD J. MARTIN
NOTARY PUBLIC, State of New York
No. 51 127879
City of New York
Commission Expires March 13, 1976

Exhibits "D" and "G" have been removed for the purpose of reproduction. These exhibits are available in the files of the City Planning Commission.

LONG AND EXPRES WAY

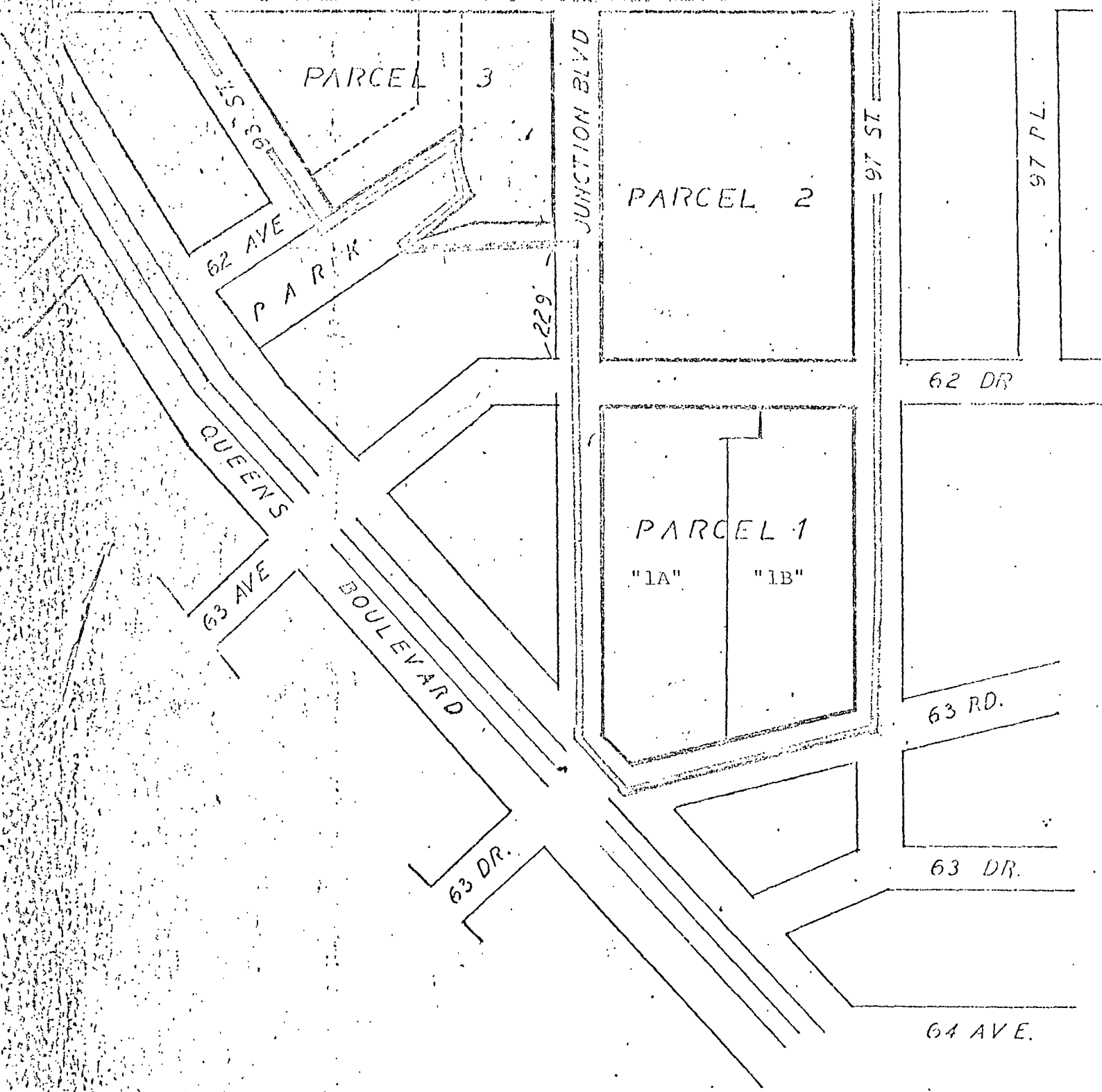


DIAGRAM SHOWING BOUNDARY OF DEVELOPMENT

DESCRIPTION

PARCEL 1A

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

BEGINNING at the corner formed by the intersection of the easterly side of Junction Boulevard (80 feet wide) and the southerly side of 62nd Drive, (80 feet wide), formerly Urquhart Street, as said Boulevard and Drive are shown on the Topographical Map of the City of New York for the Borough of Queens; running thence easterly along the southerly side of 62nd Drive, 203.18 feet to the corner formed by the intersection of said 62nd Drive and the westerly side of 96th Street, (50 feet wide) as said 96th Street was shown on the Topographical Map of the City of New York for the Borough of Queens, prior to the adoption on December 20, 1951 of Alteration Map No. 3530; thence southerly along the westerly side of said 96th Street, 582.66 feet to the northwesterly side of 63rd Road (80 feet wide) as said 63rd Road is shown on the Topographical Map of the City of New York for the Borough of Queens; thence southwesterly along the northwesterly side of said 63rd Road, 147.63 feet to the corner formed by the intersection of the said northwesterly side of 63rd Road and the northeasterly side of Queens Boulevard (200 feet wide) as shown on the Final Topographical Map of the City of New York; thence northwesterly along the northeasterly side of Queens Boulevard, 86 feet to the corner formed by the intersection of the said northeasterly side of Queens Boulevard and the easterly side of said Junction Boulevard; thence northerly along the easterly side of Junction Boulevard, 549.82 feet to the corner at the point or place of BEGINNING.

DESCRIPTION

PARCEL 1B

ALL that certain plot, piece or parcel of land, situate, lying and being in the Borough and County of Queens, City and State of New York, bounded and described as follows:- All of the Streets referred to being as the same were shown and laid out on the Final Topographical Map of the City of New York for the Borough of Queens, prior to the adoption of Alteration Map No. 3530 on December 20, 1951:-

BEGINNING at the corner formed by the intersection of the southerly side of 62nd Drive with the westerly side of 97th Street; running thence southerly along the westerly side of 97th Street, 529.99 feet to the corner formed by the intersection of the northerly side of 63rd Road with the westerly side of 97th Street; running thence westerly along the northerly side of 63rd Road, 258.59 feet; thence northerly along a line forming an interior angle of 78 degrees 14 minutes 50.9 seconds with the said side of 63rd Road, 582.66 feet to the southerly side of 62nd Drive and thence easterly along the southerly side of 62nd Drive, 253.17 feet to the corner at the point or place of BEGINNING.

DESCRIPTION

PARCEL

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

BEGINNING at the corner formed by the intersection of the southerly side of Horace Harding Expressway, formerly Horace Harding Boulevard and Nassau Boulevard, 260 feet wide, and the easterly side of Junction Boulevard, 80 feet wide, as said Horace Harding Expressway and Junction Boulevard are now laid out on the Final Topographical Map of the City of New York and running thence easterly along the southerly side of Horace Harding Expressway, 456.35 feet to the westerly side of 97th Street, 60 feet wide, as shown on the Final Topographical Map of the City of New York, prior to the adoption of the Alteration Map No. 3530 on December 20th, 1951, thence southerly along the said westerly side of 97th Street, 630 feet to the northerly side of 62nd Drive, 80 feet wide, as shown on the Final Topographical Map of the City of New York; thence westerly along the northerly side of 62nd Drive, 456.35 feet to the easterly side of Junction Boulevard; thence northerly along the easterly side of Junction Boulevard, 630 feet to the point or place of BEGINNING.

