DECLARATION

THIS DECLARATION is made by MICHAEL LEVINE, DAVID R. LEVINE, SOPHIE SLATER, MARILYN A. WEINTRAUB and ELLEN C. HERSCOWITZ, all with the address c/o MICHAEL LEVINE, 50 Court Street, Brooklyn, New York, all hereinafter collectively called the "Declarants".

REEL 939 PAGE 1609

W I T N E S S E T H

WHEREAS, the Declarants MICHAEL LEVINE and DAVID R. LEVINE are the fee owners of certain real property in the Borough of Brooklyn, Block 4496, Lots 1, 3, 5, 8 and 9, City and State of New York, which real property is further described in EXHIBIT "A" attached hereto, and

11384/1

WHEREAS, the Declarants MICHAEL LEVINE, DAVID R. LEVINE, SOPHIE SLATER, MARILYN A. WEINTRAUB and ELLEN C. HERSCOWITZ are the fee owners of certain real property in the Borough of Brooklyn, Block 4497, Lot 1, City and State of New York, which real property is further described in EXHIBIT "B" attached hereto, and

WHEREAS, the Declarant MICHAEL LEVINE is the fee owner of certain real property in the Borough of Queens, Block 11384, Lot 1, City and State of New York, which real property is further described in EXHIBIT "C" attached hereto, and

WHEREAS, the properties described in EXHIBITS "A", "B" and "C" hereof and hereinafter collectively called the "Subject Property", and

WHEREAS, the Subject Property is in an existing R4 zoning district and the Declarants believe it to be in their best interests to have the Subject Property zoned C1-2, and

WHEREAS, the Declarants desire to restrict further the manner in which the Subject Property may be developed, maintained, and operated, intending these restrictions to benefit all the land lying within one-half mile of the Subject Property including all such land owned by the City of New York, and

WHEREAS, the Declarants represent and warrant that no restrictions of record on the use of the Subject Property nor any present or presently existing future estate or interest in the Subject Property nor any lien, obligation, covenant, limitation or encumbrance of any kind precludes, presently or potentially, the imposition of the restrictions, covenants, obligations, easements, and agreements of this Declaration or the development of the Subject Property in accordance therewith.

NOW, THEREFORE, the Declarants do hereby declare that the Subject Premises shall be held, sold, conveyed, and occupied subject to the following restrictions and obligations which are for the purpose of protecting the value and desirability of the Subject Property and which shall run with such real property, binding every party having any right, title or interest in the Subject Property or any part thereof and binding all heirs, successors and assigns.

1. The Subject Property shall be developed in accordance with the plan attached hereto as EXHIBIT "D".

2. Prior to and as a condition for obtaining a Certificate of Occupancy for the proposed parking area to be

located on the Subject Property at the intersection of Linden Boulevard and Amber Street on Block 4496, the Declarants shall make the street improvements indicated on the letter attached hereto as EXHIBIT "E" as the same may be modified from time to time by the Department of Highways.

3. The Declarants covenant that the proposed addition to the structure located on the Subject Property on Block 11384, Queens, shall not have any windows, doors or advertising facing onto 79th Street. REEL 939 PAGE 1611

4. The Declarants covenant to include a copy of this Declaration as part of any application, pertinent to the Subject Property, submitted to the New York City Department of Buildings or any agency succeeding to its jurisdiction.

5. Declarants recognize that the City of New York is an interested party in this Declaration and consents to the City's enforcing the covenants, conditions, restrictions and agreements herein contained by whatever means may be appropriate to the situation.

6. This Declaration shall become effective when the City Planning Commission and the Board of Estimate acting pursuant to the Zoning Resolution of the City of New York shall have duly approved CP-23262, 23263.

7. This covenant is intended to run with the land and shall be so construed.

8. This Declaration may be amended, modified or cancelled only with the approval of the City Planning Commission and the Board of Estimate or the agencies succeeding to their jurisdiction and no other approval or consent shall be

required from any public body, private person, or legal entity of any kind.

9. Declarants covenant that, when the City Planning Commission and the Board of Estimate have approved CP-23262, 23263, they shall immediately file and record this Declaration in the Offices of the Register of the City of New York, County of Queens and County of Kings, indexing it against the Subject Property. Declarants further covenant to provide the City Planning Commission with copies of the Declaration as recorded, certified by the Registers of the City of New York, County of Queens and County of Kings. The City of New York shall also have the right to record this Declaration. However, all costs of recordation and certification whether undertaken by the Declarants or by the City, shall be borne by the Declarants.

REEL 939 PAGE 1612

10. Except as provided in Paragraph "2" hereof, minor modifications of this Declaration and the plans annexed hereto as EXHIBIT "D" may be made with the express written approval of the City Planning Commission, provided that the City Planning Commission at its sole discretion deems such modifications to be minor. The approval of modifications pursuant to this paragraph shall not be deemed amendments of this Declaration pursuant to paragraph "8".

In witness whereof, the Declarants have caused this Declaration to be signed this 28th day of June, 1976.

Michael Levine
MICHAEL LEVINE

David R. Levine
DAVID R. LEVINE

EXHIBIT "A"

DESCRIPTION OF THE PREMISES

BEGINNING at the corner formed by the intersection of the southerly side of Linden Boulevard and the easterly side of Emerald Street; running thence easterly along the said southerly side of Linden Boulevard, 200 feet to the westerly side of Amber Street; running thence in a southerly direction along the said westerly side of Amber Street a distance of 100 feet; running thence westerly on a line parallel with, or nearly so, the said southerly side of Linden Boulevard a distance of 200 feet to the easterly side of Emerald Street; running thence northerly along the said easterly side of Emerald Street 100 feet to the southerly side of Linden Boulevard, the point or place of beginning; be the said dimensions slightly more or less. Said premises are known and designated as Block 4496 Lots 1, 3, 5, 8 and 9, in the Borough of Brooklyn, City and State of New York.

REL 939 PAGE 1613

EXHIBIT "B"

DESCRIPTION OF THE PREMISES

BEGINNING at the corner formed by the intersection of the southerly side of Linden Boulevard and the easterly side of Amber Street; running thence easterly a distance of 200 feet along the said southerly side of Linden Boulevard to the westerly side of Sapphire Street; running thence southerly a distance of 120 feet along the westerly side of Sapphire Street; running thence in a westerly direction a distance of 100 feet; running thence in a northerly direction a distance of 20 feet; running thence in a westerly direction a distance of 100 feet to the easterly side of Amber Street; running thence in a northerly direction along the said easterly side of Amber Street a distance of 100 feet to the point or place of beginning; be the said dimensions slightly more or less.

Said premises are known and designated as and by Block 4497 Lot 1, in the Borough of Brooklyn, City and State of New York.

RER 939 PAGE 1614

EXHIBIT "C"

DESCRIPTION OF THE PREMISES

BEGINNING at the corner formed by the intersection of the southerly side of Linden Boulevard with the easterly side of Sapphire Street; running thence in a southeasterly direction 210.69 feet to the westerly side of 79th Street; running thence southeasterly along the said westerly side of 79th Street a distance of 66.75 feet; running thence southerly also along the said westerly side of 79th Street a distance of 145.90 feet; running thence in a westerly direction a distance of 213.18 feet to the easterly side of Sapphire Street; running thence northerly along the said easterly side of Sapphire Street a distance of 235.59 feet to the southerly side of Linden Boulevard, the corner and the point of beginning; be the said dimensions slightly more or less. Said premises being known and designated as and by Tax Block 11384 Lot 1 in the Borough of Queens, City and State of New York.

