



February 5, 2020 / Calendar No. 8

C 200088 ZMX

IN THE MATTER OF an application submitted by NYC Department of City Planning pursuant to Sections 197-c and 201 of the New York City Charter for an amendment to the Zoning Map, Section No. 4a, by changing from a C7 District to a C8-2 District property bounded by a line 175 feet northwesterly of Bartow Avenue, Asch Loop, Bartow Avenue and Baychester Avenue, Borough of the Bronx, Community District 10, as shown on a diagram (for illustrative purposes only) dated September 23, 2019.

The applicant, the New York City Department of City Planning (DCP) seeks a zoning map amendment to facilitate a zoning district change from C7 to C8-2 on property located on the northern side of Bartow Avenue, between Baychester Avenue and Asch Loop in the Baychester neighborhood of the Bronx, Community District 10. The proposed action would address an obsolete C7 zoning district.

BACKGROUND

DCP proposes to rezone an area located on the northern side of Bartow Avenue, between Baychester Avenue and Asch Loop (Block 5141 Lots 101, 102, and p/o 110) from a C7 district to a C8-2 district. C7 districts are commercial districts that permit uses associated with amusement parks, and do not permit residential and community facility uses. C7 districts permit a commercial floor area ratio (FAR) of up to 2.0 and height limits are subject to a sky exposure plane. Required parking varies by permitted use but is generally one space per 400 square feet.

In the 1960s, the rezoning area was part of *Freedomland U.S.A.*, an 85-acre American history-themed amusement park. The amusement park was demolished in 1965 and, between 1965 and 1972, the surrounding land was rezoned (CP 19852, CP 21922A, CP 19852, CP 18946) to allow for residential development. Residential development included Co-op City, which was constructed between 1966 and 1973, along with several adjacent shopping areas. Today, the land is home to Co-op City, the largest cooperative housing development in the United States, consisting of over 15,000 residential units within 35 high rise buildings and seven clusters of

townhouses, and three shopping centers with approximately 150 stores and 40 offices. The proposed rezoning area was not included in these previous applications because a use for the land had not yet been determined.

The rezoning area consists of privately-owned property located on the northern side of Bartow Avenue, between Baychester Avenue and Asch Loop. Lot 101 is an approximately 21,025-square-foot lot developed with a one-story retail building with 25 accessory parking spots constructed in 2018 to a 0.47 FAR. Lot 102 is an approximately 25,065 square-foot lot developed with a two-story retail building constructed to 0.53 FAR, with 35 accessory parking spaces. The portion of Lot 110 that is included in the rezoning area measures approximately 3,885 square-feet and is vacant and unimproved.

Baychester Avenue, which is located to the west of the rezoning area, is the service road of the Interstate 95 (I-95) and provides connections to Westchester County and the Connecticut state line. Bartow Avenue, a wide street that measures 120-feet wide, is located to the south of the rezoning area and is occupied by large one- and two-story chain retailers. Immediately to the north of the rezoning area is approximately 58,525 square feet of open space, a fire station, and Co-op City. To the east of the rezoning area is the Bartow Mall, which consists of one- and two-story convenience retail establishments. Directly to the south across Bartow Avenue are fast food restaurants and chain retailers. To the west of I-95 are several gas stations, a self-storage facility, several laundromats and a variety of service and commercial retailers. The MTA bus depot at Gun Hill is located to the west of I-95, approximately 700 feet from the rezoning area. In addition to commercial and residential uses, there are industrial uses in the surrounding area, including the Co-op City Power Plant.

DCP proposes to change the zoning from a C7 zoning district to a C8-2 zoning district to better align the existing uses with the built context of the area, future land use patterns, and community needs. C8-2 zoning districts permit a wider range of commercial uses, as well as community facility uses (use groups 4 through 14 and 16). Uses permitted in C8-2 districts that are not allowed in C7 districts include retail, heavier commercial uses, and auto-related uses that are consistent with those seen along the Bartow Avenue corridor to the east and west and along

Baychester Avenue to the north and south. The bulk requirements for yards, height, setback, and parking are similar for both C7 and C8-2 zoning districts. The maximum FAR for commercial uses in both C7 and C8-2 districts is 2.0. Like C7 districts, C8-2 districts have no residential equivalent. C8-2 districts permit community facility uses with a maximum FAR of 4.8.

