Innovation QNS Rezoning and Large-Scale General Development
ZR 74-745(b) – Special Permit to Modify Loading Berth Requirement
Attachment #11 – Discussion of Findings
March 25, 2022

74-745
Modifications of parking and loading regulations

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

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(b) Waiver or reduction of loading berth requirements

For #zoning lots# in a #large-scale general development#, located either within a Special Mixed Use District in Community District 2 in the Borough of The Bronx, or within a waterfront area pursuant to paragraph (b) of Section 62-132, in Community District 1 in the Borough of Brooklyn, where such zoning lots in the waterfront area contain one or more retail or service uses listed in Use Group 6A, 6C, 7B, 8B, 9A, 10A, 12B, 14A or 16A, and where no single such establishment in the waterfront area exceeds 8,500 square feet in floor area, or for #zoning lots# located in a #large-scale general development# within a Special Mixed Use District in Community District 1 in the Borough of Queens, the Commission may waive or reduce the number of required loading berths, provided that:

The Applicant seeks the subject special permit to reduce the required number of accessory off-street loading berths on each block within the Development Site as follows: Zoning Lot A – from five required to two provided; Zoning Lot B – from two required to one provided; Zoning Lot C – from four required to one provided and Zoning Lot D – from six required to one provided.[1] Zoning Lot E would comply with the accessory loading requirements. The Applicant believes, based on operational experience in other developments, that with the reduction of loading berths on Zoning Lots A, B, C and D there will nonetheless be sufficient off-street loading to accommodate deliveries and the movement of goods efficiently and without any excess traffic congestion.

(1) curbside deliveries will not create or contribute to serious traffic congestion or unduly inhibit vehicular or pedestrian movement and will not interfere with the efficient functioning of nearby uses;

The Applicant anticipates establishing a loading/unloading plan for any necessary curbside deliveries on the streets adjacent to Zoning Lots A, B, C and D that would minimize any traffic congestion and not inhibit vehicular or pedestrian movement nor interfere with the efficient functioning of adjacent uses. With respect to Zoning Lots A, B and C, while the off-street loading requirement will be reduced, there will nonetheless be off-street loading berths provided within those blocks for use by trucks serving the retail, commercial and community facility uses. The

[1] See LR 3 – Project Description for corresponding block and lot numbers by zoning lot.

Applicant anticipates these loading areas provided will accommodate the majority of any loading/unloading activity. On Zoning Lot A, though the reduction will be from five two berths, it is proposed that the primary commercial use will be office use with smaller amounts of retail and community facility uses on site. Though office use does have a high loading requirement, based on operational experience, the Applicant does not foresee such use as driving the demand for deliveries and truck usage of the loading berths on that block. Rather, the loading for the retail and community facility space will have a higher usage, though such spaces are smaller and can be accommodated by the off-street loading berths provided. Similarly, on Zoning Lot B, the reduction of one off-street berth (and provision of one berth) would still be sufficient from an operational perspective to meet demand for truck access to the retail/community facility uses. This block would primarily contain residential use, with only approximately 28,500 sf of retail and less than 7,000 sf of community facility use. A second berth to serve these relatively small uses is anticipated as being unnecessary. Further, on Zoning Lot C, the reduction from four berths to one berth is appropriate because this block would also contain primarily residential uses, with the retail and community facility uses being in the form of smaller establishments that would not need an array of loading berths to expeditiously move goods and other materials into the stores.

However, even with the expectation that the proposed off-street loading berths will be sufficient to meet truck and delivery demand, the Applicant intends to work with commercial and community facility tenants to create on-street loading zones close to or adjacent to such uses for efficient loading/unloading during limited timeframes so as not to unduly inhibit traffic or pedestrian movement, or interfere with neighboring uses. Due to the types of commercial uses, and smaller establishments proposed for such uses, the Applicant anticipates any on-street loading would be used sparingly and during limited agreed-upon timeframes, and the Applicant will work with tenants to develop a plan that would not unduly interrupt their business functions nor the vehicular and pedestrian movement near such loading zones.

On Zoning Lot D, the accessory loading requirement would be mainly generated by the movie theater which, based on the Applicant's experience with the existing multi-plex theater on the Development Site and experience with movie theater use throughout the City, is much higher than the actual demand. While theaters with live actors and entertainment may require more equipment and the need to unload/load equipment to stage a show, the needs of a movie theater are much more limited. The proposed one loading berth on Zoning Lot D is primarily to serve the retail uses, and therefore is located between the retail spaces closer to 35th Avenue. It is anticipated that any infrequent loading needs of the theater would be satisfied by such berth. However, similar to Zoning Lots A, B and C, on-street loading zones would be provided and likely limited to certain hours of usage. They would be provided adjacent to the retail and theater uses along Zoning Lot D, and their limited and regulated usage would avoid contributing to traffic congestion and interfering with the pedestrian experience and businesses operating on the ground floor.

