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Title: Resolution approving the decision of the City Planning Commission on Application No. N 990687 ZRR, amendments to the text of the Zoning Resolution relating to Article XI, Chapter 9 (Special Hillside Preservation District) to modify the provisions concerning preservation of steep slopes and vegetation on Tier I and Tier II sites (L.U. No. 598).

Sponsors: June M. Eisland

Indexes:

Attachments: 1. Committee Report

Date	Ver.	Action By	Action	Result
12/6/1999	*	Committee on Land Use	Approved by Committee	
12/7/1999	*	City Council	Approved, by Council	Pass

THE COUNCIL OF THE CITY OF NEW YORK
RESOLUTION NO. 1112

Resolution approving the decision of the City Planning Commission on Application No. N 990687 ZRR, amendments to the text of the Zoning Resolution relating to Article XI, Chapter 9 (Special Hillside Preservation District) to modify the provisions concerning preservation of steep slopes and vegetation on Tier I and Tier II sites (L.U. No. 598).

By Council Members Eisland and McCaffrey

WHEREAS, the City Planning Commission filed with the Council on November 12, 1999 its decision dated November 10, 1999 (the "Decision"), on the application submitted by the Department of City Planning, pursuant to Section 201 of the New York City Charter, for amendments to the text of the Zoning Resolution (Application No. N 990687 ZRR) (the "Application");

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(1) of the City Charter;

WHEREAS, upon due notice, Council held a public hearing on the Decision and Application on December 1, 1999;

WHEREAS, the Council has considered the land use implications and other policy issues relating to the Decision and Application; and

WHEREAS, the Council has considered the relevant environmental issues and the Negative Declaration, issued on June 28, 1999 (CEQR No. 99DCP052R);

RESOLVED:

The Council finds that the action described herein will have no significant effect on the environment;

Pursuant to Sections 197-d and 200 of the City Charter and on the basis of the Decision and Application the Council approves the Decision; and

The Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended as follows:

Matter in Graytone is new, to be added;
Matter in ~~strikeout~~ is old, to be deleted;
Matter within # # is defined in Section 12-10;
*** indicates where unchanged text appears in the Zoning Resolution

Chapter 9
Special Hillside Preservation District

119-00
General Purposes

The "Special Hillside Preservation District" (hereinafter also referred to as the "Special District") established in this Resolution is designed to promote and protect public health, safety and general welfare. These general goals include, among others, the following special purposes:

- (a) to reduce hillside erosion, landslides, and excessive storm water runoff associated with development by conserving vegetation and protecting natural terrain;
- (b) to preserve hillsides having unique aesthetic value to the public;
- (c) to guide development in areas of outstanding natural beauty in order to protect, maintain, and enhance the natural features of such areas; and
- (d) to promote the most desirable use of land and to guide future development in accordance with a comprehensive development plan, and to protect the neighborhood character of the district.

119-01
Definitions

Definitions specially applicable to this Chapter are set forth in this Section. The definitions of other defined terms are set forth in Section 12-10 (DEFINITIONS).

Area of no disturbance

An "area of no disturbance" is an area designated on the site plan that is protected from all types of intrusion, including: #site alteration#, operation of construction equipment, storage of construction materials, excavation or regrading, tunnelling for utilities, removal of trees, #topsoil# or any living vegetation, or construction of driveways, #private roads#, parking areas, patios, decks, swimming pools, walkways or other impervious surfaces. "Areas of no disturbance" shall include #steep slopes#, #steep slope buffer#, and the #critical root zone# of each tree proposed for preservation.

Average percent of slope

The "average percent of slope" of a #zoning lot# is the average slope of all portions of a #zoning lot# excluding those portions having slopes of 35 percent or greater #steep slopes# and shall be determined according to the following equation:

$$S = \frac{L}{A} \times 100$$

Where:

S - average percent of slope

L - contour interval in feet

A - combined length of contour lines in feet, excluding those portions bordering or lying within areas having a slope of 35 percent or greater and meeting the definition of #steep slope#

A - gross area in square feet of the #zoning lot#, excluding those portions of the #zoning lot# having a slope of 35 percent or greater and meeting the definition of #steep slope#

100 - factor which yields slope as a percentage

CALCULATING AREAS HAVING
A SLOPE EQUAL TO OR GREATER THAN 35.25 PERCENT
AN ILLUSTRATIVE EXAMPLE

(illustration)

$$X = \frac{\text{contour interval in feet}}{0.35} = \frac{2}{0.35} = 5.714 \text{ feet}$$

Where:

X - distance between contour lines which indicates a slope of 35.25 percent

In order to calculate the area having a slope equal to or greater than 35.25 percent, one can use a map with two-foot contour intervals and a scale of one inch equals 20 feet, such as the map pictured above. A 35.25 percent slope, on a map with two foot contour intervals, is indicated by contour lines which are 5.714 feet apart, rounded to the nearest 1/10 tenth (0.10) of a foot. On a map whose scale is one inch to 20 feet, 5.714 feet is represented by .304 of an inch, rounded to the nearest 1/10 tenth (0.10) of an inch. Identify where the contour lines are .304 of an inch or less apart. Connect these contour lines (as indicated by the heavy lines on the map above) and calculate the area.

Buildable area

A "buildable area" is a portion of a #zoning lot# having a slope of less than 35 percent excluding #steep slopes#.

Caliper (of a tree)

"Caliper" of a tree is the diameter of a tree trunk measured 4 feet 6 inches from the ground. If a tree splits into multiple trunks below 4 feet 6 inches from the ground, the trunk is measured at its most narrow point beneath the split.

Critical root zone

The "critical root zone" of a tree is the area containing the roots of a tree that must be maintained and protected to ensure the tree's survival. The area of the "critical root zone" is measured as one radial foot for every #caliper# inch of the tree, with a required minimum of four radial feet and maximum of 22 radial feet, measured from the surface of the tree trunk at grade.

Hillside

A "hillside" is defined as ground where the ratio of change in elevation to horizontal distance results in a 10 percent or greater slope or #average percent of slope#.

Large tree

A "large tree" is a tree which at maturity is 30 feet or more in height and has a single trunk unbranched for at least 7 feet above the ground.

Private road

A "private road" is a right-of-way, other than a #street#, that provides vehicular access from a #street# to any #accessory# parking space located within a #development# containing five or more #dwelling units#. Such #development# shall contain #residential buildings# or building segments developed after (the effective date of this amendment) that are located wholly beyond 50 feet of a #streetline# or #street setback line#. An individual driveway serving no more than four parking spaces shall not be considered a #private road#.

Small tree

A "small tree" is a tree which at maturity is between 20 feet and 30 feet in height and has a single trunk unbranched for at least 7 feet above the ground.

Shrub

A "shrub" is a woody plant which has several erect, spreading or procumbent stems and a general bushy appearance.

Site alteration

For the purposes of this Chapter, a "site alteration" is an alteration on any vacant tract of land, #land with minor improvements# or any tract of land containing #buildings or other structures#. #Site alterations# shall include the following:

- (a) removal of #topsoil#;
- (b) excavating, filling, land contour work and other topographic modifications where the ground elevation of the land existing on June 30, 1987, is modified by two feet or more;
- (c) dumping, changes in existing drainage systems and changes in grade, alignment or width of public rights-of-way; or
- (d) removal of vegetation beyond 15 feet of the foundation of an existing #building#, except when the plant materials' continued presence would create hazards or dangers (such as an area affected by storm or plant disease) to persons, property, or other plant material which it would not be possible or practical to eliminate by pruning or routine maintenance.

Special Hillides Preservation District (repeated from Section 12-10)

The "Special Hillides Preservation District" is a Special Purpose District designated by the letters HS, in which special regulations set forth in Article XI, Chapter 9 apply to all #developments#, #enlargements# or #site alterations#.

The #Special Hillides Preservation District# appears on the #zoning maps# superimposed on other districts, and its regulations supplement or modify those of the districts on which it is superimposed.

Staging area

A "staging area" is any area on a #zoning lot# used during the construction of a #development#, #enlargement# or #site alteration# for the purposes of stockpiling soil or construction materials; storing, cleaning or servicing construction equipment, vehicles or tools; or storing leachable construction products, gases or other materials used to clean or service vehicles, equipment or tools.

Steep slope

A "steep slope" is a portion of a #zoning lot# with an incline of 25 percent or greater. However, a portion of a #zoning lot# with an incline of 25 percent or greater shall not be considered a "steep slope" if it occupies an area of less than 200 square feet or has a dimension of less than 10 feet, measured along the horizontal plane, unless such portions in the aggregate equal 10 percent or more of the area of the #zoning lot#.

Steep slope buffer

A "steep slope buffer" is a 15 foot wide area having a slope of less than 25 percent that adjoins the entire length of the crest of a #steep slope#.

