Innovation QNS Rezoning and Large-Scale General Development
ZR 74-743 – Special Permit to Modify Bulk Regulations
Attachment #11 – Discussion of Findings
March 25, 2022

74-743
Special provisions for bulk modification

(a) For a large-scale general development, the City Planning Commission may permit:

(1) distribution of total allowable floor area, rooming units, dwelling units, lot coverage and total required open space under the applicable district regulations within a large-scale general development without regard for zoning lot lines or district boundaries, subject to the following limitations:

The Applicant proposes to distribute floor area throughout the Proposed Development (and within the boundaries of the large-scale general development) without regard for internal zoning district boundaries and zoning lot lines. Specifically, floor area would be shifted from Zoning Lot A, which would be underbuilt by approximately 205,000 square feet of floor area, and Zoning Lot C, which would be underbuilt by approximately 9,000 square feet, and distributed to Zoning Lots B, D and E. The maximum permitted floor area on Zoning Lot B would be increased by approximately 65,000 square feet; on Zoning Lot D by approximately 75,000 square feet; and on Zoning Lot E by approximately 74,000 square feet. In conjunction with the other bulk waivers sought by this special permit discussed below, the relocation of floor area will enhance the overall site plan by increasing density along the wider streets that run through and adjacent to the Development Sites and that can handle the additional floor area, which in turn facilitates the development of a series of publicly accessible open spaces totaling 1.94 acres interspersed on each block that provide much needed outdoor gathering space for the proposed development and the surrounding neighborhood. The proposed floor area distribution further allows the configuration and size of the buildings on the zoning lot to properly frame the publicly accessible open spaces at an appropriate density and scale than could not be done through the underlying zoning regulations. The Applicant believes the proposed floor area distribution which facilitates greater open space creation is essential to activate the ground floor uses and for connectivity between the blocks.

(i) no distribution of bulk across the boundary of two districts shall be permitted for a use utilizing such bulk unless such use is permitted in both districts;

Not Applicable.

(ii) when a large-scale general development is located partially in a Residence District or in a C1, C2, C3 or C4-1 District and partially in other Commercial or Manufacturing Districts, no transfer of commercial floor area to a Residence District or to a C1, C2, C3 or C4-1 District from other districts shall be permitted, except that for a large-scale general development located partially or wholly within the former Seward Park Extension Urban Renewal Area, a transfer of commercial floor area from a C6 District to a C2 District may be permitted;

Not applicable.

(2) location of buildings without regard for the applicable yard, court, distance between buildings, or height and setback regulations;

The Applicant proposes to modify underlying regulations to locate certain buildings on certain zoning lots within the Development Site without regard to (i) rear yards and rear yard equivalent, (ii) minimum distance between buildings, and (iii) height and setback regulations. As more specifically identified below, waivers are sought from rear yard and rear yard equivalent requirements on Zoning Lots C, D and E; from minimum distance requirements on Zoning Lots B and E; and from height and setback regulations on all five zoning lots. Overall, the waivers to these regulations will facilitate better urban design and site planning of the Development Site to respond to existing site conditions such as varying street widths (narrow vs wide), allow for the movement of added density to wide streets that are better equipped to handle more substantial buildings, the location of public open spaces across the five zoning lots that are appropriately integrated with the proposed buildings, and to provide the best site plan arrangement of buildings and street walls in relation to the pedestrian environment and new public open spaces with varied forms to achieve a visually interesting project that also meets the needs of the existing community and new community members to occupy the Proposed Development.

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(b) In order to grant a special permit pursuant to this Section for any large-scale general development, the Commission shall find that:

(1) the distribution of floor area, open space, dwelling units, rooming units and the location of buildings, primary business entrances and show windows will result in a better site plan and a better relationship among buildings and open areas to adjacent streets, surrounding development, adjacent open areas and shorelines than would be possible without such distribution and will thus benefit both the occupants of the large-scale general development, the neighborhood and the City as a whole;

In general, the ability to distribute floor area and to locate certain buildings without regard to rear yards and rear yard equivalent, minimum distance and height setback regulations will result in a better overall site plan and development as it relates to the surrounding area because it will allow the Proposed Development respond to existing site conditions such as varying street widths and allow for the increased movement of added density to wide streets that are better equipped to handle more substantial buildings and relocate floor area from the lower scale neighborhoods to the west towards the wide streets, large open spaces and wide Northern Boulevard.. These proposed waivers will permit flexibility of design to create a visually interesting development unburdened by certain underlying zoning controls, of which the byproduct is the connectivity of public open spaces amongst the various blocks that will offer the public different experiences—thereby harmoniously connecting the different facets of the Proposed Development. As discussed in greater below, each of the waivers serves a particular purpose that promotes a better overall site plan and the objectives of the development as a whole and brings benefit to the neighborhood and surrounding area within the City.

