

SECTION V

TECHNIQUES FOR LOCAL IMPLEMENTATION OF THE PROGRAM

V. TECHNIQUES FOR LOCAL IMPLEMENTATION OF THE PROGRAM

This section describes the local techniques -- legal, administrative, managerial and financial -- required to carry out the LWRP.

Part A describes existing local laws and regulations which will help to implement the LWRP. Part B sets forth specific implementing actions or projects. Part C describes the management structure proposed to coordinate the program. Part D indicates the financial resources needed and, where possible, available to carry out specific proposed actions. Part E is a chart summarizing proposed actions and the policies from Section III to which they relate.

A. Local Laws and Regulations

The following existing laws and regulations are used by the Village to regulate or review land use and development activity in the coastal area:

1. Zoning Law (see Map No. 10)

The zoning law includes a number of provisions relevant to this program. The zoning laws and regulations establish land use and density controls in designated districts.

a. Historic District

The Law establishes a Historic District and Landmark Preservation Commission with powers to designate landmark structures and districts and authorizes the Planning Board to review applications for building permits for such structures to assure that the historic importance will not be adversely affected.

The land use controls are essential tools for implementation of the Development Policies (1, 1A, 2, 2A, and 4) and Historic and Scenic Resource Policies (23 and 25).

b. Residential Districts

The R1, R1-A and R1-B zoning districts cover the largest portion of the Village, generally for single family and two-family dwellings and other public compatible uses, including institutional uses and places of worship.

Multiple residence districts are the R-2, R-3 and R-4 districts which provide for a range of housing types and densities

commensurate with the scale and character of various neighborhoods in Nyack.

c. **Commercial Districts**

The Commercial Districts provide for a range of commercial uses, including intensive downtown retail, office and service uses and supportive uses such as apartments, governmental, religious and educational uses in the C-1 Central Commercial district; commercial uses that depend on motorists and use large parcels of land in the C-2 General Commercial district; and in the C-3 Waterfront Development district, water-dependent uses and water enhanced uses where public access is provided.

d. **Waterfront Development**

The purposes of the C-3 Waterfront Development District are 1) to maximize utilization of waterfront land by water oriented uses which require a waterfront location; to maximize public access from the land and along the Hudson River shoreland; regulate water enhanced uses and protect water quality, fish and wildlife, scenic views and natural vegetation; and enhance aesthetic resources to the greatest extent feasible. Permitted uses include:

- (a) Facilities for hauling, launching, mooring, dry storage, and drysailing of boats; boat storage shall not exceed 25 feet in height.
- (b) Public and private recreation facilities requiring a waterfront location, such as boat launches, fishing piers, and docking and swimming facilities.
- (c) Maritime centers and similar facilities which utilize the waterfront for recreational, educational, cultural, or scientific uses.
- (d) Waterfront trails, parks, and scenic overlooks.
- (e) Retail sale of materials, supplies, parts, tools, and other equipment used in connection with boats.
- (f) Retail sale of bait, supplies, equipment, materials and parts used in connection with fishing.

- (g) Facilities for the sale and/or rental of boats, new and/or used.
- (h) Municipal fishing piers, including facilities for docking and transfers of catch from boat to ground transport.
- (i) Municipal docking facilities for tour boats, services and similar passenger vessels.

Uses permitted by special permit, include:

- (a) Retail sales and personal service establishments.
- (b) Arts and crafts shops where goods are manufactured or assembled on the premises.
- (c) Restaurants and drinking establishments, but excluding drive-in type restaurants and fast-food establishments, provided that the distance requirements for drinking establishments of §59-10B (1) (c) are met.
- (d) Business, professional and governmental offices and research laboratories.
- (e) Commercial parking lots.
- (f) Museums and art galleries.
- (g) Boat sales, service and storage facilities.
- (h) Marinas, including related uses such as boat storage, clubhouses, locker rooms, equipment sales, eating and drinking facilities and boat service facilities.
- (i) Theaters and cinemas, but excluding the drive-in type.
- (j) Hotels and motels.
- (k) Membership clubs, including boat clubs.
- (l) Public utility structures and rights-of-way.

In addition, permanent public access must be provided from the adjacent public street to and along the Hudson River for the uses listed in "a"

through "g" which are non-water-dependent and are permitted by special permit. Such access, in the form of a permanent easement shall extend along the normal high water line of the Hudson River for at least seventy-five percent (75 %) of the width of the property and shall be part of a continuous connection between the north and south boundaries of the property. Porous pavement material, such as cobblestone, brick, etc. suitable for pedestrian use, at least six feet wide, shall be provided for the entire length of the easement; suitable landscaping shall also be provided. The access easement shall provide for permanently unobstructed views or vistas of the Hudson River along its entire length. Provision satisfactory to the Village Board shall be made by the property owner for maintenance of the public access.

Site plan approval in the C-3 district must be subject to the following additional considerations:

- 1) The quality and extent of views from the adjacent public streets through the property to the Hudson River.
- 2) The design and relationship of development to the waterfront as viewed from the Hudson River.
- 3) The design and function of any easement or other access provided to the water's edge, including new bulkheading.
- 4) The eligibility of proposed development to utilize any of the development incentives set forth in Paragraph "F" below.

The following special bulk requirements apply to all construction within the Waterfront Development C-3 District:

- 1) Building Height: No buildings or structures shall be erected to a height in excess of 35 feet, except as provided in F (1) below.
- 2) Building Width: The total cumulative width of buildings, structures, fences or walls more than 30 inches in height shall not occupy more than 50% of the width of a parcel as measured along a line parallel to the adjacent street measured at the front yard. Of the remaining open area, one uninterrupted space shall be at least 30% of such parcel width, unless the parcel provides more than one view corridor as required in sub-paragraph (4) below.

- 3) **Riverfront Setback:** No building or structure shall be erected within 50 feet of the normal high water line of the Hudson River unless its design requires a location closer to such water line, as determined by the Planning Board. Said 50 feet shall be the average distance derived by measuring the riverfront setbacks from any building or structure to the normal high water line of the Hudson River, except that no part of any building or structure shall be closer than 15 feet to the normal high water line.
- 4) **View Corridor:** A view corridor to the Hudson River shall be maintained at the intersection where each street intersects Gedney Street or Piermont Avenue and at the northerly end of Gedney Street. Such view corridor shall have an unobstructed width of at least 50 feet at the street line and 100 feet at a distance 300 feet from such street line, measured perpendicular to the center line, extended, of such intersecting street. Such view corridor shall be unobstructed as to height.

In order to encourage development which promotes the purposes for which the Waterfront Development District has been established, and to achieve the benefit of preserving the viewshed to and along the Hudson River, the following exceptions to the bulk requirements may be permitted by the Village Board. Only one such exception may be granted for each property for each of the following categories:

- 1) **Building height** may be increased to no more than 45 feet under the conditions as follows: Maximum height may be increased by five feet for each five percent reduction of maximum permitted width, up to a maximum of 45 feet (e.g. if width is 45 percent, maximum permitted height is 35 feet; if width is 40 percent, maximum permitted height is 40 feet). In the case of a building 40 to 45 feet in height, the exceptions to height limitations set forth in Section 59-22.lb., of the zoning law, as amended, shall not apply.
- 2) **Building Width** may be increased to a maximum of 60 percent of the width of a parcel if the parcel provides more than one view corridor as required in Section E (4).
- 3) **Floor area ratio** may be increased to no more than 0.90, excluding any parking structures, under the conditions as follow: The provision of special waterfront improvements open to the public such as, but not limited to, park or plaza facilities, boat launching

facilities, or off-street parking in addition to the parking required for the use intended for the site.

To determine the maximum number of residential dwelling units that can be allowed on a parcel of land within the C-3 District, and for all other uses, the lot area of the site shall be determined by subtracting from the gross acreage of the site the following:

- 1) Land below the normal high water line of the Hudson River prior to any filling; and
- 2) Land shown to be in the floodway or coastal high hazard area (A and B-zone) of the Federal Emergency Management Agency's flood boundary and floodway map or flood insurance rate map, prior to any filling.