REL 939 PAGE 1615

EXHIBIT "D"

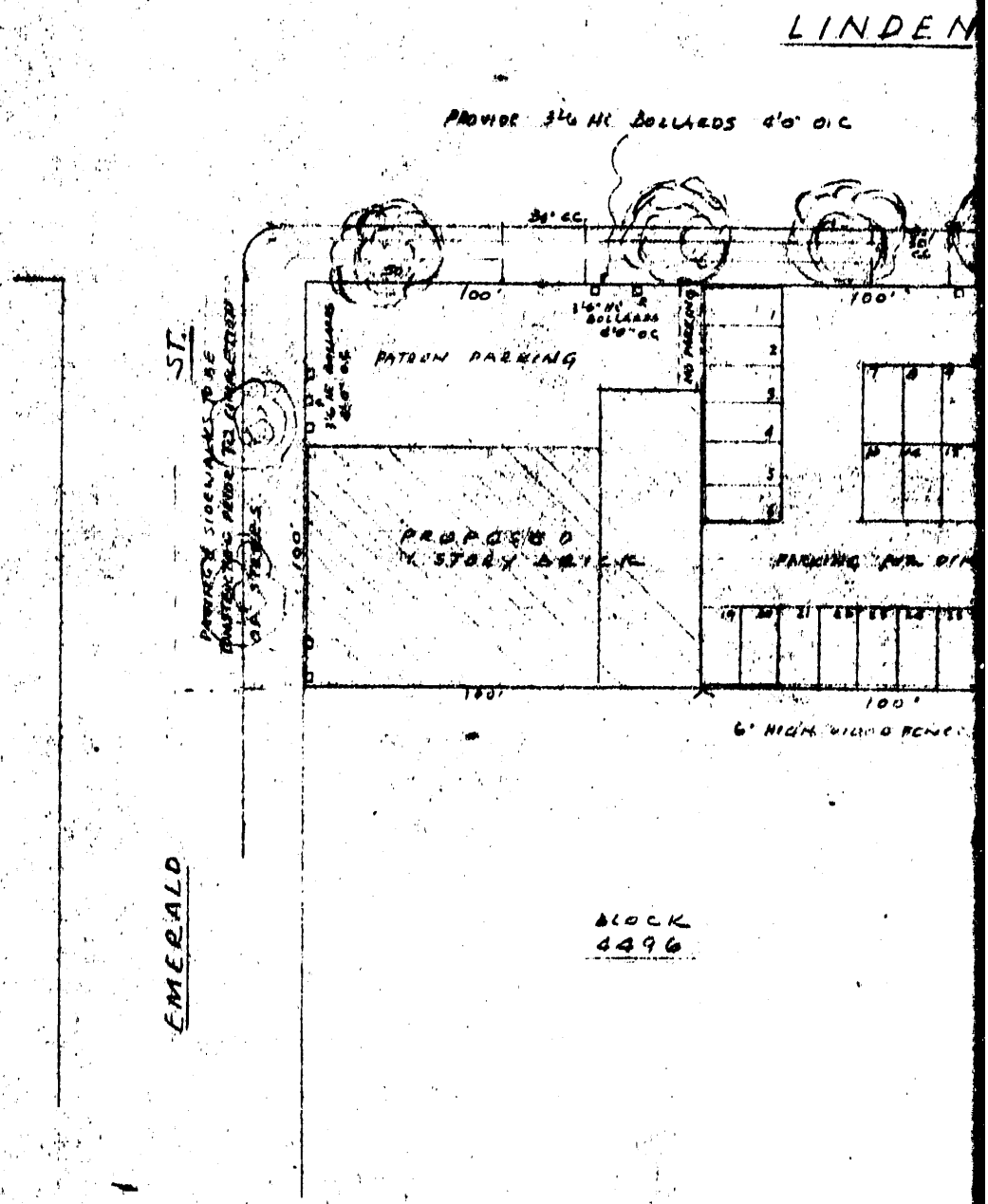

LINDEN
PROVIDE 3'6" HI BOLLARDS 4'0" O.C.
34' C.C.
100'
100'
3'6" HI BOLLARDS 4'0" O.C.
NO PARKING
PATRON PARKING
PROPOSED
STORY BRICK
PARKING
100'
100'
6' HIGH WOOD FENCE
ST.
EMERALD
BLOCK
4496

EXHIBIT "D"

vol 939 page 1616

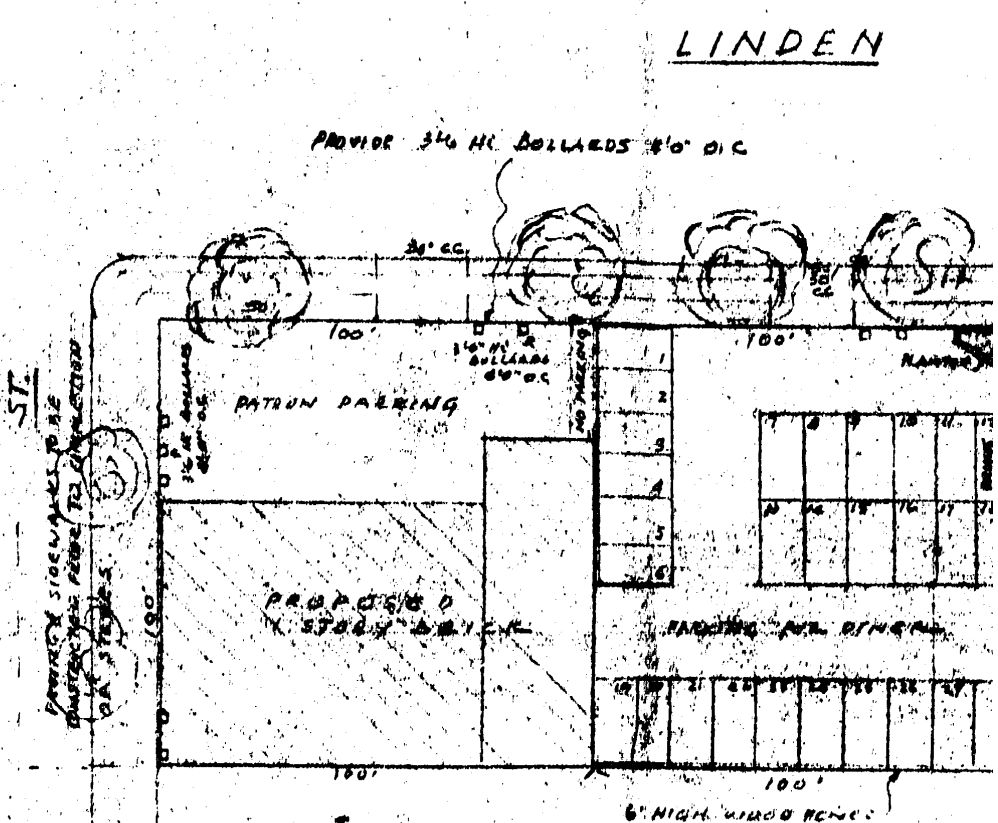


EXHIBIT "D"

