



CITY PLANNING COMMISSION

August 22, 2012 / Calendar No. 9

C 120228 ZSM
CORRECTED

IN THE MATTER OF an application submitted by the NYC Department of Housing Preservation & Development pursuant to Sections 197-c and 201 of the New York City Charter, for the grant of special permits pursuant to the following sections of the Zoning Resolution:

1. 74-743(a)(1) to modify the applicable district regulations to allow the distribution of total allowable floor area, dwelling units and lot coverage under the applicable district regulations within a large-scale general development without regard for zoning lot lines or district boundaries;
2. 74-743(a)(2) to modify the applicable district regulations to allow the location of buildings without regard for the applicable yard, court, distance between buildings, height and setback regulations; and
3. 74-743(a)(10) to modify the applicable district regulations to allow the areas of the zoning lot between the street line and the street walls of the proposed buildings to be improved as publicly-accessible widened sidewalk;

in connection with a proposed mixed use development, within a large-scale general development bounded by Delancey Street, a line 150 feet easterly of Clinton Street, Broome Street, Clinton Street, Grand Street, Suffolk Street, Broome Street, Essex Street, a line 95.62 feet northerly of Broome Street, a line 50.54 feet westerly of Essex Street, Broome Street, Ludlow Street, a line 155 feet northerly of Broome Street, and Essex Street (Block 346, p/o Lot 40, Block 347, Lot 71, Block 352, Lots 1 & 28, and Block 409, Lot 56), in R8/C2-5 and C6-1 Districts, partially within the former Seward Park Extension Urban Renewal Area, Manhattan, Community District 3.

This application, filed March 21, 2012, requests a special permit pursuant to Zoning Resolution (“Z.R.”) Section 74-743, to modify bulk regulations within a large-scale general development, in order to facilitate the Seward Park Mixed-Use Development Project, which is generally located on the blocks around and adjacent to the intersection of Delancey and Essex Streets. The proposal, which is sponsored by the Office of the Deputy Mayor for Economic Development and Rebuilding, in coordination with the New York City Economic Development Corporation (“NYCEDC”) and the New York City Department of Housing Preservation and Development (“HPD”), would facilitate an approximately 1.65-million-square-foot, mixed-use, mixed-income (including affordable housing) development on nine City-owned sites in Manhattan Community District 3. As further specified below, this and the related applications were submitted by HPD and the New York City Department of Citywide Administrative Services (“DCAS”)—together the “Applicants”—with NYCEDC as the authorized representative.

RELATED ACTIONS

In addition to the proposed zoning special permit (C 120228 ZSM) which is the subject of this report, implementation of the proposed project also requires action by the City Planning Commission on the following applications, which are being considered concurrently with this application:

- C 120156 MMM A proposed amendment to the City Map involving: the establishment of Broome Street between Norfolk Street and Clinton Street; the establishment of Suffolk Street between Grand Street and Delancey Street; the narrowing, by elimination, discontinuance and closing, of Clinton Street between Grand Street and Delancey Street; the narrowing, by elimination, discontinuance and closing, of Delancey Street between Norfolk Street and Clinton Street; the establishment of the name Delancey Street for the Unnamed Street between Clinton Street and Franklin D. Roosevelt Drive; and the adjustment of grades necessitated thereby, including authorization for any disposition or acquisition of real property related thereto, in accordance with Map No. 30236, dated March 14, 2012, and signed by the Borough President.
- C 120226 ZMM A proposed amendment to the Zoning Map, Section No. 12c, establishing a C2-5 District within an existing R8 District.
- N 120227 ZRM A proposed amendment to the Zoning Resolution, modifying Sections 74-743 (Special Provisions for Bulk Modifications) and 74-744 (Modification of Use Regulations) concerning special permit regulations for large-scale general developments, relating to the former Seward Park Extension Urban Renewal Area.
- C 120229 ZSM Special Permit, to modify the use regulations within a Large-Scale General Development.
- N 120230 ZAM A request for the grant of an Authorization by the Commission, pursuant to Section 74-744, to modify signage regulations to allow signs accessory to non-residential uses above the level of the finished floor of the third story.

- C 120231 ZSM Special Permit, pursuant to Sections 13-562 and 74-52 of the Zoning Resolution, to allow a public parking garage on property bounded by Delancey Street, Norfolk Street, Broome Street and Essex Street (Site 2, Block 352, p/o Lot 1 and Lot 28), in a C6-1 District.
- C 120233 ZSM Special Permit, pursuant to Sections 13-562 and 74-52 of the Zoning Resolution, to allow a public parking garage on property bounded by Delancey Street, Suffolk Street, Broome Street and Norfolk Street (Site 3, Block 346, p/o Lot 40), in an R8/C2-5 District.
- C 120234 ZSM Special Permit, pursuant to Sections 13-562 and 74-52 of the Zoning Resolution, to allow a public parking garage on property bounded by Delancey Street, Clinton Street, Broome Street and Suffolk Street (Site 4, Block 346, p/o Lot 40), in an R8/C2-5 District.
- C 120235 ZSM Special Permit, pursuant to Sections 13-562 and 74-52 of the Zoning Resolution, to allow a public parking garage on property bounded by Broome Street, Clinton Street, Grand Street and Suffolk Street (Site 5, Block 346, p/o Lot 40), in an R8/C2-5 District.
- N 120236 HAM Urban Development Action Area Project (UDAAP) designation and project approval, for properties located on Essex, Delancey, Norfolk, Grand, Stanton and Broome streets (Block 346, part of Lot 40; Block 347, Lot 71; Block 352, Lots 1, 28; Block 353¹, Lot 44; Block 354, Lots 1, 12; and Block 409, Lot 56), as an Urban Development Action Area, to facilitate the development of residential, community facility and commercial uses, including the redevelopment of the Essex Street Market.
- C 120237 PQM Acquisition of property bounded by Essex, Delancey, Norfolk, and Broome streets (Block 352², p/o Lots 1 and 28), by the New York City Department of Citywide Administrative Services.
- C 120245 PPM Disposition of city-owned property (Block 346, p/o of Lot 40; Block 347, Lot 71; Block 352, Lots 1 and 28; Block 353, Lot 44; Block 354, Lots 1

¹ Correction 8/30/12: Due to administrative error, the block number had been previously identified as Block 352; it is Block 353.

² Correction 8/30/12: Due to administrative error, the block number had been previously identified as Block 353; it is Block 352.

and 12; and Block 409, Lot 56), by the New York City Department of Housing Preservation and Development to a future developer, or by the New York City Department of Citywide Administrative Services to the New York City Economic Development Corporation or a successor local development corporation.

BACKGROUND

The applicant (HPD) for the subject application is also an applicant for all of the related actions. DCAS is a co-applicant for the disposition and acquisition actions (C 120237 PQM and C 120245 PPM). The proposed actions would result in a mixed-use development of approximately 1.65 million square feet of residential, commercial, and community facility floor area in several buildings covering a total of nine City-owned sites. The residential program includes 900 units, half of which would be affordable to low-, moderate- and middle-income tenants, including affordable housing for seniors. The development sites total approximately 6.14 acres of lot area located in the Lower East Side neighborhood of Manhattan in Community District 3. The area of the proposed project is generally bounded by Stanton Street and Delancey Street to the north, a line 150 feet east of Clinton Street and Clinton Street to the east, Grand Street to the south, and Ludlow Street and Essex Street to the west. The project site is partially within the former Seward Park Extension Urban Renewal Area and directly adjacent to the former Seward Park Urban Renewal Area, which had been established immediately to the south.

In 1980, the Board of Estimate approved the first amendment to the Seward Park Extension Urban Renewal Area (“SPEURA”) plan, which was initially adopted by the Board of Estimate in 1965. The amended SPEURA plan modified the proposed uses on some of the blocks that comprise this application, designating them for commercial uses. The amended SPEURA plan acknowledged that these parcels would need to be rezoned at a later date in order to accomplish these goals. In the 1980s, other SPEURA sites were developed, including a 26-story apartment tower on the corner of Norfolk and Grand streets, an 11-story apartment building on Bialystoker Place, and additional smaller buildings on Pitt Street, Broome Street and Bialystoker Place (formerly Willet Street).

Since then, over roughly thirty years, there have been three major attempts to develop the remaining SPEURA sites. In 1988, the LeFrak Organization proposed a mix of affordable and

market-rate housing units; that project was canceled in the early 1990s. In 1993, Kraus Enterprises proposed a development with residential units, park space, retail and a movie theater. In 1999, a joint partnership between the LeFrak Organization and Edward J. Minskoff Equities proposed a mix of affordable and market-rate housing with additional retail, but that plan was dropped in 2001. These proposals failed to move forward generally due to a lack of consensus on the best use of the sites. On July 22, 2005, forty years after its adoption, the SPEURA plan expired. The remaining SPEURA sites stayed largely or completely vacant and underutilized, with the predominant use being surface parking, for public, local business and City use.

In an effort to spur development, the City examined all of the remaining City-owned properties in the surrounding area, including a municipal parking garage operated by the New York City Department of Transportation (“NYCDOT”) at 107 Essex Street. The resulting proposal examined ten sites which could be separated into individual zoning lots for development. The sites are currently underutilized and contain a mix of parking, vacant and partially vacant commercial uses, and a small residential building. As described in more detail below, six of the newly-created sites (Sites 1 through 6) would comprise a Large-Scale General Development (“LSGD”) established by a special permit which is the subject of this report.

The remaining sites (Sites 8, 9, 10) comprise three zoning lots on two blocks between Delancey Street and Stanton Street, comprising 38,867 square feet of total lot area. These sites contain the Essex Street Market facility, a vacant building partially used by the market for the storage of its refuse, and a health clinic run by the Community Healthcare Network (“CHN”).

The original ten project sites are as follows:

Site 1 Existing Zoning C6-1; part of proposed LSGD Area

Site 1 (Block 409, Lot 56) is an irregularly-shaped 21,996-square-foot lot with 151 feet of frontage on Ludlow Street, 124 feet on Broome Street and 59 feet on Essex Street. Site 1 was not in the original SPEURA; it was acquired through a 1970 condemnation action for the Board of Education, and in 1977 it was transferred to NYCDOT jurisdiction. Today, NYCDOT operates the site as a municipal parking lot containing 65 public parking spaces.

Site 2 Existing Zoning C6-1; part of proposed LSGD Area

Site 2 (Block 352, Lots 1 and 28) contains 43,140 square feet of lot area and occupies the entire block bounded by Essex, Delancey, Norfolk and Broome streets. It was one of the original

SPEURA sites and has 253 feet of frontage on Essex and Norfolk streets, and 171 feet of frontage on Delancey and Broome streets. The site contains a one-story, approximately 18,000-square-foot commercial building with frontage along Essex Street and Delancey Street; the building is one of the four original Essex Street Market buildings, developed in 1939. Today the building is vacant with the exception of a liquor store and diner on Delancey Street. The unbuilt remainder of the site is used for fleet parking by HPD.

Site 3 *Existing Zoning R8; part of proposed LSGD Area*

Site 3 (Block 346, p/o Lot 40) contains 40,776 square feet of lot area and occupies the entire block bounded by Norfolk, Delancey, Suffolk and Broome streets. One of the original SPEURA sites, it has 203 feet of frontage on Norfolk and Suffolk streets and 201 feet of frontage on Delancey and Broome streets. A small portion of the site's northeastern corner is currently mapped, but not built, as widened area for Delancey Street. This portion is proposed to be demapped pursuant to the concurrent Mapping Application (C 120156 MMM). The site is entirely occupied by a surface parking lot containing 170 public parking spaces.

Site 4 *Existing Zoning R8; part of proposed LSGD Area*

Site 4 (Block 346, p/o Lot 40) contains 40,627 square feet of lot area and occupies the entire block bounded by Suffolk, Delancey, Clinton and Broome streets. One of the original SPEURA sites, it has 202 feet of frontage on Suffolk and Clinton streets and 201 feet of frontage on Delancey and Broome streets. Portions of the site's northern and eastern edges are currently mapped, but not built, as widened area for Delancey and Clinton streets, respectively. These portions are proposed to be demapped pursuant to the concurrent Mapping Application (C 120156 MMM). The site is entirely occupied by a surface parking lot containing 125 commercial parking spaces for area businesses.

Site 5 *Existing Zoning R8; part of proposed LSGD Area*

Site 5 (Block 346, p/o Lot 40) contains 60,712 square feet of lot area and occupies the entire block bounded by Suffolk, Broome, Clinton and Grand streets. One of the original SPEURA sites, it has 302 feet of frontage on Suffolk and Clinton streets and 201 feet of frontage on Broome and Grand streets. A portion of the site's eastern edge is currently mapped, but not built, as widened area for Clinton Street. This portion would be demapped pursuant to the concurrent Mapping Application (C 120156 MMM). The site currently contains three buildings: a five-story, ten-unit residential building on Grand Street with seven occupied units under HPD

jurisdiction and a ground-floor visitor center for the Lower East Side Jewish Conservancy; a three-story building on Grand Street which is vacant except for a ground-floor shoe repair store; and a former fire station on Broome Street that is occasionally used for furniture sales. The site's unbuilt remainder is occupied by a 90-space public parking lot.

Site 6 *Existing Zoning R8; part of proposed LSGD Area*

Site 6 (Block 347, Lot 71) contains 21,344 square feet of lot area and occupies the westernmost 146 feet of the block bounded by Clinton, Delancey, Ridge and Broome streets. It was one of the original SPEURA sites. The portion of Delancey Street onto which Site 6 fronts is officially designated as Unnamed Street on the current City Map, but will be renamed to Delancey Street through the concurrent Mapping Application. (This Report hereinafter refers to this street as part of Delancey Street.) Site 6 has 146 feet of frontage on Delancey, Broome and Clinton streets. A small portion of the site's northwestern corner is currently mapped, but not built, as widened area for Delancey and Clinton streets. This portion would be demapped pursuant to the concurrent Mapping Application (C 120156 MMM). The site is entirely occupied by a 48-space public parking lot.

Site 7 *Existing Zoning C4-4A*

A municipal parking garage operated by NYCDOT at 107 Essex Street had been designated as Site 7. However, Site 7 was removed from the study (while retaining its label as "Site 7"), and in the proposed Project, it would retain its current function as a municipal parking garage and continue to support existing neighborhood uses. No new development is proposed for Site 7.

Site 8 *Existing Zoning C4-4A*

Site 8 (Block 354, Lot 1) contains 11,210 square feet of lot area. The lot has 225 feet of frontage on Essex Street, 10 feet of frontage on Rivington Street, and its northern portion extends 70 feet into the block. The site is fully occupied by a vacant, one-story building. One of the original Essex Street Market buildings, today the structure is used for storage of refuse generated by the market on Site 9.

Site 9 *Existing Zoning C4-4A, C6-2A*

Site 9 (Block 353, Lot 44) contains 20,817 square feet of lot area. The lot has 402 feet of frontage on Essex Street, 45 feet of frontage on Delancey Street, 20 feet of frontage on Rivington Street, and its central portion extends 70 feet into the block. The site is fully occupied by a one-story commercial building. The last of the Essex Street Market buildings to retain its original

function, it includes approximately 15,000 square feet of market space, occupied by 23 vendors. The building also contains retail and restaurant space on the Delancey, Essex and Rivington Street frontages.

Site 10 *Existing Zoning C4-4A*

Site 10 (Block 354, Lot 12) contains 6,840 square feet of lot area. The lot has 150 feet of frontage on Essex Street, approximately 21 feet of frontage on Stanton Street, and its southern portion extends 70 feet into the block. The site is fully occupied by a one-story building. One of the original Essex Street Market buildings, today the structure is occupied by a health clinic run by CHN.

As noted, Sites 8, 9, 10 and a portion of Site 2 contain the original Essex Street Market buildings, located along Essex Street between Broome Street and Stanton Street. These one-story brick buildings were constructed in 1939, as part of a citywide program to address sanitation issues and relieve street congestion from pushcart vendors by providing indoor retail space for 475 vendors. In the 1960s, the City leased the Essex Street Market to the vendors, who then took over its management. In the 1980s, the City considered redevelopment proposals for the buildings and ultimately leased the market in 1988 to a private developer, with 59 tenants remaining. By 1995, Sites 2 and 9 remained in market use, but were in danger of closing due to health and building violations. In order to avoid closing the market entirely, NYCEDC assumed direct management and consolidated the remaining vendors into the Site 9 building, on the north side of Delancey Street. The market portion of the building on Site 2, on the south side of Delancey, has remained vacant, but the site contains a diner and a liquor store along the Delancey Street frontage. The building on Site 8 is vacant but is used for storage of refuse generated by the Essex Street Market. In 1994, the New York Downtown Hospital entered into a lease agreement to develop a health clinic on Site 10; the lease was later assigned to CHN, which now operates a health clinic on that site.

In 2008, Manhattan Community Board 3 (“CB3”) revived a community-based planning process with the goal of reaching consensus on a development program for the undeveloped former SPEURA sites, along with all of the Essex Street Market sites and the NYCDOT parking lot on Site 1. CB3 invited the City to be part of the process, and NYCEDC, HPD, and the Department of City Planning (“DCP”) provided technical support and resources to facilitate the community’s

discussion and analysis. Over the course of more than three years, CB3 worked to develop a set of project guidelines that its full Board unanimously adopted in January, 2011. CB3 subsequently worked with the City to understand the project's urban design opportunities and unanimously adopted a set of urban design principles in June, 2011. CB3's guidelines serve as a broad framework for defining key elements of the proposed project. The guidelines call for a mixed-use and mixed-income development that is reflective of, and compatible with, adjacent communities. CB3's recommendations also include design objectives based on principles of contextual design, such that building orientation and access should support and enhance the existing pedestrian realm and integrate with the existing neighborhood.

The surrounding area had seen a trend towards the development of higher-density, taller buildings during the early 2000s, including the 15-story "Blue" condominium building on Norfolk Street, a 23-story residential rental building on Ludlow Street and a 20-story hotel on Rivington Street. In 2008, the East Village/Lower East Side Rezoning (C 080397A ZMM, N 080398A ZRM; approved by the City Planning Commission, October 7, 2008) changed the existing R7-2 and C6-1 non-contextual districts to C4-4A and R7A contextual districts. The new districts require buildings to be built to the street line with a base height between 40 and 65 feet, and a maximum overall building height of 80 feet. The C4-4A district, which is mapped on the blocks south of Delancey Street and west of Ludlow Street, as well as on the blocks north of Delancey Street and west of the midpoint between Norfolk and Essex streets, allows residential, commercial and community facility uses at an FAR of 4.0. The R7A district, which is mapped north of Delancey Street and east of the midpoint between Norfolk and Essex streets, similarly allows residential and community facility uses at an FAR of 4; commercial uses are permitted in a C1-5 commercial overlay area which runs along Clinton Street.

As part of the East Village/Lower East Side Rezoning, the area along Delancey Street was rezoned to C6-2A and mapped as an inclusionary housing program area. This designation allows buildings to be developed with commercial, community facility or residential uses at an FAR of up to 7.2 if affordable housing is provided. The district requires buildings to be built to the street line with a base of 60 to 85 feet in height, and an overall maximum height of 120 feet. The Delancey Street corridor is developed with a number of taller buildings that pre-date the rezoning, including a 16-story residential building on the corner of Forsyth Street and a 19-story dormitory on the corner of Ludlow Street.

The proposed LSGD sites are split between a C6-1 district (Sites 1 and 2) and an R8 district (Sites 3, 4, 5 and 6). C6-1 districts are non-contextual districts, without the streetwall base requirements of the contextual districts north of Delancey Street. These districts allow residential uses at a maximum FAR of 3.44, commercial uses at a maximum FAR of 6, and community facility uses at a maximum FAR of 6.5. R8 districts are also non-contextual districts, allowing residential uses at a maximum FAR of 6.02 and community facility uses at a maximum FAR of 6.5.

The Project's goal is to create a mixed-use development that:

- Provides that 50% of the residential units in the development be affordable to low-, moderate- and middle-income tenants, including senior housing;
- Creates the opportunity for a variety of new commercial uses, potentially including diverse types of retail, office and other uses;
- Encourages a relocated, expanded Essex Street Market with a variety of vendors, products, price points and stall sizes; provides the opportunity for vendors from the existing market to relocate to an updated, more energy efficient facility; creates new entrepreneurship opportunities for additional vendors; and better integrates the market into the public realm;
- Includes a new, publicly-accessible open space in the heart of the project, creating a neighborhood park with a mix of active and passive recreational uses;
- Promotes an enhanced pedestrian experience through ground-floor retail, new and widened sidewalks, strong streetwalls on all buildings, and new street trees wherever possible; and
- Incorporates the option for underground parking to serve residents and commercial users as well as visitors to the area, which would be capped at 500 spaces within the LSGD.

In addition to the requested LSGD Special Permit, which is the subject of this report, the following related actions are requested, in order to facilitate the proposal. These are described in detail in subsequent pages.

1. Zoning Map Amendment, Section 12c (R8 to R8/C2-5)
2. Zoning Text Amendment (Z.R. Sections 74-743 and 74-744)

3. LSGD Special Permit - use waivers (Z.R. Section 74-744(a)(3) and (b))
4. Modification of Signage Regulations Authorization (Z.R. Section 74-744(c)(2))
5. UDAAP/Disposition
6. Acquisition of a portion of Site 2 for the sole purpose of the Essex Street Market
7. Public Parking Garage Special Permit – Site 2
8. Public Parking Garage Special Permit – Site 3
9. Public Parking Garage Special Permit – Site 4
10. Public Parking Garage Special Permit – Site 5
11. Change to the City Map

C 120226 ZMM: Zoning Map Amendment (R8 to R8/C2-5)

The applicants propose a zoning map amendment (the “Rezoning”), which would map a C2-5 commercial overlay over the existing R8 district on the three blocks bounded by Norfolk, Delancey, Clinton, Grand, Suffolk and Broome streets as mapped pursuant to the Mapping Application (Sites 3, 4 and 5), and the westernmost 150 feet of the block bounded by Clinton, Delancey, Ridge and Broome streets (Site 6). Because Site 6 extends approximately 146 feet east from Clinton Street, an approximately four-foot wide strip of the adjacent lot’s westernmost portion (Block 347, Lot 80) would be subject to the proposed rezoning. However, this would have no practical effect because the adjacent lot is already developed with a 23-story residential building and because split-lot zoning regulations would only allow commercial development on the four-foot strip, which would be infeasible given its narrow width.

The proposed C2-5 commercial overlay would allow for commercial uses to be located on Sites 3, 4, 5 and/or 6, which would not be permitted under the current R8 zoning. Permitting commercial uses would allow the sites to meet the Project’s programmatic goals of creating a vibrant mixed-use area with active ground floor retail uses. It would also permit the flexibility to allow additional commercial uses in the area, such as office space on Site 3.

The commercial overlay would not affect the overall permitted floor area, which would remain at 6.5 (for sites with community facility uses), with the maximum residential floor area, remaining at 6.02 under Quality Housing regulations, or 0.94 to 6.02 under height factor regulations. Unlike the existing R8 district, the commercial overlay would allow commercial uses to occupy up to 2 FAR of the maximum 6.5 FAR permitted.

N 120227 ZRM: Zoning Text Amendment (Z.R. Sections 74-743 and 74-744)

The applicant proposes a zoning text amendment, which would modify Z.R. Sections 74-743 (Special provisions for bulk modification), and 74-744 (Modification of use regulations) to allow the applicants to apply for discretionary approvals to transfer floor area from the C6 district to the C2 district, to waive certain signage regulations, and to eliminate the planting requirement in the proposed sidewalk widenings. Because all of the zoning text changes would be limited to LSGDs that are within or partially within the former SPEURA, they would not have any potential application beyond this LSGD.

Floor Area Transfer from C6 to C2 Districts

Z.R. Section 74-743 currently allows for the transfer of permitted floor area across district boundaries pursuant to a LSGD special permit, with the restriction that no commercial floor area can be transferred to a C1, C2, C3, C4-1 or residence district. Compliance with this restriction would prohibit the transfer of commercial floor area from the C6 portion to the R8/C2-5 portion of the LSGD. Because the LSGD's proposed commercial floor area within the R8/C2-5 area would exceed the amount of commercial floor area generated within that area, a text amendment is needed to eliminate the restriction and to allow commercial floor area to be transferred from the C6 to the R8/C2-5 portion of the LSGD.

Elimination of Planting Requirement

Z.R. Section 23-892 (in R6 through R10 Districts) requires that any area between the street wall of a building and the street line be planted at ground level or in raised planting beds, except for areas in front of commercial uses, driveways or building entrances. Compliance with this regulation would require the sidewalk widening areas in front of any ground-floor frontage occupied by community facility uses or building lobbies (except for the actual entrance) to be planted. Doing so would undermine the intent of the sidewalk widening, which is to provide adequate pedestrian space, and therefore a zoning text amendment to allow for the waiver of this regulation is requested.

Additional Retail Establishments

The proposed Project would allow for the ability to have certain uses in the R8/C2-5 portion of the LSGD that would not otherwise be permitted by the underlying use regulations or through use modifications requested by the Z.R. Section 74-744 LSGD special permit. In order to allow

such uses, a zoning text amendment is proposed to Z.R. Section 74-744 that would enable the City Planning Commission (“CPC”) to allow, by special permit, uses in Use Groups 10, 11A and 12A, except for arenas or auditoriums, skating rinks, public auction rooms, trade expositions and stadiums. The expanded, allowable uses would include larger retail spaces as well as small-scale custom manufacturing uses (*e.g.*, jewelry-making or custom printing) on Sites 3, 4, 5 and/or 6. In order to allow such uses, the CPC would have to find that such uses would not impair the character of future uses or development of the surrounding area and find that the streets providing access to such uses would be adequate to handle the traffic generated thereby.

Modification of Signage Regulations

The Z.R. Section 74-744 special permit currently allows for the waiver of several signage regulations, including regulations with regard to size, projection, height and location. The current regulations, however, do not allow for a waiver of Z.R. Section 32-68 (Permitted Signs on Residential or Mixed Buildings), which requires that all signs in a mixed-use building be located below the level of the third story. Because the LSGD requests the ability to allow signage on and above the third story up to a height of 40 feet along Grand, Essex, and Delancey streets, a zoning text amendment is requested to allow for this additional waiver. The zoning text amendment would create a new authorization, pursuant to Z.R. Section 74-744(c)(2), which would grant the CPC the authority to waive Z.R. Section 32-68 and to make C6-1 signage regulations (which allow for signage to be located above the finished floor level of the third story) applicable to a C2 district within an LSGD. In order to grant the authorization, the proposed text change would require the CPC to find that the signage modifications are consistent with the amount, type and location of commercial uses within the LSGD.

C 120228 ZSM: Large-Scale General Development Special Permit – bulk waivers (Z.R. 74-743(a)(1, 2 and 10))

The applicant requests a Large-Scale General Development (LSGD) special permit, to allow for the redistribution of floor area, lot coverage and dwelling units between zoning lots and across zoning district boundaries, as well as the waivers of height and setback, rear yard, rear yard equivalent, rear yard setback, minimum base height, minimum distance between legally required windows and any wall in an inner court (“window-to-wall”), outer court, and planted area regulations, as described in detail below.

An LSGD is used to modify the underlying zoning regulations, to achieve a superior site plan over one or more sites. In this project, the LSGD (consisting of Sites 1, 2, 3, 4, 5 and 6) sets broad parameters for the project site within which a specific development would be achieved through the designation of developer(s) in an RFP process. The parameters shape a site plan framed on all streets by active street frontages, in contrast to the tower-in-the-park development permitted by the underlying zoning; and would create a varied combination of shorter and taller buildings located throughout the project sites that would fit within the neighborhood context.

The tallest towers permitted within the LSGD, at a potential maximum of 260 - 285 feet (up to 290 - 315 feet, with a 30-foot mechanical penthouse allowance (“mp”)), would allow for buildings of up to 24 stories, to be located on Sites 2 and 4 on Delancey Street, which is a particularly wide street. In order to create the desired variety in building heights, Sites 1, 3 and 6 on Delancey Street would be limited to maximum heights of 160 feet (up to 190 feet with mp) each, which would allow for buildings of up to 14 stories. Site 5, with frontage on Grand, Clinton, Suffolk and Broome streets, would also have a height limit of 160 feet.

The parameters also include specific bulk requirements for three components of each building: the base; the optional “shoulder,” or first setback level above the base; and the tower, or the highest structure above the base. For this purpose, the “shoulder” refers to the portion of the building above a height of 120 feet and behind the initial setback distance. Generally, each site would have a minimum base height of 60 feet. The base heights could reach 85 feet, and the shoulder and tower structures would be setback either 10 feet (on wide streets) or 15 feet (on narrow streets).

For each site, the LSGD establishes three additional levels of controls. The first and outermost level reflects the maximum envelope, which encompasses all the possible waivers from the underlying zoning, and therefore describes a larger massing than could be built with the given floor area. The outermost level effectively describes a theoretical volume delineated by all of the required height and setback waivers and within which any development would have to fit. The second level consists of a set of building massing options. Each LSGD site has a fixed number of such options, ranging in number from two to five, which generally describe the allowable tower locations and orientations. Each of these second-level options describes a building configuration that fits within the outermost-level waiver volume. The third and innermost level

consists of a set of design controls which regulate, among other things, the size of the towers within the selected tower locations as well as the maximum tower and shoulder heights. These design controls would ensure that the towers are oriented to maintain visual variety, with no two adjacent towers on Delancey Street oriented in either the same east/west or north/south orientation.

To illustrate how these different levels describe a possible building configuration, the following example considers a building on Site 3. The full set of waivers defines the maximum volume permitted on a given site; because the waiver volume is a construct based on both Height Factor regulations and Quality Housing regulations, it is best considered a theoretical volume. The second level of controls effectively offers a menu of tower orientation options—a slab oriented east-west along Delancey Street, for example, or a slab oriented north-south along Norfolk Street. Once the tower orientation is determined, the third level of design controls is applied; these controls more precisely shape the building's design by establishing requirements for slab widths, setback distances and overall building heights, for example.

For the proposed development sites north of Delancey Street, which are located outside the LSGD, bulk, height and setback regulations would be dictated by the underlying zoning. Sites 8 and 10 would have streetwall base heights that can range from 40 feet to 65 feet and maximum building heights of 80 feet, pursuant to the underlying C4-4A height and setback regulations. The majority of Site 9, which is within a C4-4A district, would be similarly subject to an 80-foot building height limit, above a streetwall base between 40 and 65 feet. A small portion of Site 9 (approximately 4,500 square feet) is within a C6-2A district which is mapped along Delancey Street. Within this area, the streetwall base height would range from 60 feet to a maximum of 85 feet, with a maximum building height of 120 feet. The development is envisioned as consistent with the surrounding context, incorporating ground-floor retail with residential uses above.

In order to implement the project, the existing buildings would be demolished. In the case of the two community amenities (the Essex Street Market on Site 9 and the CHN facility on Site 10), the following provisions would be made: if a new Essex Street Market is developed, the Site 9 facility would not be closed until the new facility on Site 2 is open. The existing vendors at the time of the move would be given the first opportunity to relocate their businesses to the new facility upon its completion. As the new market would contain enough space for 35 to 65

vendors, it would be able to accommodate the existing vendors. CHN would in no event be subject to relocation before 2016. If CHN were required to relocate after January 1, 2016 and before the conclusion of its current lease term, the City would provide assistance in identifying comparable space in the area as well as building out such new space for CHN use.

The road network throughout the LSGD would remain the same, maintaining the street grid. Delancey, Broome and Grand streets would serve as commercial corridors at a range of scales – from more destination-oriented uses on Delancey Street to more neighborhood-oriented uses on Broome Street. The intention is for the development to be mixed-use throughout the sites, while leaving the flexibility to concentrate commercial uses on one of two central sites if market conditions and the overall project development plan support it. Ground-floor retail uses would be encouraged on all sites to promote active street life. The ground-floor facades within the LSGD would have 50 percent glazing in the area between two feet and 12 feet above curb level. In addition, each LSGD site would have specific zones in which curb cuts could be located for parking and loading.

The project also includes special permits for four parking garages on Sites 2, 3, 4 and 5 (detailed below under separate action descriptions). While these garages are the subject of separate, related actions, it is worth noting in the context of the LSGD that, while the sum total of parking spaces requested for each of the four sites would be 973, the LSGD would limit the total number of spaces that can be constructed in the LSGD to 500.

Redistribution of floor area, dwelling units and lot coverage: Z.R. Section 74-743(a)(1)

Floor Area Distribution:

While the overall permitted floor area within the LSGD would not exceed the amount permitted by zoning, either by individual use or in the aggregate, the application requests that floor area be distributed within the LSGD to allow the total amount of floor area on Sites 2, 3 and 4 to be greater than what would otherwise be permitted. The following are the amounts of zoning floor area permitted by zoning on Sites 2, 3 and 4, respectively: 280,410 square feet; 265,044 square feet; and 264,076 square feet. The following are the amounts of floor area proposed under the LSGD on Sites 2, 3 and 4, respectively: 415,000 square feet; 300,000 square feet; and 417,000 square feet.

When broken down by use, the application also requests that floor area be distributed within the LSGD to allow the amount of residential floor area to be greater than what would otherwise be permitted on Sites 1, 2, 3 and 4, the amount of commercial floor area to be greater than what would otherwise be permitted on Sites 2, 3 and 4, and the amount of community facility floor area to be greater than what would otherwise be permitted on Site 2. The following are the amounts of residential zoning floor area permitted by zoning on Sites 1, 2, 3 and 4, respectively: 75,666 square feet; 148,402 square feet; 245,472 square feet; and 244,575 square feet. The following are the amounts of residential floor area proposed under the LSGD on Sites 1, 2, 3 and 4, respectively: 125,000 square feet; 372,000 square feet; 259,000 square feet; and 376,000 square feet. The following are the amounts of commercial zoning floor area permitted by zoning on Sites 2, 3 and 4, respectively: 258,840 square feet; 81,552 square feet; and 81,254 square feet. The following are the amounts of commercial floor area proposed under the LSGD on Sites 2, 3 and 4, respectively: 390,000 square feet; 300,000 square feet; and 175,000 square feet. On Site 2, 280,410 square feet of community facility zoning floor area is permitted by zoning; the amount of community facility floor area proposed under the LSGD on Site 2 is 300,000 square feet.

Dwelling Unit Distribution:

While the overall number of dwelling units within the LSGD would not exceed the amount permitted by zoning, the applicant requests that permitted dwelling units be distributed within the LSGD to allow the number of dwelling units on Sites 1, 2, 3 and 4 to be greater than what would otherwise be permitted. The following are the numbers of dwelling units permitted by zoning on Sites 1, 2, 3 and 4, respectively: 111 units, 218 units, 332 units and 331 units. The following are the numbers of dwelling units proposed under the LSGD on Sites 1, 2, 3 and 4, respectively: 184 units, 547 units, 350 units and 508 units. The proposed amount of dwelling units corresponds to the proposed residential floor area on each site and is calculated using the factor for dwelling units required by the underlying zoning (680 in the C6-1 district and 740 in the R8/C2-5 district).

Lot Coverage Distribution:

While the overall amount of lot coverage proposed within the LSGD (162,230 square feet or 71 percent of the total lot area) would not exceed the amount permitted (176,818 square feet or 77 percent), the Application requests a lot coverage that would be greater than would otherwise be

permitted on Sites 3, 4, and 6. As proposed, Site 3 would have a lot coverage of 35,944 square feet (88%), which is greater than the 32,543 square feet (80%) permitted; Site 4 would have a lot coverage of 35,857 square feet (88%), which is greater than the 32,439 square feet (80 percent) permitted; and Site 6 would have a lot coverage of 16,424 square feet (77%), which is greater than the 16,408 square feet (77%) permitted.

Site-Specific Bulk Waivers: Z.R. Section 74-743(a)(2) and (10)

While each of the six sites in the LSGD could ultimately be developed pursuant to only one building configuration option, as described in the “Project Description” section above (the “second level” of design controls), the bulk waivers requested pursuant to this special permit, as described below, are based on the overall maximum envelope (and constitute the first, or outermost level of controls) for each site that facilitates the ability to choose any of the potential options. Because each site would only be able to select a single massing option and would be further limited by design guidelines, the extent of any waiver needed for an actual building constructed pursuant to the LSGD special permit would necessarily be within the waivers requested by this application.

In terms of basic height (base height and overall height) parameters, and as described by the design controls of the LSGD, buildings on all six sites would be required to have a streetwall with a minimum 60’ and maximum 85’ height (with the sole exception of the Essex Street frontage at Site 1). Additionally, Sites 1, 3, 5 and 6 would be permitted to reach a maximum building height of 160’ (190’ with mp (mechanical penthouse)); Site 2 would be permitted to reach a maximum building height of 285’ (315’ with mp); and Site 4 would be permitted to reach a maximum building height of 260’ (290’ with mp).

Because none of the buildings have not been designed—and the specific uses are also not known—the requested bulk waivers were determined with an additional layer of flexibility. Waivers were articulated to accommodate a mixed-use building or buildings on all six sites (containing residential and commercial and/or community facility uses). The height and setback waivers for all such mixed-use envelopes are based on Quality Housing height and setback regulations. These waivers are described below under the “Mixed-Use Building” zoning analysis framework.

In addition, on Sites 1 and 6, the application accommodates the possibility for buildings that consist only of community facility uses, such as certain types of senior housing. And on Sites 2 and 3, the application accommodates the possibility of fully commercial buildings. For these reasons, Sites 1, 2, 3, and 6 are also analyzed under the non-contextual height and setback regulations since Quality Housing height and setback regulations are not applicable to non-residential buildings. These waivers are referred to below as being based on a “Non-Residential Building” zoning analysis framework.

Similar to height and setback regulations, the requirements for rear yards, rear yard equivalents and rear yard setbacks also differ depending on whether a building would be mixed-use or non-residential, and the waivers are applied and described accordingly.

Finally, as a result of the sidewalk widenings proposed as part of the Project, and the applicable planting requirements that would then be triggered, a bulk waiver relating to those planting requirements is requested, at all six LSGD sites.

Below is a breakdown of the bulk waivers requested for the LSGD sites.

Height and Setback (as applicable to Mixed-Use Buildings)

All six LSGD sites would require height and setback waivers under the Mixed-Use building zoning analysis framework. Sites 1 and 2, which are located within a C6-1 district, are subject to a 60’ maximum base height and 75’ maximum building height, pursuant to Quality Housing requirements. The proposed envelope for both sites would permit a base height of up to 85’, as well as a maximum building height of 160’ on Site 1, and 285’ on Site 2. Sites 3, 4, 5 and 6, which are located within a proposed R8/C2-5 district (existing R8), are subject to an 85’/80’ maximum base height (for wide streets/narrow streets) and a 120’/105’ maximum building height (wide/narrow streets), pursuant to Quality Housing requirements. The proposed envelope would permit a base height of up to 85’ on all four sites, and a maximum building height of 160’ on Sites 3, 5 and 6, and 260’ on Site 4. The permitted envelopes exceed these limits as noted, and waivers are therefore requested.

Height and Setback (Non-Residential Building)

Sites 1, 2, 3 and 6 would require height and setback waivers under the Non-Residential building zoning analysis framework. Sites 1 and 2, which are located within a C6-1 district, are subject to

a 15'/20' initial setback distance requirement (wide/narrow streets) above the base height; and a sky exposure plane that begins at 85' above the street, with a 2.7:1 slope for narrow-street frontages and a 5.6:1 slope for wide-street frontages. Sites 3 and 6, which are located within a proposed R8/C2-5 district (existing R8), are subject to a 15'/20' initial setback distance requirement (wide/narrow streets) above the base height; and a sky exposure plane that begins at 85' above the street, with a 2.7:1 slope for narrow-street frontages and a 5.6:1 slope for wide-street frontages. Waivers are requested in association with the permitted envelopes, which exceed these limits as described below.

Site 1 requires waivers of the initial setback distances, because the envelope includes 15' setbacks above the base, which is less than the required 20' along Broome and Ludlow streets. Site 1 requires additional height and setback waivers because the envelope would result in angular volumes of noncompliance in the upper tower portion, which would penetrate the sky exposure plane at different street frontages. These volumes affect the uppermost 61 feet of the envelope to a maximum depth of 23 feet along Ludlow Street, and the uppermost 53 feet of the envelope to a maximum depth of 20 feet along Broome Street. Along Essex Street, zoning would require the building to set back at a height of 85 feet or six stories, whichever is less; because the envelope could accommodate more than six stories within the 85-foot streetwall height, a waiver is requested for stories above the sixth floor.

Site 2 requires waivers of the initial setback distances, because the envelope includes 15' setbacks above the base along Norfolk Street, which is less than the required 20' along that frontage. Additionally, the envelope includes 10' setbacks above the base along Delancey and Essex streets, which is less than the required 10' along those frontages. Site 2 requires additional height and setback waivers because the envelope would result in angular volumes of noncompliance in the upper tower portion, which would penetrate the sky exposure plane at different street frontages. These volumes affect the uppermost 163 feet of the envelope to a maximum depth of 29 feet along Delancey Street, the uppermost 184 feet of the envelope to a maximum depth of 69 feet along Norfolk Street, and the uppermost 41 feet of the envelope to a maximum depth of 15 feet along Broome Street. Additionally, because the Site 2 envelope could accommodate more than six stories within the 85-foot streetwall height, a waiver is requested for stories above the sixth floor.

Site 3 requires waivers of the initial setback distances, because the envelope includes 15' setbacks above the base along Norfolk, Broome and Suffolk streets, which is less than the required 20' along Norfolk and Suffolk streets. Additionally, the envelope includes a 10' setback above the base along Delancey Street, which is less than the required 15' along that frontage. Site 3 requires additional height and setback waivers because the envelope would result in angular volumes of noncompliance in the upper tower portion, which would penetrate the sky exposure plane at different street frontages. These volumes affect the uppermost 56 feet of the envelope to a maximum depth of 21 feet along Norfolk Street, the uppermost 49 feet of the envelope to a maximum depth of 9 feet along Delancey Street, the uppermost 59 feet of the envelope to a maximum depth of 22 feet along Suffolk Street, and the uppermost 51 feet of the envelope to a maximum depth of 19 feet along Broome Street. Additionally, because the Site 3 envelope could accommodate more than six stories within the 85-foot streetwall height, a waiver is requested for stories above the sixth floor.

Site 6 requires waivers of the initial setback distances, because the envelope includes a 15'-setback above the base along Broome Street and a 10'-setback above the base along Clinton Street, both of which are less than the required 20' along those frontages. The Site 6 envelope also includes a 15'-setback above the base along Delancey Street, which is less than the required 20' along that frontage. Additionally, the envelope includes a 10' setback above the base along Delancey Street, which is less than the required 15' along that frontage. Site 6 requires additional height and setback waivers because the envelope would result in angular volumes of noncompliance in the upper tower portion, which would penetrate the sky exposure plane at different street frontages. These volumes affect the uppermost 48 feet of the envelope to a maximum depth of 9 feet along Delancey Street, the uppermost 77 feet of the envelope to a maximum depth of 29 feet along Clinton Street, and the uppermost 56 feet of the envelope to a maximum depth of 21 feet along Broome Street. Additionally, because the Site 6 envelope could accommodate more than six stories within the 85-foot streetwall height, a waiver is requested for stories above the sixth floor.

Minimum Base Height (Mixed-Use Building)

Only Site 1 would require minimum base height waivers, under the Mixed-Use building zoning analysis framework. Along Site 1's Essex Street frontage, the Project would provide a street

wall that could be as low as 25 feet. Because this is below the 40-foot minimum required, a waiver of the minimum street wall height regulation is requested.

Rear Yard (Both Mixed-Use and Non-Residential Building)

Only Site 1 would require rear yard waivers, under both the Mixed-Use and Non-Residential building zoning analysis frameworks. Under both Mixed-Use and Non-Residential scenarios, the northern boundary of Site 1 jogs 2'-10" to the north at the centerline of the block, creating a 2'-10" rear lot line that would require a 30-foot rear yard. Because the adjoining lot is built full to that lot line without any windows, compliance with the rear yard regulation would create a narrow 2'-10" x 20' space that would serve no functional purpose, and therefore a waiver is requested.