- Floor Area Distribution

The Project Area will be located in a Special MX District, with a lower density manufacturing/residential district (i.e. M1-4/R7-3) mapped within the mid-blocks along narrow streets, while higher density mixed districts (i.e. M1-4/R9, M1-5/R9-1 districts) are mapped along the nearby wide streets. A contextual M1-4/R7X is mapped on the south side of 35th Avenue opposite low rise residential buildings on the north. When the maximum permitted FAR's on each block are adjusted, they are similar (between 6.55 and 7.25 FAR), except for Zoning Lot E frontind on Northern Boulevard, which has an 8.48 adjusted FAR. As such, the permitted floor area is generally uniformly distributed across each zoning lot in the Development Site. However, to achieve a better site plan, which includes shifting density to the wide streets that are better equipped to handle more substantial buildings and in turn freeing up more at-grade area to construct a series of well-designed public open spaces, the Applicant is proposing to shift approximately 214,000 square feet of floor area from Zoning Lot A (205,000 square feet) and C (9,000 square feet) and distribute it nearly evenly over Zoning Lots B (65,000 square feet), D (75,000 square feet) and E (74,000 square feet).

As mentioned above, the proposed floor area distribution is intended to increase density along the wider streets that run through and adjacent to the Development Site, and that can handle the additional floor area. In addition, the proposed distribution overall will help accommodate the public open space provided in the form of the sidewalk widening on 35th Avenue and the variety of publicly-accessible open spaces—amounting to approximately 86,000 square feet—that traverse the five zoning lots of the Proposed Development.

With respect to the zoning lots transferring floor area, Zoning Lot A is between two narrow streets and on the western edge of the Development Site and is designed with lower-scale 7- to 13-story buildings, which are more relatable to the low and mid-rise commercial and industrial buildings to the west. Interspersed between the buildings Zoning Lot A (and fronting on 38th Street) will also be approximately 22,500 square feet of open space in the form of PAA's, designed as passive community gathering space and a children's playscape area. On the southern end of the block will be 26,000 sf of additional open space, a public space with active uses and a residential amenity space. It based on the low-rise character of the surrounding built scale and the large aggregate open spaces to be accommodated on this lot, it is appropriate to achieve a better site plan to move floor area off of this block to streets more apt to incorporate it.

Similarly, Zoning Lot C, while situated along Steinway Street (a wide street), will contain approximately 24,000 square feet of open space in the form of the large, flexible and multi-use civic park that abuts Playground 35. While a 27-story mixed use tower is located at the center of the block, shifting some of the floor area off of Zoning Lot C to other blocks accommodates siting the central open space there in conjunction with Playground 35. Since this zoning lot is intended to accommodate the main open space for the Proposed Development, added density, removing some density to better accommodate the open space results in a better site plan and relationship between buildings and adjacent open areas and streets.

Zoning Lot B, which accepts an additional 65,000 square feet of floor area, utilizes it primarily in the two residential towers with ground floor retail and community facility uses located along the

west side of Steinway Street and fronting on both sides of the through block PAA. Accepting floor area on this zoning lot will enhance its role as framing a central commercial corridor running through the Development Site and locating more substantial buildings on wide streets. One tower, located at the southeast corner of Steinway Street and 35th Avenue (both wide streets) will contain 22 stories and rise to a height of 230', and the other tower in the midblock along Steinway Street will contain 19 stories and a height of 200'. These towers will take on more floor area and density to reinforce Steinway Street's role as a central thoroughfare bisecting the Development Site. Zoning Lot D, which accepts 75,000 square feet, will utilize the additional floor area in the 16-story, 200' mid-rise tower on the southeast corner of 35th Avenue and 41st Street, the 27-story, 280' tower on the south end of the block along 36th Avenue and 41st Street near Northern Boulevard, and for the relocated theater use in the midblock. Again, the floor area moved to this zoning lot will assist with the goal of promoting more density along wide streets beyond what is permitted by the underlying zoning districts, as well as floor area for one of the more prominent uses in the Proposed Development—the multiplex cinema. Mid- to high-rise buildings on this zoning lot results in a better site plan because it further achieves the aims of greater density on wide streets that make room for larger open spaces elsewhere in the Proposed Development. Further, Zoning Lot E, which also accepts 75,000 square feet, and will be the zoning lot with the highest proposed FAR, positions the added floor area in the towers along Northern Boulevard. This is an important floor area distribution because it allows greater density on Northern Boulevard—the main, 100'-wide, multiple-laned, north-south traffic corridor in the area leading towards the Proposed Development—which is the widest street and can handle the most density on the several zoning lots. A 20-story, 230' tall tower and 26-story, 290' tall tower—connected by a 12-story, 150' tall base—will primarily front Northern Boulevard and form the gateway to the Innovation QNS project from the east. These buildings will face one and two-story commercial and auto-related uses with large open parking areas to its south and further to the west—the high density LIC area, which will be an appropriate location for the floor area because it will promote a better site plan because the highest density is furthest from the low-scale buildings west of the Development Site on a main arterial in the borough.

Accordingly, the distribution of floor area from Zoning Lots A and C to Zoning Lots B, D and E will result in a better site plan and better built relationship because it will allow for the movement of floor area away from narrow streets and toward wide streets designed to handle greater density, thereby facilitating the provision of at least 1.94 acres of public open spaces throughout the five blocks.