Reel 939 Page 1616

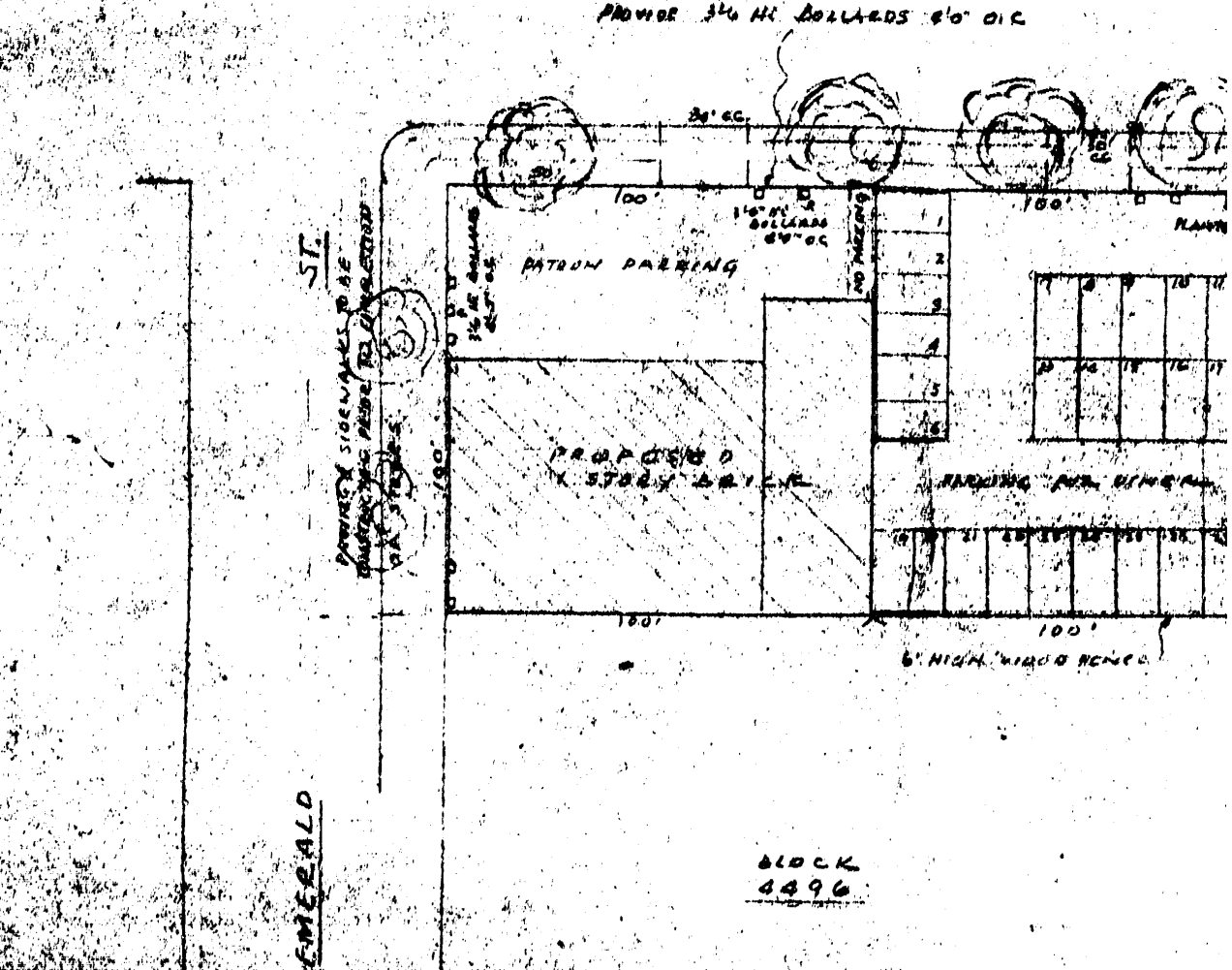


EXHIBIT "D"

