ATTACHMENT 11 – STATEMENT OF FINDINGS

Brooklyn Yards
Brooklyn, NY

Special Permit Pursuant to 74-743
Applicant's Discussion of Conditions and Findings

12-10 Definitions

Large-scale general development

A "large-scale general development" contains one or more buildings on a single zoning lot or two or more zoning lots that are contiguous or would be contiguous but for their separation by a street or a street intersection and is not either a large scale residential development or a large scale community facility development; and

The proposed large-scale general development would contain 14 buildings, accessory residential parking, private open space and publicly accessible areas on three zoning lots either contiguous or separated by streets or intersections. The proposed LSGD is neither a large-scale residential development nor a large-scale community facility development. It would not be located entirely within residential, C1, C2, C3 or C4-1 zoning districts and would not be used predominantly for community facility uses.

(a) has or will have an area of at least 1.5 acres;

The LSGD would have a lot area of 105,278 square feet, which is approximately 2.42 acres.

(b) has been or is to be used, developed or enlarged as a unit:

(1) under single fee ownership or alternate ownership arrangements as set forth in the zoning lot definition in Section 12-10 (DEFINITIONS) for all zoning lots comprising the large-scale general development; or

(2) under single fee, alternate or separate ownership, either:

(i) pursuant to an urban renewal plan for a designated urban renewal area containing such zoning lots; or

(ii) through assemblage by any other governmental agency, or its agent, having the power of condemnation; and

At the time of development, the LSGD will comprise of three zoning lots pursuant to paragraph (d) of the definition of "zoning lot" set forth in ZR Section 12-10. The applicant owns the portions of the LSGD properties that are at and above grade, while the Metropolitan Transit Authority

("MTA") owns the below-grade portions of the LSGD (except on Block 5509, Lot 57) (i.e. the existing railroad right-of-way, discussed below).

(c) shall be located in whole or in part in any Commercial or Manufacturing District, subject to the restrictions of paragraph (a)(1) of Section 74-743 (Special provisions for bulk modification).

Zoning Lot 1 (Block 5727, p/o Lot 14)[1] of the LSGD would be located in a Commercial District and a portion of Zoning Lot 3 (Block 5509, Lots 41 and 57) would be mapped with a commercial overlay.

Such zoning lots may include any land occupied by buildings existing at the time an application is submitted to the City Planning Commission under the provisions of Article VII, Chapter 4, provided that such buildings form an integral part of the large-scale general development, and provided that there is no bulk distribution from a zoning lot containing such existing buildings. In C5 and C6 Districts, however, a large-scale general development having a minimum lot area of five acres may include a zoning lot that contains an existing building that is not integrally related to the other parts of the large-scale general development, provided that such building covers less than 15 percent of the lot area of the large-scale general development and provided that there is no bulk distribution from a zoning lot containing such existing building.

74-743
Special Provisions for Bulk Modification

The Applicant seeks a waiver of ZR 23-154(b) to allow for the distribution of allowable floor area and lot coverage without regards for zoning lot lines or district boundaries and waivers and modifications of the rear yard requirements of ZR 23-47 on portions of Zoning Lots 1 and 2 (defined below).

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

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(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:

(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;

Upon approval of Zoning Map amendments submitted as part of this application, the Applicant proposes to distribute residential (Use Group 2) floor area throughout the Proposed Development,

[1] Zoning Lot 1 will only consist of that portion of Lot 14 that will be covered by a permanent platform. The Applicant intends to subdivide tax Lot 14 such that Zoning Lot 1 will comply with the ZR 12-10 definition of "zoning lot," as interpreted by the Department of Buildings."

between a C4-5 zoning district and an R6 zoning district. Use Group 2 is permitted in both proposed zoning districts.

> ***(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 seeks waivers and modifications of the rear yard requirements of ZR 23-47 on portions of Zoning Lots 1 and 2.