DESCRIPTION

PARCEL 3

ALL that certain plot, place or parcel of land, situate, lying and being in the Borough and County of Queens, City and State of New York, bounded and described as follows:-

BEGINNING at the corner formed by the intersection of the southerly side of Horace Harding Expressway as widened and vested in The City of New York with the westerly side of Junction Boulevard as now laid out on the Final Topographical Map of the City of New York (80 feet wide); running thence southerly along the westerly side of Junction Boulevard, 379.04 feet to the corner formed by the intersection of the westerly side of Junction Boulevard with the northerly side of 62nd Road as now laid out on said Final Topographical Map with the westerly side of Junction Boulevard; thence westerly along the northerly side of 62nd Road, 205.04 feet to an angle in said Road; thence southwesterly along the northerly or northwesterly side of 62nd Road, 36.52 feet to land now of The City of New York; thence northeasterly along land now of The City of New York and along a line forming an interior angle of 9 degrees 40 minutes 26 seconds with the said side of 62nd Road, 185.10 feet; thence northerly along a line forming an exterior angle of 132 degrees 22 minutes 48 seconds with the last mentioned course, 34.19 feet; thence still northerly along a line forming an exterior angle of 174 degrees 04 minutes 33 seconds with the last mentioned course, 29.32 feet; thence still northerly along a line forming an exterior angle of 191 degrees 15 minutes 20 seconds with the last mentioned course, 71.49 feet; thence southwesterly along a line forming an exterior angle of 53 degrees 29 minutes 07 seconds with the last mentioned course, 113.97 feet to the easterly side of 9th Place as legally opened (50 feet wide); thence northerly along the easterly side of 9th Place, 184.77 feet to the corner formed by the intersection of the easterly side of 9th Place with the southerly side of Horace Harding Expressway and thence easterly along the southerly side of Horace Harding Expressway, 200.46 feet to the corner at the point or place of BEGINNING.

Excepting from the above described premises all those two lots known and designated on the Tax Assessment Map of The City of New York for the Borough of Queens as and by Section 12-Block 2077-Lots 80 and 181.

AS SAID MAP WAS ON DECEMBER 18, 1964.

DESCRIPTION

PARCEL 3 (continued)

ALL that certain plot, place or parcel of land, situate, lying and being in the Borough and County of Queens, City and State of New York, bounded and described as follows:-

BEGINNING at the corner formed by the intersection of the southerly side of Horace Harding Expressway, as widened and vested in The City of New York with the westerly side of 94th Place as legally opened (50 feet wide); running thence southerly along the westerly side of 94th Place, 152.54 feet to the corner formed by the intersection of the westerly side of 94th Place with the northwesterly side of 62nd Avenue as legally opened (50 feet wide); thence southwestwardly along the northwesterly side of 62nd Avenue, 241.92 feet to the corner formed by the intersection of the northwesterly side of 62nd Avenue with the northeasterly side of 93rd Street as legally opened (50 feet wide); thence northwesterly along the northeasterly side of 93rd Street, 264.10 feet; thence northeasterly along a line forming an interior angle of 85 degrees 38 minutes 58 seconds with the said side of 93rd Street, 97.84 feet to the southerly side of Horace Harding Expressway and thence easterly along the southerly side of Horace Harding Expressway, 248.85 feet to the corner at the point or place of BEGINNING.

Together with those portions of the beds of 94th Place and 62nd Avenue that are to be demapped as a part of the street mapping agreement to accompany street map number 4680 which is currently before the Board of Estimate of The City of New York.

Structures are within 500
 ft. of community zone and
 are located at buildings
 to meet requirements of
 Building Dept. and
 California Development.

JUNCTION ROUTE 101

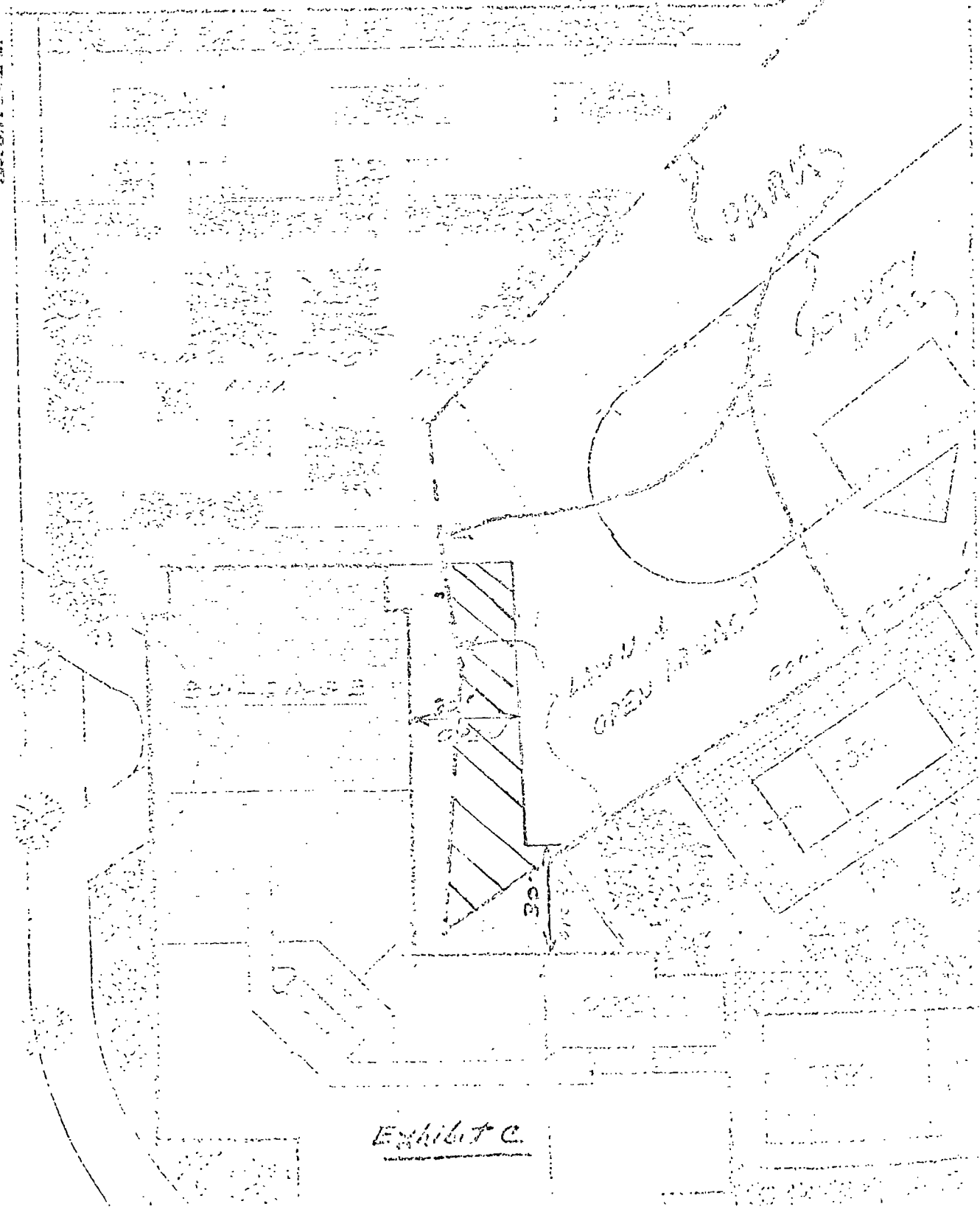
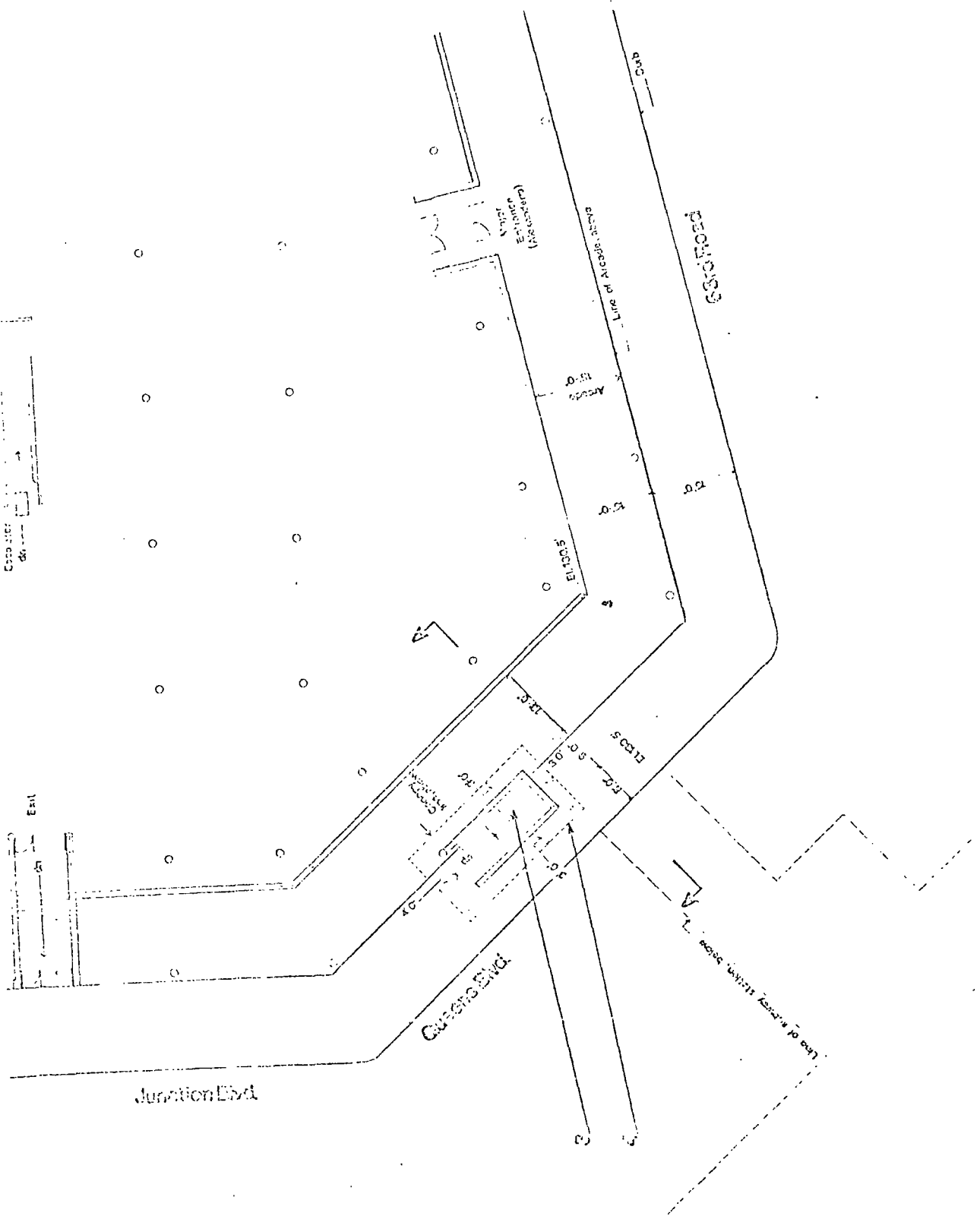


