Marcus Garvey Village Rezoning
Community District 16
Brooklyn, NY
June 6, 2018

Discussion of Conditions in Support of Special Permit Pursuant to ZR § 74-743

Brownsville Livonia Associates LLC (the "Applicant") requests, among other actions, a special permit pursuant to Section 74-743 of the Zoning Resolution of the City of New York ("ZR") for bulk modifications to facilitate a Large Scale General Development ("LSGD") of seven new eight- and nine-story mixed-use buildings with approximately 724 affordable housing units ("Proposed Development"). The Proposed Development will replace existing underutilized surface parking lots in Marcus Garvey Village in the Brownsville neighborhood within Brooklyn Community District 16.

The proposed LSGD is contiguous with Marcus Garvey Village, a low-density affordable housing complex with 625 units in 32 buildings and 294 accessory parking spaces on seven surface parking lots. Marcus Garvey Village spans approximately 523,000 square feet of lot area on ten blocks and portions of blocks and 13 tax lots. It is generally bounded by Blake Avenue to the north, Rockaway Avenue to the east, Thomas S. Boyland Street to the west, and Newport Street to the south. The proposed LSGD consists of Block 3559, Lot 1; Block 3560, Lot 1; Block 3573, Lot 1; Block 3574, Lot 1; Block 3575, Lot 11; Block 3587, Lots 1, 27; Block 3588, Lots 1, 27, 32-36; Block 3589, Lot 21; Block 3601, Lot 26; and Block 3602, Lot 12. The property within the proposed LSGD is currently zoned R6 and R6/C2-3.

Within the boundaries of the LSGD, the proposed Project Area consists of seven vacant development sites: Development Site A (Block 3589, Lot 21); Development Site B (Block 3574, p/o Lot 1); Development Site C (Block 3588, Lots 27, 32-36); Development Site D (Block 3573, p/o Lot 1); Development Site E (Block 3587, p/o Lot 1, Lot 27); Development Site F (Block 3602, Lot 12); and Development Site G (Block 3560, Lot 1) (collectively the "Project Area" or "Development Sites").

The following conditions must be met for the City Planning Commission to issue the requested special permit pursuant to ZR § 74-743.

> *ZR § 12-10 [DEFINITIONS]*
>
> *Large-scale general development (2/2/11)*
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> *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 LSGD contains 39 buildings on multiple zoning lots that will be contiguous but for their separation by streets and street intersections. The proposed LSGD will contain residential, community facility, and commercial uses. It is thus not a large-scale residential development, nor is it a large-scale community facility development.

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

The proposed LSGD has a lot area of approximately 523,000 square feet, which is equivalent to approximately 12 acres.

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

The proposed LSGD has been and is to be used and developed as a unit. It is located in the former Marcus Garvey Village Urban Renewal Area. The New York State Urban Development Corporation ("NYS UDC") (now the Empire State Development Corporation) developed the existing Marcus Garvey Village as a unit pursuant to the Marcus Garvey Village Urban Renewal Plan. The Board of Estimate approved the Urban Renewal Plan in 1968 (and it expired 40 years

later in 2008). The buildings were constructed in the 1970s. The proposed LSGD will incorporate seven new mixed-use buildings into Marcus Garvey Village to provide additional affordable housing and new community facility and commercial resources.

> *(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*

L+M Development Partners ("L+M"), an affiliate of the Applicant, acquired Marcus Garvey Village in 2014. The majority of the proposed LSGD is owned by L+M with the exception of six tax lots. Block 3587, Lot 27 and Block 3588, Lots 32, 33, 34, 35, and 36 are owned by the City of New York. Block 3587, Lot 27 is under the jurisdiction of HPD and Block 3587, Lots 32-36 are under the jurisdiction of DPR. These lots will be conveyed by the City to the Applicant subject to the proposed Urban Development Action Area Project ("UDAAP") designation, project approval, and disposition sought in conjunction with the proposed LSGD.

> *(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*

This subsection is not applicable.

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

Pursuant to the request for a zoning map amendment to change the zoning district applicable to the Project Area to an R7-2 zoning district with a C2-4 commercial overlay along portions of Livonia Avenue, the proposed LSGD will be located partially within a commercial district.