- Rear Yards and Rear Yard Equivalent

On Zoning Lots C, D and E, the Applicant proposes to locate certain buildings within required rear yard equivalents, and within a portion of a required rear yard on Zoning Lot D. For residential use in developments utilizing Quality Housing regulations in the zoning districts in which the Proposed Development will be located, for through lots, a 60' rear yard equivalent located midway (or within 10' of midway) between two opposite streets of the block is required. For commercial and community facility use, a 40' rear yard equivalent (or within 5' of midway) between two opposites streets of the block is required. For interior lots, a minimum 30' residential rear yard and minimum 20' commercial rear yard is required. The proposed modifications to the rear yard equivalent requirements are as follows:

- Zoning Lot C

  On this zoning lot, a waiver of the rear yard equivalent waiver is sought with respect to the encroachment of both 65'-tall commercial and community facility base and 295'-tall residential tower. The base encroaches entirely into the 40'-wide rear yard equivalent for a length of 127.26', and the tower encroaches 45' into the 60'-wide required rear yard equivalent for a length of 100'. The building has been designed as a residential tower above a four-story commercial and community facility base whereby the tower massing has been shifted primarily towards Steinway Street. The commercial and community facility base will front on the large, multi-use civic park and be placed 176' from 35th Avenue providing a large open space that serves the same purposes as a RYE, providing light and air to the building's base. The waiver to allow the base configuration to encroach into the entire rear yard equivalent results in a better site plan because it fosters construction of significant through-block floor plates that will house the project's cultural hub fronting on the civic park.

  The residential tower's eastern side encroaches into the rear year equivalent by approximately 45'. This waiver to locate this building partially within the rear yard equivalent promotes a better relationship between buildings and open areas and streets because the tower is unobstructed to 41st Street to the east, the civic park to the north and Steinway Street to the west, allowing for greater light and air to the residential units and the civic park than if a compliant RYE were provided. Further, this waiver facilitates the distance of the tower's eastern façade to 41st Street to be approximately 81', which will create a better site plan because it moves the massing away from the narrow street and allows significant light and air to the non-residential base and the narrow 41st Street and the residential uses to the south and across 41st Street.

- Zoning Lot D

  On this zoning lot, a waiver is sought from the commercial rear yard and rear yard equivalent requirement to provide the multiplex movie theater and the covered public open space. The theater is located on the second floor which allows for the large single floor with appropriate heights to accommodate the individual cinemas while allowing for ground floor retail, commercial and community facility uses to activate the street and provide a vibrant pedestrian environment including the proposed covered public open space. Specifically, waivers are requested for the portions of the through block to locate the theater entirely within the 40' wide rear yard equivalent up to a height of 80'. This waiver will promote a better site plan because the building's base will contain a proposed state of the art multiplex theater requiring through-block floor plates with high floor to floor heights to accommodate the multiple cinemas with appropriate heights for modern screens and stadium seating. A through-block rear yard equivalent would break up the floors into two smaller floors prohibiting the construction of the multi-plex. Additionally, the multi-plex use extends down 41st Street with an interior lot condition and rear yard waivers will be sought on the this portion of the site, which include an encroachment of 10' in to the rear yard up to a height of 80' for a length of 87.84' along 41st Street, and an encroachment of 30' feet into the rear yard between a height of 23'-30' (above a one-story

commercial building portion allowed via permitted obstruction regulations) for a length of 188.1' along 41st Street. Similar to the rear yard equivalent waivers proposed on this zoning lot, these waivers result in a better site plan because they provide the multi-plex with the larger floor plates and floor-to-floor heights that can accommodate the state-of-the art multi-plex movie theater.

- Zoning Lot E

  On this zoning lot, rear yard equivalent waivers are proposed as follows: (i) north of PAA, an encroachment into the entire 60' rear yard equivalent for a width of 36.83' and up to heights of 40' and 80'; (ii) east of the PAA, an encroachment into 30' of the required rear yard equivalent for width of 118.66' and up to the top the building bulkhead (330'); and (iii) south of Innovation Square, an encroachment into the entire 60' rear yard equivalent at varying depths up to the top of the building bulkhead (270'). The waivers on this block will allow for the location of the towers and 12-story base at the center along Northern Boulevard to have residential uses that front on the PAA fronting 42nd Street. This space will be an at-grade public area that backs up to where the towers encroach the commercial and residential rear yard equivalents and is an integral open space to residents on this zoning lot and in the Proposed Development. The area will be 118.66' x 90' (approximately 10,680 square feet) and the windows fronting thereon will provide the adjacent residential units ample light and air. Accordingly, despite that certain residential units and windows will be located within the rear yard equivalent, they still will have ample access to light and air over the PAA. Each of the three waivers on this zoning lot, in aggregate, will contribute to a better site plan and better relationship between buildings and surrounding spaces because they facilitate the towers and density on the block being be shifted towards Northern Boulevard—which can handle the added density and height, while still accommodating the plaza space on the narrow 42nd Street that is essential to the overall Innovation QNS PAA open space.