Exhibit C

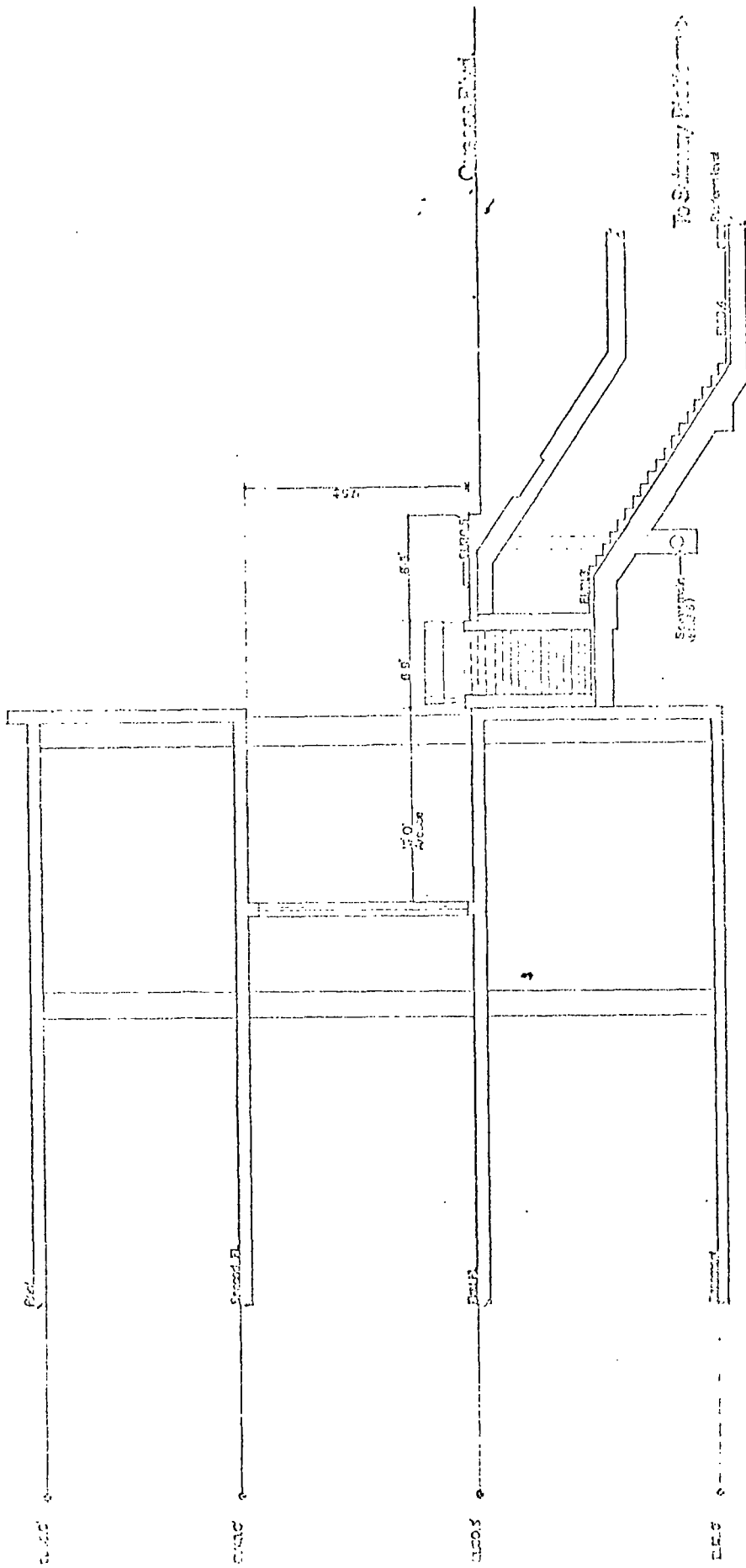
Proposed Improvements

→ Provide:

1. E. 1210 Entry to Alameda's Store
2. Stairs within Alameda's Store
3. Rehabilitation of Oldened Street Curb
4. Canopy for Street Stairs
5. Token Booth and Turnstiles, Low Swing and Reinforcing Gates
6. Mirrors
7. Lighting, Floor, Wall and Ceiling Finishes
8. Rolled Perforated Metal Gate
9. Direction Boards
10. Platform Seats
11. Painting of High Visibility Gates and Fence



<p>Scale: 1/4" = 1'-0"</p> <p>City of Berkeley</p>	<p>City Planning Commission</p> <p>Meeting: 1/24/80</p>	<p>City of Berkeley Transportation Department</p> <p>Alameda Station (Proposed)</p>	<p>1/24/80</p>
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City Planning Commission
 Department of Planning
 1000 ...
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1000 ...
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1000 ...
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1000 ...
 1000 ...

Johnson Blvd

Clarks Blvd

Garrett Blvd

Grid Road

Miller Entrance (Maneuvered)

Line of separation of property

Cars

BLK 05

BLK 06

BLK 07

BLK 08

BLK 09

BLK 10

BLK 11

BLK 12

BLK 13

BLK 14

BLK 15

BLK 16

BLK 17

BLK 18

BLK 19

BLK 20

BLK 21

BLK 22

BLK 23

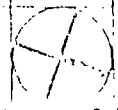
BLK 24

BLK 25

City of Jackson, Mississippi
Planning Commission
General Plan (Master)

