



PART I: GENERAL INFORMATION

1. Does Action Exceed Any Type I Threshold In 6 NYCRR Part 617.4 or 43 RCNY §6-15(A) (Executive Order 91 of 1977, as amended)?

Yes No

If yes, STOP, and complete the FULL EAS

2. Project Name 23rd Street Rezoning

3. Reference Numbers

Table with 2 columns: CEQR Reference Number, BSA Reference Number, ULURP Reference Number, Other Reference Number, Lead Agency Information, Applicant Information, Contact Person, Address, City, State, ZIP, Telephone, Fax, Email Address.

5. Project Description:

See attached Project Description.

6a. Project Location: Single Site (for a project at a single site, complete all the information below)

Table with 2 columns: Address, Neighborhood Name, Tax Block and Lot, Borough, Community District, Description of Property, Existing Zoning District, Zoning Sectional Map No.

6b. Project Location: Multiple Sites (Provide a description of the size of the project area in both City Blocks and Lots. If the project would apply to the entire city or to areas that are so extensive that a site-specific description is not appropriate or practicable, describe the area of the project, including bounding streets, etc.)

32-12 through 32-20 23rd Street, 21-35 33rd Avenue (Block 555, Lots 1, 36, 38, 40, 42 and part of Lot 5)

7. REQUIRED ACTIONS OR APPROVALS (check all that apply)

City Planning Commission: YES NO

- CITY MAP AMENDMENT, ZONING MAP AMENDMENT, ZONING TEXT AMENDMENT, UNIFORM LAND USE REVIEW PROCEDURE (ULURP), CONCESSION, UDAAP, REVOCABLE CONSENT, ZONING CERTIFICATION, ZONING AUTHORIZATION, HOUSING PLAN & PROJECT, SITE SELECTION — PUBLIC FACILITY, FRANCHISE, DISPOSITION — REAL PROPERTY

Board of Standards and Appeals: YES NO

- SPECIAL PERMIT, VARIANCE (USE), VARIANCE (BULK)

ZONING SPECIAL PERMIT, SPECIFY TYPE:

SPECIFY AFFECTED SECTION(S) OF THE ZONING RESOLUTION

- MODIFICATION OF, RENEWAL OF, OTHER



**10. Analysis Year** *CEQR Technical Manual Chapter 2*

ANTICIPATED BUILD YEAR (DATE THE PROJECT WOULD BE COMPLETED AND OPERATIONAL): 2014	ANTICIPATED PERIOD OF CONSTRUCTION IN MONTHS: 6-12 months (to receive final C of O for Lot 36)
WOULD THE PROJECT BE IMPLEMENTED IN A SINGLE PHASE? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	IF MULTIPLE PHASES, HOW MANY PHASES:
BRIEFLY DESCRIBE PHASES AND CONSTRUCTION SCHEDULE:	

**11. What is the Predominant Land Use in Vicinity of Project?** (Check all that apply)

RESIDENTIAL     MANUFACTURING     COMMERCIAL     PARK/FOREST/OPEN SPACE     OTHER, Describe:

**PART II: TECHNICAL ANALYSES**

**INSTRUCTIONS:** The questions in the following table refer to the thresholds for each analysis area in the respective chapter of the CEQR Technical Manual.

- If the proposed project can be demonstrated not to meet or exceed the threshold, check the 'NO' box.
- If the proposed project will meet or exceed the threshold, or if this cannot be determined, check the 'YES' box.
- Often, a 'Yes' answer will result in a preliminary analysis to determine whether further analysis is needed. For each 'Yes' response, consult the relevant chapter of the CEQR Technical Manual for guidance on providing additional analyses (and attach supporting information, if needed) to determine whether detailed analysis is needed. Please note that a 'Yes' answer does not mean that an EIS must be prepared—it often only means that more information is required for the lead agency to make a determination of significance.
- The lead agency, upon reviewing Part II, may require an applicant either to provide additional information to support this Short EAS Form or complete a Full EAS Form. For example, if a question is answered 'No,' an agency may request a short explanation for this response. In addition, if a large number of the questions are marked 'Yes,' the lead agency may determine that it is appropriate to require completion of the Full EAS Form.

	YES	NO
<b>1. LAND USE, ZONING AND PUBLIC POLICY:</b> <i>CEQR Technical Manual Chapter 4</i>		
(a) Would the proposed project result in a change in land use or zoning that is different from surrounding land uses and/or zoning? Is there the potential to affect an applicable public policy? If "Yes", complete a preliminary assessment and attach.	✓	
(b) Is the project a large, publicly sponsored project? If "Yes", complete a PlaNYC assessment and attach.		✓
(c) Is any part of the directly affected area within the City's Waterfront Revitalization Program boundaries? If "Yes", complete the <a href="#">Consistency Assessment Form</a> .		✓
<b>2. SOCIOECONOMIC CONDITIONS:</b> <i>CEQR Technical Manual Chapter 5</i>		
(a) Would the proposed project:		
• Generate a net increase of 200 or more residential units?		✓
• Generate a net increase of 200,000 or more square feet of commercial space?		✓
• Directly displace more than 500 residents?		✓
• Directly displace more than 100 employees?		✓
• Affect conditions in a specific industry?		✓
<b>3. COMMUNITY FACILITIES:</b> <i>CEQR Technical Manual Chapter 6</i>		
(a) Does the proposed project exceed any of the thresholds outlined in <a href="#">Table 6-1 of Chapter 6</a> ?		✓
<b>4. OPEN SPACE:</b> <i>CEQR Technical Manual Chapter 7</i>		
(a) Would the proposed project change or eliminate existing open space?		✓
(b) Is the proposed project within an underserved area in the <b>Bronx, Brooklyn, Manhattan, Queens, or Staten Island</b> ? If "Yes," would the proposed project generate 50 or more additional residents?		✓
If "Yes," would the proposed project generate 125 or more additional employees?		✓
(c) Is the proposed project in a well-served area in the <b>Bronx, Brooklyn, Manhattan, Queens, or Staten Island</b> ? If "Yes," would the proposed project generate 300 or more additional residents?		✓
If "Yes," would the proposed project generate 750 or more additional employees?		
(d) If the proposed project is not located in an underserved or well-served area, would the proposed project generate: 200 or more additional residents?		
500 additional employees?		

	YES	NO
<b>5. SHADOWS:</b> <i>CEQR Technical Manual Chapter 8</i>		
(a) Would the proposed project result in a net height increase of any structure of 50 feet or more?		✓
(b) Would the proposed project result in any increase in structure height and be located adjacent to or across the street from a sunlight-sensitive resource?		✓
<b>6. HISTORIC AND CULTURAL RESOURCES:</b> <i>CEQR Technical Manual Chapter 9</i>		
(a) Does the proposed project site or an adjacent site contain any architectural and/or archaeological resource that is eligible for, or has been designated (or is calendared for consideration) as a New York City Landmark, Interior Landmark or Scenic Landmark; is listed or eligible for listing on the New York State or National Register of Historic Places; or is within a designated or eligible New York City, New York State, or National Register Historic District?		✓
If "Yes," list the resources and attach supporting information on whether the project would affect any of these resources.		
<b>7. URBAN DESIGN:</b> <i>CEQR Technical Manual Chapter 10</i>		
(a) Would the proposed project introduce a new building, a new building height, or result in any substantial physical alteration to the streetscape or public space in the vicinity of the proposed project that is not currently allowed by existing zoning?		✓
(b) Would the proposed project result in obstruction of publicly accessible views to visual resources that is not currently allowed by existing zoning?		✓
<b>8. NATURAL RESOURCES:</b> <i>CEQR Technical Manual Chapter 11</i>		
(a) Is any part of the directly affected area within the Jamaica Bay Watershed? If "Yes," complete the <a href="#">Jamaica Bay Watershed Form</a> .		✓
(b) Does the proposed project site or a site adjacent to the project contain natural resources as defined in section 100 of Chapter 11? If "Yes," list the resources and attach supporting information on whether the project would affect any of these resources.		✓
<b>9. HAZARDOUS MATERIALS:</b> <i>CEQR Technical Manual Chapter 12</i>		
(a) Would the project allow commercial or residential use in an area that is currently, or was historically, a manufacturing area that involved hazardous materials?		✓
(b) Does the project site have existing institutional controls (e.g. (E) designations or a Restrictive Declaration) relating to hazardous materials that preclude the potential for significant adverse impacts?		✓
(c) Would the project require soil disturbance in a manufacturing zone or any development on or near a manufacturing zone or existing/historic facilities listed in Appendix 1 (including nonconforming uses)?		✓
(d) Would the project result in the development of a site where there is reason to suspect the presence of hazardous materials, contamination, illegal dumping or fill, or fill material of unknown origin?		✓
(e) Would the project result in development where underground and/or aboveground storage tanks (e.g. gas stations) are or were on or near the site?	✓	
(f) Would the project result in renovation of interior existing space on a site with potential compromised air quality, vapor intrusion from on-site or off-site sources, asbestos, PCBs or lead-based paint?		✓
(g) Would the project result in development on or near a government-listed voluntary cleanup/brownfield site, current or former power generation/transmission facilities, municipal incinerators, coal gasification or gas storage sites, or railroad tracks and rights-of-way?		✓
(h) Has a Phase I Environmental Site Assessment been performed for the site? If "Yes," were RECs identified? Briefly identify: No REC's identified	✓	
<b>10. INFRASTRUCTURE:</b> <i>CEQR Technical Manual Chapter 13</i>		
(a) Would the proposed project result in water demand of more than one million gallons per day?		✓
(b) Is the proposed project located in a combined sewer area and result in at least 1,000 residential units or 250,000 SF or more of commercial space in Manhattan or at least 400 residential units or 150,000 SF or more of commercial space in the Bronx, Brooklyn, Staten Island or Queens?		✓
(c) Is the proposed project located in a <a href="#">separately sewerred area</a> and result in the same or greater development than that listed in <a href="#">Table 13-1 of Chapter 13</a> ?		✓
(d) Would the project involve development on a site five acres or larger where the amount of impervious surface would increase?		✓
(e) Would the project involve development on a site one acre or larger where the amount of impervious surface would increase and is located within the <a href="#">Jamaica Bay Watershed</a> or in certain <a href="#">specific drainage areas</a> including: Bronx River, Coney Island Creek, Flushing Bay and Creek, Gowanus Canal, Hutchinson River, Newtown Creek, or Westchester Creek?		✓
(f) Is the project located in an area that is partially sewerred or currently unsewerred?		✓
(g) Is the project proposing an industrial facility or activity that would contribute industrial discharges to a WWTP and/or generate contaminated stormwater in a separate storm sewer system?		✓
(h) Would the project involve construction of a new stormwater outfall that requires federal and/or state permits?		✓
<b>11. SOLID WASTE AND SANITATION SERVICES:</b> <i>CEQR Technical Manual Chapter 14</i>		
(a) Would the proposed project have the potential to generate 100,000 pounds (50 tons) or more of solid waste per week?		✓
(b) Would the proposed project involve a reduction in capacity at a solid waste management facility used for refuse or recyclables generated within the City?		✓

	YES	NO
<b>12. ENERGY:</b> <a href="#">CEQR Technical Manual Chapter 15</a>		
(a) Would the proposed project affect the transmission or generation of energy?		✓
<b>13. TRANSPORTATION:</b> <a href="#">CEQR Technical Manual Chapter 16</a>		
(a) Would the proposed project exceed any threshold identified in <a href="#">Table 16-1 of Chapter 16</a> ?		✓
(b) If "Yes," conduct the screening analyses, attach appropriate back up data as needed for each stage, and answer the following questions:		
(1) Would the proposed project result in 50 or more Passenger Car Equivalents (PCEs) per project peak hour? If "Yes," would the proposed project result in 50 or more vehicle trips per project peak hour at any given intersection?  <i>**It should be noted that the lead agency may require further analysis of intersections of concern even when a project generates fewer than 50 vehicles in the peak hour. See Subsection 313 of Chapter 16, "Transportation," for information.</i>		
(2) Would the proposed project result in more than 200 subway/rail or bus trips per project peak hour? If "Yes," would the proposed project result, per project peak hour, in 50 or more bus trips on a single line (in one direction) or 200 subway trips per station or line?		
(3) Would the proposed project result in more than 200 pedestrian trips per project peak hour? If "Yes," would the proposed project result in more than 200 pedestrian trips per project peak hour to any given pedestrian or transit element, crosswalk, subway stair, or bus stop?		
<b>14. AIR QUALITY:</b> <a href="#">CEQR Technical Manual Chapter 17</a>		
(a) <i>Mobile Sources:</i> Would the proposed project result in the conditions outlined in <a href="#">Section 210 of Chapter 17</a> ?		✓
(b) <i>Stationary Sources:</i> Would the proposed project result in the conditions outlined in <a href="#">Section 220 of Chapter 17</a> ? If "Yes," would the proposed project exceed the thresholds in the Figure 17-3, <a href="#">Stationary Source Screen Graph</a> ? (attach graph as needed)	✓	✓
(c) Does the proposed project involve multiple buildings on the project site?	✓	
(d) Does the proposed project require Federal approvals, support, licensing, or permits subject to conformity requirements?		✓
(e) Does the proposed project site have existing institutional controls (e.g. E-designations or a Restrictive Declaration) relating to air quality that preclude the potential for significant adverse impacts?		✓
<b>15. GREENHOUSE GAS EMISSIONS:</b> <a href="#">CEQR Technical Manual Chapter 18</a>		
(a) Is the proposed project a city capital project, a power plant, or would fundamentally change the City's solid waste management system?		✓
(b) If "Yes," would the proposed project require a GHG emissions assessment based on the guidance in <a href="#">Chapter 18</a> ?		
<b>16. NOISE:</b> <a href="#">CEQR Technical Manual Chapter 19</a>		
(a) Would the proposed project generate or reroute vehicular traffic?		✓
(b) Would the proposed project introduce new or additional receptors (see <a href="#">Section 124 of Chapter 19</a> ) near heavily trafficked roadways, within one horizontal mile of an existing or proposed flight path, or within 1,500 feet of an existing or proposed rail line with a direct line of site to that rail line?		✓
(c) Would the proposed project cause a stationary noise source to operate within 1,500 feet of a receptor with a direct line of sight to that receptor or introduce receptors into an area with high ambient stationary noise?		✓
(d) Does the proposed project site have existing institutional controls (e.g. E-designations or a Restrictive Declaration) relating to noise that preclude the potential for significant adverse impacts?		✓
<b>17. PUBLIC HEALTH:</b> <a href="#">CEQR Technical Manual Chapter 20</a>		
(a) Would the proposed project warrant a public health assessment based upon the guidance in <a href="#">Chapter 20</a> ?		✓
<b>18. NEIGHBORHOOD CHARACTER:</b> <a href="#">CEQR Technical Manual Chapter 21</a>		
(a) Based upon the analyses conducted for the following technical areas, check yes if any of the following technical areas required a detailed analysis: Land Use, Zoning, and Public Policy, Socioeconomic Conditions, Open Space, Historic and Cultural Resources, Urban Design and Visual Resources, Shadows, Transportation, Noise  If "Yes," explain here why or why not an assessment of neighborhood character is warranted based on the guidance of in Chapter 21, "Neighborhood Character." Attach a preliminary analysis, if necessary.		✓

		YES	NO
19.	<b>CONSTRUCTION IMPACTS:</b> <i>CEQR Technical Manual Chapter 22</i> Would the project's construction activities involve (check all that apply):		
	• Construction activities lasting longer than two years;		✓
	• Construction activities within a Central Business District or along an arterial or major thoroughfare;		✓
	• Require closing, narrowing, or otherwise impeding traffic, transit or pedestrian elements (roadways, parking spaces, bicycle routes, sidewalks, crosswalks, corners, etc);		✓
	• Construction of multiple buildings where there is a potential for on-site receptors on buildings completed before the final build-out;		✓
	• The operation of several pieces of diesel equipment in a single location at peak construction;		✓
	• Closure of community facilities or disruption in its service;		✓
	• Activities within 400 feet of a historic or cultural resource; or		✓
	• Disturbance of a site containing natural resources.		✓
<p>If any boxes are checked, explain why or why not a preliminary construction assessment is warranted based on the guidance of in Chapter 22, "Construction." It should be noted that the nature and extent of any commitment to use the Best Available Technology for construction equipment or Best Management Practices for construction activities should be considered when making this determination.</p>			

**20. APPLICANT'S CERTIFICATION**

I swear or affirm under oath and subject to the penalties for perjury that the information provided in this Environmental Assessment Statement (EAS) is true and accurate to the best of my knowledge and belief, based upon my personal knowledge and familiarity with the information described herein and after examination of pertinent books and records and/or after inquiry of persons who have personal knowledge of such information or who have examined pertinent books and records.