The following amounts of off-street parking spaces are required:

Marinas and boat clubs	1 for each 3 boat slips or moorings other than those assigned to a residential unit on the subject site.
Business, professional and governmental offices	1 for each 300 square feet of gross floor area.
Cultural, educational or scientific uses which utilize the waterfront	1 for each 300 square feet of gross floor area.
Public and private recreational facilities which utilize the waterfront.	1 for each 4 persons, based on site capacity.
Public utility structures and rights-of-way	At least 5 spaces.
Boat sales, parts, equipment, service storage facilities	1 for each 3 boats, based on site capacity.
Municipal fishing piers, including facilities for docking and transfer of catch from boat to ground transport	At least 10 Spaces, or 1 for each 5 boats based on site capacity.

Docking facilities for tour boats, services and similar passenger vessels	At least 10 spaces.
Permanent structures for the sale of ice, food and beverages for off premises consumption	1 for each 300 square feet gross floor area.
Hotel and Motels	1 space per unit, guest room or suite plus 1 for every 25 units, guest rooms and suites or portions thereof.
Restaurants	1 space per 3 seats
Bed and Breakfast establishments	1 space per bedroom
Multiple dwellings	1.5 spaces per unit.
Specialty shop and other commercial establishments	1 space per 200 feet of gross floor area

2. Subdivision Regulations

These regulations enable the Planning Board to (1) establish standards for the division of land into building lots and the design and construction of improvements and (2) require approval of plans and specifications prior to subdivision. However, few opportunities for new subdivision activity exist.

Application: These regulations can assure orderly development and particularly achieve the Flooding and Erosion Policies (14 and 17), and Water and Air Resources Policies (33 and 37).

3. Flood Damage Prevention Regulations

These regulations set standards for the type and location of construction in flood hazard areas designated by the Federal Emergency Management Agency. By enacting such legislation, the community enables property owners to be eligible for flood insurance and is entitled to federal aid in the event of a flood related disaster.

Application: These regulations are used to achieve Flooding and Erosion Policies 14 and 17.

4. Environmental Quality Review

State law requires local governments to administer compliance with the State Environmental Quality Review Act.

Application: Adherence to SEQR procedures allow the "lead" agency to identify possible adverse impacts of proposed actions on any aspect of the physical environment at the earliest possible state and to recommend or require appropriate mitigation measures.

5. Local Consistency Law

A local law was adopted by the Village to ensure that all local boards, agencies, commissions and departments act consistently with the policies established in the LWRP. It establishes the administrative framework for implementing the LWRP and the specific regulations to ensure that coastal policies are implemented.

That management structure is described in Section V.C.

6. Other Provisions

The Village adopted several amendments to the Village Zoning Law during preparation of the LWRP. One local law accomplished the following;

- 1) Removed reference to the "Planned Riverfront Development (PRD)" District and deleted the district in its entirety from the Zoning Law;
- 2) Modified the title of the "Waterfront Commercial (C-3)" District to read "Waterfront Development" District and added to its purposes the promotion of water-dependent uses and public access; regulation of water-enhanced uses; protection of water quality, scenic resources, fish and wildlife and natural vegetation; and enhancement of aesthetic resources; and
- 3) Amended the C-3 District with respect to uses permitted, maximum building height and minimum riverfront setback requirements, view corridors, development incentives, and other requirements to accomplish the above purposes.

A second local law made the following changes:

- 1) Amended the floor area ratio, building coverage and other bulk requirements of the existing C-1 and R-M Districts to reduce the potential density of development;
- 2) Created a new C-1A District, similar to the C-1 District in uses allowed, but providing for a lower floor area ratio, building coverage and building height; and
- 3) Substituted an amended definition of "height," amending the manner in which height measurements are determined and establishing certain exceptions to the height limitations.

The regulations for the R-1 District were amended to permit marinas and related support facilities. The only location where this provision applies is between Memorial Park and the southerly Village boundary.

These amendments support, in whole or in part, Development Policies (1 and 2), Public Access Policies (19 and 20), Recreation Policies (21 and 22) and Historic and Scenic Resources Policy 25).

B. Other Public and Private Actions Necessary to Implement the LWRP

Disposition and Development of Former Sewage Plant Site

The only publicly-owned site on the waterfront, other than Memorial Park, is the former sewage treatment plant site at the foot of Spear Street, adjacent to Peterson's Marina. Despite its key location, use and development of this site, for either public or private purposes, is severely hampered by its virtual lack of legal access. (See Map 10.) To remedy this situation, in part, and to expand the potential development site, the Village has moved to acquire four generally contiguous parcels on either side of Court Street, which lies west of the sewage plant site.

A review was undertaken of all possible means of establishing access to the site as well as appropriate uses for it (see Exhibit V-B). Access options ranged from sale to an adjacent owner, to acquisition or exchange of land to create a small right-of-way, to acquisition of land to create a larger parcel. A variety of potential public and private water related uses were identified as being suitable. In addition, the potential financial and administrative implications of each option were considered.

Based on the analysis, a procedure is recommended that would result in both public and private use of the parcel, under guidelines established by the Village, at no cost to the Village. The procedure would establish a competition for the site by advertising it for long term lease subject to a set of development controls requiring water related uses, public access provisions and design criteria. Proposals will be considered on the basis of the uses proposed, the quality of design, the public facilities included and the price offered. Proposals would indicate how access to the site is to be provided and what, if any assistance from the Village is required. More specific details of this proposed procedure follow.

1. Disposition Procedure

The site would be advertised for long term lease and bids from any interested party would be accepted. Proposals must comply with the provisions for uses and development set forth in 2. below and would be accepted on the basis set forth in 3. below. It is recommended that the annual proceeds from the lease be used to finance permanent improvements at Memorial Park.

2. Development Regulations

a. Permitted uses

The uses to be permitted would be consistent with the uses to be allowed in the proposed revised C-3 Waterfront Development district (see Local Law 17, 1991).

b. Provision of Public Access and Facilities

As part of any site plan, the following features shall be provided:

- (1) Continuous pedestrian access from a public right-of-way to the water's edge and across the entire north-south dimension of the site.
- (2) An area at least 50 feet long, at the water's edge and 10 feet wide, accessible via the pedestrian access described in (1) above.
- (3) Provision of an area or areas appropriate for recreational fishing, for transfer and distribution of commercial fishing catch and for short term public docking.

c. Other Regulations

- (1) The development plan must comply with all relevant provisions of the Village Zoning Law.
- (2) The transaction will be nullified if agreed upon timetables and other performance criteria are not met.

3. Selection Procedure

All proposals would be received and reviewed by the Village Board, with advice from the Planning Board. The decision as to which proposal is to be accepted will be based on a combination of the following factors leading to an over-all evaluation as to which proposal best serves the Village's needs and objectives for waterfront development:

- a. The nature and appropriateness of the proposed uses;
- b. The quality of design of buildings and site layout;
- c. The method and quality of public access provided;
- d. The means by which access to the site will be provided;
- e. The nature and extent of related development on adjacent parcels which are incorporated into the development plan;
- f. The timetable proposed; and
- g. The lease price offered for the site.

C. Management Structure to Implement the Program

Since no single existing Village agency had responsibility for the wide range of issues and actions affecting the coastal area, the Village Waterfront Advisory Committee was formed to evaluate the problems and possibilities facing the coastal zone. Upon adoption of the LWRP, however, the Committee's task was completed. The continued responsibility to monitor and coordinate implementation of the Local Waterfront Revitalization Program has been assumed by the Village Board. This responsibility includes the following actions:

1. Establishing implementation priorities, work assignments, timetables, and budgetary requirements of the program.

2. Reviewing applications for coastal development permits, zoning changes, subdivisions and public works projects in the coastal area and advising the appropriate Village agency regarding the consistency of the proposed action with the LWRP.
3. Making application for funding from State, Federal, or other sources to finance projects under the LWRP.
4. Maintaining liaison with related Village bodies, including but not limited to the Planning and Zoning Boards, and with concerned non-governmental bodies, in order to further the implementation of the LWRP.
5. Evaluating in a timely fashion proposed actions of State agencies within the coastal zone in order to assure consistency of such actions with policies of the LWRP, advising State agencies of any conflicts, and participating in discussion to resolve such conflicts.
6. Reviewing proposed federal actions referred to it by the Department of State and advising the DOS as to its opinion concerning the consistency of the action with local coastal policies.
7. Developing and maintaining liaison with neighboring municipalities and with county agencies.
8. Performing other functions regarding the coastal zone as may be appropriate from time to time. Proposed federal and State actions in the coastal area will be reviewed in accordance with the guidelines established by the NYS Department of State as set forth in Exhibits V-C. 1 and 2

D. Financial Resources to Implement the LWRP

Financial resources in varying amounts are required to implement the three types of actions in the LWRP--legal and administrative actions and physical projects. Resources necessary for the first two categories are relatively small and can be included in normal annual budget allocations. Although the list of physical projects has been intentionally limited to those of highest priority, several are beyond the normal financial capacity of the Village.