Tier I

A "Tier I" #development#, #enlargement#, or #site alteration# is any #development#, #enlargement# or #site alteration# that occurs on a #zoning lot# having an #average percent of slope# of less than 10 percent.

Tier II

A "Tier II" #development#, #enlargement#, or #site alteration# is any #development#, #enlargement# or #site alteration# that occurs on a #zoning lot# having an #average percent of slope# equal to or greater than 10 percent.

Tree credit

A "tree credit" is a credit for preserving an existing tree of six-inch #caliper# or more which is counted toward a tree preservation requirement, or a credit for a newly planted tree of three-inch #caliper# or more which is counted toward a tree planting requirement.

Tree protection plan

A "tree protection plan" is a plan that modifies the #area of no disturbance# around a tree proposed for preservation while protecting and preserving the tree during construction. A #tree protection plan# is prepared by an arborist certified by the International Society of Arboriculturists (ISA) or equivalent professional organization that includes: a survey of the current condition and health of such trees of six-inch #caliper# or more; methods for tree protection and preservation based on best management practices including the prevention of damage due to compaction, grade and drainage pattern changes and tunneling for utilities; a schedule for site monitoring during construction; a procedure to communicate protection measures to contractor and workers; and post-construction treatment.

Topsoil

"Topsoil" is soil containing undisturbed humus and organic matter capable of sustaining vigorous plant growth and is generally the top six

inches of soil.

119-02
General Provisions

* * *

No #development#, #enlargement# or #site alteration# is permitted within any #area of no disturbance# on any portion of a #zoning lot# having a slope of 35 percent or more. Said portion of a #zoning lot# #Areas of no disturbance# shall remain in its their natural state, unless except:

- (a) for #steep slopes# or #steep slope buffers# an authorization is may be granted by the City Planning Commission pursuant to Section 119-30 (SPECIAL REVIEW PROVISIONS);
- (b) vegetation and #topsoil# may be removed from a #steep slope buffer# during construction on a #Tier I zoning lot#, provided that the #development#, #enlargement# or #site alteration# complies with the requirements of Sections 119-215 (Landscaping controls to preserve trees, shrubs and ground cover), 119-217 (Tier II Controls during construction) and 119-22 (Tier II Submission Requirements); or
- (c) in accordance with a #tree protection plan#.

Those portions of a #zoning lot# having #areas of no disturbance# a slope of 35 percent or more, however, may count as #lot area# for the purposes of the applicable regulations on #yards#, #floor area ratio#, #open space ratio#, #lot area per dwelling unit# or #lot area per room#.

* * *

119-05
Applicability to Public or Publicly-Assisted Housing or Non-Profit Residences for the Elderly

The following #developments# for public or publicly-assisted housing or #non-profit residences for the elderly# which have been approved prior to June 30, 1987 and which have not met the requirements of Section 11-33 (Building Permits for Minor or Major Development Issued Before Effective Date of Amendment) shall not be subject to the provisions of Section 119-20 (PROVISIONS REGULATING TIER II DEVELOPMENTS, ENLARGEMENTS AND SITE ALTERATIONS), but shall be subject instead to the provisions of Section 119-10 (PROVISIONS REGULATING TIER I DEVELOPMENTS, ENLARGEMENTS AND SITE ALTERATIONS), whether or not said #development# is located on a #zoning lot# having an #average percent of slope# of 10 percent or greater:

- (a) publicly-assisted housing #developments# approved by the City Planning Commission and the Board of Estimate which limit maximum tenant income and receive cash and/or interest subsidies under Federal mortgage programs;
- (b) low rent public housing #developments# owned by or constructed for the New York City Housing Authority or other public authority and receiving cash subsidies;
- (c) housing #developments# approved by the City Planning Commission and the Board of Estimate that are reserved for low-income tenants for a period of not less than 40 years at rental equivalent to rentals in low rent public housing #developments# receiving cash subsidies;
- (d) publicly-assisted housing #developments# approved by the City Planning Commission and the Board of Estimate which limit maximum tenant income and receive rent subsidy contracts under Federal rent subsidy programs;
- (e) all government assisted #developments# which receive New York City and/or New York State assistance to reduce total #development# cost by \$10,000 or 10 percent, whichever is less, and limit maximum tenant income to the income limits established by the United States Department of Housing and Urban Development for New York City mortgagors assisted under Section 235 of the National Housing Act, as amended; and
- (f) City, State, or Federally approved subsidized housing #developments# which limit tenant income, and/or provide rent subsidies, for a minimum of 20 percent of the units for low- and moderate-income tenants.

119-10
PROVISIONS REGULATING TIER I DEVELOPMENTS, ENLARGEMENTS AND SITE ALTERATIONS

#Tier I developments#, #enlargements# and #site alterations# shall be regulated by the provisions set forth in this Section.

119-11
Tier I Tree Planting Requirements
This section would be moved and renumbered 119-112

119-11

Tier I Requirements for Development

119-111

Tier I tree preservation requirements

To the maximum extent possible, existing trees shall be retained. Trees of six-inch #caliper# or more may only be removed or destroyed as a result of a #development#, #enlargement# or #site alteration#, provided that:

- (a) such trees are located in areas to be occupied by #buildings#, #private roads#, driveways, areas for required #accessory# parking, or within a distance of fifteen feet of the exterior walls of such #building#, provided that it is not possible to avoid such removal by adjustments in the arrangement of such #buildings#, driveways or required parking areas;
- (b) the continued presence of such tree would create special hazards or dangers to persons or property, which would not be possible or practical to eliminate by pruning;
- (c) the continued presence of such tree would interfere with the growth or health of another tree of six-inch #caliper# or more designated for preservation and belonging to a species listed in Appendix B (Selection List for On-Site Trees); or
- (d) an authorization pursuant to Section 119-313 (Modification of landscaping, tree preservation and tree planting requirements) has been granted by the City Planning Commission approving the removal of such trees.

Any tree of six-inch #caliper# or more that cannot be preserved as a result of a proposed #development#, #enlargement# or #site alteration# shall be replaced pursuant to the provisions of Section 119-112 (Tier I tree planting requirements).

119-11 119-112

Tier I Tree Planting Requirements

All #Tier I developments#, #enlargements# and #site alterations# shall comply with the tree planting requirements set forth in this Section, whether or not existing vegetation is trees are removed as a result of such #development#, #enlargement# or #site alteration#. However, the requirements set forth herein shall not apply to any #enlargement# of an existing #residential building#, provided that such #enlargement# does not increase the #lot coverage# of said #building#.

(a) On-site trees

On-site trees, pre-existing or newly planted, shall be provided on the #zoning lot# at the rate of one tree for each one thousand square feet of #lot area# or portion thereof or shall equal a total of 51 percent of all #tree credits# for trees originally on site, whichever is greater.

(b) #Street# trees

#Street# trees, pre-existing or newly-planted, shall be provided along the entire length of the #street# frontage of the #zoning lot#. The trees shall be located between the #front lot line# and the curb line and shall be provided at the rate of one tree for each 25 feet of frontage. Trees shall be planted in accordance with the requirements of the Department of Transportation and Department of Parks and Recreation.

For any existing tree of at least 6 six-inch #caliper# which is preserved, credit for one tree shall be given for the first six inches of #caliper#, and for each additional four inches of #caliper#, credit for an additional tree shall be given.

Single-trunk Trees newly planted to meet this requirement shall be of at least three-inch #caliper# at the time of planting. Multiple-trunk trees and low branching coniferous evergreens shall be at least 10 feet in height at the time of planting. On-site trees shall be of a species selected from Appendix B (Selection List for On-Site Trees), and #street# trees shall be of a species selected from Appendix C (Selection List for Street Trees).

119-113

Tier I controls during construction

The following requirements must be met during construction:

- (a) Construction fences shall be erected around all #areas of no disturbance#.

A #tree protection plan# is required to modify the #area of no disturbance# around trees proposed for preservation.

- (b) The #staging area# shall be located in an area that would most minimize destruction of the natural features of the landscape. Such area shall be as close to the construction area on the #zoning lot# as practical, and shall be either on the flattest portion of the #zoning lot# or behind a containment wall where it will not erode any #area of no disturbance# or endanger any tree designated for preservation.

- (c) #Topsoil# shall be used in the area to be revegetated as soon as construction is complete.

(d) Any exposed earth area shall have straw, jute matting or geotextiles placed on it within two days of exposure and be seeded with annual rye grass during construction.

119-12
Tier I Submission Requirements

For all #Tier I developments#, #enlargements# or #site alterations#, the following materials shall be submitted to the Department of Buildings. However, the submission requirements set forth herein shall not apply to an #enlargement# of an existing #residential building#, provided that such #enlargement# does not increase the #lot coverage# of said #building#. No building permit shall be issued until the Department of Buildings determines that the requirements of the #Special Hillside Preservation District# have been met.