Still under oath, I further swear or affirm that I make this statement in my capacity as the

Authorized Representative

of

T.F. Cusanelli Architects, P.C.

APPLICANT/SPONSOR

NAME THE ENTITY OR OWNER

the entity which seeks the permits, approvals, funding or other governmental action described in this EAS.

Check if prepared by:  APPLICANT/REPRESENTATIVE OR  LEAD AGENCY REPRESENTATIVE (FOR CITY-SPONSORED PROJECTS)

Richard Lobel

APPLICANT/SPONSOR NAME:



SIGNATURE:

LEAD AGENCY REPRESENTATIVE NAME:

February 28, 2013

DATE:

**PLEASE NOTE THAT APPLICANTS MAY BE REQUIRED TO SUBSTANTIATE RESPONSES IN THIS FORM AT THE DISCRETION OF THE LEAD AGENCY SO THAT IT MAY SUPPORT ITS DETERMINATION OF SIGNIFICANCE.**

**PART III: DETERMINATION OF SIGNIFICANCE (To Be Completed By Lead Agency)**

**INSTRUCTIONS:**

In completing Part III, the lead agency should consult 6 NYCRR 617.7 and 43 RCNY §6-06 (Executive Order 91 of 1977, as amended) which contain the State and City criteria for determining significance.

1. For each of the impact categories listed below, consider whether the project may have a significant effect on the environment. For each of the impact categories listed below, consider whether the project may have a significant adverse effect on the environment, taking into account its (a) location; (b) probability of occurring; (c) duration; (d) irreversibility; (e) geographic scope; and (f) magnitude.	Potential Significant Adverse Impact	
	YES	NO
<b>IMPACT CATEGORY</b>		
Land Use, Zoning, and Public Policy		✓
Socioeconomic Conditions		✓
Community Facilities and Services		✓
Open Space		✓
Shadows		✓
Historic and Cultural Resources		✓
Urban Design/Visual Resources		✓
Natural Resources		✓
Hazardous Materials		✓
Water and Sewer Infrastructure		✓
Solid Waste and Sanitation Services		✓
Energy		✓
Transportation		✓
Air Quality		✓
Greenhouse Gas Emissions		✓
Noise		✓
Public Health		✓
Neighborhood Character		✓
Construction Impacts		✓

2. Are there any aspects of the project relevant to the determination whether the project may have a significant impact on the environment, such as combined or cumulative impacts, that were not fully covered by other responses and supporting materials? If there are such impacts, explain them and state where, as a result of them, the project may have a significant impact on the environment.

**3. LEAD AGENCY CERTIFICATION**

Deputy Director, EARD  
TITLE  
 Celeste Evans  
NAME

City Planning Commission  
LEAD AGENCY  
  
SIGNATURE

Check this box if the lead agency has identified one or more potentially significant adverse impacts that **MAY** occur.

Issue **Conditional Negative Declaration**

A **Conditional Negative Declaration (CND)** may be appropriate if there is a private applicant for an Unlisted action AND when conditions imposed by the lead agency will modify the proposed project so that no significant adverse environmental impacts would result. The CND is prepared as a separate document and is subject to the requirements in 6 NYCRR 617.

Issue **Positive Declaration** and proceed to a draft scope of work for the Environmental Impact Statement.

If the lead agency has determined that the project may have a significant impact on the environment, and if a conditional negative declaration is not appropriate, then the lead agency issues a **Positive Declaration**.

**NEGATIVE DECLARATION (To Be Completed By Lead Agency)**

**Statement of No Significant Effect**

Pursuant to Executive Order 91 of 1977, as amended, and the Rules of Procedure for City Environmental Quality Review, found at Title 62, Chapter 5 of the Rules of the City of New York and 6NYCRR, Part 617, State Environmental Quality Review, the [ ] assumed the role of lead agency for the environmental review of the proposed project. Based on a review of information about the project contained in this environmental assessment statement and any attachments hereto, which are incorporated by reference herein, the [ ] has determined that the proposed project would not have a significant adverse impact on the environment.

Reasons Supporting this Determination

The above determination is based on information contained in this EAS that finds, because the proposed project:

No other significant effects upon the environment that would require the preparation of a Draft Environmental Impact Statement are foreseeable. This Negative Declaration has been prepared in accordance with Article 8 of the New York State Environmental Conservation Law (SEQRA).

\_\_\_\_\_  
TITLE

\_\_\_\_\_  
LEAD AGENCY

\_\_\_\_\_  
NAME

\_\_\_\_\_  
SIGNATURE

## **INTRODUCTION**

### **PROJECT DESCRIPTION**

The applicant, T.F. Cusanelli Architects P.C., is seeking to rezone a portion of Tax Block 555 (Tax Lots 1, 36, 38, 40, 42 and a portion of Tax Lot 5) in the Astoria neighborhood of Queens, New York, from an R5 district to an R5/C1-4 district by extending an adjacent C1-4 commercial overlay mapped on the northern half of Block 555. The area the applicant seeks to rezone is bounded by 33<sup>rd</sup> Avenue, 23<sup>rd</sup> Street, the center line of Block 555 and a line parallel to and 100' feet west of 23<sup>rd</sup> Street (the "Rezoning Area").

The Rezoning Area is comprised of 6 contiguous tax lots, with a total area of approximately 10,029 square feet. Tax Lots 1, 36, 38, 40, and 42, comprise a single zoning lot totaling approximately 9,596 square feet in area (the "Subject Property"). Tax Lot 5 is 2,500 square feet in lot area, approximately 433 square feet of which will be affected by the proposed rezoning, and is developed with a three-story multi-family residential building. Neither Tax Lot 5 nor the tax lots comprising the single zoning lot are owned by the applicant.

The Subject Property, formerly known as Block 555, Lot 1, was previously improved with a repair shop and garage. In 2002, the repair shop and garage were demolished in anticipation of a new five-building residential development. The Department of Buildings ("DOB") approved plans in 2002 and issued permits in 2003 for this residential development, which was designed pursuant to the infill regulations available for "predominantly built-up areas." Construction of the development commenced. In 2004, after construction was nearly complete, a DOB audit revealed that the northern half of Block 555 had been rezoned from R5 to R6B in 2001 and the Subject Property did not qualify for infill regulations. The ground floor of each building was converted to community facility use to ensure compliance with maximum floor area requirements, but the conversion created a side yard non-compliance for the building on Tax Lot 36.

In October 2006, a variance application was filed with the Board of Standards and Appeals (the "BSA") by the original owner and developer, requesting side yard relief for Tax Lot 36. The BSA eventually denied the requested relief in resolutions adopted on July 21, 2009. In those resolutions, the BSA stated it did not agree with the developer's arguments that (1) there were unique physical conditions on the site that led to hardship and (2) that relief was merited based on the developer's good faith reliance on permits issued by the Department of Buildings. In July 2009, the developer filed an Article 78 petition challenging the BSA's determination, which was subsequently denied by the State Supreme Court in March 2010.

In the last decade, there has been a focused effort by the Department of City Planning to rezone large portions of the Borough of Queens. Of these rezonings, two specifically affected the

Rezoning Area and this application. As noted above, the northern half of Block 555 was previously rezoned in 2001, under ULURP Application No. C 010047 ZMQ, from an R5 zoning district to an R6B zoning district, with C1-4 overlays extending 100 feet southeasterly of 21<sup>st</sup> Street and northwesterly of 23<sup>rd</sup> Street (the “Broadway Rezoning”). The second and most recent rezoning was approved May 25, 2010, under ULURP Application No. C 100199 ZMQ (the “Astoria Rezoning”). As part of the Astoria Rezoning, the Department of City Planning rezoned 238 blocks within the Astoria neighborhood, including the northern half of Block 555, which was rezoned to extend a C1-4 overlay that was mapped on the corners of the block to encompass the entire northern half of the block.

The proposed rezoning would be consistent with the 2010 Astoria Rezoning and would legalize the existing community facility and residential development on the Project Site by eliminating the requirement that a side yard be provided for the building on Lot 36 of the Project Site and would facilitate the occupancy of that building as built.

## **REASONABLE WORST CASE DEVELOPMENT SCENARIO**

### **Existing Conditions**

The Project Site is improved with five attached three-story mixed-use residential and community facility buildings. The four buildings on Lots 1, 42, 40 and 38 are complete and were issued Certificates of Occupancy for community facility use (medical offices) on the ground floor and residential use on the floors above in 2006. Upon information and belief, the ground floors of these four buildings are currently occupied by residential use. The building on Lot 36 is substantially complete but not yet occupied. The existing development, as approved by the Department of Buildings, conforms to applicable use regulations and complies with the bulk regulations in the existing R5 zoning district, with the exception of one side yard, required pursuant to Section 24-35(a) of the Zoning Resolution. Originally designed and built pursuant to R5 infill regulations when Block 555 was zoned entirely within an R5 zoning district, a rezoning of the northern portion of the block to R6B/C1-4 and R6B in 2002 (the “Astoria Rezoning”) made the infill regulations inapplicable and rendered the development on the Subject Property non-compliant with regard to one required side yard on Tax Lot 36.

On the northern half of Block 555 are several mixed residential/commercial and commercial buildings, including a lot line commercial building (pharmacy) located adjacent to Tax Lot 36. The non-complying side yard on Tax Lot 36 is adjacent to the side wall of the pharmacy building. The remainder of Block 555 is primarily developed with two-story and three-story multi-family residential buildings, with a gas station at the western end of the block, fronting 21<sup>st</sup> Street. Block 554, to the north of the subject block, is entirely developed with commercial buildings and parking. Block 556, located to the east of the Rezoning Area, is developed with a

three-story mixed residential/commercial building and four three-story multi-family residential buildings fronting 23<sup>rd</sup> Street directly across from the Rezoning Area.

**Future without the Proposed Action (No-Action Scenario)**

If the proposed rezoning is not approved, a portion of the building on Tax Lot 36 of the Project Site would need to be demolished to provide the required 9.08’ side yard along the district boundary. As compliance with the required side yard would result in a building of less than 10’ wide, the entire building on Lot 36 would be demolished and removed. The buildings on Tax Lots 1, 42, 40 and 38 would remain as built and would be occupied in accordance with the 2006 Certificates of Occupancy, with community facility use (medical offices) on the ground floor and residential use above.

**Future with the Proposed Action (With-Action Scenario)**

If approved, the proposed action would bring the existing mixed-use residential and community facility development on the Subject Property into compliance by changing the Rezoning Area from an R5 to an R5/C1-4 district and thereby eliminating the side yard requirement of ZR Section 24-35(a), which requires that a building containing community facility uses provide two side yards. With the proposed action, the buildings on Tax Lots 1, 42, 40 and 38 would remain as built and would be occupied in accordance with the 2006 Certificates of Occupancy, with community facility use (medical offices) on the ground floor and residential use above. The existing building on Lot 36 would also remain as built and would be occupied by community facility use on the ground floor (medical offices, approximately 642 sf) and residential above (approximately 2,438 sf). The development on the zoning lot would comply with applicable bulk and use regulations in the proposed R5/C1-4 zoning district (maximum FAR of 1.85 for a mixed CF/R building, maximum floor area of 17,748 square feet).

The proposed action would have a minimal effect on the surrounding area within 400’ of the Project Site (the “Directly Affected Area”), as the Rezoning Area is generally restricted to the Project Site, which contains an existing, relatively recently constructed development and is therefore unlikely to be redeveloped.

**Analysis Framework**

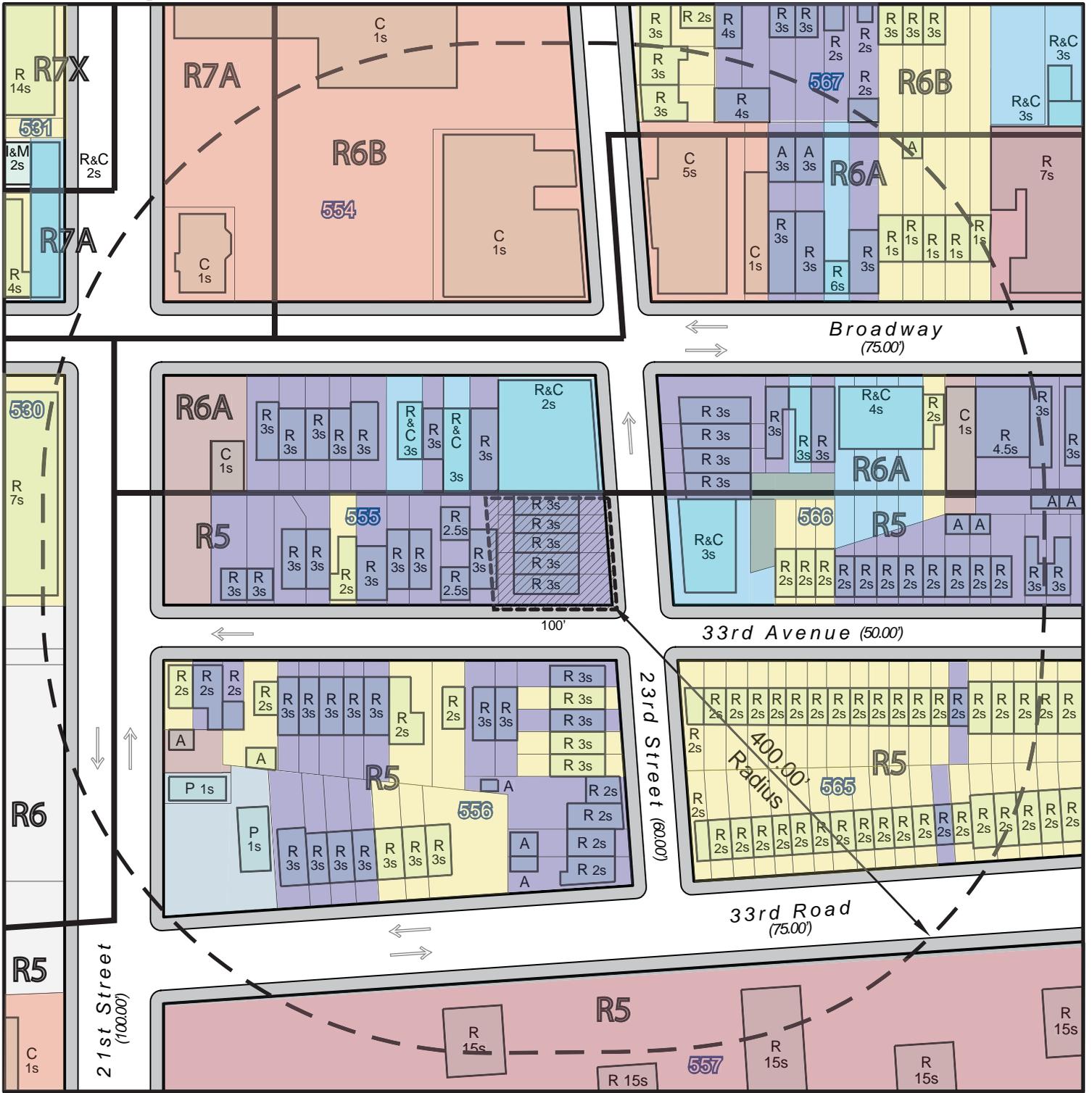
The zoning map change sought by this application is a site-specific localized action, affecting only a small area of Block 555. The existing development described above was built within the last ten years and indicates the reasonable worst-case development scenario for the Project Site. The existing zoning and land uses in the Directly Affected Area are not anticipated to change due to this proposed action. The following applicable areas of potential impact have been analyzed with regard to the increment between the future with-action scenario (with-action) and future without action scenario (no-action). The analysis sections below are numbered to correspond

with the item numbers on the EAS Form submitted herewith and refer to the 2012 CEQR Technical Manual.

