



## **CITY PLANNING COMMISSION**

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December 2, 2009 / Calendar No. 8

C 090383 ZSR

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IN THE MATTER OF an application submitted by Northrop Grumman Information Technology Inc., pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 107-73 of the Zoning Resolution to modify the height and setback regulations of Section 107-43 to allow a 120 foot-high NYC WiN telecommunications tower in connection with a proposed wireless communications facility on property located at 645 Rossville Avenue (Block 6145, Lots 40 and 300), in an R3X/C1-2 District, within the Special South Richmond Development District, Borough of Staten Island, Community District 3.

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The application (C 090383 ZSR) for the special permit was filed by Northrop Grumman Information Technology Inc. on April 10, 2009 to modify the Special South Richmond Development District (SSRDD) height limitation of 50 feet to construct a 120-foot high telecommunications tower at 645 Rossville Avenue in the Woodrow neighborhood in Staten Island, Community District 3.

### **RELATED ACTIONS**

In addition to the special permit which is the subject of this report, implementation of the proposed development also requires action by the City Planning Commission on the following applications which are being considered concurrently with this application:

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|--------------|--|
| N 090384 ZRR | Zoning text amendment concerning Section 107-06, District Plan (Appendix A); |
| N 090385 ZCR | Certification for a zoning lot containing Designated Open Space;             |

### **BACKGROUND**

A public safety wireless facility consisting of a 120-foot high stealth monopole and related equipment cabinets on an 8-foot by 8-foot concrete pad is proposed to be constructed within an approximately 108 square-foot leased project site located on the 205,614 square-foot through zoning lot at 645 Rossville Avenue. The applicant, Northrop Grumman Information Technology Inc., was selected by the City of New York to develop and maintain the proposed facility as part of the New

York City Wireless Network (NYCWiN). The citywide data network will support the City's public safety and public service agencies and will only be accessible to those agencies. The secure, broadband network will transmit data, including city, state, and federal database information, real-time video, traffic information, GIS maps, and building plans. The network is proposed to better coordinate the City's first responders and mobile workforce. There will be 377 wireless facility sites citywide, 49 of which will be located on Staten Island.

The project site is located at 645 Rossville Avenue which is a through lot in the Woodrow neighborhood of Staten Island's Community District 3 (Block 6145, Lots 40 and 300). The site is generally bounded by Rossville Avenue on the west, Special South Richmond Development District (SSRDD) Designated Open Space (DOS) wooded areas on the north, Alverson Avenue on the east and vacant and residential tax lots to the south. The site is within an R3X district (FAR 0.5) with a C1-2 commercial overlay (FAR 1.0). DOS areas are mapped on this property in irregularly shaped areas along its north, east and south edges. Rossville and Alverson avenues are characterized by commercial, residential and open space uses. The subject property is developed with commercial uses and there are detached one- and two-story residences in the surrounding blocks within the R3X zoning district. There are heavily wooded DOS areas to the west and north, and the South Shore Golf Course is located to the northeast of the property on Alverson Avenue.

The zoning lot (consisting of Block 6145, Lots 30 and 400) on which the telecommunications tower will be located, is approximately 205,614 square feet with approximately 311 feet of frontage on Rossville Avenue and 342 feet of frontage on Alverson Avenue. The site is developed as a shopping center with two existing one-story commercial buildings and parking and landscaped areas. The lot is relatively flat, and there are existing trees planted in the landscaped areas of the parking lot. The DOS areas on the site consist of both paved and grassed areas. There are two vacant properties, not currently part of the subject zoning lot, located immediately south of the proposed telecommunications tower zoning lot. These two vacant properties and the above-mentioned subject

zoning lot are involved in a future proposal to reconfigure existing parking spaces on the subject zoning lot and expand commercial land use onto the two vacant properties to the south. That proposal, which is pending public review, includes a zoning map amendment (I 080482 ZMR) a zoning text amendment (N 080483 ZRR), a certification (N 080486 RCR) and zoning authorizations (N 080484 RAR, and N 080485 RAR).

With respect to the subject applications, the applicant proposes to construct a 120-foot high monopole and an 8-foot by 8-foot concrete pad for related equipment cabinets within a 108 square-foot leased area centrally located on the project site between the two, one-story commercial buildings. The equipment cabinet area will be screened with six-foot high black wrought iron fencing and ten shrubs. The proposed iron fencing, which will enclose an approximate 10-foot by 10-foot area, will match existing fencing in the area. The monopole will be designed to resemble a flagpole, and all antennas will be contained within the pole. The pole's diameter will be 42 inches at the base and taper to 30 inches at the top. An American flag will be mounted on the pole, which will have lighting at the base. The flagpole structure will be located in a grass-planted area approximately four feet from the southeast corner of the screened equipment cabinet area.