Section VI indicates various State and Federal programs which may affect implementation of the LWRP, including some potential funding sources for specific physical projects. However, it is recognized that such funding is limited and competition for available funds is intense. Set forth below is the estimated cost of each proposed physical project where available, and possible sources of funds to implement them. Estimated costs are in 1988 dollars.

1. Removal of Abandoned Barges

- a. Estimated Cost: \$500,000
- b. Possible Funding Sources
 - New York State DEC
 - New York State DOS
 - Hudson River Foundation (Exxon Fund)
 - Corps of Engineers

2. Fishing Dock

- a. Estimated Cost: \$100,000
- b. Possible Funding Sources
 - Private developers as part of large scale development
 - New York DEC
 - New York DOS

3. Riverfront Walks

- a. Estimated Cost: (Part of site development costs)
- b. Possible Funding Sources
 - Private Developers

4. Maintenance Dredging

- a. Estimated Cost: Undetermined
- b. Possible Funding Sources
 - US Corps of Engineers

5. Memorial Park Master Plan

- a. Estimated Cost: \$50,000
- b. Possible Funding Sources
 - New York State DOS

- New York State OPRHP
- Open Space Institute
(Model Town's Grant)*

E. Summary Chart of Actions and Policies

The following chart indicates the various implementing actions described in Sections IV and V; the Policy(s) in Section III to which they are related; the local, State, and federal agencies responsible; and the suggested priority of each:

* In June of 1981, the Village received such a grant to prepare a concept plan for Memorial Park

ACTIONS AND POLICIES: SUMMARY

LOCAL WATERFRONT REVITALIZATION PROGRAM - VILLAGE OF NYACK

ACTION (see text for description)	Related Policies	Responsible Agency (s)*	Priority**
1. <u>Physical Projects</u>			
a. Barge Removal	1,2,9,14,35	VB, CE	1,2
b. Fishing Dock	4,9,10,21	VB, RC	2
c. Riverfront Walks	19, 21,22	P, VB	2,3
d. Maintenance Dredging	2,2A,4,33,37	VB, CE	2
e. Memorial Park Master Plan	19,20,21,22	VB, RC	2
2. <u>Legislation and Other Actions</u>			
a. Local Consistency Law	All	VB	Adopted
b. Zoning Amendments	1,1A,2,4,19, 21,22,25	VB	Adopted
c. Disposition of Sewage Plant Site	1,1A,2,4,10, 19,22	VB	1

Responsible Agency

VB-Village Board

DEC=NYS Department of Environmental Conservation

DOT=NYS Department of Transportation

CE=US Corps of Engineers

P=Private Property Owners

RC=Recreation Commission

Priority

1=high priority

2=medium priority

3=long range

Priorities reflect discussion at Waterfront Advisory Committee meetings, responses to the questionnaire, and project feasibility.

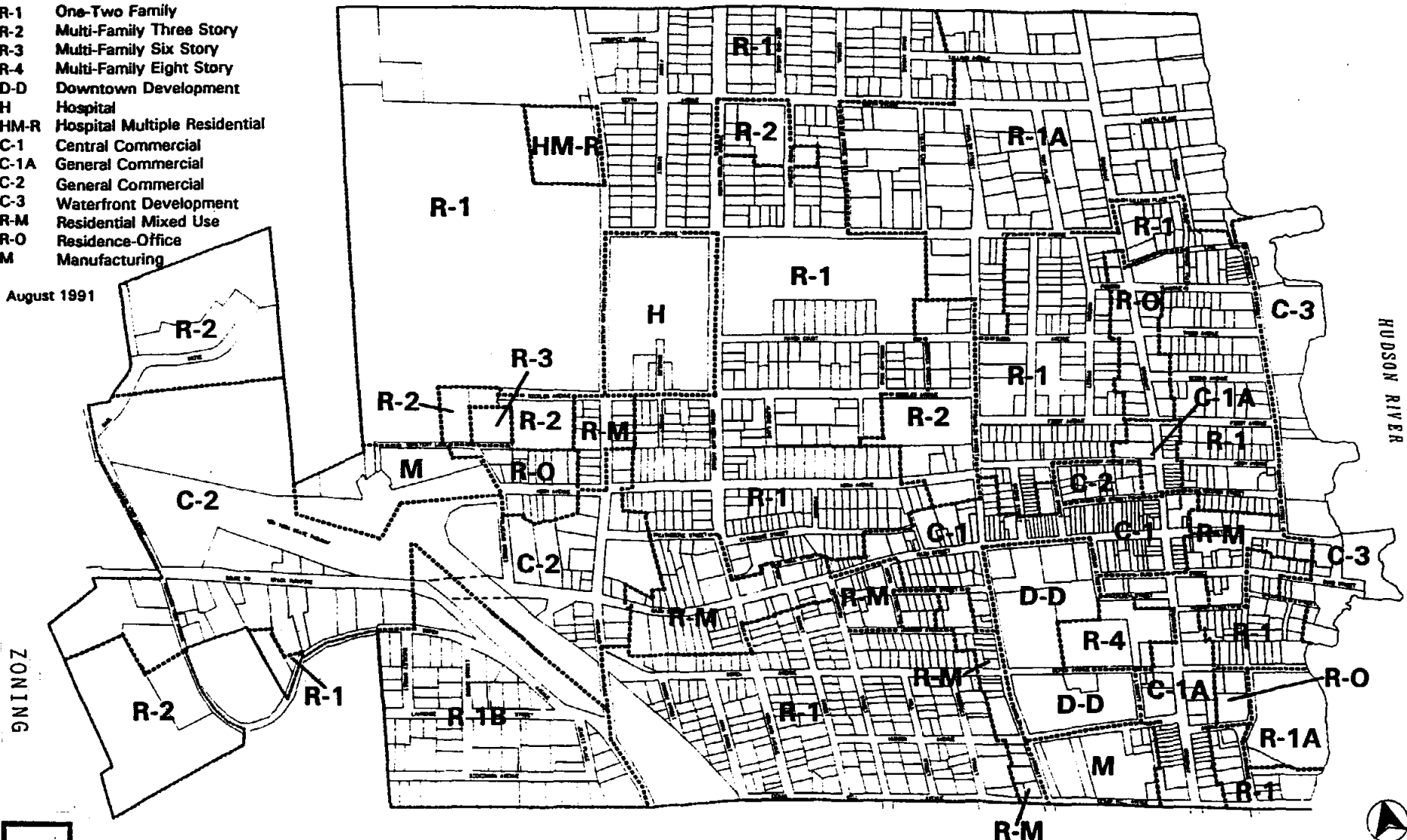
ZONING MAP

- R-1A One Family
- R-1B One Family
- R-1 One-Two Family
- R-2 Multi-Family Three Story
- R-3 Multi-Family Six Story
- R-4 Multi-Family Eight Story
- D-D Downtown Development
- H Hospital
- HM-R Hospital Multiple Residential
- C-1 Central Commercial
- C-1A General Commercial
- C-2 General Commercial
- C-3 Waterfront Development
- R-M Residential Mixed Use
- R-O Residence-Office
- M Manufacturing

August 1991

VILLAGE OF NYACK

Base Map: Raymond, Parish,
Pine and Weiner, Inc.
9/12/85



ZONING

10

Source: Towns of Orangetown and Clarkstown Top Maps

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Map Prepared by:
Howard S. Emanuel Associates, Inc.
Community Planning and Development Consultants
February, 1990

APPENDIX V-A

PROCEDURAL GUIDELINES
FOR
COORDINATING CONSISTENCY REVIEW
OF
FEDERAL AND STATE AGENCY ACTIONS

Appendix A.1

PROCEDURAL GUIDELINES FOR COORDINATING NYS DEPARTMENT OF STATE (DOS) & LWRP CONSISTENCY REVIEW OF FEDERAL AGENCY ACTIONS

DIRECT ACTIONS

1. After acknowledging the receipt of a consistency determination and supporting documentation from a federal agency, DOS will forward copies of the determination and other descriptive information on the proposed direct action to the program coordinator (of an approved LWRP) and other interested parties.
2. This notification will indicate the date by which all comments and recommendations must be submitted to DOS and will identify the Department's principal reviewer for the proposed action.
3. The review period will be about twenty-five (25) days. If comments and recommendations are not received by the date indicated in the notification, DOS will presume that the municipality has "no opinion" on the consistency of the proposed direct federal agency action with local coastal policies.
4. If DOS does not fully concur with and/or has any questions on the comments and recommendations submitted by the municipality, DOS will contact the municipality to discuss any differences of opinion or questions prior to agreeing or disagreeing with the federal agency's consistency determination on the proposed direct action.
5. A copy of DOS' "agreement" or "disagreement" letter to the federal agency will be forwarded to the local program coordinator.