- Minimum Distance Between Buildings

The design and arrangement of the buildings on Zoning Lot B fronting on Steinway Street opposite PG 35 and the civic park space will result in a better relationship of the buildings to the adjacent open space, streets and surrounding built context because they offer connectivity of the public space from Zoning Lot A, through Zoning Lot B and to the primary open space on the adjacent Zoning Lot C. Waivers of minimum distance requirements are sought on Zoning Lot B with respect to the building on the south side of the pedestrian pathway in the area above a height of 20' and below a height of 80' and width of 10'. Minimum distance between building regulations require that above a height of 20', a 40' minimum distance is needed if the facing building walls contain a wall to wall condition, 50' if they contain a window-to-wall condition and 60' if they contain a window-to-window condition. Zoning Lot B provides an open through-block pedestrian passage that measures 50' in width from Steinway Street to 38th Street. The buildings adjacent to the pedestrian passageway have a compliant wall-to-wall condition on the ground floor. However, above a height of 20' and before a 10' setback at a height of 80' for the building on the south side of the passageway, the buildings have a window-to-window condition of only 50', which does not comply. The waiver sought here to permit a 50' window-to-window condition will promote a better

site plan because it still allows for ample light and air to the windows on both sides of the passageway, while allowing for a stronger building wall to be constructed on both sides of the passageway—and integral part of the proposed public open space.

On Zoning Lot E, the waiver is sought with respect to a 30'-deep space between building E-1 and E-2 above a height of 40' in two separate segments as shown on the Project Plans: between a height of 40' and 80', and between a height of 80' and 100'. The proposed 30' window-to-window condition above 40' between buildings E-1 and E-2 on Zoning Lot E, located in an inner court, promotes a better site plan and relationship amongst buildings and open spaces because it adds further visual interest to the built environment around plaza fronting 42nd Street. The movement amongst the building forms at the higher floors surrounding the square is both more visually appealing to the public and offers additional light and air into the public space.

- Height and Setback

Modifications to building base height, maximum overall height and minimum set back depth regulations are proposed throughout the Proposed Development. The composition of different building envelopes and bulk distribution permitted by the subject height and setback waivers results in a better site plan and better relationship between such buildings and the surrounding environment because they facilitate varying building forms, articulated street walls, the framing of public open spaces and responding to certain narrow block configurations.

On Zoning Lot A, the minimum setback requirement will be waived along certain residential frontages on 37th Street would rise without setback to their total building heights—all of which will be less than the maximum permitted building height. The setback waivers here vary from 4' to 15' into the required setback area, depending on the street frontage. In sum, they are minimal encroachments that allow for specific and varying street wall articulation that also creates a stronger street wall for portions of the buildings located at the street line. This articulation and varied building forms results in a better site plan and relationship between buildings and open spaces because it helps create visually interesting buildings from the pedestrian perspective on this low-scale zoning lot, while also accommodating some of the density relocated from the public open space, which is a key feature of the Proposed Development.

On Zoning Lot B, similar to Zoning Lot A, a 5' sidewalk widening is provided for the full length of frontage on 35th Avenue with an additional at-grade 10' setback of a building entrance recess area provided on 35th Avenue as it fronts on Steinway Street. Height and setback relief is sought for buildings along 38th Street as it approaches 35th Avenue, on 35th Avenue and along Steinway Street. Specifically, setback waivers of 15' are requested for 71' of length along 38th Street and for 120' feet along 35th Avenue for this 11-story building. These waiver requests promote a better overall site plan because they facilitate the design of a sheer street wall for the building at this corner, providing a strong building presence and demarcating the corner of 38th Street and the wide 35th Avenue that otherwise could not be feasible if setback requirements had to be met. The relatively low building at the corner with a wide street is an appropriate location for such waivers, allowing light and air to the streetscape below. Along the remainder of 35th Avenue, the building sets back 15' and therefore complies with the setback regulations along this frontage. A setback waiver on the Steinway Street frontage for length of 111' and an overall building height waiver of

5’ is requested for this 22-story corner tower. These waivers facilitate a better site plan and relationship between buildings, streets and open spaces because they promote the development of a signature building at this pivotal southwestern corner of 35th Avenue and Steinway Street--the gateway to the Proposed Development from the Steinway Street commercial corridor to the north, which contributes to the framing of the civic park and PG-35 across Steinway Street. With these waivers, a superior site plan will be the result because stronger street wall and building form will be provided here, drawing more pedestrian traffic to and from this area of the site which will serve as focal point of the overall Proposed Development. Additionally, the location at the corner of two wide streets and opposite allow for an abundance of light and air to reach the street and is an appropriate location for such waivers.

For Zoning Lot C, height waivers are proposed for the residential tower above the four-story base at the center of the block, which exceeds the maximum height in the M1-4/R7-3 district (185’) and M1-4/R9 district (225’) by rising up to 295’, and minor setback waivers are also proposed along 41st Street. The four-story base will house the proposed multi-purpose arts and cultural facility with a 23-story residential tower located above. The arts and cultural facility will occupy a through lot location fronting on and framing the large civic park and PG 35 located at the southeastern corner of 35th Avenue and Steinway Street. The residential tower will be located above the arts and cultural facility fronting on Steinway Street and forms an eastern focal point for the Steinway Street corridor gateway to the Proposed Development. The proposed overall height waiver for the tower location on the wide Steinway Street which also fronts on the large civic park results in a better relationship between buildings and open areas and streets because like the larger buildings on Zoning Lot B and D opposite the civic park and PG 35, the height waiver here contributes to the framing of the primary open space in the Proposed Development, and also enhances the visual cues that will draw pedestrian traffic to the civic park and act as an appropriate lead-in to the view corridor down Steinway Street.