The special permit (C 090383 ZSR), which is the subject of this report, is pursuant to Section 107-73 of the Zoning Resolution to modify the 50-foot SSRDD height limit to allow construction of the 120-foot high public safety wireless facility. Pursuant to Section 107-43 no structures shall exceed a height of 50 feet in the SSRDD, unless modified by a special permit pursuant to Section 107-73. The Commission must make findings related to the effects of this proposal on the surrounding area's character and the ability of the proposal's design to take full advantage of the site's special characteristics.

A zoning text amendment and certification are also needed to facilitate the proposed telecommunications tower project. Pursuant to Section 107-22 of the Special South Richmond Development District (SSRDD), a City Planning Commission certification (N 090385 ZCR) is

required for any development or site alteration on a zoning lot which contains designated open space as shown on the District Plan. The zoning lot currently contains 48,838 square feet of DOS. The proposal includes removal of 4,543 square feet of designated open space from the zoning lot. Upon removal of those 4,543 square feet, 44,295 square feet of DOS will remain on the zoning lot and be preserved in its existing state. The applicant also requests a zoning text amendment (N 090384 ZRR) concerning Section 107-06 District Plan (Appendix A) to reflect the removal of this 4,543 square foot trapezoidal area of DOS located between the two, one-story commercial buildings. This removal is requested so that the proposed monopole development can be located in this area. The applicant has also requested a modification of a previously executed declaration (M 800826(B) ZMR), the terms of which were incorporated into the resolution of a report for an amendment of the zoning map concerning the subject property from C1-1 to C1-2. This application (M 800826(B) ZMR) was withdrawn on November 30, 2009 and the provisions of the modification have instead been included in Exhibit B of this report and incorporated by the City Planning Commission as a condition of the resolution which accompanies this report.

## **ENVIRONMENTAL REVIEW**

This application (C 090383 ZSR), in conjunction with the application for the related action (N 090384 ZRR), was reviewed pursuant to the New York State Environmental Quality Review Act (SEQRA), and the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 *et seq.* and the City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The designated CEQR number is 09DCP074R. The lead agency is the City Planning Commission.

After a study of the potential environmental impact of the proposed action, a Conditional Negative Declaration, signed by the applicant, was issued on June 29, 2009 and provided a mechanism whereby to avoid any potential hazardous material impacts, under which the existing Restrictive Declaration in regard to the adjoining property (Block 6145, Lots 13 and

16) would be amended, executed, and recorded to additionally include the subject property (Block 6145, Lots 40 and 300).

The applicant signed the conditional negative declaration on June 25, 2009. The conditional negative declaration was published in the City Record on July 1, 2009 and in the New York State Environmental Notice Bulletin on July 1, 2009. Pursuant to the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 et seq., a 30-day comment period followed. No comments were received and the conditional negative declaration was issued on November 30, 2009.

The provisions relating to potential hazardous material impacts previously contemplated for inclusion in the hazardous materials declaration have instead been included in Exhibit A of this report and incorporated by the City Planning Commission as conditions of the resolution which accompanies this report, thereby satisfying the requirements of the conditional negative declaration.

## **UNIFORM LAND USE REVIEW**

This application (C 090383 ZSR) was certified as complete by the Department of City Planning on June 29, 2009, and was duly referred to Community Board 3 and the Borough President, in accordance with Title 62 of the Rules of the City of New York, Section 2-02(b), along with the related zoning text amendment (N 090384 ZRR) which was referred for information and review in accordance with the procedure for referring non-ULURP matters.

## **Community Board Public Hearing**

Community Board 3 held a public hearing on this application on September 16, 2009, and on September 23, 2009, by a vote of 33 in favor, with 1 opposed and 0 abstentions, adopted a resolution recommending disapproval of the application with the following comments:

Community Board 3 opposes the application by reason of poor site selection based on the following:

1. Site is surrounded by dense residential communities, schools and public shopping plaza.
2. Placement of this telecommunications tower should be on New York City owned property such as the adjacent South Shore Country Club.

The recommendation of the community board was non-complying since the public hearing and the vote were conducted after the 60-day period for review.