PERMIT AND LICENSE ACTIONS

1. DOS will acknowledge the receipt of an applicant's consistency certification and application materials. At that time, DOS will forward a copy of the submitted documentation to the program coordinator and will identify the Department's principal reviewer for the proposed action.
2. Within thirty (30) days of receiving such information, the program coordinator will contact the principal reviewer for DOS to discuss: (a) the need to request additional information for review purposes; and (b) any possible problems pertaining to the consistency of a proposed action with local coastal policies.

3. When DOS and the program coordinator agree that additional information is necessary, DOS will request the applicant to provide the information. A copy of this information will be provided to the program coordinator upon receipt.
4. Within thirty (30) days of receiving the requested additional information or discussing possible problems of a proposed action with the principal reviewer for DOS, whichever is later, the program coordinator will notify DOS of the reasons why a proposed action may be inconsistent or consistent with local coastal policies.
5. After the notification, the program coordinator will submit the municipality's written comments and recommendations on a proposed permit action to DOS before or at the conclusion of the official public comment period. If such comments and recommendations are not forwarded to DOS by the end of the public comment period, DOS will presume that the municipality has "no opinion" on the consistency of the proposed action with local coastal policies.
6. If DOS does not fully concur with and/or has any questions on the comments and recommendations submitted by the municipality on a proposed permit action, DOS will contact the program coordinator to discuss any differences of opinion prior to issuing a letter of "concurrence" or "objection" letter to the applicant.
7. A copy of DOS' "concurrence" or "objective" letter to the applicant will be forwarded to the program coordinator.

FINANCIAL ASSISTANCE ACTIONS

1. Upon receiving notification of a proposed federal financial assistance action, DOS will request information on the action from the applicant for consistency review purposes. As appropriate, DOS will also request the applicant to provide a copy of the application documentation to the program coordinator. A copy of this letter will be forwarded to the coordinator and will serve as notification that the proposed action may be subject to review.
2. DOS will acknowledge the receipt of the requested information and provide a copy of this acknowledgement to the program coordinator. DOS may, at this time, request the applicant to submit additional information for review purposes.
3. The review period will conclude thirty (30) days after the date on DOS' letter of acknowledgement or the receipt of requested additional information, whichever is later. The review period may be extended for major financial assistance actions.
4. The program coordinator must submit the municipality's comments and recommendations on the proposed action to DOS within twenty days (or other time agreed to by DOS and the program coordinator) from the start of the review period. If comments and

recommendations are not received within this period, DOS will presume that the municipality has "no opinion" on the consistency of the proposed financial assistance action with local coastal policies.

5. If DOS does not fully concur with and/or has any questions on the comments and recommendations submitted by the municipality, DOS will contact the program coordinator to discuss any differences of opinion or questions prior to notifying the applicant of DOS' consistency decision.
6. A copy of DOS' consistency decision letter to the applicant will be forwarded to the program coordinator.

Appendix A.2

NEW YORK STATE DEPARTMENT OF STATE COASTAL MANAGEMENT PROGRAM

Guidelines for Notification and Review of State Agency Actions Where Local Waterfront Revitalization Programs are in Effect

I. PURPOSES OF GUIDELINES

- A. The Waterfront Revitalization of Coastal Areas and Inland Waterways Act (Article 42 of the Executive Law) and the Department of State's regulations (19 NYCRR Part 600) require certain state agency actions identified by the Secretary of State to be consistent to the maximum extent practicable with the policies and purposes of approved Local Waterfront Revitalization Programs (LWRPs). These guidelines are intended to assist state agencies in meeting that statutory consistency obligation.
- B. The Act also requires that state agencies provide timely notice to the situs local government whenever an identified action will occur within an area covered by an approved LWRP. These guidelines describe a process for complying with this notification requirement. They also provide procedures to assist local governments in carrying out their review responsibilities in a timely manner.
- C. The Secretary of State is required by the Act to confer with state agencies and local governments when notified by a local government that a proposed state agency action may conflict with the policies and purposes of its approved LWRP. These guidelines establish a procedure for resolving such conflicts.

II. DEFINITIONS

- A. Action means:
 - 1. A "Type 1" or "Unlisted" action as defined by the State Environmental Quality Review Act (SEQRA);
 - 2. Occurring within the boundaries of an approved LWRP; and
 - 3. Being taken pursuant to a state agency program or activity which has been identified by the Secretary of State as likely to affect the policies and purposes of the LWRP.

- B. Consistent to the maximum extent practicable means that an action will not substantially hinder the achievement of any of the policies and purposes of an approved LWRP and, whenever practicable, will advance one or more of such policies. If an action will substantially hinder any of the policies or purposes of an approved LWRP, then the action must be one:
1. For which no reasonable alternatives exist that would avoid or overcome any substantial hindrance;
 2. That will minimize all adverse effects on the policies or purposes of the LWRP to the maximum extent practicable; and
 3. That will result in an overriding regional or statewide public benefit.
- C. Local Waterfront Revitalization Program or LWRP means a program prepared and adopted by a local government and approved by the Secretary of State pursuant to Executive Law, Article 42; which program contains policies on the management of land, water and man-made resources, proposed land uses and specific projects that are essential to program implementation.

III. NOTIFICATION PROCEDURE

- A. When a state agency is considering an action as described in II above, the state agency shall notify the affected local government.
- B. Notification of a proposed action by a state agency:
1. Shall fully describe the nature and location of the action;
 2. Shall be accomplished by use of either the State Clearinghouse, other existing state agency notification procedures, or through an alternative procedure agreed upon by the state agency and local government;
 3. Should be provided to the local official identified in the LWRP of the situs local government as early in the planning stages of the action as possible, but in any event at least 30 days prior to the agency's decision on the action. (The timely filing of a copy of a completed Coastal Assessment Form with the local LWRP official should be considered adequate notification of a proposed action.)
- C. If the proposed action will require the preparation of a draft environmental impact statement, the filing of this draft document with the chief executive officer can serve as the state agency's notification to the situs local government.

IV. LOCAL GOVERNMENT REVIEW PROCEDURE

- A. Upon receipt of notification from a state agency, the situs local government will be responsible for evaluating a proposed action against the policies and purposes of its approved LWRP. Upon request of the local official identified in the LWRP, the state agency should promptly provide the situs local government with whatever additional information is available which will assist the situs local government to evaluate the proposed action.
- B. If the situs local government cannot identify any conflicts between the proposed action and the applicable policies and purposes of its approved LWRP, it should inform the state agency in writing of its finding. Upon receipt of the local government's finding, the state agency may proceed with its consideration of the proposed action in accordance with 19 NYCRR Part 600.
- C. If the situs local government does not notify the state agency in writing of its finding within the established review period, the state agency may then presume that the proposed action does not conflict with the policies and purposes of the municipality's approved LWRP.
- D. If the situs local government notifies the state agency in writing that the proposed action does conflict with the policies and/or purposes of its approved LWRP, the state agency shall not proceed with its consideration of, or decision on, the proposed action as long as the Resolution of Conflicts procedure established in V below shall apply. The local government shall forward a copy of the identified conflicts to the Secretary of State at the time when the state agency is notified. In notifying the state agency, the local government shall identify the specific policies and purposes of the LWRP with which the proposed action conflicts.

V. RESOLUTION OF CONFLICTS

- A. The following procedure applies whenever a local government has notified the Secretary of State and state agency that a proposed action conflicts with the policies and purposes of its approved LWRP:
 - 1. Upon receipt of notification from a local government that a proposed action conflicts with its approved LWRP, the state agency should contact the local LWRP official to discuss the content of the identified conflicts and the means for resolving them. A meeting of state agency and local government representatives may be necessary to discuss and resolve the identified conflicts. This discussion should take place within 30 days of the receipt of a conflict notification from the local government.