## **REQUIRED GRAPHICS**

- A. 400' Land Use Map
- B. Zoning Map with 400' Radius
- C. Tax Map with 400' Radius
- D. Site Photographs and Locator Map with Viewpoints

# LAND USE MAP

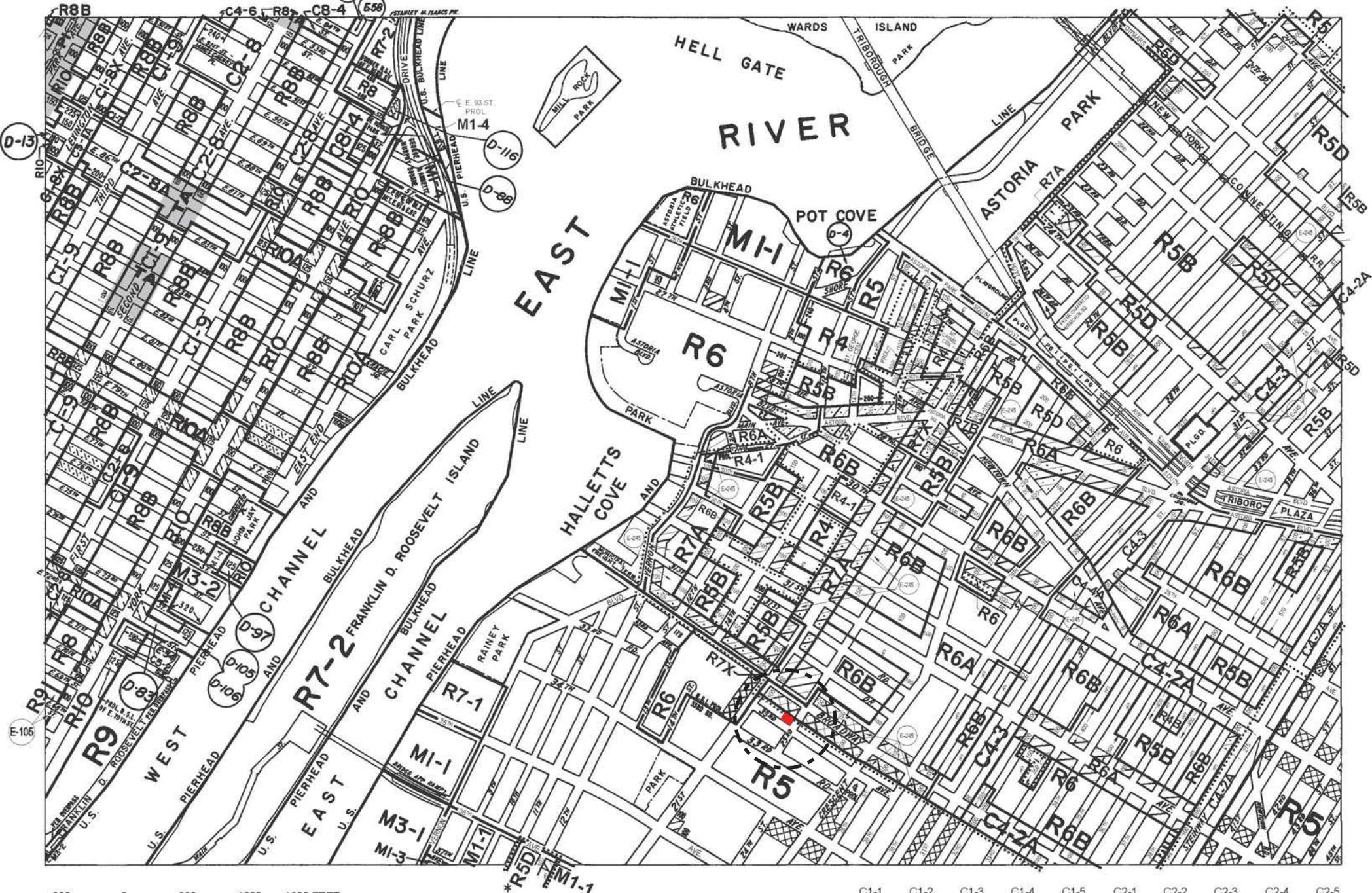


## Legend

FOR ILLUSTRATIVE PURPOSES ONLY

400 Foot Radius	Subject Property	Industrial / Manufacturing	R - Residential
Block Number	One & Two Family Residential	Commercial / Residential	C - Commercial
21st Street Street Name (100.00') Approx. Street Width	Commercial / Residential	Public Facilities and Institutions	I - Industrial
Traffic Direction	Commercial	Open Space & Recreation	M - Manufacturing
Building Footprint	Multi-Family Residence (Walkup)	Parking	P - Parking
	Multi-Family Residence (Elevator)	Vacant Land	A - Accessory
			3s - Number of Stories
			<b>SCALE:</b>
			10' 100'
			50'
			DO NOT SCALE

# ZONING MAP



## ZONING MAP

THE NEW YORK CITY PLANNING COMMISSION

### Major Zoning Classifications:

The number(s) and/or letter(s) that follows an **R**, **C** or **M** District designation indicates use, bulk and other controls as described in the text of the Zoning Resolution.

- R** – RESIDENTIAL DISTRICT
- C** – COMMERCIAL DISTRICT
- M** – MANUFACTURING DISTRICT

⋯ AREA(S) REZONED

EFFECTIVE DATE(S) OF REZONING:  
 \*9-16-2010 C 100145 ZMQ  
 5-25-2010 C 100199 ZMQ

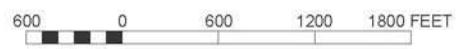
■ SPECIAL PURPOSE DISTRICT  
 The letter(s) within the shaded area designates the special purpose district as described in the text of the Zoning Resolution.

- ⓓ – RESTRICTIVE DECLARATION
- ⓔ – CITY ENVIRONMENTAL QUALITY REVIEW DECLARATION

### MAP KEY

5d	6b	6d
8c	<b>9a</b>	9c
8d	9b	9d

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--- 400' Radius  
 ■ Area of Proposed Rezoning

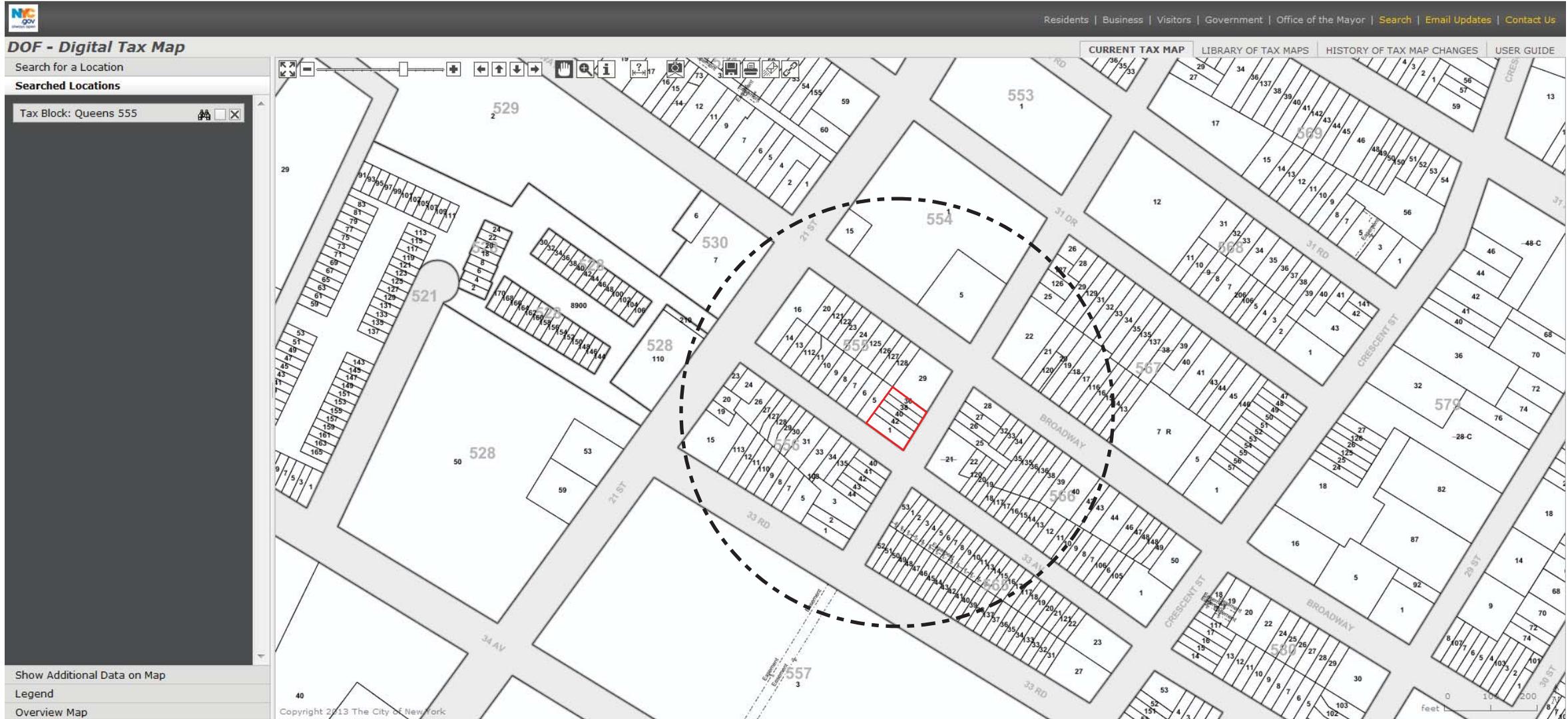


NOTE: Where no dimensions for zoning district boundaries appear on the zoning maps, such dimensions are determined in Article VII, Chapter 6 (Location of District Boundaries) of the Zoning Resolution.

ZONING MAP 9a

NOTE: Zoning information as shown on this map is subject to change. For the most up-to-date zoning information for this map, visit the Zoning section of the Department of City Planning website: [www.nyc.gov/planning](http://www.nyc.gov/planning) or contact the Zoning Information Desk at (212) 720-3291.

# TAX MAP



— Subject Site  
- - - 400' Radius

**Photo Viewpoints**  
23rd Street Rezoning  
CEQR No. 11DCP069Q  
ULURP No. 110178ZMQ



(Does not include aerial photo)