Rear Yard Equivalent (Mixed-Use Building)

Sites 1 and 6 would require a waiver of rear yard equivalent requirements, under the Mixed-Use building zoning analysis framework. For Sites 1 and 6, the through-lot portion of the site would require a 60-foot-wide rear yard equivalent in the center of the block.

The envelope options would allow encroachment into the required rear yard equivalent areas, and a waiver is therefore requested. Because upper-story windows in building portions within the encroachment areas would only face out over the bases of the buildings on both sites, the encroachment would not adversely affect such windows.

Rear Yard Equivalent (Non-Residential Building)

Site 6 would require rear yard equivalent waivers under the Non-Residential building zoning analysis framework. For Site 6, the through-lot portion of the site would require a 40-foot-wide rear yard equivalent, which could be located in the center of the block.

The proposed envelope options would allow encroachment into the required rear yard equivalent, and a waiver is therefore requested. Because only the base of the building is proposed along Broome Street (this portion would not have west-facing windows), the encroachment would not adversely affect the east-facing windows of the Delancey Street portion of the building.

Rear Yard Setback (Mixed-Use Building)

Sites 1 and 6 would require a waiver of rear yard setback requirements, under the Mixed-Use building zoning analysis framework. The rear yard setback regulations for Site 1 would require

the Ludlow and Essex Street portions of the building, above a maximum permitted base height of 80', to set back an additional 10' from the rear yard and rear yard equivalent. The rear yard setback regulations for Site 6 would require the Delancey Street portions of the building, above a maximum permitted base height of 60', to set back an additional 10' from the rear yard and rear yard equivalent.

The envelopes would not meet these setback requirements, and a waiver is therefore requested. Rear yard setback regulations are intended to improve access to light and air for windows on the opposite side of a block that face toward the block's interior. For Site 1, because there would not be any west-facing windows on that portion of the Essex Street side of block, the waiver of this regulation would not have any adverse effect on access to light and air. For Site 6, because there would not be any west-facing windows on the Broome Street side of block, the waiver of this regulation would not have any adverse effect on access to light and air.

Window-to-Wall (Mixed-Use Building)

Sites 3, 4 and 5 would require a window-to-wall waiver, under the Mixed-Use building zoning analysis framework. Z.R. Section 23-863 regulates the minimum distance between a legally required window facing an inner court and any wall opposite such window. It requires that this distance be at least 30 feet and be at least equal to one-half the height of such wall above such window. However, regardless of the wall height opposite such window, this distance need not exceed 60 feet. While the buildings on Sites 3, 4 and/or 5 have not yet been designed, it is possible that an inner court would be created that would not be in compliance with Z.R. Section 23-863. The scenario that would require the greatest waiver is the one in which the inner court is the deepest (with residential use starting on the second floor) and the tower portion of the building is the tallest (up to a maximum height, including mechanical penthouse, of 190 feet for Site 3, of 290 feet for Site 4, and of 190 feet for Site 5). To allow for design flexibility, the waiver is requested against this "worst-case" scenario.

If Option 1 is chosen, zoning would require on Site 3, that the north-facing windows of the inner court to be up to 60 feet from the tower along Delancey Street. Because only 55 feet would be provided, a waiver of this regulation is requested. If Option 2 is chosen, zoning would require on Site 3, that the east-facing windows of the inner court to be up to 60 feet from the tower along Suffolk Street. Because only 50 feet would be provided, a waiver of this regulation is requested.

On Site 4, zoning would require under Option 1 that the east-facing windows of the inner court to be up to 60 feet from the tower along Clinton Street. Because only 50 feet would be provided, a waiver of this regulation is requested. If Option 2 is chosen, zoning would require the north-facing windows of the inner court to be up to 60 feet from the tower along Suffolk Street. Because only 55 feet would be provided, a waiver of this regulation is requested.

On Site 5, the east-facing windows of the inner court be up to 60 feet from the tower along Clinton Street. Because only 50 feet would be provided, a waiver of this regulation is requested.

Outer Court

Sites 3, 4 and 5 would require Outer Court waivers. If Site 3, 4 or 5, located within a proposed R8/C2-5 district, were to be developed in a “U” shape, the open area in the center of the block would be considered an “outer court” instead of an “inner court.” Z.R. Section 23-842 requires outer courts with a width of 30 feet or more to have a width that is at least equal to their depth, except that the width need not exceed 60 feet.

Because the spaces on any of the sites would require a minimum width of 60’, which is greater than the 50’ proposed by the bulk envelope options, a waiver is therefore requested. (Site 3: the space would have a maximum depth of 112 feet; Site 4: the space would have a maximum depth of 112 feet; Site 5: the space would have a maximum depth of 161 feet; in every case, compliance with the outer court regulation would require that it be at least 60 feet in width, which is more than the minimum 50 feet requested.)

Planting Requirement

All six sites would require planting requirement waivers. Z.R. Section 23-892 requires that any area between the street wall of a building and the street line be planted at ground level or in raised planting beds, except for areas in front of commercial uses, driveways or building entrances.

Compliance with this regulation would require the sidewalk widening areas in front of any ground floor frontage along certain streets (Site 1: Broome or Ludlow streets; Site 2: Essex, Broome or Norfolk streets; Site 3: Norfolk, Broome or Suffolk streets; Site 4: Suffolk, Broome and Clinton streets; Site 6: Clinton and Broome streets) occupied by community facility uses or residential building lobbies (except for the actual entrance) to be planted. Doing so would

undermine the intent of the sidewalk widenings, which is to provide adequate pedestrian space, and therefore a waiver of the planting regulation along these frontages is requested.

C 120229 ZSM: Large-Scale General Development Special Permit – use waivers (Z.R. 74-744(a)(3) and (b))

Use Group 10, 11A and 12A: Z.R. Section 74-744(a)(3)

Pursuant to the related zoning text amendment of Z.R. Section 74-744, the CPC may allow Use Groups 10, 11A and 12A, except for arenas or auditoriums, skating rinks, public auction rooms, trade expositions and stadiums within an LSGD that is located wholly or partially within the former SPEURA. This special permit requests a waiver to allow these use groups on Sites 3, 4, 5 and/or 6, which are proposed to be rezoned to R8/C2-5. This waiver is not needed for Sites 1 and 2 because the uses are already allowed as-of-right pursuant to the underlying C6-1 district regulations. The additional uses permitted would allow retail uses that would otherwise be limited to 10,000 square feet, such as a department store, and would allow uses such as custom manufacturing (such as jewelry-making) in order to foster a dynamic mixed-use environment.

Location of floors occupied by commercial uses: Z.R. Section 74-744(b)

C2 District:

Z.R. Section 32-421, which applies to C2 districts (Sites 3, 4, 5 and 6), states that uses in Use Groups 6, 7, 8, 9 and 14 may not be located above the first floor in buildings that contain residential or community facility uses. It further states that uses in Use Groups 6A, 6B, 6C, 6F, 7, 8, 9 or 14 may not be located above the second floor in buildings that do not contain residential or community facility uses.

In order to provide flexibility for the future developers of Sites 3, 4, 5 and 6, the LSGD would allow for these commercial uses to be located above the first and second floors regardless of the presence of residential or community facility uses in the building. The exact mix of uses on each site has not yet been determined and would be based on responses to the RFP(s) and future market conditions. While the waiver of this regulation would allow the arrangement of uses not normally permitted in a C2 district, commercial uses would never be located directly above residential uses, and all commercial uses would be accessed from an entrance that is completely separate from a residential entrance. The waiver of this regulation would allow, for example, retail uses on the second floor of a mixed-use building.

C6 District:

Section 32-422, which applies to C6 districts (Sites 1 and 2), states that uses in Use Groups 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 and 16 may only be located on a story below the lowest story occupied in whole or in part by a residential use, though the limitation does not preclude such uses on the first floor.

In order to provide flexibility for the future developers of Sites 1 and 2, the LSGD would allow for these commercial uses to be located on or above a story occupied by residential use. The exact mix of uses on each site has not yet been determined and would be based on responses to the RFP(s) and future market conditions. While the waiver of this regulation would allow the arrangement of uses not normally permitted in a C6 district, commercial uses would never be located directly above residential uses, and all commercial uses would be accessed from an entrance that is completely separate from a residential entrance. The waiver of this regulation would allow, for example, a building on Site 2 to be designed with residential uses on the second floor facing Broome Street and commercial uses on the third floor facing Delancey Street – something that would not otherwise be allowed pursuant to C6 zoning regulations.

N 120230 ZAM: Modification of Signage Regulations Authorization (Z.R. 74-744(c)(2))

Z.R. Section 74-744, as amended by the related text amendment action, would enable the CPC, by authorization, to make the signage regulations of a C6-1 district applicable to a C2 district, and to modify the provisions of Z.R. Section 32-68 (Permitted Signs on Residential or Mixed Buildings), which requires that all signs in a mixed-use building be located below the level of the third story. This authorization would make the C6-1 signage regulations applicable within the C2 district, along its Grand and Delancey Street frontages. Whereas C2 district signage regulations would limit signs to a maximum size of 150 square feet and a height of 25 feet, C6-1 regulations would allow a sign to be up to 500 square feet and be located at a height of up to 40 feet. Along Clinton, Suffolk, Norfolk and Broome streets, the C2 signage regulations would continue to apply.

Because the LSGD would allow commercial uses to be located on the third floor in a mixed-use building, a waiver of the regulation that limits commercial signage to the second story and below is requested. This would allow signage to be located above the second floor but would continue to limit such signage to a maximum overall height of 40 feet above curb level.

N 120236 HAM, C 120245 PPM: UDAAP/Disposition

The Project sites are proposed for disposition by sale or lease to a developer to be selected at a future date. The portion of Site 2 to be dedicated for the purposes of the Essex Street Market (see C 120237 PQM, below) would be disposed of by the City to NYCEDC through a master lease for the sole purpose of operating the market.

C 120237 PQM: Acquisition

The development of the Essex Street Market may require the acquisition of property by the City. If the entirety of Site 2 is disposed of through an RFP process, a portion of the building would be re-acquired by the City upon the completion of the improvements to be constructed on the site by the developer for the purposes of maintaining City ownership of the Essex Street Market facility and facilitating the above-described disposition by the City to NYCEDC for purposes of market operation.

***C 120231 ZSM, C 120233, ZSM, C 120234 ZSM, C 120235 ZSM:
Public Parking Garage Special Permits (Sites 2, 3, 4, 5)***

As stated above, the LSGD area includes four sites where public parking is anticipated. The project therefore includes four separate requests for public parking garage special permits, each with a proposed maximum number of spaces. While the cumulative number of spaces requested pursuant to these special permits is 973, the maximum number of public parking spaces within the LSGD overall would be limited to 500. Of the four garages requested as part of the proposal, some could either not be developed, or they could be developed with a capacity below that requested by the special permits.

A general template description for all garages is provided below, followed by a table with specific parameters for each site.

The public parking garages would contain a maximum number of vehicular and bicycle parking spaces and would be permitted to be either self-park or attended (including the option for automated parking). Capacities for car and bicycle parking, along with gross square footage area limits (reflecting both attended and self-park scenarios) are provided below. The garages would each be located within cellar and/or sub-cellar levels and accessed by a single, 20-foot-wide curb cut (24 feet with splays) (specific street locations provided below for each site), with one lane in and one lane out.

Because the buildings where parking special permits are being sought have not yet been designed, the approvals would provide for garage-layout flexibility. Curb cuts would be permitted along specified streets as long as they are beyond 50 feet from the intersection of either Delancey or Broome streets, or, in the case of Site 5, beyond 50 feet from the intersection of either Broome or Grand streets. Access ramps would accommodate the required reservoir spaces (specific counts provided below) before the attendant booth (for an attended garage) or the entrance to the parking area (for a self-park garage). Each reservoir space would be a minimum of 8'6" x 18'-0" and would be painted on the floor of the garage to be clearly visible for incoming motorists. The exact ramp configurations (whether they are straight or turn to the left or right) would be determined after the buildings have been designed.

Pedestrian routes to and from garage access points would be provided and clearly marked, with warning devices placed at all potential pedestrian/vehicle conflict points. Attendant's booths and car pick-up and patron waiting areas would be located so as to provide patron security and safety en route to and at these locations. Stop signs and visual and audible devices would be placed at vehicular exits at their intersections with the sidewalk. The garages would conform to Local Law 58 and the Americans with Disabilities Act of 1991.

Site-Specific Requirements for each Parking Garage

	Maximum No. of Parking Spaces	Maximum gross floor area (s.f.)	Curb Cut zone to be located on	Required Reservoir Spaces
Site 2	168 vehicles 17 bicycles	42,000 (attended) 50,400 (self-park)	Norfolk Street	10
Site 3 <i>Norfolk Option</i>	250 vehicles 25 bicycles	62,500 (attended) 75,000 (self-park)	Norfolk Street	13
Site 3 <i>Suffolk Option</i>	250 vehicles 25 bicycles	62,500 (attended) 75,000 (self-park)	Suffolk Street	13
Site 4	250 vehicles 25 bicycles	62,500 (attended) 75,000 (self-park)	Suffolk Street	13
Site 5 <i>Clinton Option</i>	305 vehicles 31 bicycles	76,250 (attended) 91,500 (self-park)	Clinton Street	16
Site 5 <i>Suffolk Option</i>	305 vehicles 31 bicycles	76,250 (attended) 91,500 (self-park)	Suffolk Street	16

C 120156 MMM: Change to the City Map

The Project would be facilitated by a Mapping Application requesting an amendment to the City Map affecting portions of Delancey, Broome, Suffolk and Clinton streets. The proposed changes involve the establishment of Broome Street between Norfolk and Clinton streets; the establishment of Suffolk Street between Grand and Delancey streets; the narrowing, by elimination, discontinuance and closing, of Clinton Street between Grand and Delancey streets; and the narrowing, by elimination, discontinuance and closing, of Delancey Street between Norfolk and Clinton streets and the adjustment of grades necessitated thereby, including authorization of any disposition or acquisition of real property related thereto. The proposed street widths for Clinton Street, Broome Street and Suffolk Street would generally be 50 feet.

Clinton Street between Delancey and Grand streets is City-owned, mapped to a width of 80 feet but currently built to 50 feet (13-foot sidewalks on both sides and a 24-foot roadway) and open to two-way traffic. Clinton Street is proposed to be narrowed to 50 feet on the City Map to reflect the existing condition: 13-foot sidewalks on both sides and a 24-foot roadway. The westerly 30 feet of the mapped street has functioned as part of the property on Block 346, Lot 40 since the 1960s and is currently in use as parking lots. No physical change to the street would occur as a result of the action.

Delancey Street between Norfolk and Clinton streets is currently built to a width of 200 feet (15-foot sidewalks on the south side of the street; the sidewalks are 22 feet on the north side between Norfolk and Suffolk streets, and 20 feet on the north side between Suffolk and Clinton streets, with the roadway at 163 feet and 165 feet, respectively). The street is City-owned and open to two-way traffic. In addition to the built street segment, Delancey Street currently has an unbuilt, but mapped, triangular segment, which spans the south side of Delancey Street between Suffolk and Clinton streets. Delancey Street is proposed to be narrowed to 200 feet on the City Map to reflect the existing condition. No physical change to the street would occur as a result of the action. The eliminated segment of the street is part of Block 346, Lot 40, under HPD's jurisdiction and used as a parking lot.

Broome Street between Suffolk and Clinton streets is currently built to a width of 49.77 feet (10-foot sidewalks on both sides and a 29.77 foot roadway). In the existing condition, Broome Street functions as a public right-of-way, with one-way traffic westbound, although it was eliminated

from the City Map during the 1960s. Broome Street is proposed to be established at a 49.77-foot width on the City Map to reflect the existing condition. No physical change to the street would occur as a result of the action.

Suffolk Street between Delancey and Grand streets is currently built to a width of 50 feet (13-foot sidewalks on both sides and a 24-foot roadway). In the existing condition, Suffolk Street functions as a public right-of-way, with one-way traffic southbound, although it was eliminated from the City Map during the 1960s. Suffolk Street is proposed to be established at a 50-foot width to reflect the existing condition. No physical change to the street would occur as a result of the action.

The request for the map amendment would, through these changes, effectively regularize the block sizes and dimensions of the blocks containing Sites 3, 4 and 5 and would also codify on the City Map existing conditions as currently built and maintained. In effect, the proposed map changes are intended to reflect the built street conditions under which those areas operate today but which were never constructed to reflect previously-approved City Map changes to map.

ENVIRONMENTAL REVIEW

This application (C 120228 ZSM), in conjunction with the application for the related actions (C 120156 MMM, C 120226 ZSM, N 120227 ZRM, C 120229 ZSM, N 120230 ZAM, C 120231 ZSM, C 120233 ZSM, C 120234 ZSM, C 120235 ZSM, C 120237 PQM, N 120236 HAM, C 120245 PPM) was reviewed pursuant to the New York State Environmental Quality Review Act (SEQRA), and the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 *et seq.* and the City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The lead agency is the Office of the Deputy Mayor for Economic Development (ODMED). The designated CEQR number is 11DME012M.

It was determined that the proposed actions may have a significant effect on the environment. A Positive Declaration was issued on September 7, 2011, and distributed, published and filed, and the applicant was asked to prepare a Draft Generic Environmental Impact Statement (DGEIS). Together with the Positive Declaration, a Draft Scope of Work for an EIS was issued on September 7, 2011. A public scoping meeting was held on the Draft Scope of Work on October 11, 2011, and comments were accepted by the lead agency through October 21, 2011. A Final

Scope of Work for an EIS, reflecting the comments made during the scoping, was issued on March 15, 2012.

The applicant prepared a DGEIS, and the lead agency issued a Notice of Completion for the DGEIS on March 23, 2012. Pursuant to SEQRA regulations and CEQR procedures, a joint public hearing was held on the DGEIS on July 11, 2012, in conjunction with the Uniform Land Use Review Procedure (ULURP) applications. A Final Generic Environmental Impact Statement (FGEIS) was completed and a Notice of Completion for the FGEIS was issued on August 10, 2012. The FEIS identified significant adverse impacts with regard to historic and cultural resources, transportation, and construction. Details on these impacts and measures to minimize or eliminate these impacts, where feasible and practicable, are described below:

Historic and Cultural Resources

The proposed actions, through redevelopment, would have significant adverse direct impacts on two architectural resources that have been determined eligible for listing on the State and National Registers of Historic Places (S/NR)—the Essex Street Market and the former fire station at 185 Broome Street. In addition, new development on Site 1 could have significant adverse visual and contextual impacts on the S/NR-listed Lower East Side Historic District and the S/NR-eligible Eastern Dispensary, which also appears to be eligible for New York City Landmark (NYCL) designation.

In accordance with CEQR guidelines, NYCEDC and HPD are undertaking ongoing consultation with the New York City Landmarks Preservation Commission (LPC) regarding the development of mitigation measures for these significant adverse impacts. In addition, because construction financing may come from New York State and/or the United States Department of Housing and Urban Development, NYCEDC and HPD are undertaking ongoing consultation with the New York State Office of Parks, Recreation and Historic Preservation (OPRHP) in accordance with the New York State Historic Preservation Act of 1980 (Section 14.09 of the New York Parks, Recreation and Historic Preservation Law) and, acting in its capacity as the State Historic Preservation Office, Section 106 of the National Historic Preservation Act of 1966.

Potential mitigation measures that could partially mitigate the impact of the demolition of the Essex Street Market and former fire station may include, to the extent practicable and feasible:

Historic American Buildings Survey (HABS) documentation. HABS Level I documentation of all four buildings of the Essex Street Market and the former fire station could be conducted by a recognized professional credentialed for preparing such reports, to be submitted to LPC, OPRHP, the New York Historical Society, the Museum of the City of New York, and/or other repositories.

A site commemoration plan. A permanent interpretive exhibit or exhibits about the Essex Street Market and the former fire station could be developed and installed in the new Essex Street Market facility on Site 2 or in another appropriate location near the project site. This exhibit could document the history of the Essex Street Market and former fire station and could encompass the larger history of the project site neighborhood.

Architectural salvage. Surveys of the Essex Street Market and former fire station could be conducted to determine if any significant exterior or interior architectural elements could be removed and incorporated into the proposed development.

Design of the new buildings on Sites 2, 8, 9, and/or 10 to reference the design of the Essex Street Market. This could include incorporating references to such architectural elements of the market buildings as the strip windows and the incised lettering above the entrances.

In addition, NYCEDC and HPD will continue to consult with LPC and/or OPRHP regarding the compatibility of the proposed development on Site 1 with the S/NR-listed Lower East Side District, in which it is located, and with the S/NR-eligible and NYCL-eligible Eastern Dispensary. Although the historic and cultural resources analysis (See Chapter 7, “Historic and Cultural Resources”) concluded that the proposed developments on Sites 8, 9, and 10 would not have significant adverse visual and contextual impacts on the adjacent potential Clinton, Rivington, Stanton Street Historic District (NYCL-eligible, S/NR-eligible), should there be any State or Federal permitting or funding for development on those sites, HPD and NYCEDC shall consult with OPRHP regarding the compatibility of the proposed developments on Sites 8, 9, and 10 with the historic district.

Transportation - Traffic

The proposed actions would result in significant adverse traffic impacts at a number of locations in the traffic study area. The major overall finding of the traffic mitigation analysis is that the majority of the 30 intersections analyzed would either not be significantly impacted or could be mitigated with readily implementable traffic improvement measures, including signal timing and phasing changes, parking regulation changes to gain or widen a travel lane at key intersections, and lane restriping. These measures represent some of the standard traffic capacity improvements that are typically implemented by NYCDOT. This section describes the mitigation measures that could reduce or eliminate significant impacts, and indicates whether impacts would remain unmitigated.

Five of the seven intersections analyzed along Delancey Street would be significantly impacted during the weekday AM and Saturday peak hours, four would be significantly impacted during the weekday midday peak hour, and six would be significantly impacted during the weekday PM peak hour. Typical traffic improvement measures, such as signal timing changes and lane restriping, would not be deemed feasible for implementation due to the safety plan being implemented along the Delancey Street corridor, and as a result, none of the six impacted intersections along Delancey Street could be mitigated.

Significant impacts would occur at one of the five intersections analyzed along Broome Street during all peak hours, and at two intersections during the weekday PM peak hour. Impacts at the intersection of Broome Street and Essex Street would occur during all four peak hours and could be fully mitigated with signal timing and phasing modifications. Impacts at the intersections of Broome Street and Norfolk Street would occur during the weekday PM peak hour and could not be mitigated.

Broome Street and Essex Street - Significant impacts that would occur during all four peak hours at this intersection could be fully mitigated by modifying the signal phasing to include a southbound lead phase.

Significant impacts would occur at two of the eight intersections analyzed along Grand Street during the weekday AM, midday, and PM peak hours, and at three intersections during the Saturday peak hour. Impacts at these intersections could be fully mitigated with traffic capacity

improvements except at the intersection of Grand Street and Clinton Street during the weekday AM and Saturday peak hours.

Grand Street and Allen Street - Significant impacts would occur at this intersection during all four peak hours and could be mitigated by modifying the signal phasing as follows: an eastbound/westbound phase; a northbound/southbound exclusive left turn phase (pedestrians would not be allowed to cross during this phase); and a northbound/southbound phase (left turns would not be permitted).

Grand Street and Essex Street - This intersection would be significantly impacted during the Saturday peak hour and could be fully mitigated by modifying the signal timing at this location.

Grand Street and Clinton Street - Significant impacts at this intersection would occur during all four peak hours. Impacts at this intersection could be fully mitigated during the weekday midday and PM peak hours by modifying the signal timing. As part of this measure, installation of a pedestrian countdown signal would be required as per NYCDOT's standards. Significant impacts during the weekday AM and Saturday peak hours could not be mitigated.

Of the three intersections analyzed along Rivington Street, the intersection of Rivington Street and Essex Street would be significantly impacted during all four peak hours. Significant impacts could be fully mitigated by installing "No Standing 10 AM to 7 PM Saturday" regulations along the west curb of the southbound approach for approximately 250 feet, entailing a loss of approximately seven parking spaces, restriping the northbound and southbound approaches, and modifying the signal timing. The northbound approach centerline could be shifted six feet to the east and the approach could be restriped from one 10-foot wide travel lane and one 18-foot wide travel lane with parking to one 12-foot travel lane and one 9-foot wide parking lane (the sidewalk along the east side of Essex Street could be extended seven inches to the west to mitigate pedestrian impacts). The southbound receiving side could be restriped from one 10-foot wide travel lane and one 17-foot wide travel lane with parking to one 12-foot wide travel lane, one 11-foot travel lane, and one 10-foot wide parking lane. The southbound approach centerline could be shifted six feet to the east and the approach could be restriped from one 10-foot wide travel

lane and one 17-foot wide travel lane with parking to one 12-foot wide travel lane, one 11-foot wide travel lane, and one 10-foot wide parking lane, which could operate as a travel lane in the Saturday peak period. The northbound receiving side could be restriped from one 10-foot wide travel lane and one 18-foot wide travel lane with parking to one 12-foot wide travel lane, and one 10-foot wide parking lane. The lane restriping along northbound and southbound Rivington Street could be similar to the restriping proposed by NYCDOT at the intersection of Essex Street and Delancey Street as part of the Delancey Street Safety Improvements plan.

Three of the four intersections along East Houston Street would be significantly impacted during the weekday midday peak hour. All four intersections analyzed along East Houston Street would be significantly impacted during the weekday AM, PM, and Saturday peak hours. Significant impacts could be fully mitigated with signal timing modifications at two of the four intersections; the intersection of East Houston Street and Chrystie Street/Second Avenue would be unmitigatable, and the intersection of East Houston Street and Allen Street/First Avenue could not be fully mitigated during the weekday AM peak hour.

East Houston Street and Bowery - Significant impacts would occur at this location during the weekday AM and PM, and Saturday peak hours, and could be fully mitigated by modifying the signal timing.

East Houston Street and Chrystie Street/Second Avenue - Significant impacts would occur at this location during all four peak hours, and could be fully mitigated during the weekday midday, PM, and Saturday peak hours by modifying the signal timing. Significant impacts could not be mitigated during the weekday AM peak hour.

East Houston Street and Allen Street/First Avenue - This intersection would be significantly impacted during the weekday AM, midday, PM, and Saturday peak hours, and could be fully mitigated by modifying the signal timing during all peak hours except for the weekday AM peak hour. Significant impacts at this intersection during the weekday AM peak hour could only be partially mitigated.

East Houston Street and Essex Street/Avenue A - Significant impacts would occur at this location during all peak hours and could be fully mitigated by modifying the signal timing.

Transportation – Transit

The proposed actions would result in significant adverse bus line haul impacts on the M9 bus route during both the AM and PM peak periods and the M14A bus route during the AM peak period. These impacts could be fully mitigated by increasing the number of buses operating per hour by one or two in each of the impacted peak hours. While NYCT routinely monitors changes in bus ridership and would make the necessary service adjustments where warranted, these service adjustments are subject to the agencies' fiscal and operational constraints and, if implemented, are expected to take place over time.

Transportation - Pedestrians

The proposed actions would result in significant adverse pedestrian impacts at five pedestrian analysis locations along Delancey Street at Essex and Clinton streets including the west crosswalk of Delancey Street and Essex Street during the midday peak period, the east crosswalk of Delancey Street and Essex Street during the midday, PM and Saturday peak periods, the west sidewalk of Essex Street between Delancey Street and Broome Street during the AM and midday peak periods, the east sidewalk of Essex Street between Delancey Street and Rivington Street during the midday and Saturday peak periods, and the north crosswalk of Delancey Street and Clinton Street during the Saturday peak period.

Crosswalks at Delancey Street and Essex Street - The west crosswalk at this intersection would be impacted during the midday peak period and could be fully mitigated by restriping the width of this crosswalk from its existing width of 14 feet to 16 feet. The east crosswalk at this intersection would be impacted during the midday, PM and Saturday peak periods and could be fully mitigated by restriping the width of this crosswalk from its existing width of 14 feet to 20 feet.

West Sidewalk along Essex Street – The west sidewalk of Essex Street between Delancey Street and Broome Street would be impacted during the AM and midday peak periods and could potentially be fully mitigated by widening the sidewalk from its existing width of 13 feet to 13 feet and 8 inches. However, this mitigation measure is not feasible and practicable since there are constraints that would prohibit such widening. Specifically, the presence of a subway stairway would preclude any widening towards the west side. Although widening the

sidewalk by extending it into the roadbed is a potential mitigation measure, NYCDOT does not typically undertake such widening except for extending corners by providing bulb-outs; thus, the potential significant adverse sidewalk impact would be unmitigated.

East Sidewalk along Essex Street – The east sidewalk of Essex Street between Delancey Street and Rivington Street would be impacted during the midday and Saturday peak periods and could potentially be fully mitigated by widening the sidewalk from its existing width of 13 feet to 13 feet and 7 inches. However, this mitigation measure is not feasible and practicable since there are constraints that would prohibit such widening. Specifically, the presence of subway stairways abutting the proposed development site (Site 9) would preclude any widening towards the east side. Although widening the sidewalk by extending it into the roadbed is a potential mitigation measure, NYCDOT does not typically undertake such widening except for extending corners by providing bulb-outs; thus, the potential significant adverse sidewalk impact would be unmitigated.

Delancey Street and Clinton Street - The north crosswalk at this intersection would be impacted during the Saturday peak period and could be fully mitigated by restriping the width of this crosswalk from its existing width of 16 feet to 17 feet.

Traffic during Construction

As existing and No Action traffic conditions at some study area intersections through which construction-related traffic is expected to travel would operate at unacceptable levels during commuter peak hours, it is possible that significant adverse traffic impacts could occur at some of these locations during construction at some times. A detailed analysis of traffic conditions was completed for nine key intersections near the construction sites, and this analysis indicated that significant adverse traffic impacts could occur at one of these locations during construction, but at lesser magnitudes than impacts identified under the With Action condition. Where impacts during construction may occur, measures similar to the ones recommended to mitigate impacts of the proposed actions (described above) could be implemented early to alleviate congested traffic conditions.

Noise during Construction

Construction activities would be expected to result in substantially elevated noise levels for two or more continuous years at thirteen (13) locations within the study area. A visual survey was performed to identify which locations may not currently have double-glazed windows and/or a means of alternate ventilation, and which locations may have balconies, whose exterior space would have the potential to experience impact. Construction activities would be expected to result at various times in significant adverse noise impacts at three (3) locations: 1) balconies of Residential Building south of Grand Street between Essex and Clinton Streets; 2) balconies of Residential Building at the southeast corner of Clinton and Grand streets; and 3) Seward Park High School located at 350 Grand Street. Mitigation measures to address construction noise impacts at Seward Park High School are discussed below. The two buildings that have the potential to experience noise impacts only at outdoor balconies at various floors, there would be no feasible or practicable mitigation to mitigate the construction noise impacts at the balconies. Therefore these balconies would be considered to experience unmitigated significant noise impacts as a result of construction.

Upon selection of a developer for each of these development sites, an additional construction noise analysis shall be completed by the developer(s) of each site. If the additional analyses find that construction at any of the three development sites would continue to have the potential to result in significant noise impacts at Seward Park High School, the developer(s) of the site(s) with the potential to result in significant noise impacts will investigate whether additional path and source controls may be available to mitigate the potential significant impact and the extent to which the impact would be mitigated. If the additional analysis, taking into account the detailed information on construction methodology, timing and sequencing and any available additional path and source controls, still shows the potential for significant noise impacts at Seward Park High School resulting from construction at one of the development sites, the developer of that site will explore potential receptor controls for the school facility in consultation with the New York City School Construction Authority (SCA). Potential receptor controls to be considered may include the installation of interior storm windows at locations with single-glazed windows, replacement of single-glazed windows with acoustically rated windows, improvements in the sealing of the existing windows, and/or the provision of air conditioning, so that the impacted façades of the school can maintain a maximum interior noise environment of 45dBA under

closed-window conditions. In the event that implementing such receptor controls is not practicable, as determined by ODMED as lead agency in consultation with HPD and/or NYCEDC, the proposed actions would result in a partially mitigated impact on Seward Park High School.

For properties that may be under the jurisdiction of HPD or developed through an HPD program, additional mitigation (source and path control measures) identified in the refined and/or additional analyses would be required to be undertaken by the developer(s) through provisions in a Land Disposition Agreement to be entered into at the time of closing. The Land Disposition Agreement would also require the use of a construction monitor, which would operate under the oversight of ODMED, to ensure such measures are implemented during construction activities. In the event it is determined that receptor controls will be implemented at the school, the developer(s) would be required to fund and install the measures (in coordination with ODMED, HPD and SCA) at the affected facades of the school prior to the commencement of construction at the site(s) causing the noise impact.

For properties that may be under the jurisdiction of NYCEDC, noise control measures identified in the refined and/or additional analyses, including receptor controls if determined to be practicable, would be required to be undertaken by the developer(s) through provisions of a contract or other legally binding agreement between NYCEDC and the developer(s). The contract or other legally binding agreement would require the use of a construction monitor, which will operate under the oversight of ODMED, to ensure that such measures are implemented during construction activities.

UNIFORM LAND USE REVIEW

This application (C 120228 ZSM), in conjunction with the applications for the related actions (C 120226 ZMM, N 120227 ZRM, C 120229 ZSM, C 120231 ZSM, C 120233 ZSM, C 120234 ZSM, C 120235 ZSM, C 120237 PQM, C 120156 MMM, C 120245 PPM), was certified as complete by the Department of City Planning on March 26, 2012, and was duly referred to Community Board 3 and the Manhattan Borough President, in accordance with Title 62 of the Rules of the City of New York, Section 2-02(b) along with the related non-ULURP actions (N 120230 ZAM and N 120236 HAM), which were referred for information and review in accordance with the procedures for non-ULURP matters.

Community Board Public Hearing

Community Board 3 held a public hearing on this and related actions on May 22, 2012, and on that date, by a vote of 44 in favor, 0 opposed and 1 present but not voting, adopted a resolution recommending approval of this application, subject to the following conditions:

Conditions of Approval:

RFP Creation and Monitoring

Consistent with our conditions for approval of this ULURP action, we maintain that the RFP must reflect the following:

- *Regarding the production of housing units*, if the SPURA projects proceed in phases as a result of the RFP process, each and every phase/project must incorporate a housing component, and the housing in each phase must be developed in the same proportions as required by the ULURP.
- *Regarding employment*, if the SPURA project proceeds in phases as a result of the RFP process, each and every phase/project must commit both in effort and in results to the local hiring provisions outlined elsewhere in this resolution.
- *Regarding the production of community spaces, open spaces, and other "amenities,"* if the SPURA project proceeds in phases as a result of the RFP process, these amenities cannot be "back-ended" to the final phases and the developer(s) must verify the provision of these amenities on a phasing schedule acceptable to CB3.
- *Community representation.* The City of New York must ensure that representatives selected by CB3 (no less than 3 members and no more than 7 appointed by the CB3 Chairperson) participate fully and transparently on a task force (similar to what was established for Manhattan Community Board 11 (CB11) on the E. 125th St. project) to provide input in the drafting of the RFP(s) which result from the ULURP action. This task force will meet at a minimum on a bimonthly recurring basis with City officials.
- *Task force.* The Seward Park Mixed Use Development Project Task Force, "the task force," will be led by and include the above mentioned CB3 members, as well as one representative from each of the members of the City Council Districts represented in CB3 and one from the Manhattan Borough President, as well as representatives of two local stakeholder groups as appointed by the CB3 Chair. The majority of members of the task force will be composed of CB3 members.
- *Task force participation process.* The City will commit to continuing its partnership with the community on the Seward Park Mixed Use Development Project, including the community's participation within the City's RFP process as follows:

- Prior to releasing the RFP, the City will meet with the Task Force designated by the Community Board to request their priority goals. This will include, but not be limited to, 3 a discussion about preferences for ground-floor and retail uses. The Task Force will review final RFP goals and selection criteria prior to the City's release of the RFP.
- One of the selection criteria in the RFP will be that the Task Force preferences will be considered in final selection.
- Upon receipt of developer proposals, the City will provide summaries—with identifying information removed—to the Task Force of viable responses and discuss the proposals. The Task Force will provide feedback as to which proposal(s) and aspects of proposal(s) it considers to best meet the community goals. As noted, this feedback will be formally considered as part of the selection criteria.
- Prior to final selection, the City will discuss the proposed selection with the Task Force.
- Issued RFPs will state that developers will be required to work with the task force during the development, construction, leasing and operation of the project phase(s) in order to ensure ongoing dialogue between the Developer and the community.
- *Local developer participation.* Issued RFPs will require that all major developers must partner with local nonprofit developers, as has been agreed to by the City in other projects. In addition, those nonprofit partners must be required to build a substantial amount of affordable housing (not less than 20% of units).
- *Monitoring and training candidates for employment.* Issued RFPs will require that the winning developer(s) will provide \$##### per phase of development to the Lower East Side Employment Network to support the ongoing monitoring and training of local candidates. This is similar to CB11's requirement on the E. 125th Street project.
- *Consistency with CB3 Project Goals and Guidelines.* The City of New York must ensure that the task force will have the ability to examine and review the RFP(s) regarding compliance with CB3 project goals. The task force will rank proposals in priority order and the City will make all diligent efforts to comply with those recommendations. In addition CB3 requires written assurances from the City that the RFP will be consistent with the conditions laid out within this approval and will include the attached original CB3 Guidelines passed in January 2011 and June 2011.
- *Quality of life issues.* The City of New York will respect any Memoranda of Understanding between CB3, the task force, and the selected developer should

quality of life issues arise as a result of the development or agreed to changes in project goals or be required during the implementation phase of development, e.g. double pane windows are needed for buildings adjacent to the project site or local hiring goals have peaked and are agreed to be reduced by the task force.

- *Multiple Developers.* The City shall select multiple developers. Preference must be given to Lower East Side and/or other local non-profit developers. The cumulative effect of their proposals and subsequent actions must result in a development that adheres to CB3's guidelines and underlying principles. A single developer will have too much leverage against the City and will be able to seek modifications of the RFP from the city as the negotiation process moves forward as seen in numerous other developments throughout NYC.
- *Dormitories.* The RFP will expressly prohibit dormitories. The City will not select a developer to develop dormitories.

Affordable Housing

WHEREAS, the Mayor of NYC through the EDC and HPD has committed that all Affordable Housing will be required to remain so in perpetuity.

Affordable Housing in Perpetuity. All affordable housing built as part of SPURA development will be affordable in perpetuity. This is what was intended when Guidelines were agreed upon and passed CB3. The redevelopment of all nine sites including the Large Scale General Development (LSGD) Plan for the Seward Park Urban Renewal Area will have a tremendous impact on the surrounding community--already subject to permanent demographic change and development pressures that favor and promote market rate housing and commercial uses that most long-time neighborhood residents cannot afford. The ULURP documents will guarantee that all subsidized housing produced in Seward Park is permanently affordable, thereby incorporating a "forever" commitment that the 50% affordable housing in the plan will remain accessible and affordable for generations to come.

All Buildings Should Be Mixed Income. The language of the ULURP documents must include a guarantee that each residential development built, (with the exception of Housing for the Elderly), must have apartments to accommodate all income groups outlined in the plan. Additionally, all of the affordable units must be integrated with the market rate housing without discernible differentiation by location, unit mix, size, and material or design quality; there may, however, be differentiation by unit finishings.

The affordable housing may be built in stages, provided that the ratio of affordable units is never less than 50 percent of all residential units built in any phase. Therefore, the City must guarantee that they will not build only commercial development in any phase of construction.

Allocation of affordable units

The City commits that sufficient residential square footage will be set aside and reserved for residential use in order to develop 900 units. CB 3 requested at least 800 and preferably more than 1,000 housing units *in* the guidelines for the site, to be allocated as follows:

- In total, *approximately* 10 percent of all units must be affordable to renters/buyers with household income between 131% and 165% percent of the area median income ("AMI").
- *Approximately* 10 percent of all units must be affordable to renters/buyers with household income between 51% up to 130% of AMI.
- *Approximately* 20 percent of all units must be affordable to renters/buyers with household income below 50% percent of AMI.
- *Approximately* 10 percent of all units must be affordable to seniors with income below 50% of AMI.
- At least 50% of all affordable units are to be offered to CB3 area residents under community preference.

Big Box Stores

CB3 is steadfastly opposed to big box development on any of the sites within the SPURA plan. We firmly believe that such stores will threaten existing small businesses and will generally disrupt the community's character. Our Guidelines passed in January 2011 said very directly "With the exception of a possible supermarket, no single retail tenant should exceed 30,000 square feet in size." The ULURP document not only allows for such development; in fact it includes an action which permits very large departments stores with a metropolitan focus to be built in the proposed C2-5 District on sites 3-6. *Without a special permit and a zoning text amendment to ZR Section 74-744 such stores could not be built in this zone.*

Essex Street Market

In accordance with our Guidelines, CB3 approves the Essex Street Market plan with the following conditions:

- Vendors must be charged approximately the same or similar rent that they are paying at the time of moving for the same amount of space in the new facility.
- Additionally, the City must provide financial assistance for the entire cost of moving all vendors who wish to move to the new building, and if the City will not pay these expenses, they must find other partners or otherwise make available additional resources so that the vendors will not be responsible for paying for their own moving costs.

Local Hiring / Living Wage

Preference for at least 50% of all jobs (during the construction period and permanent). Every effort must be made to reach a goal of 50% of all jobs being given to CB3 residents, with prevailing wages for construction jobs and living wage for permanent jobs. Of the 50%, 25% must be new positions, not positions transferred from other sites. Should such efforts be made in consultation with the task force and it appears that meeting the 50% goal is not an achievable, agreement can be reached between the task force and the developer as to another reasonable goal.

Former Site Tenants

Opportunity must be provided to rent affordable units in the new development to qualifying SPURA former or present residents relocated as a result of the project.

The City in partnership with CB3, must conduct extensive and credible outreach to identify, locate and notify all qualifying former site tenants about the proposed new housing development on SPURA, their continued right to return to the site, and the application process for priority inclusion in the new housing that is built.

School

We find that there is a demonstrable need for a shared District 1 and District 2 Pre-K to 8th grade school to be built as part of the Seward Park Mixed Use Project Site. The project site straddles the current boundary of Community School Districts 1 and 2. (See Appendix C for a discussion of the case for a shared school.)

Rear Yards on Sites 8, 9, and 10

CB3 recommends that this ULURP document include an action to waive the rear yard requirement for the three sites located north of Delancey Street. Although the document assumes that these three sites will produce approximately 100 residential units, they are very narrow, no deeper than 70 feet at the widest point, making them difficult to redevelop for residential use. Most of these three sites are in a C4-4A zone, which requires a rear yard. We fear that a building of only 40 or 50 feet in depth will be expensive to build, will make awkwardly designed dwelling units, or may never yield the desired housing. A waiver of the rear yard requirement would make these sites more suitable for housing development.

Borough President Recommendation

This application (C 120228 ZSM), and the related applications, were considered by the Borough President who issued a recommendation on July 5, 2012, approving the application, subject to the following conditions:

That the applicants:

1. continue to work with the community on the amount of housing constructed, and determine the feasibility of increasing the affordable units;
2. follow through on commitments to work with community groups, the community board, elected officials and city agencies to identify former site tenants and notify them of their right to occupy affordable units subject to income requirements;
3. include a public school or reserve space in the final development phase for a public school to ensure the city does not lose the opportunity to reclaim the space;
4. provide a preference in the RFP process to proposals that have retail plans that restrict large-format retail greater than 30,000 SF;
5. follow through on commitments to create an enforcement mechanism and work with local employment training agencies to ensure local residents benefit from the new jobs;
6. continue to work with the Essex Street Market vendors to assess the impacts of relocation to ensure a potential move of the market does not displace small businesses; and
7. give preference in the RFP to development proposals that provide affordable housing at all stages of development.