2. If the discussion between the situs local government and the state agency results in the resolution of the identified conflicts, then, within seven days of the discussion, the situs local government shall notify the state agency in writing, with a copy forwarded to the Secretary of State, that all of the identified conflicts have been resolved. The state agency can then proceed with its consideration of the proposed action in accordance with 19 NYCRR Part 600.
3. If the consultation between the situs local government and the state agency does not lead to the resolution of the identified conflicts, either party may request, in writing, the assistance of the Secretary of State to resolve any or all of the identified conflicts. This request must be received by the Secretary within 15 days following the discussion between the situs local government and the state agency. The party requesting the assistance of the Secretary of State shall forward a copy of their request to the other party.
4. Within 30 days following the receipt of a request for assistance, the Secretary or a Department of State official or employee designated by the Secretary, will discuss the identified conflicts and circumstances preventing their resolution with appropriate representatives from the state agency and situs local government.
5. If agreement among all parties cannot be reached during this discussion, the Secretary shall, within 15 days, notify both parties of his/her findings and recommendations.
6. The state agency shall not proceed with its consideration of, or decision on, the proposed action as long as the foregoing Resolution of Conflicts procedures shall apply.

APPENDIX V-B
DEVELOPMENT OPTIONS
VILLAGE-OWNED WATERFRONT PROPERTY

SHUSTER ASSOCIATES

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**PLANNING
AND
ZONING
SERVICES**

August 19, 1986

TO: WATERFRONT ADVISORY COMMITTEE, VILLAGE OF NYACK
FROM: DAN SHUSTER
RE: DEVELOPMENT OPTIONS
VILLAGE-OWNED WATERFRONT PROPERTY

As discussed at past meetings, the only Village owned land on the River--other than Memorial Park--is the former sewage treatment plant site at the foot of Spear Street. Despite the ever increasing potential value of this site, for both public and private use, this potential is severely hampered by the lack of legal access. The purpose of this report is to:

1. Analyze possible options for establishing access to the site and/or selling it.
2. Examine possible uses of the site in relation to the Village's goals and objectives for the waterfront.

These two factors are integrally related. In order to demonstrate the various options, a matrix has been prepared illustrating how various possible uses relate to the access and/or disposition possibilities for the site. Sketch plans will be prepared illustrating several of the development options. From this process, a preferred alternative can be selected and included in the LWRP.

A. ACCESS/DISPOSITION OPTIONS

The Village could pursue any of the seven following options to gain access to or dispose of the site.

1. Sell to Adjacent Owner (See Map 1)

At present, the only property owner who would appear to have use for the property is the owner of the adjacent marina. The property would provide opportunity for expansion of both land and water facilities. It would also create a site large enough to be eligible for development under the PRD provisions of the Zoning Law, as well as for other waterfront commercial uses in the C-3 District.

2. Purchase Access from Marina (See Map No. 2)

The smallest possible parcel which can provide access to the site from the north is at the end of Spear Street. Purchase of a 30 foot wide strip--outright or an easement--would be sufficient for cars and pedestrians.

3. Swap Land for Access (See Map No. 3)

The same parcel of land as described in 2. above could be exchanged for a portion of Village land of equal size.

4. Purchase Access from Court Street (See Map No. 4)

Purchase of one parcel of land on Court Street would also provide access. However, Court Street is a narrow street which is somewhat difficult to locate.

5. Assemble Large Site (See Map No. 5)

A large site adjacent to the Village land might be assembled by acquiring some vacant land, several garages and four properties on Court Street. This option would be the most complex and expensive of those suggested. It would, however, create a site in Village ownership that would be large enough to provide not only public access, but also substantial private development, as permitted in the PRD District. The Village could dispose of all or a portion of the site, for development in accord with established standards and objectives, via competitive bid on the basis of purchase price and/or the quality of the plan proposed. Such a project would have to be undertaken under the powers granted under Article XV of General Municipal Law.

6. Purchase Access From Memorial Park (See Map No. 6)

From the foot of De Pew Avenue, at the entrance to the lower level of Memorial Park, a strip of land along the edge of the narrow inlet at that point would provide a connection to the sewer plant site. This connection would not require acquisition of the house at the end of De Pew Avenue.

7. Bridge from Memorial Park (See Map No. 7)

A bridge across the narrow inlet separating Memorial Park and the sewerplant site could provide pedestrian and/or vehicular access. The rights across the inlet would have to be acquired from the upland owner. The possibility of filling in the inlet should also be investigated in terms of its environmental benefits, if any, and the cost involved.

B. USE OPTIONS

Depending on the nature of the access provided and the size of any additional land assembled, a variety of land uses--both public and/or private--are possible on the sewer plant site.

1. Public Uses

- a. Public Pier: The site is suitable for permanent design and use as a public pier--its present unofficial use. Space for recreational and commercial fishing could be provided as well as walk ways, benches and limited parking space.
- b. Extension of Memorial Park: If connected to Memorial Park by bridge or land, the site could be developed as an extension of the park with compatible, water related facilities.

2. Private Uses

If the site were to be disposed of for private use, specific restrictions beyond those included in the Zoning Law could be imposed. These requirements could be used to specifically achieve the relevant policies of the LWRP concerning maintenance of public access, preservation of views, design features, etc.

- a. Extend Marina: The site is appropriate for expansion of the existing marina, particular land support facilities such as parking, sale of marine products, boat storage and repair, etc.
- b. Planned Residential Development (PRD): With additional land, the site could support the type of development contemplated under the PRD District, since its characteristics would be quite similar to that of the Clermont site now under construction.
- c. Waterfront Commercial: The site is appropriate for many of the uses permitted in the C-3 District, although priority should be given to water dependent and enhanced uses.

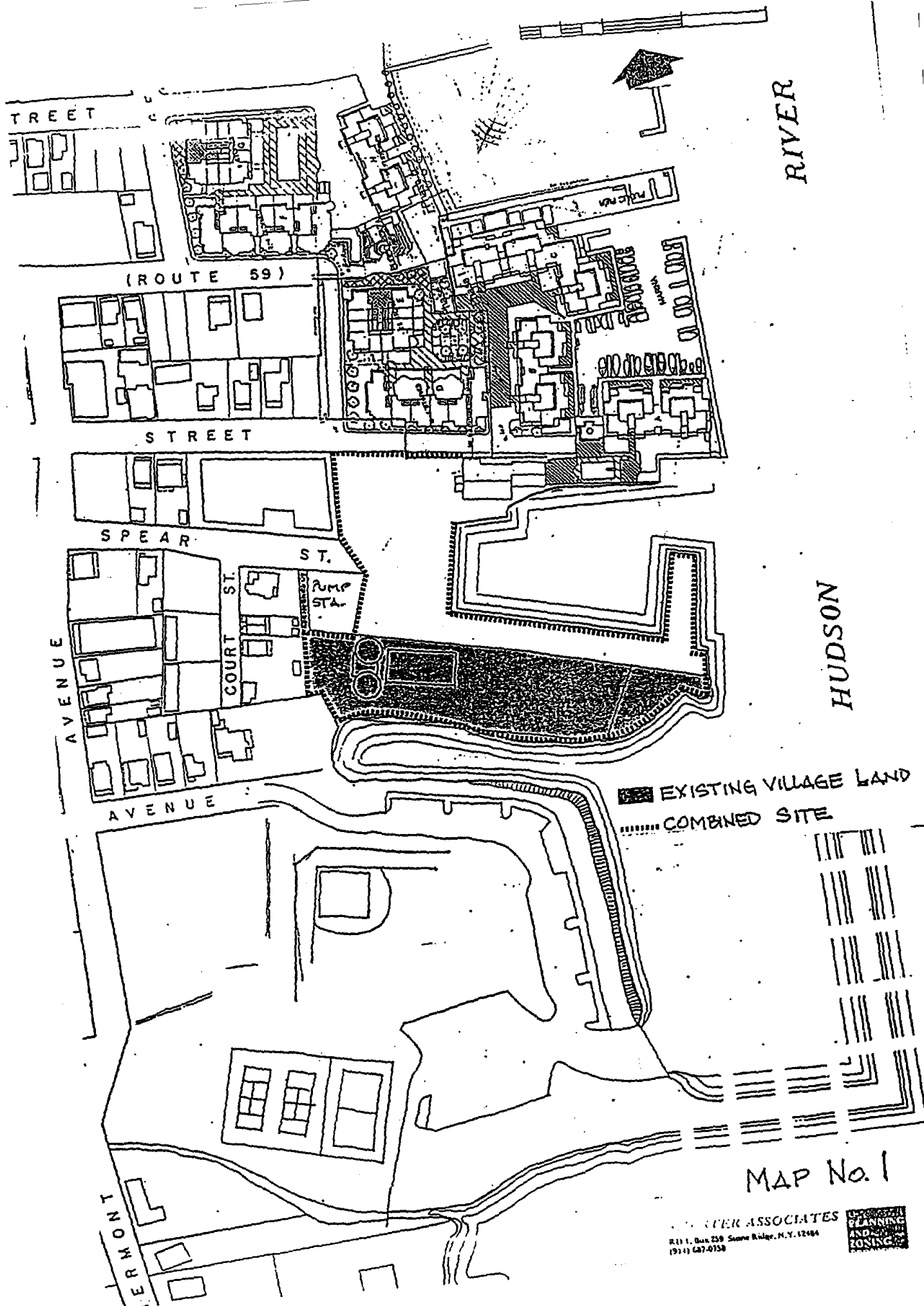
C. USE/ACCESS MATRIX

The matrix below indicates the various possible uses of the treatment plant site across the top and the possible methods of gaining access to and/or disposing of the site along the left side. The symbol indicates each instance where the site uses and access options are compatible.

