163-01 CROSS BAY BOULEVARD REZONING
Authorizations Pursuant to ZR Section 62-822

Applicant's Statement of Findings

62-822

Modification of waterfront public access area and visual corridor requirements

(a) Authorization to modify requirements for location, area and minimum dimensions of waterfront public access areas and visual corridors

The City Planning Commission may modify the requirements of Section 62-50 (GENERAL REQUIREMENTS FOR VISUAL CORRIDORS AND WATERFRONT PUBLIC ACCESS AREAS) and, in conjunction therewith, Section 62-332 (Rear yards and waterfront yards). The Commission may also authorize a portion or all of the required waterfront public access area to be provided off-site on an adjoining public property.

The Commission shall file any such authorization, pursuant to this paragraph (a), with the City Council. The Council, within 20 days of such filing, may resolve by majority vote to review such authorization. If the Council so resolves, within 50 days of the filing of the Commission's authorization, the Council shall hold a public hearing and may approve such authorization in whole or in part, with additional or modified restrictions or conditions, or disapprove such authorization. If, within the time periods provided for in this Section, the Council fails to act on the Commission's authorization, the Council shall be deemed to have approved such authorization.

(1) In order to modify the location of waterfront public access areas and visual corridors, the Commission shall find that such areas, provided either on the zoning lot or off-site adjacent to the zoning lot, shall:

(i) comply with the required minimum dimensions and equal the required total area, in aggregate; and

(ii) due to their alternative location and design, provide equivalent public use and enjoyment of the waterfront and views to the water from upland streets and other public areas; or

(2) In the event the Commission determines that there is no feasible way to provide equal alternative waterfront public access areas either on the zoning lot or off-site on an adjoining public property or to provide equal alternative visual corridors, the Commission may authorize a reduction in minimum dimensions or area, or may waive such requirements, provided that:

(i) such development would be impracticable, physically or programmatically, due to site planning constraints such as the presence of existing buildings or other structures or elements having environmental, historic or aesthetic value to the public; and

The Applicant is requesting an authorization pursuant to ZR Section 62-822(a) to modify the location and minimum dimension of the visual corridor. Pursuant to ZR Section 62-511(c) and ZR Section 62-512, 163rd Avenue and its prolongation is a required visual corridor with a minimum required width of 80 feet. Given the compact size of the zoning lot (16,029 square feet), strict adherence to ZR Sections 62-511(c) and 62-512 would require that an approximately 6,750 square foot (42 percent) central portion of the lotbe dedicated to the provision of a visual corridor, rendering any new development impracticable due to site planning constraints. Alternatively, the Applicant proposes to reduce the visual corridor width from 80 feet to 50 feet and locate the visual corridor perpendicular to the shoreline at the intersection of 163rd Avenue and Cross Bay Boulevard coincident with a 40-foot-wide City easement for visual, water main, sewer, and utility purposes. The proposed location would align with the formerly mapped streetbed of 163rd Avenue and provide sufficient flexibility to facilitate construction of the proposed development.

(ii) that the reduction or waiver of requirements is the minimum necessary.

The proposed relocation of the visual corridor and reduction in visual corridor width from 80 feet to 50 feet would represent the minimum reduction necessary to facilitate the redevelopment of the zoning lot with the proposed hotel use and waterfront public access area ("WPAA"). The proposed visual corridor relocation and reduction in width would allow for the redevelopment of an additional 2,531 square feet of lot area, resulting in the creation of an additional 18-20 hotel rooms (33 total hotel rooms are proposed). The proposed hotel use would not be financially feasible without the additional hotel rooms and redevelopment of this site would be impracticable due to site planning constraints. As such, the proposed visual corridor relocation and reduction in width represents the minimum reduction necessary.

(b) Authorization to modify requirements within waterfront public access areas

The City Planning Commission may modify the requirements within the waterfront public access area provisions of Sections 62-513 (Permitted obstructions in visual corridors), 62-58 (Requirements for Water-Dependent Uses and Other Developments), 62-60 (DESIGN REQUIREMENTS FOR WATERFRONT PUBLIC ACCESS AREAS), inclusive, and 62-90 (WATERFRONT ACCESS PLANS), inclusive.

In order to grant such authorization, the Commission shall find that such modifications:

(1) are necessary to accommodate modifications pursuant to paragraph (a) of this Section; or

(2) would result in a design of waterfront public access areas that is functionally equivalent or superior to the design prescribed by strict adherence to the applicable provisions.