Aerial ▾

Broadway

23rd St

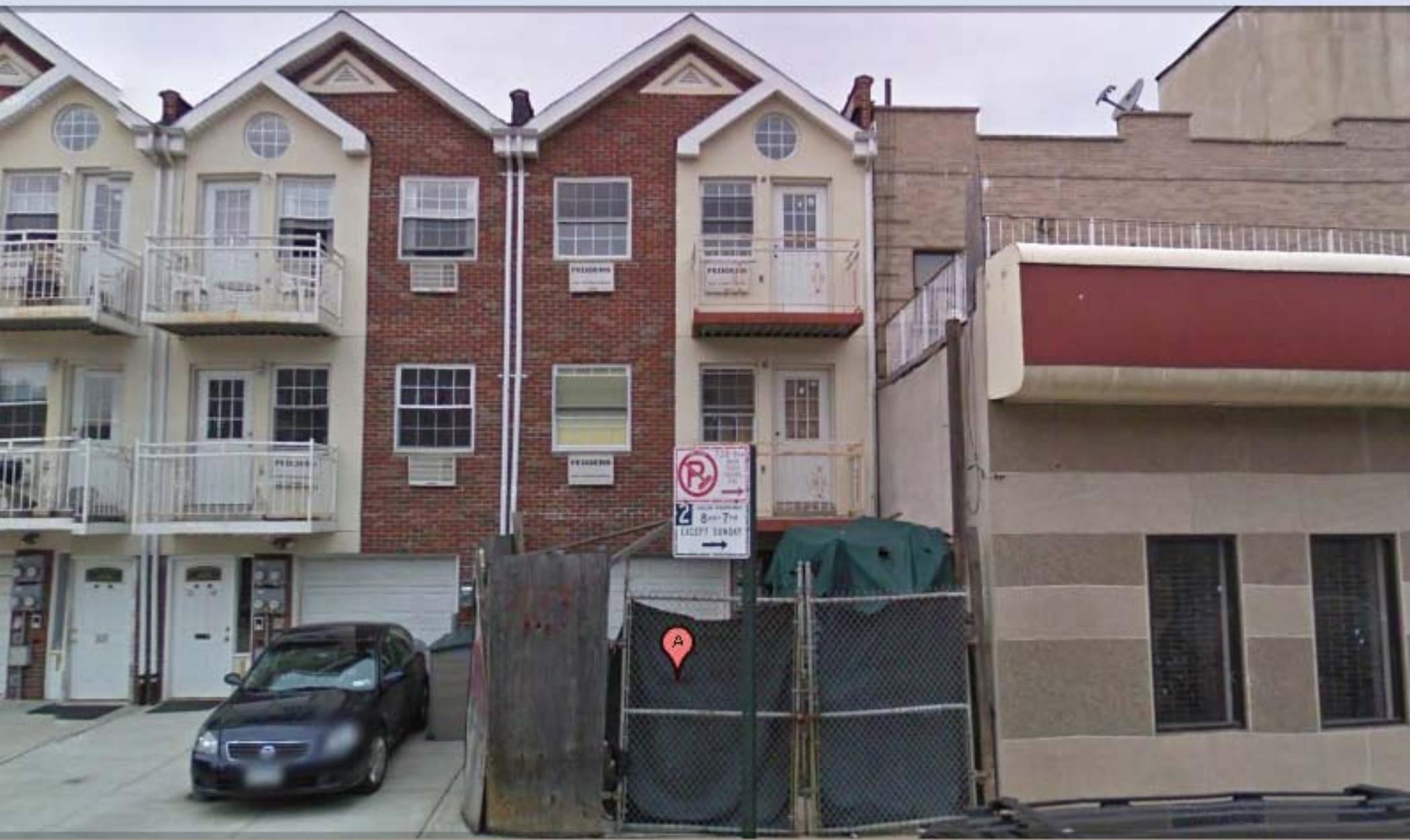
33rd Ave

23rd St



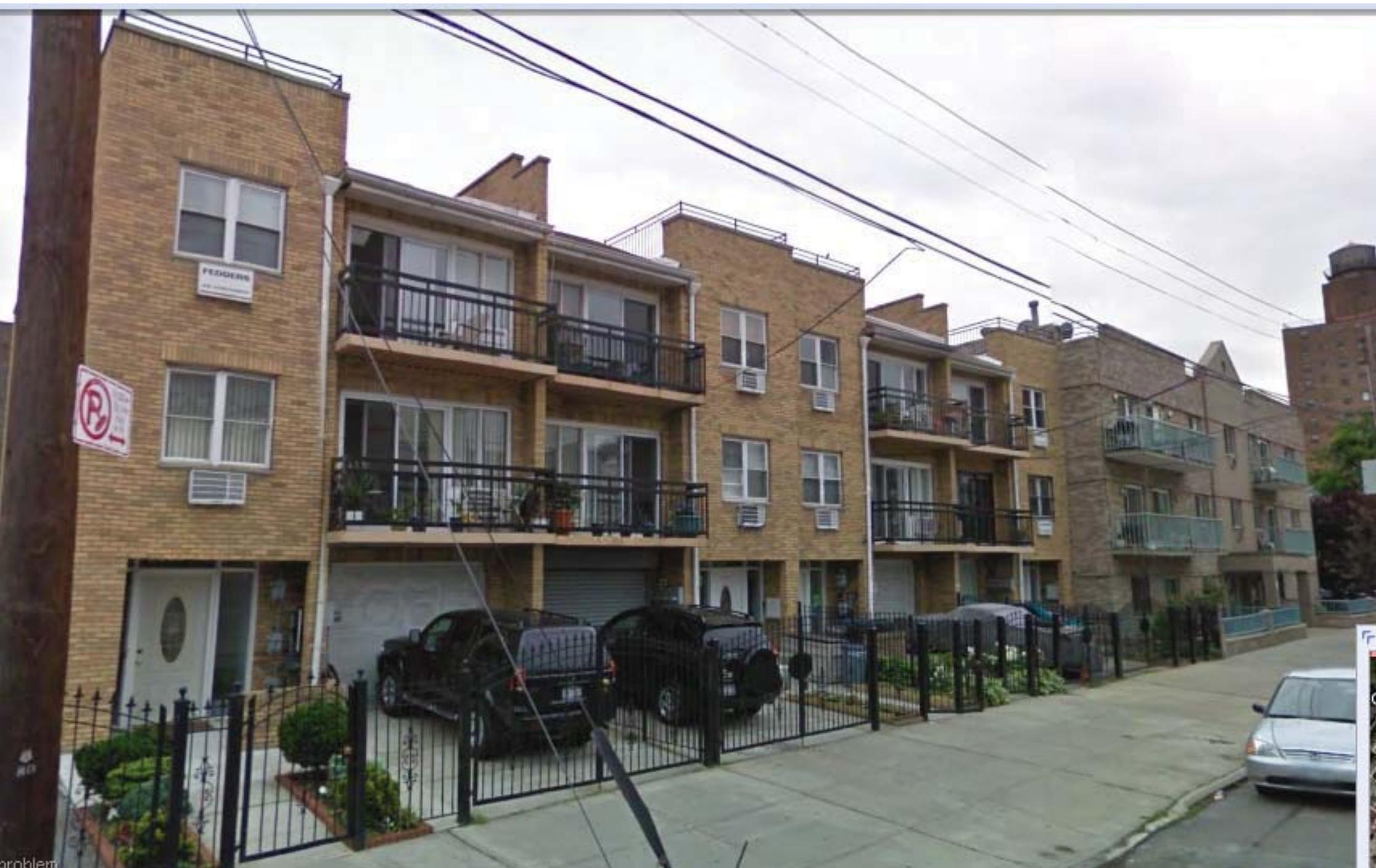
23rd St





NO PARKING  
8am-7pm  
EXCEPT SUNDAY

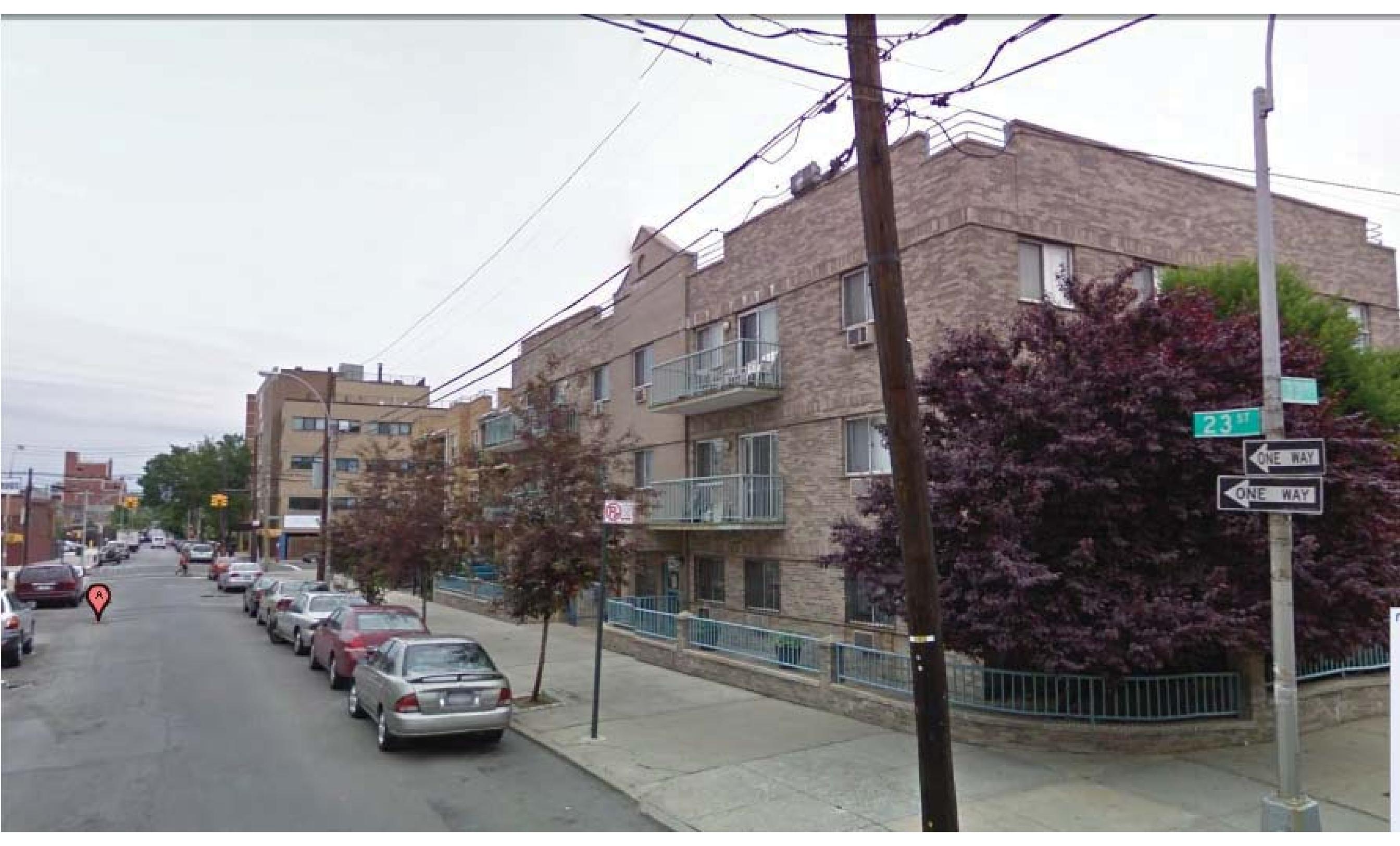
A



problem



[Report a problem](#)



23<sup>RD</sup>

ONE WAY

ONE WAY

8



## TECHNICAL ANALYSES

### 1. LAND USE, ZONING AND PUBLIC POLICY

#### LAND USE

##### Existing Conditions

##### *Project Site*

The Project Site is improved with five attached three-story mixed-use residential and community facility buildings. The four buildings on Lots 1, 42, 40 and 38 are complete and occupied, and the building on Lot 36 is not yet occupied although construction is substantially complete. The buildings have conforming ground floor community facility use (medical offices) and two stories of residential use above.

##### *Directly Affected Area*

The land uses within 400' of the Project Site are predominantly multi-family residential, mixed-use and commercial. On the northern half of Block 555 are several mixed residential/commercial and commercial buildings, including a lot line commercial building located adjacent to Tax Lot 36. The non-complying side yard on Tax Lot 36 is adjacent to the side wall of a commercial building occupied by a pharmacy. The remainder of Block 555 is primarily developed with two-story and three-story multi-family residential buildings, with a gas station at the western end of the block, fronting 21<sup>st</sup> Street. Block 554, to the north of the subject block, is entirely developed with commercial buildings (including a supermarket, bank, restaurant, and retail stores) and parking. Block 566, located to the east of the Rezoning Area, is developed with a three-story multi-family residential building and four three-story multi-family residential buildings fronting 23<sup>rd</sup> Street directly across from the Rezoning Area. A four-story mixed commercial/residential building on Block 566 facing Broadway contains a ground floor local retail store. The corner of Block 567 at Broadway and 23<sup>rd</sup> Street, located northeast of the Project Site, is developed with a five-story commercial building used for medical offices. A one-story commercial building is located adjacent to the medical office building, which is currently occupied by a local retail store.

##### No-Action

Without the proposed action, the existing uses within the surrounding area and the existing conforming residential and community facility uses on the Project Site would remain, although the building on Lot 36 would likely be demolished.

With-Action

Should the proposed action be approved, the building on Lot 36 would be compliant and could be occupied by conforming uses. The existing uses within the surrounding area and the existing conforming residential and community facility uses on the Project Site would remain unchanged.

**ZONING**

Existing Conditions

The surrounding area is zoned R5 to the south of the rezoning area, with R6A/C1-4 zoning districts located to the north along either side of Broadway, and an R6B on Block 554 and the northern half of Block 567. The existing R5 district is designed to permit a variety of housing types at a higher density, often resulting in three-story attached houses and small apartment buildings. Community facility and residential uses (Use Groups 1-4) are permitted within an R5 zoning district. The existing R5 district allows a maximum residential Floor Area Ratio (“FAR”) of 1.25 and a maximum community facility FAR of 2.0. As built, the developed lots within the Rezoning Area have an average FAR of approximately 1.55.

No-Action

Without the proposed action, the existing zoning districts in the surrounding area would remain unchanged, and the zoning district of the Rezoning Area would remain R5.

With-Action

Should the proposed action be approved, the existing zoning districts in the surrounding area would remain unchanged, and the zoning district of the Rezoning Area would be R5/C1-4 instead of R5. The C1-4 district is the most appropriate commercial overlay for the Rezoning Area as it is a natural extension of the recently rezoned commercial overlay district that borders the Rezoning Area to the north, and will bring into compliance the existing non-complying development on the Project Site. The proposed R5/C1-4 district is a medium-density district which permits residential and community facility development, as well as commercial development and mixed-use buildings. In a mixed residential/commercial building, the commercial use must be located beneath the residential use. The proposed C1-4 commercial overlay would be bounded by 23<sup>rd</sup> Street, 33<sup>rd</sup> Avenue, the center line of Block 555 and a line parallel to and 100 feet west of 23<sup>rd</sup> Street. The C1-4 commercial overlay would permit Use Groups 1-6, with a maximum 1.0 FAR for commercial uses. C1-4 districts are intended for local retail and service businesses that serve the surrounding area and do not create significant parking demand. The regulations of the residential district in which the C1-4 overlay is mapped generally govern residential bulk, but certain regulations are waived, including front and side yard requirements.

## **PUBLIC POLICY**

### Existing Conditions

In the last decade, there has been a focused effort by the Department of City Planning to rezone large portions of the Borough of Queens. Of these rezonings, two specifically affected the Rezoning Area and this application. As noted above, the northern half of Block 555 was previously rezoned in 2001, under ULURP Application No. C 010047 ZMQ, from an R5 zoning district to an R6B zoning district, with C1-4 overlays extending 100 feet southeasterly of 21<sup>st</sup> Street and northwesterly of 23<sup>rd</sup> Street (the “Broadway Rezoning”). The second and most recent rezoning was approved May 25, 2010, under ULURP Application No. C 100199 ZMQ (the “Astoria Rezoning”). As part of the Astoria Rezoning, the Department of City Planning rezoned 238 blocks within the Astoria neighborhood, including the northern half of Block 555, which was rezoned to extend a C1-4 overlay that was mapped on the corners of the block to encompass the entire northern half of the block.

### No-Action

Without the proposed action, the building on Lot 36 would be demolished to comply with side yard requirements and two dwelling units would be lost, which would not significantly affect public policy in the area.

### With-Action

Should the proposed action be approved, the Rezoning Area will be rezoned with a C1-4 overlay, which would effectively be a continuation of the Astoria Rezoning by further extending the C1-4 overlay to encompass the Rezoning Area. In that regard, the proposed rezoning would be consistent with the continuing objectives of the Department of City Planning within the Borough of Queens to update outdated zoning designations to better reflect existing development.

As described above, no significant adverse impacts on land use, zoning or public policy are anticipated as a result of the proposed action, and therefore no further assessment is warranted.

## **9. HAZARDOUS MATERIALS**

A hazardous materials assessment is generally warranted for development on a vacant or under-utilized site if there is reason to suspect contamination. The Project Site was previously improved with a repair shop and garage. In or around 2002, the repair shop and garage were demolished in anticipation of a new five-building residential development. The Department of Buildings (“DOB”) approved plans in 2002 and issued permits in 2003 for this development.

Prior to construction, a Phase I Environmental Assessment Statement was prepared for the Project Site, a copy of which is provided in the Appendix as Item A. The only recognized environmental conditions noted at the Project Site were three underground storage tanks (“USTs”), which, upon information and belief, have been removed and disposed of in accordance with DEP protocol, together with the soil around and beneath each UST.

However, for the reasons noted in the letter dated February 13, 2013, attached as Item B in the Appendix, an updated Phase I cannot be obtained. Therefore, to preclude the potential for significant adverse impacts, we understand that an (E) designation will be placed on Block 555, Lot 36 of the Project Site. Pursuant to ZR Section 11-15 (Environmental Requirements), prior to any DOB permit or action being filed for, including the application for and acceptance of a permanent certificate of occupancy in connection with the existing building on Block 555, Lot 36 that will be legalized as a result of the proposed action, the Department of Buildings shall be furnished with a notice issued by OER stating that OER does not object to the issuance of such building permit or temporary or permanent certification of occupancy.

The fee owner of Block 555, Block 36 must submit to OER for review and approval, a Phase 1 of Block 555, Lot 36 along with a soil and groundwater testing protocol, including a description of methods and a site map with all sampling locations clearly and precisely represented. If site sampling is necessary, no sampling should begin until written approval of a protocol is received from OER. The number and location of sample sites should be selected to adequately characterize the site, the specific source of suspected contamination (i.e., petroleum based contamination and non-petroleum based contamination), and the remainder of the site’s condition. The characterization should be complete enough to determine what remediation strategy (if any) is necessary after review of sampling data. Guidelines and criteria for selecting sampling locations and collecting samples are provided by OER upon request.

A written report with findings and a summary of the data must be submitted to OER after completion of the testing phase and laboratory analysis for review and approval. After receiving such results, a determination is made by OER if the results indicate that remediation is necessary. If OER determines that no remediation is necessary, written notice shall be given by OER. If remediation is indicated from the test results, a proposed remediation plan must be submitted to OER for review and approval. The applicant must complete such remediation as determined necessary by OER. The applicant should then provide proper documentation that the work has been satisfactorily completed.

With these provisions in place, no significant adverse impacts due to hazardous materials are expected as the result of the proposed action.

## **14. AIR QUALITY**

An air quality assessment is generally warranted when ambient air quality may be affected by air pollutants produced by motor vehicles, referred to as "mobile sources" or by fixed facilities, usually referenced as "stationary sources" or by a combination of both.

### Mobile Sources

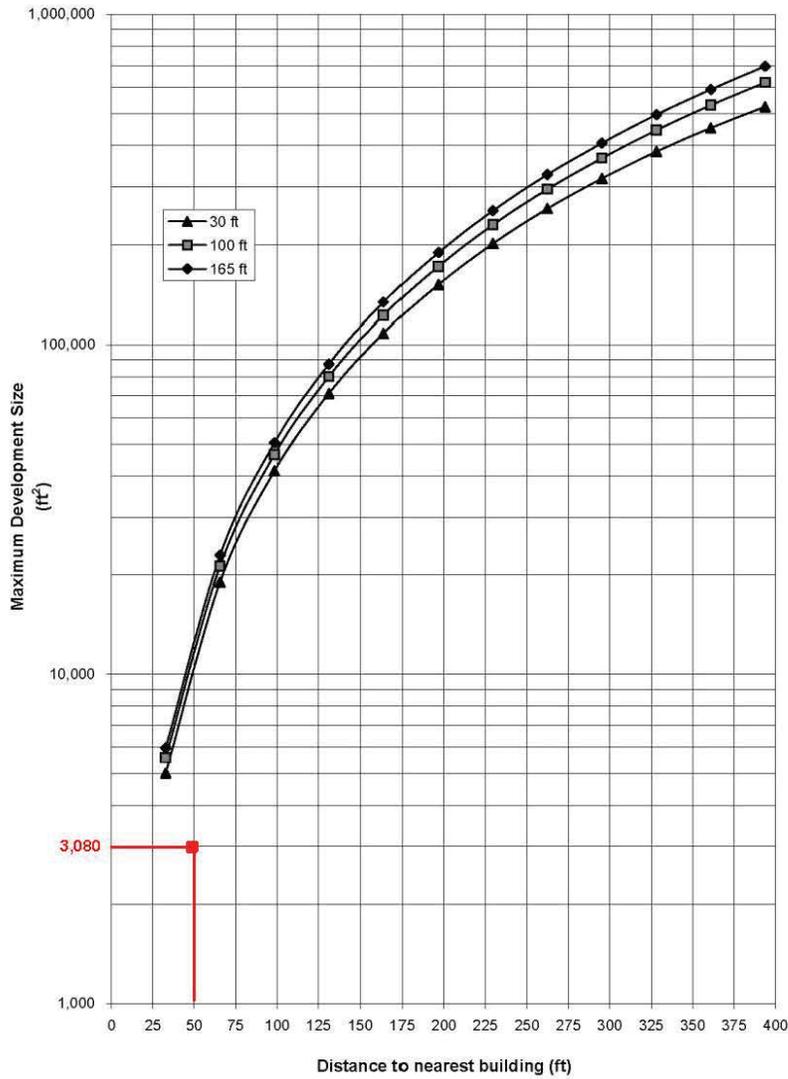
The existing development at the Project Site only added ten new residential units to the area and is well below the threshold for a detailed traffic assessment per Table 16-1 (Minimum Development Densities Potentially Requiring Transportation Analysis). As the development results in less than 170 peak hour vehicle trips, a detailed mobile source analysis is not necessary.

### Stationary Sources

The existing development at the Project Site contains five attached residential and community facility buildings, each with rooftop ventilation pipes. In the No-action Scenario, there would be four buildings at the Project Site, reducing the size of the development by approximately 3,081 square feet, from 15,405 square feet to 12,324 square feet. The existing development is a very small emissions source, and the incremental difference in emissions between the No-action Scenario and the With-action Scenario would not significantly impact air quality.

A stationary screen graph was prepared for the portion of the development that would be affected by the proposed action (see below figure). The building on Lot 36, which would be legalized in the With-Action Scenario, is 3,080 square feet in floor area and is 32'-11" tall at the roof ridge (35'-11" assuming a 3' stack height). The closest building of similar or greater height is located at 21-34 Broadway (Block 555, Lot 29), on the corner of Broadway and 23<sup>rd</sup> Street, approximately 50' away from the Site (measured from the adjacent lot line of Lot 36 to the middle of Lot 29). The size of the proposed development was plotted against the distance in feet to the nearest building of greater height, noted in red on the figure below. As the plotted point is below the 30 ft stack curve, a potential significant impact due to boiler stack emissions is unlikely and no further analysis is necessary.

Figure 17-3:  
Stationary Source Screen



### Industrial Sources

A screening of industrial sources was performed in the Environmental Assessment Statement prepared for the 2010 Astoria Rezoning (CEQR No. 10DCP019Q) for a study area that included the Directly Affected Area. Industrial permit searches and field surveys identified only two industrial uses within a 400' radius of the Project Site: a dry cleaning establishment on Block 554, north of the Rezoning Area, and an auto repair establishment on Block 556, south of the Rezoning Area. Neither of these uses was determined to exceed EPA thresholds for either carcinogenic or non-carcinogenic pollutants.