City Planning Commission Public Hearing

On June 20, 2012 (Calendar No. 9), the City Planning Commission scheduled July 11, 2012, for a public hearing on this application (C 120228 ZSM). The hearing was duly held on July 11, 2012 (Calendar No. 9), in conjunction with the public hearings on the applications for the related actions (C 120156 MMM, C 120226 ZMM, N 120227 ZRM, C 120229 ZSM, N 120230 ZAM, C 120231 ZSM, C 120233 ZSM, C 120234 ZSM, C 120235 ZSM, N 120236 HAM, C 120237 PQM, C 120245 PPM).

There were 28 speakers in favor and 12 speakers in opposition.

Six of the applicant's representatives spoke in favor of the application and described the proposed project.

A representative of the Deputy Mayor's Office for Economic Development, in a general statement of support for the entire project, highlighted the collaborative, consensus-driven approach taken by the applicant team that had shaped the comprehensive proposal. In reference to the past history of failed redevelopment efforts, he pointed out that the unanimously-adopted, community-driven guidelines provided the project its underlying planning framework. He further stated the City's commitment to maintaining a collaborative working relationship with the Community Board, through and beyond the ongoing public review process.

Three representatives from the New York City Economic Development Corporation (NYCEDC) also spoke in support of the project, with each speaker highlighting various aspects of the proposal and the planning process. The first speaker for NYCEDC re-iterated the applicant team's commitment to continue moving the project forward in a highly collaborative way, not only with other City agencies but also with Community Board 3. The second speaker described the underlying planning rationale for the Large-Scale Development approach, highlighting the urban design priority of maintaining flexibility within a model of predictability with regard to building massing and tower orientation. The third speaker focused on the Essex Street Market and the proposal to develop a new, expanded market facility occupying the ground floor of future development on the centrally-located Site number 2. She spoke about the ongoing process of outreach with the vendors of the existing market, and clarified a number of questions regarding the general rent schedules of those vendors in the event they chose to re-locate in the new facility.

A representative of the New York City Department of Housing Preservation and Development (HPD) spoke about the proposal's housing goals, as well as the successful working relationship with NYCEDC which she noted would continue through the review process and the subsequent Request for Proposals phase. She also highlighted the efforts of the Community Board and noted that the housing component of the overall program was a direct reflection of the community's own guidelines. She specifically addressed the ongoing efforts by the City to identify and contact former site tenants. She also clarified, in response to questions regarding the nature of the planned affordable housing units, that such units would be permanently affordable and that such permanent affordability would be codified in the project plans during the City Council's review period as part of the ULURP.

A representative of the architectural and urban design consulting firm for the applicant team spoke about the project's overall urban design approach in the context of the special opportunities and challenges posed by the site. He too addressed the collaborative nature of the planning process, in which design professionals, representatives from a range of City agencies, Community Board members and the general public came together to realize a general consensus on overall massing and building heights. He gave a conceptual overview of the design framework, describing the goals of reinforcing and extending a walkable, interior grid; pairing a strong streetwall character at the buildings' bases with an allowance for light and air provided by

thoughtful tower orientations above those bases; prescribing some design variation, particularly regarding the maximum building heights; and siting a centrally-located open space “focal point” at the heart of the Large-Scale area.

Four Board members of Community Board 3 and four public members of the CB3 Land Use Committee spoke in support of the application.

The Chairperson of Community Board 3 re-iterated her Board’s unanimous, conditional approval of the proposal, describing the plan as “responsible” and “balanced” in terms of the overall program and design. Like many other speakers she also highlighted the very high level of engagement on the part of her Board and community, the strong collaborative nature of the process with City agencies, and her belief that those positive aspects of the proposal would continue through the public review period and into the RFP process. In response to questioning about some of the critical testimony that had been directed at the review process and specifically the various outreach efforts to the community, she described the regular, deliberate, monthly schedule of meetings hosted by the Community Board within the local community; the availability of foreign language translators at those meetings; and the high level of interest and coverage by the local media of the entire process.

The former Chairperson of Community Board 3, who had led the community process for the previous four years and remains active as a Board and committee member, also spoke in favor of the proposal, while restating the Board’s conditions, particularly the request that the affordable housing component of the project be made permanent. He re-iterated the newly-elected Chairperson’s testimony with regard to the Community Board’s efforts at engaging any and all affected residents. He spoke in greater detail about the highly interactive public meetings which were held by the Board on a monthly basis, and sometimes more frequently. He noted that the design phase of the discussion included open sessions where community members could explore massing designs through a large-scale interactive model. He further noted that at the Community Board’s own Town Hall event, approximately 40 persons spoke to testify in person. He also echoed earlier statements regarding public notice procedures, Community Board documentation and open sharing of meeting minutes, and the broad coverage given to the process by local media organizations.

A CB3 Board member and Co-Chair of the Land Use Committee alluded to the difficult process

the community had gone through but pointed to the Board's unanimous approval as a sign of united support for a compromise plan that struck a reasonable balance between affordable and market-rate housing needs. Another Land Use Committee member (the first of four public members of the Committee to speak in favor of the proposal), who was also the Chair of Seward Park Area Redevelopment Coalition (SPARC), a local coalition of neighborhood groups, also noted her group's support for the proposal while highlighting some of CB3's conditions for approval. She also noted that her organization, among others, was working with HPD to identify, locate and contact former site tenants.

Other speakers in favor of the proposed project included the Director of Land Use for the Manhattan Borough President, who re-iterated the Borough President's recommendation for approval, with conditions. The Executive Director of the Lower East Side People's Mutual Housing Association (and second of the four public members of CB3's Land Use Committee to testify) urged the Commission to approve the project, noting that as an affordable housing developer, he and his organization had first-hand insight into the challenges posed by this particular site within this particular community. The Executive Director of the Lower East Side Business Improvement District (the third of the four public members of CB3's Land Use Committee to testify) conveyed his organization's support for the Community Board's recommendations. The Chairperson of the Cooper Square Committee, conveyed her organization's general support for the project and specifically cited the Community Board's condition relating to prevailing wage benefits as well as the desire for a public middle school. The Executive Director of the East Village Community Coalition expressed her organization's overall support for the project while also maintaining that the existing Essex Street Market facility was not underutilized and did not need to be replaced. A former tenant of the one of the original project sites (the last of the four public members of CB3's Land Use Committee to testify) spoke in favor of the proposal, asserting that the proposed balance between affordable and market-rate housing units was a compromise hard fought but ultimately worthy of making. A number of other speakers, including residents of the adjacent and surrounding housing complexes, expressed their support for the project, along with specifically citing a desire to see amenities such as a public school included on the site. Several other speakers, including nearby residents, another CB3 Board member, and representatives of neighborhood institutions, testified in general support of the project, citing the Community Board's efforts and recommendations.

Those speaking in opposition included a representative of the Chinese Staff and Workers' Association (CSWA), a representative of the National Mobilization Against Sweatshops (NMASS), a representative of Good Old Lower East Side (GOLES), and a number of neighborhood residents and small business owners.

Speakers in opposition described a need for more affordable housing options in the area. Several of those specifically called for the project to move forward only to provide 100% low-income housing. Some speakers called for affordable commercial opportunities for small business owners, alongside broader development of affordable housing.

Speakers in opposition also voiced concerns regarding the review process, including the public notice announcements. Speakers testified that outreach efforts regarding the hearing were inadequate, and that the hearing venue itself was of insufficient capacity.

Some of the speakers in opposition also requested that additional community amenities be incorporated into the proposed project, including space for childcare services centers, schools, housing for senior citizens, and a pedestrian bridge across Delancey Street.

There were no other speakers, and the hearing was closed.

CONSIDERATION

The Commission believes that the special permit (C 120228 ZSM), in conjunction with the related applications for special permits (C 120229 ZSM, C 120231 ZSM, C 120233 ZSM, C 120234 ZSM, and C 120235 ZSM), a zoning map amendment (C 120226 ZMM), a zoning text amendment (N 120227 ZRM), an authorization (N 120230 ZAM), UDAAP designation and project approval (N 120236 HAM), disposition of city-owned-property (C 120245 PPM), acquisition of property (C 120237 PQM), and a change to the City Map (C 120156 MMM), is appropriate.

The Commission recognizes the importance of the project site as the largest remaining development site in Manhattan south of 96th Street and also for its historic place in the development of the Lower East Side in general, and for its own particular history dating back more than fifty years, when it had once been part of a dense and dynamic mixed-use neighborhood.

The Commission further recognizes the exceptional and ongoing effort put forth by the members of Community Board 3 for over four years, during which they held regular, monthly—and sometimes bi-monthly—meetings to develop a solid consensus on a balanced set of program goals and design guidelines for the Seward Park project sites. The Commission also notes that these meetings and the progress they represented were routinely covered by local and citywide media organizations. The Commission finally notes that these current Board members, and in particular its relevant Land Use committee members—a third of whom were selected from a broad range of community institutions and advocacy groups, achieved a unanimous consensus over its guidelines, where at least three substantial efforts over the past 20 years failed conclusively to achieve and even approach the same level of agreement within the community. The Commission does not wholly embrace the proposals and conditions put forth by Community Board 3, but it does vigorously commend that body for its thoughtfulness, thoroughness and persistence in this effort.

The Commission likewise acknowledges the consistent and high levels of engagement on the part of the applicants, HPD and NYCEDC, as they worked over the same four-year-plus period, collaboratively and supportively with the Community Board, to reach this historic milestone. The Commission notes that the Seward Park project sites have been underutilized for approximately 50 years, and that agreement between the community and the City to move forward at this point is a noteworthy achievement on its own.

Overall, the Commission believes that the core concepts behind the proposed LSGD and its associated bulk and use waivers are sound and that the justifications behind the related findings are compelling. The Commission believes that a judicious balance between design flexibility and predictability is achieved through the controls of the LSGD, and that the resulting site plan and massing scheme successfully mediate between the established built context of the two immediately adjacent neighborhoods.

The following pages provide a detailed discussion as to the appropriateness of each of the requested, related actions.

C 120228 ZSM, Special Permit to Modify Bulk Regulations

The Commission believes that the proposed massings and design guidelines for the six proposed LSGD sites would result in a better site plan and a better relationship among buildings and open

areas, and surrounding development than would otherwise be possible without the bulk waivers requested by this special permit. The Commission believes that the redistribution of floor area, lot coverage and dwelling units without regard to zoning lot and district lines, and the waiver of height and setback, rear yard, rear yard equivalent, rear yard setback, minimum base height, window-to-wall, outer court, and planted area regulations, as described in detail earlier in this report under the heading “Proposed Actions”, are integral to achievement of this better site plan and relationship. The Commission notes that, absent the modifications requested by this special permit, the sites would be subject to the underlying, non-contextual, C6-1 and R8/C2-5 regulations (as amended), which would allow for tower-in-the-park building forms similar to adjacent, existing developments to the east and south. Buildings would be allowed to be pulled entirely back from the street line, leaving the streets devoid of the vitality that develops with active streetwalls.

The Commission recognizes that the overall massing of the buildings within the proposed LSGD is intended to combine the best elements of the tower-in-the-park typology with the best elements of the contextual street wall typology, while guarding against the deficiencies of each. Like the tower-in-the-park typology, which would be permitted on an as-of-right basis pursuant to the underlying zoning regulations, the LSGD would concentrate the floor area built above the building bases into towers, which would leave the majority of the lot area above the bases open to the sky. The openness, as facilitated by the requested height and setback waivers, would allow an ample amount of light and air to reach the streets and the surrounding area and would provide the tower portions of the buildings with abundant light, air, and views, which would not be possible using contextual zoning bulk regulations. The tower typology would allow the flexibility to create a diverse and interesting mini-skyline with distinctive architectural forms, an outcome which would be very difficult to achieve under the more rigid contextual massing controls.

While towers above the bases would support some of the project’s urban design objectives, the proposed street wall bases and active ground-floor frontages would address some of the inadequacies of the tower-in-the-park typology, such as the potential for buildings to be set back far from the street line, without any meaningful relationship with the pedestrian realm. While the tower-in-the-park model allows ample access to light and air, this is counterbalanced by a distinct lack of urban vitality at the street level, an important factor in establishing an attractive,

engaging neighborhood character. The Seward Park LSGD site plan proposes consistent streetwalls along all of the street frontages, and the lining of each street wall with active ground-floor uses to the greatest extent possible. The street walls, which are the defining element of the contextual building typology, would frame each street, creating a human scale and sense of place, and providing eyes on the street to encourage a comfortable and safe environment. Locating street walls at or near the street line would also allow for active ground-floor frontages, providing a more interesting and lively pedestrian experience than would be achieved through the tower-in-the-park typology. The proposed design guidelines for the LSGD, together with the requested bulk waivers, would strongly encourage active ground-floor frontages on all sites. On the ground floor of the Delancey Street frontages on Sites 2, 3, and 4, a minimum of two storefronts would be required, and a minimum of three storefronts would be required on the ground floor of the Broome Street frontages on Sites 2, 3, and 4.

The Commission notes that the proposed massing scheme, combining the best of the contextual and tower-in-the-park typologies, is reflective of, and mediates between, the contextual character of neighborhoods to the north and west, and the tower-in-the-park character of neighborhoods to the south and east. The location of the LSGD project sites at this juncture between two distinct types of built forms provides a unique geographic opportunity and validation for a hybrid urban design approach. The Commission believes that the proposed blend of typologies established by the LSGD controls would provide the benefits of the light and air available in the area to the east and south and the dynamic streetscape experiences of the area to the north and west. The Commission further believes that the proposed mix of uses would further mediate between the two areas, which are more exclusively residential to the east and south and more mixed to the north and west. The Commission believes this mix would add to the vitality of the surrounding neighborhood, and would foster a diverse and lively street life.

The Commission recognizes that the Community Board, in its urban design guidelines, prioritized the principles of contextual forms and strong streetwalls while also acknowledging a rationale for building heights between the high-rise character to the south and the tenement-scale character to the north. The Commission also notes that, in its massing exercises and urban design workshops, the CB3 Land Use Committee arrived at plan concepts that were very similar, particularly with regard to the arrangement of towers, to the proposed LSGD arrangements put forth by the applicant.

The Commission notes that the proposed 60-foot minimum street wall height reflects the character of the area to the north and west, while the 85-foot maximum allows for a variety of heights to permit a diversity of building forms in order to provide visual interest. The Commission believes that the 85-foot maximum base height, which would be facilitated by the proposed height and setback waivers, allows for a greater amount of building floor area on the LSGD sites to be located in the base, which would serve to reduce the height of the towers above. The Commission further believes that the additional base height allowance would allow for more advantageous floor-to-floor heights for commercial uses located on the lower levels. The Commission also notes that the lower base height proposed along the Essex Street frontage of Site 1 serve to allow for more light and air to reach the upper levels of the building on the Ludlow Street side of the site while providing for a sufficient height to frame Essex Street and provide an active street frontage.

The Commission believes that the site plan does not concentrate bulk in any one part of the site but rather would distribute it around the LSGD across six sites and notes that the application would limit the width of towers in order to further ensure access to light and air, both within and surrounding the site. In keeping with sound planning practice, the tallest towers would be located on Delancey Street while lower towers would be placed in the middle portion of the site. The Commission notes that the proposed towers would be relatively narrow, thereby preserving views through and across the LSGD area.

The Commission also believes that the proposed design guidelines relating to tower orientation would effectively guard against a monolithic, wall-like effect along Delancey Street and provide a simple mechanism to achieve a balanced composition of building forms, particularly at the higher elevations. The massing scheme devised by the architects would break down the bulk of the buildings into distinct and clearly recognizable scales, with low-rise bases and medium-scale shoulder elements mediating between the base and the tower portions. The Commission considers this an appropriate approach to accommodating bulk in a way that reduces its impact on pedestrians while enhancing their experience of the buildings with a varied and interesting array of forms and compositions. The Commission also believes that the proposed building heights are in keeping with the surrounding area and believes that the variation in heights and orientations will make for a dynamic ensemble of buildings that clearly relates to its immediate neighbors. The Commission believes that the proposed bulk envelopes will effectively result in

appropriately-scaled buildings, while providing a reasonable amount of flexibility for future developers to make relatively minor adjustments as necessary.

The Commission notes that one of the key factors in the formulation of the LSGD approach was the applicants' ability to distribute floor area within the LSGD boundaries. Even with this ability, and the consequence of greater floor area on a given site than would otherwise be permitted as-of-right, the Commission notes that the proposed waivers, in concert with the proposed design guidelines, could result in shifts of relatively modest amounts of bulk. The Commission notes that the proposed height limits on all sites would also effectively guard against any massing outcome that unduly increases bulk on any one site. The Commission further notes that Sites 2 and 4, which are the two sites envisioned as receiving floor area distributed from other sites, would require that such increases, in the form of building towers, be oriented toward Delancey Street which is between 200 and 250 feet wide within the LSGD boundaries, as well as limited to overall building heights comparable to those of immediately adjacent buildings to the east and south. The Commission believes that the proposed design rules and requested waivers would not result in any single building unduly obstructing access to light and air to either occupants of buildings on the block or nearby, or of people in public streets below.

The bulk modifications requested by the applicant include a number of modifications to the regulations governing the height, setback and rear yard requirements. The Commission recognizes that these modifications result from the overall emphasis on establishing consistent streetwalls across the LSGD and allowing for towers located above the streetwall bases. The agreed-upon maximum building heights and base heights result in a need for waivers from the form of development dictated by a sky exposure plane.

The Commission believes that the requested waivers of rear yard equivalent and rear yard setback regulations on Sites 1 and 6 would allow for the buildings to be massed in a way that benefits the occupants of the proposed buildings without negatively impacting other residents within the LSGD or in the surrounding area. The Commission notes that the waiver of these regulations on Site 1 would allow a tower to be placed on the Ludlow portion of the site. Because no tower is proposed along Essex Street, the Commission believes that the waiver of the rear yard equivalent and rear yard setback regulations, which apply on the through-lot portion of

the site, would not have a negative impact since there would be adequate light and air for the east facing windows of the building located on Ludlow Street. The Commission further believes that the requested waiver of the rear yard and rear yard equivalent regulations on Site 6 would have no negative impact since no tower is proposed along Broome Street and therefore the south facing windows on the Delancey Street tower would have adequate light and air. The Commission believes that the small waiver of rear yard regulations on Site 1 would be appropriate because the existing building on the other side of the rear yard line is built full to that line without any windows.

The Commission further believes that the waiver of window-to-wall and outer court regulations on Sites 3, 4 and 5 would provide for an adequate floorplate while allowing the sidewalks along Suffolk, Broome, Norfolk and Clinton streets to be widened. The Commission notes that the proposed widened sidewalks reduce the east-west and north-south dimensions of the development area, thereby constraining the ability to provide two double-loaded corridors in the base of the building on both sides of the block. The Commission believes that the waiver would thus ensure that adequate light and air would reach the inner and/or outer courts, which would have a minimum dimension of 50 feet.

The Commission recognizes that the proposed redistribution of lot coverage would facilitate the development of a publicly-accessible open space on the Broome Street frontage of Site 5. Concentrating the open space at one location would allow for the development of a central open space that would be a focal point in the community. The Commission recognizes that the open space's location on Broome Street would provide a central space that draws people to and through the area.

The Commission believes that the proposed project will enhance the streetscape. The Large-Scale General Development special permit would provide for widened, 15-foot sidewalks, which could be attractively and functionally improved with street trees and assorted sidewalk furniture. The Commission acknowledges that in order to provide 15-foot sidewalks along Broome Street, Norfolk Street, Suffolk Street, Clinton Street, Delancey Street and Grand Street, strips along the sites would be dedicated to the proposed sidewalk areas. The Commission believes that the waiver of planting requirements, as requested through the LSGD special permit, would enhance the pedestrian's sidewalk experience. The Commission also acknowledges that the applicants

have proposed to require at least 50 percent ground-floor transparency measured to a height of 12 feet for all frontages throughout the LSGD area. This requirement would be consistent with comparable requirements in the Zoning Resolution for at least 50 percent transparency.

The Commission further notes that the applicants have committed to requiring a minimum number of storefronts along certain street frontages in the LSGD area, where such uses are critical for encouraging a vibrant streetscape. The Commission believes that the rationale behind pushing parking access and loading zones, where required, to the north-south streets within the LSGD generally supports the established commercial character of Delancey Street and Grand Street while also establishing an interior corridor along Broome Street focusing on a more active, pedestrian experience. The Commission also believes the proposed minimum required numbers of storefronts affecting Sites 2, 3 and 4—two on the Delancey Street frontages and three on Broome Street frontages—are appropriate. The Commission believes that the requirements for retail uses, combined with the transparency requirements, will help to ensure that the east-west streets are enhanced with urban activity and street life. The Commission believes that these modified bulk regulations would ensure that the streets would have an active, attractive and inviting public realm.

The Commission believes that the streets providing access to the proposed project will be adequate to handle traffic resulting from the project. The Commission recognizes that the overall density of the proposed LSGD is consistent with the underlying as-of-right density (a maximum of 6.5 FAR for all LSGD sites, assuming the inclusion of community facility uses). A significant majority of residents and visitors to the project sites will travel either on foot or by public transportation. The Commission notes that a relatively small proportion of trips to the site by residential and retail users will be made by car, and that residential and retail uses are expected to comprise over 85% of the project program. The Commission further notes that of the trips made for most other uses, which could include office or hotel uses, for example, no more than 28% of such trips would be made by car. The Commission recognizes that these relatively low levels of anticipated auto usage reflect the strongly pedestrian-oriented nature of the surrounding area as well as the fact that the area is very well served by public transportation. The Delancey/Essex Street subway station, serving the F, J, M and Z lines is located within the LSGD area, and the area is served by five bus lines. The Commission notes that some of the project's core urban design principles, with an emphasis on active street frontages and an

enhanced pedestrian realm, are in fact specifically intended to encourage walking and the use of public transportation and to minimize the use of automobiles.

The Commission believes that the existing street network has sufficient overall capacity for existing and future traffic, while acknowledging that there is now and will continue to be heavy competition for this capacity between vehicular and pedestrian traffic. The Commission notes that the proposed LSGD is primarily served by three wide streets (Delancey, Essex, and Grand streets) and the narrower Broome, Norfolk, Suffolk, and Clinton streets. Delancey Street, a major Manhattan thoroughfare, serves as the primary east-west corridor through the Project Area, providing direct access to and from the Williamsburg Bridge. The Delancey Street corridor is characterized by heavy volumes approaching and exiting the Williamsburg Bridge, as is typical of bridge and tunnel approaches throughout the City. Other important east-west corridors include Houston Street, Grand Street and, to a lesser extent, Broome Street. Key north-south corridors include Essex Street/Avenue A, Allen Street/First Avenue, and Chrystie Street/Second Avenue, while other important but more local streets include Norfolk, Suffolk, and Clinton streets. The Commission notes that the proposed project itself is not expected to generate an excessive amount of traffic, and that this traffic would be distributed amongst many different and geographically dispersed arrival and departure routes throughout the project area, minimizing concentrations of new traffic on any one intersection or street.

The Commission also notes that following the certification and referral of this and the related applications and the DGEIS, NYCDOT adopted and began implementing an area-wide plan to improve traffic and pedestrian safety along the Delancey Street corridor. This safety plan includes left turn prohibitions, corner sidewalk extensions and signal timing changes along Delancey Street, intended to shorten pedestrian crossing distances and to provide pedestrians more time to safely cross Delancey Street; the reconfiguration of Clinton Street south of Delancey Street from two-way to one-way northbound; modifications at Delancey Street to allow traffic from Clinton Street to access the Williamsburg Bridge; and other measures meant to promote pedestrian and bicycle safety. The Commission believes that these improvements will result in advantageous traffic pattern changes at several intersections.

The Commission acknowledges that the FGEIS analyzed potential traffic impacts that could be generated from both the development proposed within the LSGD and the development proposed

on the three City-owned sites located north of Delancey Street, taking into account the improvements underway through the Delancey Street Safety Plan. In analyzing the proposed project's impact, the FGEIS studied 30 intersections in and around the project sites. The Commission notes that this traffic analysis found that a majority of those intersections would either not be significantly impacted or could be mitigated with readily implementable traffic improvement measures, including signal timing and phasing changes, parking regulation changes to gain or widen a travel lane at key intersections, and lane restriping.

The Commission notes that ten of the 30 analyzed intersections are projected to have impacts that could not be fully mitigated in at least one peak hour. The intersections of Delancey Street with Essex, Ludlow, Norfolk, and Clinton streets could not be mitigated during all four peak hours. The intersection of Delancey Street and Allen Street could not be mitigated during the weekday AM and PM peak hours. The intersection of East Houston Street and Chrystie Street/Second Avenue could not be mitigated during the AM peak hour, and the intersection of East Houston Street and Allen Street/First Avenue could only be partially mitigated during the AM peak hour. The intersection of Grand Street and Clinton Street could not be mitigated during the AM and Saturday peak hours. The intersection of Delancey Street and Suffolk Street could not be mitigated during the weekday PM and Saturday peak hours, and the intersection of Broome Street and Norfolk Street could not be mitigated during the PM peak hour. However, the majority of the local streets comprise the study area traffic network would either not be significantly impacted or would show impacts that could be fully mitigated through standard mitigation measures.

The Commission notes that while the ten intersections described above would have unmitigated impacts, the thresholds for a "significant impact" in the "With Action" conditions as defined by the *CEQR Technical Manual*, January 2012 Update are stringent, with impacts occurring when an intersection operating at Level of Service (LOS) F or E in the "No Action" condition increases by three or four seconds. Due to the already existing and typical high volumes on surrounding streets, many intersections are currently operating at these levels of service.

The FGEIS analyzed a Reasonable Worst Case Development Scenario ("RWCDs") that does not differ from the currently allowable density on the LSGD sites. The *CEQR Technical Manual* requires the FGEIS to include a No Unmitigated Significant Impacts Alternative to explore

changes to the program, often including a reduction in density that would allow the Project to mitigate any significant adverse impacts. However, because of the existing congestion on Delancey Street in particular, virtually any level of development on the Project sites could result in unmitigated impacts. The Alternatives chapter in the FGEIS included a sensitivity analysis that determined that the addition of just two cars turning right along the northbound approach of Essex Street to Delancey Street during the PM peak period would create an unmitigatable impact. With this level of sensitivity to new trips, virtually any development at the currently allowable density would result in traffic impacts.

The Commission notes that projected congestion stems in part from the fact that the roadways serving the project also serve as access routes to the Williamsburg Bridge, which is a critical component of the Manhattan transportation infrastructure and does not solely result from any one development, including the proposed project. The Commission further notes that the recent prioritization of pedestrian, bicycle, and general traffic safety concerns over vehicular capacity will likely affect traffic patterns and conditions with or without the proposed project. The Commission finally notes that impacts within the local neighborhood street network would be minimized, with the majority of intersections either having no significant impact or impacts that can be fully mitigated through standard mitigation measures.

The Commission believes that on the whole and taken together, the redistribution and waivers requested by the LSGD bulk special permit would result in a site plan that, when compared to what could be built pursuant to the underlying zoning, would have a better relationship among buildings and open areas to adjacent streets, surrounding development and adjacent open areas, which would benefit the occupants of the LSGD as well as the neighborhood and the City as a whole.

C 120229 ZSM, Special Permit to Modify Use Regulations

The Commission believes that the special permit to modify underlying district use regulations for this LSGD is appropriate. The requested special permit would: 1) allow the as-of-right development of Use Groups 10, 11A and 12A within the proposed R8/C2-5 district mapped over Sites 3, 4, 5 and 6; and 2) allow the arrangement of residential and non-residential uses within mixed-use buildings developed throughout the Large-Scale Development Area without regard to the location requirements of Z.R. Section 32-42.

The Commission generally believes that the proposed special permit, pursuant to the amended LSGD text, provides a thoughtful framework that appropriately balances the need to address key bulk and site plan controls with flexibility in order to better serve the overall goals of the project.

Additional Retail Establishments

With regard to the additional permitted commercial uses, as defined by Use Groups 10, 11A and 12A, the Commission believes that the requested use modification for the Seward Park LSGD is appropriate. The Commission notes that the requested modification is necessary only for the proposed R8/C2-5 district (Sites 3, 4, 5 and 6), as the existing C6-1 zoning governing Sites 1 and 2 already allows those uses. The Commission further notes that many of the uses in Use Group 10 and 11A are the same as uses already permitted as-of-right, according to the underlying C2-5 zoning as proposed to be amended for Sites 3, 4, 5 and 6; they include clothing sales establishments, etc.

The Commission acknowledges that there is a distinction between the allowances of C2 districts and C6 districts with regard to such Use Group 10 and 11A uses, namely in the form of a floor area limitation: while C2 districts permit the same Use Group 10 and 11A uses as C6 districts, the C2 districts limit such uses to 10,000 square feet. The Commission nevertheless believes that the requested modification would make consistent the permitted range of use groups across the entirety of the LSGD area, in a way that would rationally support the overall programmatic goals of the project. The Commission notes that the project sites are within a highly visible, easily accessible area which already features a wide range of commercial uses. The wide, high-volume streets and excellent transit access that serve the sites further support the project's scope in terms of the projected scale and density, and the Commission believes that extending the allowance of these Use Groups across the entire LSGD area provides a legitimate degree of flexibility at this scale, as compared to permitting those Use Groups on Sites 1 and 2 only, particularly given the fact that developers and specific programs have yet to be selected. The Commission further notes that the areas surrounding the proposed LSGD area currently have examples of such uses as would be permitted by the approval, including Use Group 10 retail along Delancey Street and small-scale custom manufacturing uses throughout the larger Lower East Side neighborhood. The Commission therefore believes that the proposed allowable uses would not impair the character of the future uses or development in the surrounding area.

The Commission notes that the additional commercial uses that would be permitted as defined in Use Groups 10, 11A and 12A would not include arenas or auditoriums, skating rinks, public auction rooms, trade expositions and stadiums. The Commission believes that this limitation on the uses permitted in Use Group 12A is also consistent with the general programmatic goals established for the Seward Park project.

The Commission has considered the nature of the streets that would provide access to the proposed additional commercial uses, as well as the results of the project's FGEIS with regard to traffic impacts and mitigations, including a number of unmitigated intersections located in and around the project sites, and believes that the streets providing access to the additional commercial uses will be adequate to handle the traffic generated thereby, for the reasons set forth under the heading, "Special Permit to Modify Bulk Regulations" above.

Location of Floors Occupied by Commercial Uses within Mixed-Use Buildings

With regard to the modifications to location requirements of floors occupied by commercial uses within mixed-use buildings, the Commission believes that the requested modification for the Seward Park LSGD is appropriate.

C2 Districts (Sites 3, 4, 5, 6, as proposed to be rezoned):

The Commission notes that Section 32-421 of the Zoning Resolution sets forth location requirements for C2 districts, which affect the permitted placement of various commercial uses within mixed buildings. Specifically, the Commission notes that Section 32-421, which applies to C2 districts (Sites 3, 4, 5 and 6), states that uses in Use Groups 6, 7, 8, 9, and 14 may not be located above the first floor in buildings that contain residential or community facility uses. It further states that uses in Use Groups 6A, 6B, 6C, 6F, 7, 8, 9, or 14 may not be located above the second floor in buildings that do not contain residential or community facility uses.

The Commission recognizes the importance of these location requirements under typical circumstances. In the case of the proposed LSGD, however, where future developers, future building programs, and building layouts have all yet to be finalized, and in order to provide a reasonable degree of flexibility for such future developers and plans, the Commission believes it is sensible to allow for the possibility of commercial uses to be located above the first and second floors, regardless of the presence of residential or community facility uses in a given building. The Commission notes that the proposed modification could, for example, on Sites 3,

4, 5 and/or 6, permit retail uses on the second floor of a mixed-use building. The Commission acknowledges that the variations in program for individual sites and for the LSGD as a whole with which the applicants must contend, until a developer or developers are selected and buildings are designed, merits the degree of flexibility that would be defined with the approval of this modification. The Commission further notes that the project sites are within a highly visible, easily accessible and densely built area which already features a wide range of commercial uses. The wide, high-volume streets and excellent transit access that serve the sites further support the project's scope in terms of the projected scale and density, and the Commission believes that modifying the location requirements of commercial uses within mixed buildings provides a degree of flexibility that could benefit the overall goals of the project.

The Commission notes that proposed commercial uses throughout the LSGD area would be accessed by entrances entirely separate from any entrances to a residential use on the same zoning lot, minimizing any potential conflicts between the different uses. The Commission further notes that there would be no opening of any kind between the residential and commercial portions of any mixed-use buildings, and that no commercial uses would be located directly above any dwelling units. The Commission therefore believes that the modification of use regulations establishing permitted locations would have no adverse effect on any uses within mixed-use developments.

C6 Districts (Sites 1 and 2):

The Commission notes that Section 32-422 of the Zoning Resolution similarly sets forth location requirements for C6 districts, which also affect the permitted placement of various commercial uses within mixed buildings. Specifically, the Commission notes that Section 32-422, which applies to C6 districts (Sites 1 and 2), states that uses in Use Groups 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, and 16 may only be located on a story below the lowest story occupied in whole or in part by a residential use, though the limitation does not preclude such uses on the first floor.

Here again, the Commission recognizes the importance of these location requirements under typical circumstances. In the case of the proposed LSGD, however, with its inherent uncertainties over project-site specificity, the Commission believes it is sensible to allow for some flexibility with regard to the placement of commercial uses, namely to permit their location above the first and second floors, regardless of the presence of residential or community facility

uses in a given building. The Commission notes that the proposed modification could, for example, on Site 2, permit commercial uses to be located on the third floor of a building and fronting on Delancey Street and residential uses to be located on the second floor of a building and fronting on Broome Street. The Commission acknowledges that the variations in program and building layout across the entirety of Site 1 or Site 2, when considered in the overall LSGD context and four additional sites of comparable size, justifiably calls for some added flexibility.

The Commission notes that proposed commercial uses throughout the LSGD area would be accessed by entrances entirely separate from any entrances to a residential use on the same zoning lot, minimizing any conflicts between the different uses. The Commission further notes that there would be no opening of any kind between the residential and commercial portions of any mixed-use buildings, and that no commercial uses would be located directly above any dwelling units. The Commission therefore believes that the modification of use regulations establishing permitted locations would have no adverse effect on any uses within mixed-use developments.

N 120227 ZRM, Zoning Text Amendment to amend Sections 74-743 and 74-744

The Commission believes that the proposed zoning text amendments are appropriate. The applicants have proposed text changes to:

- (1) the LSGD special permit governing special provisions for bulk modifications, in Section 74-743, to allow the Commission to permit the transfer of floor area from a C6 district to a C2 district;
- (2) the LSGD special permit governing special provisions for bulk modifications, in Section 74-743, to waive the sidewalk planting requirements set forth in Section 23-892;
- (3) the LSGD special permit governing modification of uses, in Section 74-744(a), to allow the Commission to permit Use Groups 10, 11A and 12A; and
- (4) the LSGD special permit governing modification of uses, in Section 74-744(c), to allow the Commission to approve, by authorization, the applicability of C6-1 signage regulations within a C2 district, and also the modification of the signage regulations pursuant to Z.R. Section 32-68.

The Commission notes that the proposed text amendments are limited in applicability to the proposed Seward Park LSGD. The Commission recognizes that because a number of aspects of the future development, such as the precise locations and types of uses, are not yet finalized at this stage, a certain amount of future flexibility with regard to the physical arrangement of uses is appropriate.

Floor Area Transfer

The applicant has proposed a text amendment to the LSGD special permit in Section 74-743 for modification of bulk regulations, modifying the provisions for commercial floor area transfers. The proposed text change would specifically allow for such transfers in the Seward Park LSGD, which is partially within a Residence District and partially within a Commercial District, from a C6 District to a C2 District. Without the proposed amendment, the special permit would prohibit the transfer of commercial floor area from Sites 1 and/or 2 to Sites 3, 4, 5 and/or 6. The applicants' LSGD proposes an amount of commercial floor area on Sites 3, 4, 5 and 6—proposed to be mapped within an R8/C2-5 district—that exceeds the amount of commercial floor area that could be generated or developed as-of-right in that area. The Commission believes that the proposed text amendment and special permit pursuant to the amendment are therefore necessary to facilitate the realization of the overall planning framework and program.

Waiver of Planting Requirements

The applicants have proposed a text amendment to the LSGD special permit in Section 74-743 for modification of bulk regulations. The proposed text change would add a provision to the special permit, allowing the Commission to waive the planting requirements of Section 23-892 within the Seward Park LSGD. The Commission believes that the proposed text and special permit would effectively support the proposed sidewalk widenings and generally improve the pedestrian circulation spaces throughout the LSGD area.

Section 23-892 of the Zoning Resolution (applicable in R6 through R10 Districts) requires that all areas of a zoning lot between a street line and the street walls of any building be planted at ground level or in raised planting beds permanently affixed to the ground, with exceptions for building entrance areas, areas in front of commercial uses, or within driveways. While recognizing the general importance of such planting requirements under different circumstances, the Commission believes that compliance with the regulations in the Seward Park LSGD area would broadly, and negatively, affect the sidewalk widening areas in front of any ground-floor

frontages occupied by community facility uses or building lobbies (except for actual entrances). The Commission believes that strict adherence to the regulations would defeat the intent of the proposed sidewalk widenings, which is to provide adequate pedestrian space and generally encourage a dynamic streetscape experience for residents, workers and visitors alike. The Commission believes that waiving the requirements within this LSGD would more actively benefit the community in terms of the project's overall goals and believes that the proposed text amendment enabling such waivers is appropriate.

Additional Retail Establishments

The applicants have proposed a text amendment to the LSGD special permit in Section 74-744(a) for modification of permitted uses. The proposed text change would add a provision to this special permit allowing the Commission to permit additional retail uses as defined by Use Groups 10, 11A and 12A, within this LSGD. The proposed text and special permit would facilitate the development of a number of retail uses that are currently permitted in a C2 district but which are limited to 10,000 square feet. Additionally, the proposed text and special permit would permit certain custom manufacturing uses, such as custom jewelry-making, as well as certain amusements, such as bowling alleys or billiard halls.

The Commission notes that the proposed text would include findings that the Commission would have to make in order to grant the requested special permit as amended. Specifically, the Commission would have to find that such uses will not impair the character of future uses or development of the surrounding area; and that the streets providing access to such uses will be adequate to handle the traffic generated thereby. The Commission believes that these findings, if met, would ensure that the additional permitted uses would be compatible with the other as-of-right uses in the surrounding area.

Modification of Signage Regulations

The applicants have also proposed a text amendment to the LSGD special permit in Section 74-744(c) for modification of permitted uses. The proposed text change would add a provision to this special permit, establishing a new authorization allowing the Commission to make the signage regulations of a C6-1 District applicable within a C2 District, within the Seward Park LSGD. The proposed text and special permit would facilitate the installation of signs at elevations of up to 40 feet along Delancey Street, Grand Street and Essex Street and with a surface area of up to 500 square feet.

The Commission notes that the proposed text would include findings that the Commission would have to make in order to grant the requested authorization. Specifically, the Commission would have to find that such modifications are consistent with the amount, type and location of commercial uses that the Commission finds appropriate. The Commission believes that this finding, if met, would ensure that the modified signage regulations would result in signage that is compatible with the permitted commercial uses in the proposed project.

C 120226 ZMM, Zoning Map Amendment from R8 to R8/C2-5

The Commission believes that the proposed zoning map amendment is appropriate.

The applicant proposes a zoning map amendment to map a C2-5 commercial overlay district within the existing R8 district on the three blocks (Sites 3, 4, and 5) bounded by Norfolk, Delancey, Clinton, Grand, Suffolk and Broome streets, as mapped (and de-mapped) pursuant to the proposed related City Map amendment (C 120156 MMM), and the westernmost 150 feet of the block bounded by Clinton, Delancey, Ridge and Broome streets (Site 6).

The proposed C2-5 commercial overlay would not affect the overall permitted floor area as governed by the underlying R8 bulk regulations, which would maintain a maximum FAR of 6.5 (for sites with community facility uses), and a maximum residential floor area of 6.02. However, C2-5 overlay districts do allow up to 2 FAR of commercial uses.

The proposed C2-5 commercial overlay would therefore allow commercial uses to be located on Sites 3, 4, 5 and 6 which would not be permitted under the current R8 zoning. Permitting commercial uses would facilitate the proposed project's broad programmatic goals of creating a vibrant mixed- use area with active ground-floor retail uses. It would also provide the flexibility to allow additional commercial uses in the area such as an office building on Site 3.

The Commission notes that the proposed LSGD area is adjacent to a range of commercial districts, including overlays mapped within residence districts, and that it is itself partially within a C6-1 district. Commercial districts are mapped along many of the streets that extend through the LSGD area, including Delancey Street, Essex Street, Clinton Street and Grand Street. The Commission particularly notes the existence of a C1-5 overlay district along Clinton Street north of Delancey Street; C1-5 and C2-5 overlay districts within portions of an R8 district on the south side of Grand Street; a C6-2A district along Delancey Street west of Suffolk Street; and a C2-5

overlay district along the south side of Delancey Street east of Clinton Street, among other districts beyond the surrounding blocks. The Commission believes that the proposed C2-5 overlay district is consistent and compatible with the established zoning in proximity of the LSGD area, since commercial districts are mapped within a one-block radius on all sides of the proposed rezoning area.

The Commission acknowledges that because the proposed overlay district includes the westernmost 150 feet of the block bounded by Clinton, Delancey, Ridge and Broome streets, and because Site 6, which occupies that portion of the block, extends approximately 146 feet east from Clinton Street, an approximately four-foot wide strip of the westernmost portion of the adjacent lot to the east (Block 347, Lot 80) would also be affected by the proposed rezoning. However, the Commission notes that the resulting four-foot-wide commercial overlay on the adjacent property would have no practical effect, because that lot is developed with a 23-story residential building, and because split-lot zoning regulations would only allow commercial uses within that small strip, which is infeasible given its location and configuration.

The Commission believes that allowing commercial uses as-of-right on Sites 3, 4, 5 and 6, where such uses are currently not permitted, is consistent with the broader project goal of achieving a dynamic, mixed-use program across the entirety of the Large-Scale Development Area.

In summary, the Commission believes that the overall approach to the proposed zoning map changes is consistent with the project's goals regarding scale, context and program, as well the zoning for the surrounding area.

N 120236 HAM, UDAAP Designation and Project Approval

C 120245 PPM, Disposition of City-owned Property

The Commission believes that approval of the UDAAP application for the Seward Park sites, and the related disposition of City-owned property, is appropriate.

The Commission notes that the project site consists of underused property that tends to impair or arrest the sound development of the municipality, with or without tangible physical blight, and that incentives are needed in order to induce the correction of these conditions. The Commission believes that the proposed project activities would protect and promote health and safety and would promote sound growth and development. The Commission further believes that the proposed project is therefore eligible to be an Urban Development Action Area and the proposed

project is therefore eligible to be an Urban Development Action Area Project pursuant to Article 16 of the General Municipal Law.

The Commission notes that approval of the UDAAP designation for the proposed project sites and the related disposition of City-owned property would facilitate the development and improvement of vacant and underutilized city-owned land. In addition, the Commission believes that the project will address a community need for affordable housing and other neighborhood amenities.

The Commission heard testimony at its public hearing regarding general requests for modifications of the proposed project program. A number of speakers requested expanded provisions for housing on the project sites, and in particular for affordable housing units, including proposals that up to 100% of the proposed project be dedicated to affordable housing, or to low-income housing. The Commission notes in this regard that the applicants are committed to dedicating half of the residential units to the provision of permanent affordable housing and that the proposed program is generally consistent with the Community Board's own adopted guidelines for the sites. Overall, the Commission believes that the proposed program, as set forth in the UDAAP project summary, is appropriate for these sites and for this area.