Along 41st Street behind the arts and cultural facility will be a residential building seeking a setback waiver of 5’ from the required 15’ setback. The interior lot extends to a depth of 95’ from the street line and the waiver is requested to maintain efficient building floor plates above the setback. This setback waiver along the midblock will promotes a better site plan design at this location for a number of reasons. The arts and cultural facility to the north is only four stories which then borders on the large civic park providing ample light and air to filter down the narrow street. In addition, the street walls on the opposite side of 41st Street are setback at grade for 15’ allowing for a 75’ wide dimension between opposing buildings, varying the streetscape and providing more openness at street level. The setback waivers contribute to a better site plan because they also allow for a strong street wall on the west side of 41st Street, drawing attention for pedestrians to the Proposed Development, while also serving as another lead-in to the park and public civic space at the north end of the zoning lot.

On Zoning Lot D, the Proposed Development continues to provide the 5’ sidewalk widening along the entire frontage of the block, necessitating the shift of density into some of these setback areas and to increase certain overall building heights. The 16-story tower at the corner of 35th Avenue and 41st Street would setback an additional 10’ on 35th Avenue and be located on the street line along 41st Street and rise to a total height of 200’. An overall height waiver is sought to allow this building to exceed the maximum permitted base height of 105’ and total building height of 145’.

This height waiver, however, will promote a better site plan because as mentioned above, this building in connection with the towers on Zoning Lots C and B that front the civic park and PG35 serve as visual cues that will draw pedestrian traffic to the primary open space in the project, and serve as guideposts to this area of the Proposed Development.

In the midblock along 41st Street, lesser setback relief is sought. On the southern end of the block, a tower is located on 36th Avenue adjacent to the intersection with Northern Boulevard. The building complies with setback requirements on the wide street and narrow 41st Street within 100' of the wide street. However, the building tower extends up 41st Street for an additional 50' and maintains the 10' setback. The Applicant seeks the waiver of 5' of the setback in this location to maintain building streetwall and floor plate widths for the tower. These set back waivers result in a better site plan because, like other setback relief sought in the Proposed Development, they create a visually interesting street wall design for pedestrians to view as the move up 41st Street and towards the civic park, as well as further activating the ground floor uses. Further, the waivers in this location will create a better relationship between buildings and open areas and streets because of the proximity to the intersections of 41st Street with 36th Avenue and nearby Northern Boulevard, setback relief will still being provide portions of the building to the north with ample light and air to the street.

Zoning Lot E is an irregular-shaped zoning lot formed by the intersection of 43rd Street and the diagonal Northern Boulevard in this location. Further, the zoning lot abuts two outparcels at the corner of 35th Avenue and 43rd Street. The zoning lot is further split between the proposed M1-4/R7X on 35th Avenue and the proposed M1-5/R9-1 for the remainder, beyond 100' of 35th Avenue. On 35th Avenue, the Proposed Development maintains the 5' sidewalk widening for the length of the zoning lot. The building design will be for a mid-rise, 9-story, 100' tower without setback on both the 35th Avenue and 42nd Street frontages and for two towers above a mixed-use base along Northern Boulevard and the southern end of 42nd Street. A public plaza will be located in the middle of the 42nd Street frontage abutting both the 35th Avenue building and the Northern Boulevard building. The 35th Avenue building will comply in the M1-5/R7X as the maximum base height is 105' and maximum building height is 145'. The building will extend down 42nd Street for 132' from 35th Avenue and will maintain the building massing 32' into the M1-5/R9-1 district which has an 85' maximum base height. The waiver of the base height for this 32' feet of frontage will be above the base height to the building height of 100'. The waiver at this location facilitates a better site plan because it maintains a solid street wall, accepts additional density from the sidewalk widening and other project opens spaces, and acts as another visual lead-in to the public plaza for pedestrians. Further, the building fronts on the wide 35th Avenue, is opposite a two-story portion of the multi-plex and abuts the public courtyard on the south, so there will be ample light and air to buildings, streets and adjacent open spaces. The building on Northern Boulevard is an irregular shape formed by the intersection of the diagonal Northern Boulevard with 43rd Street at this location. The proposed building at this location provides two residential towers above a mixed-use base. The mixed-use building complies with the setback requirements in the M1-5/R9-1 district providing a street wall at the street line and rising to 80', provides the required setbacks and rises to 12 stories and 150' and then provides two residential towers, one compliant at 22 stories and 230' and another non-compliant by 10' at 26 stories and 290'. The height waiver at this location for only 10' promotes a better site plan and relationship between buildings, streets and open areas because it facilitates acceptance of additional density from other

blocks in the Development Site and positions it along the very wide Northern Boulevard that is more equipped to handle it. This added height, in turn, facilitates greater open space on Zoning Lot E and elsewhere in the project, which also providing more visually interesting building design and towers along major arterials that are traditionally known for containing such buildings.

