



CITY PLANNING COMMISSION

January 8, 2014, Calendar No. 18

C 110342 MMX
CORRECTED¹

IN THE MATTER OF an application submitted by Gerald Messuri pursuant to Sections 197-c and 199 of the New York City Charter and Section 5-430 *et seq.* of the New York City Administrative Code for an amendment to the City Map involving:

- the elimination, discontinuance and closing of Ponton Avenue between Blondell Avenue and Waters Avenue; and
- the adjustment of grades necessitated thereby;

including authorization for any acquisition or disposition of real property related thereto, in Community District 11, Borough of The Bronx, in accordance with Map No. 13132 dated February 6, 2012 and signed by the Borough President.

The application (C 110342 MMX) for an amendment to the City Map was filed by Gerald Messuri on May 13, 2011. It involves the elimination, discontinuance and closing of Ponton Avenue between Blondell Avenue and Waters Avenue, and the adjustment of grades necessitated thereby, including authorization for any acquisition or disposition of real property related thereto, in Community District 11, Borough of The Bronx to facilitate the applicants use of the former streetbed as accessory parking and to remove the encumbrance that the mapped street has on the applicants property.

BACKGROUND

The subject portion of Ponton Avenue is mapped to a width of 60 feet, is not open to traffic and is not improved, except for a portion of the street contiguous to the applicant's property which is partially paved. The majority of the subject street is owned by the City with the exception of a small portion owned by the applicant. The majority of the subject portion of mapped street is within a NYC Transit Maintenance Yard. Multiple train tracks, including an elevated subway line, cross over the mapped street within the Maintenance Yard. The Yard is approximately zero feet to 17 feet below the grade of the surrounding streets and approximately eight feet below the applicant's property. The total area of the street to be closed is 38,430 square feet. The area of the street proposed to be acquired by the applicant, which fronts on the applicants property is

¹Reference to a Restrictive Declaration was removed from item "c" on page 8.

approximately 9,000 square feet.

The northerly half of the street comprises portions of Tax Lots 14 and 101, Block 4139. The southerly half comprises a portion of Tax Lot 14, Block 4134. Title for the street was vested in the City in 1946. However, the street was never built and the majority of its length is used by the NYCT Maintenance Yard, pursuant to the City's Master Lease. The portions of the Yard adjacent to the subject street comprise the remaining portions of Lot 14, Block 4139 and Lot 14, Block 4134. Security fences enclose the entirety of the Yard to prevent unauthorized access. Access to the Yard is via elevated train tracks or via street-level entrances on Eastchester Road to the north and Waters Place to the east and will not be affected by the street's closure.

The applicant's property, Lot 101, Block 4139, lies north of the subject street at the street's western end, and has frontage on Blondell Avenue. The property is occupied by a one-story, horse-shoe-shaped building used as an auto-body repair shop with a paved driveway and outdoor storage area between the two legs of the building. This gated driveway is accessed by a curb-cut along Blondell Avenue. The business's main parking area for customers and employees is along the southerly and westerly sides of the building and is accessed from the subject portion of Ponton Avenue.

The property on Lot 4, Block 4134 on the south side of Ponton Avenue, across the street from the applicant's property, is occupied by a parking and storage yard. Access to this property is from a curb-cut on Blondell Avenue and will not be affected by the street closing.

The proposed demapping will remove the encumbrance the mapped city street is placing on the applicant's property. The applicant has no plans for development on the street proposed to be eliminated. The portion of the street proposed to be acquired by the applicant will be used for accessory parking and vehicle storage associated with the present use of the applicant's property. No new construction would take place on this portion of street besides adding paving, fencing, lighting and other security features.

The site is located within an M1-1 zoning district, which also occupies the areas immediately north, south, east and west of the site. Nearby zoning districts include an R5 and R7-1 further

east of the site and an R-6 zoning district further west and south of the site. One- and two-story commercial buildings are located north, south and west of the site. The primary uses in this area are automobile repair services and parking. The Hutchinson River Parkway is to the east of the site and Westchester Avenue with the elevated number 6 train line is located to the south. The Samuel H. Young Park lies to the south of the NYCT Maintenance Yard. To the north of the site are The Bronx Psychiatric Center, Calvary Hospital, a Pathmark Supermarket, NYC's Public Safety Answering Center II (PSAC II), currently under construction, and the Hutchinson Metro-Center development which includes the Bronx campus of Mercy College.