> *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#.*

The existing Marcus Garvey Village buildings form an integral part of the LSGD. The inclusion of the existing buildings in the LSGD permits the application of the parking waiver pursuant to ZR § 74-532 sought in conjunction with the LSGD. The parking waiver is crucial to the Proposed Development, which will be located on the existing surface parking lots. There is no bulk distribution from the zoning lots within the LSGD containing the existing buildings.

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Discussion of Findings in Support of Special Permit Pursuant to ZR § 74-743

Brownsville Livonia Associates LLC (the "Applicant") requests, among other actions, a special permit pursuant to ZR § 74-743 for bulk modifications to facilitate a LSGD of seven new eight- and nine-story mixed infill buildings with approximately 724 affordable housing units ("Proposed Development"). The Proposed Development will replace existing underutilized surface parking lots in Marcus Garvey Village in the Brownsville neighborhood within Brooklyn Community District 16.

ZR § 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:

(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;
(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;

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

The Applicant requests that the Commission permit the proposed modifications of the following lot coverage, height and setback, and distance between buildings provisions to allow for the design of the Proposed Development.

- ZR § 23-153 to calculate lot coverage without regard for zoning lot lines at Development Sites A and B pursuant to ZR § 74-743(a)(1);

- ZR § 23-664 to increase the maximum base height to 85 feet at Development Sites A through E and 80 feet at Development Sites F and G pursuant to ZR § 74-743(a)(2);

- ZR § 23-711 to reduce the required minimum distance between legally required windows and walls to 30 feet at Development Sites B, D, and E pursuant to ZR § 74-743(a)(2);

- ZR § 23-711 to reduce the required minimum distance between window to window to 40 feet at Development Site B, and 55 feet at Development Sites D and E pursuant to ZR § 74-743(a)(2);

The below response to the findings in ZR § 73-743(b) demonstrates that the requested modifications are necessary to facilitate a proposed development that will achieve a better site plan than would be possible under the generally applicable regulations.

* * * * *

(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 location of the Proposed Development will result in a better site plan and a better relationship among buildings and open areas to adjacent streets, surrounding developments, and adjacent open areas than would be possible without the proposed modifications described above. The existing unused and underused parking lots break up the community with a vacant and unsightly void that creates a disjointed neighborhood without a focal node of activity. The Proposed Development will reconnect the community and activate the streets, particularly Livonia Avenue, knitting together the disjointed sections of Marcus Garvey Village with a new and active central corridor.

The Proposed Development includes seven Development Sites, five of which front on Livonia Avenue. Each of the new buildings on these sites is designed to focus density and activity along Livonia Avenue; however, this is made more difficult because of characteristics of the lots. The Development Sites are generally shallower than typical lots, and this, along with the presence of the existing Marcus Garvey Village buildings and the elevated rail line along Livonia Avenue, makes it difficult for as-of-right R7-2 buildings to effectively concentrate density along Livonia Avenue and create a more attractive streetscape and neighborhood focal point. The requested zoning waivers will allow the proposed buildings to set back at the street line to effectively widen Livonia Avenue and provide a buffer from the elevated rail line, while keeping adequate open space between the proposed and existing Marcus Garvey Village buildings. The buildings will also incorporate articulation and a variety of building heights and setbacks to create an appropriate sense of scale, with reduced bulk adjacent to the elevated railway and the existing low-rise buildings. Each of the buildings with frontage on Livonia Avenue is set back at least five feet at grade, effectively widening the sidewalk, to improve the pedestrian experience along this corridor and providing a buffer between the elevated rail line and the new buildings. These buildings also step down in height adjacent to the existing low-rise buildings, providing a transition between the new developments and existing Marcus Garvey Village buildings that would not be possible without the modifications pursuant to the LSGD. Development Sites F and G are similarly designed to enhance the existing Marcus Garvey Village and the surrounding community by improving the streetscape along Chester Street.

The proposed LSGD will provide substantial new housing in seven buildings designed with varying heights and street wall locations that break up the massing of the buildings and effectively widen the streets. This is particularly important along Livonia Avenue due to the presence of the elevated subway structure. With widenings of 5 to 10 feet on each side of the street, Livonia Avenue will essentially function as a wide street for light and air. New commercial and community facility space will bring needed retail and services to neighborhood residents. New development will activate and enliven Livonia Avenue, and create a connection between the northern and southern portions of Marcus Garvey Village. The existing underutilized and abandoned open areas will be replaced by a lively mixed-use streetscape.