ACCESS/DISPOSITION	POSSIBLE USES				
	EXTEND MARINA	PRD	WATERFRONT COMM.	PUBLIC PIER	ADD TO MEMORIAL PARK
Sell to adjacent marina	●	●	●		
Buy access from marina			●	●	
Exchange for access with marina				●	
Buy access from Court Street			●	●	
Assemble larger site	●	●	●	●	
Buy access from Memorial Park				●	●
Bridge from Memorial Park				●	●

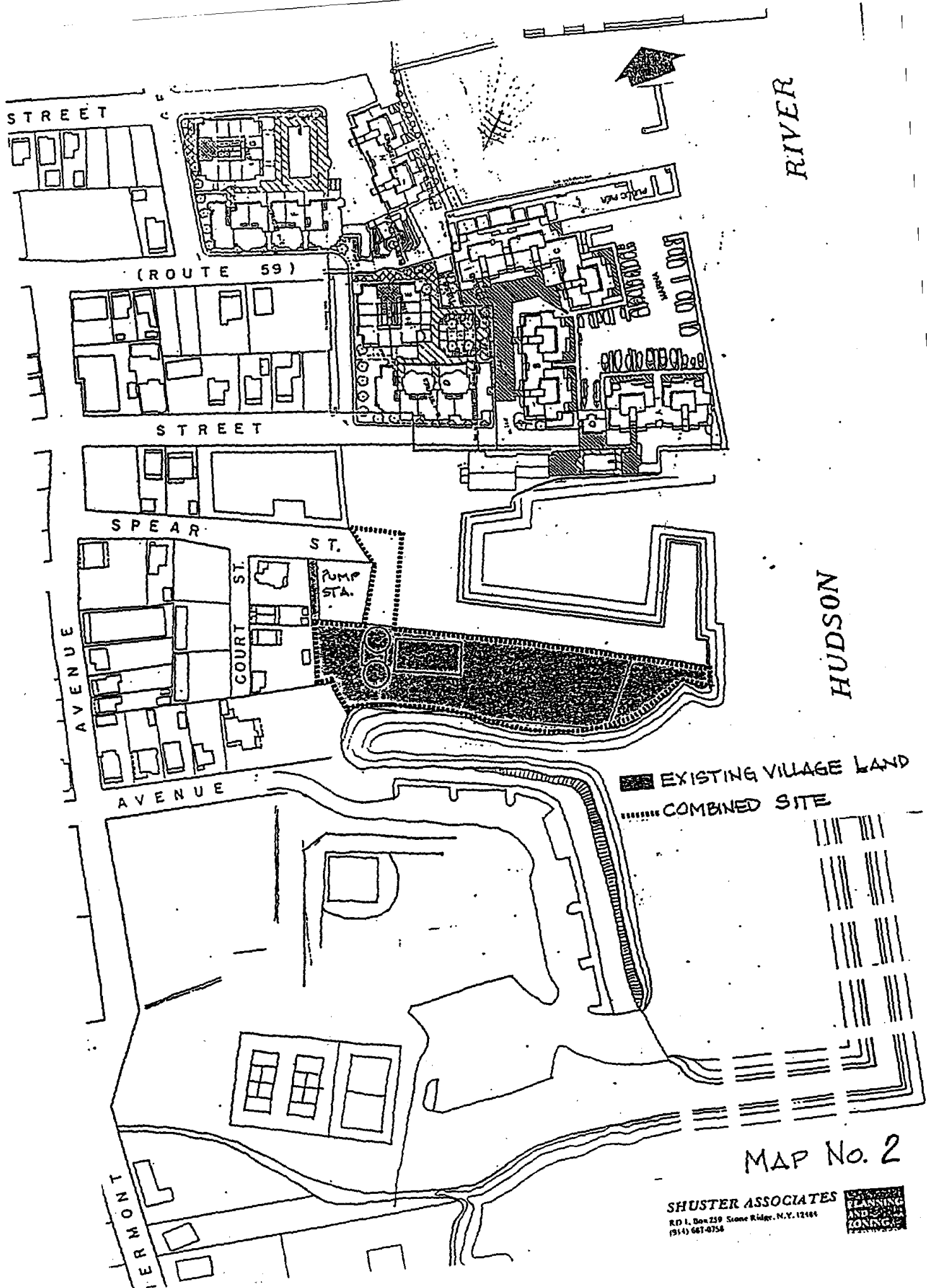
D. POLICY DECISION

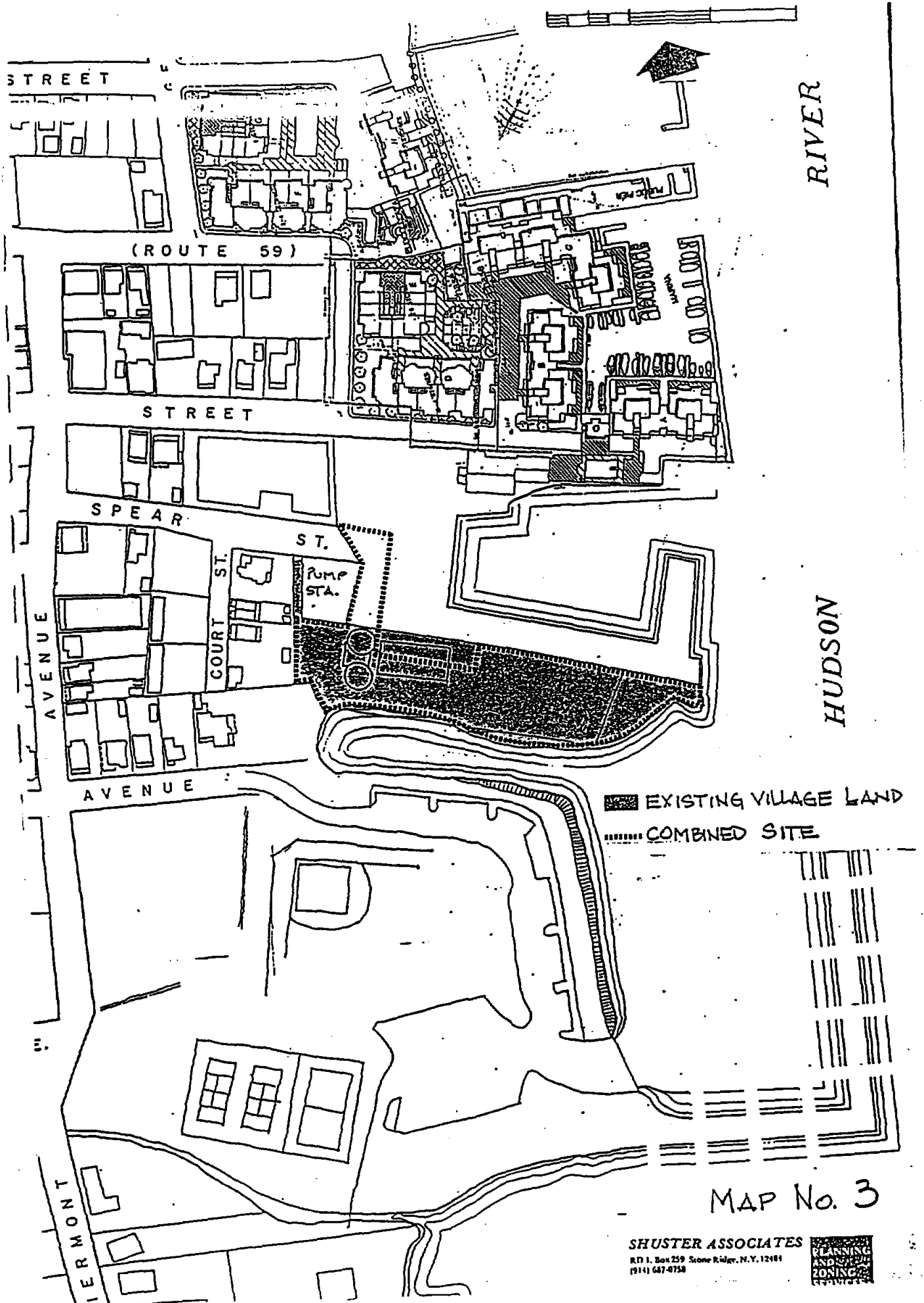
The intent of the preceding discussion is to identify all the possible options available for the sewer plant site to provide a basis for arriving at a decision. Once such decision is made it will be reflected in the LWRP policies and the steps to accomplish it will be analyzed in detail.

