

# UPPER WEST SIDE NEIGHBORHOOD RETAIL STREETS PROPOSAL

AS MODIFIED BY

THE CITY PLANNING COMMISSION

Presented to City Council June 2012

# Local Retail Study – Background and Findings

- Respond to concerns voiced by members of UWS community regarding negative changes in neighborhood character
- Surveyed 10 commercial corridors to determine what characterizes successful local commercial streets in New York City
- Land-Use rationale to:
  - Promote active streetscape and attractive environment for pedestrians
  - Encourage diverse retail and service opportunities for residents
  - Preserve multi-store and active retail character where it exists



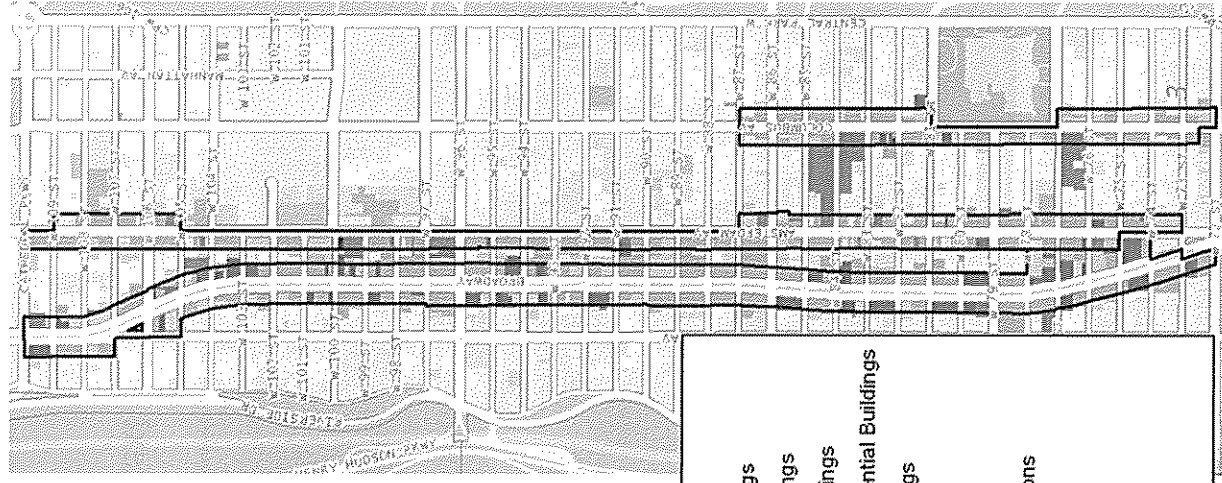
# UWS Characteristics and Goals

- Primarily ground floor commercial uses with residential above along Broadway, Amsterdam and Columbus
- Multiple buildings and stores per block along Amsterdam and Columbus
- Larger footprints and taller buildings along Broadway
- Low vacancy rate throughout Upper West Side (~6%)
- Developed series of tools to respond to specific concerns in the Upper West Side based on unique conditions affecting commercial dynamics:

➤ Only three commercial corridors serving a dense residential population

➤ Several avenues with no commercial zoning

➤ Less commercial square footage per person than other neighborhoods



## Existing Character: Amsterdam & Columbus

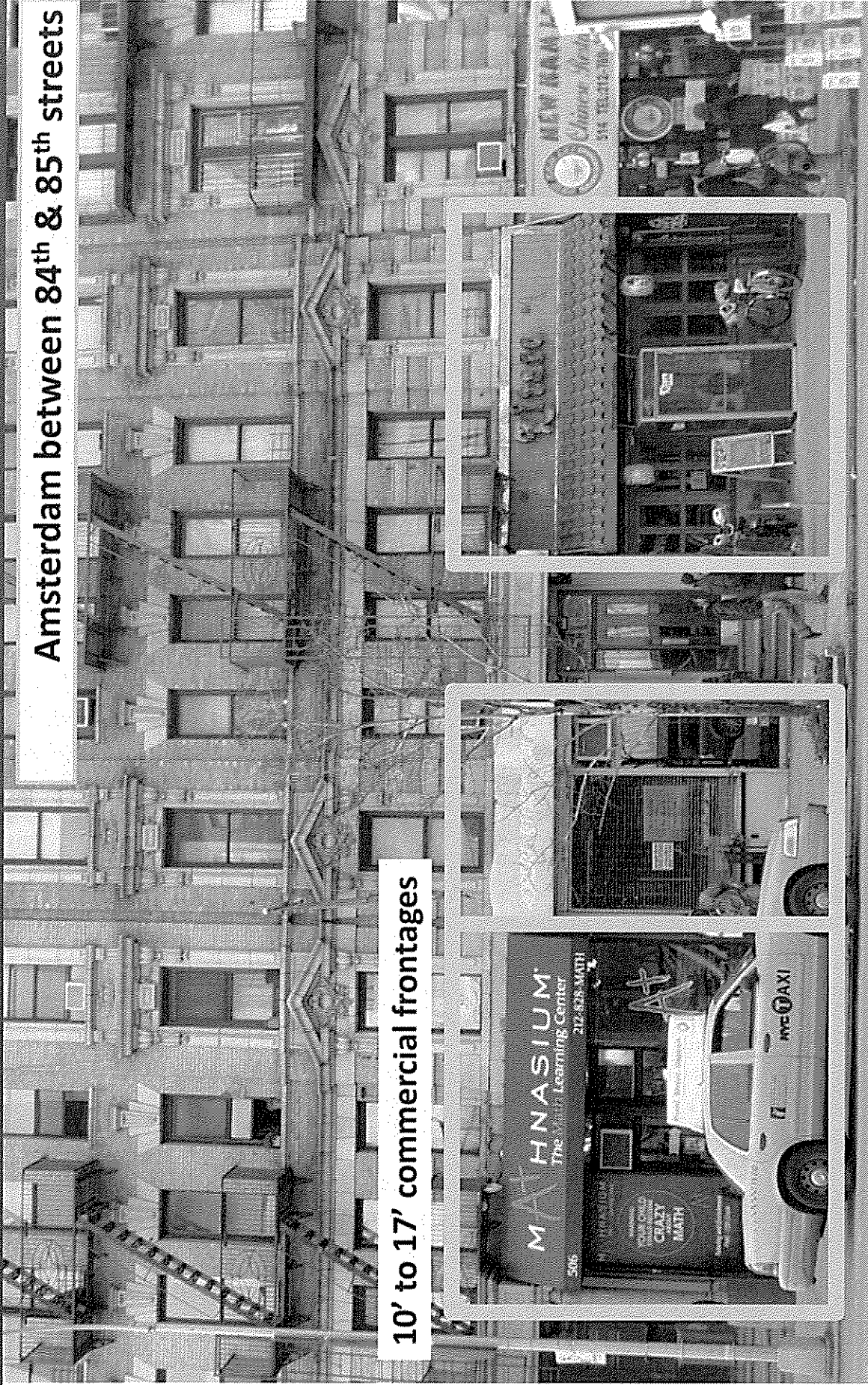


- Zoning allows for local retail and services
- Residentially oriented
- Partially within a historic district
- Multiple establishments per block
- Mix of local retail and neighborhood services interspersed with residential lobbies
- Typical block has store frontages with average width of 22 feet
- Concerns that new stores are larger and out of character with existing context
- Concerns about vacancies along certain blocks
- Concerns over potential for banks with significant ground floor presence

Typical small store frontages along Amsterdam (EC-2)

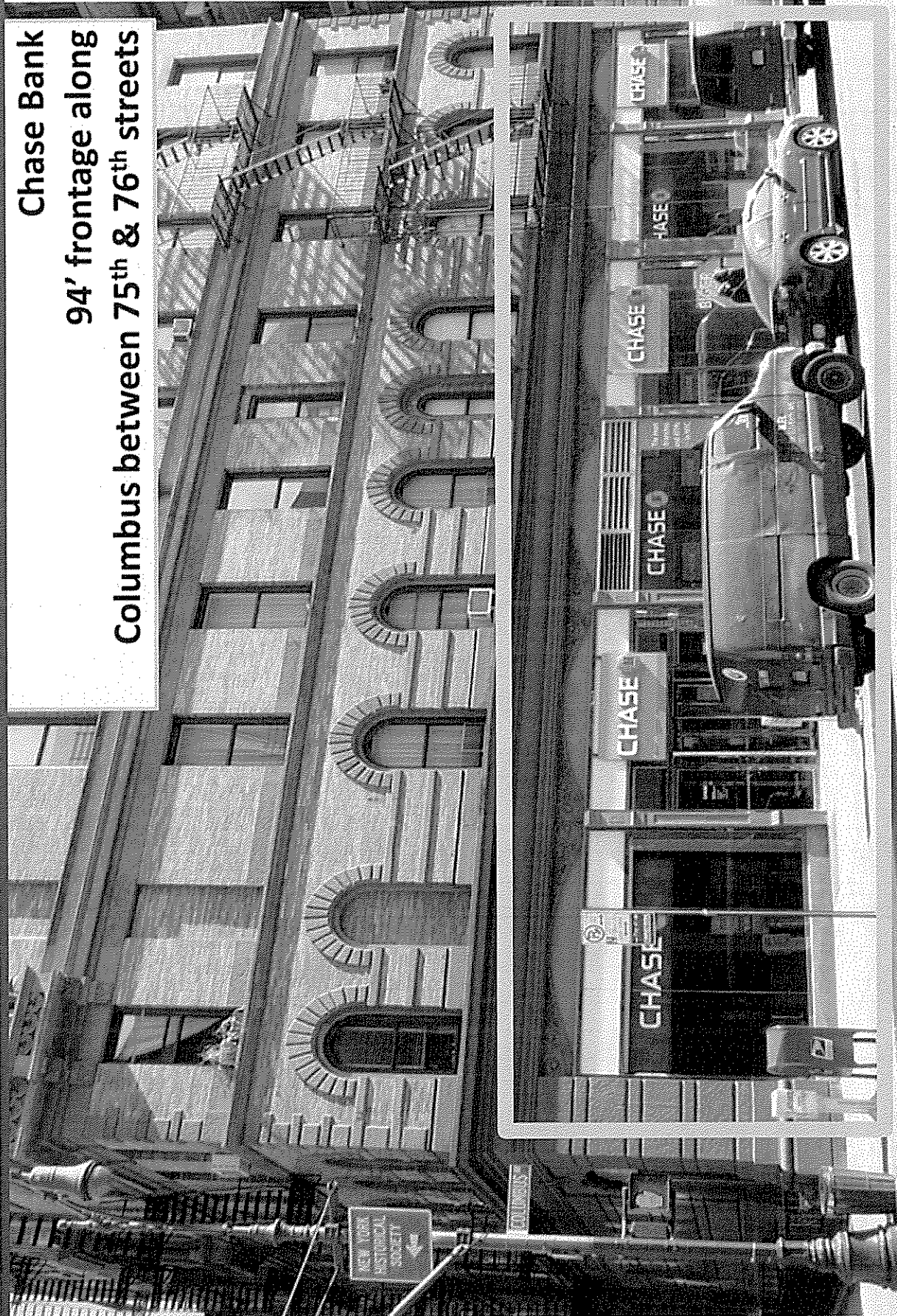
Amsterdam between 84<sup>th</sup> & 85<sup>th</sup> streets

10' to 17' commercial frontages



Bank Frontages along Columbus (EC-2)

Chase Bank  
94' frontage along  
Columbus between 75<sup>th</sup> & 76<sup>th</sup> streets