Scale 0 2 4 8 16
Date Oct. 75

City Planning Commission
Elevation 2000



M E M O R A N D U M

TO: W. Donohoe
R. Ramati

DATE: November 24, 1975

FROM: Rolando Laveist

RE: 63rd Drive Station
Improvement: Phase I.
Cost Estimates *(Based on 11/75
T.A.'s Current Contactor Bid
Sheets)

cc: Norman Marcus
Irwin Fruchtmann

*These estimates do not reflect
consultant or additional design fee

<u>ITEM</u>	<u>UNIT PURCHASE AND INSTALLATION COST</u>	<u>TOTAL COST</u>
Lighting	Cost \$ 15 per sq. ft.	
	i) Street stair Entry Area- 142 sq.ft.	
	ii) El. 121.3' Land'g Area- 161 sq.ft.	
	iii) Intermediate Stair Area- 192 sq.ft.	
	iv) El. 110.4' Free Zone Area- 719 sq.ft.	
	v) Immediate Plat. Pay Zone Area- 354 sq.ft.	
	vi) El. 121.3' Alex: Entry + Stair Area - 430 sq.ft.	
	vii) Canopy Roof Area - 318 sq.ft.	
	Total Lighted Area	-2,316 sq.ft. \$ 34,740
Wall Finishes	Glazed Brick \$6.50 per sq.ft.	
	i) Street Stair Entry Area - 172 sq.ft.	
	ii) El. 121.3' Land'g. Area - 256 sq.ft.	
	iii) Intermediate Stair Area - 198 sq.ft.	
	iv) El. 110.4' Free Zone Area - 701 sq.ft.	
	v) Immediate Plat. Pay Zone Area- 100 sq.ft.	
	vi) El. 121.3' Alex's Entry Area- 270 sq.ft.	
	Total Wall Finished Area	-1,697 sq.ft. \$ 11,031
Seating	Fiberglass set of 6 seats- \$100 ea. - 2 sets -	\$ 200
Token Booth	T.A. Standard w. Air conditioning- \$40,000 ea. -	\$ 40,000
Street Stair Gate	Panoramic Gate at El. 121.3' Landing- \$12 per sq.ft.-63 sq.ft. -	\$ 756

<u>ITEM</u>	<u>UNIT PURCHASE AND INSTALLATION COST</u>	<u>TOTAL COST</u>
Floor Finishes	Abrasive Quarry Tile \$6 per sq. ft.	
	i) Street stair Entry Landing Area - 28 sq.ft.	
	ii) El. 121.3' Landing Area - 172 sq.ft.	
	iii) El. 110.4' Free Zone Area - 719 sq.ft.	
	iv) Immediate Plat. Pay Zone Area- 354 sq.ft.	
	v) El. 121.3' Alex's Entry Area- 224 sq.ft.	
	<hr/>	
	Total Floor Finished Area - 1,504 sq.ft.	\$ 9,024
Exit Gate	Low Aluminum Gate- \$500 ea. 1 gate	500
Roll Mesh Gate	Stainless Steel Mesh-\$15 per sq.ft. Area 128 sq.ft.	1,920
Conductor Boards	Aluminum Conductor Board-\$40 per lin.ft. 1 Board is avg. 4 lin ft.- 11 boards 44 lin. ft. & Station Sign: Total 50 lin.ft.	2,000
Stair Finishes	Abrasive Quarry Tile Treads \$6 per sq. ft.	
	i) Street Entry Stairs- 96 sq.ft.	
	ii) Intermediate Stairs- 192 sq.ft.	
	<hr/>	
	Total Subway Area Stair Finish-288 sq.ft.	1,728
	iii) Non Slip Tile Finish Treads-\$10 per lin.ft. El. 121.3' Alex's Entry stairs- 240 lin.ft.	2,400
Handrails	Aluminum Handrails \$25 per lin. ft	
	i) Street Entry Stair Area- 30 lin.ft.	
	ii) Intermediate Stair Area- 51 lin.ft.	
	iii) El. 121.3' Alex's Entry Stair Area - 54 lin.ft.	
	<hr/>	
	Total Am't. of Handrail 135 lin.ft.	\$ 3,375
Street Entrance Railing	Steel Rail \$50 lin.ft. Sidewalk Entry Area - 71 lin.ft.	\$ 3,550
Canopy	Fiberglass Materials w. metal struct. (sup-ports) \$65 per sq. ft. (includes weather proofed struts, rain drained, snow melting, translucent roof)- 318 sq.ft.	\$ 20,670

<u>ITEM</u>	<u>UNIT PURCHASE AND INSTALLATION COST</u>	<u>TOTAL COST</u>
Turnstiles	Two-way turnstile- \$1,400 ea.. 3	\$ 4,200
Painting	Avg. Cost for cleaning and two coats- \$.75 per sq. ft.	
	i) Street stair Entry Ceiling- 96 sq. ft.	
	ii) El. 121.3' Land'g Ceiling- 179 sq. ft.	
	iii) Intermediate Stair Ceiling- 192 sq. ft.	
	iv) El. 110.4' Free Zone Ceiling- 719 sq. ft.	
	v) Immediate Plat. Pay Zone Ceiling 354 sq. ft.	
	vi) El. 121.3' Alex's Entry Ceiling- 169 sq. ft.	
	vii) Existing High Gates & Fence - 194 sq. ft.	
	<hr/>	
	Total Painted Area - 1,903 sq. ft.	\$ 1,427
Installation of Widened Stair	Structural Work	\$ 10,700
Installation of El. 121.3' Alex Entry	8 Glass doors- \$800 per door- \$6,400	\$ 6,400
Installation of El. 121.3' Entry Stair	Structural Work	\$ 10,000
Installation of Murals		
Removal of Existing Panel to Alex's at El. 121.3' Level	Knock out panel \$20 per lin. ft. Total amount of linear feet of panel 24 lin. ft.	\$ 480
Removal of Existing street Stairs	Removal cost of \$20 per lin. ft. Total Amount of stairs 75 lin. ft.	\$ 1,500
Removal of Existing wall for Stair Widening	Cost \$150 cub. yd. Total am't of wall- 4 cub. yds.	\$ 600
Removal of Exist- ing Street Entrance Railing	Cost \$20 per lin. ft. Total amount of railing- 40 lin. ft.	\$ 800

<u>ITEM</u>	<u>UNIT PURCHASE AND INSTALLATION COST</u>	<u>TOTAL COST</u>
Removal of Existing Platform Fence & Gate	Cost \$20 per lin. ft. Total amount of fence- 16 lin. ft. El. 121.3' landing gate- 5 lin.ft.	\$ 320 \$ 100
Removal of Existing lighting	Cost \$6 per sq. ft. i) Street stair gate area- 89 sq. ft. ii) El. 121.3' landing Area-161 sq. ft. iii) Intermediate stair area-192 sq. ft. iv) El. 110.4' Free Zone Area-719 sq.ft. v) Immediate Plat.Pay Zone Area- -354 sq.ft.	
<hr/>		
	Total Lighted Area Removal-1,515 sq. ft.	\$ 9,090
<hr/>		
	Grand Total	\$177,511
<hr/>		
	Grand Total + 10% Contingency	\$195,262
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Park Access Easement

Beginning at the point of intersection of the northerly line of Park with the westerly line of Street easement, said point being located the following courses and dimensions from the corner formed by the intersection of the westerly line of Junction Boulevard with the southerly line of Horace Harding Expressway, as said streets and easements are laid out on the Final Map of the Borough of Queens known as Map No. 4620, adopted by the Board of Estimate:

A - southerly along the westerly line of Junction Boulevard, for 379.04 feet to the northerly line of Park,
B - thence westerly along the northerly line of Park, perpendicular to the westerly line of Junction Boulevard, for 5.00 feet to the westerly line of Street easement; the point or place of beginning:

- No. 1 running thence westerly along the northerly line of Park, for 200.04 feet to the northwesterly line of Park,
- No. 2 thence southwesterly along the northwesterly line of Park, forming an interior angle of 215 degrees 14 minutes 05.1 seconds with the last mentioned course, for 36.52 feet to the easterly line of Park,
- No. 3 thence northerly along the easterly line of Park, forming an interior angle of 9 degrees, 40 minutes, 26 seconds with the last mentioned course, for 102.08 feet to the northerly line of Park Access Easement,
- No. 4 thence easterly along the northerly line of Park Access Easement forming an interior angle of 111 degrees, 03 minutes, 16.9 seconds with the last mentioned course, for 156.90 feet to the westerly line of Street Easement,
- No. 5 thence southerly along the westerly line of Street Easement, forming an interior angle of 90 degrees, 45 minutes, 20.7 seconds with the last mentioned course, for 51.00 feet to the northerly line of Park, the point or place of beginning.

"EXHIBIT F"

A map change showing the elimination, discontinuing and closing of 62nd Avenue and 94th Place, between 93rd Street and Horace Harding Expressway together with a layout of a park, park access easement, street easements and a volume of air space, Borough of Queens, Community Planning District No. 6, in accordance with Map No. 4680, dated July 11, 1975 signed by the Commissioner of Parks and the Borough President. The map was referred by the Board of Estimate on July 17, 1975, Calendar No. 371.