Affected agencies and utilities were polled by email on July 1, 2011. Currently, no city agencies have any objections to the proposal.

ENVIRONMENTAL REVIEW

This application (C 110342 MMX) 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 11DCP136X. The lead is the City Planning Commission.

After a study of the potential environmental impact of the proposed action, a Conditional Negative Declaration was issued. The lead agency has determined that the proposed action will have no significant effect on the quality of the environment, once it is modified as follows:

The applicant, Gerald Messuri agrees via the mapping agreement to prepare a Phase II Environmental Assessment Statement (ESA) and submit to the Department of Environmental Protection (DEP) for approval if future development of the demapped property, including soil disturbance, is proposed. This requirement will be embodied in the Mapping Agreement to be executed in connection with the demapping.

The applicant signed the Conditional Negative Declaration on August 9, 2013. The Conditional Negative Declaration was published in the City Record on September 27, 2013 and in the New York State Environmental Notice Bulletin on October 2, 2013. 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 January 8, 2014.

UNIFORM LAND USE REVIEW

This application (C 110342 MMX), was certified as complete by the Department of City Planning on September 9, 2013, and was duly referred to Bronx Community Board 11 and the Bronx Borough President in accordance with Title 62 of the Rules of the City of New York, Section 2-02(b).

COMMUNITY BOARD PUBLIC HEARING

Community Board 11 held a public hearing on this application (C 110342 MMX) on October 24, 2013, and on that day, by a vote of 28 to 1, with 4 abstentions, adopted a resolution recommending the application be approved.

BOROUGH PRESIDENT RECOMMENDATION

This application (C 110342 MMX) was considered by the Borough President of The Bronx, who issued a recommendation of approval on November 21, 2013.

CITY PLANNING COMMISSION PUBLIC HEARING

On November 20, 2013 (Calendar No. 1), the City Planning Commission scheduled December 4, 2013 for a public hearing on this application (C 110342 MMX). The hearing was duly held on December 4, 2013 (Calendar No. 17). There was one speaker in favor of the application and none in opposition.

The applicant's representative described the proposed map change and stated why he believed that the amendment to the City map was appropriate.

WATERFRONT REVITALIZATION PROGRAM CONSISTENCY REVIEW

This application (C 110342 MMX) 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 12-116.

The City Planning Commission, acting as the City Coastal Commission, having reviewed the waterfront aspects of this action, finds that the actions will not substantially hinder the achievement of any WRP policy and hereby determines that this action is consistent with WRP policies.

CONSIDERATION

The City Planning Commission believes that this amendment to the City Map is appropriate.

The Commission notes that the portion of Ponton Avenue proposed to be eliminated from the City Map is mostly under City ownership, largely unimproved, not open to pedestrians or traffic and lies within a New York Transit maintenance facility. The portion of the applicant's property in the bed of the mapped street contains paved parking enclosed by chain link fencing, therefore precluding through traffic. New York City's Department of Transportation had no objections to the proposal, deeming the street unnecessary for current or future traffic patterns. The Commission notes that eliminating the subject portion of Ponton will remove the cloud the mapped city street is placing on the applicant's property.

RESOLUTION

Therefore, the City Planning Commission, deeming the proposed amendment to the City Map and any related acquisition or disposition to be appropriate, adopts the following resolution:

RESOLVED, that the City Planning Commission finds that the action described herein will have no significant impact on the environment, subject to the following condition:

The applicant, Gerald Messuri agrees via the mapping agreement to prepare a Phase II Environmental Assessment Statement (ESA) and submit to the Department of Environmental Protection (DEP) for approval if future development of the demapped property, including soil disturbance is proposed. This requirement will be embodied in

the Mapping Agreement to be executed in connection with the demapping.