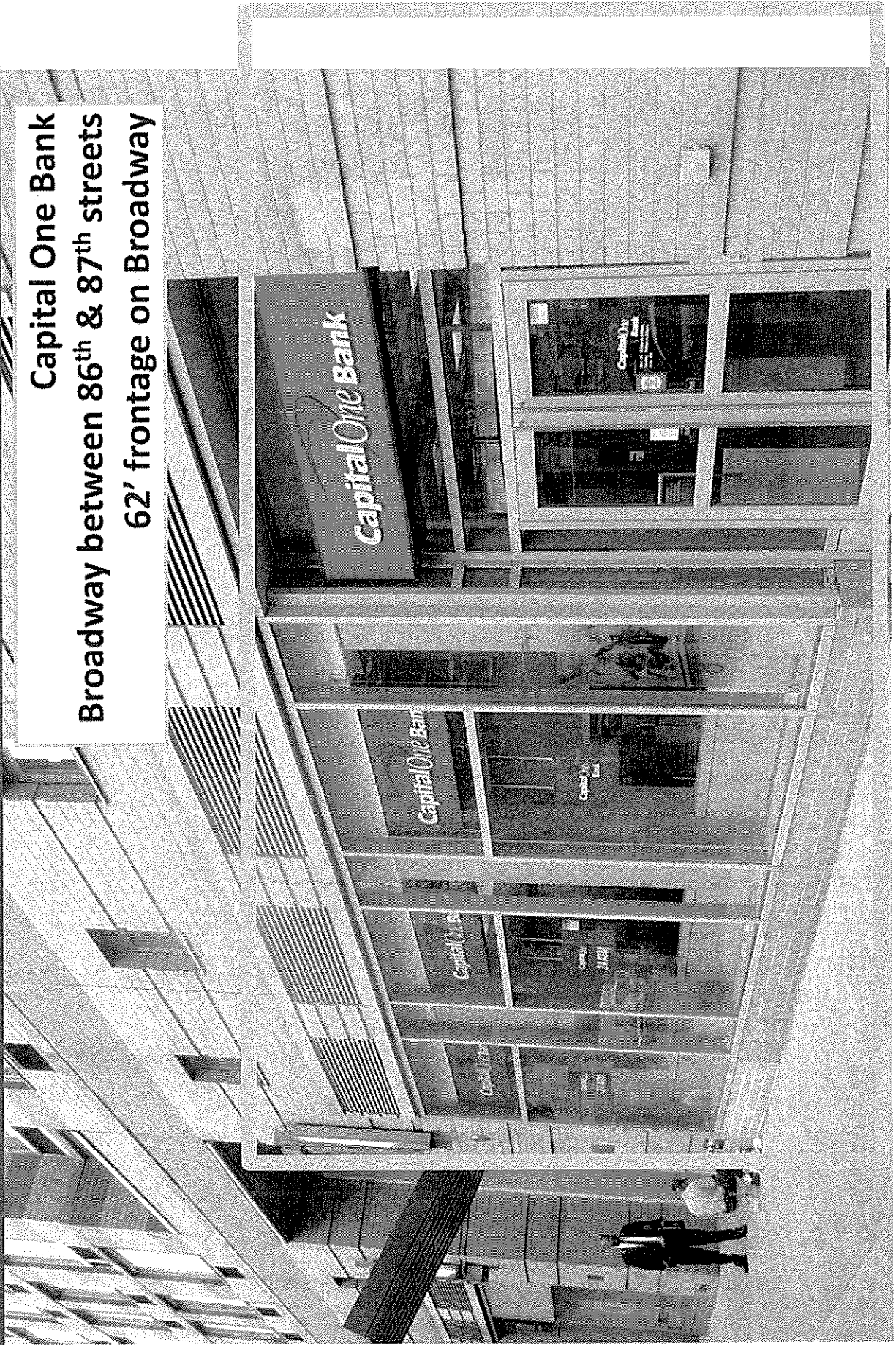
## Existing Character: Broadway

- Wider avenue with direct transit access
- Higher density commercial zoning
- Strong retail continuity
- Mix of small and large stores and second story commercial uses
- Concerns over general loss of neighborhood character
- Concerns over long-term vacancies
- Proliferation of banks with significant ground floor presence



Bank Frontages Broadway (EC-3)

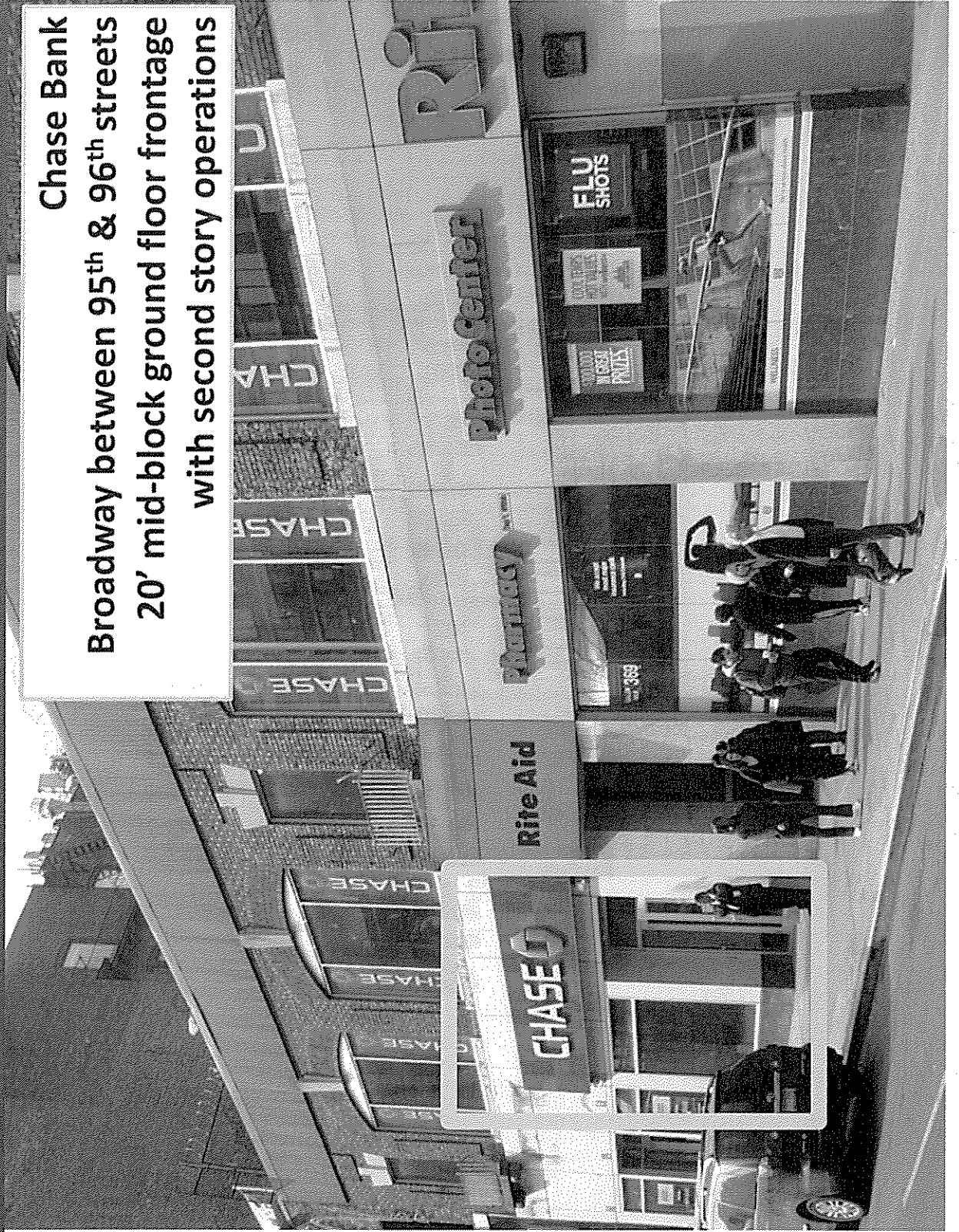
**Capital One Bank**  
**Broadway between 86<sup>th</sup> & 87<sup>th</sup> streets**  
**62' frontage on Broadway**





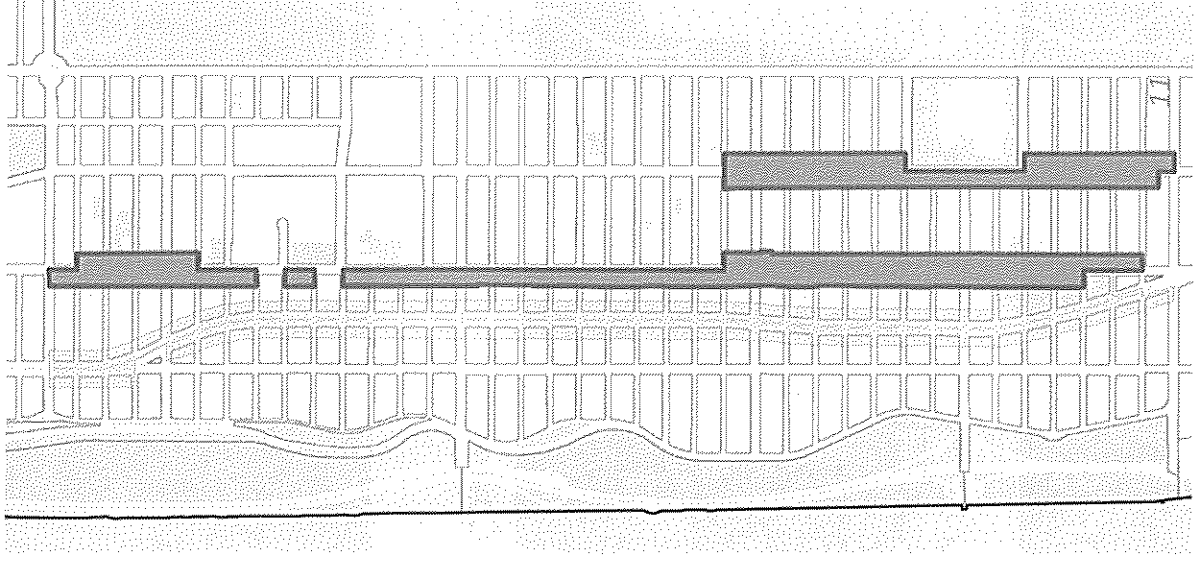
Bank Frontages Broadway (EC-3)

**Chase Bank  
Broadway between 95<sup>th</sup> & 96<sup>th</sup> streets  
20' mid-block ground floor frontage  
with second story operations**



# UPPER WEST SIDE NEIGHBORHOOD RETAIL STREETS PROPOSAL:

# Proposed Regulations for Amsterdam & Columbus (EC-2)



➤ **Amsterdam and Columbus:**

**Store Frontage Limitation -**

Two establishments per 50' zoning lot frontage, with no establishment >40' frontage and with required depth of 30'

Exceptions to this rule are: Supermarkets, schools, houses of worship, lots with less than 30' of commercial depth since date of adoption

**Bank Frontage Limitation -**

Banks limited to 25' ground floor frontage

**Residential Lobby Limitation -**

Residential lobbies limited to 25' ground floor frontage

**Streetwall Transparency -**

50% transparency between 2' and 12' in new buildings

➤ Existing commercial uses that exceed the frontage limitations are permitted to remain unchanged, and the space may be re-tenanted by another commercial use of the same or lesser size.

➤ Existing frontages may remain permanently at their current size.