(2) an efficient goods receiving system will be implemented within the commercial establishment to expedite the movement of goods from the curb to areas within the establishment;

The Applicant will create a plan with the retail, commercial and community facility tenants for loading/unloading procedures to promote the efficient use of the proposed loading berths on

Zoning Lots A, B, C and D, and to regulate and limit the usage of on-street loading areas such that goods are expeditiously moved into the various establishments. As mentioned above, the Applicant anticipates that, as reduced, the proposed off-street loading berths on Zoning Lots A, B, C and D will be able to handle the bulk of the loading/unloading activity on each block in conjunction with on-street loading zones. The Applicant will work with the Department of Transportation and the respective building tenants that will utilize on-street loading to position them in locations that will cause minimal disruption to nearby uses and pedestrian activity in and adjacent to the Proposed Development, and to limit the usage of the on-street zones to times and dates that will also have minimal impact on adjacent uses and pedestrians. While the precise siting of specific establishments on each of Zoning Lots A, B, C and D is still under review, the Applicant intends to take all necessary steps to create systems for the Proposed Development's tenants to efficiently load and unload their goods.

Additionally—and as noted above—with respect to Zoning Lot D, the accessory loading requirement will mainly be generated by the movie theater which, based on the Applicant's experience as well as knowledge of the movie theater industry as a whole in NYC, is much higher than the actual demand. The actual loading and unloading needs for the movie theater would be much lower than as specified in the Zoning Resolution, as this is not a traditional live-show theater with staging, costumes and other large equipment, but a cinema which receives smaller goods such as concessions and cleaning supplies. The Applicant expects loading/unloading for the theater to take place within the off-street loading berth proposed on the block, but will, in addition, establish an on-site loading zone and regulate the times for its usage to move goods in and out of the theater efficiently.

Accordingly, to the extent the proposed off-street loading berths on Zoning Lots A, B, C and D cannot handle the loading/unloading demands on each site, the Applicant intends to put in place a system with each tenant for an on-street loading area to be used within certain times for efficient movement of goods to the various establishments.

(3) such modification allows for a better relationship between the street walls of the building containing such establishment and the adjacent sidewalk and surrounding area; and

By reducing the loading requirement on several blocks within the Proposed Development, more connected street walls with fewer and smaller breaks in the façade, and fewer and smaller curb cuts, will be provided on Zoning Lots A, B, C and D. With less interruptions in the façade and in the sidewalk via loading entrances and curb cuts, the Proposed Development's street walls will have a better relationship with the adjacent sidewalks because this built condition will create a more pedestrian-friendly, interconnected street scape that isn't punctured with loading entrances that obstruct traffic flow.

For example, Zoning Lot A will only have one, approximately 30' wide curb cut for its two off-street loading berths along 37th Street. By reducing the required loading berth count by three on this block, a second curb cut on 38th Street—which could interfere with pedestrian traffic to and from the gallery gardens and courtyard—would not be needed, and such public open spaces would only be surrounded by street walls with active commercial and community facility uses. Similarly,

on Zoning Lot B, a single loading berth adjacent to ground floor retail use will be provided (instead of the two required berths) via an approximately 30' wide curb cut on the east side of 38th Street. It will be separated to the north so as not to interfere with the through-block pedestrian passage and courtyard to the south. No loading access will be provided on Steinway Street, which enhances its position in the project as a strong and unbroken commercial corridor. Further, the Zoning Lot C loading berth would be in the mid-block along 41st Street and approximately 100' away from the beginning of the civic park, and would therefore not interfere with pedestrian access and utilization of the primary public open space in the Proposed Development, nor the commercial and community facility establishments that the open space abuts.

With respect to Zoning Lot D, which will contain the multi-plex theater, the reduction from six berths to one berth is based on the Applicant's operational knowledge of movie theaters. The theater and retail and community flex space on Zoning Lot D will generate a total of six required loading berths, primarily from the theater square footage. Theaters, functionally, do not require loading berths and the Applicant team believes only one berth will be necessary to serve the retail and community flex space. Access to such berth will be located on 42nd Street via a 15' wide curb cut and away from the main entrance to the theater in the covered public open space. Locating five other berths on this block would result in a more disjointed pedestrian experience and reduce the continuity of the ground floor retail and community facility space frontages that are critical to streetscape activation adjacent to the theater. With the Applicant's understanding that loading berths required by the theater use will not be necessary for its operation, the elimination of such berths foster a more pedestrian-friendly and active commercial ground level on all frontages on the block. Therefore, the reduction in loading berths (and, in turn, curb cuts for such berths) on the subject blocks in the Proposed Development will create a better relationship between the street walls and adjacent sidewalks because there will be less disruptions, thereby enhancing the active commercial, retail and community facility frontages that can be better enjoyed by pedestrians.

(4) such modification will not impair or adversely affect the development of the surrounding area.

The proposed loading berth reduction within the Proposed Development will not impair nor adversely affect the surrounding area, but rather enhance it and allow vehicular and pedestrian traffic to move more freely through the Development Site and surrounding area with minimal interference. For one, no curb cuts or off-street loading berths will be located on the larger traffic routes adjacent to the Proposed Development (i.e. 35th Avenue, 36th Avenue, Steinway Street and Northern Boulevard). This is particularly important along the south side of 35th Avenue where the sidewalk will be widened, promoting pedestrian use adjacent to park, passive public open space and a variety of retail and community facility uses sited to engage the public. This is also important along Steinway Street, which will be a strong retail corridor bisecting the project. All loading access will be on the side streets within the Development Site, sited away from 35th Street and Steinway Street and away from the connected open spaces that traverse the Proposed Development. Constructing the loading berths in these locations will keep them away from the high public-usage areas, and result in less opportunity for interference or disruption with pedestrians utilizing the retail and community facility uses, thereby strengthening the street frontage and not impairing or adversely affecting the development.

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