The map relates to a limited area in the Rego Park section of the Borough and provides primarily for modifications in the presently mapped street system within the area bounded by Horace Harding Expressway, 97th Street, 63rd Road and Queens Boulevard.

The proposed map change (which among other things, eliminates, discontinues and closes unnecessary street area) in conjunction with related proposed zoning changes which are the subject of concurrent Commission reports, will permit the construction of a combined commercial and residential development known as "The Galleria and Forest Gardens."

Description of Project

Included in the development are the following:

- Three level Galleria containing approximately 340,000 square feet of retail space.
- Twelve story office tower over the Galleria with approximately 224,000 square feet of floor space.
- A seven level commercial garage with space for 2500 cars.
- Four residential towers of varying height containing a total of 1,400 apartments and garage space for 1,400 cars.

The Galleria is to be built on the west side of 97th Street between 62nd Drive and 63rd Road, adjacent to the existing Alexanders Department Store on what is now an open parking lot. The levels of the Galleria will coincide with those of Alexanders with access provided between stores on all floors. The Galleria itself will consist of retail stores on both sides of a wide attractive center corridor or "galleria."

The 12-story office tower will begin at the roof level of the Galleria with access to the Tower from the lower Galleria level.

The 2500 car commercial parking garage bounded on the east by 97th Street, on the south by 62nd Drive and on the west by Junction Boulevard will contain 7 levels of parking, with 6 of these levels above grade. A pedestrian bridge, with retail

Description of Project Cont'd

space on each side of the central passageway, is to span 62nd Drive and will connect the garage to the Galleria's upper two levels.

The roof of the garage will be developed with recreational facilities for the residential portion of the complex.

The residential part of the development is made up of four buildings varying in height from 12 to 33 stories with a total of 1400 apartments and 1400 accessory parking spaces.

Building "1" contains 359 apartments and faces 97th Street, running from the commercial garage to the Long Island Expressway South Service Road. The south half of the building is 17 stories high and the north half is 33 stories high.

Building "2" with 450 apartments, is an L-shaped structure at the southeast corner of Junction Boulevard and the Long Island South Service Road. The building is 33 stories high with a 17 story wing along Junction Boulevard.

The space between the two buildings will be occupied by a 3-story (4-level) residential parking garage of 930 spaces. Entrance to the garage will be from the South Service Road of the Long Island Expressway. The roof of the garage and the roof of the commercial garage adjacent to it will be used as private open space for the development. It will contain two large swimming pools, tennis courts, lawn areas, gymnasiums, and various other amenities for the residents.

Building "3" is an L-shaped building of 264 apartments located at the south west corner of Junction Boulevard and the Long Island Expressway South Service Road. It is 26 stories high with a 12 story wing along Junction Boulevard.

Building "4" is a T-shaped tower containing 327 apartments located along the Long Island Expressway South Service Road at 93rd Street. It is 27 stories high with a 14 story wing at the south end of the 93rd Street face. A 3 story residential garage containing 470 spaces with open space on the roof will occupy the space between buildings "3" and "4" along side the new Lost Battalion Hall Park.

In addition to the residential and commercial development described above there will be several actions related to the park now under development as part of the AT & T Building previously approved by the City. These actions involve the improvement of access to Lost Battalion Hall Park by the reservation and development of a 51 foot Park access easement from Junction Boulevard to the park as well as an open space area 150 feet from the AT & T property line north to Building No. 3 which will visually integrate the park to Junction Boulevard. Lost Battalion Hall, a heavily

Description of Project Cont'd

used Park Department facility on Queens Boulevard will be improved so that the senior citizens using the center will have greater access to and enjoyment of the use of the facilities.

The map changes to be adopted as part of CP-23054 will consist of the following actions:

1. The elimination, closing and discontinuance of 62nd Avenue between 93rd Street and 94th Place.
2. The elimination, closing and discontinuance of 94th Place between 62nd Avenue and the Long Island Expressway South Service Road.
3. The elimination of a volume of 62nd Drive above a minimum clearance of 14' -6" which will permit the developer to construct the bridge between the commercial garage and the Galleria.
4. Provision of various street easements along Junction Boulevard, the South Service Road of the Long Island Expressway, and 97th Street in order to allow widening of the streets to accommodate the added traffic.
5. Provision of a 51 foot wide Park access easement which will link the new "Lost Battalion Hall Park" to Junction Boulevard.
6. The layout of a new Park (Lost Battalion Hall Park).
7. A minor modification in the presently established grade in Junction Boulevard in the vicinity of the Park access easement.

Zoning Actions

In addition to the map change, which is the subject of this report (CP-23054), implementation of the proposed development will require favorable actions by the City Planning Commission and the Board of Estimate on the following three matters:

1. An amendment of the Zoning Map (CP-23051), Section No. 14a, changing from R7-1 and C2-2 Districts to a C6-2 District property bounded by the Long Island Expressway, 97th Street, 62nd Drive, Junction Boulevard, a line at right angles to Junction Boulevard distant 229 feet northerly boundaries of Lost Battalion Hall Park and 93rd Street. This rezoning would apply to the portion of the site north of 62nd Drive, on which it is proposed to erect the residential building and commercial parking garages. The remainder of the site, south of 62nd Drive, is zoned C4-2.

Zoning Actions Cont'd

2. An amendment of the Zoning Resolution (CP-23052), establishing a new Section 74-93. This section would enable the granting of certain special permits involving residential and commercial developments or enlargements on two or more zoning lots in single ownership, which are contiguous or would be contiguous but for their separation by a street, and located partially in a C6-2 District and partially in a C4-2 District, within the boundaries of Community Planning Board No. 6, Borough of Queens.
3. An application for various special permits involving this development (CP-23053) pursuant to the above Section 74-93, and also pursuant to Section 74-52 (Parking Garages in High Density Central Areas) and Section 74-86 (Accessory Outdoor Swimming Pools for Residences).
4. A restrictive declaration will accompany these actions and will be attached to the report on the Zoning Map (CP-23051) and the application for various Special Permits (CP-23053).

Street and Traffic Improvements

As a condition for City Planning Commission approvals for this project, the developer has agreed to provide the City with a number of improvements, among which are various street improvements and treatments designed to improve the overall traffic circulation.

A major improvement will be the construction of a separate U-turn lane under the overpass of the Long Island Expressway at Junction Boulevard. It will be built between the east columns and the abutment of the existing bridge. This improvement will ease the bottleneck caused by the heavy movement of traffic coming south on Junction Boulevard through the overpass.

Junction Boulevard will be widened, from 62nd Drive to the Long Island Expressway. Sidewalk easements along Junction Boulevard, between 62nd Drive and the South Service Road, will permit the construction of a two-way roadway separated by a concrete mall, designed to facilitate movements from Junction Boulevard into the commercial garage and 62nd Drive. Street treatment at the Junction Boulevard intersections of 62nd Drive and the South Service Road will also ease the traffic flow by channelizing the right and left turn movements at the corner. The roadway under the Junction Boulevard overpass will be widened to 60 feet with provisions for a double left turn lane into the South Service Road of the Long Island Expressway for traffic coming south on Junction Boulevard through the overpass.

Street and Traffic Movements Cont'd

The South Service Road will be widened on both the east and west sides of Junction Boulevard from the present 32 foot roadway to a minimum roadway width of 44 feet and transitioning to a width of 55 feet at the Junction Boulevard intersection. The street widenings will be accomplished by means of easements for both roadway and sidewalks.

The existing 50 foot roadway of 97th Street will remain as is, but a five foot sidewalk easement along the west side of 97th Street between 63rd Road and the South Service Road will increase the width of the west sidewalk to fifteen feet.

The demapping of a volume of street above 62nd Drive will permit the construction of a two-level pedestrian bridge spanning 62nd Drive, 80 feet wide by 120 feet long. The bridge will connect the commercial garage to the Galleria and will contain small retail stores on both sides of the passage corridor on both levels.

The park access easement leading to the new Lost Battalion Hall Park will provide a wide landscaped entrance to the park from Junction Boulevard. The easement will be designed in conjunction with the Park Department to conform to the landscaping being developed for the park itself. The private residential open space adjacent to this easement will be developed and landscaped to visually integrate it with the easement area. Completion of this easement area will be tied in to the Certificate of Occupancy for the commercial garage.