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 199 of the New York City Charter, and Section 5-430 et seq. of the New York City Administrative Code, that based on the environmental determination and the consideration described in this report, the application (C 110342 MMX) for the amendment to the City Map involving:

- the elimination, discontinuance and closing of Ponton Avenue between Blondell Avenue and Waters Avenue; and
- the adjustment of grades necessitated thereby;

including authorization for any acquisition or disposition of real property related thereto, in Community District 11, Borough of The Bronx, in accordance with Map No. 13132, dated February 6, 2013, and signed by the Borough President is approved and be it further

RESOLVED that, pursuant to Section 5-432 of the New York City Administrative Code, the City Planning Commission determines that “such closing or discontinuance will further the health, safety, pedestrian or vehicular circulation, housing, economic development or general welfare of the City”; and be it further

RESOLVED that, pursuant to Section 5-433 of the New York City Administrative Code, the City Planning Commission adopts the legally required number of counterparts of Map No. 13132 dated February 6, 2012, providing for the discontinuance and closing of Ponton Avenue between Blondell Avenue and Waters Avenue, said street to be discontinued and closed being more particularly described as follows:

Starting at the point of intersection of the westerly line of Waters Avenue and the northerly line

of Fink Avenue, thence 200.0 feet in a northerly direction, along the westerly line of Waters Avenue to the point of place or beginning:

- 1) Thence, running 60.00 feet northerly along the prolongation of said westerly line of Waters Avenue to a point on the northerly line of Ponton Avenue, to be discontinued and closed;
- 2) Thence running 637.050 feet westerly along said northerly line of Ponton Avenue, which forms a deflection angle to the left of 90 degrees, with the previous course, to a point;
- 3) Thence running 60.40 feet southerly along a line which forms a deflection angle to the left of 83 degrees, 25 minutes and 45.2 seconds, with the previous course, to a point on the southerly line of said Ponton Avenue;
- 4) Thence running 643.961 feet easterly, along the southerly line of said Ponton Avenue, which forms a deflection angle to the left of 96 degrees, 34 minutes and 14.8 seconds, with the previous course, to the point or place of beginning.

The area described above consists of 38,430.33 square feet or 0.88 acres and be it further

RESOLVED that, pursuant to subdivision 1a of Section 5-433 of the New York City Administrative Code, public utility facilities within the subsurface of the streets cited herein which are to be discontinued and closed by this action, may be maintained in place or relocated within such subsurface by the public utility, so that such maintenance in place or relocation of such facilities is consistent with the proposed use of the closed portion or portions of such subsurface, and the requirements of other facilities located therein;

All such approvals being subject to the following conditions:

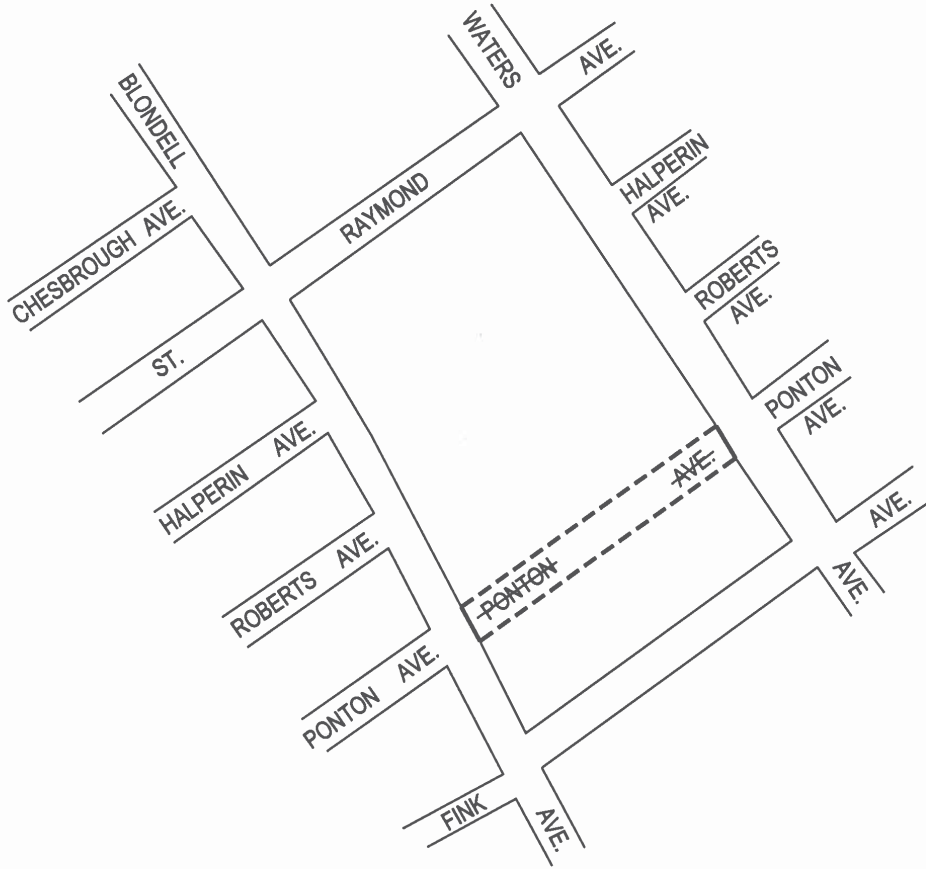
- a. The subject amendment to the City Map shall take effect on the day following the day on which certified counterparts of Map No. 13132 are filed with the appropriate agencies in

accordance with Section 198 subsection c of the New York City Charter and Section 5-435 of the New York City Administrative Code; and

- b. The subject amendment to the City Map shall not be filed with the appropriate agencies in accordance with condition “a” above until the applicant shall have executed a mapping agreement protecting the city's interest, approved as to form and sufficiency by the Corporation Counsel and accepted by the City Planning Commission (the “Mapping Agreement”). If such agreement is not accepted by the City Planning Commission within two years of the date of this resolution, the approved amendment to the City Map may be returned to the City Planning Commission for rescission; and
- c. The Mapping Agreement shall contain provisions governing, in connection with development of the former street the testing for and remediation of hazardous materials in accordance with DEP requirements, as such environmental requirements are specified in the Conditional Negative Declaration dated January 8, 2014; and
- d. The subject street to be discontinued and closed shall be discontinued and closed on the day following the day on which such maps adopted by this resolution shall be filed in the offices specified by law.

The above resolution (C 110342 MMX), duly adopted by the City Planning Commission on January 8, 2014 (Calendar No. 18), 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.

KENNETH J. KNUCKLES, Esq., Acting Chair
ANGELA M. BATTAGLIA, RAYANN BESSER, IRWIN G. CANTOR, P.E.,
ALFRED C. CERULLO, III BETTY Y. CHEN, MICHELLE R. DE LA UZ,
MARIA M. DEL TORO, RICHARD W. EADDY,
ANNA HAYES LEVIN, ORLANDO MARIN, Commissioners



CITY PLANNING COMMISSION
CITY OF NEW YORK
DIAGRAM SHOWING PROPOSED
MAP CHANGE
ON SECTIONAL MAP
4b
BOROUGH OF
BRONX

New York, Certification Date
SEPTEMBER 09, 2013

I. Sadko, P.E.
Chief Engineer



- NOTE:**
- Indicates line of street legally adopted.
 - Indicates line of street proposed to be established.
 - - - Indicates line of street proposed to be eliminated.

Application #: C 110342 MMX	Project Name: PONTON AVENUE DEMAPPING
CEQR Number: 11DCP136X	Borough(s): The Bronx Community District Number(s): 11

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

SUBMISSION INSTRUCTIONS

- Complete this form and return to the Department of City Planning by one of the following options:
 - EMAIL (recommended):** Send email to CalendarOffice@planning.nyc.gov and include the following subject line: (CB or BP) Recommendation + (6-digit application number), e.g., "CB Recommendation #C10000ZSQ"
 - MAIL:** Calendar Information Office, City Planning Commission, Room 2E, 22 Reade Street, New York, NY 10007
 - FAX:** (212) 720-3356 and note "Attention of the Calendar Office"
- Send one copy of the completed form with any attachments to the applicant's representative at the address listed below, one copy to the Borough President, and one copy to the Borough Board, when applicable.