Required parking varies by permitted use but is generally one space per 400 square feet. C7 districts do not restrict the size or height of signage, while C8-2 districts restrict the size and height of non-illuminated and illuminated advertising signs and accessory signs.

ENVIRONMENTAL REVIEW

This application (C 200088 ZMX) was reviewed pursuant to the New York State Environmental Quality Review Act (SEQRA), and the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 *et seq.* and the City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The lead is the City Planning Commission. The designated CEQR number is 20DCP035X.

After a study of the potential environmental impact of the proposed action, a Negative Declaration was issued on September 23, 2019.

UNIFORM LAND USE REVIEW

This application (C 200088 ZMX) was certified as complete by the Department of City Planning on September 23, 2019 and duly referred to Bronx Community Board 10 and the Bronx Borough President in accordance with Title 62 of the Rules of the City of New York, Section 2-02(b).

Community Board Public Hearing

Bronx Community Board 10 held a public hearing on this application (C 200088 ZMX) on October 17, 2019, and on that date, by a vote of 24 in favor, four opposed, and one abstention, adopted a resolution recommending approval of the application.

Borough President Recommendation

This application (C 200088 ZMX) was considered by the Bronx Borough President, who held a public hearing on November 14, 2019 and on December 9, 2019, issued a recommendation to approve the application.

City Planning Commission Public Hearing

On December 18, 2019 (Calendar No. 3) the City Planning Commission scheduled January 8, 2020 for a public hearing on this application (C 200088 ZMX). The hearing was duly held on January 8, 2020 (Calendar No. 29). There were no appearances in favor of the application and two appearances in opposition.

The NYC Council Member from District 12 spoke in opposition to the application, noting that Lot 101 was the site of a recent wind turbine collapse. He expressed concern regarding the large monopole on which the turbine was constructed, noting that it still stands and would not be required to be taken down should the proposed rezoning be adopted. The Council Member also expressed concern about how the turbine structure was permitted and designed, and stated that the Department of Buildings (DOB) would be providing a report and more detailed information on this matter.

A resident of Co-op City and member of the Riverbay (Co-op City) Board of Directors spoke in opposition to the application, noting concerns about the potential uses in Use Group 16, including animal crematoriums, that could be permitted as-of-right under the proposed rezoning. The speaker also noted that the C4-3 zoning district that is mapped in the area would be preferable to the C8-2 zoning district, as it does not permit semi-industrial uses and is already mapped in the area. The speaker further noted that it was understood by the Riverbay Board of Directors that DOB had determined that the existing sign structures are within 200 feet of a mapped arterial highway (I-95) and would have to be removed. The speaker also stated that Riverbay's Board of Directors was not aware of the application to rezone the area and did not have the opportunity to opine on the proposed rezoning until October 2019.

There were no other speakers and the hearing was closed.

CONSIDERATION

The Commission believes that the proposed zoning map amendment (C 200088 ZMX) is appropriate. The existing uses are inconsistent with the C7 zoning district, which is intended to support uses associated with large amusement parks. The uses in the area have not matched the C7 zoning district's permitted uses for 45 years, since the demolition of *Freedomland, U.S.A.* in 1965. Today, Lots 101 and 102 are improved with commercial businesses, and it is not anticipated that amusement-oriented uses will return to the area in the future.

C8-2 zoning districts permit a wider range of commercial uses than C7 zoning districts, including community facility, retail, and auto-related uses that are consistent with existing uses in the area along the Bartow Avenue corridor and I-95. The maximum FAR for commercial uses in both C7 and C8-2 districts is 2.0. Like C7 districts, there is no residential equivalent in C8-2 districts.

The Commission acknowledges the Council Member's testimony regarding the existing sign structures, signage, and recent wind turbine collapse on Lot 101. The Commission notes that the existing uses on the site are being investigated by DOB and that any resultant enforcement issues are separate matters from the proposed action and not under the purview of the Commission. The Commission also acknowledges testimony regarding the uses that could be permitted as-of-right by the proposed C8-2 district, and the stated preference for a C4-3 district. A modification to a C4-3 district is out of scope for this application and would be inappropriate regardless. The district permits residential development, the project area is adjacent to a major highway on a heavily trafficked commercial corridor. The Commission does not believe that it is appropriate to introduce residential uses in this location

The proposed C8-2 zoning district is well suited for the area to be rezoned. It will accommodate the bulk and use of the existing commercial buildings, as well as permit a wider array of potential commercial and community facility uses as-of-right. The Commission believes the proposed C8-2 district will better align with the current longstanding commercial uses in the rezoning area and, where permitted, apply more appropriate size and height restrictions to signage.