Regarding the possibility of additional, or other expanded uses on the project sites, the Commission heard testimony addressing various community needs, including childcare services centers, an elementary school, a middle school, and a pedestrian bridge across Delancey Street. The Commission notes that the proposed program, as set forth in the UDAAP project summary, includes up to 755,468 square feet of commercial uses, and up to 600,000 square feet of community facility uses. The Commission notes that the specifically cited community amenities, including childcare services centers and school facilities, would generally be categorized as Use Group 3 or 4, both of which would be permitted as-of-right within the LSGD (as amended) and that the desirability for particular community facility uses can be addressed at a later stage, as the uses within the project become better defined. The Commission additionally notes that the environmental review for the project did not demonstrate a need for a school facility. The Commission finally notes that the provision of a pedestrian bridge over Delancey Street is beyond the scope of the application.

The Commission received testimony, notably in the official recommendations by Community Board 3 and the Manhattan Borough President, and relating generally to the proposed program, which is beyond the scope of the application and related actions. For example, both CB3 and the Manhattan Borough President included in their conditions for approval a statement against “big box retail” establishments and a request that retail establishments, except grocery stores, be limited to 30,000 square feet. CB3 also requested, as among its conditions, the provision of a rear-yard waiver on Sites 8, 9 and 10, to facilitate more efficient residential development on those sites. With regard to a proposed limit on floor area for certain types of retail use, the Commission notes that such limits as the one proposed by CB3 and Manhattan Borough President suggest a land use distinction where none currently exists according to the underlying use regulations. The Commission notes that specific modifications to regulations governing allowable uses or related floor area would require a citywide analysis of such changes and are beyond the scope of the proposed actions. The Commission further notes that the flexibility provided through the LSGD, with regard to various types of commercial uses by floor area, is generally consistent with the anticipated density of the overall project and is appropriate for this area, which draws visitors and shoppers to a wide variety of existing commercial uses. With regard to a proposed waiver of rear-yard requirements on Sites 8, 9 and 10, the Commission notes that the 70-foot depths of these sites, while less than the typical 100-foot lot depth, can accommodate as-of-right development, according to the underlying C4-4A and C6-2A regulations and as affirmed by the applicants’ architecture and urban design consultant during the public hearing. The Commission notes that the applicants’ zoning drawings do not include bulk waiver analyses for these sites, and that any such change is therefore beyond the scope of the proposal.

The Commission received testimony, again largely articulated through the Community Board’s recommendation, on other, general aspects of the project, which are also beyond the scope of the application. These included specific requests regarding the eventual development and execution of the RFP process, should the proposed project be approved; and local hiring preferences and a living wage provision. CB3 also included among its conditions for approval a statement calling for original site tenants’ rights and preferences to return to affordable housing units in the new development, and that the City should conduct adequate outreach efforts to identify such original tenants. The Commission notes that all of these conditions are beyond the scope of the

application, but notes that testimony was heard at the public hearing, including that of the applicants, stating that efforts to identify and contact former site tenants was an ongoing effort involving HPD staff, in consultation with members of the community.

Special Permits for Public Parking Garages (Sites 2, 3, 4, 5)

The applicant has proposed a maximum of 500 spaces of off-street public parking within the proposed Large-Scale General Development area. These 500 spaces would be developed in below-grade public parking garages located on Sites 2, 3, 4 or 5. Pursuant to Sections 13-562 (Public Parking Garages and Public Parking Lots) and 74-52 (Parking Garages or Public Parking Lots in High Density Central Areas) of the Zoning Resolution, the applicant is requesting four separate special permits, each corresponding to a single facility on Sites 2, 3, 4 and 5.

Because none of the buildings within the Large-Scale Development area have yet been designed, the approvals for these special permits would provide for some flexibility in the parking garage layouts. For all of the proposed possible garages, the approvals would accommodate some flexibility regarding the location of curb cuts, provided that the curb cuts meet specified dimensional requirements, and fall within defined zones along a given street frontage. Additionally, for Sites 3 and 5, the approvals would allow for the location of curb cuts on one of two possible street frontages.

The Commission notes that the existing surface parking facilities have the capacity for approximately 350 public parking spaces. The Commission further notes that the anticipated peak-level demand for public parking that could be generated by the proposed mix of uses in the Large-Scale Development area is approximately 150 public parking spaces. The Commission believes that the proposed overall limit of 500 public parking spaces is sufficient to meet the existing parking demand on the sites and the increased demand for parking that the project would likely trigger. Finally, because the proposed Large-Scale development has no identified developer(s) at this stage of the process, and because none of the proposed parking sites has any associated building design, there is a need for some flexibility with regard to the final layouts of the actual parking spaces. For these reasons the Commission believes that the requested special permits are appropriate.

C 120231 ZSM, Special Permit for a Public Parking Garage (Site 2)

The Commission believes that the grant of this special permit is appropriate. The special permit would allow a public parking garage, which would be located on the ground floor and two cellar levels of a future development on Site 2 and accessed by means of a single ramp providing both entrance and exit lanes. The garage would have a total maximum area of 42,000 square feet and accommodate a maximum of 168 attended or self-park spaces.

The Commission notes that the proposed garage would be located in a C6-1 district, which allows a mix of residential, commercial, and community facility uses. Community facility use is permitted up to a maximum of 6.5 FAR; commercial use is permitted up to a maximum of 6 FAR; and residential uses are permitted up to a maximum of 3.44 FAR. The area surrounding the project site is characterized by two distinct neighborhood building typologies, with a low- to mid-rise, tenement-style streetwall context to the north and west, and medium- and high-density residential development, including numerous tower-in-the-park style housing complexes to the south and east. With the development of the proposed project, it is expected that this area will continue to support a dense mix of uses. The Commission notes that the site is currently occupied by a one-story building built as part of the original Essex Street Market buildings and a surface parking lot used to store HPD vehicles.

The Commission notes that the proposed public parking garage is located in an area that is heavily mixed with both commercial and residential uses and that access to and from the garage would primarily be via Delancey Street, Grand Street and Essex Street, which are not local streets in residential areas.

The proposed garage on Site 2 would be accessed by a single curb cut, within a designated curb cut zone on the Norfolk Street frontage of the site. The curb cut would be permitted anywhere along Norfolk Street as long as it is beyond 50 feet from the intersection of either Delancey or Broome streets. The ramp would contain 10 reservoir spaces before the attendant booth (for an attended garage) or the entrance to the parking area (for a self-park garage). Each reservoir space would be a minimum of 8'-6" x 18'-0" and would be painted on the floor of the garage to be clearly visible for incoming motorists. The exact configuration of the ramp (whether it is straight or turns to the left or right) would be determined after the building has been designed. Pedestrian routes to and from garage access points would be provided and clearly marked, with

warning devices placed at all potential pedestrian/vehicle conflict points. The attendant's booth and car pick-up and patron waiting areas would be located so as to provide patron security and safety en route to and at these locations. Stop signs and visual and audible devices would be placed at the vehicular exit at its intersection with the sidewalk. The garage would conform to Local Law 58 and the Americans with Disabilities Act of 1991. The Commission believes that the vehicles using the garage would not create or contribute to serious traffic congestion or unduly inhibit traffic and pedestrian flow.

The Commission recognizes that the garage would be located within a Large-Scale General Development area that would allow commercial and community facility uses alongside residential uses. The Commission further recognizes that the site is located in a high-density, mixed-use neighborhood and notes that with the development of the proposed project, the street on which the garage entrance would be located would accommodate a range of uses including residential, retail, office, hotel, and community facility uses.

The Commission has considered the nature of the streets that would provide access to the garage, as well as the results of the project's FGEIS with regard to traffic impacts and mitigations, including unmitigated intersections located within the project study area, and concludes that the streets providing access to the garage will be adequate to handle traffic resulting from the garage for the reasons set forth under the heading "C 120228 ZSM, Special permit to modify bulk regulations" above.

C 120233 ZSM, Special Permit for a Public Parking Garage (Site 3)

The Commission believes that the grant of this special permit is appropriate. The special permit would allow a public parking garage, which would be located on the ground floor and two cellar levels of a future development on Site 3 and accessed by means of a single ramp providing both entrance and exit lanes. The garage would have a total maximum area of 62,500 square feet and accommodate a maximum of 250 attended or self-park spaces. As described above, the applicant is requesting that this special permit allow for an option wherein the public parking in the development would be accessed by an entrance/exit ramp along Suffolk Street.

The Commission notes that the proposed garage would be located in a proposed R8A/C2-5 district, which allows a mix of residential, commercial, and community facility uses up to 6.5 FAR and residential uses up to 6.02 FAR. The area surrounding the project site is characterized by

two distinct neighborhood building typologies, with a low- to mid-rise, tenement-style streetwall context to the north and west, and medium- and high-density residential development, including numerous tower-in-the-park style housing complexes to the south and east. With the development of the proposed project, it is expected that this area will continue to support a dense mix of uses. The Commission notes that the site is currently occupied by a surface parking lot with a total of approximately 170 spaces.

The Commission notes that the proposed public parking garage is located in an area that is heavily mixed with both commercial and residential uses and that access to and from the garage would primarily be via Delancey Street, Grand Street and Essex Street, which are not local streets in residential areas.

The proposed garage on Site 3 would be accessed by a single curb cut, within a designated curb cut zone on only one of either the Norfolk Street or the Suffolk Street frontage of the site. The curb cut would be permitted anywhere along the street as long as it is beyond 50 feet from the intersection of either Delancey or Broome streets. The ramp would contain 10 reservoir spaces before the attendant booth (for an attended garage) or the entrance to the parking area (for a self-park garage). Each reservoir space would be a minimum of 8'-6" x 18'-0" and would be painted on the floor of the garage to be clearly visible for incoming motorists. The exact configuration of the ramp (whether it is straight or turns to the left or right) would be determined after the building has been designed. Pedestrian routes to and from garage access points would be provided and clearly marked, with warning devices placed at all potential pedestrian/vehicle conflict points. The attendant's booth and car pick-up and patron waiting areas would be located so as to provide patron security and safety en route to and at these locations. Stop signs and visual and audible devices would be placed at the vehicular exit at its intersection with the sidewalk. The garage would conform to Local Law 58 and the Americans with Disabilities Act of 1991. The Commission believes that the vehicles using the garage would not create or contribute to serious traffic congestion or unduly inhibit traffic and pedestrian flow.

The Commission recognizes that the garage would be located within a Large-Scale General Development area that would allow commercial and community facility uses alongside residential uses. The Commission further recognizes that the site is located in a high-density, mixed-use neighborhood and notes that with the development of the proposed project, the street

on which the garage entrance would be located would accommodate a range of uses including residential, retail, office, hotel, and community facility uses.

The Commission has considered the nature of the streets that would provide access to the garage, as well as the results of the project's FGEIS with regard to traffic impacts and mitigations, including unmitigated intersections located within the project study area, and concludes that the streets providing access to the garage will be adequate to handle traffic resulting from the garage for the reasons set forth under the heading "C 120228 ZSM, Special permit to modify bulk regulations" above.

C 120234 ZSM, Special Permit for a Public Parking Garage (Site 4)

The Commission believes that the grant of this special permit is appropriate. The special permit would allow a public parking garage, which would be located on the ground floor and two cellar levels of a future development on Site 4 and accessed by means of a single ramp providing both entrance and exit lanes. The garage would have a total maximum area of 62,500 square feet and accommodate a maximum of 250 attended or self-park spaces.

The Commission notes that the proposed garage would be located in an R8/C2-5 district, as proposed to be rezoned through a related application requesting a zoning map amendment (C 120226 ZMM), which allows a mix of residential, commercial, and community facility uses. Community facility use is permitted up to a maximum of 6.5 FAR; commercial use is permitted up to a maximum of 2 FAR; and residential uses are permitted up to a maximum of 6.02 FAR. The area surrounding the project site is characterized by two distinct neighborhood building typologies, with a low- to mid-rise, tenement-style streetwall context to the north and west, and medium- and high-density residential development, including numerous tower-in-the-park style housing complexes to the south and east. With the development of the proposed project, it is expected that this area will continue to support a dense mix of uses. The Commission notes that the site is currently occupied by a surface parking lot with a total of approximately 125 spaces.

The Commission notes that the proposed public parking garage is located in an area that is heavily mixed with both commercial and residential uses and that access to and from the garage would primarily be via Delancey Street, Grand Street and Essex Street, which are not local streets in residential areas.

The proposed garage on Site 4 would be accessed by a single curb cut, within a designated curb cut zone on the Norfolk Street frontage of the site. The curb cut would be permitted anywhere along Suffolk Street as long as it is beyond 50 feet from the intersection of either Delancey or Broome streets. The ramp would contain 10 reservoir spaces before the attendant booth (for an attended garage) or the entrance to the parking area (for a self-park garage). Each reservoir space would be a minimum of 8'-6" x 18'-0" and would be painted on the floor of the garage to be clearly visible for incoming motorists. The exact configuration of the ramp (whether it is straight or turns to the left or right) would be determined after the building has been designed. Pedestrian routes to and from garage access points would be provided and clearly marked, with warning devices placed at all potential pedestrian/vehicle conflict points. The attendant's booth and car pick-up and patron waiting areas would be located so as to provide patron security and safety en route to and at these locations. Stop signs and visual and audible devices would be placed at the vehicular exit at its intersection with the sidewalk. The garage would conform to Local Law 58 and the Americans with Disabilities Act of 1991. The Commission believes that the vehicles using the garage would not create or contribute to serious traffic congestion or unduly inhibit traffic and pedestrian flow.

The Commission recognizes that the garage would be located within a Large-Scale General Development area that would allow commercial and community facility uses alongside residential uses. The Commission further recognizes that the site is located in a high-density, mixed-use neighborhood and notes that with the development of the proposed project, the street on which the garage entrance would be located would accommodate a range of uses including residential, retail, office, hotel, and community facility uses.

The Commission has considered the nature of the streets that would provide access to the garage, as well as the results of the project's FGEIS with regard to traffic impacts and mitigations, including unmitigated intersections located within the project study area, and concludes that the streets providing access to the garage will be adequate to handle traffic resulting from the garage for the reasons set forth under the heading "C 120228 ZSM, Special permit to modify bulk regulations" above.

C 120235 ZSM, Special Permit for a Public Parking Garage (Site 5)

The Commission believes that the grant of this special permit is appropriate. The special permit would allow a public parking garage, which would be located on the ground floor and two cellar levels of a future development on Site 5 and accessed by means of a single ramp providing both entrance and exit lanes. The garage would have a total maximum area of 76,250 square feet and accommodate a maximum of 305 attended or self-park spaces. As described above, the applicant is requesting that this special permit allow for an option wherein the public parking in the development would be accessed by an entrance/exit ramp along Clinton Street.

The Commission notes that the proposed garage would be located in a proposed R8A/C2-5 district, which allows a mix of residential, commercial, and community facility uses up to 6.5 FAR and residential uses up to 6.02 FAR. The area surrounding the project site is characterized by two distinct neighborhood building typologies, with a low- to mid-rise, tenement-style streetwall context to the north and west, and medium- and high-density residential development, including numerous tower-in-the-park style housing complexes to the south and east. With the development of the proposed project, it is expected that this area will continue to support a dense mix of uses. The Commission notes that the site is currently occupied by a surface parking lot with a total of approximately 90 spaces.

The Commission notes that the proposed public parking garage is located in an area that is heavily mixed with both commercial and residential uses and that access to and from the garage would primarily be via Delancey Street, Grand Street and Essex Street, which are not local streets in residential areas.

The proposed garage on Site 5 would be accessed by a single curb cut, within a designated curb cut zone on only one of either the Suffolk Street or the Clinton Street frontage of the site. The curb cut would be permitted anywhere along the street as long as it is beyond 50 feet from the intersection of either Broome or Grand streets. The ramp would contain 10 reservoir spaces before the attendant booth (for an attended garage) or the entrance to the parking area (for a self-park garage). Each reservoir space would be a minimum of 8'-6" x 18'-0" and would be painted on the floor of the garage to be clearly visible for incoming motorists. The exact configuration of the ramp (whether it is straight or turns to the left or right) would be determined after the building has been designed. Pedestrian routes to and from garage access points would be

provided and clearly marked, with warning devices placed at all potential pedestrian/vehicle conflict points. The attendant's booth and car pick-up and patron waiting areas would be located so as to provide patron security and safety en route to and at these locations. Stop signs and visual and audible devices would be placed at the vehicular exit at its intersection with the sidewalk. The garage would conform to Local Law 58 and the Americans with Disabilities Act of 1991. The Commission believes that the vehicles using the garage would not create or contribute to serious traffic congestion or unduly inhibit traffic and pedestrian flow.

The Commission recognizes that the garage would be located within a Large-Scale General Development area that would allow commercial and community facility uses alongside residential uses. The Commission further recognizes that the site is located in a high-density, mixed-use neighborhood and notes that with the development of the proposed project, the street on which the garage entrance would be located would accommodate a range of uses including residential, retail, office, hotel, and community facility uses.

The Commission has considered the nature of the streets that would provide access to the garage, as well as the results of the project's FGEIS with regard to traffic impacts and mitigations, including unmitigated intersections located within the project study area, and concludes that the streets providing access to the garage will be adequate to handle traffic resulting from the garage for the reasons set forth under the heading "C 120228 ZSM, Special permit to modify bulk regulations" above.

N 120230 ZAM, Commission Authorization to modify signage requirements

The Commission believes that approval of the authorization pursuant to the amended Section 74-744, with regard to signage regulations, is appropriate.

The applicant proposes to make the C6 signage regulations applicable only along certain wide street frontages in a C2 district. The Commission notes that C6 district sign regulations allow signs to be larger and higher than those permitted in C2 districts, which is consistent with the fact that C2 districts limit retail uses to smaller local retail establishments while C6 districts allow larger retail stores that may draw from a larger area. The Commission notes that C2 district sign regulations permit signs with a maximum surface area of three times the frontage of the retail space or 150 feet, whichever is less; and that C6 district sign regulations permit signs to have a maximum surface area of five times the frontage of the retail space or 500 feet, whichever is less.

The Commission further notes that signs in a C2 district are permitted at a maximum height of 25 feet, and that signs in a C6 district are permitted at a maximum height of 40 feet.

The Commission notes that the proposed commercial overlay district, pursuant to the related zoning map amendment, together with the proposed zoning text amendment amending the LSGD special permit for use modifications, and the requested special permit establishing the Seward Park LSGD for the sites, in concert, would permit a range of commercial uses and in a range of locations that are commonly found in C6 districts. Thus the Commission believes that a mechanism to allow C6-1 signage regulations would be consistent with the amount, type and location of uses proposed within such LSGD.

The Commission notes that, within the proposed LSGD, the proposed Section 74-744 special permit, as amended, would allow commercial uses to be located on the upper levels of the proposed buildings without regard to the normally applicable regulations limiting certain uses to lower floors and non-residential uses to floors below the lowest level of residential uses. As described above, the Commission believes that those proposed changes are appropriate, and the Commission therefore believes that allowing for a waiver of signage regulations of Section 32-68, which limits signs to the second story and below in mixed-use buildings, would be consistent with the proposed allowable locations of commercial uses within the LSGD. The Commission also notes that while the authorization would allow signage to be located above the second floor in a mixed-use building, it would limit such signage to a maximum overall height of 40 feet above curb level.

The Commission further notes that the signage authorization would be limited to the Delancey and Grand Street frontages only, and that the larger signage permitted through the authorization, as well as the higher elevation at which such signage could be installed, is appropriate along those streets given their width and commercial character. The Commission notes that Delancey Street and Grand Street generally mark the north and south edges of the proposed LSGD area, that they are both wide streets with established commercial uses along each corridor and along the opposite-facing frontages, at the ground floor and the upper levels. The Commission notes by comparison, that the interior streets within the proposed LSGD area, including Broome, Norfolk, Suffolk and Clinton, are all narrow streets and, like the project site in general, are characterized by either residential or community facility uses or surface parking. The

Commission recognizes that the remaining street frontages in this area would continue to follow the underlying C2 signage regulations, as proposed through the requested zoning map amendment.

The Commission finally notes that the proposed zoning map and text amendments are proposed within the area of this particular LSGD only, and that one of the key goals of the Seward Park project is the realization of a mixed-use program with a dynamic range of non-residential uses alongside residential uses. As described above, the Commission believes that those proposed changes are appropriate, and the Commission further believes that the proposed authorization to modify signage regulations in the C2-5 overlay district is consistent with the larger mixed-use rationale underlying the project in general.

C 120156 MMM, Change to the City Map

The Commission believes that the narrowing, by elimination, discontinuance and closing, of portions of Clinton Street and Delancey Street, adjacent to the proposed Large-Scale area, and on the property under the jurisdiction of the Department of Transportation, is appropriate. With regard to the proposed street portions to be narrowed, the Commission notes that, as New York City's Department of Transportation had no objections to the proposal, the affected portions of street are deemed unnecessary for current or future traffic patterns. The Commission further notes that the proposed narrowing would not change the existing built condition of those portions of the streets. In the areas of the proposed narrowing, Clinton Street is built to a 50-foot width and has two active northbound/southbound lanes of traffic, and Delancey Street is built to a 200-foot width and has eight active lanes of eastbound/westbound bridge traffic and two one way single lane service roads. The proposed City Map amendment will reflect these built street widths. As proposed, the street elimination would facilitate the use of the currently mapped streetbed along Delancey and Clinton Street as improvable land which would be transferred onto Site 4 and Site 5. The affected mapped street portions have been, and continue to be, used as surface parking. The applicant, upon selection of a future development plan for the affected Site(s), would discontinue the on-site parking operations in order to facilitate the proposed mixed-use, Large-Scale development program. The street narrowing is further supported by the Community Board and the Borough President, as a baseline condition for development of the proposed Large-Scale Development.

The Commission believes that the establishment of portions of Broome Street and Suffolk Street, within the proposed Large-Scale area, and on the property under the jurisdiction of the Department of Housing Preservation and Development, is also appropriate. The established street grid, which would be codified by the proposed City Map changes, is critical to integrating new development within the surrounding blocks and providing access to and from the future development on the Large-Scale Development sites. The Commission notes that the proposed mapping would not affect the widths of the existing built streets. The Commission supports the proposed street widths, which are designed to address the needs of pedestrians, bicycles, vehicles, and the Fire Department's safety requirements. In the areas of the proposed mappings, Broome Street is built to a 49.77-foot width and has one westbound active lane of traffic, and Suffolk Street is built to a 49.73-foot width between Grand and Broome streets and a 49.73-foot width between Broome and Delancey streets and has one southbound active lane of traffic. The proposed City Map amendment will reflect these built street widths. The Commission further believes that Broome Street, in particular, would provide a direct east-west link to the proposed publicly-accessible open space, anticipated to be built on the northern portion of Site 5. The Commission additionally believes that the proposed design guidelines for the Large-Scale Development would support pedestrian activities along Broome Street by precluding curb cuts, and establishing limited curb cut locations for the north-sound block frontages of Suffolk Street.

C 120237 PQM, Acquisition of property (Site 2)

The Commission believes that the application for the acquisition of property located on the block bounded by Essex, Delancey, Norfolk and Broome streets, Borough of Manhattan, Community District 3, in connection with the development and operation of a new Essex Street Market facility, is appropriate.

The proposed site (Block 352, Lots 1 and 28) is at the intersection of Delancey Street and Essex Street, within the heart of the proposed Large-Scale Development area. It is surrounded by a mix of residential, commercial, cultural and institutional uses. The site is within a C6-1 zoning district, which permits the market use. It is located directly across Delancey Street to the south of the existing Essex Street Market facility and would share the historic location of one of the other three original ESM buildings. The new market would occupy the ground floor of the new

development anticipated for the full-block site, with convenient access to and from the existing access points to the Delancey-Essex station.

The Commission recognizes that the new market facility is intended to complement the other uses in the proposed Large-Scale area as well as the surrounding neighborhood, and that it would offer existing market vendors an opportunity to occupy a more efficient and modernized facility at rent levels and schedules commensurate with their current lease agreements. The Commission further believes that it would provide area residents and visitors with an upgraded market amenity while maintaining the existing market's diversity of product offerings and price points, within a larger space and with potentially more vendors. The Commission also believes that the proposed new market is appropriate because of its proximity to the existing market facility, its historic and cultural significance as an original Essex Street Market site, and its easy access to public transportation.

The Commission notes that NYCEDC has maintained oversight of the currently operating Essex Street Market since the 1990s, and that the market has remained an important neighborhood amenity. The Commission notes that the purpose of the proposed acquisition action would be, in the event that the entirety of Site is disposed, so that the City would have the ability to re-acquire an interest in that portion of the site that would be occupied by market uses, and subsequently dispose of such portion to NYCEDC for the purposes of management of the new market. The Commission believes that approval of the acquisition would enable NYCEDC to continue to maintain operation and maintenance of the public market facility.

The Commission heard testimony from a number of speakers regarding the proposed new market facility. Some speakers maintained that the existing Essex Street Market should be left to continue operating at its current location. The Commission notes that the proposed project does not require the closure of the existing market or the development of a new facility, but only makes possible a re-location to a newer, larger facility. The Commission believes, however, that the broader goals of the project would be better served through the relocation and expansion of the Essex Street Market to a location on Site 2 . The Commission also heard testimony, from both supporters and opponents of the project, regarding the compensation to existing market vendors to recoup relocation costs, in the event that they do move to a new facility, as well as the maintenance of current rent levels to existing vendors. The Commission notes that in testimony

by NYCEDC staff at the public hearing, the applicants clarified that future rent levels and increases associated with the new market facility would not be greater than the applicable rents in the existing facility, and the Commission is satisfied that NYCEDC is committed to maintaining existing vendor relationships. The Commission further notes that NYCEDC has affirmed its commitment to ongoing analyses of re-location costs and the feasibility of covering any portion of such future costs, in an effort to better understand how it can assist vendors who choose to relocate.

At its public hearing, the Commission heard testimony directed less at the proposed project and the various modifications and special permits being sought, and more toward general, perceived deficiencies with specific components of the public review process. Here the Commission notes that all notice and other requirements concerning its public hearing were duly met and further observes that testimony at the Commission's public hearing reflected a diverse range of viewpoints, with significant testimony both in favor and against the proposal. The Commission further restates its recognition, on the part of the members of Community Board 3 and of the applicants' representatives, of the conscientious and thorough efforts both sides have put forth in order to move this project forward.

The Commission's review of the Seward Park LSGD special permit applications, together with the related actions, has been a comprehensive, forward-thinking process. The Commission has considered the applicants' stated need for design flexibility, in terms of bulk, use, location, and height and setback regulations, given the current phase of the development process, which is yet to be followed by an RFP process, developer(s) selection and site-specific planning and design. The Commission has done so against a framework of its own established planning principles and precedents, and at the same time considered the thoughtful evaluations and specific needs of the affected community. The Commission believes that the applicants' proposal for the nine City-owned sites comprising the entirety of the Seward Park Mixed-Use Development Project, and particularly the innovative application of a Large-Scale General Development for the six sites below Delancey Street, will bring a broad range of dynamic, welcome, new uses to an area that has remained vacant or underutilized for over 50 years, and re-establish its connections to the vibrant neighborhoods that surround it.

FINDINGS

Based upon the above consideration, the Commission hereby makes the following findings pursuant to Section 74-743 of the Zoning Resolution, as amended pursuant to the related application for a zoning text amendment (N 120229 ZRM):

- 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 general large-scale development, 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;
- 3) [Not applicable];
- 4) considering the size of the proposed general large-scale development, the streets providing access to such general large-scale development will be adequate to handle traffic resulting therefrom;
- 5) [Not applicable];
- 6) [Not applicable];
- 7) [Not applicable];
- 8) [Not applicable]; and
- 9) a declaration with regard to ownership requirements in paragraph (b) of the general large-scale development definition in Section 12-10 (DEFINITIONS) has been filed with the Commission.

RESOLUTION

RESOLVED, that having considered the Final Generic Environmental Impact Statement (FGEIS), for which a Notice of Completion was issued on August 10, 2012, with respect to this application (CEQR No. 11DME012M), the City Planning Commission finds that the requirements of the New York State Environmental Quality Review Act & regulations, have been met and that:

1. Consistent with social, economic, and other essential considerations, from among the reasonable alternatives thereto, the Proposed Action adopted herein is one which minimizes or avoids adverse environmental impacts to the maximum extent practicable; and
2. The adverse environmental impacts disclosed in the FGEIS will be minimized or avoided to the maximum extent practicable by incorporating as conditions to the approval, in accordance with environmental commitment letters, dated August 15, 2012, from HPD and August 15, 2012, from NYCEDC, those project components related to the environment and mitigation measures that were identified as practicable.

This report of the City Planning Commission, together with the FGEIS, constitute the written statement of facts, and of social, economic and other factors and standards, that form the basis of the decision, pursuant to Section 617.11(d) of the SEQRA regulations; and be it further

RESOLVED, by the City Planning Commission, pursuant to Sections 197-c and 200 of the New York City Charter, that based on the environmental determination, and the consideration and findings described in this report, the application submitted by the Department of Housing Preservation and Development, pursuant to Sections 197-c and 201 of the New York City Charter for the grant of special permits pursuant to the following Sections of the Zoning Resolution:

1. 74-743(a)(1) to modify the applicable district regulations to allow the distribution of total allowable floor area, dwelling units and lot coverage under the applicable district regulations within a large-scale general development without regard for zoning lot lines or district boundaries;

2. 74-743(a)(2) to modify the applicable district regulations to allow the location of buildings without regard for the applicable yard, court, distance between buildings, height and setback regulations; and
3. 74-743(a)(10) to modify the applicable district regulations to allow the areas of the zoning lot between the street line and the street walls of the proposed buildings to be improved as publicly-accessible widened sidewalk;

in connection with a proposed mixed use development, within a large-scale general development bounded by Delancey Street, a line 150 feet easterly of Clinton Street, Broome Street, Clinton Street, Grand Street, Suffolk Street, Broome Street, Essex Street, a line 95.62 feet northerly of Broome Street, a line 50.54 feet westerly of Essex Street, Broome Street, Ludlow Street, a line 155 feet northerly of Broome Street, and Essex Street (Block 346, p/o Lot 40, Block 347, Lot 71, Block 352, Lots 1 & 28, and Block 409, Lot 56), in R8/C2-5 and C6-1 Districts, partially within the former Seward Park Extension Urban Renewal Area, Manhattan, Community District 3, is approved subject to the following conditions:

1. The development that is the subject of this application (C 120228 ZSM) shall be developed in size and arrangement substantially in accordance with the dimensions, specifications and zoning computations indicated on the following approved plans prepared by Beyer Blinder Belle Architects & Planners LLP, filed with this application and incorporated in this resolution, and in accordance with the provisions and procedures set forth in the Restrictive Declaration:

Dwg. No.	Title	Date
001	Zoning Calculations (1 of 4)	03/21/2012
002	Zoning Calculations (2 of 4)	03/21/2012
003	Zoning Calculations (3 of 4)	03/21/2012
004	Zoning Calculations (4 of 4)	03/21/2012
008	Proposed Site Plan	03/21/2012
101	Proposed Site Plan- Zoning Lot 1	03/21/2012
102	Ground Floor Plan- Zoning Lot 1	03/21/2012
103	Building Envelope Diagrams- Zoning Lot 1	03/21/2012

Dwg. No.	Title	Date
104	Base Plane Diagram- Zoning Lot 1	03/21/2012
104N	Average Curb Level- Zoning Lot 1	03/21/2012
105M	Zoning Actions Plan (Mixed-Use)- Zoning Lot 1	03/21/2012
105N	Zoning Actions Plan (Non-Residential)- Zoning Lot 1	03/21/2012
106M	Zoning Actions Sections (Mixed-Use)- Zoning Lot 1	03/21/2012
106N	Zoning Actions Sections (Non-Residential)- Zoning Lot 1	03/21/2012
201	Proposed Site Plan- Zoning Lot 2	03/21/2012
202	Ground Floor Plan- Zoning Lot 2	03/21/2012
203.1	Building Envelope Diagrams- Zoning Lot 2	03/21/2012
203.2	Building Envelope Diagrams- Zoning Lot 2	03/21/2012
203.3	Building Envelope Diagrams- Zoning Lot 2	03/21/2012
203.4	Building Envelope Diagrams- Zoning Lot 2	03/21/2012
204M	Base Plane Diagram- Zoning Lot 2	03/21/2012
204N	Average Curb Level- Zoning Lot 2	03/21/2012
205M	Zoning Actions Plan (Mixed-Use)- Zoning Lot 2	03/21/2012
205N	Zoning Actions Plan (Non-Residential)- Zoning Lot 2	03/21/2012
206M	Zoning Actions Sections (Mixed-Use)- Zoning Lot 2	03/21/2012
206N	Zoning Actions Sections (Non-Residential)- Zoning Lot 2	03/21/2012
301	Proposed Site Plan- Zoning Lot 3	03/21/2012
302	Ground Floor Plan- Zoning Lot 3	03/21/2012
303.1	Building Envelope Diagrams- Zoning Lot 3	03/21/2012
303.2	Building Envelope Diagrams- Zoning Lot 3	03/21/2012
303.3	Building Envelope Diagrams- Zoning Lot 3	03/21/2012
304M	Base Plane Diagram- Zoning Lot 3	03/21/2012
304N	Average Curb Level- Zoning Lot 3	03/21/2012
305M	Zoning Actions Plan (Mixed-Use)- Zoning Lot 3	03/21/2012
305N	Zoning Actions Plan (Non-Residential)- Zoning Lot 3	03/21/2012
306M	Zoning Actions Sections (Mixed-Use)- Zoning Lot 3	03/21/2012
306N	Zoning Actions Sections (Non-Residential)- Zoning Lot 3	03/21/2012
307	Inner Court Diagrams- Zoning Lot 3	03/21/2012

Dwg. No.	Title	Date
308	Outer Court Diagrams- Zoning Lot 3	03/21/2012
401	Proposed Site Plan- Zoning Lot 4	03/21/2012
402	Ground Floor Plan- Zoning Lot 4	03/21/2012
403.1	Building Envelope Diagrams- Zoning Lot 4	03/21/2012
403.2	Building Envelope Diagrams- Zoning Lot 4	03/21/2012
404M	Base Plane Diagram- Zoning Lot 4	03/21/2012
405M	Zoning Actions Plan (Mixed-Use)- Zoning Lot 4	03/21/2012
406M	Zoning Actions Sections (Mixed-Use)- Zoning Lot 4	03/21/2012
407	Inner Court Diagrams- Zoning Lot 4	03/21/2012
408	Outer Court Diagrams- Zoning Lot 4	03/21/2012
501	Proposed Site Plan- Zoning Lot 5	03/21/2012
502	Ground Floor Plan- Zoning Lot 5	03/21/2012
503	Building Envelope Diagrams- Zoning Lot 5	03/21/2012
504M	Base Plane Diagram- Zoning Lot 5	03/21/2012
505M	Zoning Actions Plan (Mixed-Use)- Zoning Lot 5	03/21/2012
506M	Zoning Actions Sections (Mixed-Use)- Zoning Lot 5	03/21/2012
507	Inner Court Diagrams- Zoning Lot 5	03/21/2012
508	Outer Court Diagrams- Zoning Lot 5	03/21/2012
601	Proposed Site Plan- Zoning Lot 6	03/21/2012
602	Ground Floor Plan- Zoning Lot 6	03/21/2012
603	Building Envelope Diagrams- Zoning Lot 6	03/21/2012
604M	Base Plane Diagram- Zoning Lot 6	03/21/2012
604N	Average Curb Level- Zoning Lot 6	03/21/2012
605M	Zoning Actions Plan (Mixed-Use)- Zoning Lot 6	03/21/2012
605N	Zoning Actions Plan (Non-Residential)- Zoning Lot 6	03/21/2012
606M	Zoning Actions Sections (Mixed-Use)- Zoning Lot 6	03/21/2012
606N	Zoning Actions Sections (Non-Residential)- Zoning Lot 6	03/21/2012

2. The development which is the subject of this application shall conform to all applicable laws and regulations relating to their construction, operation and maintenance.

3. Development pursuant to this resolution shall be allowed only after the restrictive declaration attached hereto as Exhibit A, with such administrative changes as are acceptable to Counsel to the Department of City Planning, has been executed and recorded in the Office of the Register, New York County. Such restrictive declaration shall be deemed incorporated herein as a condition of this resolution.
4. In the event the property that is the subject of the application is developed as, sold as, or converted to condominium units, a homeowners' association, or cooperative ownership, a copy of this report and resolution and any subsequent modifications shall be provided to the Attorney General of the State of New York at the time of application for any such condominium, homeowners' or cooperative offering plan and, if the Attorney General so directs, shall be incorporated in full in any offering documents relating to the property.
5. All leases, subleases, or other agreements for use or occupancy of space at the subject property shall give actual notice of this special permit to the lessee, sub-lessee or occupant.
6. Upon the failure of any party having any right, title or interest in the property that is the subject of this application, or the failure of any heir, successor, assign, or legal representative of such party, to observe any of the covenants, restrictions, agreements, terms, or conditions of this resolution and the restrictive declarations whose provisions shall constitute conditions of the special permit hereby granted, the City Planning Commission may, without the consent of any other party, revoke any portion of or all of said special permit. Such power of revocation shall be in addition to and not limited to any other powers of the City Planning Commission, or of any other agency of government, or any private person or entity. Any such failure as stated above, or any alteration in the development that is the subject of this application that departs from any of the conditions listed above, is grounds for the City Planning Commission or the City Council, as applicable, to disapprove any

application for modification, cancellation, or amendment of the special permit hereby granted or of the restrictive declarations.

7. Neither the City of New York nor its employees or agents shall have any liability for money damages by reason of the city or such employees or agents failure to act in accordance with the provisions of this special permit.

The above resolution (C 120228 ZSM), duly adopted by the City Planning Commission on August 22, 2012 (Calendar No. 9), is filed with the Office of the Speaker, City Council, and the Borough President together with a copy of the plans of the development, in accordance with the requirements of Section 197-d of the New York City Charter.

AMANDA M. BURDEN, FAICP, Chair
ANGELA M. BATTAGLIA, RAYANN BESSER, IRWIN G. CANTOR, P.E.,
ALFRED C. CERULLO, III, MICHELLE DE LA UZ,
MARIA M. DEL TORO, RICHARD W. EADDY, ANNA HAYES LEVIN,
ORLANDO MARÍN, SHIRLEY A. MCRAE Commissioners

DECLARATION OF LARGE-SCALE GENERAL DEVELOPMENT

NEW YORK COUNTY

<u>BLOCK</u>	<u>LOT</u>
409	56
352	1 and 28
346	40
347	71

RECORD AND RETURN TO:

**New York City Law Department
100 Church Street
New York, New York 10007
Attention: Chief, Economic Development Division**

DECLARATION OF LARGE-SCALE GENERAL DEVELOPMENT

THIS DECLARATION OF LARGE-SCALE GENERAL DEVELOPMENT (“**Declaration**”), made as of the ____ day of _____, 20____, by the **CITY OF NEW YORK** (the “**City**”), a municipal corporation, acting by and through its Department of Housing Preservation and Development (“**HPD**”) with an address at 100 Gold Street, New York, New York 10038 (the “**Declarant**”).

W I T N E S S E T H:

WHEREAS, the City is the fee owner of certain real property located in the Borough of Manhattan, County of New York, City and State of New York, designated for real property tax purposes as Block 409, Lot 56 (“**Site 1**”), Block 352, Lots 1 and 28 (“**Site 2**”), Block 346, p/o Lot 40 (“**Site 3**”), Block 346, p/o Lot 40 (“**Site 4**”), Block 346, p/o Lot 40 (“**Site 5**”), and Block 347, Lot 71 (“**Site 6**”), which real property is more particularly described in Exhibit A annexed hereto and made a part hereof (each a “**Site**” and together, the “**Subject Property**”); and

WHEREAS, the City desires that its successor(s) in interest to the Subject Property (“**Successor Declarant(s)**”) improve the Subject Property as a “large-scale general development” meeting the requirements of Section 12-10 of the Zoning Resolution of the City of New York (the “**Zoning Resolution**” or “**ZR**”) definition of “large-scale general development” (such proposed improvement of the Subject Property, the “**Large Scale Development Project**”); and

WHEREAS, HPD filed an application with the New York City Department of City Planning (hereinafter “**DCP**”) pursuant to Section 197-c of the City Charter for: (1) disposition of Sites 1 through 6 and other sites by the City for the purpose of subsequent development (C 120145 PPM); (2) designation of Sites 1 through 6 and other sites as an Urban Development Action Area Project(N 120236 HAM); (3) acquisition of a portion of Site 2 for the sole purpose of a relocated Essex Street Market (C 120237 PQM); (4) a zoning map amendment for a C2-5 commercial overlay on Sites 3, 4, 5 and 6 (C 120226 ZMM) (the “**Zoning Map Amendment**”); (5) a large-scale general development special permit pursuant to ZR Section 74-743, applicable to Sites 1 through 6, to (i) allow for distribution of floor area, lot coverage and dwelling units without regard to zoning lot lines or district boundaries and (ii) allow waivers of height and setback, minimum base height, rear yard, rear yard equivalent, and rear yard setback requirements, minimum distance between legally required windows and any wall in an inner court, outer court, and planting requirements (C 120228 ZSM); (6) a large-scale general development special permit pursuant to ZR Section 74-744 to (i) allow Use Group 10, 11A and certain 12A uses in C2 districts within the Large Scale Development Project and (ii) allow commercial and residential use to be arranged within the Large Scale Development Project without regard for the locational restrictions set forth in ZR Section 32-422 (C 120229 ZSM); (7) zoning text amendments to ZR Sections 74-743 and 74-744 (i) for the elimination of the planting strip requirement within the boundaries of the Large Scale Development Project, (ii) to allow commercial floor area to be shifted from a C6 district to an R8/C2 district within the boundaries of the Large Scale Development Project, (iii) to allow Use Group 10, 11A and certain 12A uses in a C2 zoning district within the boundaries of the Large Scale Development Project and (iv) to allow waiver of underlying signage regulations so that the proposed signage complies with C6-1

signage regulations (N 120227 ZRM); (8) an authorization pursuant to ZR Section 74-444(c)(2) for modification of signage regulations to permit signage in compliance with C6-1 regulations along certain streets (N 120230 ZAM); (9) special permits pursuant to ZR Sections 13-562 and 74-52 for each of Sites 2, 3, 4 and 5 to allow for public parking garages with specified maximum number of spaces on each of these Sites (C 120231 ZSM, C 120233 ZSM, C 120234 ZSM and C 120235 ZSM) (collectively, the “**Parking Garage Special Permits**”); (10) an amendment to the City Map to remove sections of Delancey Street between Norfolk and Clinton Streets and Clinton Street between Delancey and Grand Streets, thereby aligning the mapped streets with the existing built street condition (C 120156 MMM); and (11) an amendment to the City Map to map a formerly demapped section of Suffolk Street between Grand and Delancey Streets and a demapped section of Broome Street between Norfolk and Clinton Streets as new streets through the Large Scale Development Project (C 120156 MMM) (items 1 through 11 collectively, the “**Land Use Applications**”); and

WHEREAS, the New York City Planning Commission (“**CPC**”) adopted resolutions approving the Land Use Applications on _____, 20____, under Calendar Numbers _____, and the New York City Council adopted resolutions approving the decision of CPC on _____, 20____, under Resolution Numbers _____ (such resolutions the “**Land Use Approvals**”); and

WHEREAS, ZR Section 74-743(b)(8) requires that a declaration with regard to ownership requirements in paragraph (b) of the large-scale general development definition in ZR Section 12-10 be filed with CPC; and

WHEREAS, since the City is the fee owner of the Subject Property, the New York City Law Department has certified in the certification (the “**Certification**”) attached hereto as Exhibit B and made a part hereof, that as of _____, 20____, the City is the sole party-in-interest (the “**Party-in-Interest**”) in the Subject Property, as such term is defined in the definition of “zoning lot” in ZR Section 12-10; and

WHEREAS, the City desires to restrict the manner in which the Subject Property may be developed, redeveloped, maintained and operated in the future by any Successor Declarant, and intends these restrictions to benefit all the land on the Subject Property;

NOW, THEREFORE, Declarant does hereby declare and agree that the Subject Property shall be held, sold, transferred, conveyed and occupied subject to the restrictions, covenants, obligations, easements, and agreements of this Declaration, which shall run with the Subject Property and which shall be binding on Declarant and its successors and assigns.