(a) A survey map prepared by a licensed surveyor showing topography at two foot contour intervals and indicating the existing slope of the land as it occurs in categories of 10-14 percent, 15-19 percent, 20-24 percent, 25-29 percent, 30-34 percent, 35 percent and above greater; the location of existing #buildings or other structures#, patios, decks, swimming pools, walkways, driveways and #private roads# including sidewalks and other impervious surfaces; and the location, #caliper# and species of all trees of six-inch #caliper# or more on the #zoning lot# and in the sidewalk area of the adjacent #streets#.

(b) A site plan prepared by a registered architect or professional engineer indicating the location of all existing #buildings or other structures#, the location of all proposed #buildings or other structures#, the location and species of all understory, including shrubs and ground cover, and the location of existing and proposed patios, decks, swimming pools, walkways, driveways and #private roads# including sidewalks and other impervious surfaces, the location of any #steep slopes#, #steep slope buffer# areas and the #staging area#, the location, #caliper# and species of all trees of six-inch #caliper# or more on the #zoning lot# and in the sidewalk area of the adjacent #streets#. The site plan shall identify those trees proposed to be removed and those trees proposed to be preserved, indicating for the latter the #critical root zone#.

(c) A tree-planting plan, prepared by a registered landscape architect, indicating the location and species of all new plantings, and indicating the location of and the #critical root zone# around all trees proposed for preservation.

* * *

119-20
PROVISIONS REGULATING TIER II DEVELOPMENTS, ENLARGEMENTS AND SITE ALTERATIONS

* * *

119-21
Tier II Requirements for Development

119-211
Lot coverage controls, floor area and lot area per dwelling unit

The area of a #private road# shall be excluded from the area of the #zoning lot# for the purposes of applying the applicable requirements of Sections 23-14 (Minimum Required Open Space, Open Space Ratio, Maximum Lot Coverage and Minimum Floor Area Ratio) as modified by this Section, 23-22 (Required Lot Area per Dwelling Unit, Lot Area per Room or Floor Area per Room) and

33-10 (FLOOR AREA REGULATIONS). For the purposes of this Section, the area of the #private road# shall include the area of the paved roadbed plus a seven foot wide area adjacent to and along the entire length of the required curbs.

The maximum permitted percent of #lot coverage# on a #zoning lot# shall be determined by Table I or Table II of this Section, as applicable.

If an authorization is granted for a #development#, #enlargement# or #site alteration# on a #zoning lot# or portion of a #zoning lot# having a slope of 35 percent or greater pursuant to Section 119-311, the maximum permitted percent of #lot coverage# for said #zoning lot# shall not exceed the maximum set forth in Table I for #zoning lots# having an #average percent of slope# between 30 percent and 34.9 percent.

However, any #development#, #enlargement# or #site alteration# that receives an authorization pursuant to Section 119-312 (Authorization of certain uses within the Special Hillside Preservation District) and is located in a #Commercial District# shall be exempt from the provisions of this Section.

TABLE I

PERMITTED PERCENT OF LOT COVERAGE ON A ZONING LOT
BY ZONING DISTRICT, AND AVERAGE PERCENT OF SLOPE, AND
RESIDENCE TYPE

#Average Percent of Slope#	Residence District#*							R6
	R1-1 R2-1	R2	R3-1 R3-2	R4	1-2 R5	Fam	Other	
10-14.9	22.5	22.5	22.5	36.0	45.0	48.6	32.4	
15-19.9	20.0	20.0	20.0	32.0	40.0	43.2	28.8	
20-24.9	17.5	17.5	17.5	28.0	35.0	37.8	25.2	
25-29.9	15.0	15.0	15.0	24.0	30.0	32.4	21.6	
30-34.9	12.5	12.5	12.5	20.0	25.0	27.0	18.0	

* or #Residence District# equivalent when #zoning lot# is located within a #Commercial District#

If an authorization is granted for a #development#, #enlargement# or #site alteration# on a #zoning lot# or portion of a #zoning lot# having a #steep slope# or #steep slope buffer# pursuant to Section 119-311, the maximum permitted percent of #lot coverage# for said #zoning lot# shall not exceed the maximum set forth in Table II.

TABLE II

PERMITTED PERCENT OF LOT COVERAGE ON A ZONING LOT
OR PORTION OF A ZONING LOT WITH A STEEP SLOPE,
BY ZONING DISTRICT AND RESIDENCE TYPE

#Residence District#*						
R1-1 R1-2	R2	R3-1 R3-2	R4	R6 R5	1-2 FAM	OTHER
12.5	12.5	12.5	20.0	25.0	27.0	18.0

* or #Residence District# equivalent when #zoning lot# is located within a #Commercial District#

However, the maximum permitted percent of #lot coverage# on a #zoning lot# as determined by Table I or Table II, shall not apply to any #development#, #enlargement# or #site alteration# that receives an authorization pursuant to Section 119-312 (Authorization of certain uses within the Special Hillside Preservation District) and is located in a #Commercial District#.

119-212
Height and setback regulations

The height and setback regulations set forth in Sections 23-631 (Height and setback in R1, R2, R3, R4, and R5 Districts), 23-632 (Front setbacks in districts where front yards are not required), 34-25 (Modification of Height and Setback Regulations), and 35-61 (Height and Setback Regulations) shall not apply to #buildings or other structures# in #Tier II developments# or #enlargements# within the #Special Hillside Preservation District#. In lieu thereof, the height and setback regulations set forth in this Section shall apply.

For any #development# or #enlargement#, no portion of a #building or other structure# shall penetrate a plane drawn parallel to the #base plane# at a height which is shown in Table II III. For #developments# or #enlargements# with pitched roofs, height shall be measured to the midpoint of such pitched roof. For the purposes of this Section, the #base plane#, which is a plane from which the height of a #building or other structure# is measured in R2X, R3, R4, and R5 Districts, shall also be established in accordance with the provisions of Section 12-10 (DEFINITIONS) for #buildings or other structures# in R1, R2 and R6 Districts.

TABLE II III

MAXIMUM HEIGHT OF A BUILDING OR OTHER STRUCTURE

Maximum height

#Residence District# above #base plane#

R1 R2 R3 R4** 36 feet
R5** 60 feet
R6 70 feet

*or #Residence District# equivalent when the #zoning lot# is located within a #Commercial District#.

**#developments# or #enlargements# which utilize the regulations of Section 23-141 applying to a #predominantly built-up area#, shall not exceed a maximum height of 32 feet above the #base plane#.

119-213
Grading controls

With the exception of #private roads# and driveways, no grading shall take place beyond 15 feet of the location of a building foundation, measured from the foundation perimeter. The following grading requirements shall apply to all #Tier II developments#, #enlargements# or #site alterations#.

- (a) With the exception of private streets and driveways, no grading shall take place beyond 15 feet of the location of a building foundation, measured from the foundation perimeter.
- (b)(a) Cut slopes shall be no steeper than two horizontal to one vertical; subsurface drainage shall be provided as necessary for stability.
- (c)(b) Where two cut slopes intersect, the corners shall be rounded with a minimum radius of 25 feet.
- (d)(c) Fill slopes shall be no steeper than two horizontal to one vertical; fill slopes shall not be located on natural slopes 2:1 or steeper, or where fill slope toes out within 12 feet horizontally of the top of an existing or planned cut slope.
- (e)(d) Burrowing Excavating for fill shall be prohibited unless the material is obtained from a cut permitted under an approved grading plan obtained for some purpose other than to produce fill material, or imported from outside the #Special Hillside Preservation District#.
- (f)(e) Fills shall be compacted to at least 95 percent of maximum density, as determined by ASSHO T99 or ASTM D698.
- (g)(f) All retaining walls or cuts with a total vertical projection in excess of three feet and associated with cut or fill surfaces shall be designed as structural members keyed into stable foundations and capable of sustaining the design loads.
- (h)(g) The edge of any cut or fill slope meeting the grade existing on June 30, 1987, should be blended into such grade in a vertical or horizontal arc with a radius of not less than 25 feet.
- (i)(h) The top and toe of any cut or fill slope, or where any excavation meets the grade existing on June 30, 1987, should be rounded in a vertical arc with a radius of not less than five feet.
- (j)(i) Tops and toes of cut and fill slopes shall be set back from #lot lines# for a horizontal distance of three feet plus one-fifth the height of the cut or fill but need not exceed a horizontal distance of 10 feet; tops and toes of cut and fill slopes shall be set back from #buildings# and structures a horizontal distance of six feet plus one-fifth the height of the cut or fill, but need not exceed a horizontal distance of ten feet.