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> ***(6) modification of the requirements of Section 23-86 (Minimum Distance Between Legally Required Windows and Walls or Lot Lines) for developments or enlargements, where:***
>
> > ***(i) the required minimum distance as set foth in Section 23-86 is provided between the legally required window in the development or enlargement and a wall or lot line on an abutting property; and***
> >
> > ***(ii) the required minimum distance is provided by a light and air easement acceptable to the Department of City Planning and recorded in the County Clerk's office in the county in which such tracts of land are located***

The Applicant seeks modifications of the requirements of Section 23-86 regarding the minimum required distance between legally required windows and lot lines on portions of Zoning Lots 1 and 2. As explained in more detail below, the Applicant owns the parcels of land immediately adjacent to Zoning Lots 1 and 2 and will provide the legally required distance between legal windows and the lot lines of the adjacent parcels, to be memorialized in recorded light and air easements.

(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;

The Applicant is proposing to construct the Proposed Development as an LGSD spanning three zoning lots. Each zoning lot within the Development Site is irregularly shaped due to lot boundaries that formed around the Long Island Rail Road Bay Ridge line right-of-way (the "LIRR ROW"). In order to best situate the Proposed Development within the irregularly shaped Development Site, the applicant is seeking a waiver of ZR 23-154(b) to allow for the distribution of allowable floor area and lot coverage without regards for zoning lot lines or district boundaries and waivers and modifications of the rear yard requirements of ZR 23-47 and legal window requirements of ZR 23-86 on portions of Zoning Lots 1 and 2.

Zoning Lots 1 (Block 5727, p/o Lot 14)[2] and 2 (Block 5516, p/o Lots 1 and 33)[3] are particularly challenging sites for development because they directly follow the LIRR ROW, cutting diagonally across Blocks 5727 and 5516, respectively. As a result of their irregular shape, each zoning lot has limited street frontage serving its permitted maximum floor area. One mixed-use building and six residential buildings would be located on Zoning Lot 1, and four residential buildings would be located on Zoning Lot 2. The proposed LSGD bulk waivers would allow the Applicant to spread floor area throughout Zoning Lots 1 and 2 to create a cohesive stretch of generally low-rise development, with the exception of the 10-story commercial portion of Building 1 that will anchor the Proposed Development fronting on New Utrecht Avenue and the elevated subway tracks. Zoning Lot 3 (Block 5509, Lots 41 and 57) would continue the Proposed Development's low-rise character to the northeast, where the Proposed Development would again be anchored by a commercial use – in this case, a two-story retail building fronting on 16th Avenue.

The requested LSGD bulk waivers are:

Floor Area: Pursuant to ZR 23-154(b), within a Mandatory Inclusionary Housing area the maximum FAR in an R6 zoning district beyond 100 feet of a wide street is 2.42 and within 100 feet of a wide street the maximum FAR is 3.6. To efficiently use the midblock portion of Zoning Lot 2, Building Eleven would be primarily located at the midblock, beyond 100 feet of a wide street. The result is that the approximately 12,615 square foot portion of Zoning Lot 2 located more than 100 feet from a wide street would not comply with the applicable 2.42 maximum FAR and would be overbuilt by 7,865 square feet. The Applicant proposes a waiver to permit the transfer of approximately 5,529 square feet of unused floor area generated by the portion of Zoning Lot 2 within 100' of a wide street and the transfer of approximately 2,336 square feet of unused floor area generated by Zoning Lot 1 (Block 5727, Lot 14) to the portion of Zoning Lot 2 located beyond 100 feet of a wide street.

[2] Zoning Lot 1 will only consist of that portion of Lot 14 that will be covered by a permanent platform. The Applicant intends to subdivide tax Lot 14 such that Zoning Lot 1 will comply with the ZR 12-10 definition of "zoning lot," as interpreted by the Department of Buildings.

[3] Zoning Lot 2 will only consist of that portion of Lots 1 and 33 that will be covered by a permanent platform. The Applicant intends to subdivide tax Lots 1 and 33 such that Zoning Lot 2 will comply with the ZR 12-10 definition of "zoning lot," as interpreted by the Department of Buildings.