## **Borough President Recommendation**

This application was considered by the Staten Island Borough President who issued a recommendation disapproving the application on October 6, 2009 with the following comments:

The proposal does not meet the findings of Sec. 107-73 ZR, required as a condition to grant the special permit approval, in that

1. The development of the 120 foot high telecommunications tower will impair the essential character of the surrounding area;
2. The telecommunications goals of this application can be achieved on nearby City properties where the exceptional height can be partially obscured by existing tree growth, thereby preserving unobstructed existing views from all public spaces;
3. The design proposal does not take advantage on any special site characteristics of the subject property.

## **City Planning Commission Public Hearing**

On October 21, 2009 (Calendar No. 3), the City Planning Commission scheduled November 4, 2009 for a public hearing on this application (C 090383 ZSR) and the related zoning text amendment (N 090384 ZRR). The hearing was duly held on November 4, 2009 (Calendar No. 10). There was

one speaker in favor and none in opposition. The speaker in favor was a representative of the applicant.

The applicant's representative indicated that a wireless facility was needed in this area to complete the NYC WiN network in this part of South Richmond. In response to the concerns raised by Community Board 3 and the Borough President that the proposed monopole should be located on city-owned property, the representative explained that the city-owned sites in the immediate area of the subject property are inappropriate for the location of this public safety wireless facility. The South Shore Country Club site is mapped parkland which would require alienation by the New York State legislature. Additionally, locations for a public safety wireless facility on this parkland and at the FDNY site located at Rossville Avenue and the West Shore Expressway, Route 440, which was recommended by a community member, would be too close to an existing NYC WiN facility located across Route 440 from the FDNY site. Regarding the concerns stated that the proposed location for the monopole is surrounded by residential communities, schools and public shopping plaza, the representative indicated that another location would be proximate to other existing residential communities. He also indicated that the subject zoning lot is located in a commercial zoning district that permits the proposed use. Regarding the Borough President's concerns that the proposed tower will impair the essential character of the surrounding area, the representative noted that the monopole is proposed to be centrally located on the zoning lot which will help to obscure it from views from surrounding streets.

There were no other speakers and the hearing was closed.

### **Waterfront Revitalization Program Consistency Review**

This application was reviewed by the Department of City Planning for consistency with the policies of the New York City Waterfront Revitalization Program (WRP), as amended, approved by the New York City Council on October 13, 1999 and by the New York State Department of State on May 28, 2002, pursuant to the New York State Waterfront Revitalization and Coastal Resources Act of 1981 (New York State Executive Law, Section 910 et seq.). The designated WRP number is 09-044.

This action was determined to be consistent with the policies of the New York City Waterfront Revitalization Program.

## **CONSIDERATION**

The Commission believes that the grant of this special permit is appropriate.

This special permit requests a modification of the Special South Richmond Development District's height limitation of 50 feet pursuant to Section 107-73 of the Zoning Resolution. The proposed public safety wireless facility would be 120 feet high and would be located between two, one-story commercial buildings on the subject zoning lot in an R3X/C1-2 zoning district. Further, the stealth monopole is designed as a flagpole which is 42 inches in diameter at its base and 30 inches at the top.

The Commission notes that the site is located on a shopping center property in the Woodrow neighborhood. Apart from this property, this area is developed primarily with residential uses. The choice of location in a commercial overlay district is intended to minimally impact the nearby residential neighborhoods while providing coverage in an area of South Richmond where there is an existing service gap. The proposed site is located in an R3X/C1-2 zoning district, which permits the use.

The Commission notes that although this site is occupied by commercial uses and is adjacent to residential uses, the proposed facility will have minimal impact on the surrounding area. Enclosing the antennas inside the monopole improves the aesthetic appearance of the public safety wireless facility and takes advantage of the special characteristics of the site. The design of the facility as a flagpole helps it to blend into the surrounding environment. In response to the concerns raised by the Community Board and the Borough President regarding alternate city-owned locations and the location of the proposed facility within the shopping center, the Commission believes that the applicant adequately reviewed the city-owned sites in the immediate vicinity and the Commission believes that the operational and legislative constraints make it infeasible to locate the proposed

facility on an alternate city-owned site. The Commission also believes that use of the facility as a flagpole and its location at the rear of the shopping center minimizes any impairment on the essential character of the surrounding commercial area.