119-214
Tier II R requirements for private streets and driveways and private roads

In addition to the requirements in Section 119-213 (Grading controls), all private streets and driveways and #private roads# shall comply with the following:

- (a) Driveways
 - (1) the maximum grade of a private street or driveway shall not exceed 10 percent;
 - (2) the paved width of a driveway shall not exceed 18 feet; and
 - (3) the maximum length of a driveway from a #private road# or #street# to an #accessory# parking space shall not exceed 80 feet.
- (b) the paved portion accessible to vehicles of said private street or driveway shall not exceed 30 feet in width;
- (b) #Private roads#
 - (1) the maximum grade of a #private road# shall not exceed 10 percent;
 - (c) (2) the width of the graded section beyond the curb back or edge of pavement of a #private street road# shall extend no more than 3 three feet beyond the curb back or edge of pavement on both the cut and the fill sides of the roadway. If a sidewalk is to be installed

parallel to the roadway, the graded section shall be increased by the width of the sidewalk plus no more than one foot beyond the curb back; and

- (3) the paved width of a #private road# shall not exceed 30 feet;
- (4) curbs shall be provided along each side of the entire length of a #private road# and #accessory# parking spaces may be located between the required roadbed and curb;
- (5) a curb cut, excluding splays, from a #street# to a #private road# may be as wide as such #private road#;
- (6) curb cuts providing access from #private roads# to parking spaces shall not exceed the width of the driveway it serves and in no event shall exceed a width of 18 feet, including splays;
- (7) a minimum distance of 16 feet of uninterrupted curb space shall be maintained between all curb cuts;

(8) along the entire length of a #private road#, trees shall be provided and maintained at the rate of one tree for every 25 feet of #private road# frontage and shall comply with the requirements set forth in Section 119-216 (Tier II tree planting requirements); and

(9) No building permit shall be issued by the Department of Buildings without approval by the Fire Department regarding the adequacy of vehicular access to and within the #development# for fire safety. Such approval may include the modification of #private road# width as set forth in paragraph (b)(3) of this Section.

The City Planning Commission may by authorization or special permit as applicable, pursuant to Section 119-30 (SPECIAL REVIEW PROVISIONS), allow modifications to or waivers of the requirements of this Section. The approval of the Fire Department regarding the adequacy of vehicular access to and within the #development# for fire safety shall be a condition precedent for any modification or waiver.

(d) the maximum horizontal distance of disturbed soil surface shall not exceed 80 feet.

119-215

Landscaping controls to preserve trees, shrubs and ground cover

(a) In any #area of no disturbance#, existing vegetation and #topsoil# shall not be removed, except in accordance with a #tree protection plan# or as authorized by the City Planning Commission pursuant to the provisions of Section 119-313 (Modification of landscaping, tree preservation and tree planting requirements).

(ab) To the maximum extent possible, existing trees, #shrubs# shrubs and ground cover shall be retained. Vegetation that is may only be removed or destroyed as a result of a #development#, #enlargement# or #site alteration#, shall be replaced unless provided that:

(1) it is located in areas to be occupied by #buildings#, private streets #private roads#, driveways, areas for required #accessory# parking or within a distance of 15 feet of a building foundation and, provided that it is not practical to avoid such removal by adjustments in the arrangement of such #buildings#, #private roads#, driveways or required parking areas;

(2) the continued presence of the vegetation would interfere with the growth or health of trees of six-inch #caliper# or more designated for preservation and belonging to a species listed in Appendices A, B or C;

(3) the continued presence of the vegetation would create special hazards or dangers to persons or property, which it would not be possible or practical to eliminate by pruning or routine maintenance; or

(4) an authorization has been granted by the City Planning Commission under the provisions of this Chapter Section 119-313 approving the removal of such vegetation.

(bc) Any vegetation or #topsoil# that cannot be preserved as a result of a proposed #development#, #enlargement# or #site alteration# and is not exempted from replacement permitted to be removed under paragraph (a) (b) of this Section shall be replaced as follows. For every 500 square feet of #lot area# of removed vegetation or #topsoil#, or portion thereof, there shall be provided the following plantings of the size and number indicated below in paragraphs (c)(1) through (c)(4) of this Section. The area of removed vegetation shall be measured so as to include any portions of the #zoning lot# that were located within the drip line of #critical root zone# of a removed tree of six-inch #caliper# or more. Species of vines/ground cover and #shrubs# shrubs shall be selected from Appendix A (Selection List for Shrubs and Ground Covers). Species of on-site trees shall be selected from Appendix B (Selection List for On-Site Trees).

(1) Vines/g Ground cover shall be planted one at one foot on center and at the rate of one stem plant for every square foot of #lot area# of removed vegetation; and

(2) #Large trees# Large trees shall be planted at the rate of one three-inch #caliper# tree for every 500 square feet of #lot area# of removed vegetation; or

(3) #Small trees# Small trees shall be planted at a rate of one eight foot high tree for every 100 square feet of #lot area# of removed

vegetation; or

(4) #Shrubs# Shrubs shall be planted at a rate of one gallon container grown material for every 25 square feet of #lot area# of removed vegetation.

119-216

Tier II tree planting requirements

All #Tier II developments#, #enlargements#, and #site alterations# shall comply with the following tree planting requirements, whether or not existing vegetation is removed as a result of such #development#, #enlargement#, or #site alteration#. However, the requirements set forth herein shall not apply to an #enlargement# of an existing #residential building#, provided that such #enlargement# does not increase the #lot coverage# of said #building#.

(a) On-site trees

On-site trees, pre-existing or newly planted, shall be provided on the #zoning lot# at the rate of one tree for each one thousand square feet of #lot area# or portion thereof or shall equal a total of 51 percent of all #tree credits# for trees originally on site, whichever is greater.

(b) #Street# trees

#Street# trees, pre-existing or newly planted, shall be provided along the entire length of the #street# frontage of the #zoning lot#. The trees shall be located between the #front lot line# and the curb line and shall be provided at the rate of one tree for each 25 feet of frontage. Trees shall be planted in accordance with the requirements of the Department of Transportation and the Department of Parks and Recreation.

For any existing tree of at least six-inch #caliper# which is preserved, credit for one tree shall be given for the first six inches of #caliper#, and for each additional four inches of #caliper#, credit for an additional tree shall be given.

Single-trunk Trees newly planted to meet this requirement shall be of at least three-inch #caliper# at the time of planting. Multiple-trunk trees and low branching coniferous evergreens shall be at least 10 feet in height at the time of planting. On-site trees shall be of a species selected from Appendix B (Selection List for On-Site Trees), and #street# trees shall be of a species selected from Appendix C (Selection List for Street Trees).

119-217

Tier II C controls during construction

The following requirements must be met during construction:

(a) No construction equipment of any kind shall operate beyond 15 feet of the perimeter of a building foundation except those vehicles engaged in the construction of private streets #private roads#, driveways or required #accessory# parking areas. This provision may be waived by the Commissioner of Buildings should it be determined that the particular conditions of the site make a 15 foot limit infeasible or impractical.

(b) Construction fences shall be erected around all vegetation proposed for retention preservation and all #areas of no disturbance#, and those portions of the fence that are downhill from the construction site shall have hay bales placed adjacent to them.

(c) Burrowing Excavating for fill shall be prohibited unless the material is obtained from a cut permitted under an approved grading plan obtained for some purpose other than to produce fill material, or imported from outside the #Special Hillside Preservation District#.

(d) Stockpiling of The #staging area# shall be placed located in an area that would most minimize destruction of the natural features of the landscape. Such area shall be as close to the construction area on the #zoning lot# as practical, and shall be either on the flattest portion of the #zoning lot# or behind a containment wall where it will not contribute to the erosion potential erode any #area of no disturbance# and where it will not or endanger any tree scheduled designated for preservation.

(e) #Topsoil# shall be used in the area to be revegetated as soon as construction is complete.

(f) All Any exposed earth areas shall have straw, jute matting or geotextiles immediately placed on it within two days of exposure and be seeded with annual rye grass during construction.

119-22

Tier II Submission Requirements

For all #Tier II developments#, #enlargements#, or #site alterations#, the following materials shall be submitted to the Department of Buildings. However, the submission requirements set forth herein shall not apply to an #enlargement# of an existing #residential building#, provided that such #enlargement# does not increase the #lot coverage# of said #building#. No building permit shall be issued until the Department of Buildings determines that the requirements of the #Special Hillside Preservation District# have been met.

(a) A survey map prepared by a licensed surveyor showing topography at two foot contour intervals and indicating the existing slopes of

the land as it occurs in categories of 10-14 percent, 15-19 percent, 20-24 percent, 25-29 percent, 30-34 percent, 35 percent and above greater, the location of existing #buildings or other structures#, patios, decks, swimming pools, walkways, driveways and #private roads# including sidewalks and other impervious surfaces; and the location, #caliper# and species of all trees of six-inch #caliper# or more on the #zoning lot# and in the sidewalk area of the adjacent #streets#.