The cost of improving the easement area as well as the cost of all street improvements, including the U-turn bay, will be borne by the developer. These conditions will be included as part of the restrictive declaration which will accompany the zoning actions.

Environmental Considerations

The City Planning Commission, in conjunction with the Environmental Protection Administration has reviewed the following environmental aspects of the proposed development:

Noise Impact - Because of their proximity to the Long Island Expressway, the residential buildings will be impacted with high noise levels. The developer has agreed to provide whatever noise insulation measures are needed, including air conditioning throughout, and double glazed windows where necessary, to achieve an "acceptable" indoor noise level, as determined by standards of the New York City Bureau of Noise Abatement. In addition, provision will be made for "accoustical shielding" of the private outdoor facilities.

Environmental Considerations Cont'd

Sewers - The Department of Water Resources - Division of Sewers has indicated that this development will require 100% on-site retention of storm water. The developer has agreed to provide this. Full retention of storm water will have a positive affect on the area by relieving the existing over utilized combined sewers. The sanitary sewage load from this development can be carried by sanitary sewers in this immediate area.

Air Quality - This development will require an Indirect Source Permit (a New York State air quality requirement) issued by the New York State Department of Environmental Conservation due to the number of parking spaces involved.

Major steps have been taken to decrease the impact on the air quality in this area in planning the development. These include:

1. Reconstruction and widening of Junction Boulevard under the Long Island Expressway to decrease the congestion that presently exists. In addition, widening of the South Service Road and Junction Boulevard between 62nd Drive and the South Service Road will help traffic flow. (See Street and Traffic Improvements.)
2. Subway improvements to the present station at Queens Boulevard and 63rd Road providing a widened stairway, direct access to Alexanders and internal station refurbishing will greatly increase the attractiveness of using mass transit as opposed to the automobile.
3. Separation of pedestrian and vehicular movement will be accomplished by the use of a pedestrian bridge over 62nd Drive between the Galleria and garage which will thereby decrease congestion at street level and have a positive effect on air quality.

Public Hearing

On August 11, 1975 (Calendar No. 11), the City Planning Commission scheduled a PUBLIC HEARING on this matter. The hearing was duly held on September 17, 1975 (Calendar No. 7), in conjunction with the related hearings on the amendment of the Zoning Map (CP-23051), on the amendment of the Zoning Resolution (CP-23052), and on the application for special permits (CP-23053) (Calendar Nos. 4, 5 and 6 respectively).

Those speaking in favor of the development included the local Councilman and several religious leaders in the immediate area. Their strong support was directed towards the positive effects a privately financed residential development would have on the community. They felt that such investment would help the community to retain its character and continue to grow without public investment.

Public Hearing Cont'd

Several members of CPB #6 including the Chairman, indicated that they favored the concept and the CPB had generally supported it - with some reservations. These reservations were related to design, environmental considerations and conditions to be included in the Restrictive Declaration attached to the Special Permit for the development.

The developer and his attorney outlined the long review process this development had undergone with the City Planning Commission and the benefits that the City would gain in the form of jobs and taxes without any City funding. The developer stressed his confidence in his ability to market the luxury units whose cost may range from 40 to 80 thousand dollars per unit. He also listed the amenities he would provide - the traffic, park and street improvement and the provision of additional facilities in Lost Battalion Hall.

The representative of the Regional Plan Association and the Chairman of the Greater Jamaica Development Corporation both opposed those aspects of the development - the Galleria and office building - that would compete with Jamaica Center. They contended that the City is undercutting its own development aims in Jamaica by encouraging this retail and office space. They stated that the Queens Boulevard area is heavily automobile oriented while Jamaica Center has better mass transit access and could handle the office and retail function more efficiently.

Several speakers representing Brooklyn retail shopping areas objected to the development of the Galleria and its parking garage on the grounds that it would affect local shopping strips in Queens and Brooklyn.

The owner of a vacant parcel of land at the northeast corner of 97th Street and 62nd Drive objected to the location of retail stores at street level along 97th Street across from his property.

Consideration

Forest Gardens and Galleria, a major privately financed, residential and commercial development proposal at a key location in the Rego Park regional shopping area presents the City with an opportunity to provide direction to the continuing healthy private growth at this hub. Existing zoning allows both residential and commercial development on these 12.8 acres now occupied by an unsightly and blighting 1500 car parking lot for Alexanders Department Store. By concentrating the parking for the existing department store, proposed galleria and office structure in a 2500 capacity seven level garage, approximately 10 acres of this area can be freed up for development. The development proposal calls for 340,000 sq. ft. of floor area in the shopping

Galleria adjacent to Alexanders and 224,000 sq. ft. in an office tower above the Galleria for a total of 564,000 sq. ft. of commercial floor area. The present C4-2 zoning permits this amount of commercial floor area. The residential development proposal calls for 1400 units with an average per unit of 1,460 sq. ft. (gross) of floor area. The present R7-1 zoning would permit the same number of units to be built - but with an average of only 1,000 sq. ft. per unit. The proposed zoning and mapping actions are intended to permit these larger, more desirable apartments, as well as provide the flexibility for locating the major elements of the project - residences, parking garages, shopping and office building - in proper relationship to one another.

By establishment of a Special Permit procedure which is directed towards large Commercial-Residential Development such as this, the Commission can review and see that the necessary traffic, street and mass transit improvements as well as other needed public amenities are provided. The City Planning Commission has reviewed this development in this light and obtained the following improvements and amenities:

(I) Improvements to street network

- 1) Widening and provision of separate "U" turn lane on Junction Boulevard under the L.I.E. overpass.
- 2) Widening and channelization of Junction Boulevard from 62nd Drive to the L.I.E. service road.
- 3) Widening of the south service road of the L.I.E. from 93rd to 97th Streets with a provision for future widening from Queens Boulevard east to 93rd Street.
- 4) Widening of the sidewalk on the westerly side of 97th Street from 63rd Road to the L.I.E. South Service Road.

(II) Community Facility and Mass Transit Improvement

- 1) Improvements to "Lost Battalion Hall" and an addition to the park now being constructed by the American Telephone and Telegraph Company.
- 2) Improvements to the subway station at 63rd Road and Queens Boulevard.

These improvements, to be constructed and paid for by the developer in accordance with City requirements are necessary to the proper functioning of the area and could not be realized by the City if piecemeal development were to continue. The proposed development will generate more traffic and people in this area, but the present zoning would have also allowed development to occur without the ability of the City to provide the necessary improvement.

Consideration Cont'd

The Commission is very concerned with the development of Jamaica Center. Any negative impact this development might have on the Jamaica area has been carefully analyzed and considered. The Commission has been instrumental in the planning for the Greater Jamaica area - approving the Jamaica Center Urban Renewal Area which paved the way for the location of York College there, new subway construction, a City parking facility and the selection of a civil court site on Sutphin Boulevard. Recently, the Commission approved the plan for the expansion of the manufacturing base in the Jamaica area by the enlargement of a major dairy. The Commission has also approved the plans for the demolition of a portion of the Jamaica El in order to improve the attraction of potential locations in Jamaica Center. It is now working on a proposal by the Office of Jamaica Planning for a shopping mall on 165th Street in order to enhance the commercial core. These are positive actions that indicate the Commission's commitment to the Jamaica area.

The Commission believes that the locational advantages and the excellent subway, bus access and parking facilities in Jamaica Center will eventually bring private office development and is doing everything it can to encourage prospective developers to locate there. However, the Commission must face the reality that the Rego Park parcel would be developed with uses similar to that now proposed and must plan for them. At the insistence of the Commission the developers have agreed (in the restrictive declaration) that they would not receive a final Certificate of Occupancy of the office building for 5 years after the special permit is issued. This is in response to the Commission's desire to encourage private office construction in the Jamaica Center.

The City agencies have reviewed the impact of this development on the infrastructure in the area - sewers, water, streets and mass transit as well as the local community facilities and have taken steps to correct deficiencies in those areas where they occurred. The developer will take measures to reduce storm water runoff by providing for 100% on-site retention. Noise reduction measures as required by EPA for the exterior wall and window construction and baffles along the edge of the recreation decks will protect the prospective tenants of the development. Pedestrian circulation between the 2500 car commercial garage and the Galleria, and Alexanders, will be provided by a two level bridge over 62nd Drive thus freeing up the streets and for better vehicular flow in the area.