1. Designation of Large-Scale General Development. Declarant hereby declares and agrees that, following the Effective Date (as defined in Section 9 hereof), the Subject Property shall be treated as a large-scale general development site pursuant to ZR Sections 74-743 and 74-444 and shall be developed and enlarged as a single unit.

2. Development of Subject Property.

(a) Plans. If the Subject Property is developed in whole or part in accordance with the Land Use Approvals, Declarant covenants that the Subject Property shall be developed in substantial conformity with the following plans prepared by Beyer, Blinder, Belle Architects and Planners LLP, approved as part of the Land Use Approvals and annexed hereto as Exhibit C and made a part hereof (collectively, the “Plans”):

Drawing No.	Title	Date
000	Cover Sheet	
001 – 004	Zoning Calculations	
005	Existing Area Map	
006-007	Proposed Area Map	
008	Proposed Site Plan	
	<u>ZONING LOT 1</u>	
101	Proposed Site Plan	
102	Ground Floor Plan	
103	Building Envelope Diagrams	
104M	Base Plane Diagram	
104N	Average Curb Level Diagram	
105M	Zoning Actions Plan (Mixed Use)	
105N	Zoning Actions Plan (Non- Residential Building)	
106M	Zoning Actions Sections (Mixed Use)	
106N	Zoning Actions Sections (Non-Residential Building)	
	<u>ZONING LOT 2</u>	
201	Proposed Site Plan	
202	Ground Floor Plan	
203.1 – 203.4	Building Envelope Diagrams	
204M	Base Plane Diagram	
204N	Average Curb Level Diagram	
205M	Zoning Actions Plan (Mixed Use)	

205N	Zoning Actions Plan (Non-Residential Building)	
206M	Zoning Actions Sections (Mixed Use)	
206N	Zoning Actions Sections (Non-Residential Building)	
	<u>ZONING LOT 3</u>	
301	Proposed Site Plan	
302	Ground Floor Plan	
303.1 – 303.3	Building Envelope Diagrams	
304M	Base Plane Diagram	
304N	Average Curb Level Diagram	
305M	Zoning Actions Plan (Mixed Use)	
305N	Zoning Actions Plan (Non-Residential Building)	
306M	Zoning Actions Sections (Mixed Use)	
306N	Zoning Actions Sections (Non-Residential Building)	
307	Inner Court Diagrams	
308	Outer Court Diagrams	
	<u>ZONING LOT 4</u>	
401	Proposed Site Plan	
402	Ground Floor Plan	
403.1 – 403.2	Building Envelope Diagrams	
404M	Base Plane Diagram	
405M	Zoning Actions Plan (Mixed Use)	
406M	Zoning Actions Sections (Non-Residential Building)	
407	Inner Court Diagrams	

408	Outer Court Diagrams	
	<u>ZONING LOT 5</u>	
501	Proposed Site Plan	
502	Ground Floor Plan	
503	Building Envelope Diagrams	
504M	Base Plane Diagram	
505M	Zoning Actions Plan (Mixed Use)	
506M	Zoning Actions Sections (Non-Residential Building)	
507	Inner Court Diagrams	
508	Outer Court Diagrams	
	<u>ZONING LOT 6</u>	
601	Proposed Site Plan	
602	Ground Floor Plan	
603	Building Envelope Diagrams	
604M	Base Plane Diagram	
604N	Average Curb Level Diagram	
605M	Zoning Actions Plan (Mixed Use)	
605N	Zoning Actions Plan (Non-Residential Building)	
606M	Zoning Actions Sections (Mixed Use)	
606N	Zoning Actions Sections (Non-Residential Building)	

(b) In the event that Declarant seeks to develop the Subject Property other than as the Large Scale Development Project, Declarant shall not be authorized to develop the Subject Property except as would be permitted pursuant to the applicable zoning districts, subject to the

following further restrictions: (i) such development shall comply in all respects with and only to the extent permitted under the zoning regulations existing immediately prior to the date of the Land Use Approval of the Zoning Map Amendment, i.e., in accordance with the controls applicable to a C6-1 zoning district on Sites 1 and 2 and a R8 zoning district on Sites 3 through 6 (“**Prior Zoning Development**”); or (ii) to the extent such development is not permitted under (i) above, such development has been reviewed and approved by CPC and drawings with respect thereto, in a form acceptable to DCP, have been incorporated in this Declaration pursuant to the procedures for modification of this Declaration as set forth in Section 13(f) hereof (the “**Alternative Development**”).

(c) Parking. In no event shall more than an aggregate of five hundred (500) off-street public parking spaces be added pursuant to the Parking Garage Special Permits granted in connection with the Large Scale Development Project.

3. Sidewalk Widening Areas.

(a) If the Subject Property is developed as a Large Scale Development Project, the Successor Declarant(s) shall improve and construct the Publicly-Accessible Sidewalk Widening Areas with respect to the portion of the Subject Property for which such Successor Declarant has an interest, as more fully depicted on Drawings No. 102, 202, 302, 402, 502, and 602 of the Plans (collectively the “**Publicly-Accessible Sidewalk Widening Areas**”), in accordance with New York City Department of Transportation (“**DOT**”) standards and specifications, within the same time frame as any accompanying standard sidewalk work, pursuant to the necessary Builder’s Pavement Plan, for the purpose of providing public pedestrian access thereover.

(b) Publicly-Accessible Sidewalk Widening Easement. Declarant covenants that, immediately upon substantial completion of each of the Publicly-Accessible Sidewalk Widening

Areas, same shall be open and in use for the purposes set forth in Section 4(a) above, and Declarant covenants that the City shall enjoy, wield and have the right to and the benefit of and be granted, conveyed and transferred a non-exclusive easement (the “**Publicly-Accessible Sidewalk Widening Easement**”) in perpetuity, for the benefit of the general public, encompassing the Publicly-Accessible Sidewalk Widening Areas unobstructed from the surface thereof to the sky, for the purpose of pedestrian access. Each such easement (i) shall be effectuated without the necessity for recording a separate easement instrument and (ii) shall be prior in interest to any property interest on the Subject Property or any portion thereof that is recorded after the date of this Declaration.

4. Open Space.

(a) Obligation to Construct Open Space.

(i) The Successor Declarant(s) that has been selected by the City (acting through NYCEDC and/or HPD) as the developer responsible for the Open Space obligations set forth in this Declaration (“**Open Space Successor Declarant**”) shall develop a minimum of 10,000 square feet of open space on Site 5 within the time period set forth in Section 4(d) of this Declaration in the general location shown on the approved site plan attached hereto as Drawing No. 501 of the Plans (the “**Open Space**”). The general purpose of the Open Space will be to serve as a neighborhood open space, provide amenities for residents, workers, and the general public, and provide a mix of passive and active recreational space, including a variety of seating types and areas, including social seating, and children’s play features (the “**General Purpose**”). It shall not be inconsistent with the General Purpose for a portion of the Open Space to be used as a zoning use Zoning Group 6 eating and drinking establishment (“**Kiosk**”) as set forth in Section 4(a)(iv)(J) of this Declaration.

(ii) At a minimum, the Open Space shall include the following required elements (“**Required Elements**”): (A) passive open space consisting of seating, pathways, landscaping and related amenities, and (B) active open space consisting of children’s play features and other elements to be included after consultation with Manhattan Community Board #3 (“**CB3**”) and the New York City Department of Parks and Recreation (“**DPR**”). In addition to the foregoing, the Open Space may include a lawn area and other elements consistent with the General Purpose.

(iii) No portion of the Open Space may be enclosed by a gate or fence. The Open Space shall be open to the public, consistent with the General Purpose, 365 days per year and the minimum hours shall be as follows: (i) 7 a.m. to 10 p.m. from April through October and (ii) 7 a.m. to 8 p.m. from November through March. Notwithstanding the foregoing, the Open Space Successor Declarant may close the Open Space one day in each calendar year for private events, and as otherwise provided herein in Section 4(g).

(iv) The Open Space shall conform with the design criteria set forth below (collectively, the “**Design Criteria**”).

(A) Seating:

(I) At least three different types of seating shall be provided, which seating types may include: moveable seating, fixed individual seats, fixed benches with and without backs, and design-feature seating such as seat walls, planter ledges, or seating steps. Seating shall have a minimum depth of 18 inches. Seating with 36 inches or more in depth is permitted, provided there is access to both sides of such seat. When seating is provided on a planter ledge, such ledge must have a minimum depth of 22 inches;

(II) Seating shall have a height not less than 16 inches nor greater than 20 inches above the level of the adjacent walking surface. Seating steps may have a height not to exceed 30 inches and seating walls may have a height not to exceed 24 inches;

(III) At least 50 percent of the linear feet of fixed seating shall have backs at least 14 inches high and a maximum seat depth of 20 inches. Walls located adjacent to a seating surface shall not count as seat backs. All seat backs must either be contoured in form for comfort or shall be reclined from vertical between 10 to 15 degrees;

(IV) All moveable seats must have backs and a maximum seat depth of 20 inches. If moveable seats are included, one table shall be provided for every four such moveable seats. Moveable seats shall not be chained, fixed, or otherwise secured while the Open Space is open to the public; moveable seats, however, may be removed during the hours when the Open Space is not open to the public as set forth in Section 4(a)(iii) of this Declaration;

(V) Seating steps shall not include any steps intended for circulation and must have a height not less than six inches nor greater than 30 inches and a depth not less than 18 inches. Seating walls shall have a height not greater than 18 inches; such seating walls, however, may have a height not to exceed 24 inches if they are located within 10 feet of an edge of the Open Space; and

(VI) Seats that face walls must be a minimum of six feet from such wall.

(B) Steps: Any steps provided within the Open Space must have a minimum height of four inches and a maximum height of six inches. Steps must have a minimum tread of 17 inches; steps with a height of five inches, however, may have a minimum tread of 15 inches.

(C) Prohibitions: Devices or forms affixed or incorporated into planter ledges, steps, sills, or other horizontal surfaces that would otherwise be suitable for seating that are intended to prevent, inhibit or discourage seating (such as spikes, metal bars, or pointed, excessively rough, or deliberately uncomfortable materials or forms) shall be prohibited. Deterrents to skateboards, rollerblades and other wheeled devices are permitted on seating surfaces if they do not inhibit seating, maintain a minimum distance of five feet between deterrents, and are integrated into the seating surface at the time of manufacture or construction or should be constructed of materials that are consistent with the materials and finish quality of the seating surface.

(D) Access for Persons with Disabilities: The Open Space shall conform with applicable laws pertaining to access for persons with disabilities.

(E) Plantings and Trees:

(I) At least twenty percent (20%) of the Open Space area shall be comprised of planting beds with a minimum dimension of two feet, exclusive of any bounding walls;

(II) The Open Space shall provide four trees plus an additional four caliper inches in additional trees or multi-stemmed equivalents for each additional 1,000 square feet of Open Space in excess of 6,000 square feet, rounded to the nearest 1,000 square feet;

(III) At least 50 percent of required trees shall be planted flush-to-grade or planted at grade within planting beds with no raised curbs or railings. Trees planted flush-to-grade shall be surrounded by a porous surface (such as grating or open-joint paving) that allows water to penetrate into the soil for a minimum radius of two feet, six inches. Such porous

surface shall be of sufficient strength and density to accommodate pedestrian circulation, including all requirements related to accessibility for the disabled, and shall be of a design that allows for tree growth. Installed fixtures such as lighting stanchions, electrical outlets or conduits shall not be located within the required porous area of any tree planted flush-to-grade;

(IV) Where trees are planted within the Open Space, they shall measure at least four inches in caliper at the time of planting, unless alternative, multi-stemmed equivalents are specified in the Open Space plans. Each tree shall be planted in at least 200 cubic feet of soil with a depth of soil of at least three feet, six inches;

(V) Planting beds shall have a soil depth of at least 18 inches for grass or other ground cover, three feet for shrubs and three feet, six inches for trees. No planters or planting beds shall have bounding walls that exceed 18 inches in height above an adjacent walking surface or the highest adjacent surface where the bounding wall adjoins two or more walking surfaces with different elevations. Any planting bed containing required trees shall have a continuous area of at least 75 square feet for each tree exclusive of bounding walls. Furthermore, each tree located within a planting bed shall be surrounded by a continuous permeable surface measuring at least five feet square. Any lawns or turf grass planting beds shall not exceed six inches above any adjacent walking surfaces;

(VI) All planted areas shall either be automatically irrigated or shall consist of species that do not require regular watering;

(VII) All planted areas located above subsurface structures such as cellars or garages shall have drainage systems to prevent collection and pooling of water within planted areas; and

(VIII) Street trees are required to be planted in the public sidewalk area adjacent to Site 5 in accordance with the street tree planting regulations set forth in Section 26-41 (Street Tree Planting) of the Zoning Resolution as in effect on the date of this Declaration. The length of frontage of the zoning lot for the purpose of computing required street trees may be reduced by 50 feet for each street intersection fronted by the Open Space. If DPR determines that the tree planting requirements of this paragraph are infeasible, the number of required street trees that cannot be planted shall be planted in accordance with the off-site tree provisions set forth in Section 26-41 of the Zoning Resolution, or within the Open Space.

(F) Lighting and Electrical Equipment:

(I) The Open Space shall be illuminated to provide for safe use and enjoyment of all areas of the Open Space. Special attention should be provided in lighting steps and other changes in elevation and areas under tree canopies and permitted canopies within the Open Space;

(II) The Open Space shall be illuminated with a minimum level of illumination of not less than two horizontal foot candles (lumens per foot) throughout all walkable and sitting areas, including sidewalks directly adjacent to the Open Space, and a minimum level of illumination of not less than 0.5 horizontal foot candles (lumens per foot) throughout all other areas. All lighting sources used to satisfy this illumination requirement shall be located outdoors on Site 5. Such level of illumination shall be maintained from one hour before sunset to one hour after sunrise, including any nighttime closure. A lighting schedule, including fixtures, wattage and their locations and designs together with a diagram of light level distribution, with light levels indicated at intervals of no more than every 20 square feet.

Electrical power shall be supplied by one or more outlets furnishing a total of at least 1,200 watts of power for every 4,000 square feet, or fraction thereof, of the area of the Open Space; and

(III) All lighting sources that illuminate the Open Space and are mounted on or located within buildings adjacent to the Open Space shall be shielded from direct view. In addition, all lighting within the Open Space area shall be shielded to minimize any adverse effect on surrounding residences.

(G) Litter Receptacles: One litter receptacle shall be provided for every 1,500 square feet of Open Space area, up to a maximum of 6,000 square feet. An additional litter receptacle must be provided for every additional 2,000 square feet of Open Space area in excess of 6,000 square feet. If the Open Space contains a Kiosk, one additional litter receptacle shall be provided for each 1,500 square feet of Open Space area occupied by such outdoor eating area as is permitted by Section 4(a)(iv)(J) hereof. All litter receptacles must have a volume capacity of at least 25 gallons and shall be located in visible and convenient locations. All top or side openings must have a minimum dimension of 12 inches.

(H) Bicycle Parking: The Open Space shall provide parking for at least two bicycles. Bike racks must be provided on the sidewalk directly adjacent to the Open Space in accordance with DOT standards, unless DOT has determined that the sidewalk area adjacent to the Open Space cannot accommodate the required bicycle parking.

(I) Signage: The Open Space shall comply with all the provisions of ZR Section 37-751 (Public Space Signage) as in effect on the date of this Declaration, as modified herein. All references therein to #public plaza# shall be replaced with the words “Open Space”. Section ZR 37-751(a)(3) shall be modified as follows: the hours of operation set forth in Section 4(a)(iii) of this Declaration shall replace the words “Open 24 hours” and the words

“Open to the public” shall precede those hours of operation. There shall also be provided one operating rules sign. A maximum of one such sign may be located within the Open Space. Such sign shall not exceed one foot square dimension, may not be freestanding, and shall contain no lettering greater than ¾ inch in height.

(J) Permitted Obstructions: The provisions of ZR Section 37-726 (Permitted Obstructions) as in effect on the date of this Declaration shall apply to the Open Space. A Kiosk shall be considered a permitted obstruction for purposes of applying ZR Section 37-726 to the Open Space. Such Kiosk shall be substantially transparent and shall occupy no more than 100 square feet, and such Kiosk, including seating, may occupy no more than ten percent (10%) of the Open Space.

(v) The Open Space shall be subject to the operating rules set forth in Exhibit D hereto.

(b) Design Consultation Process.

(i) Upon the awarding of a design contract to an architect (the “**Architect**”) to design the Open Space, Declarant shall cause the private developer (or prospective private developer) selected by the City (acting through NYCEDC and/or HPD) with the responsibility of complying with the Open Space obligations set forth in this Declaration (the “**Open Space Developer**”), provided that once the Open Space Developer obtains fee ownership of a portion of the Subject Property, the Open Space Developer will thereafter be referred to as the Open Space Successor Declarant for purposes of this Declaration) to give written notice of such design award to HPD, New York City Economic Development Corporation (“**NYCEDC**”), DPR and CB3, specifying the name and address of the Architect. CB3 may convene a committee (the “**CB3 Committee**”) and hold an initial meeting (the “**Initial Design Meeting**”) within thirty (30) days

after receipt of such notice, to present the goals and priorities for the design of the Open Space. Within twenty (20) days of the Initial Design Meeting, the CB3 Committee may provide written comments to the Open Space Developer and the Architect setting forth its goals and priorities for the design of the Open Space.

(ii) Upon completion of the conceptual design drawings of the Open Space, Declarant shall cause the Open Space Developer to give written notice thereof, along with such conceptual design materials, including a dimensioned plan of the Open Space showing all Required Elements, to the CB3 Committee and, within thirty (30) days after the CB3 Committee's receipt thereof, the CB3 Committee may convene a meeting with the Open Space Developer and the Architect to consider and review the conceptual design for the Open Space (the "**Conceptual Design Meeting**"). At this Conceptual Design Meeting, the Open Space Developer shall discuss how it incorporated the goals and priorities of the CB3 Committee into the conceptual design, or if such goals and priorities were not incorporated into the conceptual design, an explanation of why such goals and priorities were not incorporated. Within twenty (20) days after the Conceptual Design Meeting, the CB3 Committee may provide written comments to the Open Space Developer and the Architect, setting forth its comments regarding the conceptual design of the Open Space, including the articulation of a preference for one conceptual design over others, if applicable, and specific changes requested thereto. The design consultation process shall be concluded upon the completion of all the steps set forth in Sections 4(b)(i) and 4(b)(ii) hereof.

(iii) Declarant shall cause the Open Space Developer to submit all design materials and all comments received from the CB3 Committee simultaneously to HPD, NYCEDC and DPR.

(iv) If HPD, NYCEDC and/or DPR determine that substantial changes have been made to the conceptual design for the Open Space after the completion of the design consultation process, Declarant shall cause the Open Space Developer to repeat the steps set forth in Section 4(b)(ii) above.

(v) Notwithstanding anything to the contrary contained in this Section 4(b), the CB3 Committee may request extensions of up to fifteen (15) days for the scheduling of meetings and up to ten (10) days for the submission of written comments to the Open Space Developer. If the CB3 Committee does not convene meetings or submit comments within the time periods herein provided, it shall be deemed to have waived its right thereto.

(c) CPC Chair Review and Certification of Design.

(i) Declarant shall cause the Open Space Developer to neither request nor accept a building permit from the New York City Department of Buildings (“**DOB**”) (other than a permit for demolition, site preparation or excavation) for the private development on the Site owned by the Open Space Successor Declarant (the “**Private Development**” and the Site owned by such Open Space Successor Declarant, the “**Private Development Site**”) until the Chairperson of the New York City Planning Commission (the “**Chair**”) certifies that the design of the Open Space is consistent with the General Purpose, contains the Required Elements and complies with the Design Criteria (elements of which may be waived by the Chair pursuant to Section 4(c)(iii) hereof) and minimum size of 10,000 square feet (the “**Open Space Certification**”).

(ii) To initiate Chair review, Declarant shall cause the Open Space Developer to submit drawings, including a single plan drawing showing the status of the Large Scale Development Project at the time of submission, a site plan of Site 5, and a dimensioned site plan

for the Open Space with sufficient details to enable the Chair to determine whether the Required Elements are present and whether the Design Criteria have been complied with (“**Open Space Certification Plans**”). Declarant shall also cause the Open Space Developer to submit a report confirming that the design consultation process set forth in Section 4(b) hereof was completed and describing all comments (both verbal and written) received at each stage of the process and any design changes made in response thereto or if requested changes were not made, an explanation of why such changes were not made.

(iii) Within thirty (30) days of such submission, the Chair shall either (A) issue the Open Space Certification, or (B) notify Declarant in writing of any lacking Required Elements or of any failure to comply with the Design Criteria, in which case Declarant shall cause the Open Space Developer to submit revised Open Space Certification Plans which shall address such defects, and the Chair shall issue the Open Space Certification within fifteen (15) days after receipt thereof. In issuing such Open Space Certification, the Chair may, at his or her discretion, waive Design Criteria, provided that the Open Space Developer has clearly identified such elements to be waived during the Conceptual Design Meeting or other meetings with the CB3 Committee, and the CB3 Committee has been given the opportunity to comment on any proposed waivers of the Design Criteria. Upon issuance of the Open Space Certification, Declarant shall cause the Open Space Developer to transmit to the CB3 Committee copies of the Open Space Certification Plans and the report referenced in Section 4(c)(ii) above.

(d) Completion of Construction.

(i) The Open Space Successor Declarant shall neither request nor accept a temporary certificate of occupancy (“**TCO**”) from DOB for any portion of the Private Development, including but not limited to any residential unit in the Private Development

(except that to the extent a mixed-use building is included in the Private Development, the prohibitions against accepting a TCO from DOB before the conditions set forth below have been satisfied, shall only apply to any residential unit in such mixed-use building), until the Open Space Successor Declarant posts an irrevocable standby letter of credit in favor of HPD, in form and substance satisfactory to HPD, for ten percent (10%) of the amount required to complete construction of the Open Space, to be held by HPD as security for such obligation.

(ii) The Open Space Successor Declarant shall neither request nor accept a permanent certificate of occupancy (“PCO”) from DOB for any portion of the Private Development, including but not limited to any residential unit in the Private Development (except that to the extent a mixed-use building is included in the Private Development, the prohibitions against accepting a PCO from DOB before the conditions set forth below have been satisfied, shall only apply to any residential unit in such mixed-use building), until the Chair has certified to DOB that the construction of the Open Space is “Finally Complete,” following the process described below. For purposes of this Section 4(d), “Finally Complete” or “Final Completion” means the completion of all relevant items of work with respect to the construction of the Open Space, including minor or insubstantial details of the construction, decoration or mechanical adjustment that were not previously performed and landscaping, planting of vegetation or other tasks due to seasonality that were not previously completed, all in conformance with the Open Space Certification Plans certified by the Chair pursuant to Section 4(c) hereof; the installation of all Required Elements; and that such amenity is available to and open for use by the public.

(iii) The Open Space Successor Declarant shall notify the Chair when it believes the Open Space is Finally Complete. Within ten (10) business days of its receipt of the

Open Space Successor Declarant's notice, the Chair shall either (A) issue a certification of Final Completion (the "**Certificate of Final Completion**"), or (B) notify the Open Space Successor Declarant of any Required Elements that remain to be completed before the Chair will issue a Certificate of Final Completion. If the Chair notifies the Open Space Successor Declarant of any Required Elements that remain to be completed or corrected, such notice shall contain a detailed statement of the reasons for such non-acceptance in the form of a so-called "punch list". Upon completion of the Required Elements specified in the punch list, the Open Space Successor Declarant shall notify the Chair, and within ten (10) days of receipt of such notice, the Chair shall either (I) issue a Certificate of Final Completion, or (II) issue a revised punch list including any items on the original punch list remaining to be completed and, within reason any additional Required Elements that remain to be completed. This process shall continue until the Chair has issued a Certificate of Final Completion.

(iv) Upon receipt of the Certificate of Final Completion, the Open Space Successor Declarant may apply for and obtain PCOs for the residential units in the Private Development, and the letter of credit held as security for the construction of the Open Space may be released.

(e) **Open Space Easement**. If the City does not own the Open Space, the Open Space Successor Declarant covenants that, immediately upon the issuance of a Certificate of Final Completion, the City shall enjoy, wield and have the right to and the benefit of and be granted, conveyed and transferred a non-exclusive easement (the "**Open Space Easement**") in perpetuity, for the benefit of the general public, encompassing the area of the Open Space unobstructed from the surface thereof to the sky, for the purposes of (i) passive and active recreational use by the general public and (ii) access for fire, police and other emergency services. Such easement (i)

shall be effectuated without the necessity for recording a separate easement instrument and (ii) shall be prior in interest to any property interest on the Subject Property or any portion thereof that is recorded after the date of this Declaration.

(f) Maintenance and Operation.

(i) Upon the issuance of a Certificate of Final Completion and the opening of the Open Space, the Open Space Successor Declarant may offer to transfer the Open Space to the City (provided the City agrees to and accepts such transfer) or to a not-for-profit entity, provided that prior to the effectuation of such transfer to a not-for-profit entity, the Open Space Successor Declarant and the entity shall enter into an agreement in form and substance reasonably acceptable to the Chair as necessary to ensure in the event of transfer, that the entity is capable of performing all the obligations set forth in this Section 4(f) on a permanent basis.

(ii) Cleaning.

(A) Trash shall be collected regularly. Litter and other obstructions shall be removed as needed.

(B) Walkways and paths shall be cleaned and cleared as needed and maintained in good condition.

(C) Appropriate measures shall be taken to control rodents and pigeons.

(D) Graffiti shall be promptly removed or painted over.

(E) Drains, sewers and catch basins shall be cleaned regularly to prevent clogging.

(F) Snow shall be promptly removed from walkways, and fallen branches and trees shall be removed promptly.

(iii) Landscape and Feature Maintenance.

(A) Appropriate maintenance for planted areas shall be undertaken, including: pruning, trimming, and weeding; removal and replacement of plants, branches and trees that are dead or blighted; wrapping of trees, shrubs, and other plants as necessary to ensure adequate winter protection, and subsequent removal come springtime; replanting, reseeding and fertilizing as needed; mowing of grass and watering of plantings as needed.

(B) Adequate lighting levels shall be maintained, and lighting equipment shall be repaired or replaced as necessary.

(C) Water features within the Open Space, if any, shall be maintained in good condition and shall be required to be operational from no later than April 1 to at least October 1.

(iv) Repairs and Replacements. Repairs and replacements of features in the Open Space shall occur as needed to maintain the Open Space in a state of good repair. All repairs and replacements shall occur promptly and in substantial compliance with the Open Space Certification Plans certified by the Chair pursuant to Section 4(c) hereof. Repairs shall include, but are not limited to, the following items:

(A) Seating: All seating shall be repaired and repainted as necessary, including replacement of any moveable seating that has been removed.

(B) Walls or Other Barriers: Any broken or cracked walls, fences or other barriers shall be repaired or replaced.

(C) Paving: All paved surfaces shall be maintained in a safe and attractive condition.

(D) Painting: All painted items shall be repainted and rust or other extraneous matter removed as needed.

(E) Signage: All signs shall be maintained in good condition and cleaned or replaced if vandalized.

(F) Construction Defects and Hazardous Conditions: The Open Space shall be periodically inspected for construction defects and hazardous conditions, and any portion or feature that exhibits defects or hazardous conditions shall be promptly repaired or replaced.

(g) Public Access and Continuation of Use. Except as provided in this Section 4(g) or otherwise agreed to by DCP, the Open Space shall be open and accessible to the public in accordance with Section 4(a)(iii) of this Declaration. Notwithstanding the foregoing, or anything to the contrary in this Section 4(g), Declarant may close the Open Space or portions thereof for additional periods as may be necessary in order to: (i) accomplish maintenance repairs or replacements; (ii) make emergency repairs to mitigate hazardous conditions; and (iii) address other emergency conditions. Emergency conditions for which the Open Space may be closed pursuant to (iii) above shall be limited to actual or imminent emergency situations, including but not limited to, security alerts, riots, casualties, disasters, or other events engendering public health, safety or property, provided that no such closure shall continue for more than twelve (12) consecutive hours without Declarant having consulted with the New York City Police Department (the “NYPD”) or DOB, as appropriate, and having followed the NYPD’s or DOB’s direction, if any, with regard to the emergency situation. Declarant shall promptly notify the Chair, and DOB, as appropriate, in writing of any such emergency closure under (i) or (ii) above which extends more than twelve (12) hours. Declarant will close or permit to be closed only those portions of the Open Space which must or should reasonably be closed to effect the repairs, replacements or mitigation of hazardous site conditions to be undertaken pursuant to (i) and (ii)

above, and will exercise due diligence in the performance of such repairs, replacements or mitigation such that they are completed expeditiously and the temporarily closed areas (or any portions thereof) are re-opened to the public promptly. Declarant shall provide notice to the Chair of any closure of the Open Space associated with scheduled repairs or replacements under (i) above, and anticipated closure time frame, and shall post information regarding same at appropriate locations at entrances to and within the Open Space, not less than seven (7) days prior to such closure.

5. Representations. Declarant hereby represents and warrants that there is no restriction of record on the development, enlargement, or use of the Subject Property, nor any present or presently existing estate or interest in the Subject Property, nor any existing lien, obligation, covenant, easement, limitation or encumbrance of any kind that shall preclude the restriction and obligation to develop and enlarge the Subject Property as a large-scale general development as set forth herein.

6. Binding Effect. The restrictions, covenants, rights, and agreements set forth in this Declaration shall be binding upon Declarant and any successor or assign of Declarant; provided that the Declaration shall be binding on any Declarant only for the period during which such Declarant, or any successor or assign thereof, is the holder of an interest in the Subject Property and only to the extent of such Declarant's interest in the Subject Property. At such time as a Declarant or any successor to a Declarant no longer holds an interest in the Subject Property, such Declarant's or such Declarant's successor's obligations and liability under this Declaration shall wholly cease and terminate except with respect to any liability during the period when such Declarant held an interest in the Subject Property, and the party succeeding such Declarant or such Declarant's successor shall be deemed to have assumed the obligations and liability of

Declarant pursuant to this Declaration with respect to actions or matters occurring subsequent to the date such party succeeds to an interest in the Subject Property to the extent of such party's interest in the Subject Property. For purposes of this Declaration, any successor to a Declarant shall be deemed a Declarant for such time as such successor holds all or any portion of any interest in the Subject Property.

7. Condominium and Cooperative Ownership.

(a) In the event that the Large Scale Development Project or any portion thereof is developed as, sold, or converted to condominium or cooperative ownership requiring the approval of the Attorney General of the State of New York (the "**Attorney General**"), Declarant shall provide a copy of this Declaration and any subsequent modification hereof to the Attorney General with the offering documents at the time of application for approval of any such condominium or cooperative offering plan. Declarant shall include in the offering plan for such condominium or cooperative this Declaration or any portions hereof which the Attorney General determines shall be included and, if so included in the offering plan, shall make copies of this Declaration available to condominium purchasers and cooperative shareholders. Such condominium or cooperative shall be deemed Declarant for purposes of this Declaration, and shall succeed to a prior Declarant's obligations under this Declaration in accordance with Section 6 hereof.

(b) With respect to any portion of the Subject Property which shall be subject to a condominium, cooperative or similar form of ownership, for the purposes of this Declaration, except as otherwise set forth below, the board of directors or managers of the condominium, cooperative or similar association (such entity, a "**Board**") or a master association (an "**Association**") selected by the Board and authorized by underlying organizational documents to

act on behalf of the individual condominium unit owners, cooperative shareholders or similar owners, shall have the sole right as Declarant to assess a lien for any costs incurred under this Declaration or to otherwise act as Declarant with respect to this Declaration, to the extent such action is required for any purpose under this Declaration, and the consent of any individual condominium unit owner, cooperative shareholder or other similar owner who may be considered a party in interest under the Zoning Resolution (a "**Party in Interest**") shall not be required. For purposes of this Declaration, the Board or the Association, as the case may be, shall be deemed the sole Party in Interest with respect to the property interest subjected to the condominium, cooperative or similar ownership arrangement, and any such condominium unit owner, cooperative shareholder or other similar owner, or holder of any lien encumbering any such individual unit, shall not be deemed a Party in Interest. For purposes of Section 10 hereof, notice to the Board or the Association, as the case may be, shall be deemed notice to the Declarant. Notwithstanding the foregoing, in the event that a condominium regime is created on the portion of the Subject Property containing the Essex Street Market, and for so long as the City is the fee owner of the condominium unit used for the Essex Street Market, the City as owner of such individual condominium unit shall be deemed the Declarant and a Party in Interest with respect to the Essex Street Market condominium unit, and the condominium Board or Association created for such condominium regime (and not the other individual condominium unit owners) shall be deemed the Declarant and a Party in Interest with respect to all other condominium units within the regime not containing the Essex Street Market. If however, the City acquires a recorded leasehold interest in the Essex Street market rather than a fee condominium unit interest, the City shall be deemed a Declarant hereunder and the fee owner of

the Property shall be a Declarant with respect to that portion of the Property not constituting the Essex Street Market.

(c) In the event the Private Development Site is sold to multiple owners for purposes of development of multiple buildings on the Private Development Site, Successor Declarants may form a property owners' association ("**POA**"), whose members shall include the owners of the Private Development Site and which POA shall be responsible for maintaining and repairing the Open Space as required herein and for all associated costs and which will assume all obligations of the Open Space Successor Declarant, consistent with Section 4(f) hereof. If a POA is formed, it shall include among its members, the condominium associations representing the owners of the individual commercial and residential condominium units in the Private Development Site.

8. Recordation. Declarant shall file and record this Declaration in the Office of the City Register of the City of New York (the "**Register's Office**"), indexing it against the entire Subject Property no later than ten (10) days after the Land Use Approvals (the "**Recording Date**"). Declarant shall promptly deliver to the Chair a copy of such Declaration as recorded, so certified by the Register's Office. If Declarant fails to so record this Declaration by the Recording Date, then CPC may record a duplicate original of this Declaration.

9. Effective Date. This Declaration and the provisions and covenants hereof shall become effective as of the date of recordation of this Declaration in accordance with Section 8 above (the "**Effective Date**").

10. Notice. All notices, demands, requests, consents, approvals, and other communications (each, a "**Notice**") which may be or are permitted, desirable, or required to be given under this Declaration shall be in writing and shall be sent or delivered as follows:

(a) if to Declarant:

Department of Housing Preservation and Development
100 Gold Street
New York, NY 10038
Attn: [_____]

with a copy to:
The general counsel of HPD at the same address

and

New York City Economic Development Corporation
110 William Street
New York, NY 10038
Attn: [_____]

with a copy to:
The general counsel of NYCEDC at the same address

(b) if to CPC:

New York City Planning Commission
22 Reade Street
New York, New York 10007
Attention: Chairperson

with a copy to:
The general counsel of CPC at the same address

(c) if to a Party-in-Interest other than Declarant:

at the address provided in writing to CPC in accordance with this Section 10

(d) if to a mortgagee of all or any portion of the Subject Property (a "**Mortgagee**):

at the address provided in writing to CPC in accordance with this Section 10.

Declarant, CPC, any Party-in-Interest, and any Mortgagee may, by notice provided in accordance with this Section 10, change any name or address for purposes of this Declaration. In order to be deemed effective any Notice shall be sent or delivered in at least one of the following manners: (i) sent by registered or certified mail, postage pre-paid, return receipt requested, in

which case the Notice shall be deemed delivered for all purposes hereunder five days after being actually mailed; (ii) sent by overnight courier service, in which case the Notice shall be deemed delivered for all purposes hereunder on the date the Notice was actually received or was refused; or (iii) delivered by hand, in which case the Notice will be deemed delivered for all purposes hereunder on the date the Notice was actually received. All Notices from CPC to Declarant shall also be sent to every Mortgagee of whom CPC has notice, and no Notice shall be deemed properly given to Declarant without such notice to such Mortgagee(s). In the event that there is more than one Declarant at any time, any Notice from the City or the CPC shall be provided to all Declarants of whom CPC has notice.

11. Defaults and Remedies.

(a) Declarant acknowledges that the restrictions, covenants, and obligations of this Declaration will protect the value and desirability of the Subject Property, as well as benefit the City. If Declarant fails to perform any of Declarant's obligations under this Declaration, the City shall have the right to enforce this Declaration against Declarant and exercise any administrative, legal, or equitable remedy available to the City, and Declarant hereby consents to same; provided that this Declaration shall not be deemed to diminish Declarant's or any other Party-in-Interest's right to exercise any and all administrative, legal, or equitable remedies otherwise available to it, and provided further, that the City's rights of enforcement under this Declaration shall be subject to the cure provisions and periods set forth in Section 11(c) hereof. Declarant also acknowledges that the remedies set forth in this Declaration are not exclusive and that the City and any agency thereof may pursue other remedies not specifically set forth herein including, but not limited to, a mandatory injunction compelling Declarant to comply with the terms of this Declaration and a revocation by the City of any certificate of occupancy, temporary or permanent, for any

portion of the Large Scale Development Project on the Subject Property subject to the Land Use Approvals; provided, however, that such right of revocation shall not permit or be construed to permit the revocation of any certificate of occupancy for any use or improvement that exists on the Subject Property as of the date of this Declaration.

(b) Notwithstanding any provision of this Declaration to the contrary, only Declarant, and Declarant's successors and assigns, and the City shall be entitled to enforce or assert any claim arising out of or in connection with this Declaration. Nothing contained herein should be construed or deemed to allow any other person or entity to have any interest in or right of enforcement of any provision of this Declaration or any document or instrument executed or delivered in connection with the Land Use Applications. In any proceedings brought by the City against Declarant seeking to deny or revoke building permits or certificates of occupancy with respect to the Large Scale Development Project on the Subject Property, or to revoke any special permits approved by the Land Use Approvals, or to impose a lien, fine or other penalty, or to pursue any other remedy available to the City, if the event or occurrence which is the basis of an allegation of a failure to comply by Declarant is associated with a particular Site or portion(s) of a Site developed as part of the Large Scale Development Project on the Subject Property, then the City shall only deny or seek the revocation of building permits or certificates of occupancy for such Site(s) or portion(s) of a Site, and only seek to impose a fine, lien or other penalty on such Site(s) or portion(s) of a Site, and any such event or occurrence shall not provide the basis for denial or revocation of the special permits approved by the Land Use Approvals or building permits or certificates of occupancy, or the imposition of any fine, lien or other penalty, with respect to other Site(s) or portion(s) of a Site comprising a portion of the Large Scale Development Project on the Subject Property for which no such failure to comply has occurred.

(c) Prior to the City instituting any proceeding to enforce the terms or conditions of this Declaration due to any alleged violation hereof, the City shall give Declarant, every Mortgagee and every Party-in-Interest thirty (30) business days written notice of such alleged violation, except in the event Declarant has prohibited access to the Open Space other than as permitted under Section 4 hereof (in which case the cure period for providing such access shall be reduced to twenty-four (24) hours), during which period Declarant, any Party-in-Interest and any Mortgagee shall have the opportunity to effect a cure of such alleged violation or to demonstrate to City why the alleged violation has not occurred. If a Mortgagee or Party-in-Interest performs any obligation or effects any cure Declarant is required to perform or cure pursuant to this Declaration, such performance or cure shall be deemed performance on behalf of Declarant and shall be accepted by any person or entity benefited hereunder, including CPC and City, as if performed by Declarant. If Declarant, any Party-in-Interest or Mortgagee commences to effect such cure within such thirty (30) day period (or if cure is not capable of being commenced within such thirty (30) day period, Declarant, any Party-in-Interest or Mortgagee commences to effect such cure when such commencement is reasonably possible), or within twenty four (24) hours with respect to a denial of access to the Open Space, and thereafter proceeds diligently toward the effectuation of such cure, the aforesaid thirty (30) day period (as such may be extended or shortened in accordance with the preceding clause) shall be extended for so long as Declarant, any Party-in-Interest or Mortgagee continues to proceed diligently with the effectuation of such cure, as determined by the City. In the event ownership of any of the Sites is held by multiple Successor Declarants, notice as to those Sites shall be provided to all Successor Declarants of such Sites from whom City has received notice in accordance with Section 10 hereof, and the right to cure shall apply equally to all Successor

Declarants of such Sites.

(d) If, after due notice and opportunity to cure as set forth in this Declaration, Declarant, Mortgagee or a Party-in-Interest shall fail to cure the alleged violation, the City may exercise any and all of its rights, including without limitation those delineated in this Section 11 and may disapprove any amendment, modification or cancellation of this Declaration on the sole ground that Declarant is in default of a material obligation under this Declaration. Notwithstanding the foregoing, in the event of a denial of public access to the Open Space, Declarant shall have the opportunity to effect a cure of such denial within twenty-four (24) hours of receipt thereof. If such denial of access continues beyond such period, the City may thereupon exercise any and all of its rights, including seeking a mandatory injunction, and the provisions of this Section 11 shall not apply to the denial of public access. The time period for curing any violation by Declarant, Mortgagee, and/or Party-in-Interest shall be subject to extension for Uncontrollable Circumstances pursuant to Section 11(e) hereof.

(e) (i) In the event that, as the result of Uncontrollable Circumstances, Declarant is unable to perform or complete any obligation (A) at the time or times required by this Declaration; (B) at the date set forth in this Declaration for such action, if a specific date for such requirement is set forth herein; or (C) prior to submitting an application for a building permit or other permit or certificate of occupancy which is conditioned on the completion of such requirement, where applicable, Declarant shall, within forty-eight (48) hours after the occurrence of such Uncontrollable Circumstances becomes apparent so notify the Chair in writing. Such notice (the “**Delay Notice**”) shall include a description of the Uncontrollable Circumstances, and, if known to Declarant, their cause and probable duration. In the exercise of his or her reasonable judgment, in consultation with HPD and NYCEDC, the Chair shall, within thirty (30) days of its

receipt of the Delay Notice, (x) certify in writing that the Uncontrollable Circumstances have occurred, or (y) notify Declarant that it does not reasonably believe that the Uncontrollable Circumstances have occurred. Failure to respond within such thirty (30) day period shall be deemed to be a determination by the Chair that Uncontrollable Circumstances have not occurred. Upon a certification that Uncontrollable Circumstances have occurred, the Chair may grant Declarant the requested relief, either in whole or in part, and, as a condition of the granting of such relief, the Chair may also require that Declarant post a bond, letter of credit or other security in a form reasonably acceptable to the Chair in order to ensure that the obligation will be completed in accordance with the provisions of this Declaration.

(ii) **“Uncontrollable Circumstances”** shall mean: delays from any and all causes beyond Declarant’s reasonable control, including, without limitation, delays resulting from (A) orders of any court of competent jurisdiction, (B) labor disputes (including strikes, lockouts not caused by Declarant, slowdowns and similar labor problems), (C) accident, mechanical breakdown, shortages or inability to obtain labor, fuel, steam, water, electricity, equipment, supplies or materials (for which no substitute is readily available at a comparable price), (D) acts of God (including inordinately severe weather conditions), and (E) war, sabotage, hostilities, invasion, insurrection, riot, acts of terrorism, mob violence, malicious mischief, embargo, quarantines, national, regional or local disasters, calamities or catastrophes, national emergencies, enemy or hostile governmental action, civil disturbance or commotion, earthquake, flood, fire or other casualty of which Declarant has given the Chair notice.

12. Applications.

(a) Declarant and/or Declarant’s successors or assigns shall include a copy of this Declaration with any application made to DOB for a foundation, new building, alteration, or

other permit for any portion of the Large Scale Development Project subject to the Land Use Approvals. Nothing in this Declaration, including but not limited to the declaration and covenant made in Section 1 hereof to develop and enlarge the Subject Property as a single unit, shall be construed to prohibit or preclude Declarant from filing for, or DOB from issuing, any permit for all or any portion of the Large Scale Development Project, in such phase or order as the City sees fit in the City's sole discretion.