The Commission acknowledges community concerns expressed at the public hearing regarding the potential for semi-industrial uses, and animal and human crematoriums in particular, to be permitted as-of-right by the proposed C8-2 district. The Commission notes that these uses are unlikely to displace the active commercial uses on Lots 101 and 102 due to regulatory requirements and market conditions, and that the City does not have any current plans to site an animal crematorium or shelter in the rezoning area.

The Commission recognizes concerns from the community and elected officials regarding the safety of the wind turbine, but notes that it is beyond the purview of the Commission. The Commission is pleased that DOB will closely monitor future building code enforcement. In instances where signage removal is ordered, the Commission encourages City agencies to monitor the aesthetic impacts of any associated structures and to consider removal where appropriate.

RESOLUTION

RESOLVED, that having considered the Environmental Assessment Statement (EAS) for which a Negative Declaration was issued on September 23, 2019 with respect to this application (CEQR No. 20DCP035X), the City Planning Commission finds that the action described herein will have no significant impact on the environment; and be it further

RESOLVED, by the City Planning Commission, pursuant to Sections 197-c and 200 of the New York City Charter, that based on the environmental determination and consideration described in this report, 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. 4a, by changing from a C7 District to a C8-2 District property bounded by a line 175 feet northwesterly of Bartow Avenue, Asch Loop, Bartow Avenue and Baychester Avenue, Borough of the Bronx, Community District 10, as shown on a diagram (for illustrative purposes only) dated September 23, 2019.

The above resolution (C 200088 ZMX), duly adopted by the City Planning Commission on February 5, 2020 (Calendar No. 8), is filed with the Office of the Speaker, City Council, and the Borough President in accordance with the requirements of Section 197-d of the New York City Charter.

MARISA LAGO, *Chair*

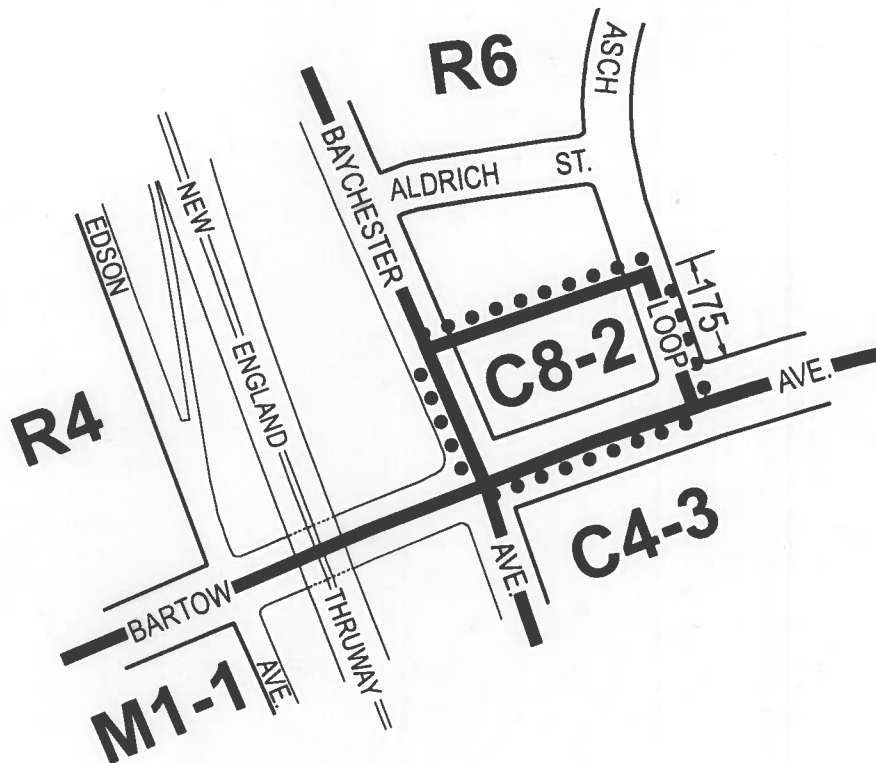
KENNETH J. KNUCKLES, *Esq.*, *Vice Chairman*