Docket Description:

IN THE MATTER OF an application submitted by Gerald Messuri pursuant to Sections 197-c and 199 of the New York City Charter and Section 5-430 *et seq.* of the New York City Administrative Code for an amendment to the City Map involving:

- the elimination, discontinuance and closing of Ponton Avenue between Blondell Avenue and Waters Avenue; and
- the adjustment of grades necessitated thereby;

including authorization for any acquisition or disposition of real property related thereto, in Community District 11, Borough of The Bronx, in accordance with Map No. 13132 dated February 6, 2012 and signed by the Borough President.

Applicant(s): Gerald Messuri 20 Orchard Hill Road Katonah, New York 10536	Applicant's Representative: Vincent A. Delorio, Esq. The Delorio Law Firm, LLP 800 Westchester Avenue Rye Brook, New York 10573 (914)-696-5555				
Recommendation submitted by: Bronx Community Board 11					
Date of public hearing: 10/24/13	Location: 1200 Van Nest Ave.				
Was a quorum present? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	<i>A public hearing requires a quorum of 20% of the appointed members of the board, but in no event fewer than seven such members.</i>				
Date of Vote: 10/24/13	Location: 1200 Van Nest Ave.				
<p>RECOMMENDATION</p> <table> <tr> <td><input checked="" type="checkbox"/> Approve</td> <td><input type="checkbox"/> Approve With Modifications/Conditions</td> </tr> <tr> <td><input type="checkbox"/> Disapprove</td> <td><input type="checkbox"/> Disapprove With Modifications/Conditions</td> </tr> </table> <p>Please attach any further explanation of the recommendation on additional sheets, as necessary.</p>		<input checked="" type="checkbox"/> Approve	<input type="checkbox"/> Approve With Modifications/Conditions	<input type="checkbox"/> Disapprove	<input type="checkbox"/> Disapprove With Modifications/Conditions
<input checked="" type="checkbox"/> Approve	<input type="checkbox"/> Approve With Modifications/Conditions				
<input type="checkbox"/> Disapprove	<input type="checkbox"/> Disapprove With Modifications/Conditions				
<p>Voting</p> <p># In Favor: 28 # Against: 1 # Abstaining: 4 Total members appointed to the board: 49</p>					
Name of CB/BB officer completing this form Jeremy Warneke	Title District Manager Date 10/28/13				

<p style="text-align: center;">CITY PLANNING COMMISSION</p> <p>BOROUGH PRESIDENT RECOMMENDATION</p> <p style="text-align: center;">NOV 22 AM 9:46</p> <p style="text-align: center;">DEPT. OF CITY PLANNING</p>	<p style="text-align: center;">CITY PLANNING COMMISSION</p> <p>22 Reade Street, New York, NY 10007 Fax # (212)720-3356</p>
---	---

INSTRUCTIONS

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

APPLICATION NOS: C 110342 MMX

DOCKET DESCRIPTION

PLEASE SEE ATTACHMENT FOR DOCKET DESCRIPTION

COMMUNITY BOARD NO. 11

BOROUGH: THE BRONX

RECOMMENDATION

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

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

PLEASE SEE ATTACHMENT FOR BOROUGH PRESIDENT'S RECOMMENDATION

Ruben Diaz

BOROUGH PRESIDENT

11/21/13

DATE

BRONX BOROUGH PRESIDENT RUBEN DIAZ Jr.
ULURP APPLICATION NO: C 110342 MMX
Ponton Avenue Demapping
November 26, 2013

DOCKET DESCRIPTION

IN THE MATTER OF AN application submitted by Gerald Messuri, pursuant to Sections 197-c and 199 of the New York City Charter and Section 5-430 *et seq.* of the New York City Administrative Code, for an amendment to the City Map involving:

- The elimination, discontinuance and closing of Ponton Avenue between Blondell Avenue and Waters Avenue; and
- The adjustment of grades necessitated thereby;

Including the authorization of any acquisition or disposition of real property related thereto, in Community District #11, Borough of The Bronx, in accordance with Map No. 13132 dated February 6, 2012, and signed by the Borough President.