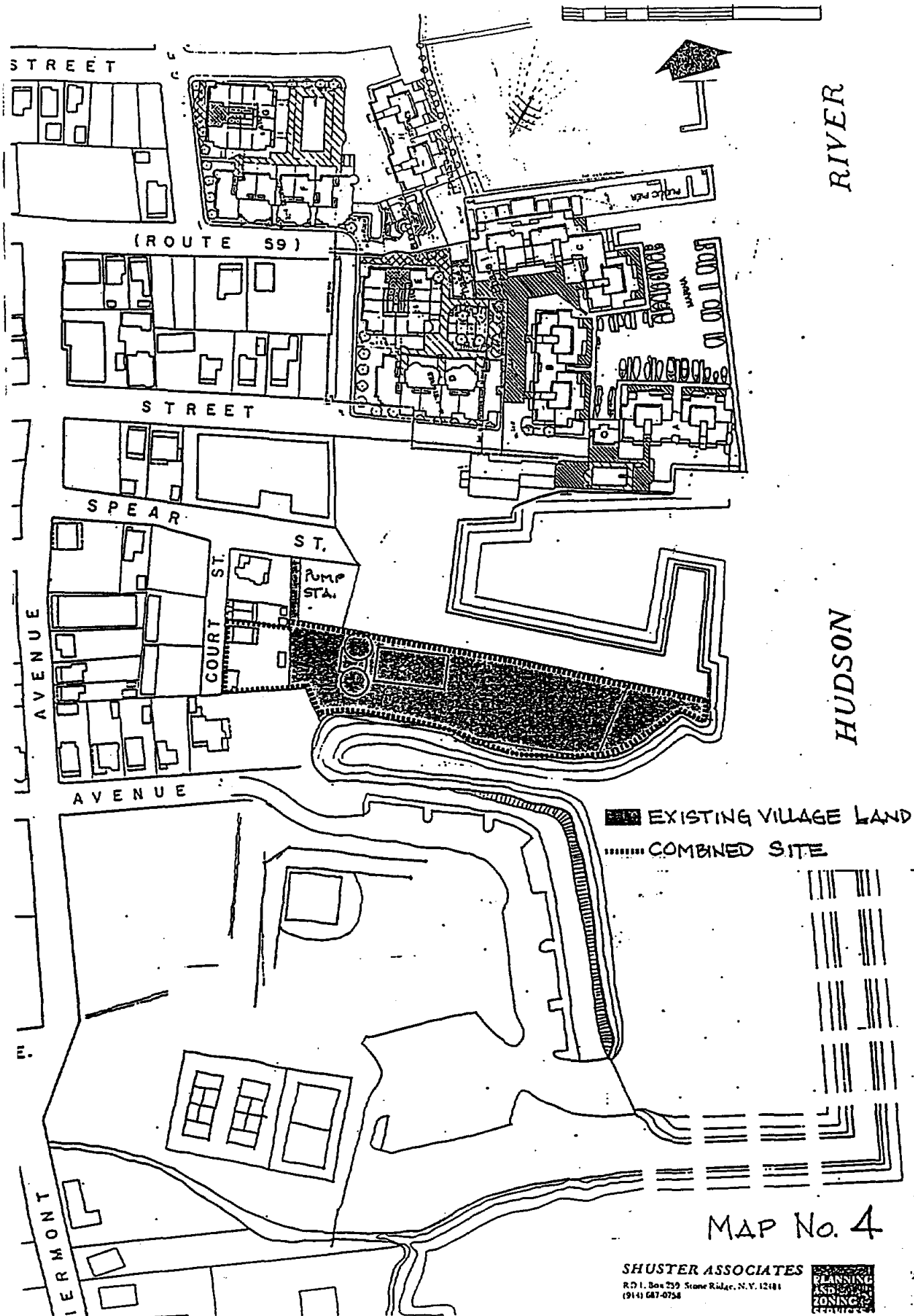


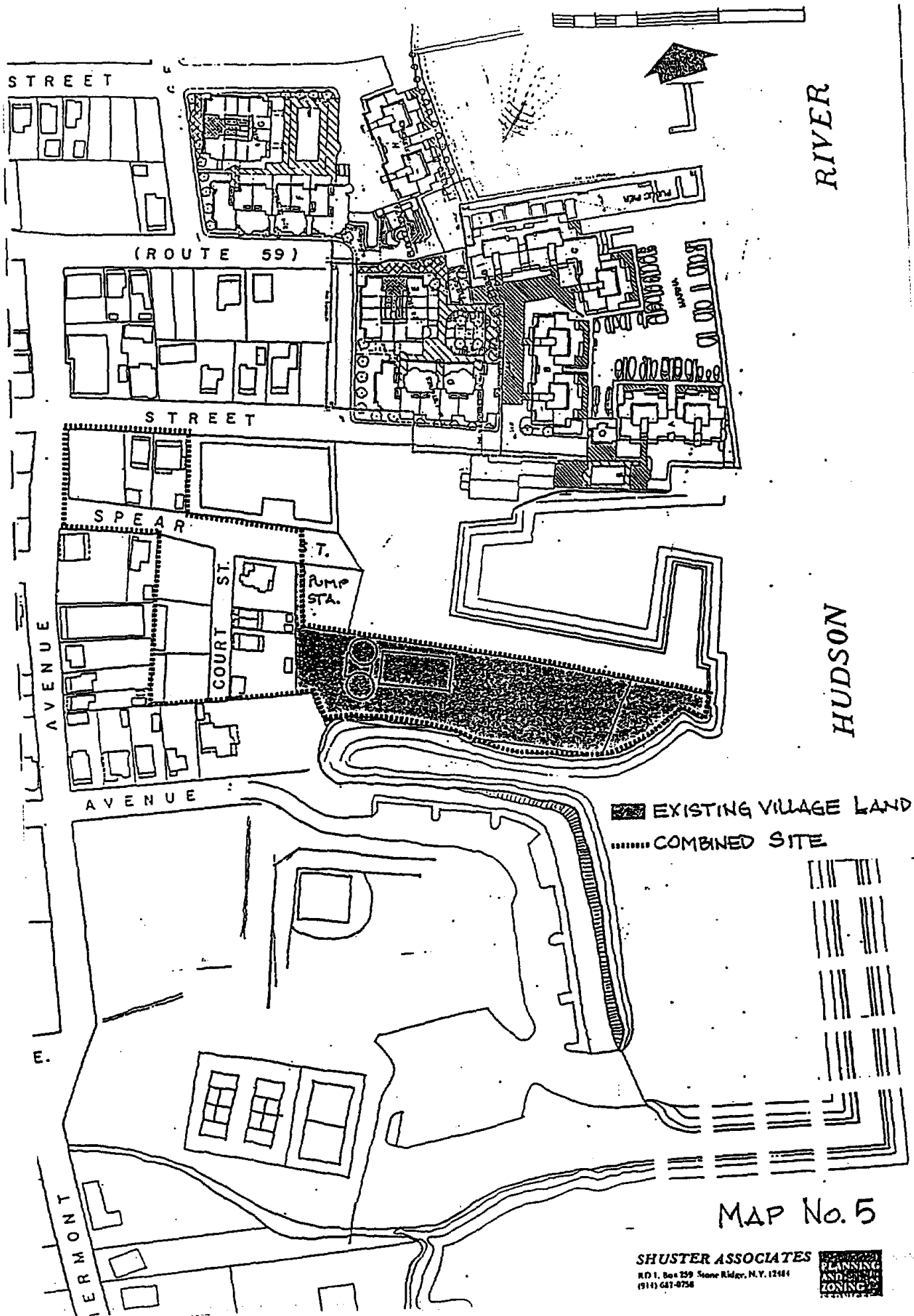
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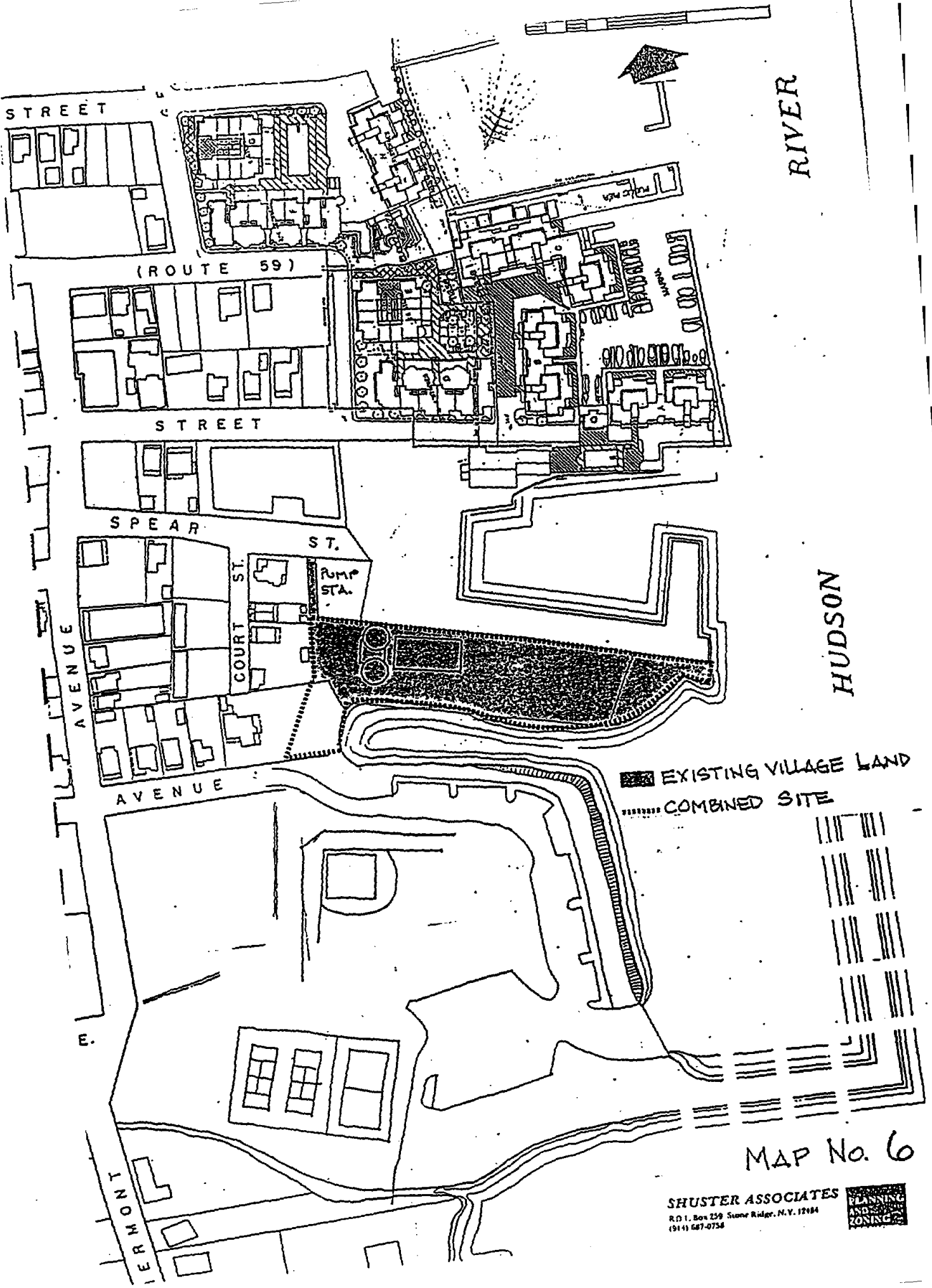






EXISTING VILLAGE LAND