(b) Subject to the requirements of Section 13 hereof, nothing in this Declaration shall be construed to prevent Declarant or any of Declarant's successors or assigns from making any application of any sort to any governmental agency or department (each an "Agency") in connection with the development of the Subject Property; provided, that Declarant shall include a copy of this Declaration in connection with any application for any such discretionary approval, and provided that nothing in this Section 12(b) shall be construed as superseding the requirements, restrictions, or approvals that may be required under agreements with any other Agency or the City.

13. Amendment, Modification and Cancellation.

(a) This Declaration may be amended, cancelled, or modified upon application by Declarant and Successor Declarants, collectively, and upon the express written approval of CPC or an agency succeeding to CPC's jurisdiction. No other approval shall be required from any other public body, private person, or legal entity of any kind, except as set forth below.

(b) For so long as the City is a Declarant hereunder, all Successor Declarants and other future Parties-in-Interest expressly consent to any application for amendment, cancellation or modification to the Large Scale Development Project and/or this Declaration made by the City (acting by and through HPD and NYCEDC) with respect to any portion of the Subject Property

which is then in City ownership. At the time of any such application by the City, any Successor Declarants or other future Parties-in-Interest shall confirm their consent to such City application to the Chair and shall execute any and all documents, including amendments or modifications to this Declaration required in connection therewith, within fifteen (15) days of the City's request therefor.

(c) In the event fee title to the Subject Property or any portion thereof is transferred to a Successor Declarant, all Successor Declarants and other future Parties-in-Interest expressly consent to any application for amendment, cancellation or modification to the Large Scale Development Project and/or this Declaration made by any Successor Declarant with respect to the Subject Property or such portion thereof, as the case may be, transferred to such Successor Declarant; provided however, that consent of the City (acting by and through HPD and NYCEDC) shall be required in certain circumstances as set forth in Section 13(d) below. At the time of any such application by any Successor Declarant, any other Successor Declarants or other future Parties-in-Interest shall confirm their consent to such Successor Declarant application to the Chair and shall execute any and all documents, including amendments or modifications to this Declaration required in connection therewith, within fifteen (15) days of the City's request therefor.

(d) Notwithstanding anything to the contrary contained in Section 13(a) and 13(c) above, the express written consent of the City (acting by and through HPD and NYCEDC) shall be required before a Successor Declarant may apply for an amendment or modification to the Large Scale Development Project and/or this Declaration, with respect to the Subject Property or portion thereof transferred to such Successor Declarant, concerning the following elements: (i) maximum total floor area, (ii) maximum floor area per use, (iii) limitation of off-street public

parking as set forth in Section 2(c) hereof, (iv) obligation to construct the Open Space as set forth in Section 4(a) hereof, and (v) the Prior Zoning Development set forth in Section 2(b)(i) or the Alternative Development set forth in Section 2(b)(ii) hereof.

(e) Notwithstanding anything to the contrary contained in Sections 13(a) hereof, any change to this Declaration which the Chair deems to be a minor modification of this Declaration, may by express written consent be approved administratively by the Chair and no other approval or consent shall be required from any public body, private person or legal entity of any kind. Such minor modifications shall not be deemed amendments requiring the approval of CPC.

(f) No development other than the development permitted by the Large Scale Development Project as forth in Section 2(a), or if the large-scale general development special permit is not exercised, the Prior Zoning Development set forth in Section 2(b)(i), shall be permitted on the Subject Property; provided, however, that the Alternative Development set forth in Section 2(b)(ii) shall also be permitted if (i) CPC has reviewed and approved of the Alternative Development, (ii) Declarant has submitted a Technical Memorandum to DCP demonstrating that the Alternative Development will not result in any greater adverse environmental impacts than have been identified in the FEIS, and (iii) drawings reflecting the proposed Alternative Development have been submitted in a form acceptable to DCP and have been incorporated into this Declaration pursuant to Section 13(a) above. Declarant shall not apply for or accept building permits for any Alternative Development until the Chair certifies to DOB that CPC has approved the plans for the proposed Alternative Development and a Technical Memorandum has been submitted to DCP demonstrating that the proposed Alternative Development will not result in any greater adverse environmental impacts than have been identified in the FEIS.

(g) Notwithstanding anything to the contrary contained in this Declaration, if all the Land Use Approvals, as approved or modified by the City Council, given in connection with the Land Use Applications are declared invalid or otherwise voided by a final judgment of any court of competent jurisdiction from which no appeal can be taken or for which no appeal has been taken within the applicable statutory period provided for such appeal, then, upon entry of said judgment or the expiration of the applicable statutory period for such appeal, this Declaration shall be cancelled and shall be of no further force or effect and an instrument discharging it may be recorded. Prior to the recordation of such instrument, Declarants shall notify the Chair of Declarants' intent to discharge this Declaration and request the Chair's approval, which approval shall be limited to insuring that such discharge and termination is in proper form and provides the proper provisions which are not discharged survive such termination. Upon recordation of such instrument, Declarants shall provide a copy thereof to CPC so certified by the Register's Office. If some of the Land Use Approvals given in connection with the Land Use Applications are declared invalid, then Declarants may apply for modification, amendment or cancellation of this Declaration in accordance with this Section 13. In the event the large-scale general development special permit is invalidated, but the Zoning Map Amendment is upheld, the restrictions of Section 2(b)(i) and 2(b)(ii) remain in effect, and an amended Declaration shall be recorded for such purpose.

14. Severability. In the event that any of the provisions of the Declaration shall be deemed, decreed, adjudged, or determined to be invalid or unlawful by a court of competent jurisdiction, such provision shall be severable and the remainder of this Declaration shall continue to be in full force and effect.

15. Applicable Law. This Declaration shall be governed and construed by the laws of the State of New York, without regard to principles of conflicts of law.

[Signature page follows]

IN WITNESS WHEREOF, the undersigned have executed this Declaration as of the date first written above.

THE CITY OF NEW YORK, acting by and through its **DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT**

Approved as to Form:

Acting Corporation Counsel

By: _____
Name:
Title:

ACKNOWLEDGEMENT

STATE OF)
) SS.:
COUNTY OF)

On the ____ day of _____, 20____, before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

EXHIBIT A

SUBJECT PROPERTY DESCRIPTION

Site 1

METES & BOUNDS DESCRIPTION
LOT 56, BLOCK 409
BOROUGH OF MANHATTAN
CITY, COUNTY AND STATE OF NEW YORK

BEGINNING AT A POINT SAID POINT BEING FORMED BY THE INTERSECTION OF THE NORTHEASTERLY LINE OF LUDLOW STREET (VARIABLE WIDTH) WITH THE NORTHWESTERLY LINE OF BROOME STREET (VARIABLE WIDTH) AND FROM SAID BEGINNING POINT RUNNING, THENCE;

1. RUNNING NORTHWESTERLY, ALONG SAID NORTHEASTERLY LINE OF LUDLOW STREET, A DISTANCE OF 151.33 FEET TO A POINT, THENCE ALONG THE DIVIDING LINE BETWEEN LOTS 56 AND 39, BLOCK 409 FOR THE FOLLOWING (3) THREE COURSES:
2. RUNNING NORTHEASTERLY, FORMING AN INTERIOR ANGLE OF 89 DEGREES – 30 MINUTES – 31 SECONDS WITH THE PREVIOUS COURSE, A DISTANCE OF 87.79 FEET TO A POINT, THENCE;
3. RUNNING NORTHWESTERLY, FORMING AN EXTERIOR ANGLE OF 91 DEGREES – 55 MINUTES – 45 SECONDS WITH THE PREVIOUS COURSE, A DISTANCE OF 3.00 FEET TO A POINT, THENCE;
4. RUNNING NORTHEASTERLY, FORMING AN INTERIOR ANGLE OF 91 DEGREES – 48 MINUTES – 35 SECONDS WITH THE PREVIOUS COURSE, A DISTANCE OF 87.79 FEET TO A POINT, THENCE;
5. RUNNING SOUTHEASTERLY, ALONG THE SOUTHWESTERLY LINE OF ESSEX STREET (VARIABLE WIDTH) FORMING AN INTERIOR ANGLE OF 90 DEGREES – 24 MINUTES – 09 SECONDS WITH THE PREVIOUS COURSE, A DISTANCE OF 58.87 FEET TO A POINT, RUNNING THENCE ALONG THE DIVIDING LINE BETWEEN LOTS 56 AND 60, BLOCK 409 FOR THE FOLLOWING (2) TWO COURSES:
6. RUNNING SOUTHWESTERLY, FORMING AN INTERIOR ANGLE OF 89 DEGREES – 47 MINUTES – 04 SECONDS, A DISTANCE OF 50.44 FEET TO A POINT, THENCE;
7. RUNNING SOUTHEASTERLY, FORMING AN EXTERIOR ANGLE OF 89 DEGREES – 59 MINUTES – 05 SECONDS, A DISTANCE OF 95.46 FEET TO A POINT, THENCE;
8. RUNNING SOUTHWESTERLY, ALONG THE AFOREMENTIONED NORTHWESTERLY LINE OF BROOME STREET, FORMING AN INTERIOR ANGLE OF 89 DEGREES – 48 MINUTES – 13 SECONDS WITH THE PREVIOUS COURSE, A DISTANCE OF 124.37 FEET TO THE POINT AND PLACE OF BEGINNING.

CONTAINING 21,996 SQUARE FEET OR 0.505 ACRES

THIS DESCRIPTION IS PREPARED WITH REFERENCE TO THE TAX MAP OF THE BOROUGH OF MANHATTAN, CITY COUNTY AND STATE OF NEW YORK.

(VESTING DEED NOT PROVIDED)

Site 2

METES & BOUNDS DESCRIPTION
LOTS 1 & 28, BLOCK 352
BOROUGH OF MANHATTAN
CITY, COUNTY AND STATE OF NEW YORK

BEGINNING AT A POINT SAID POINT BEING FORMED BY THE INTERSECTION OF THE SOUTHEASTERLY LINE OF DELANCEY STREET (VARIABLE WIDTH) WITH THE SOUTHWESTERLY LINE OF NORFOLK STREET (VARIABLE WIDTH) AND FROM SAID BEGINNING POINT RUNNING, THENCE;

1. RUNNING SOUTHEASTERLY, ALONG SAID SOUTHWESTERLY LINE OF NORFOLK STREET, A DISTANCE OF 252.43 FEET TO A POINT, THENCE;
2. RUNNING SOUTHWESTERLY, ALONG THE NORTHWESTERLY LINE OF BROOME STREET (VARIABLE WIDTH) FORMING AN INTERIOR ANGLE OF 89 DEGREES – 44 MINUTES – 51 SECONDS WITH THE PREVIOUS COURSE, A DISTANCE OF 170.82 FEET TO A POINT, THENCE;
3. RUNNING NORTHWESTERLY, ALONG THE NORTHEASTERLY LINE OF ESSEX STREET (VARIABLE WIDTH) FORMING AN INTERIOR ANGLE OF 90 DEGREES – 14 MINUTES – 04 SECONDS WITH THE PREVIOUS COURSE, A DISTANCE OF 252.54 FEET TO A POINT, THENCE;
4. RUNNING NORTHEASTERLY, ALONG THE AFOREMENTIONED SOUTHEASTERLY LINE OF DELANCEY STREET, FORMING AN INTERIOR ANGLE OF 89 DEGREES – 44 MINUTES – 45 SECONDS WITH THE PREVIOUS COURSE, A DISTANCE OF 171.00 FEET TO THE POINT AND PLACE OF BEGINNING.

CONTAINING 43,140 SQUARE FEET OR 0.990 ACRES

THIS DESCRIPTION IS PREPARED WITH REFERENCE TO THE BOROUGH OF MANHATTAN, FINAL SECTION MAP NO. 21, PREPARED BY THE OFFICE OF THE PRESIDENT OF THE BOROUGH OF MANHATTAN, TOPOGRAPHICAL BUREAU.

Site 3

A PARCEL OF LAND LYING IN MANHATTAN, NEW YORK, IN TAX BLOCK NO. 346, ENCLOSED BY FOUR STREETS: AT NORTH BY DELANCEY STREET; AT EAST BY SUFFOLK STREET; AT SOUTH BY BROOME STREET; AND AT WEST BY NORFOLK STREET. MORE PARTICULARLY DESCRIBED AS FOLLOWS;

BEGINNING AT A POINT SAID POINT BEING FORMED BY THE INTERSECTION OF THE SOUTHEASTERLY LINE OF DELANCEY STREET (VARIABLE WIDTH) WITH THE NORTHEASTERLY LINE OF NORFOLK STREET (VARIABLE WIDTH) AND FROM SAID BEGINNING POINT RUNNING, THENCE;

1. RUNNING NORTHEASTERLY, ALONG SAID SOUTHEASTERLY LINE OF DELANCEY STREET, A DISTANCE OF 200.66 FEET TO A POINT, THENCE;
2. RUNNING SOUTHEASTERLY, ALONG THE SOUTHWESTERLY LINE OF SUFFOLK STREET (VARIABLE WIDTH) FORMING AN INTERIOR ANGLE OF 90 DEGREES – 23 MINUTES – 35 SECONDS WITH THE PREVIOUS COURSE, A DISTANCE OF 202.78 FEET TO A POINT, THENCE;
3. RUNNING SOUTHWESTERLY, ALONG THE NORTHWESTERLY LINE OF BROOME STREET (VARIABLE WIDTH) FORMING AN INTERIOR ANGLE OF 89 DEGREES – 39 MINUTES – 24 SECONDS WITH THE PREVIOUS COURSE, A DISTANCE OF 200.85 FEET TO A POINT, THENCE;
4. RUNNING NORTHWESTERLY, ALONG THE AFOREMENTIONED NORTHEASTERLY LINE OF NORFOLK STREET (VARIABLE WIDTH) FORMING AN INTERIOR ANGLE OF 90 DEGREES – 17 MINUTES – 22 SECONDS WITH THE PREVIOUS COURSE, A DISTANCE OF 202.95 FEET TO THE POINT AND PLACE OF BEGINNING.

CONTAINING 40,726 SQUARE FEET OR 0.935 ACRES

THIS DESCRIPTION IS PREPARED WITH REFERENCE TO A MAP ENTITLED “ALTERATION MAP NO. 30236 SHOWING THE ESTABLISHMENT OF BROOME STREET BETWEEN NORFOLK STREET AND CLINTON STREET, THE ESTABLISHMENT OF SUFFOLK STREET BETWEEN GRAND STREET AND DELANCEY STREET, THE NARROWING, BY ELIMINATION, DISCONTINUANCE AND CLOSING OF CLINTON STREET BETWEEN GRAND STREET AND DELANCEY STREET, THE NARROWING, BY ELIMINATION, DISCONTINUANCE AND CLOSING OF DELANCEY STREET BETWEEN NORFOLK STREET AND CLINTON STREET, THE ESTABLISHMENT OF THE NAME DELANCEY STREET FOR THE UNNAMED STREET BETWEEN CLINTON STREET AND FRANKLIN D. ROOSEVELT DRIVE AND THE ADJUSTMENT OF GRADES NECESSITATED THEREBY” PREPARED BY CITY OF NEW YORK, BOROUGH OF MANHATTAN, OFFICE OF THE PRESIDENT, TOPOGRAPHICAL BUREAU.

Site 4

A PARCEL OF LAND LYING IN MANHATTAN, NEW YORK, IN TAX BLOCK NO. 346, ENCLOSED BY FOUR STREETS: AT NORTH BY DELANCEY STREET; AT EAST BY CLINTON STREET; AT SOUTH BY BROOME STREET; AND AT WEST BY SUFFOLK STREET. MORE PARTICULARLY DESCRIBED AS FOLLOWS;

BEGINNING AT A POINT SAID POINT BEING FORMED BY THE INTERSECTION OF THE SOUTHEASTERLY LINE OF DELANCY STREET (VARIABLE WIDTH) WITH THE SOUTHWESTERLY LINE OF CLINTON STREET (50 FEET WIDE) SAID POINT BEING DISTANT THE FOLLOWING 2 TWO COURSES FROM THE A POINT FORMED BY THE INTERSECTION OF THE NORTHEASTERLY LINE OF CLINTON STREET WITH THE NORTHWESTERLY LINE OF GRAND STREET (100 FEET WIDE):

- A. RUNNING SOUTHWESTERLY, ACROSS THE RIGHT OF WAY OF CLINTON STREET, A DISTANCE OF 50.00 FEET TO A POINT, SAID POINT BEING THE INTERSECTION OF THE NORTHWESTERLY LINE OF GRAND STREET WITH THE SOUTHWESTERLY LINE OF CLINTON STREET, THENCE;
 - B. RUNNING NORTHWESTERLY, ALONG THE SOUTHEASTERLY LINE OF CLINTON STREET FORMING AN INTERIOR ANGLE OF 90 DEGREES – 14 MINUTES – 44 SECONDS WITH THE PREVIOUS COURSE, A DISTANCE OF 553.55 FEET TO THE POINT AND PLACE OF BEGINNING.
1. RUNNING SOUTHEASTERLY, ALONG SAID SOUTHWESTERLY LINE OF CLINTON STREET, A DISTANCE OF 201.91 FEET TO A POINT, THENCE;
 2. RUNNING SOUTHWESTERLY, ALONG THE NORTHWESTERLY LINE OF BROOME STREET (VARIABLE WIDTH) FORMING AN INTERIOR ANGLE OF 89 DEGREES – 50 MINUTES – 58 SECONDS WITH THE PREVIOUS COURSE, A DISTANCE OF 200.88 FEET TO A POINT, THENCE;
 3. RUNNING NORTHWESTERLY, ALONG THE NORTHEASTERLY LINE OF SUFFOLK STREET (VARIABLE WIDTH) FORMING AN INTERIOR ANGLE OF 90 DEGREES – 10 MINUTES – 22 SECONDS WITH THE PREVIOUS COURSE, A DISTANCE OF 202.50 FEET TO A POINT, THENCE;
 4. RUNNING NORTHEASTERLY, ALONG THE AFOREMENTIONED SOUTHEASTERLY LINE OF DELANCEY STREET (VARIABLE WIDTH) FORMING AN INTERIOR ANGLE OF 89 DEGREES – 39 MINUTES – 28 SECONDS WITH THE PREVIOUS COURSE, A DISTANCE OF 200.96 FEET TO THE POINT AND PLACE OF BEGINNING.

CONTAINING 40,627 SQUARE FEET OR 0.933 ACRES

THIS DESCRIPTION IS PREPARED WITH REFERENCE TO A MAP ENTITLED “ALTERATION MAP NO. 30236 SHOWING THE ESTABLISHMENT OF BROOME STREET BETWEEN NORFOLK STREET AND CLINTON STREET, THE ESTABLISHMENT OF SUFFOLK STREET BETWEEN GRAND STREET AND DELANCEY STREET, THE NARROWING, BY ELIMINATION, DISCONTINUANCE AND CLOSING OF CLINTON STREET BETWEEN GRAND STREET AND DELANCEY STREET, THE NARROWING, BY ELIMINATION, DISCONTINUANCE AND CLOSING OF DELANCEY STREET BETWEEN NORFOLK STREET AND CLINTON STREET, THE ESTABLISHMENT OF THE NAME DELANCEY STREET FOR THE UNNAMED STREET BETWEEN CLINTON STREET AND FRANKLIN D. ROOSEVELT DRIVE AND THE ADJUSTMENT OF GRADES NECESSITATED THEREBY” PREPARED BY CITY OF NEW YORK, BOROUGH OF MANHATTAN, OFFICE OF THE PRESIDENT, TOPOGRAPHICAL BUREAU.

Site 5

A PARCEL OF LAND LYING IN MANHATTAN, NEW YORK, IN TAX BLOCK NO. 346, ENCLOSED BY FOUR STREETS: AT NORTH BY BROOME STREET; AT EAST BY SUFFOLK STREET; AT SOUTH BY GRAND STREET; AND AT WEST BY NORFOLK STREET. MORE PARTICULARLY DESCRIBED AS FOLLOWS;

BEGINNING AT A POINT SAID POINT BEING FORMED BY THE INTERSECTION OF THE NORTHWESTERLY LINE OF GRAND STREET (100 FEET WIDE) WITH THE NORTHEASTERLY LINE OF NORFOLK STREET (VARIABLE WIDTH) AND FROM SAID BEGINNING POINT RUNNING, THENCE;

1. RUNNING NORTHWESTERLY, ALONG SAID NORTHEASTERLY LINE NORFOLK STREET, A DISTANCE OF 301.10 FEET TO A POINT, THENCE;
2. RUNNING NORTHEASTERLY, ALONG THE SOUTHEASTERLY LINE OF BROOME STREET (VARIABLE WIDTH) FORMING AN INTERIOR ANGLE OF 89 DEGREES – 46 MINUTES – 20 SECONDS WITH THE PREVIOUS COURSE, A DISTANCE OF 201.00 FEET TO A POINT, THENCE;
3. RUNNING SOUTHEASTERLY, ALONG THE SOUTHWESTERLY LINE OF SUFFOLK STREET (VARIABLE WIDTH) FORMING AN INTERIOR ANGLE OF 90 DEGREES – 11 MINUTES – 10 SECONDS WITH THE PREVIOUS COURSE, A DISTANCE OF 301.43 FEET TO A POINT, THENCE;
4. RUNNING SOUTHWESTERLY, ALONG THE AFOREMENTIONED NORTHWESTERLY LINE OF GRAND STREET FORMING AN INTERIOR ANGLE OF 89 DEGREES – 43 MINUTES – 10 SECONDS WITH THE PREVIOUS COURSE, A DISTANCE OF 200.78 FEET TO THE POINT AND PLACE OF BEGINNING.

CONTAINING 60,520 SQUARE FEET OR 1.389 ACRES

THIS DESCRIPTION IS PREPARED WITH REFERENCE TO A MAP ENTITLED “ALTERATION MAP NO. 30236 SHOWING THE ESTABLISHMENT OF BROOME STREET BETWEEN NORFOLK STREET AND CLINTON STREET, THE ESTABLISHMENT OF SUFFOLK STREET BETWEEN GRAND STREET AND DELANCEY STREET, THE NARROWING, BY ELIMINATION, DISCONTINUANCE AND CLOSING OF CLINTON STREET BETWEEN GRAND STREET AND DELANCEY STREET, THE NARROWING, BY ELIMINATION, DISCONTINUANCE AND CLOSING OF DELANCEY STREET BETWEEN NORFOLK STREET AND CLINTON STREET, THE ESTABLISHMENT OF THE NAME DELANCEY STREET FOR THE UNNAMED STREET BETWEEN CLINTON STREET AND FRANKLIN D. ROOSEVELT DRIVE AND THE ADJUSTMENT OF GRADES NECESSITATED THEREBY” PREPARED BY CITY OF NEW YORK, BOROUGH OF MANHATTAN, OFFICE OF THE PRESIDENT, TOPOGRAPHICAL BUREAU.

Site 6

A PARCEL OF LAND LYING IN MANAHATTAN, NEW YORK, IN TAX BLOCK NO. 347, ENCLOSED BY THREE STREETS AND LOT 80: AT NORTH BY DELANCEY STREET; AT EAST BY LOT 80; AT SOUTH BY BROOME STREET; AND AT WEST BY CLINTON STREET. MORE PARTICULARLY DESCRIBED AS FOLLOWS;

BEGINNING AT THE POINT AT THE INTERSECTION OF THE NORTHWESTERLY LINE OF BROOME STREET VARIABLE WIDTH) AND THE NORTHEASTERLY LINE OF CLINTON STREET (VARIABLE WIDTH) AND FROM SAID POINT OF BEGINNING, RUNNING THENCE;

1. RUNNING NORTHWESTERLY, ALONG SAID NORTHEASTERLY LINE OF CLINTON STREET, A DISTANCE OF 146.24 FEET TO A POINT, THENCE;
2. RUNNING NORTHEASTERLY, ALONG THE SOUTHEASTERLY LINE OF DELANCEY STREET, FORMING AN INTERIOR ANGLE OF 89 DEGREES – 46 MINUTES – 04 SECONDS WITH THE PREVIOUS COURSE, A DISTANCE OF 146.00 FEET TO A POINT, THENCE;
3. RUNNING SOUTHEASTERLY, ALONG THE DIVIDING LINE BETWEEN LOT 71 AND LOT 80, BLOCK 374 FORMING AN INTERIOR ANGLE OF 90 DEGREES – 13 MINUTES – 55 SECONDS WITH THE PREVIOUS COURSE, A DISTANCE OF 146.14 FEET TO A POINT, THENCE;
4. RUNNING SOUTHWESTERLY, ALONG THE AFOREMENTIONED NORTHWESTERLY LINE OF BROOME STREET FORMING AN INTERIOR ANGLE OF 89 DEGREES – 48 MINUTES – 35 SECONDS WITH THE PREVIOUS COURSE, A DISTANCE OF 146.00 FEET TO THE POINT AND PLACE OF BEGINNING.

CONTAINING 21,344 SQUARE FEET OR 0.490 ACRES

THIS DESCRIPTION IS PREPARED WITH REFERENCE TO A MAP ENTITLED “ALTERATION MAP NO. 30236 SHOWING THE ESTABLISHMENT OF BROOME STREET BETWEEN NORFOLK STREET AND CLINTON STREET, THE ESTABLISHMENT OF SUFFOLK STREET BETWEEN GRAND STREET AND DELANCEY STREET, THE NARROWING, BY ELIMINATION, DISCONTINUANCE AND CLOSING OF CLINTON STREET BETWEEN GRAND STREET AND DELANCEY STREET, THE NARROWING, BY ELIMINATION, DISCONTINUANCE AND CLOSING OF DELANCEY STREET BETWEEN NORFOLK STREET AND CLINTON STREET, THE ESTABLISHMENT OF THE NAME DELANCEY STREET FOR THE UNNAMED STREET BETWEEN CLINTON STREET AND FRANKLIN D. ROOSEVELT DRIVE AND THE ADJUSTMENT OF GRADES NECESSITATED THEREBY” PREPARED BY CITY OF NEW YORK, BOROUGH OF MANHATTAN, OFFICE OF THE PRESIDENT, TOPOGRAPHICAL BUREAU.

EXHIBIT B

CERTIFICATION OF PARTIES-IN-INTEREST

(SEPARATE ATTACHMENT)

**CERTIFICATION OF PARTIES IN INTEREST
PURSUANT TO SUBDIVISION (D) OF THE DEFINITION OF
ZONING LOT SET FORTH IN SECTION 12-10 OF
THE ZONING RESOLUTION OF DECEMBER 15, 1961
OF THE CITY OF NEW YORK, AS AMENDED
EFFECTIVE AUGUST 18, 1977**

THE NEW YORK CITY LAW DEPARTMENT hereby certifies that as to the land hereinafter described, being a tract of land, either unsubdivided or consisting of two or more lots of record, contiguous for a minimum of ten linear feet, located within a single block, that all the parties in interest consisting of a party as defined in Section 12-10, subdivision (d) of the Zoning Resolution of the City of New York, effective December 15, 1961, as amended, are the following:

NAME AND ADDRESS

NATURE OF INTEREST

1. The City of New York

Fee Owner of Tax Lot 56, Block 409

The subject tract of land with respect to which the foregoing parties are the parties in interest as aforesaid, is known as Tax Lot 56 in Block 409 as shown on the Tax Map of the City of New York, New York County and more particularly described as follows:

Site 1

METES & BOUNDS DESCRIPTION
LOT 56, BLOCK 409
BOROUGH OF MANHATTAN
CITY, COUNTY AND STATE OF NEW YORK

BEGINNING AT A POINT SAID POINT BEING FORMED BY THE INTERSECTION OF THE NORTHEASTERLY LINE OF LUDLOW STREET (VARIABLE WIDTH) WITH THE NORTHWESTERLY LINE OF BROOME STREET (VARIABLE WIDTH) AND FROM SAID BEGINNING POINT RUNNING, THENCE;

1. RUNNING NORTHWESTERLY, ALONG SAID NORTHEASTERLY LINE OF LUDLOW STREET, A DISTANCE OF 151.33 FEET TO A POINT, THENCE ALONG THE DIVIDING LINE BETWEEN LOTS 56 AND 39, BLOCK 409 FOR THE FOLLOWING (3) THREE COURSES:
2. RUNNING NORTHEASTERLY, FORMING AN INTERIOR ANGLE OF 89 DEGREES – 30 MINUTES – 31 SECONDS WITH THE PREVIOUS COURSE, A DISTANCE OF 87.79 FEET TO A POINT, THENCE;
3. RUNNING NORTHWESTERLY, FORMING AN EXTERIOR ANGLE OF 91 DEGREES – 55 MINUTES – 45 SECONDS WITH THE PREVIOUS COURSE, A DISTANCE OF 3.00 FEET TO A POINT, THENCE;
4. RUNNING NORTHEASTERLY, FORMING AN INTERIOR ANGLE OF 91 DEGREES – 48 MINUTES – 35 SECONDS WITH THE PREVIOUS COURSE, A DISTANCE OF 87.79 FEET TO A POINT, THENCE;
5. RUNNING SOUTHEASTERLY, ALONG THE SOUTHWESTERLY LINE OF ESSEX STREET (VARIABLE WIDTH) FORMING AN INTERIOR ANGLE OF 90 DEGREES – 24 MINUTES – 09 SECONDS WITH THE PREVIOUS COURSE, A DISTANCE OF 58.87 FEET TO A POINT, RUNNING THENCE ALONG THE DIVIDING LINE BETWEEN LOTS 56 AND 60, BLOCK 409 FOR THE FOLLOWING (2) TWO COURSES:
6. RUNNING SOUTHWESTERLY, FORMING AN INTERIOR ANGLE OF 89 DEGREES – 47 MINUTES – 04 SECONDS, A DISTANCE OF 50.44 FEET TO A POINT, THENCE;
7. RUNNING SOUTHEASTERLY, FORMING AN EXTERIOR ANGLE OF 89 DEGREES – 59 MINUTES – 05 SECONDS, A DISTANCE OF 95.46 FEET TO A POINT, THENCE;
8. RUNNING SOUTHWESTERLY, ALONG THE AFOREMENTIONED NORTHWESTERLY LINE OF BROOME STREET, FORMING AN INTERIOR ANGLE OF 89 DEGREES – 48 MINUTES – 13 SECONDS WITH THE PREVIOUS COURSE, A DISTANCE OF 124.37 FEET TO THE POINT AND PLACE OF BEGINNING.

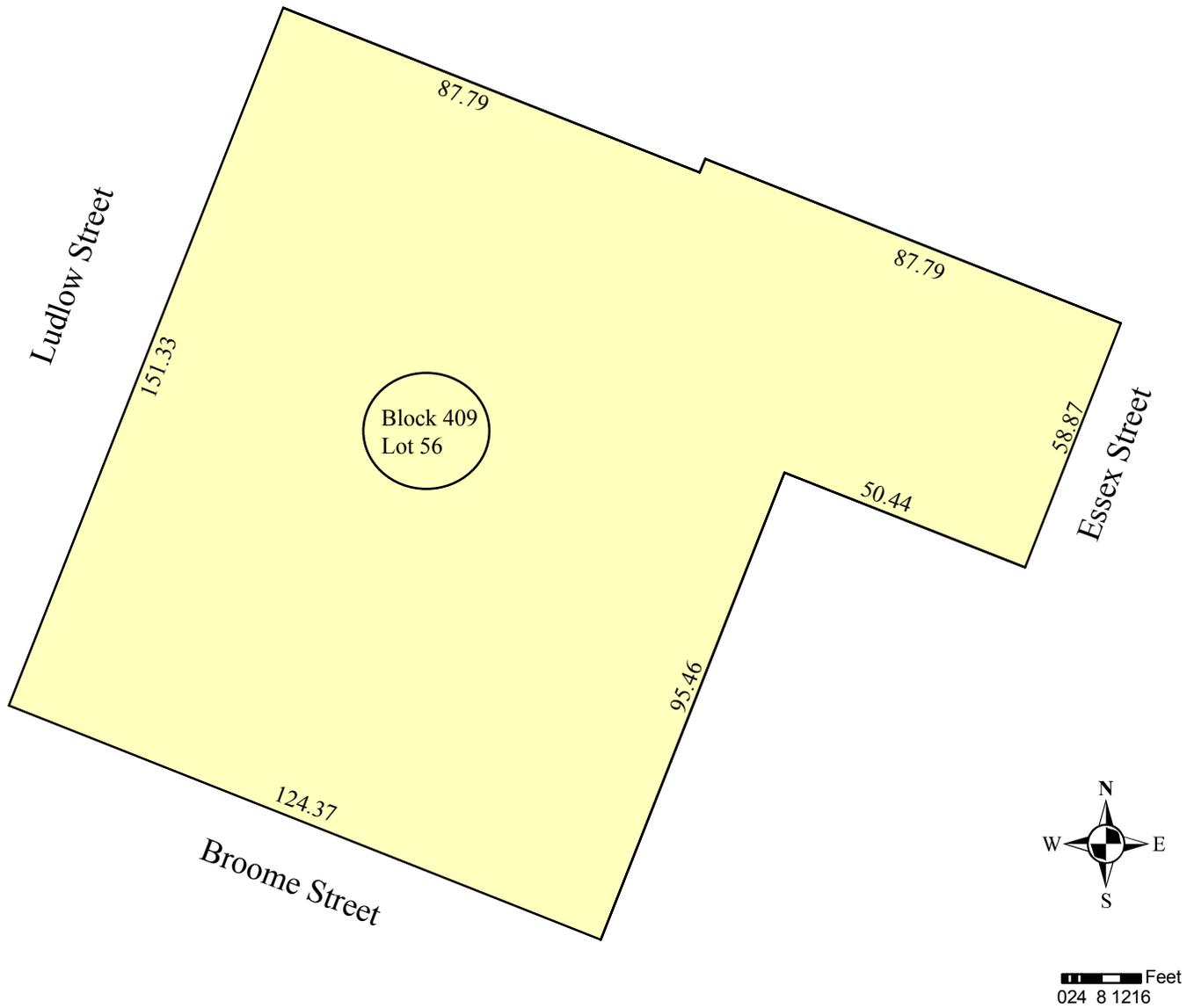
CONTAINING 21,996 SQUARE FEET OR 0.505 ACRES

THIS DESCRIPTION IS PREPARED WITH REFERENCE TO THE TAX MAP OF THE BOROUGH OF MANHATTAN, CITY COUNTY AND STATE OF NEW YORK.

(VESTING DEED NOT PROVIDED)

That the said premises are known as and by street address 236 BROOME STREET, NEW YORK, NEW YORK as shown on the following diagram:

Site 1
Block 409, Lot 56 (236 Broome Street)



NOTE: A Zoning Lot may or may not coincide with a lot as shown on the Official Tax Map of the City of New York, or on any recorded subdivision plot or deed. A Zoning Lot may be subdivided into two or more zoning lots provide all the resulting zoning lots and all the buildings thereon shall comply with the applicable provisions of the zoning lot resolution.

THIS CERTIFICATION IS MADE FOR AND ACCEPTED BY THE APPLICANT UPON THE EXPRESS UNDERSTANDING THAT LIABILITY HEREUNDER IS LIMITED TO ONE THOUSAND DOLLARS (\$1,000.00).

Dated: _____, 2012

THE NEW YORK CITY LAW DEPARTMENT

By: _____
Name: Lisa Bova-Hiatt
Title: Deputy Chief, Tax and Bankruptcy Division

STATE OF NEW YORK)
)
COUNTY OF NEW YORK) ss.:

On the ____ day of _____, 2012 before me, the undersigned, personally appeared Lisa Bova-Hiatt, personally known to me or proved to me the basis of satisfactory evidence to the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

**CERTIFICATION OF PARTIES IN INTEREST
PURSUANT TO SUBDIVISION (D) OF THE DEFINITION OF
ZONING LOT SET FORTH IN SECTION 12-10 OF
THE ZONING RESOLUTION OF DECEMBER 15, 1961
OF THE CITY OF NEW YORK, AS AMENDED
EFFECTIVE AUGUST 18, 1977**

THE NEW YORK CITY LAW DEPARTMENT hereby certifies that as to the land hereinafter described, being a tract of land, either unsubdivided or consisting of two or more lots of record, contiguous for a minimum of ten linear feet, located within a single block, that all the parties in interest consisting of a party as defined in Section 12-10, subdivision (d) of the Zoning Resolution of the City of New York, effective December 15, 1961, as amended, are the following:

NAME AND ADDRESS

NATURE OF INTEREST

- | | |
|-------------------------|---|
| 1. The City of New York | Fee Owner of Tax Lots 1 and 28, Block 352 |
|-------------------------|---|

The subject tract of land with respect to which the foregoing parties are the parties in interest as aforesaid, is known as Tax Lots 1 and 28 in Block 352 as shown on the Tax Map of the City of New York, New York County and more particularly described as follows:

Site 2

METES & BOUNDS DESCRIPTION
LOTS 1 & 28, BLOCK 352
BOROUGH OF MANHATTAN
CITY, COUNTY AND STATE OF NEW YORK

BEGINNING AT A POINT SAID POINT BEING FORMED BY THE INTERSECTION OF THE SOUTHEASTERLY LINE OF DELANCEY STREET (VARIABLE WIDTH) WITH THE SOUTHWESTERLY LINE OF NORFOLK STREET (VARIABLE WIDTH) AND FROM SAID BEGINNING POINT RUNNING, THENCE;

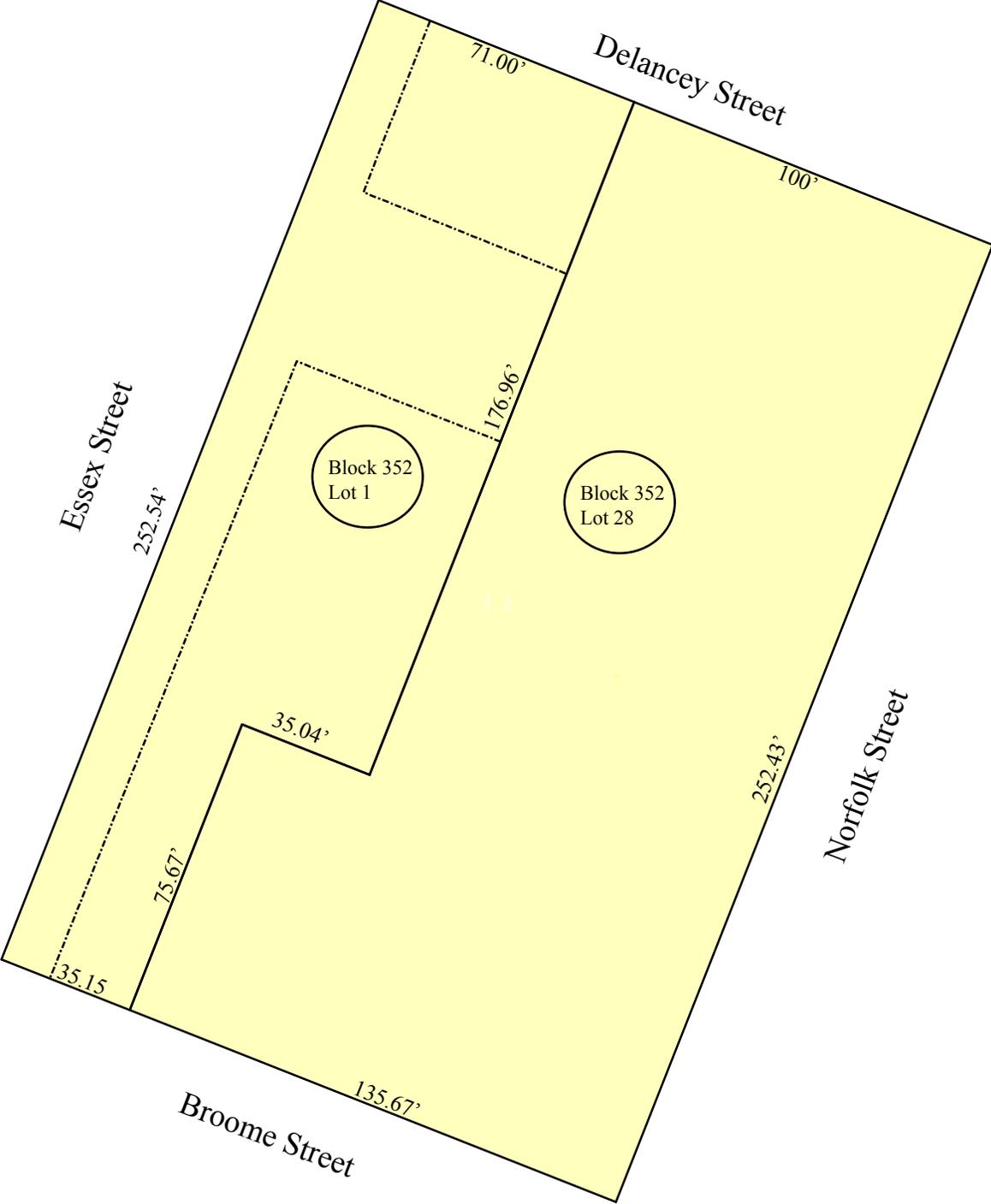
1. RUNNING SOUTHEASTERLY, ALONG SAID SOUTHWESTERLY LINE OF NORFOLK STREET, A DISTANCE OF 252.43 FEET TO A POINT, THENCE;
2. RUNNING SOUTHWESTERLY, ALONG THE NORTHWESTERLY LINE OF BROOME STREET (VARIABLE WIDTH) FORMING AN INTERIOR ANGLE OF 89 DEGREES – 44 MINUTES – 51 SECONDS WITH THE PREVIOUS COURSE, A DISTANCE OF 170.82 FEET TO A POINT, THENCE;
3. RUNNING NORTHWESTERLY, ALONG THE NORTHEASTERLY LINE OF ESSEX STREET (VARIABLE WIDTH) FORMING AN INTERIOR ANGLE OF 90 DEGREES – 14 MINUTES – 04 SECONDS WITH THE PREVIOUS COURSE, A DISTANCE OF 252.54 FEET TO A POINT, THENCE;
4. RUNNING NORTHEASTERLY, ALONG THE AFOREMENTIONED SOUTHEASTERLY LINE OF DELANCEY STREET, FORMING AN INTERIOR ANGLE OF 89 DEGREES – 44 MINUTES – 45 SECONDS WITH THE PREVIOUS COURSE, A DISTANCE OF 171.00 FEET TO THE POINT AND PLACE OF BEGINNING.

CONTAINING 43,140 SQUARE FEET OR 0.990 ACRES

THIS DESCRIPTION IS PREPARED WITH REFERENCE TO THE BOROUGH OF MANHATTAN, FINAL SECTION MAP NO. 21, PREPARED BY THE OFFICE OF THE PRESIDENT OF THE BOROUGH OF MANHATTAN, TOPOGRAPHICAL BUREAU.

That the said premises are known as and by street addresses 80 ESSEX STREET, NEW YORK, NEW YORK and 80 NORFOLK STREET, NEW YORK, NEW YORK, respectively, as shown on the following diagram:

Site 2
Block 352, Lot 1 (80 Essex Street)
Block 352, Lot 28 (85 Norfolk Street)



NOTE: A Zoning Lot may or may not coincide with a lot as shown on the Official Tax Map of the City of New York, or on any recorded subdivision plot or deed. A Zoning Lot may be subdivided into two or more zoning lots provide all the resulting zoning lots and all the buildings thereon shall comply with the applicable provisions of the zoning lot resolution.

THIS CERTIFICATION IS MADE FOR AND ACCEPTED BY THE APPLICANT UPON THE EXPRESS UNDERSTANDING THAT LIABILITY HEREUNDER IS LIMITED TO ONE THOUSAND DOLLARS (\$1,000.00).