(b) A site plan prepared by a registered architect or professional engineer indicating the location of all existing #buildings or other structures#, the location of all proposed #buildings or other structures#, the location of existing and proposed patios, decks, swimming pools, walkways, driveways and #private roads# including sidewalks and other impervious surfaces, the location and species of all understory, including #shrubs# shrubs and ground cover, and the location, and #caliper# and species of individual trees of six-inch #caliper# or more on the #zoning lot# and in the sidewalk area of the adjacent #streets#. The site plan shall identify those trees proposed to be removed and those trees proposed to be preserved, indicating for the latter the #critical root zone#, the location of any other #area of no disturbance# and the location of the #staging area#.

(c) A grading plan which will show all existing and proposed contours at two-foot intervals, critical spot elevations, tops and bottoms of proposed slopes over 10 percent gradient and will indicate at least one longitudinal and one latitudinal cross-section showing both the original and proposed final ground surfaces, with grades, slopes and elevations noted.

(d) An alignment and paving plan for any #private road# with a typical cross section.

(e) A landscaping and revegetation plan, prepared by a registered landscape architect, indicating the extent of vegetation and #topsoil# removal required for site preparation and development and the location and species of all new plantings.

(f) A construction plan, prepared by a registered landscape architect, a registered architect, a licensed surveyor, or professional engineer showing the proposed location for stockpiling any soil or construction material the #staging area#, the proposed method for protecting trees, understory #shrubs# shrubs, and ground cover during construction, as well as a description of the equipment to be employed in processing and disposing of soil and other material to be removed from the site. A #tree protection plan# for any tree proposed for preservation where the #area of no disturbance# is proposed to be modified.

(g) An affidavit prepared by a registered landscape architect, a registered architect, a licensed surveyor, or professional engineer stipulating the following:

(1) prior to construction, no grading, filling, clearing or excavation of any kind shall be initiated until approval of a final grading plan by the Department of Buildings;

(2) no construction equipment of any kind shall pass over areas to be preserved, according to the approved plans;

(3) construction fences meeting the requirements of Section 119-217, paragraph (b), shall be erected around all vegetation proposed for retention; and

(4) construction controls (e.g. erosion protection, drainage measures, etc.) shall be implemented according to the approved plan.

(h) A drainage plan and soil report prepared by a professional engineer to protect natural features. The drainage plan shall describe the temporary (during construction) and permanent measures to collect, direct and discharge stormwater drainage from the site, indicating the direction of drainage flow and providing detailed plans and locations of all surface and subsurface drainage devices, walls, dams, sediment basins, stormwater storage (detention and retention) facilities, and other drainage facilities and protective devices. Such report shall include an estimate of runoff from the site after completion of any proposed #development#, #enlargement# or #site alteration# and provide a description with supporting information of the manner in which the proposed #development#, #enlargement# or #site alteration# complies with the requirements of Local Law 103 of 1988.

119-23 Administration of Tier II Requirements

All #developments#, #enlargements# or #site alterations# which are subject to the above requirements shall file directly with the Department of Buildings.

No permanent certificate of occupancy shall be granted unless an inspection report, verifying that the requirements of Section 119-20 have been met, is filed with the Department of Buildings by a registered landscape architect, a registered architect, a licensed surveyor or professional engineer, with the Department of Buildings.

119-30 SPECIAL REVIEW PROVISIONS

119-31 Authorizations

Upon application, the City Planning Commission may grant authorizations for modifications of specified regulations of this Chapter and for the underlying district regulations in accordance with the provisions of Sections 119-311 (Authorization of a development, enlargement or site alteration on a zoning lot or portion of a zoning lot having a steep slope or steep slope buffer of 35 percent or more) to through 119-319 (Authorization to allow site alterations, the construction of new park-related facilities and improvements to existing park-related facilities within

public parks), inclusive.

In addition, all #developments#, #enlargements# and #site alterations# that require an authorization pursuant to Sections 119-311 through 119-318 inclusive, shall be subject to the provisions of Sections 119-33 (Special Erosion and Sedimentation Prevention Requirements for Certain Authorizations and Special Permits) and 119-34 (Special Submission Requirements for Certain Authorizations and Special Permits).

The Commission may prescribe appropriate conditions and safeguards, including covenants running with the land which shall permit public or private enforcement reflecting terms, conditions, and limitations, of any authorizations hereunder to minimize adverse effects on the #hillsides# and the character and quality of the community.

119-311

Authorization of a development, enlargement or site alteration on a zoning lot or portion of a zoning lot having a steep slope or steep slope buffer of 35 percent or more

The City Planning Commission may grant authorization to allow authorize #developments#, #enlargements# and #site alterations# on portions of a #zoning lot# having a #steep slope# or #steep slope buffer# of 35 percent or more.

As a condition for granting In order to grant such authorizations, the Commission shall find:

- (a) that the #development#, #enlargement# or #site alteration# is not feasible without such modification, or that the requested modification will permit a #development#, #enlargement# or #site alteration# which that satisfies the purposes of this Chapter;
- (b) that such modification is the least modification required to achieve the purpose for which it is granted;
- (c) that the modification requested has minimal impact on the existing natural topography and vegetation and blends harmoniously with it;
- (d) that the requested modification will not disturb the drainage patterns and soil conditions of the area; and
- (e) that the #development#, #enlargement# or #site alteration# takes advantage of the natural characteristics of the site.

Any #development#, #enlargement# or #site alteration# requiring an authorization pursuant to this Section shall be subject to all the requirements of Section 119-20 (PROVISIONS REGULATING TIER II DEVELOPMENTS, ENLARGEMENTS AND SITE ALTERATIONS) for which an authorization or special permit has not been obtained.

In addition, all #developments#, #enlargements# and #site alterations# that require an authorization pursuant to this Section shall be subject to the provisions of Section 119-33 (Special Erosion and Sedimentation Prevention Requirements for Certain Authorizations and Special Permits) and Section 119-34 (Special Submission Requirements for Certain Authorizations and Special Permits).

119-312

Authorization of certain uses within the Special Hillsides Preservation District

The City Planning Commission may grant authorizations for #commercial uses#, #community facility uses#, for #group parking facilities# of 30 cars or more and for #enlargements# to any such #uses# and facilities.

As condition for In order to grant such authorizations, the Commission, upon review of the site plan, shall find that:

- (a) that the proposed #development#, #enlargement# or #site alteration# will not disturb the drainage pattern and soil conditions of the area;
- (b) that the proposed #development#, #enlargement# or #site alteration# has minimal impact on the existing natural topography and vegetation and blends harmoniously with it;
- (c) that such #development#, #enlargement# or #site alteration# is so located as not to impair the essential character of the surrounding area;
- (d) that the design of such #development#, #enlargement# or #site alteration# takes full advantage of all special characteristics of the site;
- (e) that vehicular access and egress for such #development#, #enlargement# or #site alteration# is located and arranged so as to draw a minimum of vehicular traffic to and through local #streets# in nearby #residential# areas; and
- (f) that where vehicular access and egress is located on an arterial, such location affords the best means for controlling the flow of traffic generated by such #development# to and from such arterial.

Applications for such authorizations of #group parking facilities# over 30 cars or for #enlargements# to #group parking facilities# shall be referred to the Department of Transportation for its report with respect to anticipated traffic congestion.

Any #development#, #enlargement# or #site alteration# that requires an authorization pursuant to this Section and is located on a #zoning lot# having an #average percent of slope# of 10 percent or greater shall be subject to the provisions of Section 119-33 (Special Erosion and Sedimentation Prevention Requirements for Certain Authorizations and Special Permits) and Section 119-34 (Special Submission Requirements for Certain Authorizations and Special Permits).

119-313

Modification of landscaping, tree preservation and tree planting requirements

The City Planning Commission may authorize modifications to Section 119-11 119-111 (Tier I tree preservation requirements), Section 119-112 (Tier I Tree Pplanting Rrequirements), paragraph (b)(8) of Section 119-214 (Tier II requirements for driveways and private roads), Section 119-215 (Landscaping controls to preserve trees, shrubs and ground cover) and Section 119-216 (Tier II Tree Planting Requirements).

As a condition for granting In order to grant such authorizations, the Commission shall find that:

- (a) that the #development#, #enlargement# or #site alteration# is not feasible without such modifications, or that the requested modification will permit a #development#, #enlargement# or #site alteration# which that satisfies the purposes of this Chapter;
- (b) that such modification is the least modification required to achieve the purpose for which it is granted; and
- (c) that the ecology and soil conditions of the site are such that the substitution of other plant material would be as appropriate as the tree preservation or planting requirements being modified.