DAVID BURNEY, ALLEN P. CAPELLI, Esq., ALFRED C. CERULLO, III,

MICHELLE R. DE LA UZ, JOSEPH I. DOUEK, RICHARD W. EADDY,

HOPE KNIGHT, ANNA HAYES LEVIN, ORLANDO MARIN, LARISA ORTIZ,

RAJ RAMPERSHAD, *Commissioners*



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

4a

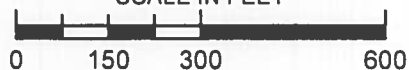
**BOROUGH OF
BRONX**



New York, Certification Date:
September 23, 2019

S. Lenard, Director
Technical Review Division

SCALE IN FEET



NOTE:

- Indicates Zoning District Boundary
-** The area enclosed by the dotted line is proposed to be rezoned by changing a C7 District to a C8-2 District.

NOTE: THIS DIAGRAM IS FOR ILLUSTRATIVE PURPOSES ONLY.

Application #: **C 200088 ZMX**

Project Name: **C7 Baychester Avenue Rezoning**

CEQR Number: 20DCP035X

Borough(s): Bronx

Community District Number(s): 10

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

SUBMISSION INSTRUCTIONS

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

Docket Description:

IN THE MATTER OF an application submitted by NYC Department of City Planning pursuant to Sections 197-c and 201 of the New York City Charter for an amendment to the Zoning Map, Section No. 4a, by changing from a C7 District to a C8-2 District property bounded by a line 175 feet northwesterly of Bartow Avenue, Asch Loop, Bartow Avenue and Baychester Avenue, Borough of the Bronx, Community District 10, as shown on a diagram (for illustrative purposes only) dated September 23, 2019.

Applicant(s): NYC Department of City Planning Bronx Borough Office 1775 Grand Concourse, Suite 503 Bronx, NY 10453		Applicant's Representative: Carol Samol NYC Department of City Planning Bronx Borough Office 1775 Grand Concourse, Suite 503 Bronx, NY 10453	
Recommendation submitted by: Bronx Community Board 10			
Date of public hearing: 10/17/19		Location: Riverbay, 2049 Bartow Ave, 10475	
Was a quorum present? YES ☒ NO ☐		A public hearing requires a quorum of 20% of the appointed members of the board, but in no event fewer than seven such members.	
Date of Vote: 10/17/19		Location: Riverbay, 2049 Bartow Ave, 10475	
RECOMMENDATION ☒ Approve ☐ Approve With Modifications/Conditions ☐ Disapprove ☐ Disapprove With Modifications/Conditions			
Please attach any further explanation of the recommendation on additional sheets, as necessary.			
Voting # In Favor: 25 # Against: 4 # Abstaining: 1 Total members appointed to the board: 42			
Name of CB/BB officer completing this form Matthew Cruz		Title District Manager	Date 10/8/19

**BOROUGH PRESIDENT
RECOMMENDATION**

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

INSTRUCTIONS

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

APPLICATION # C 200088 ZMX- C7 BAYCHESTER AVENUE REZONING

DOCKET DESCRIPTION

PLEASE SEE ATTACHMENT FOR DOCKET DESCRIPTION

COMMUNITY BOARD NO. 10

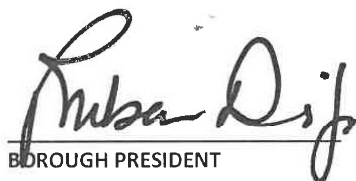
BOROUGH: BRONX

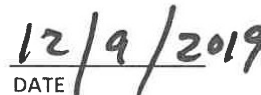
RECOMMENDATION

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

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

PLEASE SEE ATTACHMENT FOR BOROUGH PRESIDENT'S RECOMMENDATION


BOROUGH PRESIDENT


DATE

**BRONX BOROUGH PRESIDENT'S RECOMMENDATION
ULURP APPLICATION NO: C 200088ZMX
C7 BAYCHESTER AVENUE REZONING**

DOCKET DESCRIPTION

IN THE MATTER OF an application submitted by New York City Department of City Planning pursuant to Sections 197-c and 201 of the New York City Charter for an amendment to the Zoning Map, Section No. 4a, by changing from a C7 District to a C8-2 District, property bounded by a line 175 feet northwesterly of Bartow Avenue, Asch Loop, Bartow Avenue and Baychester Avenue, Borough of The Bronx, Community District #10, as shown on a diagram (for illustrative purposes only) dated September 23, 2019.