The Applicant is requesting an authorization pursuant to ZR Section 62-822(b) to waive several WPAA requirements, including:

a. ZR Sections 62-561(a)(1) and 62-64(a)(1) to allow an upland connection with a minimum width of less than 12 feet;
b. ZR Section 62-62(c)(1) to allow less than 35 percent of the area of the shore public walkway and supplemental public access area to be planted;
c. ZR Sections 62-62(c)(2)(i), 62-62(c)(2)(ii) and 62-655(a)(7) to allow no screening buffer or a screening buffer width of less than four feet;
d. ZR Section 62-64(b)(1) to allow more than 65 percent of the entry area to be paved;
e. ZR Section 62-64(c)(1) to allow less than 40 percent of the area of the upland connection to be planted;
f. ZR Section 62-64(c)(1)(iii) to allow a waiver of tree planting requirements within the upland connection; and
g. ZR Section 62-652(d) to allow seating with less than 22 inches of clearance from a circulation path.

The proposed modifications to the WPAA requirements will facilitate development of a WPAA on Development Site 1 that provides quality open space to the public. The proposed design of the WPAA, as modified by the requested authorizations, would be functionally equivalent or superior to the design prescribed by strict adherence to the applicable provisions.

While the proposed upland connection would have a minimum width of 11 feet and therefore would not strictly adhere to the provisions of ZR Sections 62-561(a)(1) and 62-64(a)(1), this represents the minimum modification necessary to provide a well-designed upland connection within a narrow, 20 foot wide space located between an existing driveway to the north and the proposed hotel building to the south. The reduced width of the upland connection would also accommodate the provision of other required amenities within the upland area, including the minimum screening buffer width required pursuant

to ZR 62-62(c)(2). As such, the proposed design would be functionally equivalent or superior to a zoning compliant design.

The proposed design includes approximately 940 square feet of planted area, the equivalent of approximately 27 percent of the area of the shore public walkway and supplemental public access area. As such, the proposed design would not strictly adhere to the provisions of ZR Section 62-62(c)(1). Given the compact size of the WPAA (approximately 4,541 square feet), the presence of the existing driveway, and the need to satisfy other requirements related to landscaping and circulation paths, as well as the 40-foot-wide City of New York easement for visual, water main, sewer, and utility purposes, it would not be possible to provide the required 35 percent of planted area and this would represent the minimum modification necessary. As the proposed amount of planted area would not interfere with the intended use of the WPAA, the proposed design would be functionally equivalent to a zoning compliant design.

The proposed design includes areas with no screening buffer as well as areas with a screening buffer width of 4 feet that is interrupted by ADA companion seating areas and would therefore not strictly adhere to the provisions of ZR Sections 62-62(c)(2)(i), 62-62(c)(2)(ii) and 62-655(a)(7). Given the compact size of the WPAA (approximately 4,541 square feet) and the need to provide ADA companion seating areas, it would not be possible to provide a screening buffer with an uninterrupted width of 4 feet and this would represent the minimum modification necessary. As the proposed screening buffer width would not interfere with the intended use of the WPAA, the proposed design would be functionally equivalent to a zoning compliant design.

The proposed design includes approximately 235 square feet of paved area within the entry area, the equivalent of 78 percent of the entry area. As such, the proposed design would not strictly adhere to the provisions of ZR Section 62-64(b)(1). Given the compact size of the entry area and the need to satisfy other requirements related to the provision of bicycle racks, circulation paths and seating, it would not be possible to provide a lower amount of paved area and this would represent the minimum modification necessary. As the proposed amount of paved area within the entry area would not interfere with the intended use of the WPAA, the proposed design would be functionally equivalent to a zoning compliant design.

The proposed design includes approximately 240 square feet of planted area within the upland connection, the equivalent of 24 percent of the upland connection. As such, the proposed design would not strictly adhere to the provisions of ZR Section 62-64(c)(1). Given the compact size of the upland connection area and the need to satisfy other requirements related to the provision of circulation paths and seating, as well as the 40-foot-wide City of New York easement for visual, water main, sewer, and utility purposes, it would not be possible to provide a higher amount of planted area and this would represent the minimum modification necessary. As the proposed amount of planted area within the upland connection area would not interfere with the intended use of the WPAA, the proposed design would be functionally equivalent to a zoning compliant design.

The proposed design does not provide a continuous tree pit within the upland connection along the curb of the private driveway and therefore does not strictly adhere to the provisions of ZR Section 62-64(c)(1)(iii). Given the driveway's location within a 40-foot-wide City of New York easement for visual, water main, sewer, and utility purposes, it would not be possible to provide the required tree pit and this would represent the minimum modification necessary. As the proposed design change would not interfere with the intended use of the WPAA, the proposed design would be functionally equivalent to a zoning compliant design.

The proposed design includes approximately 16 linear feet of bench seating that would overlap with the circulation path and therefore would not strictly adhere to the provisions of ZR Section 62-652(d). Given the compact size of the WPAA (approximately 4,541 square feet) and the need to satisfy other requirements related to ADA companion seating, landscaping and planting areas, it would not be possible to provide the required 22 inches of clearance from the circulation path. This represents the minimum modification necessary to provide sufficient bench seating within a challenging site configuration. As the proposed bench locations would not interfere with the intended use

of the WPAA and the proposed benches would comply with all other design standards and location requirements, the proposed design would be functionally equivalent to a zoning compliant design.

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