Where on-site restoration of vegetation would result in overcrowding or would adversely affect the ecology of the site, the Commission may authorize planting of one or more trees on adjoining public sidewalks or in a nearby public area within the #Special Hillside Preservation District#. The Commission may also allow the substitution of other plant material provided a detailed landscaping plan is filed with the Commission for approval and certification.

Any #development#, #enlargement# or #site alteration# that requires an authorization pursuant to this Section and is located on a #zoning lot# having an #average percent of slope# of 10 percent or greater shall be subject to the provisions of Section 119-33 (Special Erosion and Sedimentation Prevention Requirements for Certain Authorizations and Special Permits) and Section 119-34 (Special Submission Requirements for Certain Authorizations and Special Permits).

119-314

Modification of lot coverage controls

For any #development# or #enlargement# on a Tier II #zoning lot# having an #average percent of slope# of 10 percent or greater , or within a #steep slope# or a #steep slope buffer# on a Tier I #zoning lot#, the City Planning Commission may authorize variations in the #lot coverage# controls set forth in Section 119-211 (Lot coverage controls, floor area and lot area per dwelling unit).

As a condition for granting In order to grant such authorization, the Commission shall find that:

- (a) that the #development# or #enlargement# is not feasible without such modification, or that the requested modification will permit a #development# or #enlargement# which that satisfies the purpose of this Chapter;
- (b) that by allowing the permitted #floor area# in a #building# or #buildings# of lower height to cover more land, the preservation of #hillside# having aesthetic value to the public would be assured, and that such preservation would not be possible by careful siting of a higher #building# containing the same permitted #floor area# on less land;
- (c) that such modification is the least modification required to achieve the purpose for which it is granted;
- (d) that the modification requested has minimal impact on the existing natural topography and vegetation and blends harmoniously with it;
- (e) that the requested modification will not disturb the drainage pattern and soil conditions of the area; and
- (f) that the proposed modification does not impair the essential character of the surrounding area.

All #developments#, #enlargements# or #site alterations# that require an authorization pursuant to this Section shall be subject to the provisions of Section 119-33 (Special Erosion and Sedimentation Prevention Requirements for Certain Authorizations and Special Permits) and Section 119-34 (Special Submission Requirements for Certain Authorizations and Special Permits).

119-315

Modification of height and setback regulations

For any #development# or #enlargement# on a Tier II #zoning lot# having an #average percent of slope# of 10 percent or greater, the City Planning Commission may authorize variations in the height and setback regulations set forth in Section 119-212 (Height and setback regulations).

As a condition for granting In order to grant such authorizations, the Commission shall find that:

- (a) that the #development# or #enlargement# is not feasible without such modification, or that the requested modification will permit a #development# or #enlargement# which satisfies the purpose of this Chapter;
- (b) that by concentrating permitted #floor area# in a #building# or #buildings# of greater height covering less land, the preservation of existing topography and vegetation and the preservation of #hillsides# having aesthetic value to the public will be assured, and that such preservation would not be possible by careful siting of lower #buildings# containing the same permitted #floor area# and covering more land;
- (c) that such modification is the least modification required to achieve the purpose for which it is granted;
- (d) that the requested modification will not disturb the soil conditions of the area;
- (e) that the proposed modification does not impair the essential character of the surrounding area; and
- (f) that the proposed modification will not have adverse effects upon light, air, and privacy of adjacent properties.

All #developments#, #enlargements# or #site alterations# that require an authorization pursuant to this Section shall also be subject to the provisions of Section 119-33 (Special Erosion and Sedimentation Prevention Requirements for Certain Authorizations and Special Permits) and Section 119-34 (Special Submission Requirements for Certain Authorizations and Special Permits).

119-316
Modification of grading controls

For any #development#, #enlargement# or #site alteration# on a Tier II #zoning lot# having an #average percent of slope# of 10 percent or greater, the City Planning Commission may authorize variations in the grading controls set forth in Section 119-213 (Grading controls).

As a condition for granting In order to grant such authorization, the Commission shall find that:

- (a) that the #development#, #enlargement# or #site alteration# is not feasible without such modifications, or that the requested modifications will permit a #development#, #enlargement# or #site alteration# which that satisfies the purposes of this Chapter;
- (b) that such modification is the least modification required to achieve the purpose for which it is granted;
- (c) that the modification requested has minimal impact on the existing natural topography and vegetation and blends harmoniously with it;
- (d) that the requested modification will not disturb the drainage pattern and soil conditions of the area;
- (e) that the proposed modification does not impair the essential character of the surrounding area; and
- (f) that the benefits to the surrounding area from the proposed modification outweigh any disadvantages which may be incurred thereby in the area.

All #developments#, #enlargements# or #site alterations# that require an authorization pursuant to this Section shall also be subject to the provisions of Section 119-33 (Special Erosion and Sedimentation Prevention Requirements for Certain Authorizations and Special Permits) and Section 119-34 (Special Submission Requirements for Certain Authorizations and Special Permits).

119-317
Modification of requirements for private streets private roads and driveways

For any #development#, #enlargement# or #site alteration# on a #zoning lot# having an #average percent of slope# of 10 percent or greater, the City Planning Commission may authorize variations in the requirements for #private streets roads# and driveways on any Tier II #zoning lot# as set forth in Section 119-214 (Tier II R requirements for private streets and driveways and private roads) as well as the requirements of Sections 25-621 (Location of parking spaces in certain districts) and Section 25-631 (Location and width of curb cuts in certain districts).

As a condition for granting In order to grant such authorizations, the Commission shall find that:

- (a) that the #development# or #enlargement# is not feasible without such modification, or that the requested modification will permit a #development#, #enlargement# or #site alteration# which satisfies the purposes of this Chapter;
- (b) that such modification is the least modification required to achieve the purpose for which it is granted;
- (c) that the requested modification will not disturb the drainage pattern and soil conditions of the area; and
- (d) that the modification requested has minimal impact on the existing natural topography and vegetation and blends harmoniously with it. ;and
- (e) such modification will enhance the quality of the design of the #development#, #enlargement# or site alteration#.

All #developments#, #enlargements# or #site alterations# that require an authorization pursuant to this Section shall also be subject to the provisions of Section 119-33 (Special Erosion and Sedimentation Prevention Requirements for Certain Authorizations and Special Permits) and Section 119-34 (Special Submission Requirements for Certain Authorizations and Special Permits).

119-318

Modifications of certain bulk regulations

For any #development# or #enlargement# on a Tier I #zoning lot# containing a #steep slope# or on a Tier II #zoning lot# having an #average percent of slope# of 10 percent or greater, the City Planning Commission may authorize variations in required #front#, #rear#, or #side yards#, variations in required space between #buildings# on the same #zoning lot# and modifications in the underlying district height and setback regulations.

As a condition for granting In order to grant such authorizations, the Commission shall find that:

- (a) that #development# on the #zoning lot# is not feasible without such modification, or that the requested modification will permit a #development#, #enlargement# or #site alteration# which that better satisfies the purposes of this Chapter;
- (b) that such modification is the least modification required to achieve the purpose for which it is granted; and
- (c) that the proposed #bulk# and placement of #buildings# and the proposed arrangement of #open spaces# will not have significant adverse effects upon the light, air and privacy for existing #development# in adjacent areas or the opportunities therefore in future #development#.

All #developments#, #enlargements# or #site alterations# that require an authorization pursuant to this Section shall also be subject to the provisions of Section 119-33 (Special Erosion and Sedimentation Prevention Requirements for Certain Authorizations and Special Permits) and Section 119-34 (Special Submission Requirements for Certain Authorizations and Special Permits).

119-319

Authorization to allow site alterations, the construction of new park-related facilities and improvements to existing park-related facilities within public parks

Upon application, the City Planning Commission may authorize #site alterations#, the construction of new park-related facilities such as, but not limited to, roadways, parking lots, comfort stations, storage facilities, swimming pools, eating establishments, tennis courts, amphitheatres and stadia, and improvements to existing park-related facilities.

As a condition for granting In order to grant such authorizations, the Commission shall make the following findings find that the proposed action:

- (a) that the proposed action will have a minimal impact on the existing natural topography of the surrounding area and blend harmoniously with it;
- (b) that the proposed action will have minimal impacts on the drainage pattern and soil conditions in the area;
- (c) that the proposed action will preserve to the greatest extent possible the trees and vegetation within the park; and
- (d) that the proposed action is compatible with the neighborhood character of the area.

An application to the City Planning Commission for an authorization pursuant to this Section shall include the following:

- (1) a survey map prepared by a licensed surveyor showing existing topography at the two-foot contour intervals;
- (2) a site plan prepared by a registered architect, registered landscape architect or professional engineer indicating the location of all existing #buildings or other structures#, the location of all proposed #buildings or other structures#, the location of all understory including #shrubs# shrubs and ground cover, and the #caliper# and species of all individual trees of 6 six-inch #caliper# or more; and
- (3) any other information necessary to evaluate the request.