BACKGROUND

Approval of this application will amend the Zoning Map by removing an existing C7 designation and establishing a C8-2 on Block 5141, Lots 101, 102 and the southernmost portion of Lot 110. Lot 101 is composed of 21,025 square feet, Lot 102, 25,065 square feet and the portion of Lot 110 to be rezoned from C7 to R8-2 measures approximately 3,885 square feet. The remaining portion of Lot 110 is zoned R6. Boundaries include Bartow Avenue on the south, Baychester Avenue to the west and Asch Loop on the east. To the north is Lot 110. It is composed of 58,525 square feet of unimproved property. Pending approval of this Zoning Map change, the portion of Lot 110 remaining R6 will measure 54,640 square feet. Aldrich Street defines the northern boundary of Lot 110. A fire house is located adjacent to the northern boundary of Lot 102. This fire house is located on the west side of Asch Loop on Lot 103. This lot is not included or part of this application.

Existing development of Block 5141, Lots 101 and 102 includes:

- Lot 101 located on the northeast corner of Baychester Avenue and Bartow Avenue:
 - Sherwin Williams Paint Store
 - Drug Box Pharmacy
 - 7/11
 - Off-street parking for 25 vehicles
- Located on Lot 101, at the northeast corner of Baychester Avenue and Bartow Avenue is a three-sided, LED- illuminated advertisement sign. The dimensions of this sign include:
 - A mounting pole measuring 51 feet in height. Mounted to this pole is:
 - Each of three sides measuring 31 feet in width
 - Each of three sides measuring nine feet in height yielding a gross height of 60 feet

This sign is specifically designed to be visible from the New England Thruway.

These retail outlets are located in a one-story building utilizing a floor area ratio (FAR of 0.47 out of a maximum allowable FAR of 2.0.

- Lot 102 located on the northwest corner of Asch Loop and Bartow Avenue:
 - Men's Wearhouse
 - Apple Bank
 - Off-street parking for 35 vehicles
- Located on Lot 102 on the north side of Bartow Avenue is a two-sided, LED-illuminated advertisement sign. The dimension of this sign include:
 - A mounting pole measuring 14 feet in height Mounted to this pole is:
 - Each of two sides measuring 11 feet in width
 - Each of two sides measuring 16 feet in height yielding a gross height of 30 feetThis sign is specifically designed to be visible from Bartow Avenue

These retail outlets are located in a two-story building utilizing an FAR approximately .53 out of a maximum allowable FAR of 2.0.

C7 Districts allow for (among other uses), large amusement parks, boating facilities, sports stadiums, ice skating rinks and miniature golf courses (Use Groups 12-14). Owing to this history, Freedomland occupied much of the property on which Co-op City now stands. Since that time however, zoning on adjacent properties have been adopted, including:

- C4-3: Located on the south side of Bartow Avenue
- M1-1: Located on the east side of Baychester Avenue and east of Interstate 95 up to the west side of Gun Hill Road
- R6: Located on adjacent lots on Block 5141

C8-2 Districts allow for a wider range of commercial uses (Use Groups 4-14, and 16). Among these allowed uses are auto related uses, slaughterhouses, pet and human crematoriums blacksmith shops, animal hospitals or kennels, and woodworking shops.

Allowable requirements in C7 and C8-2 Districts include:

C7: Maximum FAR: 2.0
C8-2 Maximum FAR: 2.0

Residential equivalent C7: None
Residential equivalent C8-2: None

Community Facilities C7: None
Community Facilities C8-2: Yes: FAR 4.8

Parking Requirements C7: Generally 1-space for every 400 square feet*

Parking Requirements: C8-2: Generally one space for every 400 square feet*
*This may vary depending on permitted use

Signage Rules in C7:	No restriction on size or height, non-illuminated or illuminated
Signage Rules in C8-2	Restrictions are imposed pertaining to the size, height of advertising and accessory signs (Zoning Resolution 32-641, 32-642, 32-645, 32-65)

Residential development in the surrounding neighborhood located east of the New England Thruway (Interstate 95) is dominated by Co-op City. This Mitchell-Lama development includes approximately 15,000 residential units that accommodate approximately 50,000 residents. Co-op City is located north and east of the area that this application is considering. Residential development west of Interstate 95 includes one and two family homes and low-rise and mid-rise buildings.