In sum, the proposed height and setback waivers improve the Proposed Development's site plan and relationship between buildings and adjacent streets and surrounding area because they allow for density to be moved from zoning lots adjacent to low-scale areas to lots on wide streets that are more equipped to handle it, and facilitate a more varied built form that is visually interesting to the pedestrians and draws their attention to the prominent public aspects of the project such as the 35th Avenue sidewalk widening, the commercial corridor on Steinway Street, and the collection of open spaces.

(2) the distribution of floor area and location of buildings will not unduly increase the bulk of buildings in any one block or unduly obstruct access of light and air to the detriment of the occupants or users of buildings in the block or nearby blocks or of people using the public streets;

The waivers sought for distribution of floor area and proposed location of buildings will not unduly increase bulk in any one block or obstruct light and air within the neighborhood because, in aggregate, they aim to move density and bulk towards the wide streets that travel through and adjacent to the Development Site which can handle more substantial buildings; promote the provision of nearly two acres of interconnected publicly accessible open space in an area that is severely underserved, and position building forms in such a manner as to minimize obstruction of light and air to buildings, the publicly accessible open areas an the intersecting street network. Accordingly, the Proposed Development was designed based on a series of guiding principles that shaped the overall development in context with the surrounding area. The guiding principles are:

- Varied height profiles from east to west;
- Largest towers at Steinway Street / 35th Avenue to anchor the Steinway Street commercial corridor and on Northern Boulevard;
- Lower buildings along 35th Avenue opposite the low-density residential buildings;
- Base heights between 65' and 85' with standard zoning setbacks;
- Increase sidewalk widths along 35th Avenue along all blocks but Block E; and
- Open spaces should be publicly accessible and activated to support the surrounding ground floor uses.

The Proposed Development follows these guidelines with lower scale buildings on Zoning Lot A and Zoning Lot B facing 38th Street and along the eastern end of 35th Avenue opposite the lower scale residential neighborhood to the north. Larger towers were placed along the wide 35th Avenue and Steinway Streets and Northern Boulevard and 36th Avenue, and floor area was distributed to such lots (and portions thereof) that could handle the density. A sidewalk widening of 5' with additional street level setbacks along 35th Avenue for the length of the Development Site will be provided to allow for a greater pedestrian experience along the 35th Avenue corridor—especially opposite the lower scale mixed use and residential neighborhood to the north. Each of the blocks will contain varying types of public open spaces centering on a large, multi-use civic park that will

occupy the first 176' of frontage on 35th Avenue between Steinway and 41st Streets. The public open spaces will include the public plaza on Zoning Lot E, the plaza and covered open space on Zoning Lot D through to the civic park on Zoning Lot C and the pedestrian passage on Block B, leading to another public courtyard, a children's play area and a garden space each facing 38th Street on Zoning Lot A and B. These open spaces will provide a break in the adjacent building forms that frame them, provide not only light and air to the space itself and windows fronting on such spaces, but access to outdoor space for the Proposed Development and the surrounding neighborhood which is very short on such spaces. These open spaces would further serve to activate the adjacent commercial, community facility and residential uses abutting them by breathing light and air into them and making them more inviting uses to the public.

The site plan for each zoning lot in the Proposed Development has been designed to relate to nearby streets and blocks, with an eye for providing light and air and public open space that traverses the site, and locating buildings in an effort to frame such open spaces and streets. For example, Zoning Lot A will contain lower scale buildings compared to the rest of the Proposed Development because it is wedged between two narrow streets and the lower-density M1-5 zoning district to the west. It will also contain the public courtyard and children's play area that will provide light and air to the adjacent residences and provide much needed open space for the community. The courtyard will face the pedestrian passage and the children's playscape area will face the garden space on opposite 38th Street on Zoning Lot B, which both offer a contrasting but nonetheless complementary outdoor experience and will enhance the sense of openness at street level between Zoning Lot A and Zoning Lot B. Moving to Zoning Lot B, the building scale will be increased as the project moves from 41st Street over to Steinway Street, a wide street which is intended to provide a strong commercial corridor bisecting the Proposed Development. However, even as the scale increases, open space for the public will be provided—in particular, the through-block pedestrian passageway leading to Steinway Street. Taller, more dense residential towers will be provided along Steinway Street not only because it is a wide street that provides greater light and air, but because the garden space is located in the midblock on 41st Street, which in tandem with the pedestrian passageway breaks up the block massing. This arrangement of buildings and open spaces does not unduly increase bulk on any one block or reduce light and air, but rather relates to proposed open spaces and existing street widths to make sure light and air is preserved and the built scale is more relatable to that of nearby blocks.