The proposed action will not result in significant adverse mobile and/or stationary source air quality impacts and therefore no further assessment is needed.

## **16. NOISE**

According to the 2012 CEQR Manual, a noise assessment is generally warranted when a proposed action will either generate any mobile or stationary sources of noise and/or be located in an area with existing high ambient noise levels. The existing five building, 10-unit residential and community facility building at the Project Site will not generate or reroute significant vehicular traffic, 23<sup>rd</sup> Street and 33<sup>rd</sup> Avenue are not heavily trafficked thoroughfares and the elevated rail line along 31<sup>st</sup> Street is located more than 1,500 feet away. The existing development is not a substantial stationary source of noise, and the Project Site is not located within an area with high ambient noise levels resulting from stationary sources, such as unenclosed manufacturing activities or other loud uses. As noted above in the Air Quality section, there are no industrial uses on the subject block and only two within the Directly Affected Area, and there are no playgrounds, car washes or other typical stationary noise sources within the Directly Affected Area.

The proposed action would not change the existing residential and community facility uses at the Project Site, which are the same as those anticipated in the No-action Scenario. Therefore, no further assessment of noise is warranted.

## **APPENDIX**

- A. Phase I Environmental Assessment dated August 15, 2002
- B. Letter from Sheldon Lobel P.C. dated February 13, 2013

**PHASE I  
ENVIRONMENTAL ASSESSMENT**

**Conducted At :  
FUTURE 5-ATTACHED CONDO'S SITE  
#21-37 33rd AVENUE  
ASTORIA, QUEENS 11106**

**Conducted For :  
MR. RIDWAN KABIR, and  
MR. WILLIAM PARK  
BK CORPORATION, INC.  
#31-16 43rd STREET  
ASTORIA, QUEENS 11103**

**PROJECT EA - 1,255  
Authorized August 15, 2002**

**Prepared By :  
PROF. MALCOLM I. BARKAN, P.E.  
MIB CONSULTING  
32 EMPRESS PINES DRIVE  
NESCONSET, N.Y. 11767  
(631) 981-2122**

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FUTURE 5-ATTACHED CONDO'S SITE

#21-37 33rd AVENUE

ASTORIA, QUEENS 11106

# MIB Consulting

32 EMPRESS PINES DRIVE  
NESCONSET, N.Y. 11767  
(516) 981-2122  
FAX: (516) 981-4131

ENVIRONMENTAL & REMEDIATION ENGINEERING

MALCOLM I. BARKAN, B.C.E., P.E., M.B.A., PH.D.

MYKE LEE, V.P.

August 30, 2002

Mr. Ridwan Kabir  
Mr. William Park  
BK Corporation, Inc.  
#31-16 43rd Street  
Astoria, Queens 11103

Dear Mr. Kabir & Mr. Park,

The enclosed Phase I level Environmental Assessment was developed from a combination of on-site investigations, plus adjacent & nearby properties, plus all the environmental aspects within a one mile radius from #21-37 33rd Avenue in Astoria, Queens 11106.

These findings required 5 investigative procedures that encompass:

- \* On-site investigations within and around #21-37 33rd Avenue, corner of 23rd Street, in the Astoria section of Queens 11106.
- \* Adjacent and nearby properties to #21-37 33rd Avenue parcel. Do any appear to have posed environmental threats?
- \* Hydrocarbon spills, within a one mile radius from #21-37 33rd Ave. premises.
- \* Tank leaks, hydrocarbons or chemicals, within a one mile radius from #21-37 33rd Ave. parcel.
- \* Superfund sites, NPL & SPL, within a 2 miles radius from #21-37 33rd Ave. locale.

Based upon a referral from Mr. Wal Lee of AmerAsia Bank, Mr. R. Kabir & Mr. W. Park contracted with MIB Consulting to conduct a Phase I Environmental Assessment for #21-37 33rd Avenue in Astoria, 11106. It was determined that 3 underground storage tanks (USTs) were taken out-of-service by the previous owner, but not cleaned out and removed according to NYC-DEP regulations.

The 3 USTs were exposed and cleaned out according to clarification by Prof. Barkan; inspected, then removed, cut up and transported to a Certified scrap dealer. Any residual soil that contained either gasoline (from 2 x 275 gallon USTs) or #2 fuel oil (from a calculated 2000 gallon UST) was removed and sampled for TCLP, then transported to an Incinerator in south N.J.

After these procedures were completed, there was no longer any environmental concern within #21-37 33rd Avenue property. Photos in Section H of Part II show #21-37 parcel before UST excavations, view of the 3 USTs just prior to their removal.

Adjacent and nearby properties do not appear to have posed environmental concerns to #21-37 sub-strata; up to the present time. Northwards up 23rd Street are residential and offices over retail stores and a restaurant.

East across 23rd Street are residential and houses west toward 21st Street. South across 33rd Ave. are also residential; photos #1-3, 5, 10-13, 15-18, 20-28.

Environmental investigations, as depicted in Section F map of Astoria, determined there were 37 spills plus 46 tank leaks (S. & TL) within a one mile radius from #21-37 33rd Ave. parcel, as recorded by NYS-DEC, since April 1979.

But, 44 of those 83 S. & TL were recorded as just one gallon each. Because it is unlikely for a one gallon volume to penetrate approx. 20 to 35 feet depth-to-water (DTW) then form a plume and flow up to one mile in semi-turbulent groundwater flows, those 44 S. & TL can be dismissed as not apt to affect #21-37 sub-strata.

The other 39 S. & TL range from 2 to 50,000 gallons. Of those, 14 S. & TL are within 1/2 mile, that range from 2 to 10,000 gallons. According to the Section G - Groundwater Contours Map, flows in this particular area tend west-northwest from Broadway & northwards; but tends to flow west-southwest from 34th Avenue & southwards.

Analysis of S. & TL locations versus directions of groundwater flows, confirms that nearest spill of 5 gallons at 600 feet south-southwest, on the east side of 21st Street and 33rd Road, may have penetrated approx. 20 feet DTW to form a plume, which would have tended to flow westerly away from #21-37 premises, toward the East River.

The nearest tank leak, of 525 gallons at 1100 feet south-southwest on 21st Street and 34th Avenue, formed a plume that tended to flow west-southwest away from #21-37 parcel, toward East Channel on the east side of Roosevelt Island.

Each of the other 37 S. & TL, at 1/4 to one mile radius from #21-37 33rd Avenue, formed a plume that tended to flow no closer than 1/2 mile north, nor 3/8 mile south, nor 3/4 mile east from #21-37 premises; including a 50,000 gallon spill (In ConEd storage facility) at 5/8 mile northwest, and a 10,000 gallon tank leak at 1/2 mile south-southwest (In a DPW garage).

Thus none of these 39 S. & TL, of 2 to 50K gallons, formed a plume that appears to have flowed closer than 600 feet south, nor 1/2 mile north, nor 3/8 mile south, nor 3/4 mile east, from #21-37 33rd Avenue.

Among 9 Superfund sites in Queens County, National Priorities List (NPL) and State Priorities List (SPL), there are 4 sites within a 2 mile radius from #21-37 property. Closest is an NPL at 5/8 mile northwest; but its plume tended to flow west-northwest away from #21-37 premises toward the East River.

An SPL at 3/4 mile southeast, formed a plume that tended to flow south-southeast "down" from 35 feet DTW into a 50 foot DTW "sinkhole". The SPL, at one mile south-southeast, and NPL, at 1-1/8 miles south, formed plumes that tended to flow south-southeast "down" into that 50 foot DTW sinkhole -- see the map in Section G, of Part II.

Thus none of those 4 Superfund sites appear to have affected #21-37 33rd Avenue.

Note : This MIB Consulting report EA-1,255 EXCEEDS minimum ASTM basic requirements for a Phase I report. Additional information is provided in the Environmental Analysis section as : one mile radius for spills and tank leaks plus groundwater flow analysis, not a half mile as required under E-1527-00, a 2 mile radius for Superfund sites (NPL & SPL) not merely 1/2 to one mile radius; plus analysis for radon gas and electro-magnetic radiation, which are optional under E-1527-00.

Mr. R. Kabir  
Mr. W. Park

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Aug. 30, 2002

We trust this extensive database, and its analyses, fulfill the requirements of BK Corp., and of AmerAsia Bank. It has been our pleasure to be of service to Mr. Ridwan Kabir and Mr. William Park, as well as for Mr. Wal Lee.

Very Truly,



Malcolm I. Barkan, P.E.  
President & Environmental Engineer  
Adj. Assoc. Prof., St. Johns Univ.

MIB : mm  
Enclosures



## A. SITE LOCATION and DESCRIPTION

### 1.1 SITE LOCATION

Situated on the north side of 33rd Avenue, at the corner of 23rd Street, this parcel in #21-37 is located along a residential thoroughfare; one-way west toward 11th Street at Vernon Blvd., from 29th Street and past Crescent Street.

At 3/4 mile west is Roosevelt Island, and Blvd Coler Hospital. Rainey Park and Queensbridge Park are 5/8 mile west to 1-1/8 miles southwest; Queensboro Bridge is 1-1/4 miles southwest. Astoria Blvd. merges from Grand Central Parkway into the Triboro Bridge approach at one mile north from #21-37 33rd Ave.

The huge LIRR + ConRail switching yards are just over one mile south. Manhattan's East River (FDR) Drive are one mile west; and Rockefeller Univ. + Cornell Medical College Center are 1-1/2 miles west-southwest.

### 1.2 MAJOR ROADS

The parcel at #21-37 33rd Avenue is located within 1-1/2 miles from 19 principal arterials in this part of Queens County. In an east-west direction are 9 key routes : Broadway, Queens Plaza into Queensboro Bridge; Newtown Ave., Astoria Blvd., Hoyt Ave. into Triboro Bridge approach; Ditmars Blvd., Grand Central Parkway; Northern Blvd., Route 25A; and Queens Blvd., Route 25.

In a north-south direction are 10 vital thoroughfares : 21st Street, 23rd Street, Crescent Street, Vernon Blvd., Steinway Street, Van Dam Street, 38th Street, Greenpoint Ave., Manhattan Ave., and McGuinness Blvd.

Thus access to #21-37 33rd Avenue is relatively easy from all directions.

### 2.1 CELLAR DESCRIPTIONS & HISTORY

A former service station, on this site of #21-37 33rd Avenue, had a southeast corner cellar that contained a 2000 gallon #2 fuel oil tank plus a cast iron boiler; as seen in photos #32-34. Cellar was paced-off as approx. 22 feet long (east-west) by approx. 18 feet wide (north-south).

Volume of that former fuel oil tank was likely for reasons of economic fuel purchase, in volume equal to a small apartment house, as well as to have ample fuel to heat a calculated 9,605.5 square feet (SF) vehicle service building.

This one-story brick building appears to have occupied 100% of Lots #177, 179, 181 & 183 in Block #555 according to a May 16, 2002 re-survey, from a Jan. 28, 1852 original survey of Astoria. Cellar was utilized for boiler & fuel oil tank, plus storage of vehicle maintenance materials.

Those 2 x 275 gallon gasoline USTs, photos #29-31, were apparently used to refuel vehicles just repaired; *not* as a commercial refueling station.

Once removed, these 3 USTs and removal of their surrounding soil, permits subsequent construction of multiple dwellings in #21-37 parcel. The previous one-story brick building was said to have pre-dated W.W.I, possibly "Turn of the (20th) Century", 1902-1912.

All of the previous plumbing, mechanical and electrical components were removed. New utilities will be installed as a vital part of new condo construction.

## 2.2 VEGETATION and TREES

Since this is essentially a residential area, local trees and vegetation appears to be in very healthy conditions.

Photos #1, 3, 5, 12-14, 17, 18, 20-26 & 28 indicate *no* evidence of sub-surface distress from underground contamination.

## 2.3 OVERHEAD POWER LINES

Pole-mounted cables along 33rd Avenue are telephone and cable-TV, not electrical; in photos #1, 13 & 17.

Yet, there are low-voltage electrical lines on 23rd Street and on the south side of Broadway; photos #14, 20-23, 25-28.

Mr. R. Kabir  
Mrs. W. Park

Page 7  
Aug. 30, 2002

Calculated electric magnetic field (EMF) from 6500 volt overhead power lines along 23rd Street are in a range of 0.17 to 1.41 milligauss (mG). But since these are monitored points all 24/7, from these sections of #21-37 premises calculated EMF becomes 1.62 to 1.77 mG.

That range is 70 to 100% of the 0.5-2.5 mG action level established by N.Y.S. Dept. of Health and is a range which may be considered minimal to negligible potential health risk.

## 2.4. RADON GAS

A 1997 SURVEY by N.Y.S. DOH determined N.Y.S. radon levels (p.c.) Statewide radon gas average is 1.4 p.c. from the rock formations. Downstate radon gas average is about 1.0 p.c. action level.

For Green Company the radon gas average was determined as 1.4 p.c. from 1125 test points. This is a radon gas level that has a radon gas average of 1.4 p.c. from a sample of 1972 test points from a 1000' area.

Since the radon gas level is 70% of the 2.0 p.c. action level, theoretical danger may be deemed minimal. Also, in some basements in subsequent construction are generally 10-15% less than radon gas potential danger would be negligible.

## B. ADJACENT and NEARBY PROPERTIES

### 3.1. PROPERTY LINES

The south property line is 3rd Avenue east property line is 23rd Street

North property line, as seen in photos #2, 4, 10, 11, 15, 16 & 19 is a one-80-year masonry wall that appears to be the former north wall of #21-37 vehicle service building, beyond is a 2-story office building with stores at 23rd Street level photo #5.

West property line, beyond the former masonry wall of #21-37 service building, are the 2-story residences in photos #1, 11, 13 & 17.

MARK KAHN  
 MHA/PAE

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 Aug 30, 2002

### 3.2 ADJACENT PROPERTIES and USTs

Due to the type and extent of potential spills, there appear to have been no environmental threats to #21-37 parcel up to the present time. See 4.2 for USTs on site.

### 4.1 NEARBY PROPERTIES

Northwards up 23rd Street are the restaurant, store, offices and residences in photos #2, 3, 10, 15, 16, 20, 22, 24, 24-B, 24-C, 24-D. South down 23rd Street are most residential buildings in photos #18-20.

East and West along 34th Avenue are the residential buildings in photos #11, 12, 13, 14, 21, 23.

East and West on the 4th and 5th Streets are many offices and residential photos #23-E, 26 and 27.

### 4.2 HISTORICAL ENVIRONMENTAL CONCERNS WITH CONDITION

None of the adjacent and nearby properties are perceived as having posed environmental threats to #21-37 parcel up to the present time.

Although #21-37 parcel has been equipped with USTs (2 x 275 gallons for gasoline plus one 24 gallon fire oil tank). Upon excavations, photos #29 to 34 in ground contaminated by oil spilled by NYC DEP procedure to clean out and removal plus out log and disposal to scrap dealer. Then soil around & below each UST was excavated and disposed.

Therefore, adjacent and nearby properties are not perceived as having posed environmental threats to #21-37 sub-stata, including on the USTs, because they and air and soil were cleaned up.

Historically, the area around #21-37 was essentially residential. Over several new hotels and multiple dwellings were built. Commercial facilities are located west on 23rd Street and 7th Avenue to East River.



NE 1/4  
T12N  
R10E

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Date 10/2007

Within one mile radius from 2 to 50K gallons at 5/8 mile north west on 300K to 1M gallons of water that formed a plume that flowed no closer than 1/2 mile north, not 1/8 mile south nor 3/4 mile east from 21-37 property.

became undisturbed in the shallower plume to penetrate approx 20 to 35 feet deeper water. During this time the plume extended from one mile in each direction from the 21-37 property. It can be assumed no other plumes were present.

Leach 21-37 well on 2 to 50K gallons. Close to #21-37 well on 2 to 50K gallons. The plume that formed on the street and on Road 21-37 property. The plume that formed on the street and on Road 21-37 property. The plume that formed on the street and on Road 21-37 property.

Within one mile radius from 2 to 50K gallons at 5/8 mile north west on 300K to 1M gallons of water that formed a plume that flowed no closer than 1/2 mile north, not 1/8 mile south nor 3/4 mile east from 21-37 property.

to the other side of the one mile radius zone formed a plume that flowed no closer than 1/2 mile north, not 1/8 mile south nor 3/4 mile east from 21-37 property.

within 1/2 mile radius from 2 to 50K gallons at 5/8 mile north west on 300K to 1M gallons of water that formed a plume that flowed no closer than 1/2 mile north, not 1/8 mile south nor 3/4 mile east from 21-37 property.