Retail development includes the Bartow Mall and the Bay Plaza Shopping Center. These locations offer a wide range of commercial venues, including those that rely on a regional customer base. The New England Thruway is located to the west of Bartow Avenue, which serves as a service road for the Interstate. West of Interstate 95 commercial development includes additional retail locations and auto-related venues

Public transportation via bus includes the Bx12, SBSBx12, Bx23, Bx30, Bx38, Q50 and the BxM7 express bus to Manhattan. There is no subway access available within a ½ mile of the Bartow Avenue, Baychester Avenue intersection.

ENVIRONMENTAL REVIEW AND ULURP CERTIFICATION

This application has been reviewed pursuant to SEQR and CEQR and received a Negative Declaration. This application was certified as complete by the Planning Commission on September 23, 2019.

BRONX COMMUNITY BOARD PUBLIC HEARING

A public hearing was called by Bronx Community Board #10 on October 17, 2019. A vote recommending approval of this application was 25 in favor, four against and one abstention.

BOROUGH PRESIDENT'S PUBLIC HEARING

A public hearing was convened by the Bronx Borough President on November 14, 2019. Those representing the applicant spoke in favor of this application. One member of the public was in attendance and he spoke in opposition to the approval of this application. No other members of the public were present and the hearing was closed.

BRONX BOROUGH PRESIDENT'S RECOMMENDATION

This Zoning Map amendment eliminating the current C7 District and adopting a C8-2 District is timely. The area this application is considering will never be developed as an amusement park or any of the other use groups a C7 designation is mapped to facilitate. The fact is, this C7 zone is the last remaining "holdover" from when the founders of the Freedomland Amusement Park believed that what Walt Disney had built in Orange County, California, could be duplicated in Bronx County, New York. Unlike California however, outdoor amusement parks in The Bronx must close for the winter. Add to this the fact that as Freedomland sought to become a regional destination it faced stiff competition from the New York World's Fair. Ultimately, the amusement park site in the northeast Bronx would give way to Co-op City and the C7 designation that made Freedomland possible would be amended throughout the area to facilitate this massive Mitchell-Lama community. Only on Block 5141, Lots 101 and 102 and a modest portion of Lot 110 would a zoning change not be adopted. Approving this application will rectify this omission.

My endorsement of this zoning change takes into account the existing built profile of the area, what percentage of the existing development would comply with the proposed zoning, whether the location is well served by public transportation and if the sites being rezoned are well suited for residential development. Given these parameters I recognize that the sites' proximity to Interstate 95, coupled with the existing development on Block 5141, Lots 101 and 102, favor adopting the proposed C8-2. It also must be noted that all existing uses now in place would fully comply with the new zone.

At my public hearing opposition to this application was expressed by Mr. Rod Saunders, 2nd Vice President of the Riverbay Corporation Board of Directors, which is the managing arm of Co-op City. Key to Mr. Saunders concerns was the fact that a small portion of Lot 110 is included in this zoning change and that the far larger section of this lot is zoned R6. As the owner of Lot 110, Riverbay objected to this change noting that C8-2 precludes Riverbay from ever developing any of these lots for residential use. Mr. Saunders also voiced concern that C8-2 allows as-of-right development to include slaughterhouses and crematoriums. Given the built profile of this area and market demand, it is highly unlikely that such uses would be sited here. I also believe that as these lots are across from the New England Thruway (I-95), such a zoning designation is appropriate. To address Riverbay's concern over Lot 110, they are not precluded from developing residential on this lot, only the portion that would be rezoned to C8-2 from the existing C7. The New York City Department of City Planning could have rezoned this sliver to R6 as part of this rezoning, which would bring it into compliance with the rest of the lot. The Department's preference for "straight line" zoning boundaries is arbitrarily applied, and should be reconsidered for consistency in future applications. Finally, while this rezoning still allows signs and billboards on these properties to exist, it places greater controls over their size and scope, which helps minimize distractive hazards such signs may induce on drivers.

I concur with Bronx Community Board #10 and recommend approval of this application.