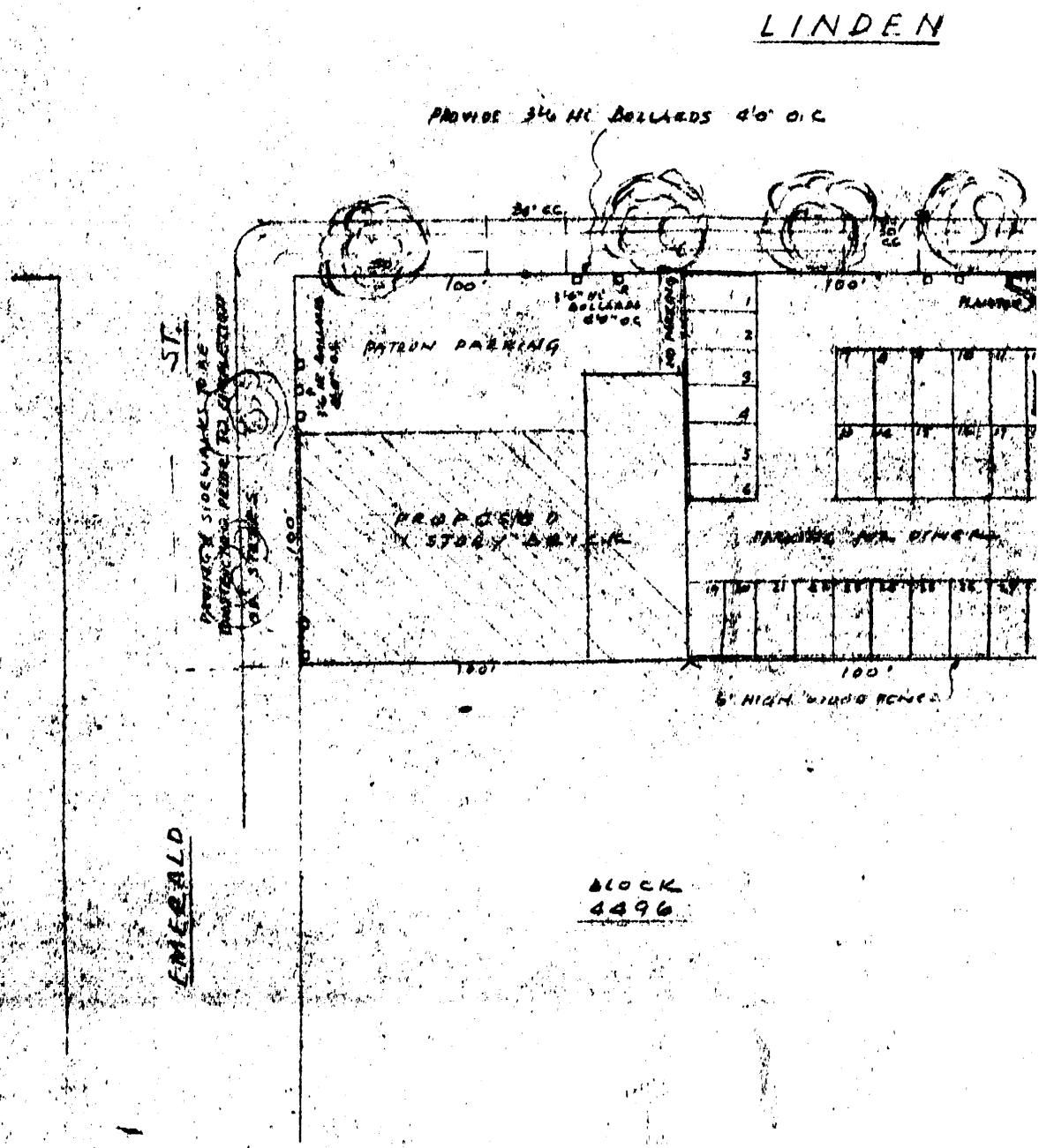
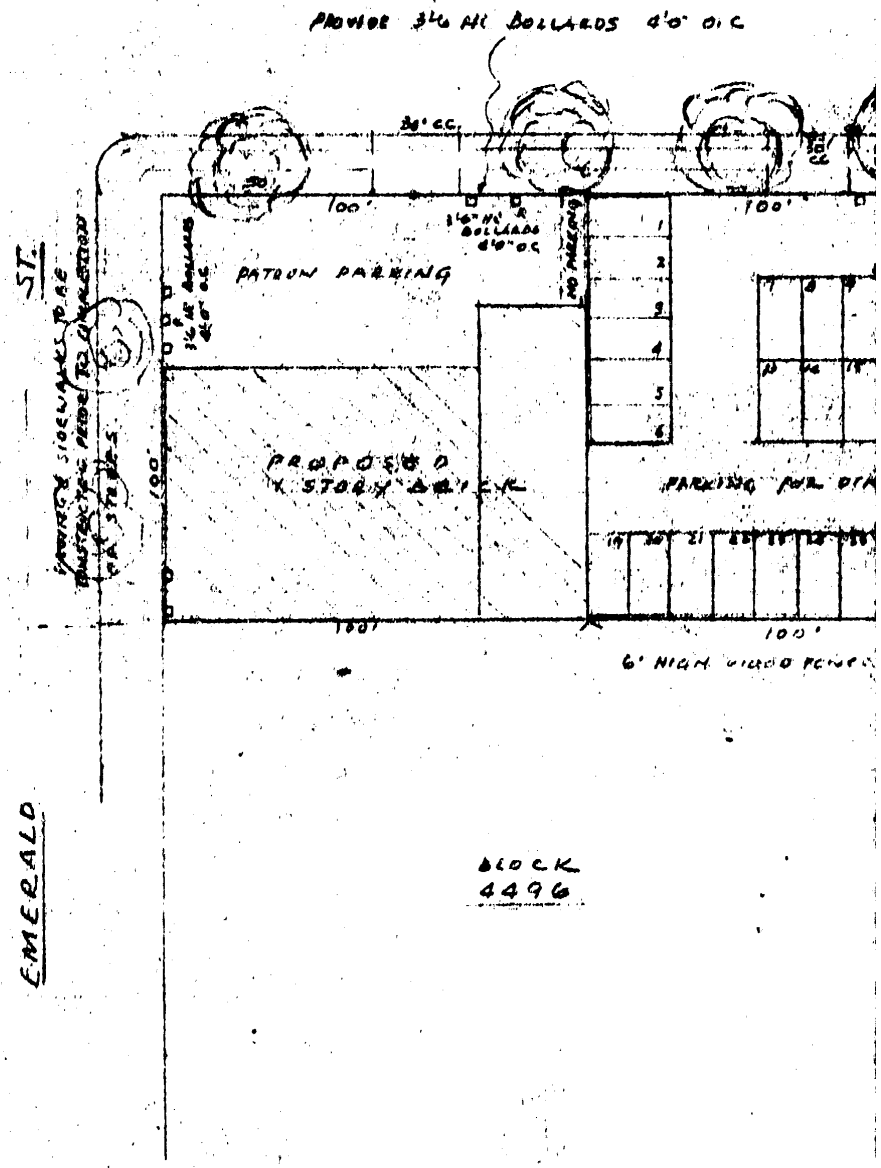
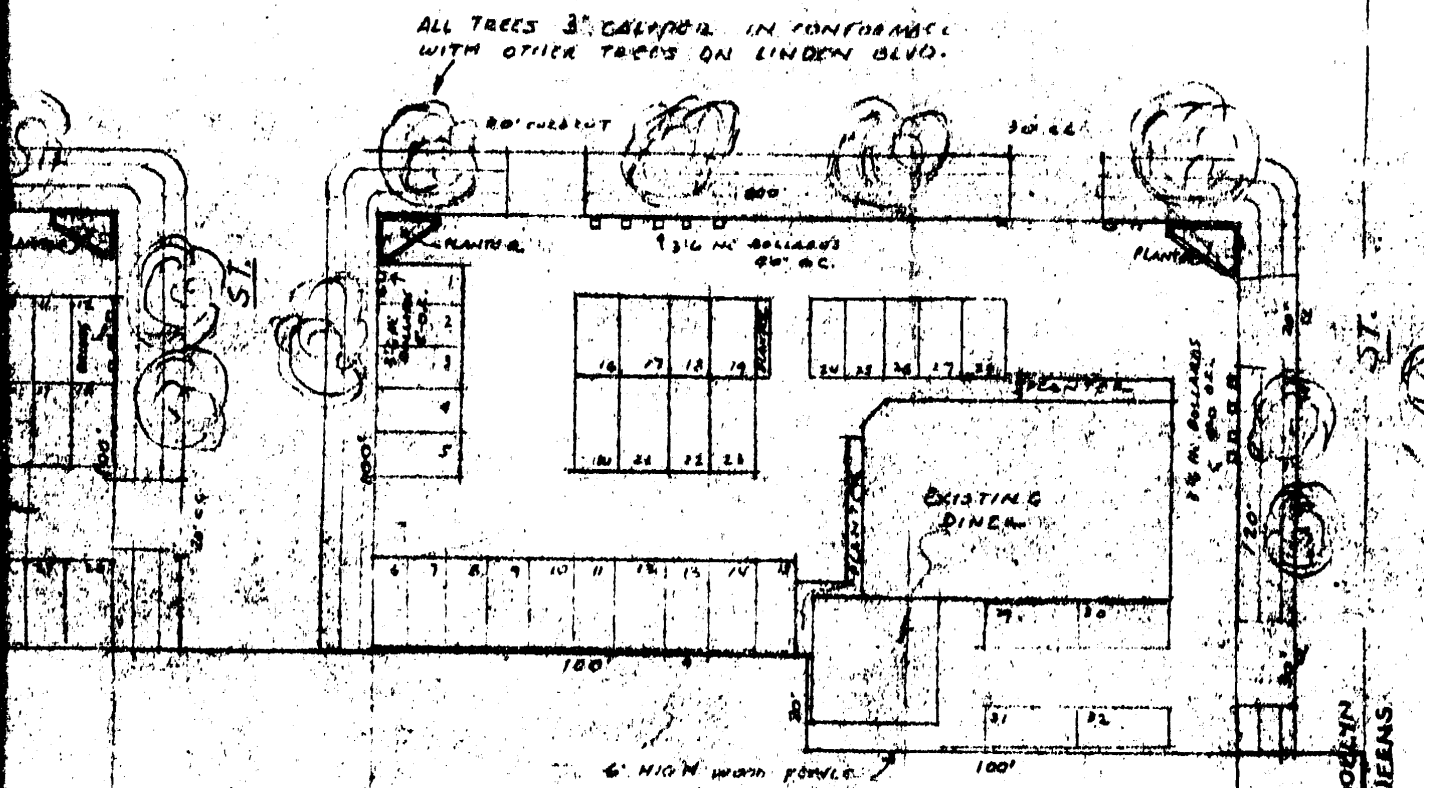

LINDEN
PROVIDE 3½ HI BOLLARDS 4'0" O.C.
PATRON PARKING
PROPOSED
STORY BRICK
100'
100'
100'
100'
6' HIGH WOOD FENCE
ST.
EMERALD
BLOCK
4496

EXHIBIT "D"