COMBINED SITE

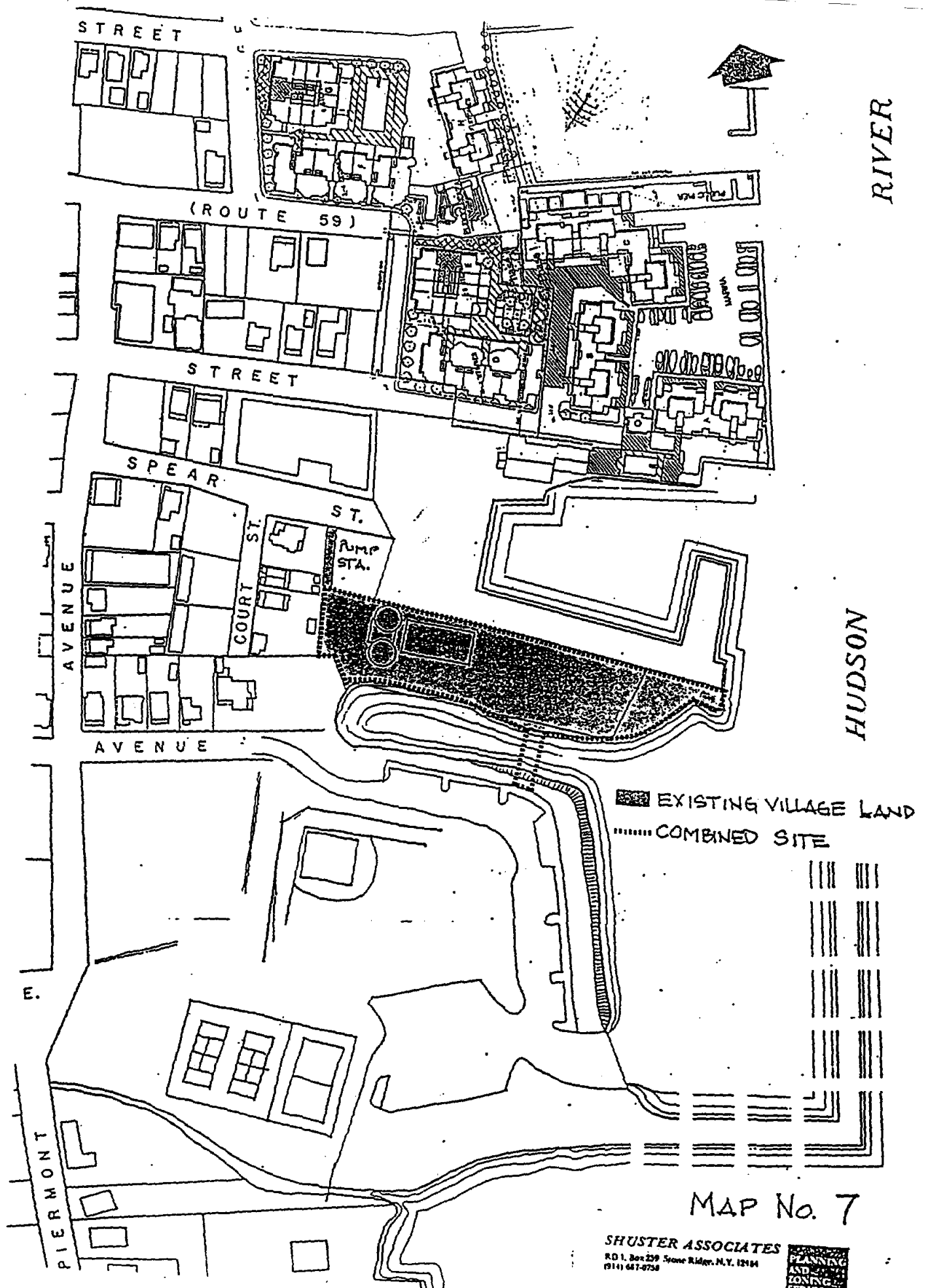
MAP No. 5



MAP No. 6

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MAP No. 7

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