Lot Coverage: Pursuant to ZR 23-153, the maximum permitted residential lot coverage on interior lot portions of a zoning lot within 100 feet of a wide street (outside the Manhattan Core) in a C4-5 (R7-2 equivalent) zoning district is 65 percent. To efficiently use the floor area available on Zoning Lot 1, and to reserve a Public Access Area on the lot's New Utrecht Avenue frontage, the Proposed Development on interior lot portions of Zoning Lot 1 would have a maximum lot coverage of 66 percent. However, the corner lot portions of Zoning Lot 1, which are permitted 100 percent residential lot coverage, would have a maximum 58 percent lot coverage.

Yards: As shown on the drawings submitted as part of this application, Zoning Lots 1 and 2 each contain corner lot and interior lot portions, including long interior lot portions at the midblock. Each of these mid-block interior lot portions is a flag lot, resulting in required 30-foot rear yards on portions of the north and south of the interior lot portions, pursuant to ZR 23-47. Due to the two zoning lots' irregular shapes at the midblock, provisions of these rear yards would reduce the buildable footprint of each zoning lot, making residential development infeasible at the midblock. Therefore, the Applicant is requesting waiver of rear yard requirements as follows. Each requested waiver is located adjacent to a remaining open rail cut, which would continue to provide open space between the Proposed Development and properties adjacent to Zoning Lots 1 and 2. Buildings on each Zoning Lot would receive legal light and air for units fronting on the modified or waived rear yards.

- Zoning Lot 1
    - Waiver of 30-foot residential rear yard requirement on north side of zoning lot (see Sheet Z-114.00): Waiver of this required rear yard would allow for development of Building 1, the residential component of which would receive legal light and air from its south-facing windows.
    - Waiver of a portion of 30-foot residential rear yard requirement on south side of zoning lot (see Z-114.00): The depth of the required rear yard along the southern lot line of Zoning Lot 1, at the midblock, would be reduced to align with the distance between proposed building walls and the edge of the proposed platform, which serves as the southern lot line of Zoning Lot 1. This area would consist of the landscaped, mews-like pathway accessible to residents of the Proposed Development. Building 1's residential units would receive legal light and air from this modified rear yard.
- Zoning Lot 2
    - Waiver of a portion of 30-foot rear yard requirement on the north side of Zoning Lot 2 (see Z-214.00): The depth of the required rear yard along the northern lot line (and wrapping the northern lot line to the east) of Zoning Lot 2, at the midblock, would be reduced by between 24 and 30 feet to align with the distance between proposed building walls and the edge of the proposed platform, which serves as the northern lot line of Zoning Lot 2. This waiver would allow for development of Building 12 through the zoning lot's midblock. North-facing residential units in Buildings 10 and 11 would receive legal light and air from the modified, six-foot-deep rear yard (no legal windows would face onto the portion of the Zoning Lot where the rear yard has been fully waived).
    - Waiver of a portion of 30-foot rear yard requirement on the south side of Zoning Lot 2 (see Z-214.00): The depth of the required rear yard along the southern lot

line (and wrapping the southern lot line) would be reduced along the portion of the lot line that runs diagonal to the street grid, to align with the distance between proposed building walls and the edge of the platform, which serves as the southern lot line of Zoning Lot 2. This area would consist of the landscaped, mews-like pathway accessible to residents of the Proposed Development. Along the portion of the southern rear lot line opposite 60th Street, the depth of the required rear yard would be reduced to six feet to allow for development of Building 12. Units would receive legal light and air from the reduced rear yards on the south side of Zoning Lot 2.

Legal Windows: As shown on the drawings submitted as part of this application, where legal windows would face onto modified yards, companion modifications are being sought for legal light and air requirements. In general, ZR 23-86 requires 30 feet of open space be provided between a legal window and a rear lot line. As stated in the "Yards" discussion above, due to the irregular shapes of Zoning Lots 1 and 2, provision of 30 feet between legal windows and lots lines would reduce the buildable footprint of each zoning lot to the extent that residential development would be infeasible at the midblock. Like the requested yard waivers, the requested modifications of legal light and air requirements face onto a remaining open rail cut. The Applicant owns a fee above a plane (located approximately at grade) over these rail cuts, and would record light and air easements over these fee parcels in order to ensure all legal windows in the Proposed Development front on a 30-foot open area.