Dated: _____, 2012

THE NEW YORK CITY LAW DEPARTMENT

By: _____
Name: Lisa Bova-Hiatt
Title: Deputy Chief, Tax and Bankruptcy Division

STATE OF NEW YORK)
)
COUNTY OF NEW YORK) ss.:

On the ____ day of _____, 2012 before me, the undersigned, personally appeared Lisa Bova-Hiatt, personally known to me or proved to me the basis of satisfactory evidence to the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

**CERTIFICATION OF PARTIES IN INTEREST
PURSUANT TO SUBDIVISION (D) OF THE DEFINITION OF
ZONING LOT SET FORTH IN SECTION 12-10 OF
THE ZONING RESOLUTION OF DECEMBER 15, 1961
OF THE CITY OF NEW YORK, AS AMENDED
EFFECTIVE AUGUST 18, 1977**

THE NEW YORK CITY LAW DEPARTMENT hereby certifies that as to the land hereinafter described, being a tract of land, either unsubdivided or consisting of two or more lots of record, contiguous for a minimum of ten linear feet, located within a single block, that all the parties in interest consisting of a party as defined in Section 12-10, subdivision (d) of the Zoning Resolution of the City of New York, effective December 15, 1961, as amended, are the following:

NAME AND ADDRESS

NATURE OF INTEREST

1. The City of New York

Fee Owner of Tax Lot 40, Block 346

The subject tract of land with respect to which the foregoing parties are the parties in interest as aforesaid, is known as Tax Lot 40 in Block 346 as shown on the Tax Map of the City of New York, New York County and more particularly described as follows:

Site 3

A PARCEL OF LAND LYING IN MANHATTAN, NEW YORK, IN TAX BLOCK NO. 346, ENCLOSED BY FOUR STREETS: AT NORTH BY DELANCEY STREET; AT EAST BY SUFFOLK STREET; AT SOUTH BY BROOME STREET; AND AT WEST BY NORFOLK STREET. MORE PARTICULARLY DESCRIBED AS FOLLOWS;

BEGINNING AT A POINT SAID POINT BEING FORMED BY THE INTERSECTION OF THE SOUTHEASTERLY LINE OF DELANCY STREET (VARIABLE WIDTH) WITH THE NORTHEASTERLY LINE OF NORFOLK STREET (VARIABLE WIDTH) AND FROM SAID BEGINNING POINT RUNNING, THENCE;

1. RUNNING NORTHEASTERLY, ALONG SAID SOUTHEASTERLY LINE OF DELANCEY STREET, A DISTANCE OF 200.66 FEET TO A POINT, THENCE;
2. RUNNING SOUTHEASTERLY, ALONG THE SOUTHWESTERLY LINE OF SUFFOLK STREET (VARIABLE WIDTH) FORMING AN INTERIOR ANGLE OF 90 DEGREES – 23 MINUTES – 35 SECONDS WITH THE PREVIOUS COURSE, A DISTANCE OF 202.78 FEET TO A POINT, THENCE;
3. RUNNING SOUTHWESTERLY, ALONG THE NORTHWESTERLY LINE OF BROOME STREET (VARIABLE WIDTH) FORMING AN INTERIOR ANGLE OF 89 DEGREES – 39 MINUTES – 24 SECONDS WITH THE PREVIOUS COURSE, A DISTANCE OF 200.85 FEET TO A POINT, THENCE;
4. RUNNING NORTHWESTERLY, ALONG THE AFOREMENTIONED NORTHEASTERLY LINE OF NORFOLK STREET (VARIABLE WIDTH) FORMING AN INTERIOR ANGLE OF 90 DEGREES – 17 MINUTES – 22 SECONDS WITH THE PREVIOUS COURSE, A DISTANCE OF 202.95 FEET TO THE POINT AND PLACE OF BEGINNING.

CONTAINING 40,726 SQUARE FEET OR 0.935 ACRES

THIS DESCRIPTION IS PREPARED WITH REFERENCE TO A MAP ENTITLED “ALTERATION MAP NO. 30236 SHOWING THE ESTABLISHMENT OF BROOME STREET BETWEEN NORFOLK STREET AND CLINTON STREET, THE ESTABLISHMENT OF SUFFOLK STREET BETWEEN GRAND STREET AND DELANCEY STREET, THE NARROWING, BY ELIMINATION, DISCONTINUANCE AND CLOSING OF CLINTON STREET BETWEEN GRAND STREET AND DELANCEY STREET, THE NARROWING, BY ELIMINATION, DISCONTINUANCE AND CLOSING OF DELANCEY STREET BETWEEN NORFOLK STREET AND CLINTON STREET, THE ESTABLISHMENT OF THE NAME DELANCEY STREET FOR THE UNNAMED STREET BETWEEN CLINTON STREET AND FRANKLIN D. ROOSEVELT DRIVE AND THE ADJUSTMENT OF GRADES NECESSITATED THEREBY” PREPARED BY CITY OF NEW YORK, BOROUGH OF MANHATTAN, OFFICE OF THE PRESIDENT, TOPOGRAPHICAL BUREAU.

Site 4

A PARCEL OF LAND LYING IN MANHATTAN, NEW YORK, IN TAX BLOCK NO. 346, ENCLOSED BY FOUR STREETS: AT NORTH BY DELANCEY STREET; AT EAST BY CLINTON STREET; AT SOUTH BY BROOME STREET; AND AT WEST BY SUFFOLK STREET. MORE PARTICULARLY DESCRIBED AS FOLLOWS;

BEGINNING AT A POINT SAID POINT BEING FORMED BY THE INTERSECTION OF THE SOUTHEASTERLY LINE OF DELANCEY STREET (VARIABLE WIDTH) WITH THE SOUTHWESTERLY LINE OF CLINTON STREET (50 FEET WIDE) SAID POINT BEING DISTANT THE FOLLOWING 2 TWO COURSES FROM THE A POINT FORMED BY THE INTERSECTION OF THE NORTHEASTERLY LINE OF CLINTON STREET WITH THE NORTHWESTERLY LINE OF GRAND STREET (100 FEET WIDE):

- A. RUNNING SOUTHWESTERLY, ACROSS THE RIGHT OF WAY OF CLINTON STREET, A DISTANCE OF 50.00 FEET TO A POINT, SAID POINT BEING THE INTERSECTION OF THE NORTHWESTERLY LINE OF GRAND STREET WITH THE SOUTHWESTERLY LINE OF CLINTON STREET, THENCE;
 - B. RUNNING NORTHWESTERLY, ALONG THE SOUTHEASTERLY LINE OF CLINTON STREET FORMING AN INTERIOR ANGLE OF 90 DEGREES – 14 MINUTES – 44 SECONDS WITH THE PREVIOUS COURSE, A DISTANCE OF 553.55 FEET TO THE POINT AND PLACE OF BEGINNING.
1. RUNNING SOUTHEASTERLY, ALONG SAID SOUTHWESTERLY LINE OF CLINTON STREET, A DISTANCE OF 201.91 FEET TO A POINT, THENCE;
 2. RUNNING SOUTHWESTERLY, ALONG THE NORTHWESTERLY LINE OF BROOME STREET (VARIABLE WIDTH) FORMING AN INTERIOR ANGLE OF 89 DEGREES – 50 MINUTES – 58 SECONDS WITH THE PREVIOUS COURSE, A DISTANCE OF 200.88 FEET TO A POINT, THENCE;
 3. RUNNING NORTHWESTERLY, ALONG THE NORTHEASTERLY LINE OF SUFFOLK STREET (VARIABLE WIDTH) FORMING AN INTERIOR ANGLE OF 90 DEGREES – 10 MINUTES – 22 SECONDS WITH THE PREVIOUS COURSE, A DISTANCE OF 202.50 FEET TO A POINT, THENCE;
 4. RUNNING NORTHEASTERLY, ALONG THE AFOREMENTIONED SOUTHEASTERLY LINE OF DELANCEY STREET (VARIABLE WIDTH) FORMING AN INTERIOR ANGLE OF 89 DEGREES – 39 MINUTES – 28 SECONDS WITH THE PREVIOUS COURSE, A DISTANCE OF 200.96 FEET TO THE POINT AND PLACE OF BEGINNING.

CONTAINING 40,627 SQUARE FEET OR 0.933 ACRES

THIS DESCRIPTION IS PREPARED WITH REFERENCE TO A MAP ENTITLED “ALTERATION MAP NO. 30236 SHOWING THE ESTABLISHMENT OF BROOME STREET BETWEEN NORFOLK STREET AND CLINTON STREET, THE ESTABLISHMENT OF SUFFOLK STREET BETWEEN GRAND STREET AND DELANCEY STREET, THE NARROWING, BY ELIMINATION, DISCONTINUANCE AND CLOSING OF CLINTON STREET BETWEEN GRAND STREET AND DELANCEY STREET, THE NARROWING, BY ELIMINATION, DISCONTINUANCE AND CLOSING OF DELANCEY STREET BETWEEN NORFOLK STREET AND CLINTON STREET, THE ESTABLISHMENT OF THE NAME DELANCEY STREET FOR THE UNNAMED STREET BETWEEN CLINTON STREET AND FRANKLIN D. ROOSEVELT DRIVE AND THE ADJUSTMENT OF GRADES NECESSITATED THEREBY” PREPARED BY CITY OF NEW YORK, BOROUGH OF MANHATTAN, OFFICE OF THE PRESIDENT, TOPOGRAPHICAL BUREAU.

Site 5

A PARCEL OF LAND LYING IN MANHATTAN, NEW YORK, IN TAX BLOCK NO. 346, ENCLOSED BY FOUR STREETS: AT NORTH BY BROOME STREET; AT EAST BY SUFFOLK STREET; AT SOUTH BY GRAND STREET; AND AT WEST BY NORFOLK STREET. MORE PARTICULARLY DESCRIBED AS FOLLOWS;

BEGINNING AT A POINT SAID POINT BEING FORMED BY THE INTERSECTION OF THE NORTHWESTERLY LINE OF GRAND STREET (100 FEET WIDE) WITH THE NORTHEASTERLY LINE OF NORFOLK STREET (VARIABLE WIDTH) AND FROM SAID BEGINNING POINT RUNNING, THENCE;

1. RUNNING NORTHWESTERLY, ALONG SAID NORTHEASTERLY LINE NORFOLK STREET, A DISTANCE OF 301.10 FEET TO A POINT, THENCE;
2. RUNNING NORTHEASTERLY, ALONG THE SOUTHEASTERLY LINE OF BROOME STREET (VARIABLE WIDTH) FORMING AN INTERIOR ANGLE OF 89 DEGREES – 46 MINUTES – 20 SECONDS WITH THE PREVIOUS COURSE, A DISTANCE OF 201.00 FEET TO A POINT, THENCE;
3. RUNNING SOUTHEASTERLY, ALONG THE SOUTHWESTERLY LINE OF SUFFOLK STREET (VARIABLE WIDTH) FORMING AN INTERIOR ANGLE OF 90 DEGREES – 11 MINUTES – 10 SECONDS WITH THE PREVIOUS COURSE, A DISTANCE OF 301.43 FEET TO A POINT, THENCE;
4. RUNNING SOUTHWESTERLY, ALONG THE AFOREMENTIONED NORTHWESTERLY LINE OF GRAND STREET FORMING AN INTERIOR ANGLE OF 89 DEGREES – 43 MINUTES – 10 SECONDS WITH THE PREVIOUS COURSE, A DISTANCE OF 200.78 FEET TO THE POINT AND PLACE OF BEGINNING.

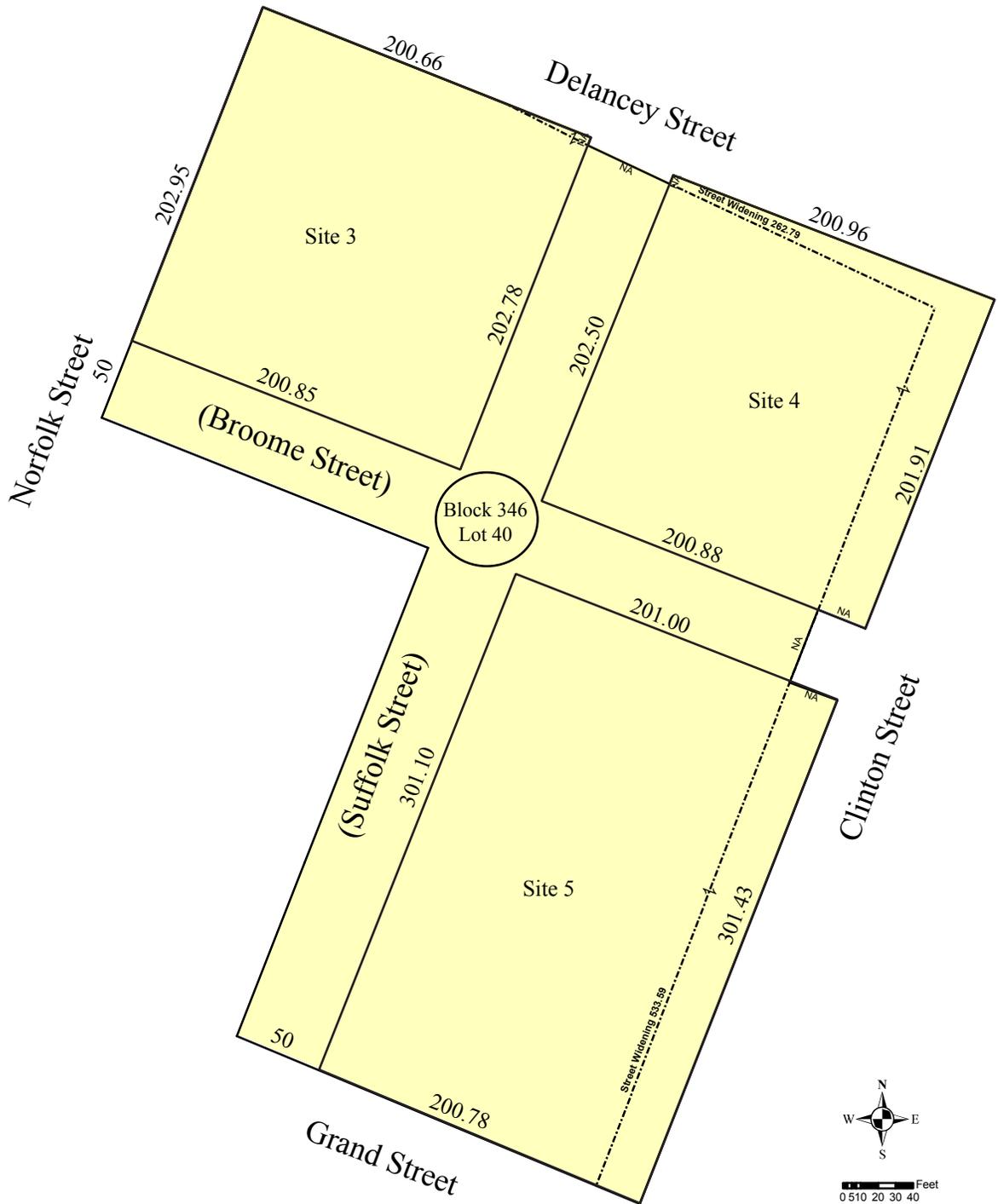
CONTAINING 60,520 SQUARE FEET OR 1.389 ACRES

THIS DESCRIPTION IS PREPARED WITH REFERENCE TO A MAP ENTITLED “ALTERATION MAP NO. 30236 SHOWING THE ESTABLISHMENT OF BROOME STREET BETWEEN NORFOLK STREET AND CLINTON STREET, THE ESTABLISHMENT OF SUFFOLK STREET BETWEEN GRAND STREET AND DELANCEY STREET, THE NARROWING, BY ELIMINATION, DISCONTINUANCE AND CLOSING OF CLINTON STREET BETWEEN GRAND STREET AND DELANCEY STREET, THE NARROWING, BY ELIMINATION, DISCONTINUANCE AND CLOSING OF DELANCEY STREET BETWEEN NORFOLK STREET AND CLINTON STREET, THE ESTABLISHMENT OF THE NAME DELANCEY STREET FOR THE UNNAMED STREET BETWEEN CLINTON STREET AND FRANKLIN D. ROOSEVELT DRIVE AND THE ADJUSTMENT OF GRADES NECESSITATED THEREBY” PREPARED BY CITY OF NEW YORK, BOROUGH OF MANHATTAN, OFFICE OF THE PRESIDENT, TOPOGRAPHICAL BUREAU.

That the said premises are known as and by street addresses 135-147 DELANCEY STREET, NEW YORK, NEW YORK, 153-163 DELANCEY STREET, NEW YORK, NEW YORK, and 394-406 GRAND STREET, all as shown on the following diagram:

Sites 3, 4, and 5

Block 346, Lot 40 (135-147 Delancey St., 153-163 Delancey St., and 394-406 Grand St.)



NOTE: A Zoning Lot may or may not coincide with a lot as shown on the Official Tax Map of the City of New York, or on any recorded subdivision plot or deed. A Zoning Lot may be subdivided into two or more zoning lots provide all the resulting zoning lots and all the buildings thereon shall comply with the applicable provisions of the zoning lot resolution.

THIS CERTIFICATION IS MADE FOR AND ACCEPTED BY THE APPLICANT UPON THE EXPRESS UNDERSTANDING THAT LIABILITY HEREUNDER IS LIMITED TO ONE THOUSAND DOLLARS (\$1,000.00).

Dated: _____, 2012

THE NEW YORK CITY LAW DEPARTMENT

By: _____
Name: Lisa Bova-Hiatt
Title: Deputy Chief, Tax and Bankruptcy Division

STATE OF NEW YORK)
)
COUNTY OF NEW YORK) ss.:

On the ____ day of _____, 2012 before me, the undersigned, personally appeared Lisa Bova-Hiatt, personally known to me or proved to me the basis of satisfactory evidence to the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

**CERTIFICATION OF PARTIES IN INTEREST
PURSUANT TO SUBDIVISION (D) OF THE DEFINITION OF
ZONING LOT SET FORTH IN SECTION 12-10 OF
THE ZONING RESOLUTION OF DECEMBER 15, 1961
OF THE CITY OF NEW YORK, AS AMENDED
EFFECTIVE AUGUST 18, 1977**

THE NEW YORK CITY LAW DEPARTMENT hereby certifies that as to the land hereinafter described, being a tract of land, either unsubdivided or consisting of two or more lots of record, contiguous for a minimum of ten linear feet, located within a single block, that all the parties in interest consisting of a party as defined in Section 12-10, subdivision (d) of the Zoning Resolution of the City of New York, effective December 15, 1961, as amended, are the following:

NAME AND ADDRESS

NATURE OF INTEREST

1. The City of New York

Fee Owner of Tax Lot 71, Block 347

The subject tract of land with respect to which the foregoing parties are the parties in interest as aforesaid, is known as Tax Lot 71 in Block 347 as shown on the Tax Map of the City of New York, New York County and more particularly described as follows:

Site 6

A PARCEL OF LAND LYING IN MANHATTAN, NEW YORK, IN TAX BLOCK NO. 347, ENCLOSED BY THREE STREETS AND LOT 80: AT NORTH BY DELANCEY STREET; AT EAST BY LOT 80; AT SOUTH BY BROOME STREET; AND AT WEST BY CLINTON STREET. MORE PARTICULARLY DESCRIBED AS FOLLOWS;

BEGINNING AT THE POINT AT THE INTERSECTION OF THE NORTHWESTERLY LINE OF BROOME STREET (VARIABLE WIDTH) AND THE NORTHEASTERLY LINE OF CLINTON STREET (VARIABLE WIDTH) AND FROM SAID POINT OF BEGINNING, RUNNING THENCE;

1. RUNNING NORTHWESTERLY, ALONG SAID NORTHEASTERLY LINE OF CLINTON STREET, A DISTANCE OF 146.24 FEET TO A POINT, THENCE;
2. RUNNING NORTHEASTERLY, ALONG THE SOUTHEASTERLY LINE OF DELANCEY STREET, FORMING AN INTERIOR ANGLE OF 89 DEGREES – 46 MINUTES – 04 SECONDS WITH THE PREVIOUS COURSE, A DISTANCE OF 146.00 FEET TO A POINT, THENCE;
3. RUNNING SOUTHEASTERLY, ALONG THE DIVIDING LINE BETWEEN LOT 71 AND LOT 80, BLOCK 374 FORMING AN INTERIOR ANGLE OF 90 DEGREES – 13 MINUTES – 55 SECONDS WITH THE PREVIOUS COURSE, A DISTANCE OF 146.14 FEET TO A POINT, THENCE;
4. RUNNING SOUTHWESTERLY, ALONG THE AFOREMENTIONED NORTHWESTERLY LINE OF BROOME STREET FORMING AN INTERIOR ANGLE OF 89 DEGREES – 48 MINUTES – 35 SECONDS WITH THE PREVIOUS COURSE, A DISTANCE OF 146.00 FEET TO THE POINT AND PLACE OF BEGINNING.

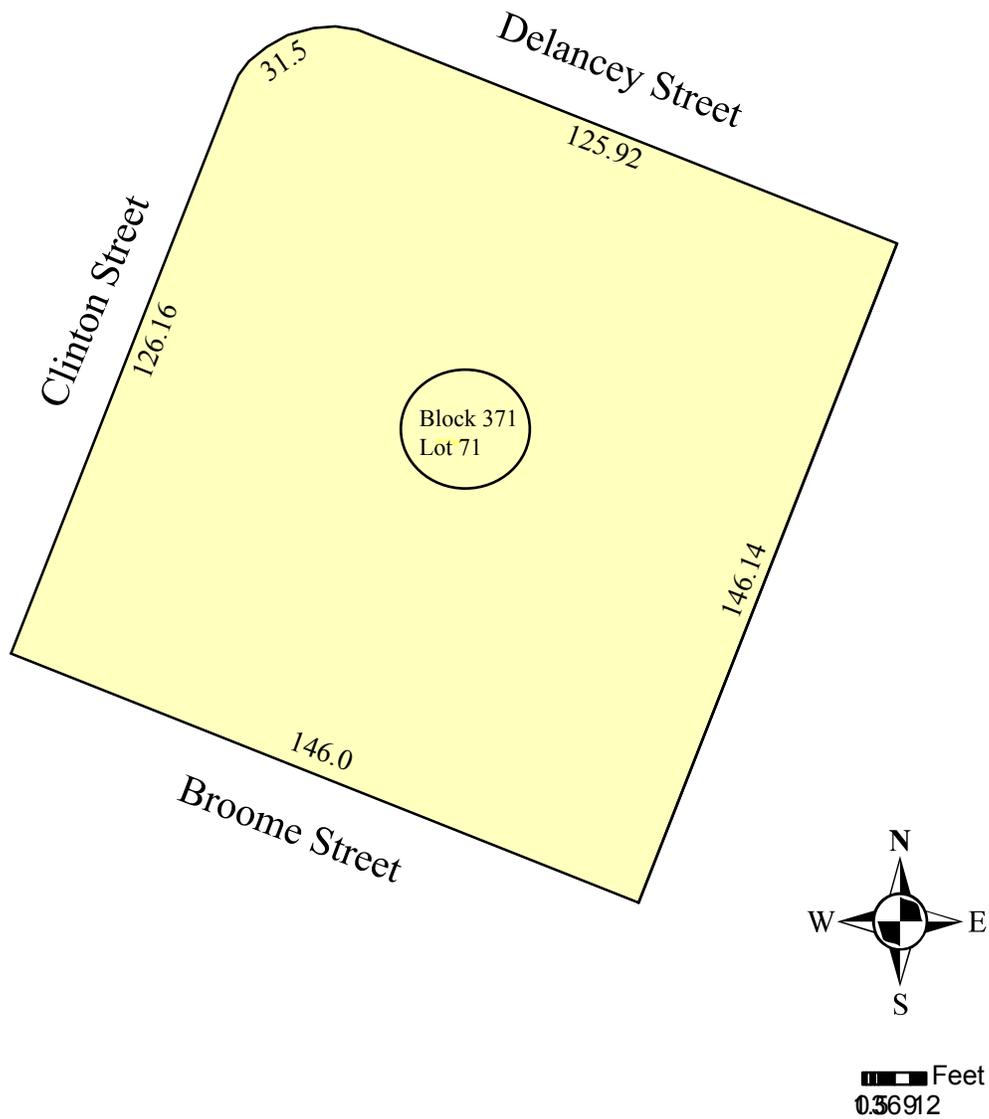
CONTAINING 21,344 SQUARE FEET OR 0.490 ACRES

THIS DESCRIPTION IS PREPARED WITH REFERENCE TO A MAP ENTITLED “ALTERATION MAP NO. 30236 SHOWING THE ESTABLISHMENT OF BROOME STREET BETWEEN NORFOLK STREET AND CLINTON STREET, THE ESTABLISHMENT OF SUFFOLK STREET BETWEEN GRAND STREET AND DELANCEY STREET, THE NARROWING, BY ELIMINATION, DISCONTINUANCE AND CLOSING OF CLINTON STREET BETWEEN GRAND STREET AND DELANCEY STREET, THE NARROWING, BY ELIMINATION, DISCONTINUANCE AND CLOSING OF DELANCEY STREET BETWEEN NORFOLK STREET AND CLINTON STREET, THE ESTABLISHMENT OF THE NAME DELANCEY STREET FOR THE UNNAMED STREET BETWEEN CLINTON STREET AND FRANKLIN D. ROOSEVELT DRIVE AND THE ADJUSTMENT OF GRADES NECESSITATED THEREBY” PREPARED BY CITY OF NEW YORK, BOROUGH OF MANHATTAN, OFFICE OF THE PRESIDENT, TOPOGRAPHICAL BUREAU.

That the said premises are known as and by street address 178 BROOME STREET, NEW YORK, NEW YORK as shown on the following diagram:

Site 6

Block 347, Lot 71 (178 Broome Street)



NOTE: A Zoning Lot may or may not coincide with a lot as shown on the Official Tax Map of the City of New York, or on any recorded subdivision plot or deed. A Zoning Lot may be subdivided into two or more zoning lots provide all the resulting zoning lots and all the buildings thereon shall comply with the applicable provisions of the zoning lot resolution.

THIS CERTIFICATION IS MADE FOR AND ACCEPTED BY THE APPLICANT UPON THE EXPRESS UNDERSTANDING THAT LIABILITY HEREUNDER IS LIMITED TO ONE THOUSAND DOLLARS (\$1,000.00).

Dated: _____, 2012

THE NEW YORK CITY LAW DEPARTMENT

By: _____
Name: Lisa Bova-Hiatt
Title: Deputy Chief, Tax and Bankruptcy Division

STATE OF NEW YORK)
)
COUNTY OF NEW YORK) ss.:

On the ____ day of _____, 2012 before me, the undersigned, personally appeared Lisa Bova-Hiatt, personally known to me or proved to me the basis of satisfactory evidence to the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

EXHIBIT C

PLANS

(SEPARATE ATTACHMENT)

EXHIBIT D

OPERATING RULES FOR OPEN SPACE

The Open Space is a privately-owned space required to serve as a neighborhood open space and provide amenities for residents, workers, and the general public. Declarant shall not impose or apply any rules or restrictions upon public use of the Open Space which vary from or are more restrictive than those set forth below, except as authorized pursuant to a modification to this Exhibit D made pursuant to Section 13 of the Declaration.

General Guidelines

- All users should be respectful of others and mindful of how activity and noise affects other users and residents in immediately adjacent buildings.
- All users are to heed directions or requests made by authorized building management.
- New York City laws and ordinances are in full force and effect at all times.

General Prohibitions

For the safety and enjoyment of everyone, the following types of behavior are prohibited:

- Sleeping, loitering, or disorderly conduct.
- Smoking, drinking of alcoholic beverages.
- Open flames or barbequing.
- Shopping carts, obstructions or unattended packages.
- Loud music including musical instruments, radios, stereos, or use of amplification equipment.
- Camping or the erection of tents or other structures; sleeping bags, tarps, or other covering on the property.
- Lying down on the ground, walkways, or benches; storage or placement of personal property in areas that unreasonably interfere with the use of benches and walkways by others.
- Panhandling or entertaining for the purposes of solicitation and/or publicity.

- Large assemblies or group gatherings except by prior permit.
- Defacement of property and littering.
- Securing bikes to objects other than bike racks.
- Ball playing against building walls, public artwork or landscape features; no tree climbing.

In addition:

- Pets must be kept on a leash at all times and are not permitted on the grass or in the planted areas. Owners are expected to clean up after their pets.
- Skateboards, bikes, rollerblades, and roller skates are permitted in designated areas only.

Play Features Area Prohibitions

- Adults who are not accompanied by or supervising children are prohibited.



Community/Borough Board Recommendation
Pursuant to the Uniform Land Use Review Procedure

Application #: C120245 PPM	Project Name: Seward Park Mixed-Use Development
CEQR Number: 11DME012M	Borough(s): Manhattan Community District Number(s): 03

Please use the above application number on all correspondence concerning this application

SUBMISSION INSTRUCTIONS

- Complete this form and return to the Department of City Planning by one of the following options:
 - EMAIL (recommended):** Send email to CalendarOffice@planning.nyc.gov and include the following subject line: (CB or BP) Recommendation + (6-digit application number), e.g., "CB Recommendation #C10000ZSQ"
 - MAIL:** Calendar Information Office, City Planning Commission, Room 2E, 22 Reade Street, New York, NY 10007
 - FAX:** (212) 720-3356 and note "Attention of the Calendar Office"
- Send one copy of the completed form with any attachments to the applicant's representative at the address listed below, one copy to the Borough President, and one copy to the Borough Board, when applicable.

Docket Description:

IN THE MATTER OF an application submitted by the New York City Department of Housing Preservation and Development (HPD) and the New York City Department of Citywide Administrative Services (DCAS), pursuant to Section 197-c of the New York City Charter, for disposition of city-owned property (Block 346, p/o of Lot 40; Block 347, Lot 71; Block 352, Lots 1 and 28; Block 353, Lot 44; Block 354, Lots 1 and 12; and Block 409, Lot 56), by HPD to a future developer or by DCAS to the New York City Economic Development Corporation (EDC) or a successor local development corporation, and which are subject to a restriction of compliance with the terms of the related UDAAP Project Summary (N120236HAM).

Applicant(s): NYC Dept. of Citywide Administrative Services (DCAS) One Centre Street, 19th Floor, New York, NY 10007 NYC Department of Housing Preservation & Development 100 Gold Street, New York, NY 10038	Applicant's Representative: Hardy Adasko, Senior Vice President NYC Economic Development Corp.(EDC) 110 William Street New York, NY 10038
Recommendation submitted by: Manhattan Community Board 3	
Date of public hearing: May 22, 2012 Location: 301 Henry Street, Henry Street Settlement	
Was a quorum present? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> <i>A public hearing requires a quorum of 20% of the appointed members of the board, but in no event fewer than seven such members.</i>	
Date of Vote: May 22, 2012 Location: 301 Henry Street, Henry Street Settlement	
RECOMMENDATION <input type="checkbox"/> Approve <input checked="" type="checkbox"/> Approve With Modifications/Conditions <input type="checkbox"/> Disapprove <input type="checkbox"/> Disapprove With Modifications/Conditions	
Please attach any further explanation of the recommendation on additional sheets, as necessary.	
Voting SEE ATTACHED LIST OF CONDITIONS (12 PAGES) RE: 120228 ZJM RELATED ACTION # In Favor: 44 # Against: # Abstaining: Total members appointed to the board: 50 1 PRESENT NOT VOTING	
Name of CB/BB officer completing this form Susan Stetzer	Title District Manager
Date 6/1/2012	



THE CITY OF NEW YORK MANHATTAN COMMUNITY BOARD 3

59 East 4th Street - New York, NY 10003

Phone (212) 533-5300 - Fax (212) 533-3659

www.cb3manhattan.org - info@cb3manhattan.org

Dominic P. Berg, Board Chair

Susan Stetzer, District Manager

June 1, 2012

Seward Park Mixed-Use Development Resolution in support of ULURP and UDAAP applications relating to the Seward Park Mixed-Use Development:

C120245 PPM, C120237 PQM, C120156 MMM, C120234 ZSM, C120235 ZSM, C120233 ZSM, C120226 ZMM, C120228 ZSM, C120229 ZSM, C120231 ZSM, C120227 ZRM, Z120230 ZAM, and C120236 HAM

WHEREAS, the Seward Park Urban Renewal Site has sat vacant for more than forty years; and

WHEREAS, in January 2011 Community Board 3, Manhattan ("CB3") reached an historic milestone by unanimously approving the "Seward Park Guidelines" and in June 2011 approved "Design Principles" (collectively known as the "Guidelines") for the project site (included in this resolution--see Appendix A); and

WHEREAS, the ULURP reflects CB3's commitment to affordable housing and is in accordance with the affordable housing parameters below set forth in our guidelines; and

- Approximately 50 percent of all units should be available at market-rate values (i.e., for households with no income restrictions). ("Approximately" is defined as give or take one or two percent.)
- Approximately 10 percent of all units must be reserved for middle-income households.
- Approximately 10 percent of all units must be reserved for moderate-income households
- Approximately 20 percent of all units must be reserved for low-income households.
- Approximately 10 percent of all units must be reserved for low-income seniors; and

WHEREAS, the ULURP reflects Community Board 3's commitment to the economic revitalization of the area and consistent with our guidelines calls for 40% of the FAR to be developed commercially; and

WHEREAS, consistent with the Community Board 3's policy guidelines the project reflects the mixed-income nature of the neighborhood; and

WHEREAS, consistent with Community Board 3's design guidelines the project reflects the mixed use nature of the neighborhood as well as the different contextual designs north and south of Delancey; and

WHEREAS, consistent with Community Board 3's commitment to outdoor space the project includes a small park; and

WHEREAS, consistent with Community Board 3's principles all existing streets including those demapped currently will be preserved; and

WHEREAS, consistent with Community Board 3's principles all residential parking lots will be replaced in the new development; and

THEREFORE BE IT RESOLVED, the above named applications are approved by Community Board 3 ("CB3") subject to the conditions that follow.

BE IT FURTHER RESOLVED, that Community Board 3 forwards this approval but only with the following conditions to all of the elected officials representing this area, as well as to Deputy Mayor for Economic Development Robert K. Steele, Mr. Seth Pinsky, Economic Development Corporation of NYC, as well as the Departments of Housing Preservation and Development, and City Planning.

(Land Use, Zoning, Public & Private Housing Committee)

44 YES 0 NO 0 ABS 1 PNV MOTION PASSED

Conditions of Approval

RFP Creation and Monitoring

Consistent with our conditions for approval of this ULURP action, we maintain that the RFP must reflect the following:

- *Regarding the production of housing units*, if the SPURA projects proceed in phases as a result of the RFP process, each and every phase/project must incorporate a housing component, and the housing in each phase must be developed in the same proportions as required by the ULURP.
- *Regarding employment*, if the SPURA project proceeds in phases as a result of the RFP process, each and every phase/project must commit both in effort and in results to the local hiring provisions outlined elsewhere in this resolution.
- *Regarding the production of community spaces, open spaces, and other "amenities,"* if the SPURA project proceeds in phases as a result of the RFP process, these amenities cannot be "back-ended" to the final phases and the developer(s) must verify the provision of these amenities on a phasing schedule acceptable to CB3.
- *Community representation.* The City of New York must ensure that representatives selected by CB3 (no less than 3 members and no more than 7 appointed by the CB3 Chairperson) participate fully and transparently on a task force (similar to what was established for Manhattan Community Board 11 (CB11) on the E. 125th St. project) to provide input in the drafting of the RFP(s) which result from the ULURP action. This task force will meet at a minimum on a bimonthly recurring basis with City officials.
- *Task force.* The Seward Park Mixed Use Development Project Task Force, "the task force," will be led by and include the above mentioned CB3 members, as well as one representative from each of the members of the City Council Districts represented in CB3 and one from the Manhattan Borough President, as well as representatives of two local stakeholder groups as appointed by the CB3 Chair. The majority of members of the task force will be composed of CB3 members.
- *Task force participation process.* The City will commit to continuing its partnership with the community on the Seward Park Mixed Use Development Project, including the community's participation within the City's RFP process as follows:
 - Prior to releasing the RFP, the City will meet with the Task Force designated by the Community Board to request their priority goals. This will include, but not be limited to,

- a discussion about preferences for ground-floor and retail uses. The Task Force will review final RFP goals and selection criteria prior to the City's release of the RFP.
- One of the selection criteria in the RFP will be that the Task Force preferences will be considered in final selection.
 - Upon receipt of developer proposals, the City will provide summaries—with identifying information removed—to the Task Force of viable responses and discuss the proposals. The Task Force will provide feedback as to which proposal(s) and aspects of proposal(s) it considers to best meet the community goals. As noted, this feedback will be formally considered as part of the selection criteria.
 - Prior to final selection, the City will discuss the proposed selection with the Task Force.
 - Issued RFPs will state that developers will be required to work with the task force during the development, construction, leasing and operation of the project phase(s) in order to ensure ongoing dialogue between the Developer and the community.
- *Local developer participation.* Issued RFPs will require that all major developers must partner with local nonprofit developers, as has been agreed to by the City in other projects. In addition, those nonprofit partners must be required to build a substantial amount of affordable housing (not less than 20% of units).
 - *Monitoring and training candidates for employment.* Issued RFPs will require that the winning developer(s) will provide \$##### per phase of development to the Lower East Side Employment Network to support the ongoing monitoring and training of local candidates. This is similar to CB11's requirement on the E. 125th Street project.
 - *Consistency with CB3 Project Goals and Guidelines.* The City of New York must ensure that the task force will have the ability to examine and review the RFP(s) regarding compliance with CB3 project goals. The task force will rank proposals in priority order and the City will make all diligent efforts to comply with those recommendations. In addition CB3 requires written assurances from the City that the RFP will be consistent with the conditions laid out within this approval and will include the attached original CB3 Guidelines passed in January 2011 and June 2011.
 - *Quality of life issues.* The City of New York will respect any Memoranda of Understanding between CB3, the task force, and the selected developer should quality of life issues arise as a result of the development or agreed to changes in project goals *or* be required during the implementation phase of development, e.g. double pane windows are needed for buildings adjacent to the project site or local hiring goals have peaked and are agreed to be reduced by the task force.
 - *Multiple Developers.* The City shall select multiple developers. Preference must be given to Lower East Side and/or other local non-profit developers. The cumulative effect of their proposals and subsequent actions must result in a development that adheres to CB3's guidelines and underlying principles. A single developer will have too much leverage against the City and will be able to seek modifications of the RFP from the city as the negotiation process moves forward as seen in numerous other developments throughout NYC.
 - *Dormitories.* The RFP will expressly prohibit dormitories. The City will not select a developer to develop dormitories.

Affordable Housing

WHEREAS, the Mayor of NYC through the EDC and HPD has committed that all Affordable Housing will be required to remain so in perpetuity.

Affordable Housing in Perpetuity. All affordable housing built as part of SPURA development will be affordable in perpetuity. This is what was intended when Guidelines were agreed upon and passed CB3. The redevelopment of all nine sites including the Large Scale General Development (LSGD) Plan for the Seward Park Urban Renewal Area will have a tremendous impact on the surrounding community-- already subject to permanent demographic change and development pressures that favor and promote market rate housing and commercial uses that most long-time neighborhood residents cannot afford. The ULURP documents will guarantee that all subsidized housing produced in Seward Park is permanently affordable, thereby incorporating a "forever" commitment that the 50% affordable housing in the plan will remain accessible and affordable for generations to come.

All Buildings Should Be Mixed Income. The language of the ULURP documents must include a guarantee that each residential development built, (with the exception of Housing for the Elderly), must have apartments to accommodate all income groups outlined in the plan. Additionally, all of the affordable units must be integrated with the market rate housing without discernible differentiation by location, unit mix, size, and material or design quality; there may, however, be differentiation by unit finishings.

The affordable housing may be built in stages, provided that the ratio of affordable units is never less than 50 percent of all residential units built in any phase. Therefore, the City must guarantee that they will not build only commercial development in any phase of construction.

Allocation of affordable units

The City commits that sufficient residential square footage will be set aside and reserved for residential use in order to develop 900 units. CB 3 requested at least 800 and preferably more than 1,000 housing units *in* the guidelines for the site, to be allocated as follows:

- In total, *approximately* 10 percent of all units must be affordable to renters/buyers with household income between 131% and 165% percent of the area median income ("AMI").
- *Approximately* 10 percent of all units must be affordable to renters/buyers with household income between 51% up to 130% of AMI.
- *Approximately* 20 percent of all units must be affordable to renters/buyers with household income below 50% percent of AMI.
- *Approximately* 10 percent of all units must be affordable to seniors with income below 50% of AMI.
- At least 50% of all affordable units are to be offered to CB3 area residents under community preference.

Big Box Stores

CB3 is steadfastly opposed to big box development on any of the sites within the SPURA plan. We firmly believe that such stores will threaten existing small businesses and will generally disrupt the community's character. Our Guidelines passed in January 2011 said very directly "With the exception of a possible supermarket, no single retail tenant should exceed 30,000 square feet in size." The ULURP document not only allows for such development; in fact it includes an action which permits very large departments stores with a metropolitan focus to be built in the proposed C2-5 District on sites 3-6. *Without a special permit and a zoning text amendment to ZR Section 74-744 such stores could not be built in this zone.*

Essex Street Market

In accordance with our Guidelines, CB3 approves the Essex Street Market plan with the following conditions:

- Vendors must be charged approximately the same or similar rent that they are paying at the time of moving for the same amount of space in the new facility.
- Additionally, the City must provide financial assistance for the entire cost of moving all vendors who wish to move to the new building, and if the City will not pay these expenses, they must find other partners or otherwise make available additional resources so that the vendors will not be responsible for paying for their own moving costs.

Local Hiring / Living Wage

Preference for at least 50% of all jobs (during the construction period and permanent). Every effort must be made to reach a goal of 50% of all jobs being given to CB3 residents, with prevailing wages for construction jobs and living wage for permanent jobs. Of the 50%, 25% must be new positions, not positions transferred from other sites. Should such efforts be made in consultation with the task force and it appears that meeting the 50% goal is not an achievable, agreement can be reached between the task force and the developer as to another reasonable goal.

Former Site Tenants

Opportunity must be provided to rent affordable units in the new development to qualifying SPURA former or present residents relocated as a result of the project.

The City in partnership with CB3, must conduct extensive and credible outreach to identify, locate and notify all qualifying former site tenants about the proposed new housing development on SPURA, their continued right to return to the site, and the application process for priority inclusion in the new housing that is built.

School

We find that there is a demonstrable need for a shared District 1 and District 2 Pre-K to 8th grade school to be built as part of the Seward Park Mixed Use Project Site. The project site straddles the current boundary of Community School Districts 1 and 2. (See Appendix C for a discussion of the case for a shared school.)

Rear Yards on Sites 8, 9, and 10

CB3 recommends that this ULURP document include an action to waive the rear yard requirement for the three sites located north of Delancey Street. Although the document assumes that these three sites will produce approximately 100 residential units, they are very narrow, no deeper than 70 feet at the widest point, making them difficult to redevelop for residential use. Most of these three sites are in a C4-4A zone, which requires a rear yard. We fear that a building of only 40 or 50 feet in depth will be expensive to build, will make awkwardly designed dwelling units, or may never yield the desired housing. A waiver of the rear yard requirement would make these sites more suitable for housing development.

Appendix A: Seward Park Mixed Use Development Project's Community Board 3 Guidelines

January 2011 Seward Park Urban Renewal Area Guidelines

CB3 Guidelines for Seward Park Sites Redevelopment

Presented below are recommended guidelines for consideration by Manhattan's Community Board 3 (CB 3). The CB 3 Land Use, Zoning, Public & Private Housing Committee prepared these guidelines. They are intended to guide the City of New York in its preparation of a plan and subsequent Requests for Proposals (RFP) to develop the Seward Park sites.