The Commission notes that the project area is located centrally on the through lot project site and is thereby screened from the streets by the one-story, commercial buildings on the property. The equipment cabinets in the project area are immediately screened by ten newly planted shrubs and six-foot high wrought iron fencing, which will match existing fencing in the area. The free-standing flagpole structure is located in a grass-planted area immediately to the southeast of the equipment cabinets. In addition, the design of the proposed wireless facility as a flagpole is seen as appropriate for this setting.

Further, the Commission also notes that the proposed wireless facility is necessary to complete coverage for the New York City Wireless Network. The applicant was unable to find another feasible location for this facility. NYC WiN is a public service that will provide valuable data to the City's first responders. The facility will be exclusively used as part of NYC WiN.

## **FINDINGS**

The City Planning Commission hereby makes the following findings pursuant to Section 107-73 which allows the Special South Richmond Development District 50-foot height limit to be modified:

- (a) that such development is so located as not to impair the essential character of the surrounding area;
- (b) not applicable; and
- (c) that the development's design proposal takes full advantage of all special characteristics of the site.

## **RESOLUTION**

**RESOLVED**, that the City Planning Commission finds that the action described herein will have no significant impact on the environment subject to the applicant executing a conditional negative

declaration that provided a mechanism whereby to avoid any potential hazardous material impacts, under which the existing Restrictive Declaration in regard to the adjoining property (Block 6145, Lots 13 and 16) would be amended, executed, and recorded to additionally include the subject property (Block 6145, Lots 40 and 300). The provisions relating to potential hazardous material impacts previously contemplated for inclusion in the hazardous materials declaration have instead been incorporated by the City Planning Commission as conditions of this resolution, thereby satisfying the requirements of the conditional negative declaration; and be it further

**RESOLVED** that the City Planning Commission, in its capacity as the City Coastal Commission, has reviewed the waterfront aspects of this application and finds that the proposed action is consistent with WRP policies; 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 the consideration and findings described in this report, the application submitted by Northrop Grumman Information Technology Inc. pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 107-73 of the Zoning Resolution to modify the height and setback regulations of Section 107-43 to allow a 120-foot high NYC WiN telecommunications tower in connection with a proposed wireless communications facility on property located at 645 Rossville Avenue (Block 6145, Lots 40 and 300), in an R3X/C1-2 District, within the Special South Richmond Development District, Borough of Staten Island, Community District 3, is approved subject to the following terms and conditions:

1. The property that is the subject of this special permit (C 090383 ZSR), shall be developed in size and arrangement substantially in accordance with the dimensions, specifications and zoning computations indicated on the following plans, prepared by KMB Design Group for Northrop Grumman Information Technology Inc., and incorporated in this resolution:

<u>Drawing Number</u>	<u>Title</u>	<u>Last Date Revised</u>
Z-1	Overall Site Plan	May 18, 2009
Z-2	Proposed Compound Plan	May 18, 2009
Z-3	Proposed Elevation	May 18, 2009
Z-3A	Proposed Elevations	May 18, 2009
Z-4	Site Details	May 18, 2009
Z-4A	Utility Mount Detail	May 4, 2009
Z-6	Designated Open Space Plan	May 18, 2009

2. Such development shall conform to all applicable provisions of the Zoning Resolution, except for the modifications specifically granted in this resolution and shown on the plans listed above. All zoning computations are subject to verification and approval of the New York City Department of Buildings.
3. Such development shall conform to all applicable laws and regulations relating to its construction, operation and maintenance.
4. The provisions of the attached Exhibits A and B are incorporated as conditions of this resolution.
5. No permits for development shall be issued by the New York City Department of Buildings, except as necessary to fulfill the terms of Exhibit A, unless the Chairperson of the City Planning Commission shall have certified to the Commissioner of Buildings that the requirements of Exhibit A have been completed.
6. All leases, subleases, or other agreements for use or occupancy of space at the subject property shall give actual notice of this special permit to the lessee, sublessee or occupant.
7. Upon the failure of any party having any right, title or interest in the property that is the subject of this special permit, or the failure of any heir, successor, assign or legal representative of such party, to observe any of the covenants, restrictions, agreements, terms of conditions of this resolution whose provisions shall constitute conditions of the special permit and authorizations hereby granted, the City Planning Commission may, without the consent of any other party, revoke any portion of or all of said special permit and

authorization. Such power of revocation shall be in addition to and not limited to any other powers of the City Planning Commission, or of any other agency of government, or any private person or entity. Any such failure as stated above, or any alteration in the development that is the subject of this special permit that departs from any of the conditions listed above, is grounds for the City Planning Commission or the City Council, as applicable, to disapprove any application for modification, cancellation or amendment of the special permit hereby granted.