LINDEN





BLOCK 4997

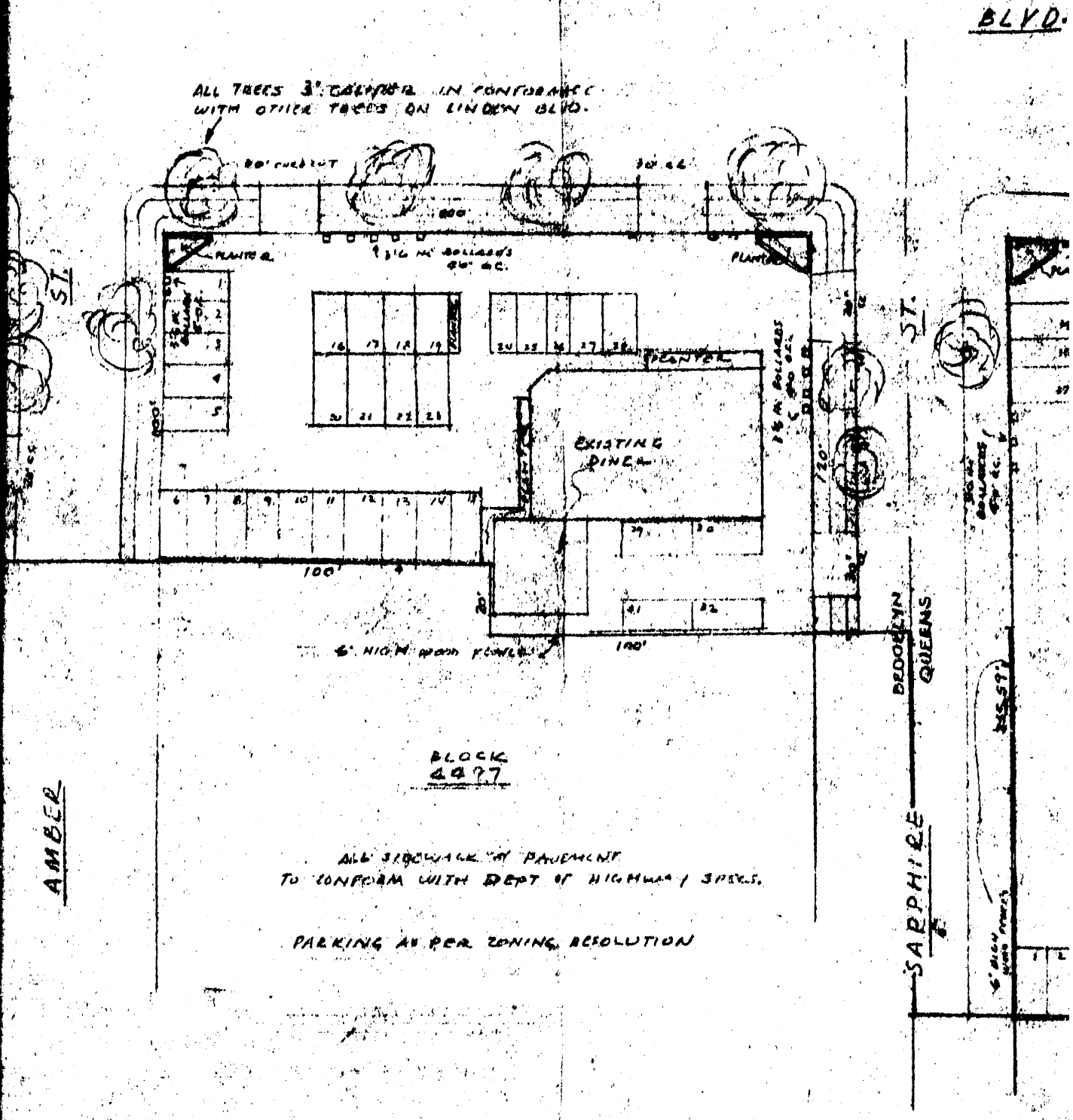
ALL "BLACKTOP" PAVEMENT TO CONFORM WITH DEPT OF HIGHWAYS SPECS.

PARKING AS PER ZONING RESOLUTION

AREA DIAGRAM.

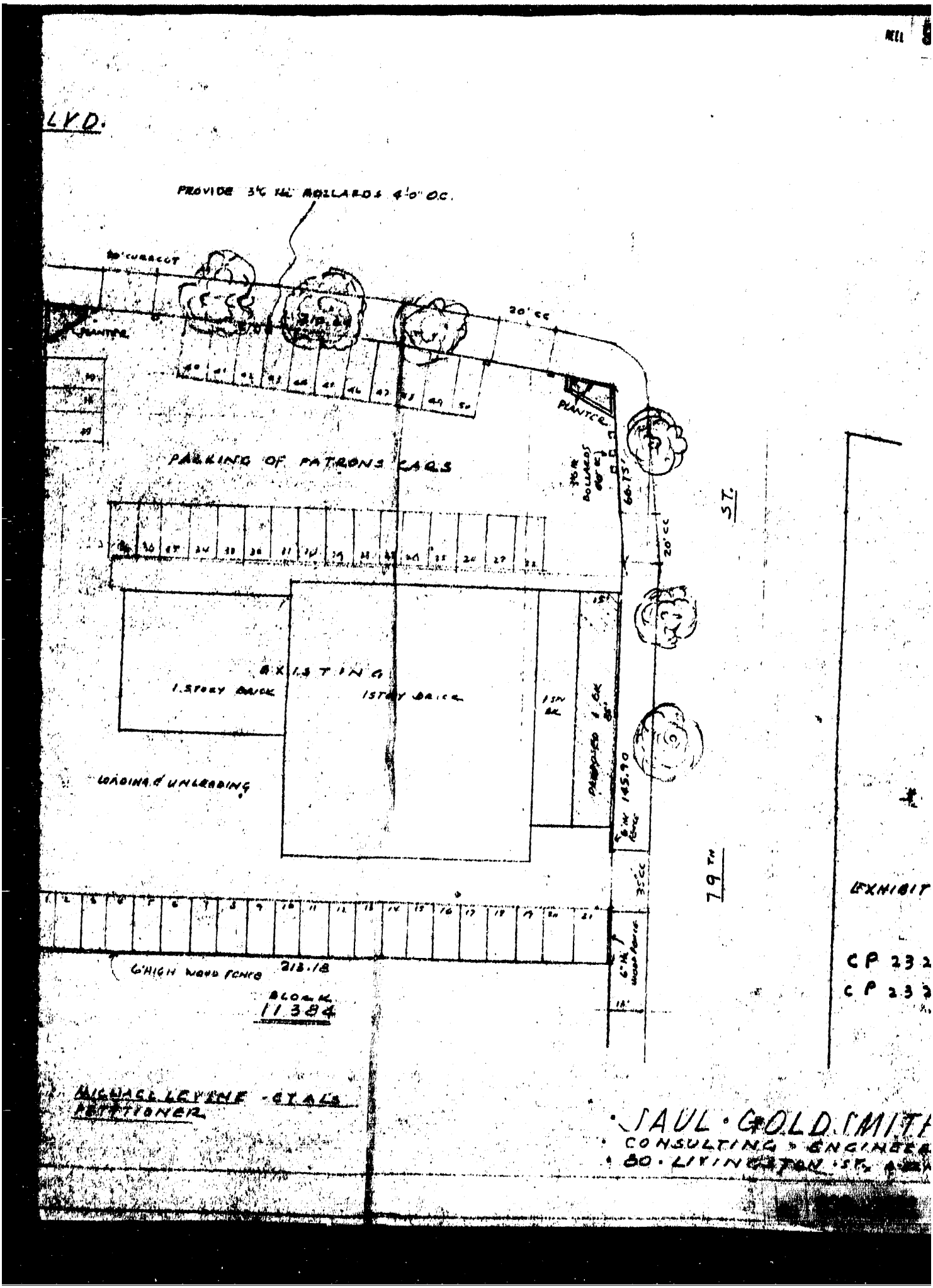
SCALE: 1" = 30'