This plume of 50K to 1M gallons to 50K gallons up to one mile radius from 21-37 well on 2 to 50K gallons. The plume that formed on the street and on Road 21-37 property. The plume that formed on the street and on Road 21-37 property.

Mr. R. Kahl  
Mr. W. Park

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Aug. 30, 2002

6.3 SUPERFUND SITES 2 MILES RADIUS

A final investigation was conducted for National Priorities List (NPL) as designated by EPA under CERCLA or State Priority List (SPL) as identified by NYS DEC under ARNY determined there are 2 SPLs in Queens County.

Within a 2 mile radius from 21-57 Ave, there are 4 sites. Closest is an NPL at 57th Avenue and 31st Street West of Vernon Blvd. in a Canal fuel supply also formed a large plume that flowed West into Hallett Cove.

Another 2 mile radius site is located between 35th St and 37th Street formed a plume that flowed to the south and east down from approx 35 feet down into a trench at 37th St. An SPL at the site then southeast plus an SPL at 40th St. The formed plumes have tended to flow south-southeast down into the 30' deep D.V. "sidedale" per that Section G map.

The flow of these 2 sites tend to flow to the south and east closer than 5/2 mile south-southeast from 21-57 Ave. 2 mile radius from 21-57 Ave.

5D-CONCLUSIONS

7A1 CONCLUSIONS BASED ON ENVIRONMENTAL NSIC

The following conclusions were derived from a combination of 5 investigative procedures that ultimately evolved from AS 1527-00 Std Practice for Enviro Site Assessments. Phase I Process scope and options for this parcel at #21-37 37th Avenue.

MBA Consulting was not engaged to detect fraud or subterfuge. Conclusions should be made diligent under CERCLA based assumption of "Innocent Landowner".

Note: Queens Dept of Buildings data plus Environmental Control Board relations should derive from property transfer Title Search documents.

Mark Kahl  
M. Kahl

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05/20/2009

7.1.1.5. None of the 4 sampling sites (N1, N2, N3, N4) show a plume that flowed closer than 5/8 mile down west nor 3/8 mile south west nor one mile south nor one 1/2 mile west.

7.1.1.6. None of the adjacent land use properties are perceived as having posed any potential threat to the 3 USTs based on the present data.

7.1.1.7. None of the 4 sampling sites (N1, N2, N3, N4) show a plume that flowed closer than 5/8 mile down west nor 3/8 mile south west nor 1/2 mile north nor 3/4 mile east nor one mile west.

7.1.1.8. The 3 USTs were installed in the ground at 27.5' below underground water table (UWT) level. The 3 USTs were installed in the ground at 27.5' below UWT level. The 3 USTs were installed in the ground at 27.5' below UWT level.

7.1.1.9. The 3 USTs were installed in the ground at 27.5' below underground water table (UWT) level. The 3 USTs were installed in the ground at 27.5' below UWT level. The 3 USTs were installed in the ground at 27.5' below UWT level.

7.1.1.10. The 3 USTs were installed in the ground at 27.5' below underground water table (UWT) level. The 3 USTs were installed in the ground at 27.5' below UWT level. The 3 USTs were installed in the ground at 27.5' below UWT level.

7.1.1.11. There are no significant environmental concerns or visible problems that business environmental are identified upon removal or disposal of those 3 USTs and associated oil around 3 beneath each UST.

**7.2. PHASE 2 BORINGS CONSIDERATION**

Based upon the preceding conditions, with protocol followed for 3 UST removals and disposal thereof, there is no need for Phase 2 borings.

Besides those 3 USTs, there is no other evidence of sub-surface distress from underground contamination.

31  
11/11/01

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Aug 10 2002

We had this security database in its infancy, in the early 1980s of  
America Bank and its Corporation. It has been an pleasure to be of service to  
Mr. Wilber, as well as Mr. William Park.

Very truly,



Donald R. Partridge  
Principal and Instrumental Engineer  
A/E/Assoc. Engineer/Janetiv.

MB: msk  
Enclosure

**PARCEL**

**DOCUMENTATION**

**E. SURVEY OF PARCELS NOTED**

The first sheet contains a reproduction of a survey for the 4 lot parcel at #21-57 3rd Avenue, Astoria, Oregon, in 1966.

**F. MAP OF AERIAL PHOTOGRAPHS**

Second sheet following contains a reproduction of a Hazardous Waste Aerial Photo located in the area of the above title. All 1/4 sections over one gallon are noted and all trees with a diameter within 100 feet are marked "S".

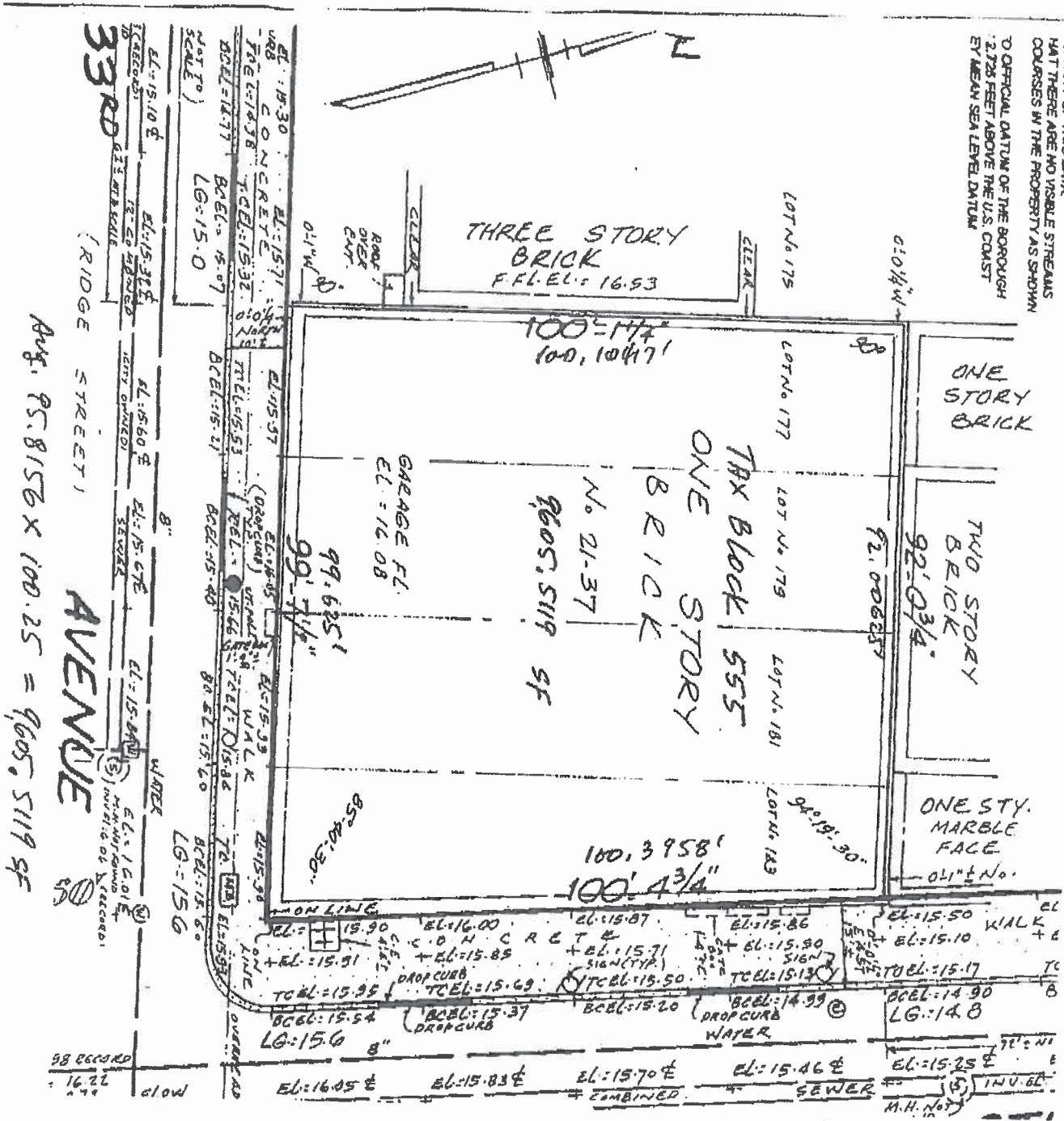
**G. GROUNDWATER CONTOUR MAP**

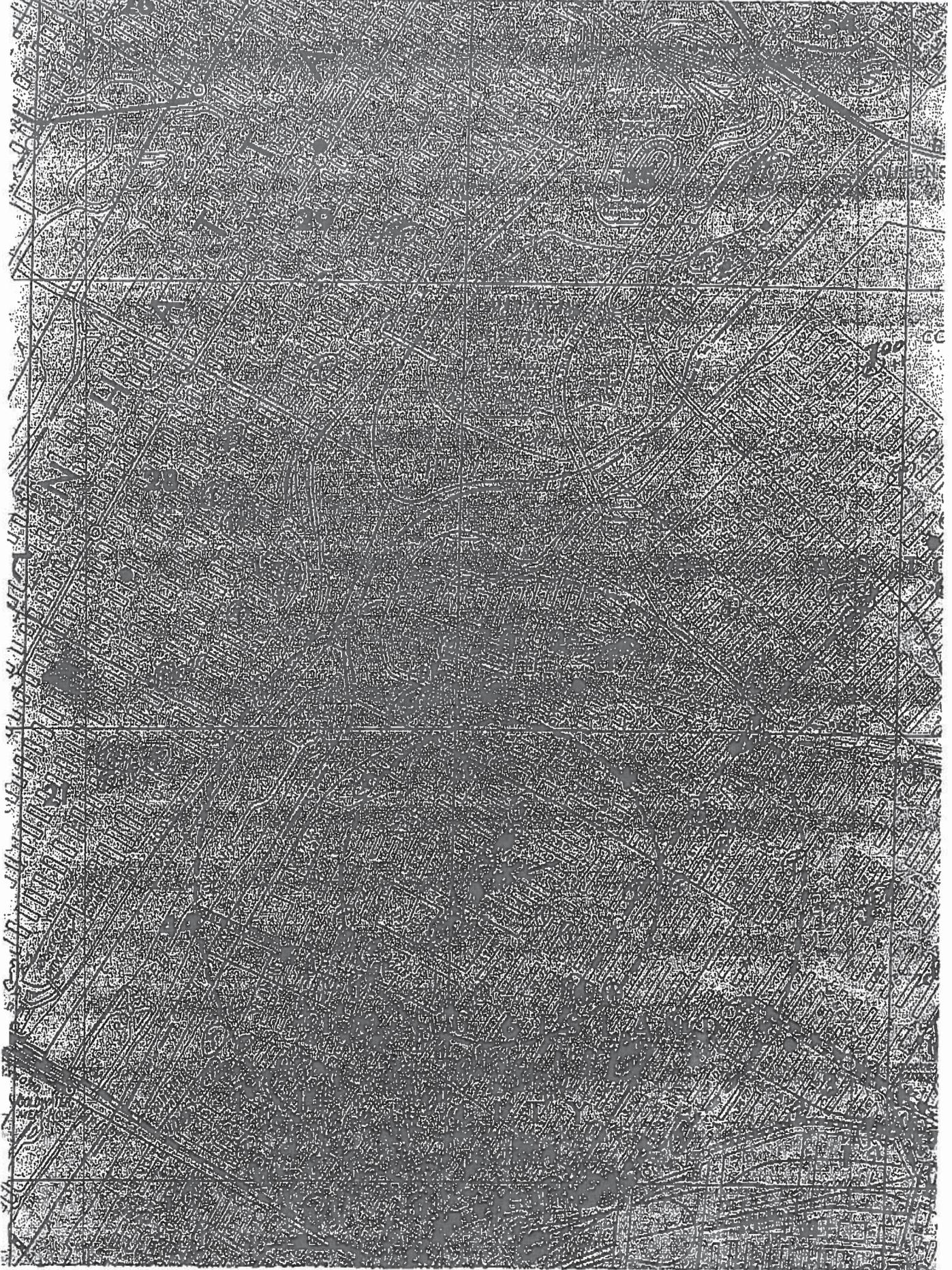
Third sheet following contains a reproduction of a groundwater contour map for the above title. Approximate location of #21-57 3rd Avenue is circled, and groundwater flow directions are indicated.

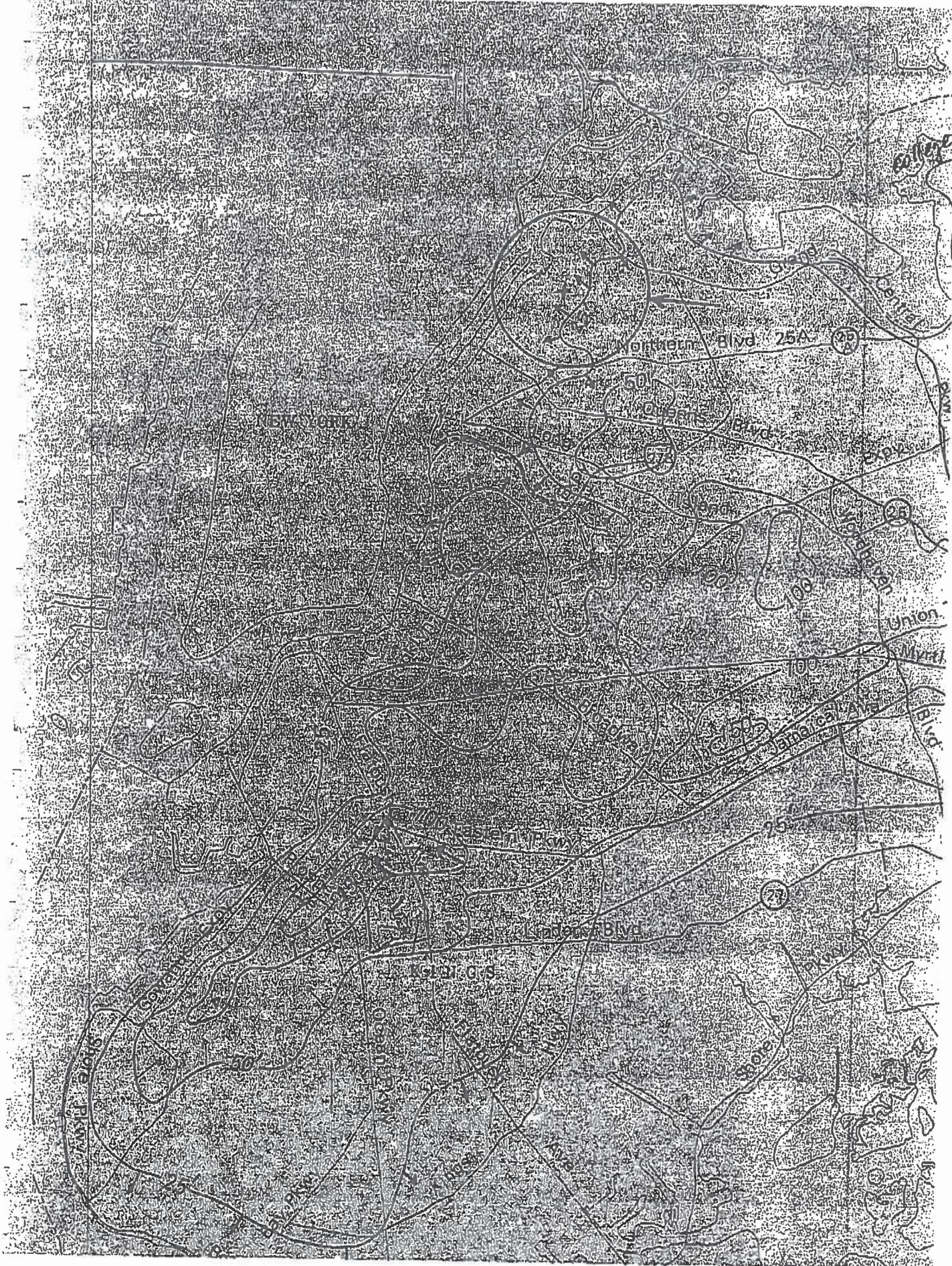
**H. PHOTOGRAPHS OF PREMISES AND SURROUNDING AREAS**

Pages 1 thru 15 following contain 34 color photographs of the premises at #21-57 3rd Avenue, and its surrounding areas.

FOR ANY OF THIS DATA  
HAT THERE ARE NO VISIBLE STREAMS  
COURSES IN THE PROPERTY AS SHOWN  
TO OFFICIAL DATUM OF THE BOROUGH  
2.725 FEET ABOVE THE U.S. COAST  
BY MEAN SEA LEVEL DATUM







August 15, 2002

MIB Consulting

Looking West Along  
33rd Ave., South  
Side of Construction  
Site.



On 23rd Street,  
Looking North Along  
East Side of Site.



View North Up  
23rd Street, at  
Northeast End of  
Construction Site.