## Typical Block With Proposed Regulations



Typical 200' Block front on Amsterdam or Columbus

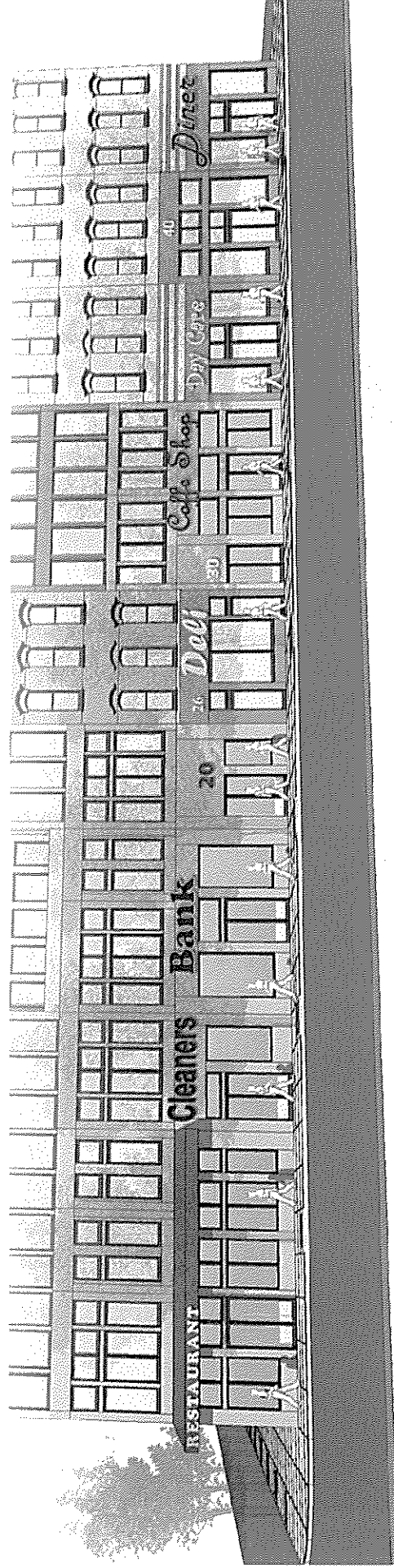
### Amsterdam and Columbus Frontage Regulations:

- Two establishments per 50' zoning lot
- Maximum general establishment frontage of 40'
- Maximum bank frontage of 25'
- Maximum residential lobby frontage of 25'
- Minimum store depth of 30'

Exceptions: Supermarkets, schools, houses of worship, lots with less than 30' of commercial depth

# Transparency Requirements

## Broadway, Amsterdam and Columbus Avenues



*Windows cover about half of the store frontage, allowing pedestrians to see inside shops, and shoppers to see out onto the street.*

*50% of the area between a height of 2' and 12' (or the height of the ground floor) shall be transparent.*

*No portion of the ground floor frontage may have a blank wall with a width exceeding 10'.*

Amsterdam and Columbus Avenues

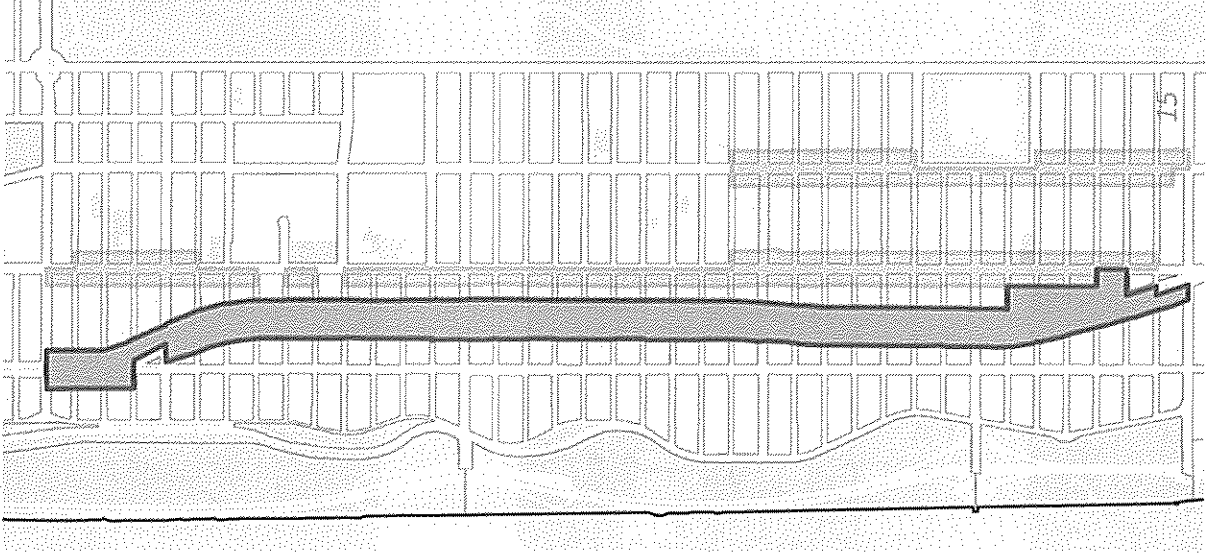
LWS Enhanced Commercial District

The Harrison on Amsterdam Ave, between 76<sup>th</sup> & 77<sup>th</sup> streets:

- **Modell's exceeds ground floor regulation with 57' frontage**
- **The other ground floor frontages and 2<sup>nd</sup> story fitness center would comply**
- **Near-100% façade transparency**



# Proposed Regulations for Broadway (EC-3)



➤ **Broadway:**

**Store Frontage Limitation -**  
NONE

**Bank Frontage Limitation -**  
Banks limited to 25' ground floor frontage with required depth of at least 30'

**Residential Lobby Limitation -**  
Residential lobbies limited to 25' ground floor frontage

**Streetwall Transparency -**  
50% transparency between 2' and 12' in new buildings

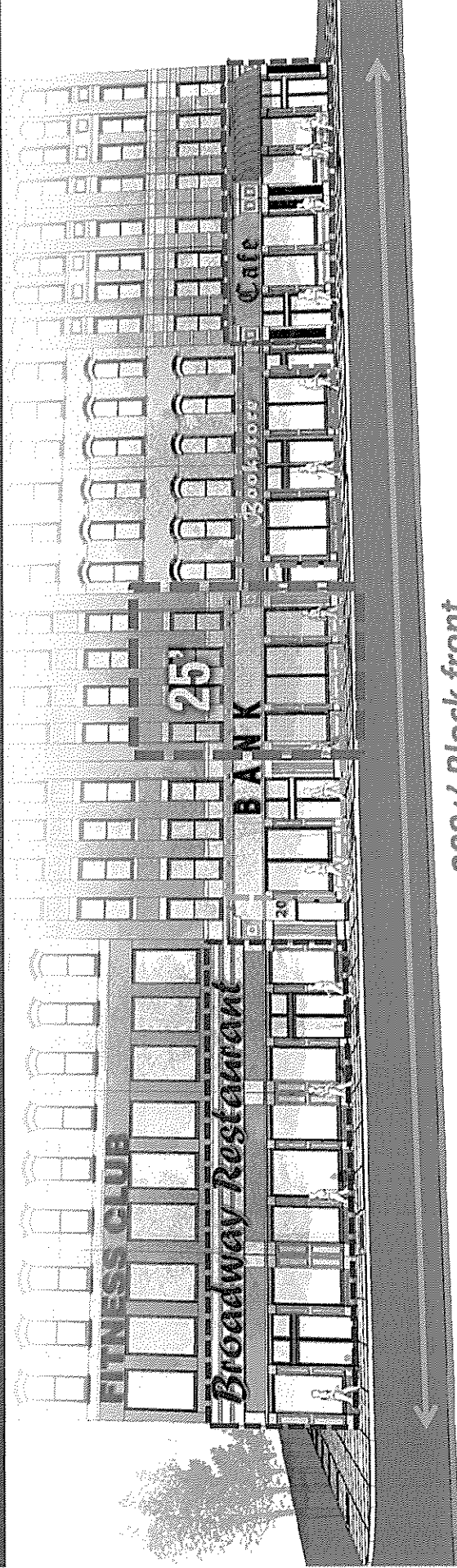
➤ Existing commercial uses that exceed the frontage limitations are permitted to remain unchanged, and the space may be re-tenanted by another commercial use of the same or lesser size.

➤ Existing frontages may remain permanently at their current size.

Broadway

UWS Enhanced Commercial District

## Typical Block With Proposed Regulations



200+\' Block front

### Broadway Frontage Regulations:

- NO general frontage restrictions
- Maximum bank frontage of 25' and depth of 30'
- Maximum residential lobby frontage of 25'

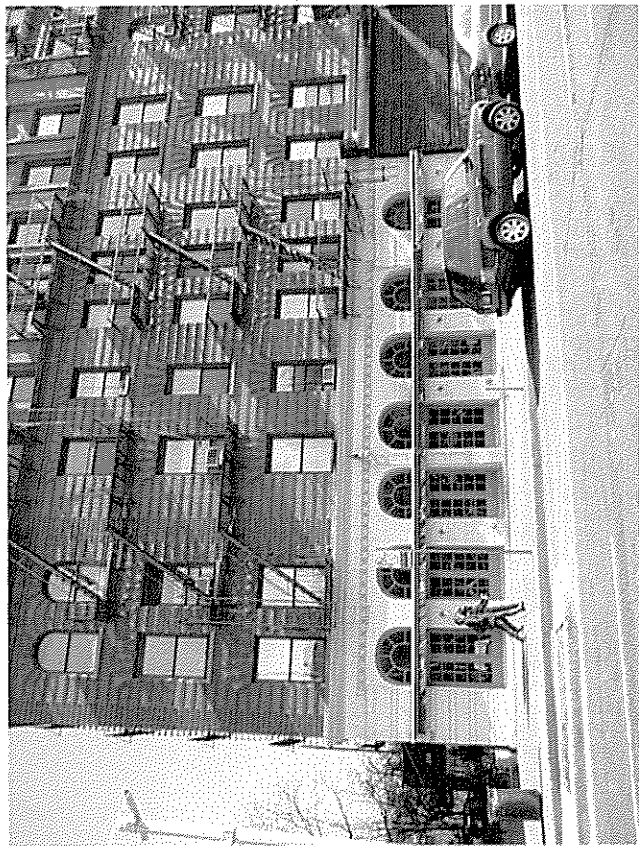


## Certification and Authorization

- A City Planning Commission Chair may certify a modification to the regulations for frontages for businesses that have been in place for at least a year, allowing expanded frontage up to 60' upon demonstration of the following conditions:
  - **Physical restrictions** preventing on-site business expansion in a way that would avoid frontage in excess of 40 feet; the presence of other uses with ongoing or expected occupancy within the building preventing expansion and; **land-use based findings** relating to the number of other establishments with more than 40 feet fronting on, adjacent to, or across from the block on which the applicant operates.
  
- The City Planning Commission may authorize a modification in the maximum street wall width of commercial establishments where the Commission finds that:
  - such proposed use **cannot be reasonably configured** within the permitted street wall width, and such additional frontage space is required for the operation of such use; or
  - a **high ground floor vacancy** exists within a reasonable distance of the proposed use, and such high vacancy is a consequence of adverse market conditions.