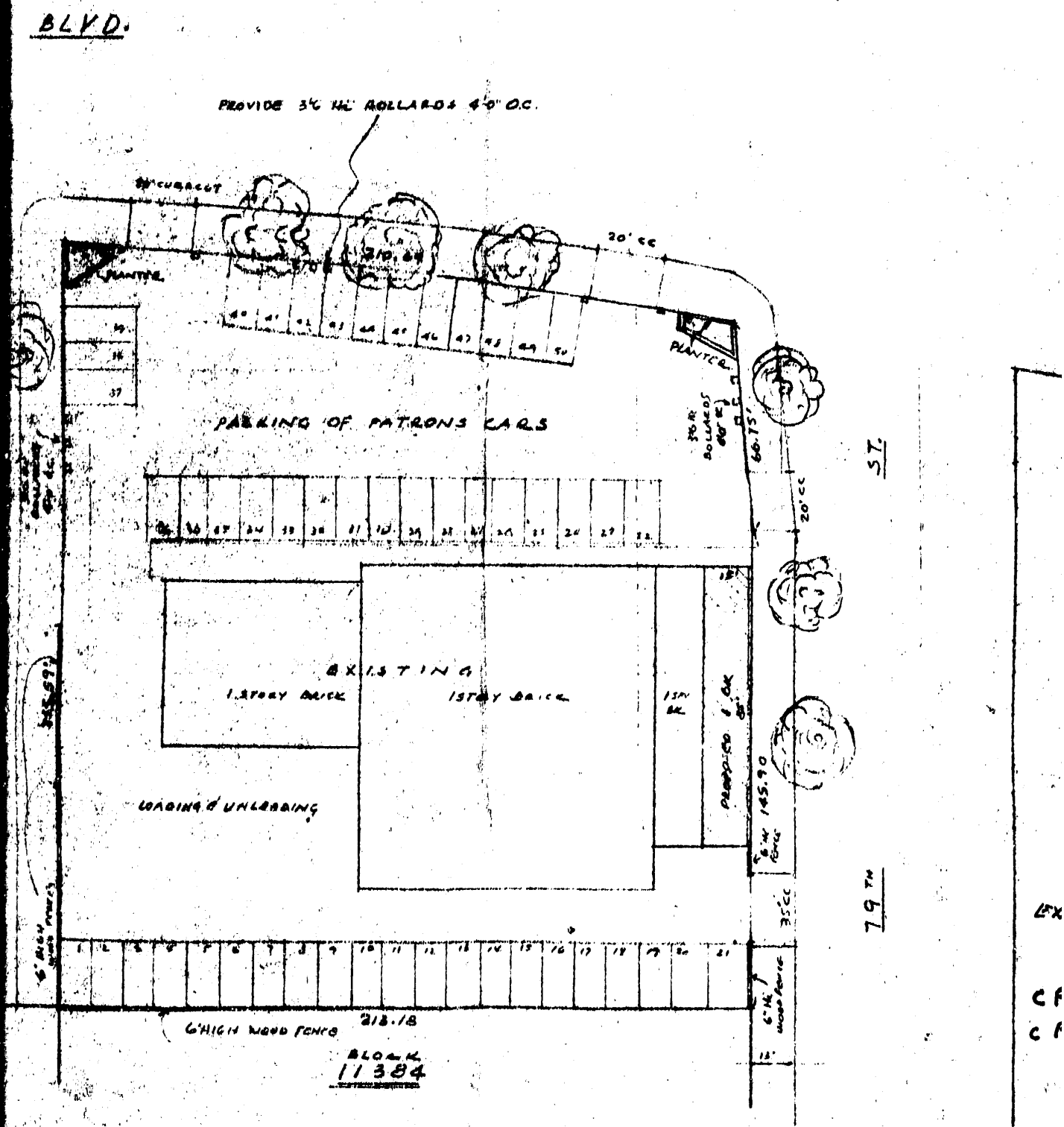
REEL 939 PAGE 1617



AREA DIAGRAM.

SCALE: 1" = 30'


LVD.
PROVIDE 3½ HL BOLLARDS 4'-0" O.C.
20' CC
PLANTER
PARKING OF PATRONS CARS
ST.
EXISTING
1 STORY BRICK
1 STORY BRICK
LOADING & UNLOADING
145.90
79TH
EXHIBIT
CP 232
CP 232
6' HIGH WOOD FENCE
213.18
BLOCK
11384
MICHAEL LEVINE - ET AL'S
PETITIONER
SAUL GOLDSMITH
CONSULTING ENGINEER
80 LIVINGSTON ST.