The Commission has insisted on improvements to the Lost Battalion Hall and adjacent park which will greatly enhance their usability by the neighborhood residents. The park has gained 9600 sq. ft. and a wide 51 foot access corridor from Junction Boulevard. In order to insure the openness of the park, the developer has agreed

Consideration Cont'd

to keep his residential building 150 feet away from the park line. He has designed the wall of the adjacent residential garage to meet the Park Department requirements. The developer will provide air conditioning and an elevator for the senior citizens facility in Lost Battalion Hall.

The Commission has obtained improvements to the existing subway access to the area. A widened stairway and attractive and convenient improvements at the Queens Boulevard and 63rd Road (in front of Alexanders) station and direct access to and from Alexander will, it is expected, encourage the use of mass transit and thus reduce automobile trips to the area.

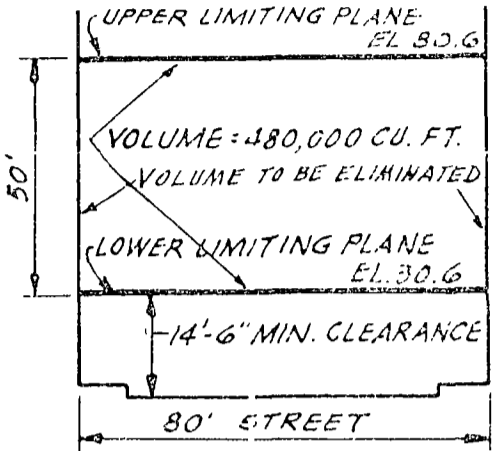
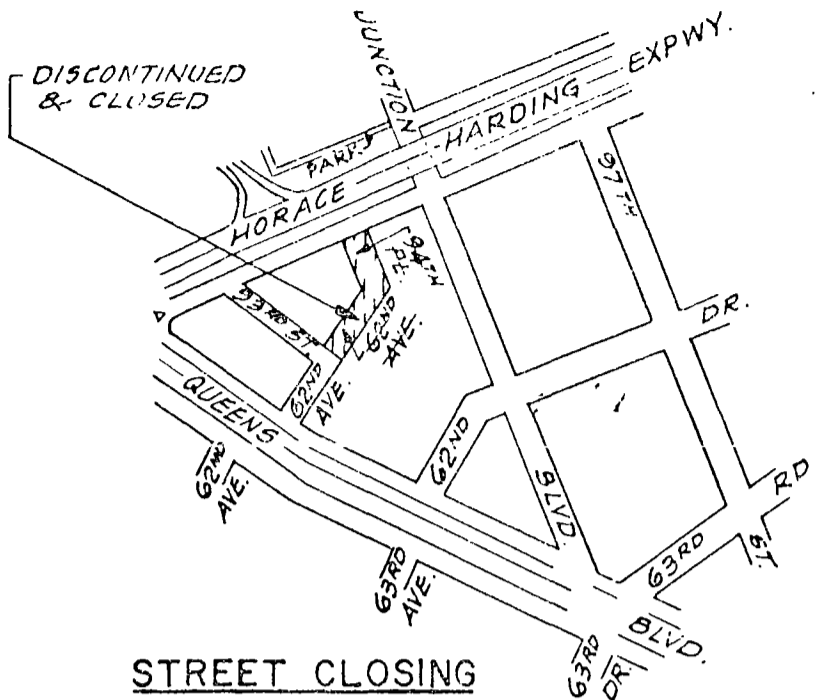
Based on the foregoing, the Commission is prepared to approve this mapping action and the zoning actions so the developments can proceed to construction. The Commission is pleased that it has had the opportunity to help shape a privately-financed development of this magnitude which in itself is an expression of confidence in the future and positive growth of the City.

The Commission, therefore, recommends to the Board of Estimate that subsequent to the approval of the appropriate agreement by the Corporation Counsel and its acceptance by the Board of Estimate, the map change be adopted concurrently with all related zoning actions and restrictive declaration.

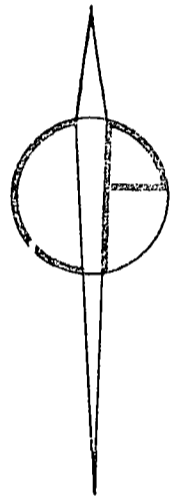
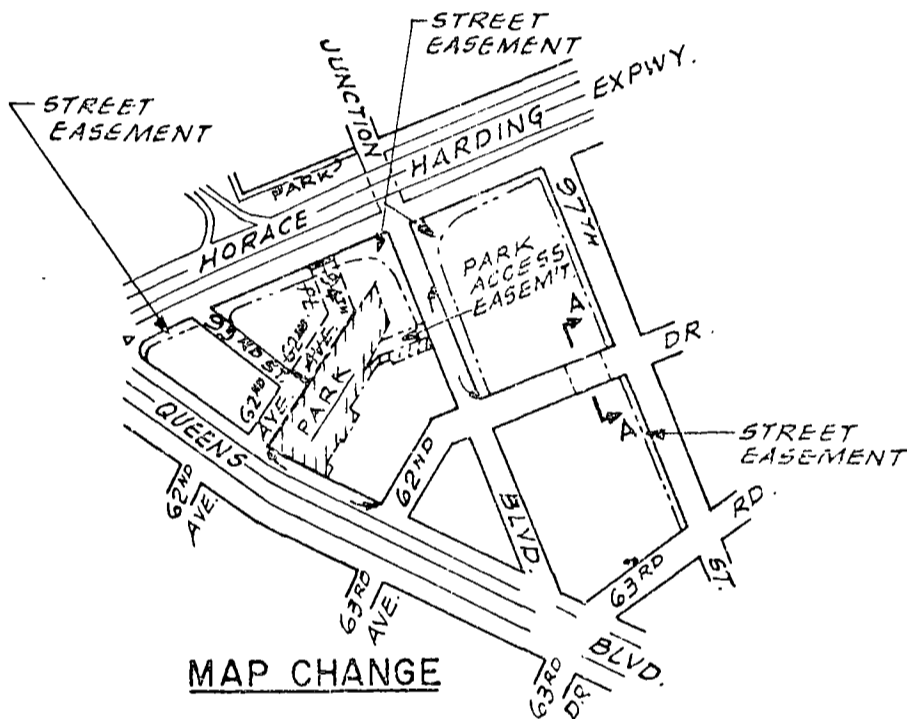
JOHN E. ZUCCOTT, Chairman;
GERALD R. COLEMAN, ALEXANDER COOPER, CHESTER RAPKIN, Commissioners.
(Concurring statement of Commissioner Cooper attached)

MARTIN GALLENT, Vice-Chairman; GORDON J. DAVIS, SYLVIA DEUTSCH, Commissioners;
voting "No". (Dissenting statement attached)

SK/ef



SECT. "A-A"
(NOT TO SCALE)

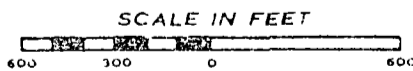


CITY PLANNING COMMISSION
CITY OF NEW YORK
**DIAGRAM SHOWING PROPOSED
MAP CHANGE & STREET CLOSING
ON SECTIONAL MAP**

14
**BOROUGH OF
QUEENS**

New York, July 23, 1975

J. J. [Signature]
Project Coordinator
J. J. [Signature]
Chief Engineer



NOTE:

- indicates line of street legally adopted.
- indicates line of street proposed to be established.
- - - indicates line of street proposed to be eliminated.
- indicates area of street proposed to be discontinued and closed.
- indicates Park proposed to be established.
- indicates limits of grades proposed to be established.

CONCURRING STATEMENT BY COMMISSIONER ALEXANDER COOPER

(CP - 23051, CP - 23052, CP - 23053, CP - 23054)

December 10, 1975

There are two fundamental considerations which I find persuasive regarding the project. The first is that Rego Park has in fact and already become Downtown Queens. The second is that the existing zoning policy for the area establishes and reinforces that fact.

The conditions at this location qualify by any measure as an appropriate and classic downtown area. Access, the prerequisite for any such center, is ideal. The intersection of Queens Boulevard and the Long Island Expressway is quickly available to the entire region by automobile. The rail lines at the site (EE and GG) provide direct subway service from Brooklyn and Manhattan as well as from Queens. The land use in the area reflects this favorable access pattern. Major retail and commercial facilities have grown along Queens Boulevard in a manner consistent with and directed by the zoning map. The mixed-use character of the area is still another highly-desirable downtown characteristic.