Zoning Lot C at the center of the Proposed Development contains the premier public open space—the large, multi-use civic park adjacent to PG 35—and the tallest building in the Proposed Development—the 27-story residential tower—in the center of the block. With the knowledge that Steinway Street is a wide street, the tower will be positioned closer to the west leaving 81' of unobstructed light and air for residences facing east over the four-story arts and cultural facility base. Further, Zoning Lot D provides a 16-story residential tower at the 35th Avenue/41st Street intersection which, along with the Zoning Lot C tower and the 22-story Zoning Lot B tower at Steinway Street and 35th Avenue, frames the playground and civic park public open space as the central public gathering area in the development. Additionally, on the south end of Zoning Lot D, the 22-story residential building balances the bulk distribution on the block, and is located appropriately near the corner of two major thoroughfares adjacent to the Development Site: 36th Avenue and Northern Boulevard. In such cases, the most substantial buildings are located along wide streets and near prominent open features within the Proposed Development to maximize (and

not unduly obstruct) access to light and air, and to utilize the existing street network as the basis for where larger and smaller buildings should and should not be located.

Finally, Zoning Lot E will contain the greatest density and height in the Proposed Development because of its adjacency to Northern Boulevard. The buildings on this block, which will have the greatest built FAR in the project, and will includes 26-story and 20-story residential towers rising to 290', are properly situated along Northern Boulevard because it is a multi-lane road and major east-west traffic artery passing through Queens. As is typically through NYC, the tallest, most dense buildings should be located along the widest street because such street can provide the greatest amount of light and air to residences, and the buildings on Zoning Lot E have been designed as such.

Accordingly, The Proposed Development's distribution of floor area and location of buildings in accordance with the relief granted by the subject special permit will not unduly increase bulk or obstruct light and air within the development or neighboring areas because the proposed buildings have been so situated on each block in an effort to move density towards the wide streets that can handle it. As a by-product, each block contains significant open space that is one of the prime features of the Proposed Development—which also provide light and air to adjacent residential uses. Therefore, the distribution of floor area and location of buildings across the five blocks would not unduly increase bulk on any single block, nor obstruct light and air from the proposed residential uses or surrounding blocks and streets.

(3) where a zoning lot of a large-scale general development does not occupy a frontage on a mapped street, appropriate access to a mapped street is provided;

Not applicable.

(4) considering the size of the proposed large-scale general development, the streets providing access to such large-scale general development will be adequate to handle traffic resulting therefrom;

The Proposed Development is well served by a series of streets that will provide appropriate and adequate access thereto. The Development Site is bounded by 37th Street on the west, 43rd Street and Northern Boulevard on the east, 35th Avenue on the north and 36th Avenue on the south. 37th Street and 43rd Street are both one-way northbound local streets that typically operate with one moving lane and parking along both curbs. Northern Boulevard (NY 25A**)** is a principal arterial that operates with three moving lanes in each direction in the vicinity of the Project Area. At its western end, it connects to the Ed Koch Queensboro Bridge to midtown Manhattan, and to the east, it connects to the Brooklyn-Queens Expressway (I-278). Northern Boulevard is a DOT-designated through truck route. 35th Avenue is a major collector that operates as a one-way westbound street between Northern Boulevard and 43rd Street and as a two-way street with parking along both curbs to the west of 43rd Street. 36th Avenue is a minor arterial that also operates as a one-way westbound street between Northern Boulevard and 41st Street, and as a two-way street with parking along both curbs to the west of 41st Street.

Other corridors of note include Steinway Street, Broadway, 34th Avenue, 36th Street, Queens Boulevard and Greenpoint Avenue. Steinway Street and Broadway are both principal arterials that typically operate with one moving lane in each direction and parking along both curbs. Both are DOT-designated local truck routes. 34th Avenue is a two-way local street with one moving lane (striped as a shared bicycle lane) in each direction and parking along both curbs. 36th Street is a one-way southbound local street with one moving lane and parking along both curbs. There is also a dedicated bicycle lane north of 34th Avenue. Queens Boulevard (NY 25) is a principal arterial roadway that extends from the Ed Koch Queensboro Bridge to Jamaica, Queens. It typically operates with four to five moving lanes in each direction separated by a wide median that is used for parking. Queens Boulevard is a DOT-designated through truck route. Greenpoint Avenue is a principal arterial that typically operates with one to two moving lanes including a shared bicycle lane in each direction, plus parking along both curbs. It is a DOT-designated through truck route that provides access to the Queens Midtown/Long Island Expressway.

Regional arteries providing access to the Project Area include the Brooklyn-Queens Expressway (I-278) and the Queens Midtown Expressway/Long Island Expressway (I-495). The Brooklyn-Queens Expressway or BQE is located approximately one mile to the east of the Project Area, traverses northern Brooklyn and Queens and connects to the RFK Triborough Bridge and to Manhattan and the Bronx. Northern Boulevard is the primary access corridor between the Project Area and the BQE. The Queens Midtown Expressway, located approximately 1.5 miles to the south of the Project Area, extends from the Queens-Midtown Tunnel to midtown Manhattan eastward to Queens Boulevard where it becomes the Long Island Expressway or LIE and continues for approximately 70 miles to Riverhead on Long Island. The combination of 39th Avenue and Greenpoint Avenue provides the primary access route between the Project Area and the Queens Midtown Expressway and LIE. Accordingly, there are numerous multilane wide streets, avenues and arterial highways in the surrounding area that can handle the additional traffic going to and leaving from the Proposed Development.