In issuing authorizations under this Section, the Commission may impose conditions or safeguards, such as special landscape requirements, to minimize adverse effects on the character of the #Special Hillside Preservation District#.

119-32

Special Permits

The City Planning Commission, after public notice and hearing and subject to Board of Estimate action, may grant special permits for modification of the underlying district regulations in accordance with the provisions of Section 119-321 (Modification of use regulations).

119-321

Modification of use regulations

For any #development# or #enlargement# on a Tier II #zoning lot# having an #average percent of slope# of 10 percent or greater, the City Planning Commission may grant special permits to allow #single-family semi-detached residences# in R1 and R2 Districts, or #single-family attached residences# in R1, R2, and R3-1 Districts, or #two-family attached residences# in R3-1 Districts.

As a condition for granting such special permits, the minimum required #lot area# of the underlying district shall not be reduced, and the #aggregate width of street walls# of a #residential building# or a number of #residential buildings# separated by party walls, shall not exceed 100 feet.

In order to grant such special permits, the Commission shall find that:

- (a) that #development# on this #zoning lot# is not feasible without such modifications, or that the requested modification will permit a #development#, #enlargement# or #site alteration# which that better satisfies the purposes of this Chapter;
- (b) that the change of housing type requested constitutes the most effective method of preserving the existing topography and vegetation;
- (c) that the preservation of existing topography and vegetation requires the permitted #development# to be concentrated, to the extent feasible, in the remaining portion of the tract;
- (d) that for such concentration of #development#, better standards of privacy and usable #open space# can be and are achieved under the development plan by inclusion of the proposed #residential building# type;
- (e) that such modification is the least modification required to achieve the purpose for which it is granted;
- (f) that the #aggregate width of street walls# of a #residential building# or a number of #residential buildings# separated by party walls, shall not exceed 100 feet;
- (gf) that the proposed #street# or #private road# system for the #development# is so located as to draw a minimum of vehicular traffic to and through #streets# in the adjacent area;
- (hg) that the siting of the #building# or #buildings# will not adversely effect adjacent properties by impairing privacy or access of light and air; and
- (ih) that the existing topography and vegetation and the proposed planting effectively screen all #attached# one-family #residences# from the #lot lines# along the #development# perimeter.

In no case shall the minimum required #lot area# of the underlying district be reduced.

The Commission may impose appropriate conditions or safeguards, such as special landscaping requirements to minimize any adverse effects on the character of the surrounding area.

All #developments#, #enlargements# or #site alterations# that require a special permit pursuant to this Section shall also be subject to the provisions of Section 119-33 (Special Erosion and Sedimentation Prevention Requirements for Certain Authorizations and Special Permits) and Section 119-34 (Special Submission Requirements for Certain Authorizations or Special Permits).

119-33

Special Erosion and Sedimentation Prevention Requirements for Certain Authorizations and Special Permits

Any #development#, #enlargement# or #site alteration# which requires an authorization or special permit and which is subject to the provisions of Section 119-20 (PROVISIONS REGULATING TIER II DEVELOPMENTS, ENLARGEMENTS OR AND SITE ALTERATIONS), shall be subject to the provisions of this Section. The requirements of this Section shall supplement any other requirements which that also must be met.

Prior to construction, at least one of the erosion and sedimentation control measures described below in paragraphs (a) through (e) of this Section shall be selected. A plan describing how the selected erosion and sedimentation control measure will be implemented and justifying its selection on the basis of the particular conditions of the site, shall be prepared by a professional engineer and submitted to the City Planning Commission.

- (a) Benches and berms

These are level terraces or ledges constructed across sloping land to provide a relatively flat construction site or to reduce the length and grade of the slope. Benches and berms reduce runoff and erosion hazards by slowing down the velocity of water and providing greater intake opportunity.

- (b) Diversion channels

These are earth channels with a supporting ridge on the lower side constructed across the slope lengths, to break up concentration of runoff and move water to stable outlets at a non-erosive velocity.

(c) Debris or sediment basins

These consist of a dam or embankment, a pipe outlet, and an emergency spillway situated at the low corner of the site to provide a temporary means of trapping and storing sediment while releasing the water. They protect property below the installation from damage by excessive sedimentation and debris.

(d) Retention ponds

These are impoundment-type ponds that temporarily store runoff water and release it at rates which that minimize erosion and prevent flooding. They may be located above the site to trap water before it enters the area or within the site to protect properties below the site.

(e) Grassed waterways or outlets

These are natural or excavated channels to dispose of excess runoff water from diversions, berms, benches, and other areas at non-erosive velocities. Waterways or outlets are shaped or graded and established in suitable vegetation as needed, depending on the supplemental measure used to slow the velocity of runoff.

119-34

Special Submission Requirements for Certain Authorizations and Special Permits

When a #development#, #enlargement# or #site alteration# is subject to the provisions of Section 119-20 (PROVISIONS REGULATING TIER II DEVELOPMENTS, ENLARGEMENTS AND SITE ALTERATIONS), an application to the City Planning Commission for an authorization or special permit shall include the submission requirements that follow. These requirements shall be in addition to the requirements set forth in Section 119-22 (Tier II Submission Requirements).

(a) A drainage plan and soil report prepared by a professional engineer to assess whether or not there will be a major impact on protect natural features. The drainage plan shall describe the temporary (during construction) and permanent measures to collect, direct and discharge stormwater drainage from the site, indicating the direction of drainage flow and providing detailed plans and locations of all surface and subsurface drainage devices, walls, dams, sediment basins, stormwater storage (detention and retention) facilities, and other drainage facilities and protective devices. Such report shall include an estimate of runoff from the site after completion of proposed #developments#, #enlargements# or #site alterations# and provide a description with supporting information of the manner in which the proposed #development#, #enlargement# or #site alteration# complies with the requirements of Local Law 7 of 1974 103 of 1988.

(b) An erosion and sedimentation plan as described in Section 119-32 33 (Special Permits Special Erosion and Sedimentation Prevention Requirements for Certain Authorizations and Special Permits).

(c) For any #development# or #site alteration# on a tract of land 40,000 square feet or greater, a landscape plan prepared by a registered landscape architect which that shows the location and species of all new plantings of trees, #shrubs# shrubs and ground covers and the proposed method of preserving existing trees, #shrubs#, shrubs and ground covers.

(d) Any other information the Commission may deem necessary to evaluate the request.

The applicant's submission shall also include a statement admitting authorized Department of City Planning personnel to the site for the purposes of recording or verifying survey data.

119-35

Administration of Special Review Provisions

Where a permit other than a building permit is required for a #development#, #enlargement# or #site alteration# within the #Special Hillside Preservation District# from any City agency, an application for such permit shall be filed simultaneously with such agency and the City Planning Commission.

No permanent certificate of occupancy shall be granted unless an inspection report, verifying that the requirements of Sections 119-20 (PROVISIONS REGULATING TIER II DEVELOPMENTS, ENLARGEMENTS, AND SITE ALTERATIONS) and Section 119-30 (SPECIAL REVIEW PROVISIONS) have been met, is filed with the Department of Buildings by a registered landscape architect, a licensed surveyor or professional engineer, with the Department of Buildings.

119-40

COMPLIANCE

In the event that a #development#, #enlargement# or #site alteration# is undertaken, or has been undertaken, contrary to the provisions of this Chapter, any permit issued by the Department of Buildings for any #use#, #development#, #enlargement# or #site alteration# on the affected #zoning lot# shall be revoked.

No building permit or permanent certificate of occupancy shall be issued by the Department of Buildings for any #use#, #development#, #enlargement# or #site alteration# on such #zoning lot# until the violations are removed from the #zoning lot# pursuant to a restoration plan certified by the City Planning Commission.

If such violations have not ceased within 90 days of receipt of the Commission's requirements, the Department of Buildings shall institute such

action as may be necessary to prosecute the violations. For compliance with restoration requirements to remove violations, the Department of Buildings may allow an additional 90 days.

Where on-site restoration of vegetation would result in over-crowding or would adversely affect the ecology of the site, the Commission may authorize planting of one or more trees on adjoining public sidewalks or in a nearby public area within the #Special Hillside Preservation District#. The Commission may also allow the substitution of other plant material, provided a detailed landscaping plan is filed with the Commission for approval and certification.

Existing APPENDICES A, B and C TO BE DELETED.

New appendices below.