# Proposal: Commercial Overlay

- Proposed mapping of C1-5 Commercial Overlay on existing R10A district at 77<sup>th</sup> street and Columbus Avenue
- Long-time active commercial uses; consistent with neighborhood context and character



# Community Board 7 and Borough President

## ➤ **CB7 Approval, with modifications, received April 4<sup>th</sup>:**

### 1. Authorizations:

- “that such a proposed use cannot be reasonably configured” is too broad
- Vacancy rate and reasonable distance should be defined (15% within a half mile)
- CPC should be allowed 90 days for review upon submission, after which the waiver would be automatically approved
- Clarify that authorizations are subject to review and comment by CB

### 2. Interface between DCP and the Landmarks Preservation Commission

- Issuance of LPC Certificate of Appropriateness should not supersede zoning
- In rare cases of conflict between landmarks and zoning, LPC would certify, after notice and hearing, and CPC could issue authorization to waive frontage

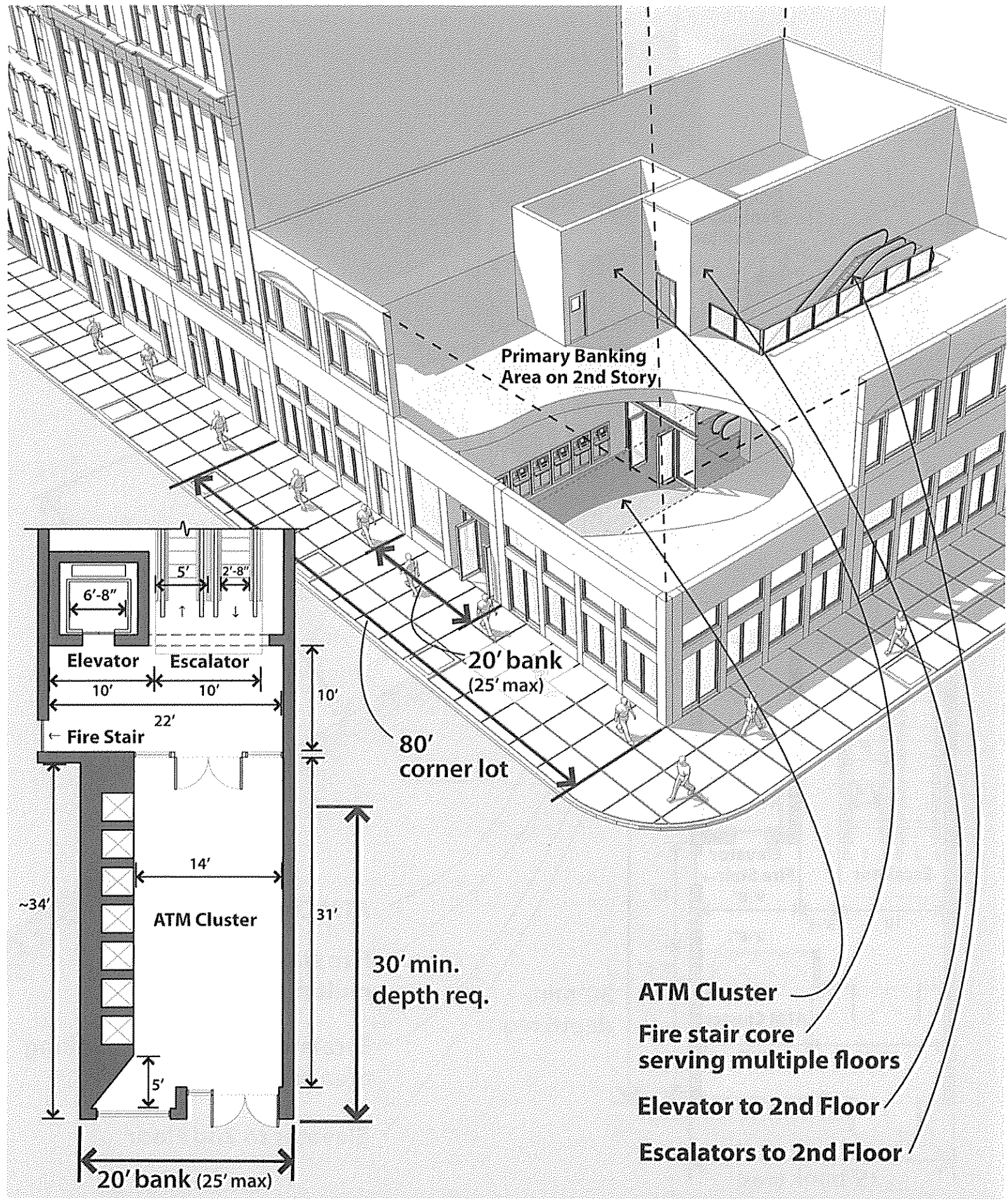
## ➤ **Borough President approval, with modifications, received April 4<sup>th</sup>**

1. Increase residential lobby restriction on Amsterdam and Columbus to 25'
2. Clarify definition of “establishment”
3. Reduce minimum depth of commercial establishments to 15'
4. Simplify transparency requirement to allow for flexibility
5. Allow LPC to modify zoning requirements without DCP Chair Certification
6. Authorization to waive frontage limitations should include land-use based criteria in addition to need for additional frontage or neighborhood vacancy
7. Authorization should include mandatory CB referral

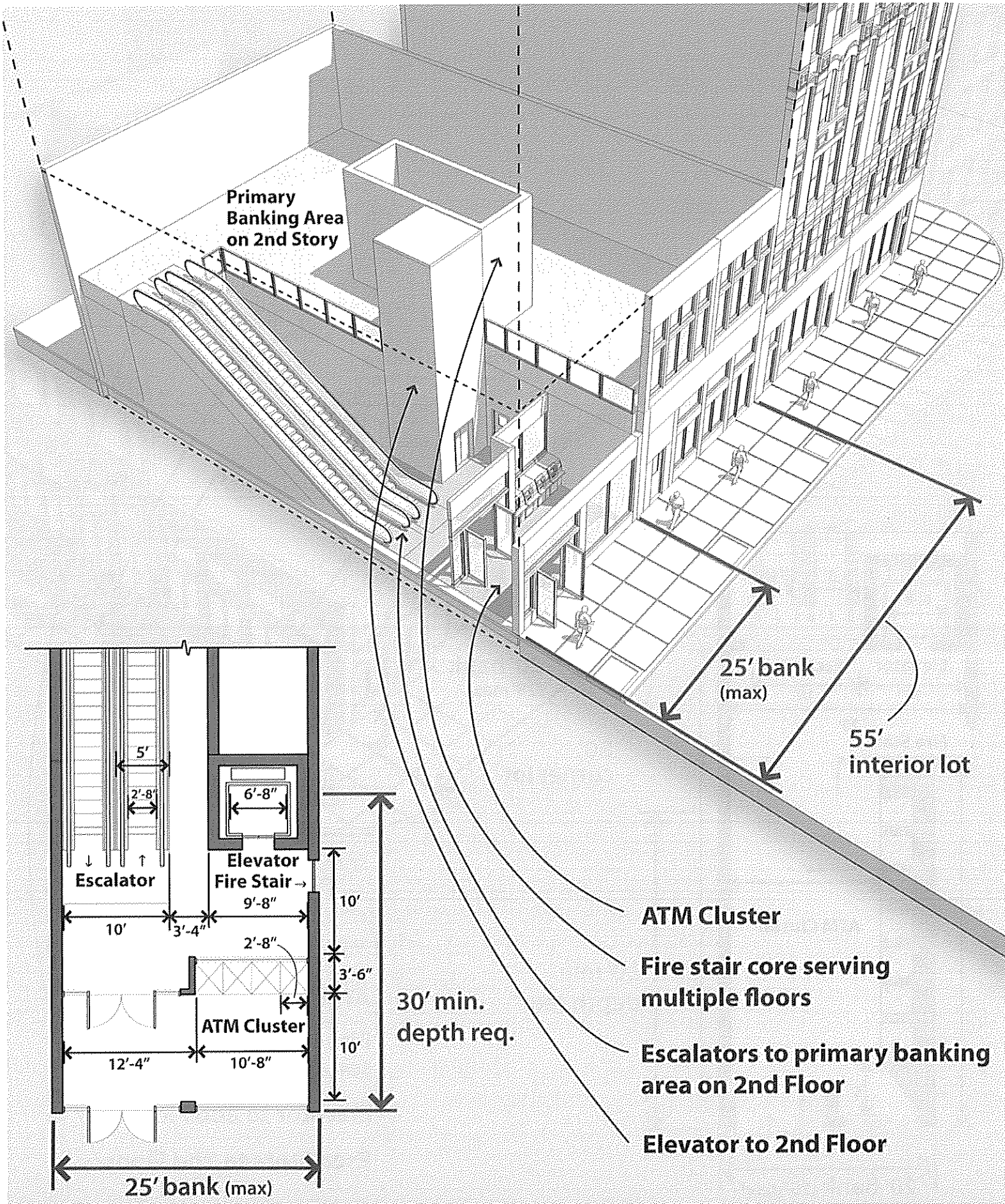
# City Planning Commission Modifications

## ➤ Unanimous approval, with modifications, voted May 9<sup>th</sup>, 2012

1. In response to concerns expressed by small businesses that the proposed waiver rules would make it overly complicated for existing businesses to make limited expansions beyond 40', the Department modified the text to create a new **faster certification process that would allow existing businesses to apply for an expanded frontage up to 60'** using simple criteria and eliminating environmental review.
2. In response to concerns expressed by property owners who were concerned about the possibility of having to subdivide frontages after a period of extended vacancy, the Department modified the text to **grandfather large storefronts so that they could remain permanently at their current sizes**. The text previously required stores to meet new rules if vacant for more than 2 years.
3. In response to concerns of property owners with projects underway, the Department modified the text to **allow projects due to complete expansions within 6 months to continue unaffected** by the new rules.
4. To provide additional flexibility, the Department modified the text to **allow lobby frontages up to 25'** along Columbus and Amsterdam.
5. Other modifications included the addition of a community board referral for waivers, the removal of the Chair Certification for landmarked buildings and buildings in historic districts, and miscellaneous clarifications.



**UWS 25' Ground Floor Bank Restriction a)**



For the Record



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THE COUNCIL  
OF  
THE CITY OF NEW YORK

June 19, 2012

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**CO-CHAIR**  
CITYWIDE TASK FORCE ON  
FINACIALLY-DISTRESSED RENTAL HOUSING

Statement in Support of the Upper West Side Retail Proposal by Council Member Inez E. Dickens

Good morning Chair Weprin and the Subcommittee of Zoning and Franchises;

I would like to express my support for the Upper West Side Rezoning that will ensure the general multi-store character of the neighborhood. The charming aesthetics of Amsterdam Avenue and Columbus Avenue will be preserved, while allowing for a varied mix of retail on Broadway.

This rezoning will preserve the historic fabric of the Upper West Side. It will provide a diverse repository of unique small businesses, a place where the entrepreneurial spirit can flourish, and provide economic stability that will yield jobs and job training experience. Contrary to popular media belief, it will not halt businesses from expanding.

The opposition has voiced out many arguments that are truly hypothetical. What we do know is that, the bucolic and unique nature of the Upper West Side will be preserved for future generations by this zoning proposal. More specifically, the retail corridors of the Upper West Side will truly maintain their unique characteristics that will circumvent dense commercialization that has afflicted other areas of Manhattan.

I congratulate my colleague, Council Member Gale Brewer, who I worked very closely with, on her careful attention to every aspect of this proposal. I would also like to congratulate Department of City Planning Commissioner Amanda Burden on her extraordinary vision in formulating this zoning proposal.





**TESTIMONY OF  
MICHAEL P. SMITH  
PRESIDENT AND CHIEF EXECUTIVE OFFICER  
NEW YORK BANKERS ASSOCIATION**

**BEFORE THE  
NEW YORK CITY  
COUNCIL LAND USE SUBCOMMITTEE OF THE COMMITTEE ON  
ZONING AND FRANCHISES**

**June 19, 2012  
NEW YORK, NEW YORK**



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**BEFORE THE  
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ZONING AND FRANCHISES**

**June 19, 2012  
NEW YORK, NEW YORK**

Good morning Chairman Weprin and members of the Committee. My name is Michael P. Smith and I am President and CEO of the New York Bankers Association (NYBA). Thank you for the opportunity to address you today on the New York City Planning Commission's proposed ground-floor use controls for Columbus Avenue, Amsterdam Avenue and Broadway on the Upper West Side. The proposal would discriminate against banks by limiting the frontage of banks in the affected area to 25 feet. All other types of business establishments would be allowed at least 40 feet of frontage. NYBA represents more than 150 community, regional and money center commercial banks and thrift members and their 200,000 employees across the State of New York.

It is unusual for NYBA to comment on local zoning issues, since, as a general rule, it is customary and appropriate for local jurisdictions to prescribe reasonable requirements with which local commercial establishments are expected to comply. However, we believe that this proposal is exceptional and precedential in its

treatment of just one business. Banks – and only banks – are limited to frontage size of 25 feet. All other retail establishments in the affected area are to be limited to no less than 40 feet, and in many places, not at all. Moreover, banks are specifically excluded from the more liberal frontage maximum variance policy to be enjoyed by all other commercial establishments. This discriminatory treatment poses security, marketing, design, competitive and legal issues for banks, which will not be imposed on any other commercial enterprise.

While we have serious concerns about the overall policy inherent in this proposal, all of which we have laid out in our previous comments to the Planning Commission on this issue (attached as Appendix A), we will focus our testimony today on the discriminatory nature of the proposal, and its impact on bank security and the ability to provide the full complement of bank services to affected citizens of the Upper West Side.