Aug. 15, 2002

MIB Consulting

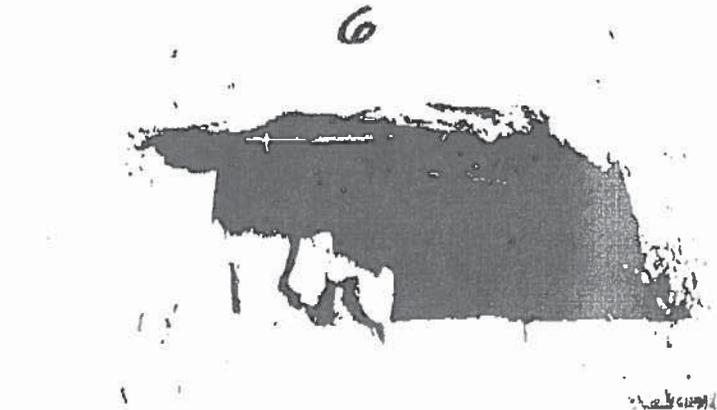
Mr. Ridwan Kabir  
Pointing Out Approx.  
Location of 1000 gallon  
UST.



Foundation Pedestal of  
Former Gasoline Pump,  
in Previous Repair Shop.



Looking Into Previous  
Cellar of Repair Shop  
Building, in #21-37  
Site.



Aug. 15, 2002

MJB Consulting

Previous Collar Access,  
Now Filled In.

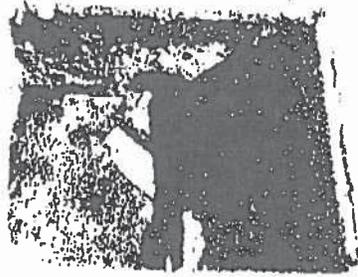
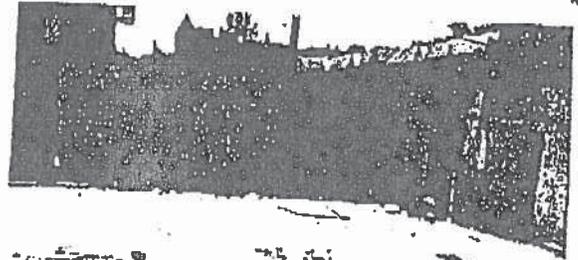


Plate Was Removed To Show  
Access Into Abandoned UST  
Below.

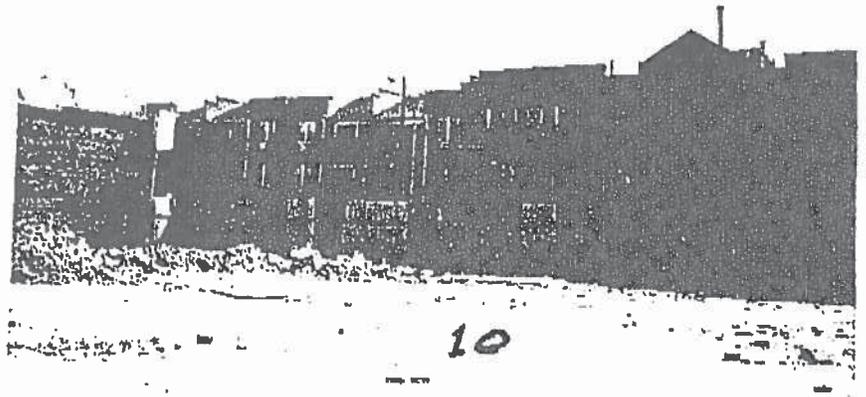


Concrete Slab of Former Repair  
Shop, See Fill Cap & Pipe of  
Old UST Below.

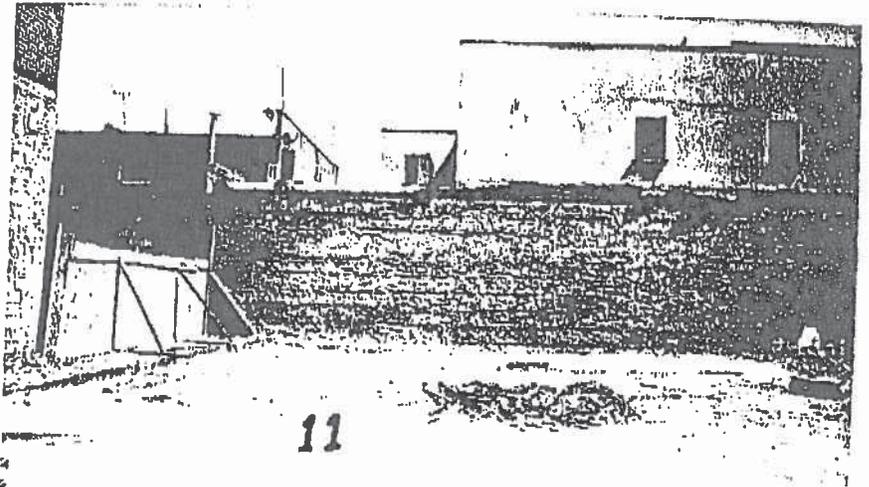
Aug. 15, 2002

MIB Consulting

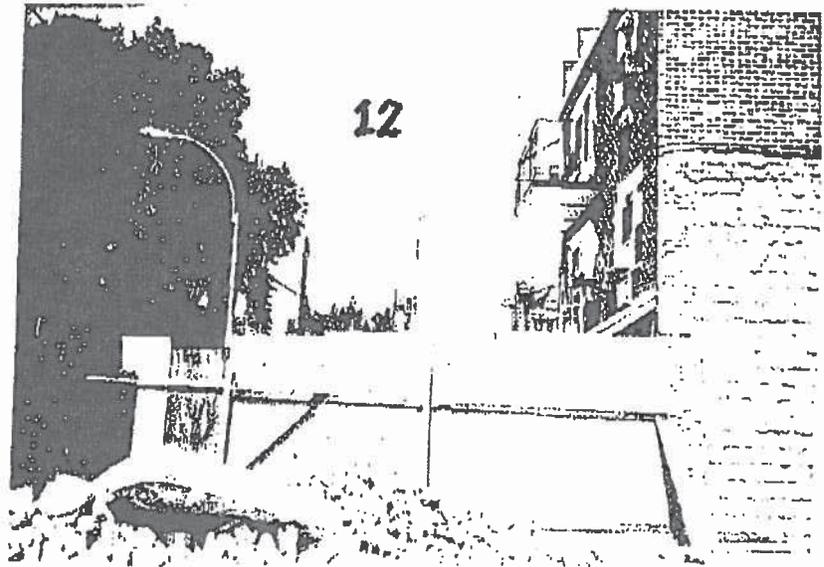
Entire East  
Fence, and East  
Half of Site.



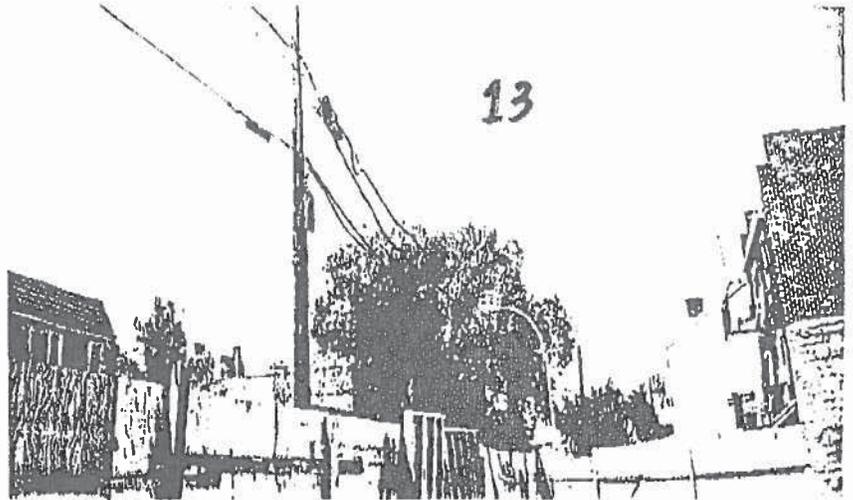
Looking Into  
Northwest Corner  
of Construction  
Site.



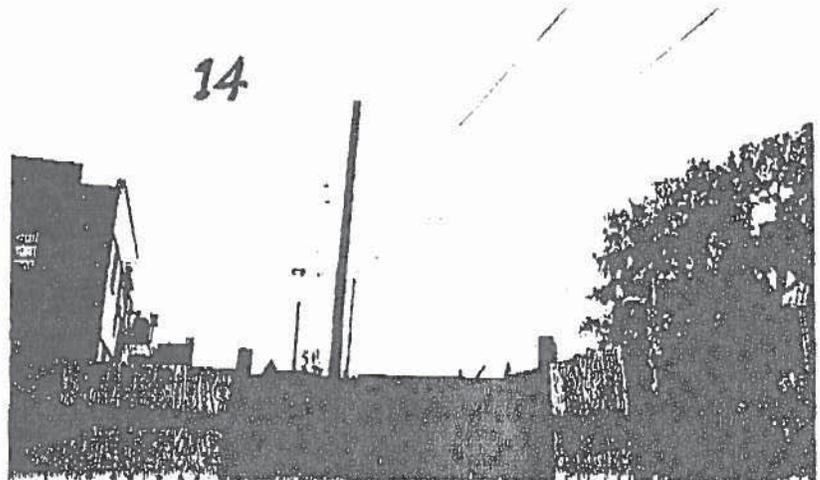
Adjacent West  
Residence Facing  
33rd Ave.



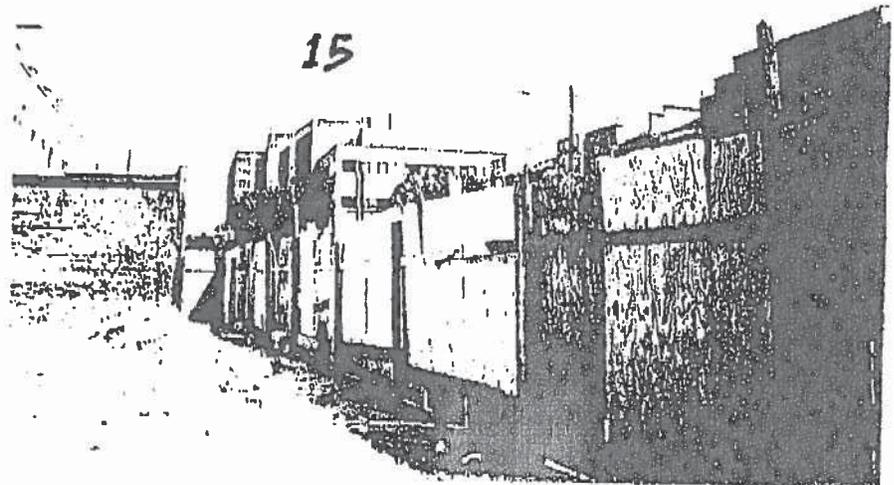
View West Inside  
Construction Site;  
See Electric Poles  
Along 33rd Ave.



Power Lines, Northwest  
Corner of 33rd Ave.  
at 23rd Street.



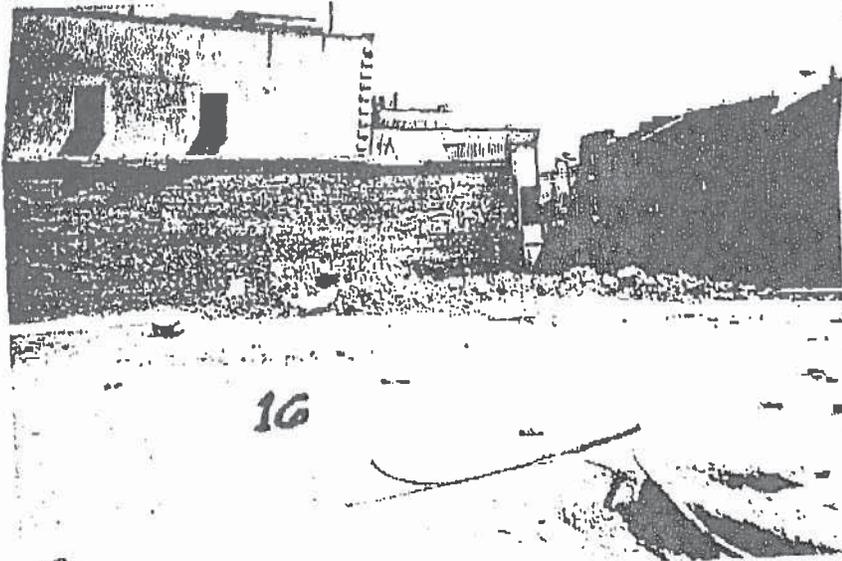
View North from  
Inside Site,  
Along East Fence.



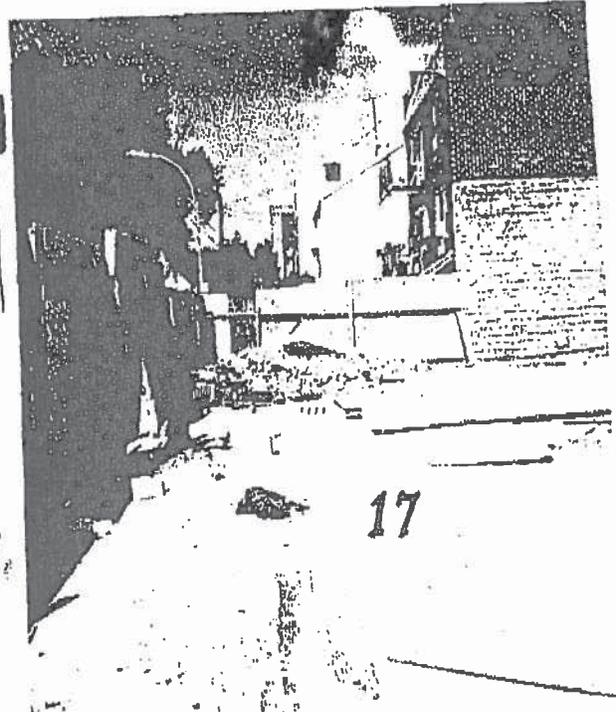
Aug. 15, 2002

MIB Consulting

Adjacent North  
Properties, Offices  
and Residential.



Looking West on 23rd  
Street, Toward 33rd  
Ave.

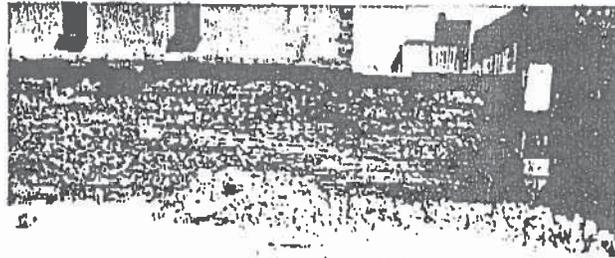


Southwest Corner Inside  
Construction Site; See  
Adjacent West Residential.

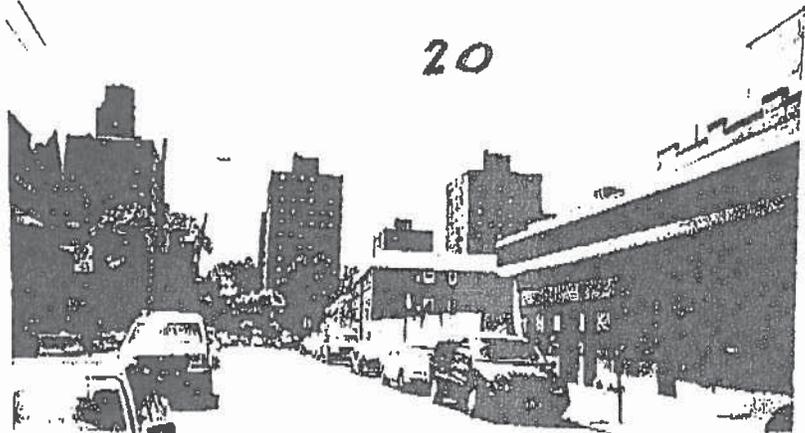
Aug. 15, 2002

MIB Consulting

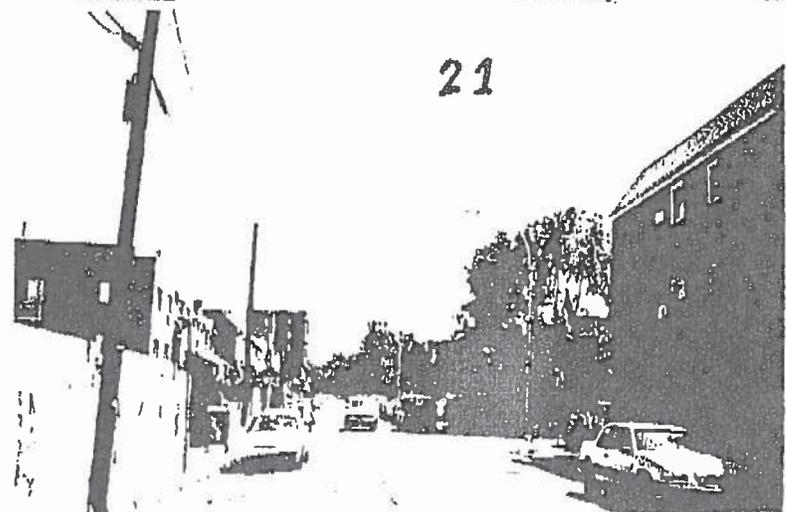
Looking North In the East Half of #21-37 Site. See Remnants of Its Old Cellar.