MICHAEL LEVINE - ET ALS
PETITIONER

JAUL GOLD
CONSULTING ENG
80 LIVINGSTON ST

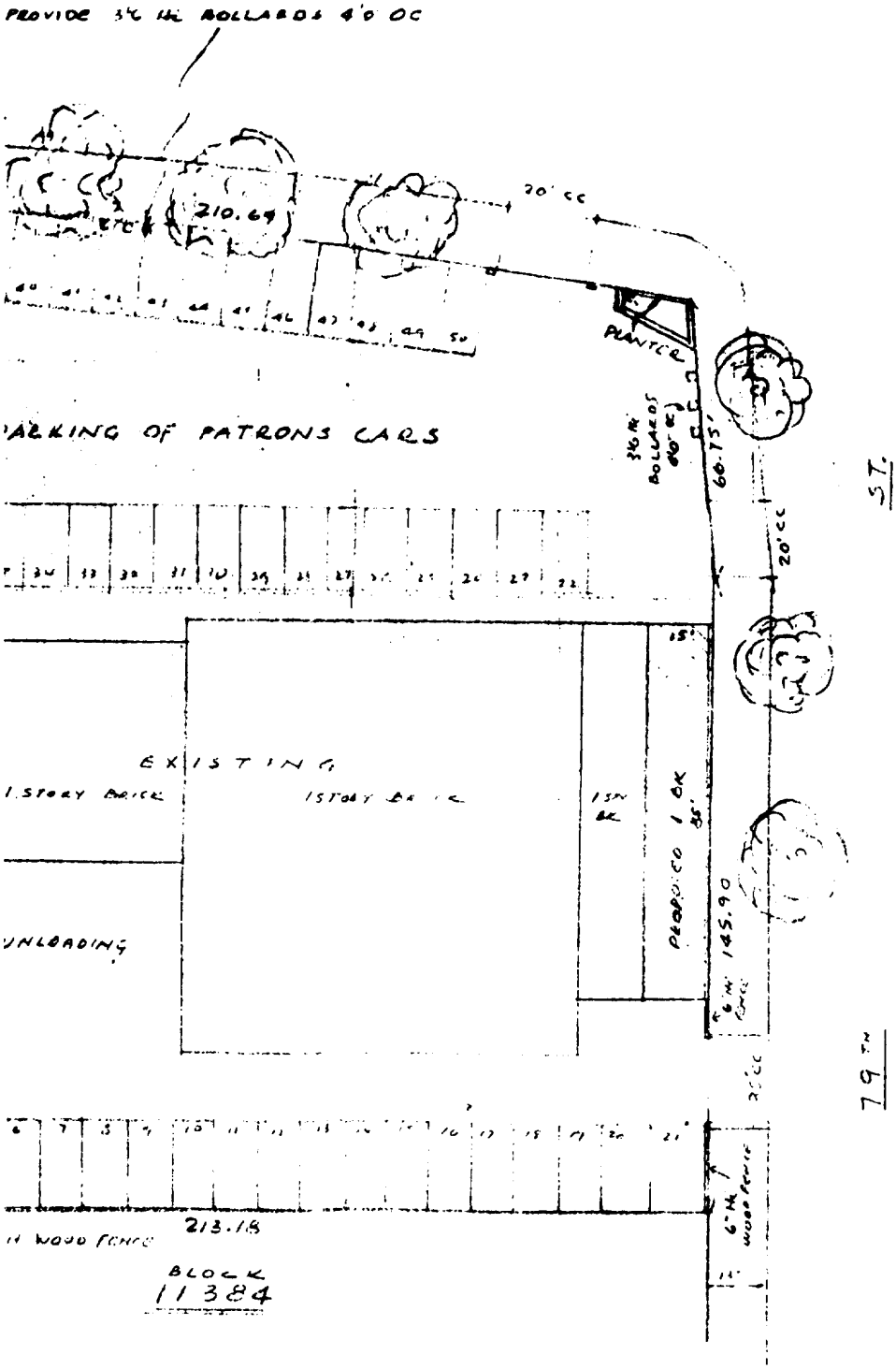


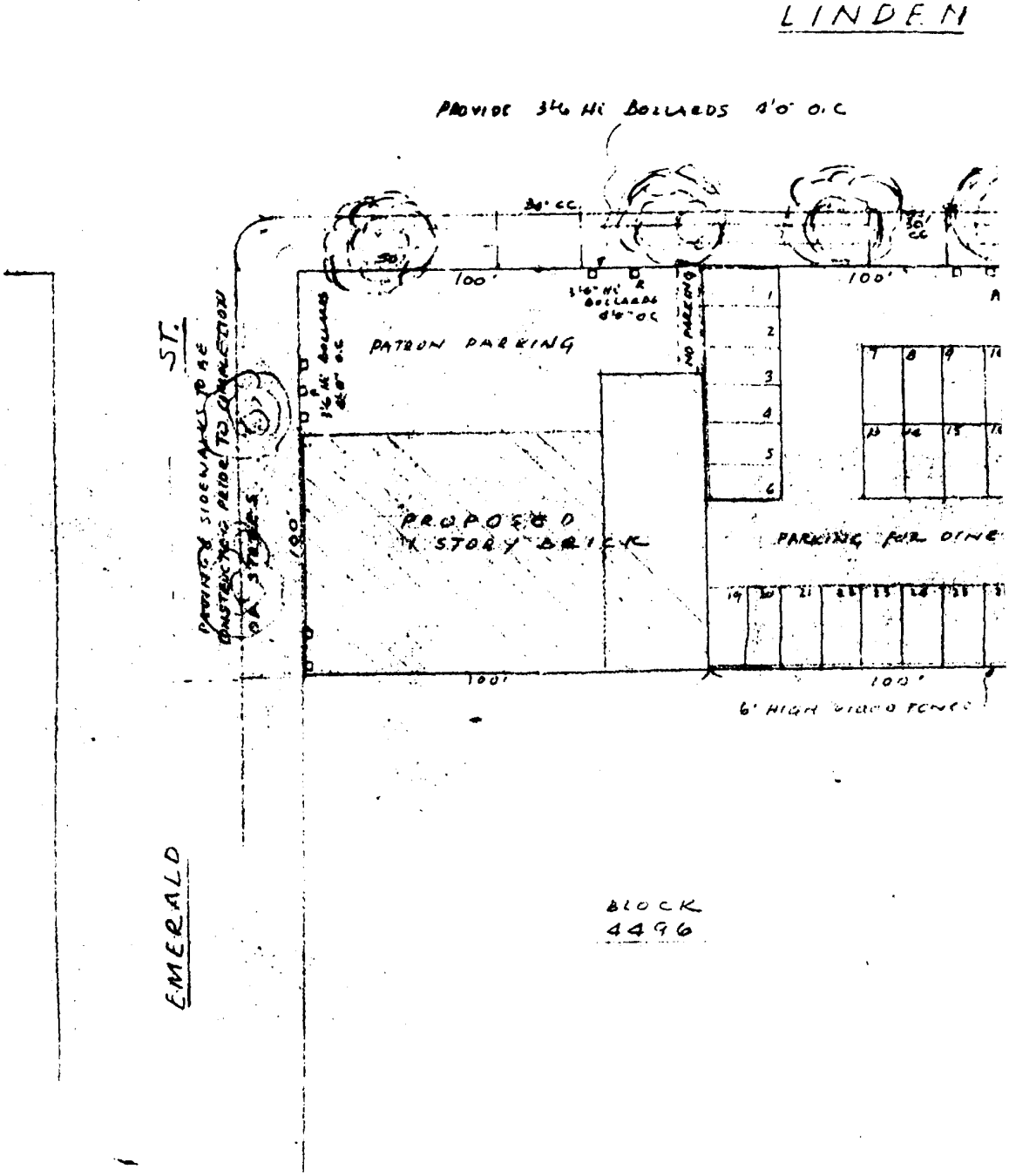
EXHIBIT "D"

CP 23262
CP 23263

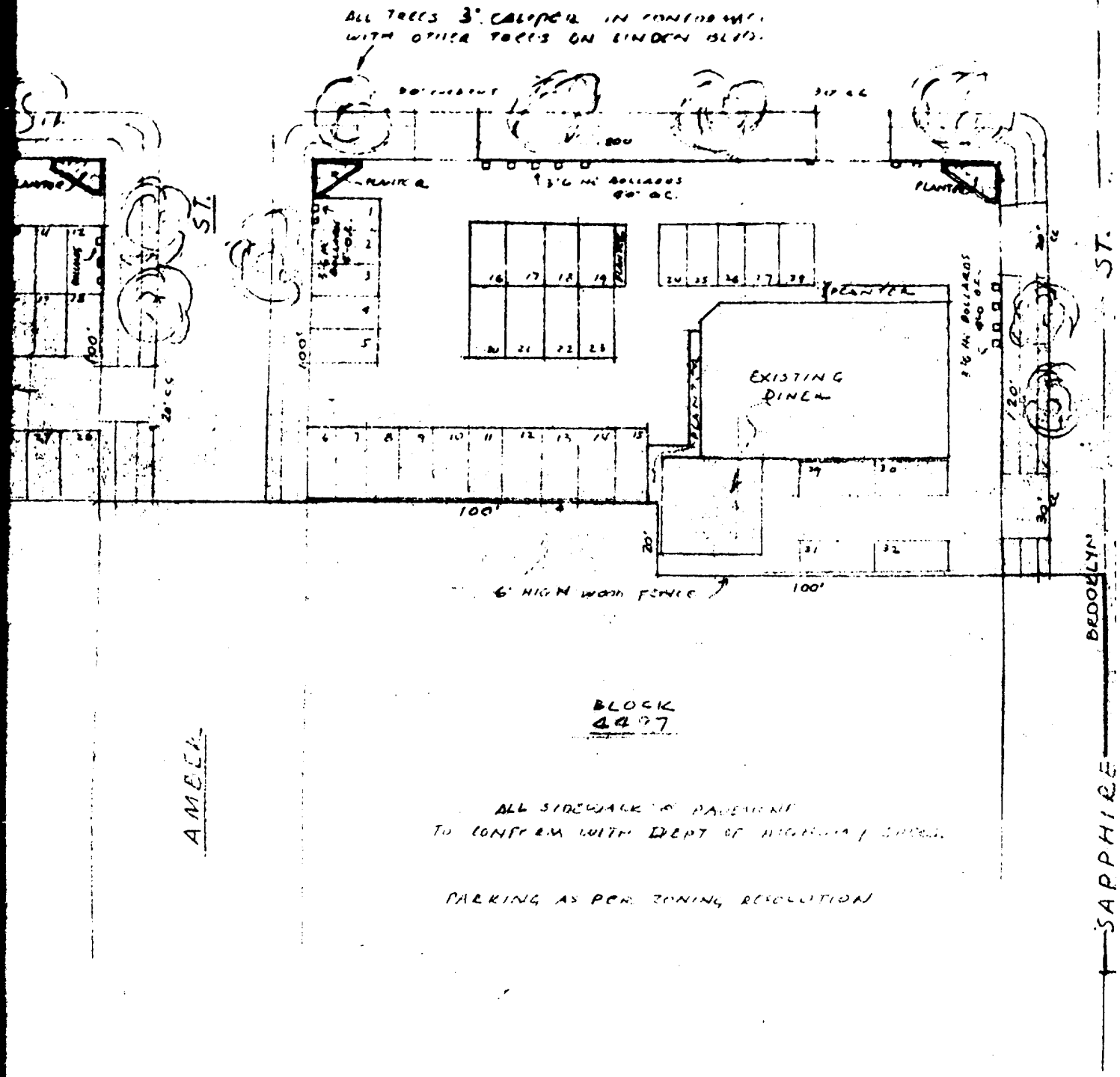
LEVINE · CLASS
ASSOC.

PAUL · GOLDSMITH ·
· CONSULTING · ENGINEER ·
· 50 · LIVINGSTON · ST., BKLYN.