We appreciate the New York City Planning Department's desire to respond to concerns raised by neighborhood residents and government officials regarding the changing nature of retail stores in the area and the potential for "negative changes in neighborhood character." However, we can find no rationale to limit banks - which provide convenient banking services and funding for local residential and commercial loans – to be less worthy of frontage than any other commercial establishment in the area. In fact, this disparate treatment – which will discourage the entry of new branches into the area for years to come – seems to contradict the

stated goals of this proposal. This is so, not only because banks are coveted tenants and neighbors, and stalwart supporters of local charitable events and community activities, but also because it is the neighborhood bank branches on which community residents rely for safe access to cash 24/7 in well-lit and secure ATM facilities. It is this financial accessibility and convenience which provides the fuel for local shopping and dining experiences.

It is also important to recognize that bank branches have unique security concerns and legal requirements. Federal law requires that banks adopt security procedures to discourage robberies and assist in identifying and apprehending those who commit such crimes. Toward this end, banks are required to have a written security program. (See Bank Protection Act of 1968; see also 12 C.F.R. Section 326 and 12 C.F.R. 208).

Bank security experts agree that visibility into the branch and from the branch onto the street is a key element of any such bank security plan. (See, for example, United States Department of Justice Publication, "Problem-Oriented Guides for Police Problem-Specific Guides Series Guide No. 48 – Bank Robbery", published March 2007; Thompson Consulting Group Bank Security Seminar Materials, November 3, 2010; National Association for Bank Security Profit Protection, LLC Bank Security Seminar "Crime Trends across the Board" 2009). Indeed, federal law specifically requires that the security plans, among other things, take into account the "physical characteristics of the structure of the banking office and its surroundings." And the

“Best Practices for the Prevention of Bank Robberies” published by the New York City Police Department and endorsed by NYBA specifically comments on the importance of unobstructed views, saying in part that an “open floor plan provides the opportunity for bank employees to observe the conduct of each bank patron, even if he or she is conducting business in another area of the bank.” The reduced frontage space envisioned in this proposal will clearly reduce that visibility, particularly as the ATM area is likely to occupy the bulk of the available frontage.

New York's ATM Safety Act imposes a number of safety requirements on the areas where banks site their ATMs, most of which also are focused on optimum visibility within and without the facility. These areas need to be segregated and accessible only by bank/credit cards if, as is usually the case, they are made available to the public after hours. Moreover, to enhance ATM security, they are invariably located at the street level visible through the banks windows. Customers prefer this set up. They feel safer --particularly at night-- and in fact they are. In a space limited to 25 feet of ground floor frontage, very little of the rest of any branch would be visible from the street, a safety risk no other business is required to take.

It should be noted, in this regard, that the Planning Department appears to contemplate that the 25-foot limitation be compensated for through a multi-floor branch design approach. This is unworkable in many buildings in the affected area, since they have no commercial space above the first floor. Even where a multi-floor branch would be physically possible, however, it would present significant safety

challenges. Such a layout leaves far less of the branch visible to the street, leaving the bank, its employees and customers at far greater risk of being robbed. This is true even in daylight hours and in high traffic neighborhoods. These branches tend to have more hiding places, so a robber can wait overnight and rob the bank when it first opens, a favored tactic of robbers seeking access to bank areas where large amounts of cash are stored. Customers of banks also may feel uncomfortable in confined spaces, such as on escalators and in elevators when they are carrying cash or conducting other private financial transactions.

The Planning Department's proposal would also significantly interfere with a bank's ability to offer full service branch banking in the restricted areas, as typically, full service banks need a minimum of 5000 square feet both operationally and from a security perspective, in an open layout where all services and bank representatives are visible and easily accessible. Thus, the space allocations contemplated by the proposal only work for a bank offering limited services, such as ATM service. This would be particularly **harmful** to community banks, who often rely on full-service facilities alone - while large money center banks may, at least, have the flexibility of offering ATM-transaction only facilities in some locations. Even if a full-service bank were to attempt to work within the 25 foot limitations, given the requirements of the ATM Safety Act outlined above and the configuration of ATMs necessary for compliance with its constraints, it is likely that customers would perceive the facility as a transaction facility only and move on to another bank in a different area. Significantly, too, the 25-foot restriction would seem to rule out a living

room-type bank design, which would make it impossible for banks who employ that model as a primary marketing tool, to expand into the restricted neighborhood, creating significant competitive inequities among banks, an outcome not likely to befall any other commercial establishment in the restricted area – particularly as the proposal's opportunities for bank variances are substantially more restricted than for other commercial establishments.

Given the discriminatory nature of this proposal, targeting, as it does, only banks for this potentially crippling frontage limitation, we believe it to be illegal under the Equal Protection Clause of the United States and New York Constitutions. It is well settled law that corporations are entitled to equal protection under the law (see, for example, *Dartmouth College v. Woodward* (1819) and *Santa Clara County v. Southern Pacific Railroad*, 118 U.S. 394 (1886)), and that a law should not stand if it is not reasonably related to a legitimate government interest. As Supreme Court Justice Jackson said in his concurring opinion on the case of *Railway Express Agency, Inc. et. al., v. New York*, 336 U.S. 106, “there is no more effective practical guaranty against arbitrary and unreasonable government than to require that the principles of law which officials would impose upon a minority must be imposed generally....Courts can take no better measure to assure that laws will be just than to require that laws be equal in operation.”

Given all of these concerns which impact the type of products which can be offered, the manner in which they may be offered, and the design layouts affecting

marketing, security and legal compliance issues, we are convinced that these restrictions would, in total, significantly interfere with the business of banking. It is well settled law, however, that New York State occupies the field of the business of banking for state-chartered banking institutions (see Section 10 of the Banking Law, as well as, for example, Section 29 of Article II and Section 240 of Article VI of New York's Banking Law, which give the authority to the Superintendent to approve or disapprove applications of all bank and savings institution branches, respectively. See also *Sunrise Check Cashing & Payroll Servs., Inc., v. Town of Hempstead*, 2011 N.Y. Slip Op. 08745 (Decided Nov. 29, 2011), where the court found a zoning ordinance banning check cashing establishments in certain areas to be preempted by New York's Banking Law). The recently enacted federal Dodd-Frank Act, which has codified aspects of the United States Supreme Court case, *Barnett Bank v. Nelson*, also prohibits the application of local law with respect to federally chartered institutions if such law "prevents or significantly interferes" with the exercise by a national bank of its powers. This proposal would appear to do just that, and thus, we believe would be preempted both as to state and federal banking institutions.

For all these reasons, we respectfully urge that this proposal be held. Thank you.



**STATEMENT OF  
MICHAEL P. SMITH  
PRESIDENT AND CHIEF EXECUTIVE OFFICER  
NEW YORK BANKERS ASSOCIATION**

**SUBMITTED TO THE  
NEW YORK CITY  
PLANNING COMMISSION  
REGARDING ULURP Application Nos. C 120145 ZMM  
And N 120144 ZRM**

**Commission Hearing  
April 11, 2012  
NEW YORK, NEW YORK**



**STATEMENT OF  
MICHAEL P. SMITH  
PRESIDENT AND CHIEF EXECUTIVE OFFICER  
NEW YORK BANKERS ASSOCIATION**

**SUBMITTED TO THE  
NEW YORK CITY  
PLANNING COMMISSION  
REGARDING ULURP Application Nos. C 120145 ZMM  
And N 120144 ZRM**

**Commission Hearing  
April 11, 2012  
NEW YORK, NEW YORK**

Good morning Chair Burden and members of the Commission. My name is Michael P. Smith and I am President and CEO of the New York Bankers Association (NYBA). Thank you for the opportunity to address the New York City Planning Department's proposed ground-floor use controls for Columbus Avenue, Amsterdam Avenue and Broadway on the Upper West Side which, among other things, would limit the frontage of banks in the affected area to 25 feet – while all other types of business establishments would be allowed at least 40 feet of frontage. NYBA represents more than 150 community, regional and money center commercial banks and thrift members and their 200,000 employees across the State of New York.

We appreciate the New York City Planning Department's desire to respond to concerns raised by neighborhood residents and government officials regarding the changing nature of retail stores in the area and the potential for "negative changes in neighborhood character." However, we believe that the proposed use controls will not

achieve their intended goals, and, in fact, may create strong disincentives for businesses to continue to invest in and serve this neighborhood. This is particularly true for the banking industry which, under the current plan, will face even more use restrictions than other types of retail establishments, being allocated a minimum of fifteen feet less frontage than essentially all other business establishments in the area. This limitation could discourage banks from branching in this neighborhood because of potential security, marketing, competitive and legal issues. The restrictions, therefore, would seem to be counterproductive to the goals of the Department's, as local banks not only provide convenient banking services to neighborhood residents, but also provide the funding for local residential and commercial loans. Moreover, banks' well-lit and secure ATM facilities provide community residents with safe access to cash 24/7, providing the most convenient resource available for them to frequent local shops and restaurants.

NYBA has consulted with PWCampbell, a prominent bank design firm and with member bank personnel, knowledgeable on the security and marketing concerns which are inherent in designing a successful bank branch. They have a number of concerns with this proposal.

New York City banks seek larger ground floor footprints than this proposal would allow for several reasons. Multi-floor branches present significant safety challenges and despite the rent cost-savings associated with expanding to upper or underground floors, banks generally avoid leasing such spaces in New York City. These branches are

harder to patrol for safety. Such spaces leave far less of the branch visible to the street, leaving the bank, its employees and customers at far greater risk of being robbed. This is true even in daylight hours and in high traffic neighborhoods. These branches tend to have more hiding places, so a robber can wait overnight and rob the bank when it first opens. This is a favored tactic of robbers seeking access to bank areas where large amounts of cash are stored.

The alternative---configuring ground floor space limited to 25 feet of frontage into a safe and viable bank---is just as problematic. The State ATM Safety Act imposes a number of safety requirements on the areas where banks site their ATMs. These areas need to be segregated and accessible only by bank/credit cards if, as is usually the case, they are made available to the public after hours. This requirement, combined with ADA proscriptions, use up valuable space. Moreover, to enhance ATM security, they are invariably located at the street level visible through the banks windows. Customers prefer this set up. They feel safer --particularly at night-- and in fact they are. In a space limited to 25 feet of ground floor frontage, very little of the rest of any branch would be visible from the street. The bank's other spatial needs could only be met by designing oddly shaped or extremely deep branches---both of which would provide increased opportunity for potential bank robbers to avoid being seen from the street.

The Planning Department's proposal would also significantly interfere with a bank's ability to offer full service branch banking in the restricted areas. Typically, full service banks need a minimum of 5000 square feet to operate best both operationally and from

a security perspective, in an open layout where all services and bank representatives are visible and easily accessible. The space allocations contemplated by the proposal, however, really only work for a bank interested in offering limited services, such as ATM service. This limitation would pose significant impediments to a bank servicing business customers, loans and deposits, as opposed to merely handling day-to-day transactions. The proposed space limitations and design would be particularly disadvantageous to community banks. This is so because community banks usually require full-service facilities to meet the needs of their customers - while large money center banks may, at least, have the flexibility of offering both full-service and transaction only facilities to their customers.

The proposal would also significantly interfere with a bank's marketing abilities and limit customer usage for banks wishing to offer a full roster of financial services. The current proposed model could easily accommodate an ATM-only facility; however, by only viewing ATMs from the street level, customers will likely perceive the facility as a transaction facility only, not realizing that full banking services are provided on the second floor. Customers wishing to open accounts, apply for a loan, or seek financial consulting will move on to another bank in a different area – an inconvenience to local residents and visitors, as well as a lost economic opportunity for the community - an outcome contrary to the stated economic development goals of this proposal.

Banks' experiences in two-story branching have demonstrated, as well, that it is a disadvantage and perceived customer nuisance to access a banking floor by an

elevator and/or escalator – both of which absorb a significant amount of floor space otherwise available for branch services. Customers of banks definitely find it more appealing to gain access from the street level and, in fact, may feel uncomfortable in confined spaces when they are carrying cash or conducting other financial transactions. Moreover, if bank employees are not in sight, customers are more likely to move on to a competitor for full-service banking services.