BACKGROUND

Approving this application will amend the City Map by removing from the Map an unbuilt (paper street) section of Ponton Avenue. The mapped portion of this paper street (p/o Block 4139, Lots 14 and 101) exists between Blondell Avenue on the west and Water Avenue to the east and consists of 38,430 square feet. Gerald Messuri (the applicant) represents the owners of property located at 1364-70 Blondell Avenue (entire Block 4139, Lot 101). This site is situated on the northeast corner of Ponton Avenue at Blondell Avenue, consisting of 31,419 square feet of property. The centerline of Ponton Avenue forms the southern lot line of the applicant's property. Portions of the eastern and western lot lines of the applicant's property also run through Ponton Avenue. Due to the existence of 4,545 square feet of this paper street on his property, only 26,874 square feet is currently developable property. The centerline portion of Ponton Avenue immediately south of the applicant's site is owned by the New York City Department of Transportation and consists of 4,545 square feet. The remaining portion of the Ponton Avenue paper street to be demapped (p/o Block 4139, Lot 14) is to the east of the applicant's site and falls within property owned by the Metropolitan Transit Authority.

The primary purpose for advancing this application is to remove an encumbrance from the applicant's property totaling 4,545 square feet, which will bring the applicant's developable area to 31,419 square feet. Subsequently, the applicant intends to purchase the DOT's portion of Ponton Avenue increasing the developable area to 35,964 square feet (31,419 plus 4,545). The remaining unbuilt portion of Ponton Avenue that lies within the New York City Transit Maintenance Yard adds 33,885 square feet of property to the Metropolitan Transit Authority's site, (38,430 less 4,545=33,885 square feet)

The applicant's site currently includes a one-story, industrial building consisting of 6,000 square feet. This site accommodates an auto-repair and maintenance shop. Development of the surrounding community is typified by similar low rise industrial buildings, a majority of which provide auto-related services. There is no residential development adjacent to the subject area. Public transportation and retail activity is available on Westchester Avenue, East Tremont Avenue, and Williamsbridge Road. Access to the IRT 6 Lexington Avenue subway is within a four block radius of Ponton Avenue at Westchester Square.

ENVIRONMENTAL REVIEW AND CITY PLANNING CERTIFICATION

This application has been reviewed pursuant to SEQR and CEQR and received a Conditional Negative Declaration, meaning that if any development of the property associated with this application is proposed, such development would be conditional, subject to review by the Department of Environmental Protection. The City Planning Commission certified this application as complete on September 9, 2013.

BRONX COMMUNITY BOARD PUBLIC HEARING

Bronx Community Board #11 held a public hearing on October 24, 2013. A vote recommending approval of this application was 28 in favor, one against, and four abstaining.

BOROUGH PRESIDENT'S PUBLIC HEARING

A public hearing on this application was convened by the Bronx Borough President on November 19, 2013. Representatives of the applicant were present and spoke in favor of this application. There being no other comments on this matter, the hearing was closed.

BRONX BOROUGH PRESIDENT'S RECOMMENDATION

Approving this application accomplishes two objectives:

- amending the City Map to reflect that which is actually and accurately built
- removes the encumbrance on a privately owned site prompted the existence of this paper street portion of Ponton Avenue.

I understand that approval of this application yields to the applicant a larger lot on which as-of-right development pursuant to a M1-1 zone can occur. I acknowledge that any proposed development will require additional environmental review by the Department of Environmental Protection. Development of manufacturing zones is critical to the overall economy of the Bronx and is where modest-skilled, living wage employment is most often available.

I concur with Community Board #11 and recommend approval of this application.