The Forest Gardens and Galleria proposal will further enhance the legitimacy of this location as a suitable downtown. The present 13 acre open parking lot serving Alexander's is a blighting residue leftover from the mindset of suburban shopping think. The vast and gaping hole is a visual sore and an economic disaster which in effect precludes the achievement of any standard of environmental quality. By consolidating the parking into a structure, this land can be recaptured for more intensive purposes. The reuse of economically underutilized land is a fundamental nationwide strategy for restoring the health of downtown areas. Rego Park demands such a strategy.

In addition, other amenities will be achieved. The nearby public park on Queens Boulevard will be opened to Junction Boulevard and be available to the many shoppers in the area. The sidewalks in the vicinity will be widened and landscaped, at the developer's expense, to create an improved pedestrian environment. The subway stop at Alexander's will be im-

proved, again at the developer's expense, to attract more shoppers to this means of travel. Similarly, the adjacent roads will be improved and widened, also at the developer's expense, to relieve the haphazard traffic situation caused mainly by the ubiquitous parking lot.

These aggregated benefits weigh heavily against prolonging the existing situation and heavily in favor of initiating the proposed development. The second predominant consideration is that this project is totally consistent with existing city policy for Rego Park. The amount of shopping space to be added by the Galleria does not exceed what is currently permissible as-of-right. The total square footage of the combined Alexander's and Galleria facility is within the density limits of the present C4-2 designation.

In a similar vein, the proposed residential density of Forest Gardens, as measured by zoning rooms and population, does not exceed the density limits of the present R-7 designation. The number of families to be accommodated by this project is the same number now permitted as a matter of right; and therefore will not overload or stress the facilities and services in the area.

The zoning change does allow two things to happen, not permitted at this time. First, the average apartment size will increase from 1,000 square feet to 1,400 square feet in order to provide more marketable apartments. Second, the commercial garage can be placed above-grade adjacent to the Galleria. I find both of these consequences to be acceptable.

A third consideration deals with consequences, and specifically the consequence of the City taking no action regarding this site. The fact is that, because of the present zoning, this development, or something very much worse, will happen even if the City does nothing. The history of Rego Park is that recent developments have taken place without the involvement of the City Planning Commission. Because of miserable soil conditions in the area, the Board of Standards and Appeals has continuously granted bulk and parking waivers as a matter of course to every applicant, most recently to the office building under construction immediately across Junction Boulevard. In this case, the required parking was reduced by half, further

impacting the traffic congestion in the area, and no compensatory accommodation for pedestrians was secured.

Consequently, if the Commission would not act now, we would lose the opportunity for a coordinated development with appropriate amenities, and be visited instead by additional fractured variance projects. I find this consequence unacceptable and against the City's best interests.

In summary, I find that this project will provide what other centers such as Downtown Brooklyn and Lower Manhattan have been attempting to achieve for years: an intensive desirable mixture of housing, commercial and retail uses that will facilitate 24-hour activity and thereby strengthen and anchor its economic viability.

I am not voting for this project because of the City's present economic plight: zoning considerations must not be swayed by such conditions. Nor do I view this action as a precedent: I have already detailed what I feel to be the unique characteristics of this site.

Instead I vote "aye" because it is the correct development, in the right place, under proper surveillance and with appropriate controls.

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DISSENT OF VICE-CHAIRMAN MARTIN GALLEN CONCURRED IN BY COMMISSIONERS

GORDON J. DAVIS AND SYLVIA DEUTSCH

(CP - 23051, CP - 23052, CP - 23053, CP - 23054)

December 10, 1975

The proposal before us concerns the application of developers Muss and Tankoos for special permits and rezoning for the purpose of constructing a large-scale, four-part project, to include 1,400 privately financed residential condominium units, residential parking for 1,400 cars, a 12-story office tower containing 224,000 sq. ft. and a 340,000 sq. ft. shopping center with a seven-level 2,500 space commercial garage.

There are elements in the proposal which we view positively. Such a massive undertaking offers the prospect of generating substantial tax revenues for the City through provision of retail, commercial and residential space and jobs in construction, maintenance, service and sales. That a private developer with such a responsible reputation plans to undertake such a project is particularly salutary in these times.

However, as we have reviewed plans for the project in depth, we find that there are potential problems of such magnitude as to outweigh the probable benefits to the economy of the City as a whole. These problems are primarily related to the environmental impact of the proposed development on the Rego Park area and its total effect on the Borough of Queens.

The present population of the area, both permanent and transient, is so dense as to raise questions about the planning wisdom of adding more pedestrian and automobile traffic to a locale already serving four department stores and many large-scale apartment developments. There are other parcels of property adjacent to this development whose owners will ultimately want to develop to the same scale as this applicant and the Commission would be hard pressed to resist their requests having set this precedent.

Circulation of street level traffic is presently very poor and may be improved by changes being negotiated between the developers and the Department of Traffic. We believe that basic problems of air pollution will continue, if not worsen. We are advised that, regardless of improvements in

traffic patterns under consideration, air quality in the area may not comply with federal and state standards. For example, there are approximately 1,500 parking spaces in the Alexander's parking lot now. This project calls for 3,900 spaces in the same area.

Impermissible noise pollution levels issuing from the massive traffic on the expressway below will necessitate noise insulation measures, including double-glazed, sealed windows and -- incredible to contemplate in these times of energy shortages -- full year-round air conditioning throughout.

Subway improvements necessary to accommodate the increased commercial and residential impact in the area is inadequate. The developer is resistant to supplying most of the amenities required to improve access to the subway and we find the concessions he has made to be minor and elevated beyond proportion to their real significance.

Another problematical aspect of the development is the physical scale of the buildings. The seven-level garage, with its massive bulk, will be overwhelming even to this area. The apartment towers of 33 and 17 stories and the 12-story office building, atop the Galleria are, in my view, incompatible with the already dense scale of the environs. The developer has resisted all attempts to lower the profile of the buildings, although such massing is possible and in our estimation highly desirable.

The wall on 62nd Drive will be an urban blight, since it will run the length of 62nd Drive between Junction Boulevard and 97th Street, unlandscaped and built to the building line. The failure to adequately landscape this entire massive development is characteristic of the lack of consideration and planning that has gone into this project by the developer.

A park which is being provided to the community by A.T. & T. will be blocked on one side by a three-story sheer wall, part of the residential garage, and overpowered by two high rise elements on the other side. The developer has refused to set the garage building wall next to the park back 10 feet, and, consequently, will use 10 feet of the park in order to construct the wall to the garage.

Deficiencies in infrastructure present substantial problems which can-

not realistically be solved by the City in its present and projected fiscal constriction. The question of adequate sanitary sewers is a particularly vexing one: the 108th Street combined storm and sanitary sewer which would serve the development is apparently in need of dragging, cleaning and reconstruction of regulators and pumping stations -- work that is estimated to cost at least \$2 million. Without this expenditure, the present dry weather sanitary discharge into Flushing Bay and the river, now a problem, would be aggravated by the new construction.

Furthermore, I am not satisfied that the result of adding 328,000 sq. ft. of retail space would not be detrimental to local convenience strip shopping areas that can be found in all of the retail nodes from Woodside to Flushing. I believe that the Galleria will compete unfavorably with those local shopping nodes which are the building blocks of any viable community.

It is regrettable that so much time and effort have gone into conception and negotiation of the Muss-Tankoos project, only to result in what I believe will prove to be an unworkable plan, because of its overwhelming physical impact, defective infrastructure and incompatibility with its surroundings.

In addition to these deficiencies, and possibly even more problematical, is the major issue posed by locating this development, and especially the office building and its attributable parking, in Rego Park. At the very least the office building and its attributable parking must be removed. The City Planning Commission and the City administration have evolved a firm policy of encouraging the commercial development of Jamaica. The Regional Plan Association and others who view the City and the region as a totality have strongly supported channelling development to Jamaica, to create a major sub-center. This Jamaica development plan is as compelling now as when introduced. We cannot deny the special attraction of large-scale development elsewhere in Queens, especially tempting in the present economic decline. But that is a short-range seduction that tends to blind us to solid long-range planning for Queens.

We must have the courage of our convictions and continue to promote our long-term planning efforts for commercial development and economic revitalization of this borough and the City.