8. Neither the City of New York nor its employees or agents shall have any liability for money damages by reason of the city's or such employee's or agent's failure to act in accordance with the provisions of this special permit.

The above resolution (C 090383 ZSR), duly adopted by the City Planning Commission on December 2, 2009, (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.

**AMANDA M. BURDEN, FAICP, Chair,  
KENNETH J. KNUCKLES, Esq., Vice Chairman  
ANGELA M. BATTAGLIA, IRWIN G. CANTOR, P.E.,  
ALFRED C. CERULLO, III, BETTY Y. CHEN, MARIA M. DEL TORO,  
RICHARD W. EADDY, NATHAN LEVENTHAL, ANNA HAYES LEVIN,  
SHRILEY A. MCRAE, KAREN A. PHILLIPS, Commissioners.**

**RAYANN BESSER, Commissioner, Voting No.**

## EXHIBIT A

### DEFINITIONS

The “DEP” shall mean the New York City Department of Environmental Protection or any successor to its jurisdiction

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

The “Project” shall mean the proposed telecommunications tower on the Subject Property.

The “Remedial Action Plan” shall mean a hazardous materials remedial action plan, including a health and safety plan.

The “Remediation Plan” shall mean a hazardous materials remediation plan, including a health and safety plan.

The “Sampling Protocol” shall mean a hazardous materials sampling protocol prepared by a qualified consultant and including a health and safety plan.

The “Subject Property” shall mean the property located at 645 Rossville Avenue (Block 6145, Lots 40 and 300), Borough of Staten Island.

1. (a) No application for grading, excavation, foundation, alteration, building or other permit respecting the Subject Property which would result in soil disturbance for the Project shall be submitted to or accepted from DOB until DEP has issued to DOB, as applicable, either a Notice of No Objection as set forth in Paragraph 2(a), a Notice to Proceed as set forth in Paragraph 2(b), a Notice of Satisfaction as set forth in Paragraph 2(c) or a Final Notice of Satisfaction as set forth in Paragraph 2(d). A copy of the Notice of No Objection, Notice to Proceed, Notice of Satisfaction or Final Notice of Satisfaction shall be submitted to the DOB at the time of filing of any application set forth in this Paragraph 1(a).

(b) No application for a temporary or permanent Certificate of Occupancy that reflects a change in use group respecting the Subject Property for the Project shall be submitted to or accepted from DOB until DEP has issued to DOB, as applicable, either a Notice of No Objection as set forth in Paragraph 2(a), a Notice of Satisfaction as set forth in Paragraph 2(c) or a Final Notice of Satisfaction as set forth in Paragraph 2(d). A copy of the Notice of No Objection, Notice of Satisfaction or Final Notice of Satisfaction shall be submitted to the DOB at the time of filing of any application set forth in this Paragraph 1(b).

2. (a) Notice of No Objection - DEP shall issue a Notice of No Objection for the Project after the work set forth in a project specific Sampling Protocol approved by DEP has been completed and DEP has determined in writing that the results of sampling pursuant to the Sampling Protocol demonstrate that no hazardous materials remediation is required for the proposed project.

(b) Notice to Proceed - DEP shall issue a Notice to Proceed for the Project after it determines that: (i) the project specific Remedial Action Plan or Remediation Plan has been approved by DEP and (ii) the permit(s) respecting the Subject Property that permit grading, excavation, foundation, alteration, building or other permit respecting the Subject Property which permits soil disturbance or construction of the superstructure for the Current Project are necessary to further the implementation of the DEP approved Remedial Action Plan or Remediation Plan.

(c) Notice of Satisfaction - DEP shall issue a Notice of Satisfaction for the Current Project after the project specific Remedial Action Plan or Remediation Plan has been prepared and accepted by DEP and DEP has determined in writing that such Remedial Action Plan or Remediation Plan has been completed to the satisfaction of DEP.

(d) Final Notice of Satisfaction - DEP shall issue a Final Notice of Satisfaction for the Current Project after the project specific Remedial Action Plan or Remediation Plan has been prepared and accepted by DEP and DEP has set forth in writing, that such Remedial Action Plan or Remediation Plan has been completed to the satisfaction of DEP and all potential hazardous materials have been removed or remediated and no further hazardous remediation is required on the Subject Property as determined by DEP.