View West on 33rd Ave., from 23rd Street.



East Along 33rd Ave., toward 23rd Street.



Aug. 15, 2002

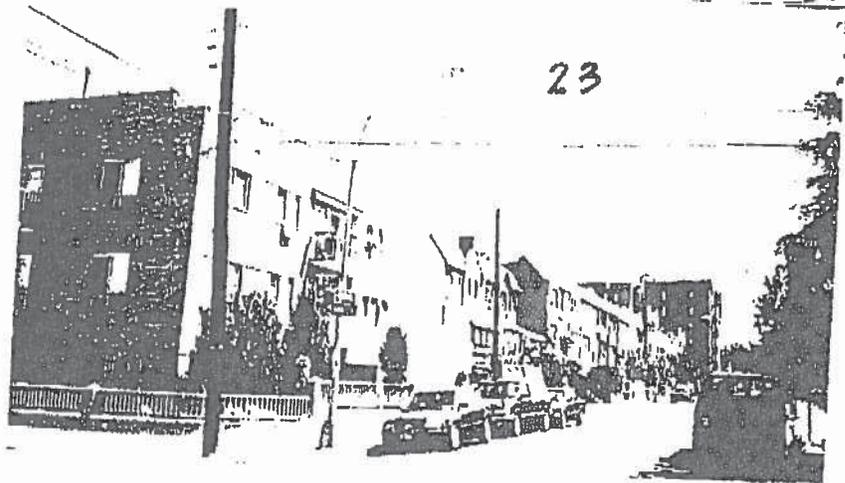
MIB Consulting

Looking East Across  
23rd Street, at  
Corner of 33rd Ave.



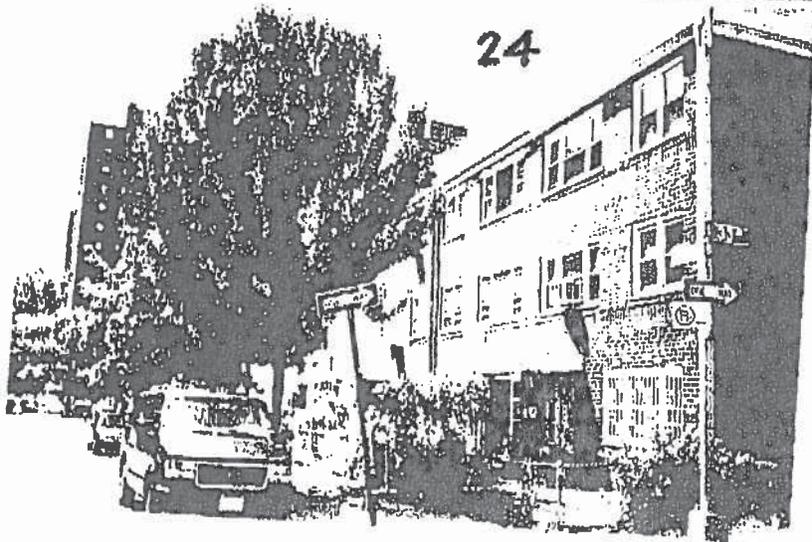
22

View East on 33rd  
Ave., from 23rd  
Street.



23

Northwest Across  
23rd Street, at  
33rd Ave., All  
Residential.



24

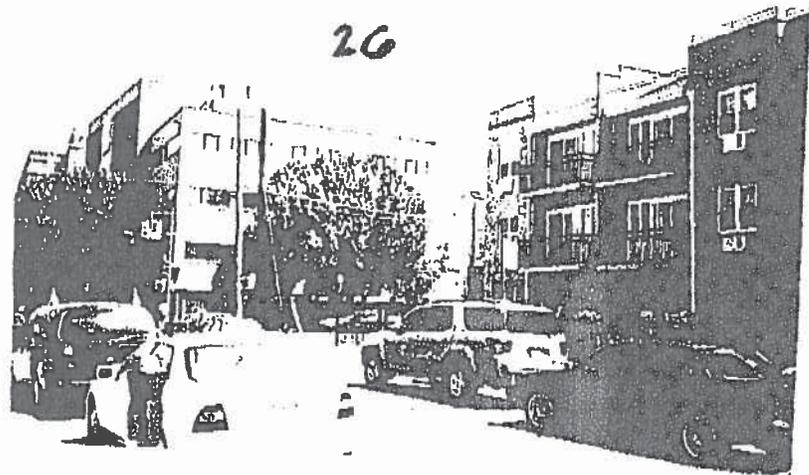
Aug. 15, 2002

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Corner of 23rd Street  
and Broadway, View West.

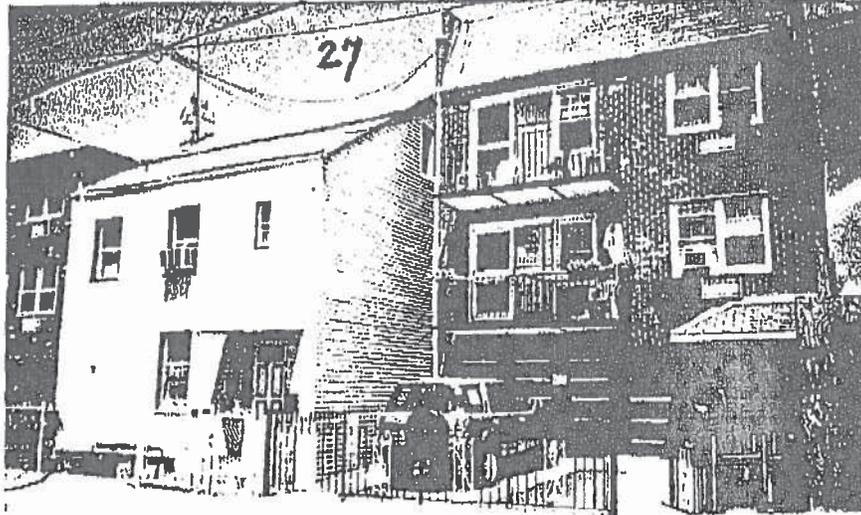


On 23rd Street,  
Looking North  
at Broadway.



Aug. 15, 2002

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Looking Northeast Across 33rd Ave., at #23-21 & 23-23 Residences.

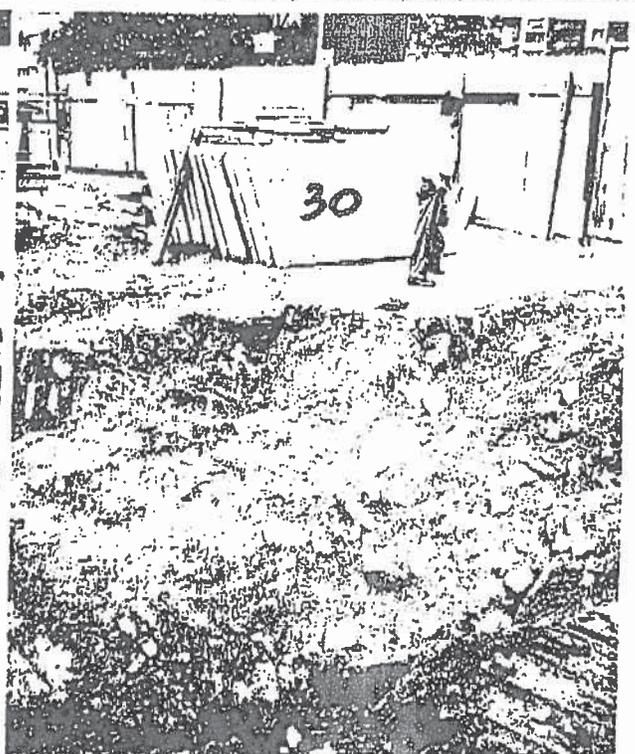
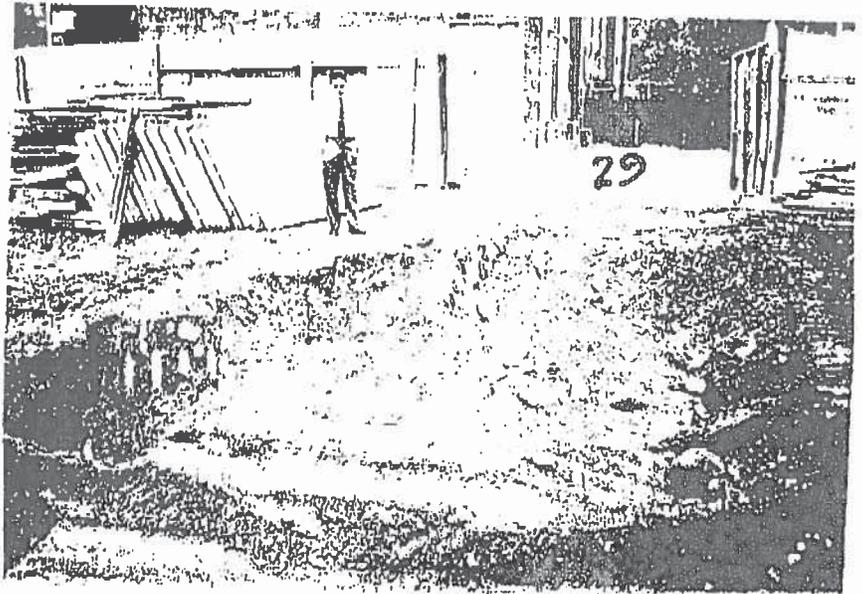


View North Up 23rd Street, All Residential.

August 30, 2002

MIB Consulting

View South Into Excavation Beneath Previous Fuel Dispenser Pump Island, Tops of 2 x 275 Gallon Gasoline USTs; as Supervised by Mr. Kabir.



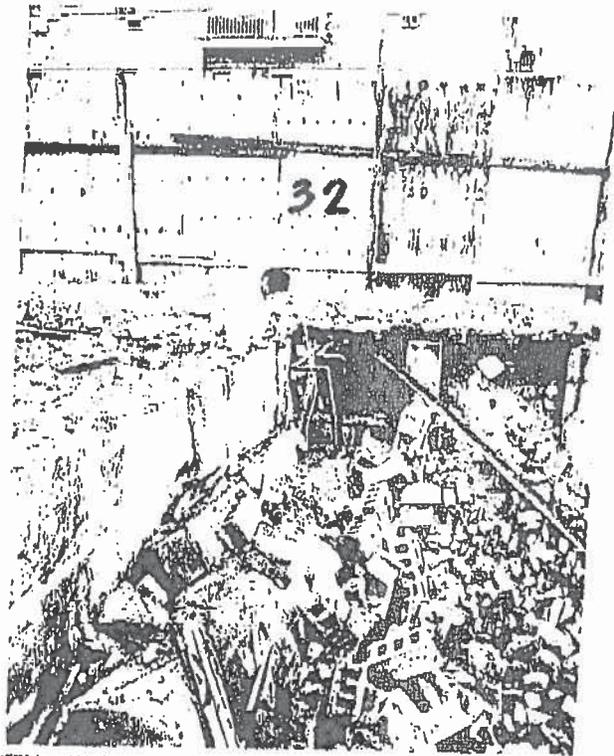
Looking East From Gasoline UST Excavation Toward Former Cellar.

USTs for Gasoline, Cleaned, Removed & Disposed by Sept. 5, 2002. View Southeast from Excavation; Mr. Kabir Concerned About Backhoe Access.

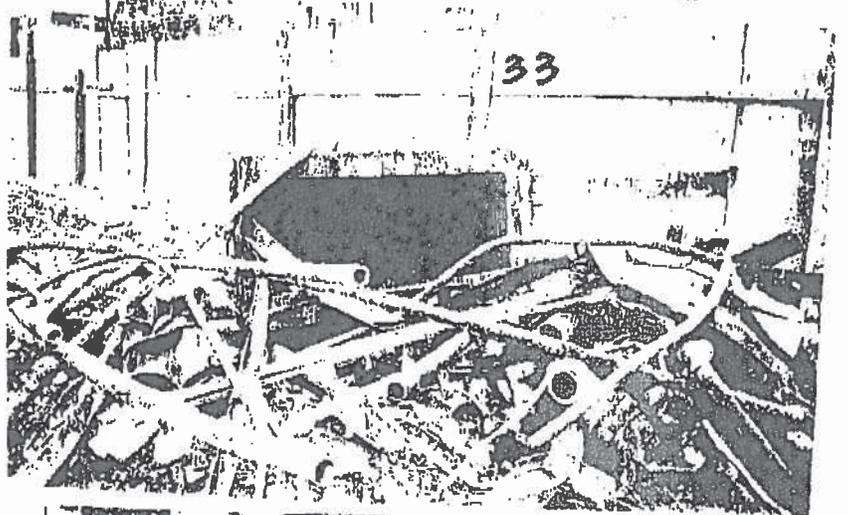
Aug. 30, 2002

MIB Consulting

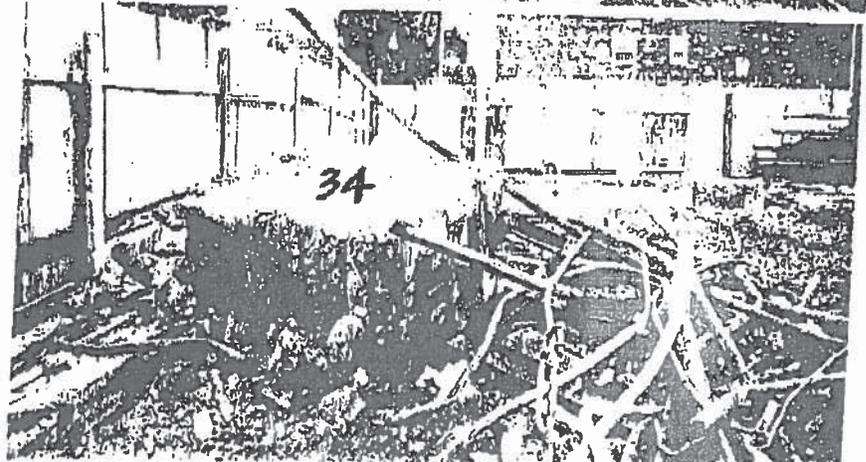
Mr. William Park About  
to Jump on Top of 2000  
gallon Fuel Oil UST; Dip  
Stick Confirmed Approx. 100  
gallons in UST; to be cleaned  
Out, Removed & Disposed of  
by Sept. 5, 2002.



Looking East at  
Previous Cast Iron  
Boiler Out of Former  
Cellar; and Heat  
System Piping for  
Previous Garage.



View South, Former  
Large Boiler and  
Cellar Beyond.





**Sheldon Lobel** P.C.

ATTORNEYS AT LAW

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5th Floor

New York, NY 10017

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February 13, 2013

Ms. Celeste Evans, Deputy Director  
Environmental Assessment and Review Division  
New York City Department of City Planning  
22 Reade Street, Room 4E  
New York, New York 10007

**Re: 23<sup>rd</sup> Street Rezoning**  
**CEQR No. 11DCP069Q**  
**ULURP No. 110178ZMQ**

Ms. Evans:

This letter is in response to EARD's letter dated May 16, 2012, which requests an updated Phase I Environmental Site Assessment for the project site (Tax Block 555, Tax Lots 1, 36, 38, 40, and 42, in Queens). However, an updated Phase I for the project site cannot be provided by the applicant. The development at the site, which consists of five attached buildings, is nearly complete, and four of the five buildings have obtained Certificates of Occupancy. The proposed rezoning would eliminate a side yard non-compliance to legalize the existing building on Lot 36 of the project site, which is substantially complete but not yet occupied. In order to update the Phase I, access to the project site is required and additional testing may be necessary. As discussed, the applicant for the above-referenced rezoning action does not own, control or have access to the project site.

Therefore, to determine whether contamination exists and to perform the appropriate remediation, if necessary, we understand that an E-designation will be placed on Block 555, Lot 36 of the project site. We further understand that the E-designation would describe tasks that must be undertaken by the fee owner of the designated lot prior to any DOB permit or action being filed for, including the application for and acceptance of a permanent certificate of occupancy in connection with the existing building on Lot 36 that will be legalized as a result of the proposed rezoning.

Sincerely,

Richard Lobel

RL:nm  
Encls.