APPENDIX A:
Selection list for Shrubs and Ground Covers

GROUND COVERS

BOTANICAL NAME	COMMON NAME
Adiantum pedatum	Maidenhair fern
Agrostis perennans (A. altissima)	Autumn bent-grass
Anaphalis margaritacea	Pearly everlasting
Andropogon gerardii	Big Bluestem
Andropogon glomeratus	Bushy bluestem
Andropogon virginicus	Broom Sedge
Anemone canadensis	Canada anemone
Antennaria plantaginifolia	Plantain-leaved pussytoes
Arctostaphylos uva-ursi	Bearberry
Asarum canadense	Wild ginger
Aster cordifolius	Heart-leaved aster
Aster divericatus	White wood aster
Aster ericoides	Heath aster
Aster lanceolatus (A. simplex)	Lined aster
Aster macrophyllus	Large-leaved aster
Aster novae-angliae	New England aster
Athyrium felix-femina (A. asplenoides)	Lady fern
Athyrium thelypteroides	Silvery glade fern
Carex appalachica (C. radiata)	Sedge
Carex pennsylvanica	Pennsylvania sedge
Chimaphila maculata	Spotted or stripped wintergreen / Pipsissewa
Chimaphila umbellata	Pipsissewa, Prince's pine, Bitter wintergreen
Chrysopsis mariana	Maryland golden aster
Danthonia compressa	Flattened oat grass
Danthonia spicata	Oatgrass, Poverty grass
Dennstaedtia punctilobula	Hay-scented fern
Deschampsia caespitosa	Tufted hair grass
Deschampsia flexuosa	Common hair gr., Crinkled hair grass
Dryopteris intermedia	Common wood fern
Dryopteris marginalis	Marginal wood fern, Leatherleaf wood fern
Erigeron philadelphicus	Daisy fleabane
Eupatorium maculatum	Spotted Joe-Pye-Weed
Eupatorium rugosum	White snakeroot
Eupatorium sessilifolium	Upland boneset
Fragaria virginiana	Wild strawberry, Virginia strawberry
Gaultheria hispidula	Creeping snowberry, Creeping pearl berry
Gaultheria procumbens	Wintergreen, Teaberry, Checkerberry
Geranium maculatum	Wild geranium, Spotted cranesbill
Geum canadense	White avens, Winter rosette
Heuchera americana	Hairy alum root, Rock geranium
Hypericum ellipticum	Pale St. John's Wort
Muhlenbergia schreberi	Nimblewill
Oenothera fruticosa	Sundrops, Wild beet, Suncups, Scabish
Onoclea sensibilis	Sensitive fern, Bead fern
Osmunda claytoniana	Interrupted fern

BOTANICAL NAME	COMMON NAME
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Panicum clandestinum Deer tongue grass
 Panicum virgatum Switch grass, Wild red top, Thatch grass
 Parthenocissus quinquefolia Virginia creeper, Woodbine, American ivy
 Phlox subulata Mountain phlox, Moss pink, Moss phlox
 Polygonatum biflorum Smooth Solomon?s seal, True King Solomon?s seal
 Polygonatum virginianum (Tovaria v.) Jumpseed
 Polypodium virginianum P. vulgare, Rocky polypody, Am. wall fern
 Polystichum acrostichoides Christmas fern, Dagger fern, Canker break
 Rudbeckia hirta var. hirta Black-eyed Susan
 Rudbeckia triloba Thin-leaved cone flower
 Thelypteris noveboracensis New York fern
 Tiarella cordifolia Allegheny foamflower, False mitrewort
 Tradescantia virginiana Virginia Spiderwort, Common S., Widow's tears
 Verbena hastata Blue vervain
 Vernonia noveboracensis New York ironweed
 Verbesina alternifolia (Actinomeria a.) Wingstem
 Viola sororia Woolly blue violet sister violet, Dooryard violet

SHRUBS

Amelanchier canadensis Shadblow
 Amelanchier laevis (A. arborea) Serviceberry, Allegheny
 Aronia arbutifolia Red chokeberry
 Aronia melanocarpa Black chokeberry
 Clethra alnifolia Sweet pepperbush, Summersweet
 Comptonia peregrina Sweet fern, Meadow fern, Spleenwort bush
 Cornus amomum Silky dogwood
 Cornus racemosa Gray dogwood, Red-panicled dogwood
 Cornus sericea (C. stolonifera) Red osier dogwood
 Corylus americana American hazelnut
 Corylus cornuta Beaked hazelnut
 Diervilla lonicera Bush honeysuckle, Blue herb, Gravel weed
 Hamamelis virginiana Witch hazel

 Ilex glabra Inkberry, Gallberry
 Ilex verticillata Winterberry
 Juniperus communis Common juniper
 Juniperus horizontalis Creeping juniper, creeping cedar/savin
 Kalmia angustifolia Sheep laurel
 Kalmia latifolia Mountain laurel
 Lindera benzoin Spice bush
 Myrica pensylvanica Northern bayberry
 Physocarpus opulifolius Common ninebark
 Potentilla fruticosa Cinquefoil, bush cinquefoil
 Rhododendron maximum Great laurel
 Rhododendron periclymenoides Pinkster azalea
 Rhododendron viscosum Swamp azalea
 Rhus aromatica Fragrant sumac, Sweet scented sumac / Lemon sumac
 Rhus copallina Winged sumac
 Rhus glabra Smooth sumac
 Rhus typhina Staghorn sumac
 Rosa blanda Smooth rose, Meadow rose
 Rubus alleghaniensis Common blackberry, Allegheny blackberry
 Salix humilis Prairie willow
 Salix lucida Shining willow
 Sambucus canadensis American elderberry
 Spirea tomentosa Hardhack spirea
 Vaccinium angustifolium Lowbush blueberry
 Vaccinium corymbosum Highbush blueberry
 Viburnum acerifolium Maple leaf viburnum
 Viburnum alnifolium (V. Lantanoides) Hobble bush
 Viburnum dentatum Arrowwood viburnum
 Viburnum lentago Nanny-berry
 Viburnum prunifolium Black-haw

APPENDIX B:
Selection List for On-Site trees

SMALL TREES

BOTANICAL NAME	COMMON NAME
Amelanchier laevis	Serviceberry
Betula nigra	River birch
Betula populifolia	Grey birch
Carpinus caroliniana	Hornbeam
Cercis canadensis	Eastern redbud
Cornus florida	Flowering dogwood
Crataegus crus-galli inermis	Thornless cockspur hawthorn
Crataegus phaenopyrum	Washington hawthorn
Hamamelis virginiana	Witch hazel
Ilex opaca	American holly
Juniperus virginiana	Eastern red cedar
Populus tremuloides	Quaking aspen

LARGE TREES

Acer rubrum	Red maple
Acer saccharum	Sugar maple
Betula lenta	Black / Sweet birch
Betula papyrifera	Paper birch
Celtis occidentalis	Common hackberry
Chamaecyparis thyoides	Cedar, Atlantic white
Fagus grandifolia	American beech tree
Fraxinus americanum	Ash, white
Fraxinus pennsylvanica	Ash, green
Larix laricina	Tamarack / American larch
Liquidambar styraciflua	Sweet gum
Liriodendron tulipifera	Tulip tree
Nyssa sylvatica	Black tupelo
Picea rubens	Spruce, red
Pinus resinosa	Pine, red
Pinus rigida	Pine, pitch
Pinus strobus	Pine, eastern white
Platanus occidentalis	American Sycamore
Populus deltoides	Eastern cottonwood
Populus grandidentata	Aspen, big toothed
Quercus alba	White oak
Quercus borealis	Northern red oak
Quercus palustris	Pin oak
Quercus phellos	Willow oak
Quercus prinus	Chestnut oak
Quercus rubra	Red oak
Tilia americana	Basswood

APPENDIX C:
Selection list for Street Trees

STREET TREES

BOTANICAL NAME	COMMON NAME
Acer rubrum	Red maple
Amelanchier canadensis	Shadbush, Serviceberry
Carpinus caroliniana	American hornbeam, Muscledwood
Celtis occidentalis	Hackberry

Crataegus crus-galli inermis	Thornless cockspur hawthorn
Crataegus phaenopyrum	Washington hawthorn
BOTANICAL NAME	COMMON NAME
Fraxinus pennsylvanica	Green ash
Fraxinus americana	White ash
Ginkgo biloba (male trees only)	Ginkgo
Gleditsia triacanthos inermis	Honey locust, thornless
Liquidambar styraciflua	Sweet gum
Nyssa sylvatica	Tupelo, swamp
Ostrya virginiana	American hop hornbeam
Quercus palustris	Pin oak
Quercus stellata	Post oak
Quercus phellos	Willow oak
Quercus rubra	Northern red oak
Taxodium distichum	Bald cypress
Tilia americana	Basswood
Tilia cordata	Little leaf linden

Adopted.

Office of the City Clerk, }
The City of New York, } ss.:

I hereby certify that the foregoing is a true copy of a Resolution passed by The Council of The City of New York on December 7, 1999, on file in this office.

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City Clerk, Clerk of Council