Each zoning lot will have its own parking facility, each accessed by one curb cut along an adjacent street interior to the Proposed Development. As discussed in the Project Description and in other statements of findings related to this application, while the largest accessory parking facility will be located on Zoning Lot A, it will not contain the majority of the overall parking spaces in the Proposed Development. In fact, approximately 64% of the total accessory parking spaces will be distributed in facilities on Zoning Lot's B, C, D and E. This distribution arrangement will provide the uses on each zoning lot adequate nearby off-street parking near that will minimize on-street queueing at any one location, and in turn allow the various local streets interior to the Proposed Development the ability to handle the traffic generated therefrom.

In addition, according to the transportation analysis prepared by Philip Habib and Associates, the parking facilities within the Proposed Development will be able to handle the traffic generated by the uses and, consequently, the streets providing access to the parking facilities will be able to handle the generated traffic thereby. The Proposed Development will contain 1,390 accessory parking spaces and the conservative analysis indicates that the weekday parking demand would peak at approximately 1,431 spaces from 8:00 p.m. to 9:00 p.m.—just slightly over the proposed spaces—primarily due to the overlapping of residential and cinema demand. On a Saturday, parking demand from the Proposed Development would peak at approximately 1,770 spaces, also

between 8:00 p.m. to 9:00 p.m. However, these Saturday peak period forecasts assume 100 percent occupancy of the cinema, which is a very conservative estimate as multiplex cinemas typically operate at substantially lower occupancy levels. Even when big box-office hits are released (typically five to seven times per year), total theater occupancy will generally not exceed 60 percent, even on opening weekend, as the hit movie will not be showing on all of the screens at the cinema. As such, under most normal conditions, the proposed garage facilities and adjacent streets will be able to handle the parking demand and minimize potential traffic congestion.

(5) when the Commission has determined that the large-scale general development requires significant addition to existing public facilities serving the area, the applicant has submitted to the Commission a plan and timetable to provide such required additional facilities. Proposed facilities that are incorporated into the City's capital budget may be included as part of such plan and timetable;

Not applicable.

(6) where the Commission permits the maximum floor area ratio in accordance with the provisions of paragraph (a)(4) of this Section, the open space provided is of sufficient size to serve the residents of new or enlarged buildings. Such open space shall be accessible to and usable by all residents of such new or enlarged buildings, have appropriate access, circulation, seating, lighting and paving, and be substantially landscaped. Furthermore, the site plan of such large-scale general development shall include superior landscaping for open space of the new or enlarged buildings;

Not applicable.

(7) where the Commission permits the exclusion of lot area or floor area in accordance with the provisions of paragraph (a)(5) of this Section or modification of the base and maximum floor area ratios or requirements regarding distribution of affordable housing units in accordance with paragraph (a)(8) of this Section, such modification will facilitate a desirable mix of uses in the large-scale general development and a plan consistent with the objectives of the Inclusionary Housing Program and those of Section 74-74 (Large-scale General Development) with respect to better site planning;

Not applicable.

(8) where the Commission permits portions of buildings containing accessory parking spaces to be excluded from the calculation of lot coverage in accordance with the provisions of paragraph (a)(9) of this Section, the exclusion of lot coverage will result in a better site plan and a better relationship among buildings and open areas than would be possible without such exclusion and therefore will benefit the residents of the large-scale general development;

Not applicable.

(9) where the Commission permits a floor area bonus for a public park improvement in accordance with the provisions of paragraph (a)(11) of this Section:

(i) the amount of such bonus floor area is appropriate in relation to the size and quality of the proposed public park improvement; and

(ii) such bonus floor area will not unduly increase the bulk of buildings on the zoning lot or unduly obstruct access of light and air to the detriment of the occupants or users of buildings on the block or nearby blocks or of people using the public streets.

Grant of a floor area bonus for a public park improvement in accordance with the provisions of paragraph (a)(11) of this Section shall be conditioned upon adequate assurances for provision of the funding identified by the Commissioner of Parks and Recreation in a letter pursuant to paragraph (a)(11)(ii) of this Section as necessary for completion of the necessary infrastructure, landscape and other work for the public park improvement. The Commissioner of Buildings shall not issue a building permit for the large-scale general development unless the Commissioner of Parks and Recreation shall have certified that the funding has been made or secured in a manner acceptable to such Commissioner;

Not applicable.

(10) a declaration with regard to ownership requirements in paragraph (b) of the large-scale general development definition in Section 12-10 (DEFINITIONS) has been filed with the Commission; and

The Applicant has prepared and submitted a large-scale general development restrictive declaration in connection with the subject application.

(11) where the Commission permits floor area distribution from a zoning lot containing existing light industrial buildings to be demolished in accordance with the provisions of paragraph (a)(12) of this Section, such floor area distribution shall contribute to better site planning of the waterfront public access area and shall facilitate the development of affordable housing units within a large-scale general development.

Not applicable.

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