- Zoning Lot 1
  - Modification of minimum required distance between legal windows and lot lines on south side of zoning lot (see Z-114.00): These legal windows would face onto between 15.9 and 21.2 feet of open space on the zoning lot, but would face onto a minimum 30 feet of open space including the open rail cut south of the zoning lot.
- Zoning Lot 2
  - Modification of minimum required distance between legal windows and lot lines on the north side of Zoning Lot 2 (see Z-214.00): North-facing residential units in Buildings 10 and 11 would receive legal light and air from the modified, six-foot-deep rear yard (no legal windows would face onto the portion of the Zoning Lot where the rear yard has been fully waived). However, when combined with the open rail cut north of these buildings, these legal windows would face onto 30 feet of open space.[4]
  - Modification of minimum required distance between legal windows and lot lines on the south side of Zoning Lot 2 (see Z-214.00): These legal windows would face onto between 19.0 and 19.6 feet of open space on the zoning lot, but would face onto a minimum 30 feet of open space including the open rail cut south of the zoning lot.

The proposed distribution of floor area, waiver of distance between buildings requirements and location of buildings without regard to yard or legal window regulations would result in a better

[4] If the Applicant is unable to find a legal or financial solution for the removal of the Encroachment north of Zoning Lot 2, the Proposed Development's dwelling units would be reduced by four (two in each of Buildings 9 and 10) due to legal light and air requirements.

site plan and relationship between buildings and adjacent open space, streets, and sidewalks. The Proposed Development consists of a combination of walk-up residential buildings and small apartment buildings, which is consistent with the existing and proposed built context in the surrounding area. The waiver of ZR 23-154(b) and ZR 23-153 would permit increased density in the mid-block area of Zoning Lots 2 and 1, respectively, allowing a distribution of bulk across the full zoning lot that would prevent over-development at the zoning lot's limited street frontages. The waiver of ZR 23-47 and modifications of ZR 23-86 would permit the full utilization of Zoning Lot 2's street frontage. The requested waiver would permit three buildings that front the street to be constructed along the rear lot lines. This will ensure that each building has adequate street frontage while maintaining a contextual street wall. Furthermore, stoops and gardens would be located in front of the proposed walk-up buildings, which would enliven and enhance the pedestrian experience along 15th Avenue, 61st Street, and 60th Street, where pedestrians currently walk past a railroad cut bounded by a chain-link fence.

(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 design of the Proposed Development aims to minimize the impact of the Proposed Development's bulk on surrounding open spaces and neighboring buildings. The proposed distribution of floor area and lot coverage would permit density to be distributed throughout Zoning Lots 1 and 2, which would ensure use of the mid-block areas of Zoning Lots 1 and 2 and avoid a concentration of bulk along the zoning lots' street frontages. The proposed waivers of floor area and lot coverage distribution would allow for distribution of the Proposed Development's floor area throughout sixteen buildings, typically four to six-stories in height, on three separate zoning lots.

The proposed modification of yard and legal window requirements on Zoning Lots 1 and 2 would create 30-foot-deep open areas along the majority of the Zoning Lots' rear lot lines, when combined with the adjacent open rail cuts to remain (which air space is owned by the Applicant). Because of the Zoning Lots' unusual shape and diagonal situation within their respective blocks, the proposed 30-foot-deep open areas would closely replicate standard residential rear yard and legal window requirements that create a minimum 60-foot open area between two residential buildings with a shared rear lot line.