Whereas the existing site plan with surface parking lots creates several virtually unused and unattractive voids in the neighborhood, the above modifications will contribute to a better site plan and a better relationship among the proposed buildings and open areas to adjacent streets, surrounding development, and adjacent open areas than would be possible without. The proposed LSGD will thus benefit both the occupants of the LSGD, the neighborhood, and the City as a whole.

(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 Proposed Development is located across multiple blocks and offers variated building envelopes that facilitate an even distribution of light and air within the Project Area and in relation to the elevated railway. The Proposed Development was designed to carefully respond to the existing built context of the surrounding area and street network surrounding the Development Sites. This approach ensures that the occupants and users of the buildings in the Proposed Development, the occupants of nearby buildings, and people utilizing the surrounding streets, receive more light and air than if the proposed development strictly complied with the height and setback requirements. An as-of-right development would likely result in shallower, taller buildings built at the street line without any transition between the 135-foot maximum height and the adjacent existing low-rise buildings. Taller buildings, especially directly bordering the R6 district, would obstruct light and air both along Livonia Avenue, a narrow street, and to the existing Marcus Garvey Village buildings.

The Proposed Development mitigates the impact on light and air to occupants of the surrounding area with setbacks at grade and on the upper portions of the buildings. Each of the proposed buildings fronting on Livonia Avenue is set back at least five feet from the street line at grade, widening the sidewalk and effectively transforming Livonia Avenue from a 70-foot narrow street to an 80-foot wide street. This five foot setback also provides a buffer to mitigate the impact of the elevated rail line on the buildings. Buildings F and G are similarly set back from the street to achieve greater bulk without impacting the neighboring buildings and streets. Buildings B, C, D, and E step down from their maximum heights as they get closer to the existing Marcus Garvey Village buildings, providing a transition that allows additional light and air to reach the low-rise buildings when compared to an as-of-right R7-2 building. This design approach mitigates the impact on light and air to the neighboring buildings and further allows for increased distribution of light and air at street level, particularly along Livonia Avenue.

For this reason, its location will not unduly increase the bulk of buildings in any one block, nor will the location of the Proposed Development unduly obstruct access to light and air to the detriment of the occupants or the users of buildings in the nearby blocks or the public 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;

This subsection is 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 LSGD occupies blocks that are well served by efficient traffic arterials and local streets. The proposed LSGD is contiguous with Marcus Garvey Village, which is generally bounded by Blake Avenue to the north, Rockaway Avenue to the east, Thomas S. Boyland Street to the west, and Newport Street to the south. The east/west streets, including Blake, Dumont, Livonia, and Riverdale Avenues, and Newport Street are all 70-foot wide two-way streets. Of the north/south streets, Thomas S. Boyland Street at 80-feet and Rockaway Avenue at 90-feet are two-way streets, while Bristol and Chester Streets are 60-foot one-way streets. Each of these streets providing access to the LSGD is adequate to handle the volumes of traffic anticipated to be generated by the proposed development. In addition, the Proposed Development involves no accessory off-street parking spaces, with the exception of approximately 24 spaces in Buildings F and G. Due to its location within the Transit Zone and immediate adjacency to the subway, it will exert less demand on the surrounding streets than might otherwise occur pursuant to a development with the provision of parking.

The Proposed Development's commercial entrances will be primarily located along Livonia Avenue at Development Sites A-E. These buildings will be setback at least 5 feet from the street line along Livonia Avenue to accommodate pedestrian traffic. The existing sidewalks along Livonia Avenue are approximately 18 feet, and would increase to approximately 23 feet with the

setbacks. Entrances to the residential and community facility portions of these buildings are generally located on the side streets.

Furthermore, the Environmental Assessment Statement found that the Proposed Development would not result in significant adverse impacts to any of the intersections in the study area. Accordingly, the streets providing access to the Proposed Development will be adequate to handle traffic resulting therefrom.

> *(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;*

This subsection is 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#;*

This subsection is 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;*

This subsection is 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#;*

This subsection is 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 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;

This subsection is 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

A declaration with regard to ownership requirements in paragraph (b) of the LSGD definition set forth in ZR § 12-10 will be filed with the Commission prior to granting the actions requested herein.

(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#.

This subsection is not applicable.