Significantly, too, the 25-foot restriction would seem to rule out a living room-type bank design, which would make it impossible for banks who employ that model as a primary marketing tool, to expand into the restricted neighborhood. This competitive disadvantage for this particular type of bank, coupled with the disparity in size limitations that any new banks would face, would also create significant competitive inequities among banking institutions and deprive residents of the benefits robust competition among banks in the community may afford them.

Given all of these concerns which impact the type of products which can be offered, the manner in which they may be offered, and the design layouts affecting marketing, security and legal compliance issues, we are convinced that these restrictions would, in total, significantly interfere with the business of banking. It is well settled law, however, that New York State has occupied the field of the business of banking for state-chartered banking institutions (see Section 10 of the Banking Law). The recently enacted federal Dodd-Frank Act, which has codified aspects of the United States Supreme Court case, *Barnett Bank v. Nelson*, also prohibits the application of local law

with respect to federally chartered institutions if such law “prevents or significantly interferes” with the exercise by a national bank of its powers. ULURP Application Nos. C 120145 ZMM and N 120144 ZRM’s criteria would appear to do just that. As such, we believe these zoning changes are preempted both as to state and federal banking institutions.

Finally, we believe the proposal to be inherently unfair, as apparently in order to forestall “negative changes in neighborhood character,” it seeks to impose significant additional size restriction on banks which are not imposed on any other type of retail establishment. Yet, banking institutions are great supporters of the civic activities of the neighborhoods in which they have branches, and through the services they provide, are the lifeblood of the community’s financing needs. It is important to remember, too, that if there were not local demand for these branches, they would not exist; establishing unnecessary impediments for their creation and growth can therefore only hurt the neighborhood residents this proposal is designed to help. For all of these reasons, we believe that the proposal would be counterproductive to its stated goals, and urge that it not be moved forward.

We greatly appreciate your consideration of our concerns.

**Upper West Side Special Enhanced Commercial Districts**

June 19 Testimony – NY City Council

Land Use Sub-Committee Zoning & Franchises

Good morning

My name is Susan Gwertzman.

I have been following this proposal and feel that my take on the situation needs to be considered.

I have lived at 88th Street and Broadway for 41 years. I watched stores come and go and feel that the large chain stores are not villains. When my electronics break – TV, phone, printer, my microwave – I love that I can run into PC Richard, a block from my house, and talk to a salesman who knows me and look at a wide selection of goods. And their prices are very fair. I don't have a car like many of the new people who have moved into my building and, therefore, can't pick up these items with ease from big box stores in outlying neighborhoods or suburbia. This is a store that serves our neighborhood. I understand that there are people who do not like PC Richard because it does not make for interesting window-shopping or contribute to the neighborhood character. PC Richard is the largest chain of private, family-owned electronics and appliance stores in the United States. They opened in 1909 in Bensonhurst and are headquartered in Long Island. This is the American dream come true and a NY success story. .

CVS, which is a block away on Amsterdam Avenue, provides me with all my drug store needs. The managers and sales clerks know me and let me purchase heavy items and return later with my shopping cart to pick up those heavy items they have put aside for me.

The people who work in these stores know the “regulars” and treat us well.

I also want to point out that if landlords have to rent smaller spaces, they often rent to “high end” stores who can pay high rents, such as Baked by Melissa where one cupcake costs more than 6 packaged cupcakes! These small high end stores – fancy vegen shops and global home furnishings – are popping up on Amsterdam Avenue. These stores may appeal to some people but are not practical for people in the neighborhood who live on a budget.

I understand that chain stores will not be prohibited but this effort appears in my community to be anti-chain stores and I fear that new stores that could be beneficial and affordable will not come because the limitations will not serve their needs. Affordable is also part of neighborhood character.

Thank you.

---

Susan Gwertzman  
215 West 88<sup>th</sup> Street, Apt. 10E  
New York, NY 10024

For The Record

I'm Dee Rieber, President for the West 75<sup>th</sup> Street Block Association, <sup>Organizer NYC</sup> ~~Leader~~ for the Coalition of Block and Community Leaders and a real estate professional serving, primarily the UWS and Harlem.

Over the last decade, the UWS has been feeling the systematic demoralizing effects of a community undergoing immense change. We have witnessed the loss of long-time and beloved local merchants to include: Health Nuts, New Pizza Town, Nikkos, O'Neil's Restaurant, Ruby Foos, Manhattan Diner, Laila Rowe, Susies Nails, Bike Shops, Cosi's, Tai Kwon Do Studio and so many more. These were not failing businesses, but yet victims of a community disempowered to save them. This inability to save that which we value and hold dear has become "modus oppende" on the UWS. <sup>.. until now.</sup> As a ~~community leader~~, I am all too familiar with the sad effects this has on us as a ~~community.~~

Today we stand in solidarity with our local merchants, past and present who have suffered and continue to suffer the ravaging effects of corporate greed on the Upper West Side. We also stand together as we continue to mourn the loss of the shop keepers who knew who we were, knew our children, and respected the community. Local small business owners who, if you left your wallet at home or didn't quite have the full amount to pay, knew you well enough to let you pay the bill on a future visit. Merchants like Santo at New Pizza Town, who donated to local organizations and schools. When we dealt with locally owned stores, there was no need for a formal letter that then had to be sent to a corporate office, many times located in another state.

It is past time that we <sup>relinquished</sup> ~~gave up~~ our power to the corporate concerns overtaking the gentle quality of our lives. When we lose a locally owned store we are allowing the very fabric of our neighborhood to unravel. For years efforts have been introduced by a few of our local officials. Many of us here are sick and tired of hearing about how hard it is to fight <sup>development</sup> ~~the developers~~ that <sup>has</sup> become the replacement for conscience, thoughtful city planning. When did we give up our power as a community to anyone who had the money to build here and why have we let it continue?

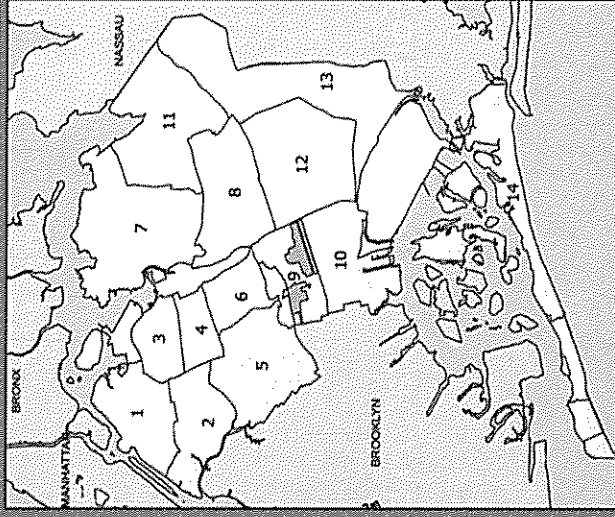
Today we thank Gale Brewer for hearing our cries. We encourage our city officials, ~~starting with our Mayor...~~ to ~~make this right~~. Find the way, but more importantly find the courage to do what needs to be done to protect that which is most dear to any neighborhood. There are enough Duane Reades, CVS's, banks and Starbucks. Small business cannot survive in a climate where the rents are so high they can only be afforded by large corporations.

~~It's not fair to them.~~ We support this rezoning plan to <sup>reduce</sup> ~~lessen~~ the detrimental <sup>effects of</sup>

~~Many communities in this city are experiencing this same kind of economic homogeneity created by the influx of~~ new development and the need to fill large retail spaces. This <sup>zoning resolution</sup> legislation is a courageous <sup>creative initiative</sup> attempt to make amends and protect what we have left and support a climate <sup>where</sup> ~~for~~ new smaller businesses <sup>can</sup> emerge and thrive.



# Woodhaven - Richmond Hill: Rezoning Area



229 Blocks

- Woodhaven - 78 blocks
- Richmond Hill - 151 blocks

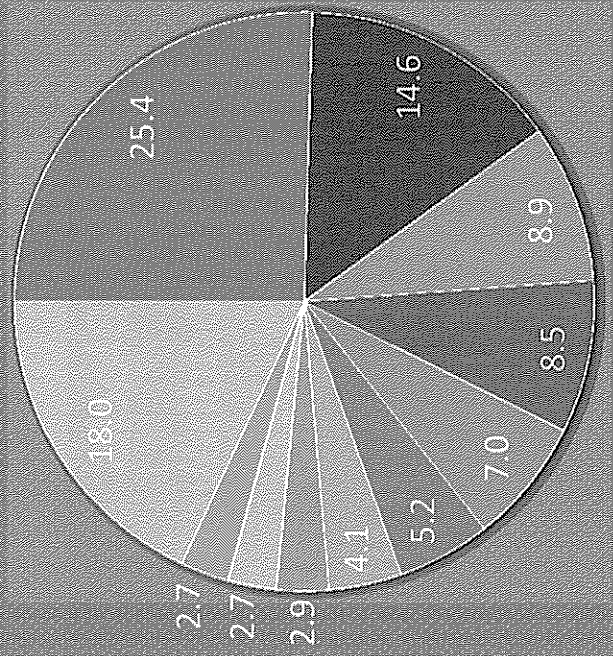
# Woodhaven - Richmond Hill: Demographics



Total population in 2010: 73,623  
 Foreign born population 2006-2010: 39,382  
 % of the population that is foreign born: 53.5%

## Foreign Born Population by Country of Birth

- Guyana
- India
- Dominican Republic
- Ecuador
- Trinidad and Tobago
- China
- Colombia
- Philippines
- Mexico
- Bangladesh



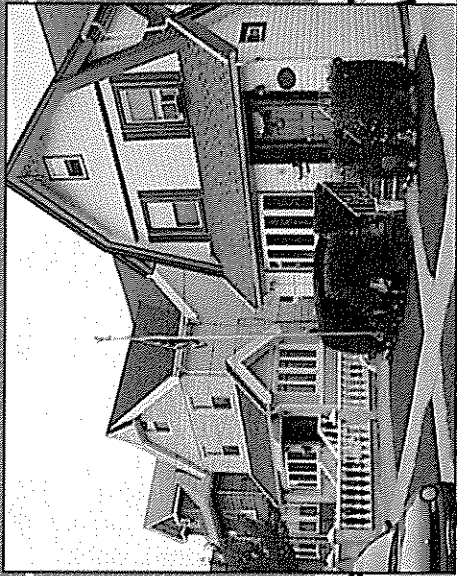
Country of Birth	Number	% of Foreign Born
Guyana	10,018	25.4%
India	5,736	14.6%
Dominican Republic	3,487	8.9%
Ecuador	3,354	8.5%
Trinidad and Tobago	2,754	7.0%
China	2,055	5.2%
Colombia	1,597	4.1%
Philippines	1,136	2.9%
Mexico	1,071	2.7%
Bangladesh	1,068	2.7%
All Others	7,106	18.0%
<b>Total foreign born</b>	<b>39,382</b>	<b>100%</b>

Source: U.S. Census Bureau, 2010 Census, Summary File 1, 2006-2010 American Community Survey 5-Year Estimates, New York City Department of City Planning