3. Any submittals necessary under this Exhibit A to DEP shall be addressed to the Deputy Commissioner of the Bureau of Environmental Planning and Assessment of DEP, or such person as authorized by the Deputy Commissioner. As of the date of this Exhibit A, DEP's address is:

New York City Department of Environmental Protection  
59-17 Junction Blvd  
Flushing, New York 11373

4. The satisfaction of the obligations set forth in this Exhibit A shall not relieve any party of such additional requirements as may be imposed by Federal, State or Local laws.

## **EXHIBIT B**

### DEFINITIONS

The “Commission” shall mean the City Planning Commission.

The “DCP” shall mean the Department of City Planning.

The “Designated Open Space” shall mean as such term is defined in Section 107-01 of the Zoning Resolution.

The “DOB” shall mean the New York City Department of Buildings.

The “DOS Application” shall mean an application, designated number N 090385 ZCR, dated April 10, 2009.

The “Owner” shall mean the owner of the Subject Property.

The “Site Plan” shall mean collectively the Proposed Compound Plan (Z-2), last revised 5/18/09, and the Designated Open Space Plan (Z-6), last revised May 18, 2009.

The “Special Permit Report” shall mean the Commission report for application C 090383 ZSR, as approved.

“Subject Property” shall mean the property located at 645 Rossville Avenue (Block 6145, Lots 40 and 300), Borough of Staten Island.

The “Zoning Resolution” shall mean the Zoning Resolution of the City of New York.

1. The Subject Property, including the Designated Open Space, shall be developed, graded and planted, as shown on the Site Plan.
2. Except as provided in the Site Plan, the Designated Open Space shall be maintained and preserved in its natural state and shall not be improved with buildings or other structures.
3. If any tree designated to remain on the Designated Open Space, as shown on the Site Plan, is damaged or destroyed by natural causes, the Subject Property’s condition shall be verified by a certified arborist’s inspection report or a DOB inspection report prior to removal, and such tree shall be replaced with another tree of at least four inch caliper, from the list of approved species in Article X, Chapter 7, Appendix B. The Staten Island Borough Office of DCP shall be notified in writing of its replacement. This notice, which shall include: (1) a copy of the arborist’s or DOB’s inspection report; (2) a description of the location of the tree removed, whether in writing or shown on a site plan; and (3) a description of the size and species of the replacement tree, shall be sent to:

Deputy Director  
NYC Dept. of City Planning, Staten Island Office  
130 Stuyvesant Place, 6<sup>th</sup> Fl.  
Staten Island, NY 10301-2511

4. Except as pursuant to paragraph 3, if any of the trees designated on the Site Plan to remain on the Subject Property are desired to be removed, an application shall be made to the Commission for authorization pursuant to Article X, Chapter 7 of the Zoning Resolution.
5. If the proposed finished grades as indicated on the Site Plan by more than two feet are desired to be further altered, an application shall be made to the Commission for authorization pursuant to Article X, Chapter 7 of the Zoning Resolution.
6. In order to further ensure the preservation of the Designated Open Space as set forth in this Exhibit B, the following shall be included in the deed to any party of each zoning lot established pursuant to the DOS Application and/or in the deed to any party of all or any portion of the Subject Property:
  - (a) a description of that part of the lot or property that includes any of the Designated Open Space;
  - (b) a restriction stating that the Designated Open Space portion of each lot may be used as open space only;
  - (c) an obligation to maintain the Designated Open Space portion of each lot as provided in this Exhibit B, or as otherwise required under the Zoning Resolution, as Designated Open Space.
7. A copy of the Special Permit Report shall be included as part of any application pertinent to the construction, improvement, operation, maintenance or repair of the Subject Property submitted to any governmental agency or department having jurisdiction over the Premises, including, without limitation, the New York City Departments of City Planning, Buildings, Health and Mental Hygiene, Environmental Protection, and New York City Board of Standards and Appeals.
8. All notices, demands, requests, consents, approvals or other communications that may be or are permitted, desirable or required to be given, served or sent hereunder to the City of New York shall be in writing and shall be sent to the Commission or the Chairperson of the Commission, by mailing or delivering such Notice to the Commission at 22 Reade Street, New York, New York 10007-1216 or at the then current address, Attn: Chairperson.
9. The satisfaction of the obligations set forth in this Exhibit B shall not relieve any party of such additional requirements as may be imposed by Federal, State or Local laws.

10. All terms and provisions contained in an executed Declaration dated August 18, 1981, the terms of which were incorporated into the Commission's report for Application Number C 800825 ZMR, that are inconsistent with this Exhibit B, are deemed superseded.