Despite the proposed waivers related to distribution of floor area and lot coverage and applicability of yard and legal window requirements, the Proposed Development would comply with underlying height and setback provisions. The Proposed Development's residential walk-up buildings would rise to a height of 55 feet and the residential portion of Building 1 and Building 11 are proposed to rise to a height of 65 feet. These proposed maximum building heights are lower than what is permitted under the proposed R6 zoning district (115 feet) and the buildings' proposed heights would be memorialized in a Restrictive Declaration, to be recorded against the Development Site, as part of the Large-Scale General Development plan. This low-rise design would further ensure that bulk is not unduly concentrated on any one portion of the Development Site and that light and air are not obstructed to the detriment of the residents of the Proposed Development or the users of existing buildings, public streets and open space in the surrounding area.

(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 streets that border the Development Site are adequate to handle traffic resulting from the Proposed Development. The Development Site will comprise three separate zoning lots, each of which are bounded to both the east and the west by 80-foot-wide streets carrying two-way traffic. Additionally, 60th Street, an 80-foot-wide two-way street, runs east-west between Zoning Lots 2 and 3.

The Proposed Development is not expected to negatively affect traffic conditions in the surrounding area. As discussed in detail in the Environmental Assessment Statement (EAS) submitted as part of this application, no intersection in the vicinity of the Project Area is projected to experience an incremental increase of 50 or more trips at any point in the day. Therefore, significant adverse traffic impacts are not expected to occur under the Proposed Actions, and a detailed traffic analysis is not warranted based on the *CEQR Technical Manual* guidance.

Additionally, the abundance of transit options in the Development Site's surrounding area serves to lower dependence on private automobiles, which would minimize the amount of traffic resulting from the Proposed Development. There are two subway stations and a bus line with stops within a quarter-mile radius of, and less than two blocks from, the Development Site. The 62nd Street Station is located directly west of the Development Site at New Utrecht Avenue and 14th Avenue, with service on the D line, providing local and express service between Coney Island and the Bronx. The New Utrecht Avenue Station is located directly south of the Development Site, on 62nd Street between 14th and 15th Avenues, with service on the N line, providing express service between Coney Island and Astoria, via Manhattan. The B9 bus line, providing service between Bay Ridge in the west and Kings Plaza in the southeast, runs along 60th Street, with stops at 14th, 15th, and 16th Avenue in front of the Development Site, connecting the Development Site with additional mass transit.

As discussed in detail in the EAS, the evening/overnight parking demand for the Proposed Development as a whole is expected to peak at 146 spaces, and daytime demand (at the peak hour between 9 and 10 a.m.) is expected to peak at 145 spaces. An open, 40-space accessory parking lot would be provided within the Proposed Development, and therefore approximately 106 vehicles would not be accommodated on-site overnight and 105 vehicles would not be accommodated during the daytime peak hour. Residents would likely use on-street parking within ½-mile radius of the Project Area. As indicated in the EAS, with 636 available curbside spaces within the ½-mile radius of the Proposed Development during the midday and 602 available curbside spaces within ½-mile radius of the Proposed Development overnight, peak parking demand could be absorbed by available on-street spaces within the parking study area.

(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 (1) (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 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.

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;

A declaration will be filed with the Commission.

(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 distributions hall 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; and

Not applicable.

(12) where new piers or new platforms are constructed, replaced or reconstructed in accordance with the provisions of paragraph (a)(13) of this Section, such new piers and new platforms are an integral part of such large-scale general development, result in a superior site plan and form an appropriate relationship with adjacent waterfront public access areas and shorelines, and provide significant public access to or within the seaward lot portion of the waterfront zoning lot.

Not applicable.

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For a phased construction program of a multi-#building# complex, the Commission may, at the time of granting a special permit, require additional information, including but not limited to a proposed time schedule for carrying out the proposed #large-scale general development#, a phasing plan showing the distribution of #bulk# and #open space# and, in the case of a site plan providing for common #open space#, common open areas or common parking areas, a maintenance plan for such space or areas and surety for continued availability of such space or areas to the people they are intended to serve.

The Commission may prescribe additional conditions and safeguards to improve the quality of the #large-scale general development# and to minimize adverse effects on the character of the surrounding area.