# Existing R3-1 Context

## R3-1

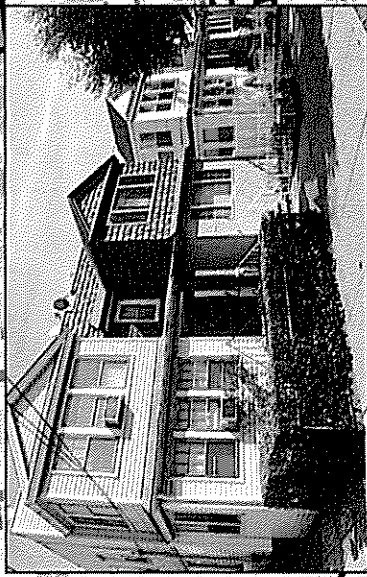
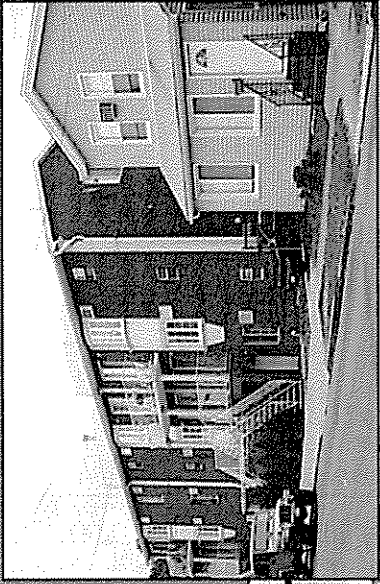
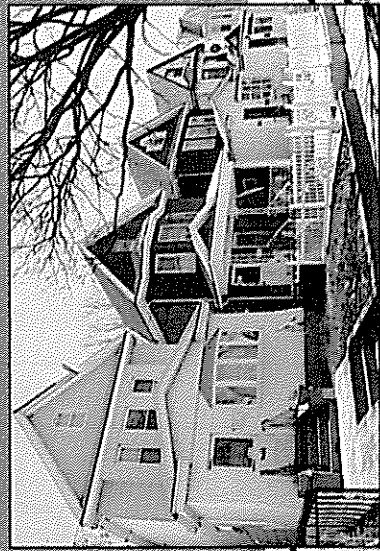
- 1 & 2 family detached or semi-detached
- 0.6 maximum FAR
- 21' maximum perimeter wall height
- 35' maximum building height
- 15' front yard minimum



# Existing R5 Context

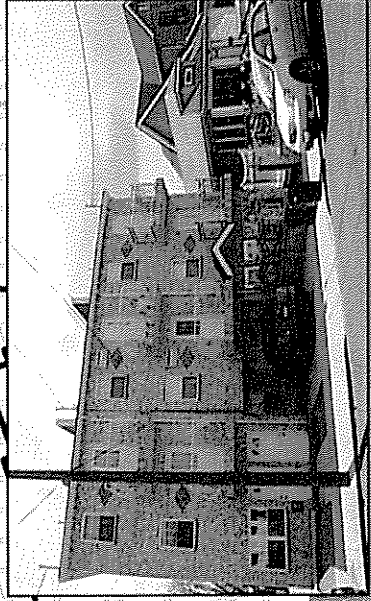
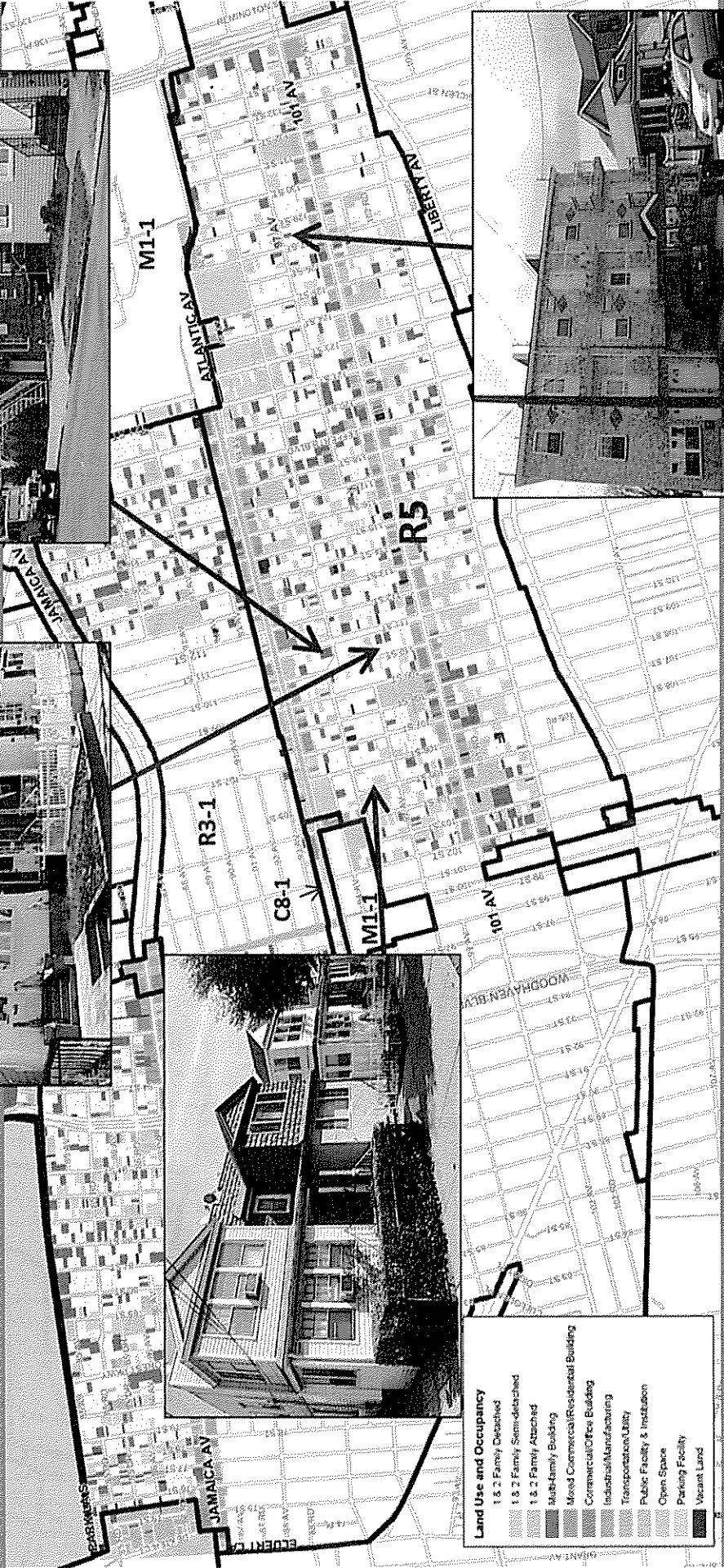
## R5

- All housing types
- 1.25 maximum FAR
- 30' maximum perimeter wall height
- 40' maximum building height
- 10' front yard minimum



**Land Use and Occupancy**

[Pattern]	1 & 2 Family Detached
[Pattern]	1 & 2 Family Semi-detached
[Pattern]	1 & 2 Family Attached
[Pattern]	Multi-family Building
[Pattern]	Mixed Commercial/Residential Building
[Pattern]	Commercial/Office Building
[Pattern]	Industrial/Manufacturing
[Pattern]	Transportation/Utility
[Pattern]	Public Facility & Institution
[Pattern]	Open Space
[Pattern]	Parking Facility
[Pattern]	Vacant Land



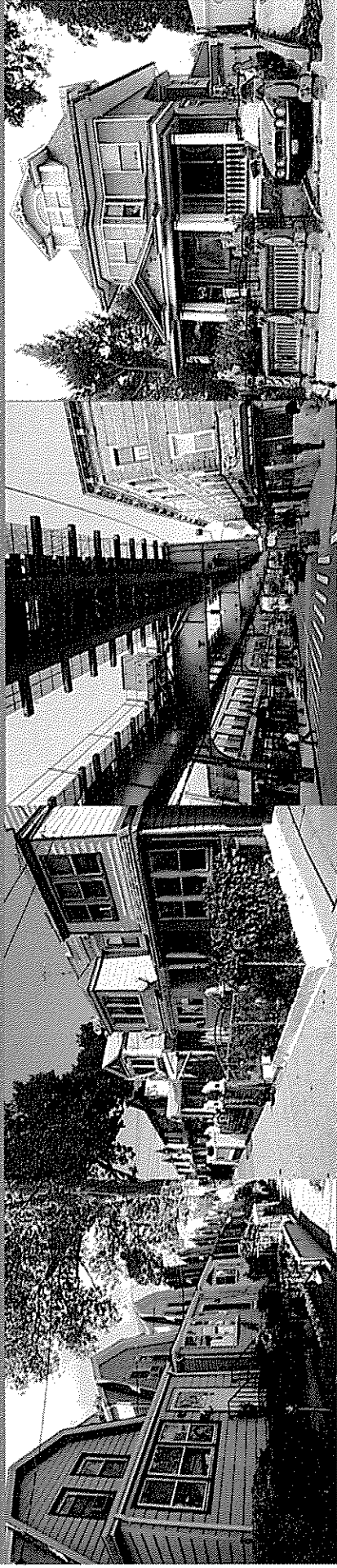
# Existing Commercial Overlays

Jamaica Av : C1-2 and C2-2

Atlantic Av : C2-2



# Woodhaven – Richmond Hill: Rezoning Objectives



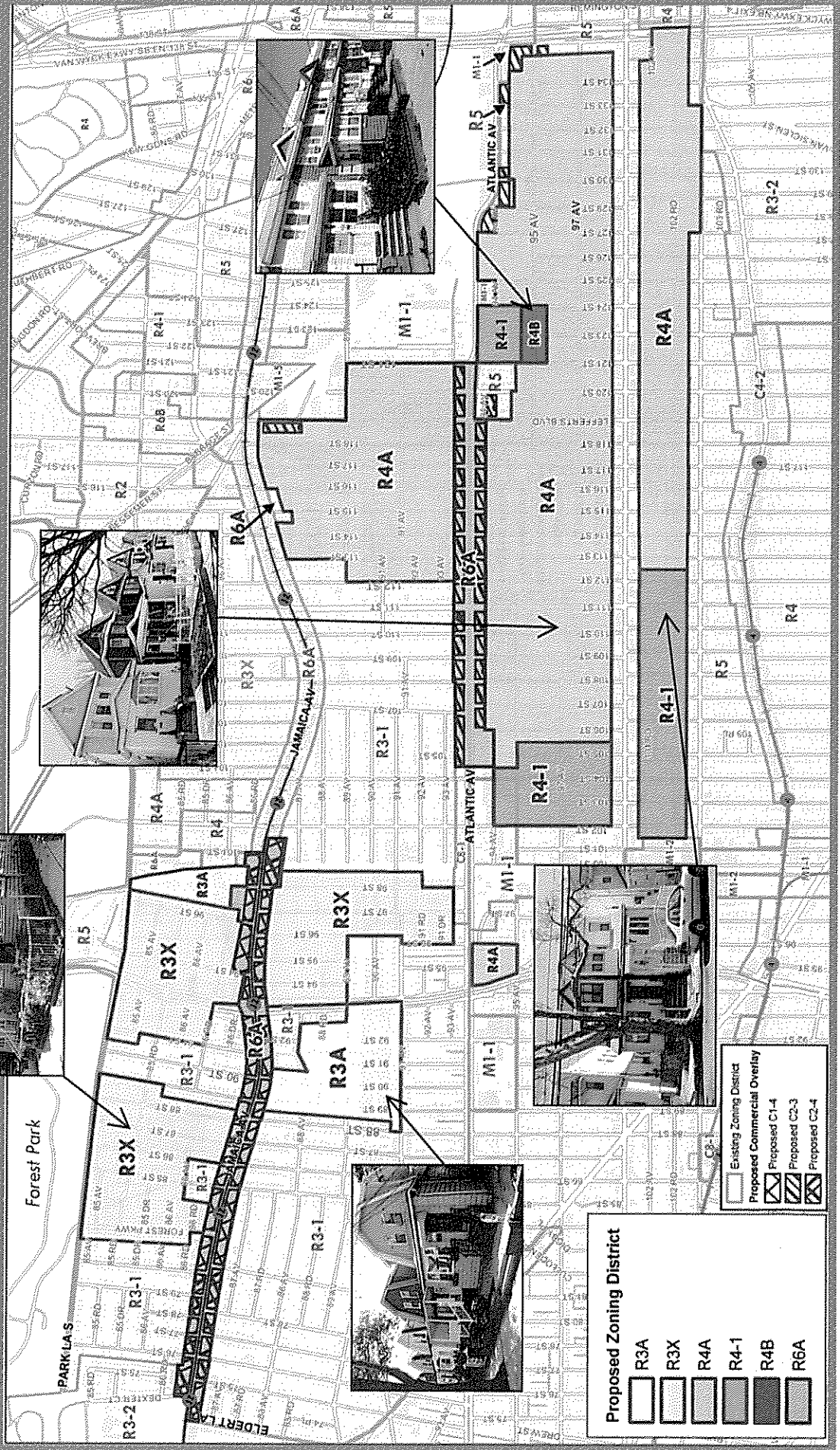
- Reinforce neighborhood character and established building patterns by updating existing zoning with new lower-density contextual zones
- Direct new residential and mixed-use development to major corridors and locations near mass transit resources
- Support economic development along two distinct corridors and prevent commercial intrusion onto residential side streets