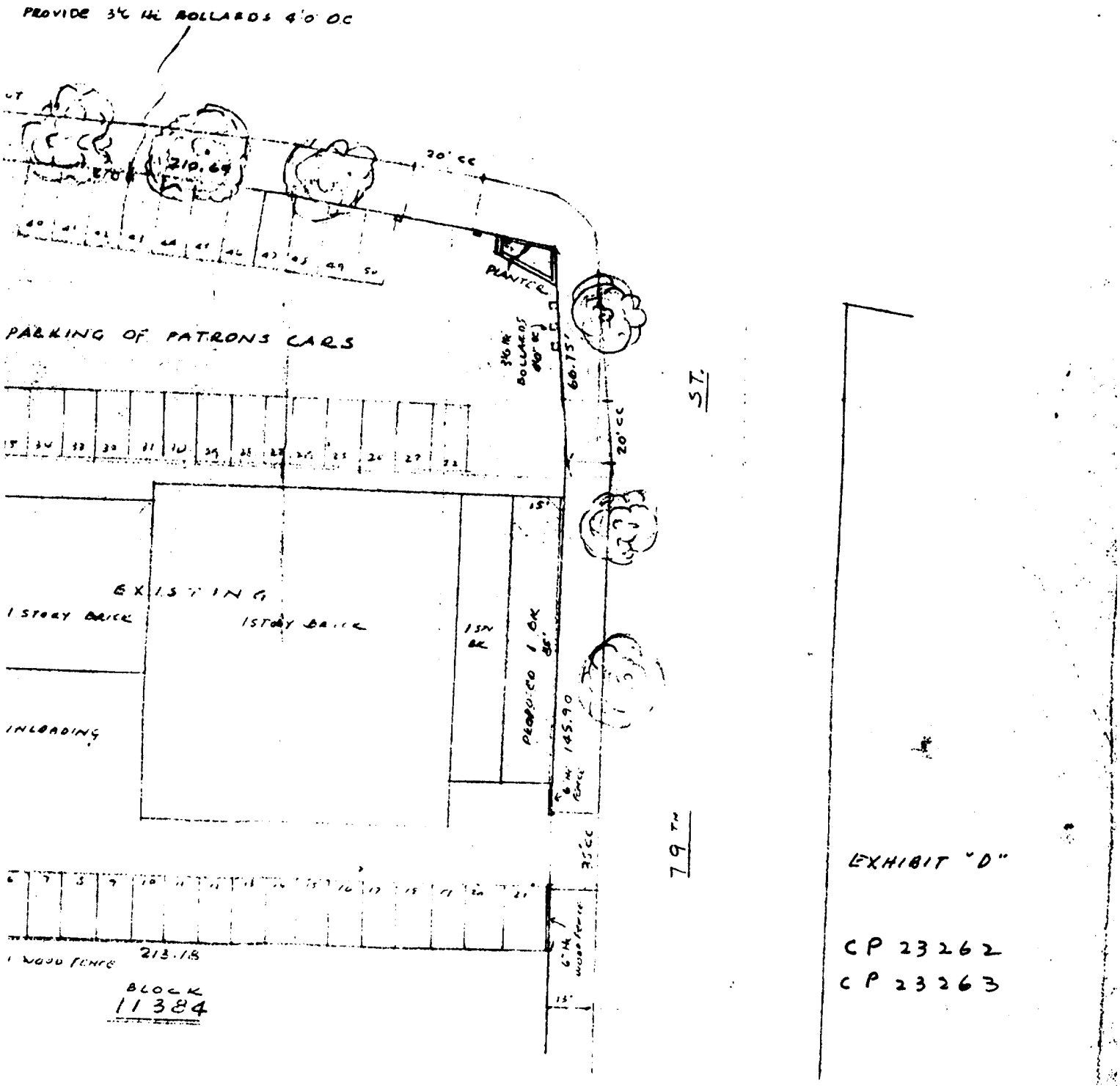
6-3-76



REEL 939 PAGE 1619



· AREA · DIAGRAM ·
SCALE: 1" = 30'



EVINE - ETALS
ER

SAUL GOLDSMITH
CONSULTING ENGINEER
80 LIVINGSTON ST, B-KLYN.

6-3-76
6-22-76
6-24-76
7-9-76
7-16-76

Alexander J. Mautner

REEL 939 PAGE 1622

BM-DSK-RJM-L-990

Mr. Harvey Schulte
Department of City Planning
185 Montague Street
Brooklyn, New York 11201

Att: Holly Kaye

Dear Sir:

The following are the street improvement requirements regarding the Linden Boulevard - Emerald Street - 79th Street rezoning proposal:

1) 79th Street on its westerly side from Linden Boulevard to 212 feet south; and Linden Boulevard from Emerald Street to 79th Street:

   a) Existing curb and sidewalk to be repaired, where necessary.

2) Amber Street from Linden Boulevard to 100 feet south; Sapphire Street from Linden Boulevard to 120 feet south:

   a) Grade the street to its full mapped width.
   b) Install new concrete curbs on both sides of the street 11 feet from the building lines and full width sidewalks adjacent to the curbs.
   c) Pave and/or repave the full width of the roadway (38 feet) adjacent to the new curbs with a 6 inch asphalt macadam pavement (2 inches on 4 inches) and adjust to meet existing pavement.

3) Sapphire Street on the easterly side from 120 feet south of Linden Boulevard to 235 feet south of Linden Boulevard:

   a) Grade the easterly half of Sapphire Street from the building line to 5 feet west of the centerline.

EXHIBIT E

REEL 939 PAGE 1623

b) Install new concrete curbs and full width sidewalks on the easterly side.
c) Pave and/or repave one-half of the street plus 5 feet adjacent to the new curbs with a 6 inch asphalt macadam pavement (2 inches on 4 inches) and adjust to meet existing conditions.

Please note the above requirements are only preliminary and are only intended to guide your thoughts in this matter. If further discussion is necessary, we will be pleased to meet with you on this matter.

Very truly yours,

BARNEY LA GRECA, P.E.
Chief Engineer
Highway Design

RJM/cj 6/14/76
cc: Correa.
Comm. Sloan
Markham
La Greca
R. Meyers ✓

Sophie Slater
SOPHIE SLATER

By Michael Levine for
MARILYN A. WEINTRAUB, as
Attorney-in-fact

By Michael Levine for
ELLEN C. HERSCOWITZ, as
Attorney-in-fact

REEL 939 PAGE 1624

STATE OF NEW YORK)
)ss.:
COUNTY OF KINGS)

On this 28th day of June, 1976, before me personally appeared MICHAEL LEVINE, DAVID R. LEVINE and SOPHIE SLATER, to me known to be the individuals described in and who executed the foregoing instrument and they acknowledged to me that they executed the same.

Ann Cooperberg
ANN COOPERBERG
Notary Public, State of New York
No. 24-0756725
Qualified in Kings County
Certificate filed in Kings County
Commission Expires March 30, 197 7

STATE OF NEW YORK)
COUNTY OF KINGS) ss.:

On this 28th day of June, 1976, before me personally appeared MARILYN A. WEINTRAUB and ELLEN C. HERSCOWITZ, by MICHAEL LEVINE, Attorney-in-fact, to me known to be the individuals described in and who executed the foregoing instrument and they acknowledged to me that they executed the same. POWER OF ATTORNEY ~~RECORDED IN KINGS COUNTY CLERK'S OFFICE ON SEPT 24, 1976 IN Reel 874 p 686~~. TO BE RECORDED SIMULTANEOUSLY HEREWITH

Ann Cooperberg
ANN COOPERBERG
Notary Public, State of New York
No. 24-0756725
Qualified in Kings County
Certificate filed in Kings County
Commission Expires March 30, 197 7

10/5/76
32343

H
L
S
W

9C3-10322

32344

S2

29.00

1976 OCT -5 PM 1 08

OCT-5-76 110924

B

DECLARATION

BY

B-29

MICHAEL LEVINE

The land affected by the within Declaration lies in Tax Block 11384 Lot 1, County of Queens.

OBTAIN CERTIFIED COPY

OFFICE OF CITY REGISTER
Queens County
RECORDED
Witness my hand
and official seal

Marianne C. Dwyer
CITY REGISTER

RECORD & RETURN TO:
MICHAEL LEVINE
COUNSELOR AT LAW
50 COURT STREET
BROOKLYN, N. Y. 11201

RECORDED BY
T. G. & T. CO.

17

REEL 939 PAGE 1625