# Rezoning Summary

**+6,700 Lots**  
**229 Blocks**



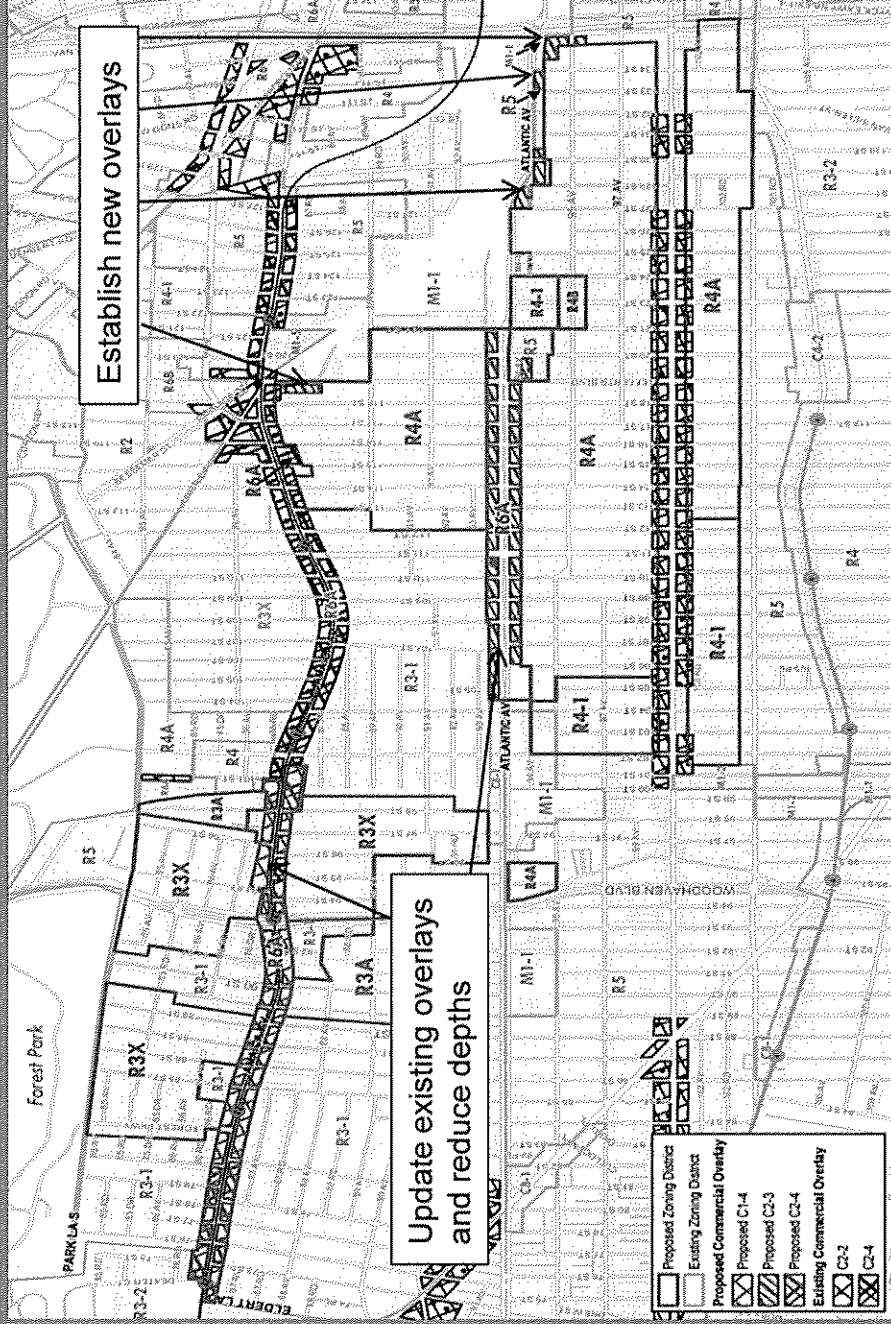
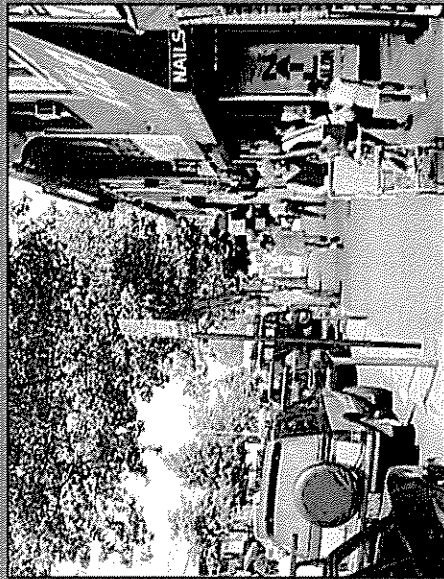
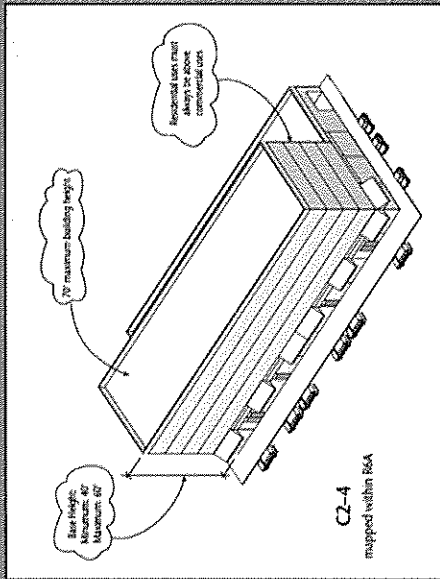
Forest Park



Proposed Zoning District	
[Light Gray Box]	R3A
[Medium Gray Box]	R3X
[Dark Gray Box]	R4A
[Lightest Gray Box]	R4-1
[Darkest Gray Box]	R4B
[Medium-Dark Gray Box]	R6A

[White Box]	Existing Zoning District
[Hatched Box]	Proposed Commercial Overlay
[Diagonal Lines Box]	Proposed C1-4
[Cross-hatched Box]	Proposed C2-3
[Vertical Lines Box]	Proposed C2-4

# Proposed Commercial Overlays





THE COUNCIL  
THE CITY OF NEW YORK

W. B. BREND A  
LEVIN,  
PAUL SEVIER

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: ANTHONY MANNARINO

Address: 805 3RD AVE NYC

I represent: EXPLC DEVELOPMENT CO

Address: 805 3RD AVE NYC

THE COUNCIL  
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Debra Cooper

Address: 290 West End Ave

I represent: 67th Assembly District / Democratic

Address: 290 West End Ave State Committee

THE COUNCIL  
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: SHELDON LOBEL

Address: 18 E. 41 STREET

I represent: OWNER 2171 Broadway

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

THE COUNCIL  
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: FRANK of MAMAS PIZZA

Address: 962 Amsterdam

I represent: MAMAS PIZZA

Address: \_\_\_\_\_

THE COUNCIL  
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Fidel ~~Hernandez~~ Hernandez

Address: 948 Amsterdam Ave

I represent: BOOSTERS

Address: \_\_\_\_\_

THE COUNCIL  
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 6/19/12

(PLEASE PRINT)

Name: MARIA A. THOMPSON

Address: Ex 84-01 Jamaica Avenue

I represent: Greater Woodhaven Fed. Camp

Address: Woodhaven B.T.D.

(same address)

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card



I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Roberta Semerz

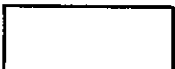
Address: 205 WEA, 16<sup>th</sup> 10023

I represent: \_\_\_\_\_

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card



I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: June 19, 2012

(PLEASE PRINT)

Name: DeAnna Kieber

Address: 33 RSD #2A

I represent: W75th St, Coalition of Block

Address: \_\_\_\_\_ Com Leaders

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card



I intend to appear and speak on Int. No. 611 Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: DAVID KARNOVSKY

Address: \_\_\_\_\_

I represent: CITY PLANNING

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card 611

I intend to appear and speak on Int. No. 611 Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: CAZEBEYK ROSSMAN

Address: \_\_\_\_\_

I represent: CITY PLANNING

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 611 Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: BARRY DINKSTEIN

Address: \_\_\_\_\_

I represent: CITY PLANNING

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 611 Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: CAURAD SMITH

Address: \_\_\_\_\_

I represent: CITY PLANNING

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 621 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 6/19/12

(PLEASE PRINT)

Name: JOHN YOUNG

Address: \_\_\_\_\_

I represent: CIPZ PLANNING QUEENS OFFICE

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 621 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 6/19

(PLEASE PRINT)

Name: BRENDAN PELLAR

Address: \_\_\_\_\_

I represent: CIPZ PLANNING QUEENS OFFICE

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 6/19/12

(PLEASE PRINT)

Name: MEL WYMORE

Address: 120 W 70

I represent: CB7

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: WADGE ROSENBERG

Address: 104 W. 70 ST

I represent: SHORTOWNER + RESIDENT

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: JUDY WOOD

Address: 890 W. END AV

I represent: MYSELF - COMM. ACTIVIST

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: DIERLE MCEL DOWNEY

Address: 2166 Broadway

I represent: Three Parks Ind Bems

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 6/19/12

(PLEASE PRINT)  
Name: Lynn Bender Marx

Address: 315 Riverside Dr

I represent: my neighborhood

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 6/19/12

(PLEASE PRINT)  
Name: Cynthia Doty

Address: 305 Riverside Dr Apt 12225

I represent: \_\_\_\_\_

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 6.19.12

(PLEASE PRINT)  
Name: BRENDA LEVIN

Address: 301 E 48th St. NYC

I represent: EXTELL DEV. CO.

Address: 805 THIRD AVE.

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 6/19/2012

(PLEASE PRINT)

Name: Lauren Williams

Address: 382 Central Park West, 14-L

I represent: myself

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 6/17/12

(PLEASE PRINT)

Name: John F. Davenport

Address: 300 Riverside Drive, Apt 9E

I represent: myself

Address: Same as above

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: June 19, 2012

(PLEASE PRINT)

Name: Elizabeth Kellner

Address: 132 Manhattan Ave. N.Y. N.Y.

I represent: self

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms



**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: PAUL SELWEN

Address: 1177 6th AVE NYC

I represent: EXPRESS DEV CO

Address: 305 3rd AVE NYC

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 6/18/2012

(PLEASE PRINT)

Name: BOB BOTFELD

Address: 276 Riverside Drive

I represent: Neighborhood store owners / Amsterdam Ave

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Phyllis E. Gunther

Address: 303 W. 14th St (4th fl)

I represent: C.B. 7

Address: 250 W 8th St

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor     in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: MARK DILLER

Address: 171 W 79 NYC 10024

I represent: COMMUNITY BOARD 7/MANHATTAN

Address: 250 W 87 NYC 10024

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor     in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: MICHAEL SMITH

Address: \_\_\_\_\_

I represent: NY BANKERS ASSOC.

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor     in opposition

Date: 6/19/12

(PLEASE PRINT)

Name: Susan Gwertzman

Address: 215 W. 88<sup>th</sup> St. #10E

I represent: myself

Address: 215 W. 88<sup>th</sup> St #10E NY 10024

Please complete this card and return to the Sergeant-at-Arms