I. INTRODUCTION

A. Guiding Principles

1. The plan and subsequent RFP(s) for the Seward Park Sites must be in accordance with the principles laid out herein. Maximization of City revenue from the sale of the land should be a secondary consideration.
2. The City should select multiple developers, with additional consideration given to Lower East Side and/or other local non-profit developers. The cumulative effect of their proposals and subsequent actions must result in a development that adheres to these guidelines and underlying principles.
3. The City's conveyance of the land must include deed and other binding restrictions to assure that these principles are achieved.

B. Community Oversight

1. The City must communicate regularly with CB 3 and any CB 3 designated committee on all aspects of project development, from preparation of the RFP and the Uniform Land Use Review Procedure (ULURP) process through tenant selection, inclusive of completion of all associated planning, programming and development.
2. There must be robust community participation in the planning and review process for the sites. This includes open information, widely distributed announcements and regularly scheduled public meetings distinct from public hearings.

II. LAND USE AND PROGRAM

A. Mixed-Use Development

1. The mixed-use, mixed-income character of the neighborhood must be reflected in the development plan for the sites.
2. Each phase of development must reflect the mixed-use, mixed-income guidelines indicated herein, except if federal regulations require senior housing to be separated from other uses and thus built as an independent phase or project element.

B. Commercial Development

1. Full opportunity should be provided for economic development and local employment and entrepreneurship. Fifty percent of all on-site employment opportunities must at all times be filled by CB 3 residents; employers must make diligent efforts to advertise job openings locally. All employment opportunities should offer wages that take into consideration the cost of living in New York City, rather than the statewide minimum wage.
2. Retail should be maximized in street-level building frontages along major streets (i.e., Delancey Street west of Clinton Street and Essex Street).
3. Local service and convenience retail uses should predominate in street-level building frontages along side streets (i.e., Broome Street, Grand Street, Ludlow Street, Norfolk Street and/or Suffolk Street).
4. Mid-box retail should be encouraged to locate predominantly on the second floors of buildings along major streets (i.e., Delancey Street and/or Essex Street). "Mid-box" retail is defined as stores equal to 10,000 to 30,000 square feet (sf).

5. With the exception of a possible supermarket, no single retail tenant should exceed 30,000 sf in size. In addition, no more than three new liquor licenses within 500 feet of each other should be issued to establishments on the side streets, and no licenses can be established within 200 feet of any school or religious institution.
6. There is a strong preference that the existing Essex Street Market remain on its current site. However, if the Market is to be relocated, it must remain public and be moved to a superior site on a major street to accommodate a larger market with more goods and services. The existing Essex Street Market must not be closed or demolished before the new, larger market is open. Every effort should be made to retain the then current tenants of the Essex Street Market during the change in location and facility. Such efforts should include providing special consideration as to rents (e.g., rent increases should be comparable to existing contracts), assisting tenants with moving and relocation costs (e.g., through the creation of a fund or by way of a requirement in the RFP), and assuring that the new market space is move-in ready before tenants are relocated.
7. Every phase of retail development must provide a diversity of goods, services and price points.
8. Non-retail, commercial development – including office, hotel and/or a movie theater –should be provided. A movie theater is a priority; this use could be a component of a multipurpose performance space, including one in connection with civic uses (see #II.D). The final commercial uses and their floor areas will depend on market conditions at the time of development, as well as satisfactory proposals by development or operating entities.

C. Housing

1. The sites should be developed to optimize their aggregate residential potential. At least 800 and preferably more than 1,000 housing units must be provided. (This range should be refined following community engagement in connection with anticipated urban design analyses for the site.) However, the overall housing component should not comprise less than 60 percent of the total floor area of all sites, excluding floor area devoted to below- grade parking.
2. The mixed-income character of the neighborhood must be reflected in the development plan for the sites. Accordingly:
 - a. Approximately 50 percent of all units should be available at market-rate values (i.e., for households with no income restrictions). ("Approximately" is defined as give or take one or two percent.)
 - b. Approximately 10 percent of all units must be reserved for middle-income households.
 - c. Approximately 10 percent of all units must be reserved for moderate-income households.
 - d. Approximately 20 percent of all units must be reserved for low-income households.
 - e. Approximately 10 percent of all units must be reserved for low-income seniors.
 - f. Supportive housing for low-income individuals and/or families is permitted under any of the above allocations (see #II.C.2).
 - g. The household income definitions are as follows:

Percent of Area Income Range Median Income

Middle income 131 – 165 percent Moderate income 51 – 130 percent Low income < 50 percent
Maximum Income* \$130,000 \$100,000 \$ 40,000

*Income limits are 2010 approximations for a family of four based on the most recently available data and will change from year to year; they are shown here for illustrative purposes only.

- h. Units should be affordable to a multitude of incomes within the above ranges (see #II.C.2.g), rather than to just the upper limits of each.

3. Every effort should be made to secure Federal, State and other outside funding to achieve the quantities of non-market-rate housing set forth above. The ability of respondent developers to maximize the number of non-market-rate units should be a major criterion of the RFP and in the selection of developers.
4. Developers must be encouraged to consider affordable homeownership and variant models (such as mutual housing).
5. In mixed-income buildings, the non-market-rate units should be integrated with the market-rate housing and be indistinguishable from the exterior in terms of material and design quality. Further, the non-market-rate component should have at least the same proportion of two- and three-bedroom apartments as the market-rate component; however, in all cases, at least 40 percent of all non-market-rate units should be two-bedrooms or larger. All non-market-rate units must comply with the NYC Department of Housing Preservation and Development (HPD) "Design Guidelines for New Construction," which includes standards for unit size and layout.
6. At least 50 percent of the non-market-rate housing units should be prioritized (in the following order) for residents who may be relocated as a result of planned development, Tenants at Title Vesting – the former site tenants – and qualifying residents of Community District 3. There should be a robust procedure for notifying Tenants at Title Vesting about their right to return, such as described in the Appendix (see below).
7. All non-market-rate units must remain affordable in perpetuity.

D. Civic Uses

1. The site development must include community, cultural and/or institutional ("civic") uses and amenities that benefit residents of all ages.
2. Full opportunity should be provided for civic uses and amenities. It is understood that such use(s) for each site will depend on project feasibility as well as a satisfactory proposal by a development or operating entity. Civic use is broadly defined to include a possible non- or limited-profit retail component and/or non-profit offices.
3. The civic use obligation may in large measure but not entirely be satisfied by any one such use.
4. Sufficient land and building capacity should be set aside for a public primary or secondary school. Ideally, students from both School Districts 1 and 2 should be allowed to attend the school, regardless of which district it is ultimately located in. (This will result in either new flexible district boundaries – as already exists at 14th Street – or a redistricting of the area to include the entire Seward Park development in District 1) The siting of the school should allow it to be oriented to a side street.
5. An assisted living/nursing home is a preferred community facility use.
6. Parks and open space must be a major feature of the final development program. A side street orientation is preferred for local neighborhood open space, such as a playground.
7. Every effort should be made to include a non- or limited-profit retail or other commercial component in the final program. This use may substitute for either local service or convenience retail (see #II.B.3). It is understood that this use will depend on project feasibility as well as a satisfactory proposal by a development or operating entity.

III. SITE LAYOUT AND DEVELOPMENT

A. Site-Specific Concerns

1. If necessary, as a development plan approaches and enters the ULURP process, site-specific concerns (e.g., regarding program mix, affordability, urban design or other aspects) that arise

should continue to be addressed by members of the Community Board, its designated committee and the City.

B. Commercial Overlay

1. The sites along Delancey Street and Grand Street should be rezoned to include a commercial overlay.

C. Urban Design

1. The final building and site plans must be in keeping with current planning principles of contextual design: e.g., building orientation and access should support and enhance the pedestrian realm and weave together the fabric of the neighborhood. Their final designs should consider successful models that have been employed in other cities around the nation and the world, especially as they pertain to mixed-income and mixed-use developments.

2. Existing streets, including those that have been de-mapped, should be preserved.

3. The development should exemplify good urban design and sound environmental principles. Environmental design solutions, such as passive and active energy and water use efficiencies, should be promoted. The development should comply with Enterprise Green Communities certification, which has been adopted by HPD as the standard for its new projects.

D. Parking

1. The development should include approximately the same amount of public parking as currently exists for cars (i.e., excluding commercial vehicles and trucks) that will be displaced as a result of development.

IV. Appendix

Model language/procedure for contacting former site tenants:

"Upon the initiation of the Environmental Impact Review, the City must mail a letter to all former site tenants and to all children of former site tenants apprising them of the planning process and assuring them that all former site tenants and all children of former site tenants will have first priority for all nonmarket units once housing is built on the site. Upon the award of the RFP(s), the City must mail a binding document to all former site tenants and all children of former site tenants informing them of their first priority for all non-market units on the site. In this same mailing, the City must also enclose a pre-application for this housing to guide the later tenant selection process."

Appendix B: Seward Park Mixed Use Development Project's Community Board 3 Design Principle Motions

June 2011 Design Principle Motions

MOTION 1:

WHEREAS, the Community Board 3 Land Use, Zoning, Public & Private Housing Committee is considering guidelines for the Seward Park Redevelopment Project Environmental Impact Study (EIS); so

THEREFORE, BE IT RESOLVED the committee supports the following Urban Design Principles for Sites 1-6 (those South of Delancey Street):

1. Height of all buildings. The buildings should be contextual in design, taking into account the unique crossroads of the two different urban design contexts presented by the area. As such, Sites 1, 3 and 6 should not exceed fourteen stories. Site 2 should not exceed 24 stories. Either Site 4 or 5 can be up to 24 stories, with the other not to exceed 14 stories.

2. School. If a school is developed (as preferred), it should be on Site 5, with the entrance on a side street and not Grand Street.

3. Commercial development. If commercial development is needed beyond the ground level and second floor (e.g., to comply with the guidelines), the extra commercial development should be placed on either Site 2 or Site 4, with a final determination following the EIS's study of the comparative impacts of the two alternative sites.
4. Public open space. Public open space of not less than 10,000 square feet should be provided on the north side of Site 5 or the south side of Sites 2, 3, or 4.
5. Pedestrian safety. A pedestrian overpass should be built over Delancey Street, between Site 2 and Site 9.
6. Parking. All future parking lots on any of the sites should be underground.
7. Street grid. The four streets in the grid should remain and be utilized.
8. Street life. The site area's design should be done so as to maximize street life.
9. Mixed-income quality. Assure that all of the buildings (with no exceptions) are mixed-income, so as to avoid the problem of uneven distribution of amenities, maintenance, and more; with the exception of senior housing that depends on federal funding that does not allow mixed-income.

Motion 2:

WHEREAS, the SPURA Guidelines approved by the Land Use, Zoning, Public and Private Housing Committee and unanimously by Community Board 3 in January 2011 specify that "with the exception of a possible supermarket, no single retail tenant should exceed 30,000 sf in size" and that "'mid-box' retail is defined as stores equal to 10,000 to 30,000 square feet (sf)"; and

WHEREAS, many chain stores achieve lower prices by paying inadequate wages to their employees; and

WHEREAS, chain stores may fail to provide adequate benefits to their employees; and

WHEREAS, the lower prices thus achieved may force out local small businesses the Guidelines encourage; so

THEREFORE, BE IT RESOLVED stores exceeding 15,000 sf (square feet) are required to hire locally, pay a living wage, and provide appropriate benefits.

Appendix C: Case for a school within the Seward Park Mixed Use Development

The Seward Park Mixed Use Project Site plan includes a potential 1,000 housing units. Of this total, at least 50 percent will be affordable housing. The entire development can be expected to attract families who will send their children to a local public school, for reasons of both affordability and quality. There is ample evidence, particularly in Manhattan and Brooklyn, that market rate residents are choosing to send their children to public schools rather than private schools as the quality of public schools and quality of life has improved under this administration.ⁱ

Even before adding the 1,000 planned units, an examination of data from the DOE 2007-2008 and 2008-2009 "*Blue Books*" shows that public school enrollment is growing faster in District 1 than in any other district in the entire city--by far--at 4.1 percent per year. The current enrollment growth shows no sign of abating. Indeed, there has been a double-digit percentage increase of over 12 percent in Kindergarten enrollment alone between 2009 and 2011. Moreover, the Department of City Planning anticipates overall population growth for Manhattan, with a 4.4% percentage change of school-age population from

2000-2030.ⁱⁱ Birth data for Manhattan from 2000 to 2009 from the NYC Department of Health and Mental Hygiene shows a percentage change of .5% for the borough.

The enrollment increases are already contributing to rising class sizes, with 52 percent of District 1 General Education, Gifted and Talented, and CTT Kindergarten classes exceeding the benchmark of 19.9 students in K-3 in the City's Contract for Excellence Plan (established by law to settle the Campaign Fiscal Equity lawsuit in 2007) with 20.1 students in the 2011-2012 school year. The possibility of 30 children per class exists for District 1 schools in 2012-2013. Further contributing to space constraints is the infusion of charter schools into the community, which reduces the availability of classrooms as well as much-needed spaces for purposes such as cluster rooms, therapy areas for special education students, and libraries, all of which are vital to delivering a quality education. The district's significant percentages of special education and ELL pupils already create specific educational needs and will continue to do so. According to one projection, the number of special education students alone is expected to double, comprising over 16 percent of the total elementary and junior high enrollment by 2018. The district currently has approximately 14 percent English Language Learners. It is a priority for schools to meet these students' needs.

Over the last decade, School District 1 has seen the greatest improvement of any district in the city in terms of student achievement, despite an economically and ethnically diverse population, in large part because of two critical factors: the provision of full-day pre-Kindergarten and small class sizes in the early grades. These are the only two education reforms that have been proven through rigorous evidence to narrow the achievement gap.

If residential growth in CB3 is allowed to continue without any planning for a school, the schools in District 1 and 2 will likely lose their Pre-K programs, and class sizes will continue to increase in size to far above optimal levels. The 2,400 children on waiting lists (as of May 22, 2012) for their zoned Kindergarten both this year and last are testament to a severe lack of planning for large scale residential development.

Also, in grades 4-8, class sizes have increased in District 1. They rose from 20.1 students in a class on average in 2009-2010, to 20.6 in 2010-2011, and then jumped to 23 in 2011-2012. This now tops the Contract for Excellence Plan's goal of 22.9 for grades 4-8. It is worth noting that while the "Blue Book" assumes a class size of 28 in grades 4-8, this capacity number is not aligned with the City's own state mandated Contract for Excellence Plan of an average class size of 23. The disconnect between policy and school construction is stark.

Unfortunately, the DOE cannot be relied upon to accurately forecast the need for school space. It is alarming to compare actual data to the DOE's own 2009 Grier report, which projected a five-year enrollment growth for District 1 of 7.6 percent from a 2008 baseline: the actual increase of 4.1 percent in 2008-2009 alone already surpassed the half-way point of the five-year projection. The consistent discrepancies in DOE's projections and actual enrollments have been documented in several reports, including studies by the Manhattan Borough President, NYC Comptroller, and other non-profit and industry analysts.

District 1 and District 2 are growing at a comparable rate. While District 2 suffers from extreme overcrowding, new schools are being built; yet this is not expected to satisfy the population increase in District 2 based on housing start projections. According to the NYC School Construction Authority's projected new housing starts, which are used for the 2010-2014 Capital Plan, enrollment projections

show an additional 1,880 housing units between 2009 and 2018 for District 1.ⁱⁱⁱ While housing starts had declined following the recession in 2007, the US Census Bureau and the Manhattan Borough President's office have reported on an increase in Manhattan since 2009.^{iv}

Therefore, for the reasons cited above as well as based on data gleaned by multiple governmental and industry reports, the need for a dual District 1 and District 2 Pre-K to 8th grade school on the Seward Park Mixed Use Project site is critical. A dual district school would provide flexibility and consistency with the Department of City Planning's own recommendations for responsible planning around new residential developments.^v The school should also be considered part of District 1's "District of Choice" policy whereby any District 1 student can rank the new school as their top choice school to enroll into and any child from District 2 who resides within CB3's boundaries can request to enter this school over their zoned school, yet will be able to attend the latter should a lottery system be employed at the new school and the child cannot attend the new school on the Seward Park Mixed Use Project site. This school would preferably serve CB3 children primarily within an approximate ½ mile radius of the school site with a 50/50 mix of District 1 and District 2 children as the first priority for acceptance. CB3 and the City shall work with the State legislature to amend the current boundaries to allow for this dual district system.

ⁱ ₁ Coplon, Jeff. "Five Year Olds at the Gate: Why are Manhattan's Elementary Schools Turning Away Kindergarteners? How the Bloomberg Administration Missed the Baby Boom it Helped Create." *New York Magazine*, May 24, 2009. Web: <http://nymag.com/print/?/news/features/56942/>

ⁱⁱ ₂ "New York City Population Projections by Age/Sex and Borough, 2000-2030," New York City Department of City Planning, December 2006. Web: http://www.nyc.gov/html/dcp/pdf/census/projections_briefing_booklet.pdf

ⁱⁱⁱ ₃ "Projected New Housing Starts as Used in the 2009-2018 Enrollment Projection 2010-2014 Capital Plan," New York City School Construction Authority. Web: <http://www.nycsca.org/Community/CapitalPlanManagementReportsData/Housing/2009-2018HousingWebChart.pdf>

^{iv} ₄ "School Daze: Fuzzy Numbers Mean Overcrowded Schools," Office of Manhattan Borough President Scott M. Stringer, September 2009. Web: http://mbpo.org/uploads/policy_reports/schooldaze.pdf

^v "Community Facilities and Services: Developing Mitigation," CEQR Technical Manual, January 2012 edition, Page 6-15. Web: http://www.nyc.gov/html/oec/downloads/pdf/2012_ceqr_tm/2012_ceqr_tm_ch06_community_facilities_and_services.pdf



THE CITY OF NEW YORK
OFFICE OF THE PRESIDENT
BOROUGH OF MANHATTAN

SCOTT M. STRINGER
BOROUGH PRESIDENT

July 5, 2012

Recommendation on
ULURP Application Nos. C 120156 MMM, C 120226 ZMM, N 120227 ZRM, C 120228 ZSM, C 120229 ZSM, N 120230 ZAM, C 120231 ZSM, C 120233 ZSM, C 120234 ZSM, C 120235 ZSM, N 120236 HAM, C 120237 PQM, C 120245 PPM –
Seward Park Mixed-Use Development
by NYC Department of Housing Preservation and Development and
the Department of Citywide Administrative Services

PROPOSED ACTIONS

The Office of the Deputy Mayor for Economic Development, in coordination with the New York City Economic Development Corporation (“EDC”) and the City of New York Department of Housing Preservation and Development (“HPD”) (together, “the applicants”) seek a number of proposed actions to facilitate a mixed-use development project of approximately 1.7 million GSF on nine city-owned lots. Nine sites make up the “project site” and are located mainly along Delancey and Essex Streets within the Lower East Side neighborhood of Manhattan Community District 3. Sites 1 through 6 are located directly south of Delancey Street, and are within the proposed Large Scale General Development (“LSGD”). The remaining Sites 8, 9 and 10 are located directly north of Delancey Street. Site 7 was identified as city owned when the planning process began in 2008, but would retain its current use as a municipal parking garage, and would not become part of the proposed development project.

The proposed development project requires the approval of several discretionary actions which include a zoning map amendment, zoning text amendments, zoning special permits, an authorization, city map amendments, the disposition of city-owned property, approval of an Urban Development Action Area Project, and the acquisition of city land.

More specifically, the applicants seek a **Zoning Map Amendment (C 120226 ZMM)** to establish a C2-5 zoning district within an existing R-8 zoning district where Sites 3, 4, 5 and 6 of the proposed LSGD site are located. The proposed zoning district is bounded by Delancey Street, 150 feet east of Clinton Street, Broome Street, Clinton Street, Grand Street, Suffolk Street, Broome Street, and Norfolk Street.

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The applicants also seek **Zoning Text Amendments (N 120227 ZRM) to Zoning Resolution ZR § 74-743(a)(1)(ii) and § 74-743(a)(10)** to allow the transfer of commercial floor area from a C6 to a C2 zoning district, and to waive planting requirements within the proposed LSGD; **an amendment to ZR § 74-744(a)(3)** to waive use restrictions to allow Use Groups 10, 11A, and 12A uses to develop within the proposed LSGD except arenas or auditoriums, skating rinks, public auction rooms, trade expositions and stadiums; and **an amendment to ZR § 74-744(c)(2)** to modify sign regulations.

The applicants seek a **special permit (C 120228 ZSM) pursuant to ZR § 74-743 (Large Scale General Development)** to allow greater total floor area on Sites 2, 3 and 4; greater residential floor area on Sites 1, 2, 3 and 4; greater number of dwelling units on Sites 1, 2, 3 and 4; and greater lot coverage on Sites 3, 4 and 6 than what are permitted on those sites without exceeding the maximum allowable amounts within the proposed LSGD; the applicants also seek **to modify district regulations** to allow the location of buildings without regard for the yard, court, distance between buildings, and height and setback regulations; **and as amended, to modify provisions set forth in ZR § 23-892 (planting requirements)**. The City Planning Commission (“CPC”) may grant these waivers provided the proposed modifications satisfy the findings set forth in ZR § 74-743(b), including that:

- the modifications will result in a better site plan and a better relationship between the proposed development and its surrounding buildings and open space;
- the modifications will not increase the bulk of buildings in any one block or obstruct access of light and air; and
- the streets providing access to the LSGD will be adequate in handling the proposed project’s resulting traffic.

The CPC may prescribe additional conditions and safeguards to improve the quality of the proposed project and minimize adverse effects on the surrounding area.

The applicants additionally seek **special permits (C 120229 ZSM) pursuant to ZR § 74-744(a)(3) (as amended) to allow uses, with some exceptions, in Use Groups 10, 11A and 12A within the proposed LSGD; ZR § 74-744(b) to modify requirements set forth in ZR §§ 32-421 (limitation on floors occupied by commercial uses) and 32-422 (location of floors occupied by commercial uses); and ZR § 74-744(c) (as amended, modifications of signage regulations authorization) to modify sign regulations pursuant to ZR § 32-68 (permitted signs on residential or mixed buildings) to allow signage regulations found in C6-1 district applicable in a C2 district**. In order to approve modifications of use regulations, CPC needs to find the proposed uses:

- will not impair the character of future uses or development of the surrounding area; and
- that the streets are adequate to handle generated traffic.

CPC may waive location within buildings regulation provided:

- that the commercial and residential uses have separate entrances;
- that the commercial use is not located directly above any story with residential units; and
- that the modification would not have any adverse impacts on other uses located within the building.

Finally, in order to grant the modification of signage regulations, CPC shall find that such modifications are consistent with the amount, type and location of commercial uses that the Commission finds appropriate with the LSGD.

The applicants also seek the **designation (N 120236 HAM) of the project site as an Urban Renewal Action Area Project (“UDAAP”)**. The applicants then seek the **disposition of city-owned property (C 120245 PPM)** to facilitate the development of a mixed-use project. Additionally, the applicants seek approval for the **re-acquisition (C 120237 PQM) of portions of Site 2** (Block 353, p/o Lots 1 and 28) where the new Essex Street Market may be relocated.

City-owned properties that are no longer in use or are in deteriorated or deteriorating condition are eligible to be designated as Urban Development Action Area (“UDAA”) or UDAAP, pursuant to the Urban Development Area Act (Article 16 of the State General Municipal Law). UDAA and UDAAP provide incentives for private enterprise to correct substandard, unsanitary and/or blighted conditions. According to New York State General Municipal Law § 694(4), to receive a UDAA and or/UDAAP designation the CPC and the City Council must find that:

- the present status of the area tends to impair or arrest the sound growth and development of the municipality;
- the financial aid in the form of tax incentives, if any, to be provided by the municipality pursuant to [the Urban Development Area Act]...is necessary to enable the project to be undertaken; and
- the area designation is consistent with the policy and purposes [of the Urban Renewal Act].

Additionally, the applicants seek four **special permits pursuant to ZR §§ 13-562 and 74-52 to allow public parking garages with more than 150 spaces** on portions of the ground floors and cellar levels 1 and 2 on Sites 2, 3, 4 and 5. The applicants are seeking maximum capacities of **168 vehicles for Site 2 (C 120231 ZSM), 250 vehicles for Site 3 (C120233 ZSM), 250 vehicles for Site 4 (C120234 ZSM), and 305 vehicles for Site 5 (C 120235 ZSM)**. The total number of parking spaces shall not exceed more than 500 within the LSGD. In order to grant the special permit, CPC must find:

- that the garage will not be incompatible with, or adversely affect the growth and development of, vital and essential uses in the general area;

- that the garage will not create or contribute to serious traffic congestion and will not unduly inhibit surface traffic and pedestrian flow;
- that such use is located to draw minimum vehicular traffic to and through local streets in nearby residential areas;
- that there are adequate reservoir spaces; and that the streets will be adequate to handle traffic generated; and
- that the streets providing access to the parking garages will be adequate to handle generated traffic.

Lastly, the applicants seek a **City Map amendment (C 120156 MMM)** to re-establish Broome Street between Norfolk and Clinton Streets, and Suffolk Street between Grand and Delancey Streets; and to eliminate portions of Clinton Street between Grand and Delancey Streets, and portions of Delancey Street between Norfolk and Clinton Streets on the City Map.

PROJECT DESCRIPTION

The proposed actions will facilitate the development of approximately 1.7 million SF of mixed-use project across nine city-owned sites. The development includes mixed-income housing units, community facilities, and commercial uses that serve local needs.

The proposal consists of nine sites. Sites 1 through 6 comprise the proposed LSGD, and are generally bounded by Delancey Street to the north, Pitt Street to the east, Grand Street to the south and Ludlow Street to the west.¹ The combined lots contain approximately 228,295 SF, and are currently used as parking facilities with the few exceptions of vacant and underutilized buildings located on Sites 2 and 5. Sites 8, 9 and 10 are located east of Essex Street and north of Delancey Street, and contain 1-story buildings. Community Healthcare Network (“CHN”), a non-profit healthcare provider currently occupies Site 10, the Essex Street Market is on Site 9, and a temporary storage facility for the market’s trash and refuse is on Site 8. These three lots are approximately 38,340 SF.

Since no developer(s) have been selected at this time, the proposed actions are intended to allow flexibility for various design options. The approval of this application permits architectural choices in the height, bulk and use distribution within the proposed LSGD, (Sites 1 through 6). The options produce a final development program of approximately 951,000 GSF (56% of total) of residential development,² a maximum of 632,300 GSF (37%) of commercial space, 114,000 GSF (7%) of community facility uses, 500 parking spaces across Sites 2 through 5, and 10,000 SF of public open space to be located at Site 5.³

¹ Refer to *Figure 1* for location of Proposed Project Sites.

² The project proposal includes approximately 900 dwelling units.

³ The proposed site program is generally based on planning guidelines and design principles approved by Community Board 3 (“CB3”) as part of a four-year planning process.

Figure 1: Location of Project Sites and Proposed Large Scale General Development



The project site straddles the border of the Lower East Side and Chinatown neighborhoods. As a result of city policies and zoning regulations, the nearby area is characterized by two distinctive building forms. To the project site's immediate south and southeast are 20- to 26-story residential towers within an R8 zoning district. The towers were developed as part of the city's urban renewal program. The remaining area is characterized by 4- to 6-story tenement buildings that are governed by the underlying contextual zones.

The nearby neighborhood contains vibrant ground-floor commercial uses including local retail and eating and drinking establishments. Several public open spaces and playgrounds associated with public schools serve the area. The area is also well served by mass transit. The F, J, M and Z subway lines stop at

the Delancey Street/Essex Street Station. The M9, M14A and M15 buses also serve the immediate area. Further, the project site is located just west of the Williamsburg Bridge which carries traffic to and from Brooklyn.

Site History

The Seward Park Urban Renewal Area ("SPURA"), established in 1955, was part of the city's urban renewal program to relieve the overcrowded housing conditions in the area. SPURA, bounded by Essex Street to the west, Grand Street to the north, and East Broadway to the south, was cleared for the development of four 20-story residential buildings known as the Seward Park Co-ops⁴. Subsequently, the Seward Park Extension Urban Renewal Area ("SPEURA"), located just north of SPURA, was established in 1965. SPEURA was bounded by Essex Street to the west, Delancey Street to the north, Bialystocker Place to the east, and Grand Street to the south. The former SPEURA sites were cleared. The sites subject to this application, however, were

⁴ The Seward Park Co-ops were completed in 1962 and contain approximately 1,728 affordable units. The Board of the co-op voted in 2000 to allow the tenants to sell units at market rates.

never developed and have remained largely vacant. Attempts to develop the sites in the 1980s and 1990s were unsuccessful due to a lack of community consensus.

SPEURA officially expired in 2005. In 2008, the local community and relevant city agencies engaged in a four-year planning process, which resulted in a set of planning guidelines and design principles shaping the early phase of this proposed redevelopment. The guidelines reflect the uses, mixed-income housing, and physical characteristics the community has agreed are appropriate for the project site.

Today, the existing site is largely unimproved and contains several public parking lots.

Table 1: Existing Project Site

Site	Block (Lot)	Ownership	Lot Area in SF	Existing Use
1*	409 (56)	DOT	21,996	65-space public parking
2*	352 (1 & 28)	SBS & HPD	43,140	1-story largely vacant commercial building and fleet parking for 90 vehicles (used by HPD)
3*	346 (40)	HPD	40,776	190-space public parking
4*	346 (40)	HPD	40,627	100-space commercial parking
5*	346 (40)	HPD	60,712	3 buildings (a visitor center for the Lower East Side Jewish Conservancy, a film prop company, and a vacant structure) and 100-space public parking;
6*	347 (71)	NYCHA	21,344	48-space public parking
8	354 (1)	SBS	11,163	1-story commercial building used as storage space for Essex Street Market
9	353 (44)	SBS	20,365	Essex Street Market
10	354 (12)	SBS	6,812	Community Health Network health clinic

*Site is part of proposed Large-Scale General Development

Proposed Site Program

The development on Sites 1 through 6, 8 and 9 will consist of a mix of residential, commercial and retail, and community facility uses. More than half of the total development will contain mixed-income housing units where half will become affordable housing. As delineated in Community Board 3’s planning guidelines, 50% of the 951,000 GSF of residential development will become affordable housing units (approximately 450 affordable units). 20% (180 units) is reserved for low-income households, 10% (90 units) for moderate-income households, 10% (90 units) for middle-income households, and 10% (90 units) for senior housing.

The maximum zoning floor area for the LSGD (Sites 1 through 6) is 1,485,868 SF. Without exceeding this maximum, the LSGD is permitted up to 900,000 SF for residential units, 600,000 SF for commercial uses, and 600,000 SF for community facility uses. Development on Sites 8, 9 and 10 will be developed to a maximum of 169,507 SF according to the underlying contextual zoning.

The proposed project will include approximately 29,000 SF for a new Essex Street Market on Site 2. Additionally, the LSGD will contain a maximum of 500 below-grade parking spaces (approximately 314,000 SF) distributed across Sites 2 through 5. Lastly, Site 5 will include a 10,000 SF publicly-accessible open space.

Additionally, new buildings within the proposed LSGD would be given flexibility in tower orientation, but within limits of maximum building envelopes. Sites 2 and 4 could have towers of up to 24 stories tall (approximately 315 and 290 feet, respectively, to the top of mechanical bulkheads). Sites 1, 3, 5, and 6 could have building heights up to 14 stories high (approximately 190 feet to the top of mechanical bulkheads). Height requirements for remaining Sites 8, 9, and 10 follow maximum allowable heights under the existing C4-4A zoning district (approximately 70 to 100 feet).

All proposed buildings within the LSGD have a maximum base height of 85 feet and a maximum midrise height of 120 feet. Each proposed site has up to five options of different built forms and where the tower can be oriented.

Proposed Actions

To facilitate the proposed development, the approval of a number of actions are required: the approval of a zoning map change, zoning text amendments, special permits associated with the Large Scale General Development, a City Map amendment, designation of an UDAAP and disposition of city-owned property, acquisition of city land, four public parking garage special permits, and an authorization to modify signage regulation.

Zoning Map Amendment

The applicants propose a map amendment to add a C2-5 overlay to an existing R8 zoning district on Sites 3, 4, 5 and 6 of the proposed LSGD. Approval of the proposed zoning maintains a maximum allowable community facility floor area ratio (“FAR”) of 6.5 and residential FAR of 6.02. A C2-5 overlay allows a 2.0 commercial FAR. The approval of this rezoning would permit the development of approximately 326,918 SF of local retail and commercial uses.

Large Scale General Development and Text Amendment

To enable flexibility in the design and massing of the proposed project, several waivers associated with the LSGD special permit may be required to facilitate the final development. The applicants have explored potential combinations of floor area, dwelling units, lot coverage and building massing across the six sites. While controls are placed on the LSGD, the built forms on each individual site may encroach upon the permitted height and bulk that govern the

underlying zoning districts. Generally, the proposed floor area on Sites 2, 3 and 4 may encroach on the permitted floor area by 134,590 to 349,956 SF. The proposed number of dwelling units requires waivers as the number of residential units on Sites 1 through 4 may encroach on the permitted amount by 18 to 329 units. Lastly Sites 3, 4 and 6 need lot coverage waivers as the proposed lot coverage on those sites may encroach by less than 1% to 8%.

Additionally, the project calls for bulk waivers regarding the potential height and setback of the buildings to further accommodate different building options. The final buildings will be less than the scope of the proposed waivers. The proposed sites are located in C6-1 (Sites 1 and 2) and C2-5/R8 (Sites 3, 4, 5 and 6) zoning districts, which have maximum street wall height of 85 feet and setback distances of 20 feet on a narrow street, and 15 feet on a wide street. After 85 feet, buildings may not pierce the sky exposure plane.⁵ Required base heights range between 60-85 feet in an R8 district, and between 40-60 feet in a C6-1 district. Additionally, sites in a C6-1 are required to have a minimum rear yard distance of at least 30 feet for mixed-use buildings, and 20 feet for non-residential buildings. Other relevant zoning regulations include window-to-wall and outer court provisions in an R8 district. An inner-court facing window is required to be at least 30 feet from an opposite wall. Lastly, an outer court with a width of 30 feet or more is required to have an equal depth and width without exceeding 60 feet.

All six sites have the option to become mixed-use buildings, which include residential with commercial and community facility uses. Sites 1 and 6 have options for community facility (such as senior housing) uses only; and Sites 2 and 3 have options to be commercial or community facility use developments. If built as mixed-use buildings, the sites could be developed under non-contextual height and setback regulations.

Under the proposed design guidelines and the proposed maximum building envelopes, each site requires different waivers: Sites 1 and 2 may exceed the 60 feet maximum base height by 25 feet; the base height for Site 1 has an option to be as low as 25 feet, and therefore does not meet the minimum requirement of 40 feet; and all sites have the potential to encroach on the initial setback distances between 2 to 10 feet depending on the width of the street the setback is facing and whether they are built under contextual or non-contextual building conditions. The applicants also seek waivers for a required 3 by 30-foot rear yard space on Site 1; a 60-foot wide rear yard equivalent for Sites 1 (up to 28.5 feet encroachment) and 6 (up to 37 feet encroachment); and a 10-foot rear yard setback on all six sites. Without knowing what the final designs are, the applicants are seeking to waive the window-to-wall requirement on Sites 3, 4 and 5 to allow maximum flexibility in building proposals. Additionally, Sites 3, 4 and 5 have building options that could create outer courts that fall short of the 60-foot width by 10-foot depth requirement, and therefore need waivers.

Zoning regulation requires street plantings in R8 districts in areas where buildings are set back from their street lines. The applicants propose a zoning text amendment to waive this requirement, and seek the waiver to accommodate 15-foot sidewalks.

⁵ The sky exposure plane begins at 85 feet above curb level and continues to rise at a ratio of 2.7 to 1 along a narrow street and a 5.6 to 1 ratio on a wide street.

The current zoning permits the transfer of floor area across lot lines within a LSGD, but restricts the transfer of commercial floor area to the proposed C2 zoning district. To facilitate the desired flexibility in commercial development, the applicants propose a text amendment to allow the transfer of approximately 390,816 SF of commercial area from a C6 zoning district (Sites 1 and 2), to a C2/R8 zoning district (Sites 3, 4, 5 and 6) of the proposed LSGD.

The applicants also seek a text amendment to allow a use waiver. The approval of the waiver would permit Use Groups 10, 11A and 12A uses on Sites 3 through 6, which include department stores and light industrial manufacturers. Arenas, skating rinks, public auction rooms, trade expositions and stadiums under those use groups are excluded in the proposed zoning text.

Finally, the applicants are seeking a special permit pursuant to ZR § 74-744(b) to waive the location of commercial uses in C2 and C6 zoning districts. Pursuant to ZR §§ 32-421 and 32-422 certain commercial uses are not permitted in locations of buildings with residential uses. In C2 districts (Sites 3, 4, 5 and 6) certain commercial uses⁶ may not be located above the first floor of buildings with residential uses. Additionally, some of these commercial uses may not be located above the second floor in buildings that do not have residential or community facility uses. In C6 districts (Sites 1 and 2), commercial uses⁷ may only be located below the lowest story of any residential unit. The applicants seek to waive these requirements for flexibility, however, no commercial use would be located directly above a residential use, and all commercial uses would have separate entrances from residential uses located in the same building.

Modification of Signage Regulations Authorization and Text Amendment

Signage in C2 zoning districts are limited to a maximum of 150 SF and a height of 25 feet. The applicants' proposal may include signs along the project site's Grand and Delancey Street frontages that exceed the permitted size. The applicants propose in a text amendment to create an authorization that will allow the C6 signage regulations in C2 districts. As amended by the text, the applicants seek to allow commercial signage to reach a maximum size of 500 SF with a height of 40 feet.

UDAAP and Disposition of City-Owned Land

The current project site consists mainly of parking lots with some vacant or underutilized buildings that impair the sound growth of the area. The project site is, therefore, eligible to be a UDAAP. The disposition of the project site to developer(s) after the ULURP process is intended to improve the current substandard and blighted conditions of the project site.

⁶ Refer to Use Groups 6, 7, 8, 9 and 14 uses that generally include local retail, home maintenance and repair services, and amusement establishments, as well as printers and caterers, and boating facilities.

⁷ Refer to Use Groups 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 and 16 which includes hotels, local retail, home maintenance and repair services, amusement establishments, service establishments, large retail establishments, custom manufacturing, and entertainment facilities.

Acquisition of City-Owned Land

The acquisition of one of the sites by the city is necessary to maintain the current management of the Essex Street Market. The proposed plan includes an option to redevelop Site 2 and include a new and expanded market. After the new market is created by a private developer, it is proposed to be reacquired by the city and then disposed to EDC as a fee ownership or leasehold interest.

Public Parking Garage Special Permit

Public parking garages are not permitted as-of-right in Manhattan Community Board 3. The project proposes a maximum of 500 parking spaces distributed amongst four lots, on Sites 2, 3, 4 and 5. However, no specific parking program has been proposed, and therefore the applicants seek flexibility in the parking program. As proposed, up to 168 spaces will be allowed on Site 2, 250 on Site 3, 250 on Site 4, and 305 on Site 5. In no case can the total number of spaces exceed 500 across all sites. Proposed curb cut locations will be located on Clinton, Suffolk, and Norfolk Streets. However, Site 4 may not place a curb cut on Clinton Street.

City Map Amendment

The applicants also propose a City Map amendment to reestablish Broome, Suffolk and Delancey Streets, and to eliminate portions of Clinton and Delancey Streets. The proposed map change reflects the existing blocks. The original SPEURA plan combined the blocks into a superblock on the map, but the plan was never realized. This map change will facilitate the proposed building envelopes that encourage greater pedestrian activity.

Anticipated Impacts under the Reasonable Worst Case Scenario Development

Several environmental impacts were identified under the Reasonable Worst Case Development Scenario (“RWCDs”):

- Community Facilities and Services – Although no significant adverse impacts are identified, the RWCDs will add 108 elementary and 37 intermediate school students in the area, and the utilization rate in the surrounding districts would be increased by 2 % (5% is the threshold for significant adverse impact); the utilization rate of child care facilities in the area would increase by 3% (5% is the threshold for significant adverse impact);
- Historic and Cultural Resources – The proposed project would have significant adverse impacts on two architectural resources, which include the Essex Street Market and the former fire station at 185 Broome Street. Further, the proposed project would adversely impact five architectural resources located within 90 feet of proposed construction;
- Transportation – The proposed project would have significant adverse impacts on the southbound M9 and westbound M14A bus lines during the morning peak hours, and the northbound and southbound M9 bus line during the evening peak hours; 4 pedestrian intersections would also experience significant adverse impacts from the proposed project

(at the west and east crosswalk at Delancey Street and Essex Street, the western sidewalk of Essex Street between Delancey Street and Broome Street, and the eastern sidewalk of Essex Street between Delancey Street and Rivington Street). Significant vehicular traffic would also result at several intersections. Mitigation measures include:

- Traffic mitigation - signal timing and phasing changes, parking regulation changes to gain or widen a travel lane, and lane restriping;
 - Transit mitigation - would need to be worked out with the MTA; and
 - Pedestrian mitigation - restriping crosswalks, and widening sidewalks;
- Construction – During some periods of construction, the proposed actions would result in significant adverse noise impacts. Seward Park High School, south of Site 1, would experience construction noise impacts that may go unmitigated. The balconies of some of the nearby residences would also experience noise impacts that may not be mitigated; traffic impacts could occur at four of the studied intersections during construction; and five architectural resources would experience adverse impacts through construction.

Essex Street Market Alternative

The Essex Street Market alternative retains the existing market on Site 9, and no additional or new development will occur on that site. This alternative would result in a reduction of 6% of total development of the project site. Site 2 would be developed into other commercial uses, such as a hotel, and other community facility and cultural uses. The alternative does not preclude the development of another market on Site 2. The alternative would, however, lower the amount of potential residential and retail spaces. The alternative would also require a new storage space for market refuse and garbage that is currently in Site 8. The alternative would produce similar significant impacts with the exception of demolition of the Essex Street Market that has been determined eligible for listing on the State and National Registers of Historic Places.

COMMUNITY BOARD RECOMMENDATION

At a Full Board meeting on May 22, 2012, Manhattan Community Board 3 (“CB3”) voted unanimously to approve the application with conditions by a vote of 44 in favor, 0 opposed, and 1 present not voting member.

CB3’s overwhelming support for the proposed project is a direct result of the community planning process that started in 2008 and continued up to the certification of this ULURP application. During that time, CB3 held a number of public meetings, and heard from many current and past residents on their vision of the SPURA site. In January 2011, CB3 unanimously approved a set of planning guidelines that shaped the design phase of the project. The guidelines reflect the residents and community members’ desire for a mixed-use and mixed-income development across the nine sites that they have identified as essential to creating a diverse and vibrant community. Some major points from the guidelines include:

- Community oversight throughout planning, implementation and construction process;

- A 60/40 ratio of residential to commercial uses;
- A desired retail program that includes:
 - Street-level retail to include local service and convenience retail uses;
 - Mid-box stores to be located on the second floor;
 - With the exception of a food store, size of any retail establishment should not exceed 30,000 SF;
 - Maintain the Essex Street Market’s current location, and if not, assist vendors in relocation costs;
 - Provide a diversity of non-retail commercial uses, such as a movie theater;
- The desired housing program:
 - 50% of new housing should be affordable units:
 - 20% allocated to low-income households;
 - 10% allocated to moderate-income households;
 - 10% allocated to middle-income households; and
 - 10% allocated to seniors.

After CB3’s approval of planning guidelines, the applicants continued to work with the community on crafting a set of design principles to further shape the physical form of the future SPURA site buildings. The design principles helped define the community’s preferred height and bulk for buildings to be developed on the LSGD. Generally, the community has agreed that developments on Sites 1, 3 and 6 should not exceed 14 stories; Site 2 should not exceed 24 stories; and either Site 4 or 5 could go up to 24 stories with the other not exceeding 14 stories. Any extra commercial development should be located on either Site 2 or 4. The principles further delineated an appropriate location for an open space area on Site 2, 3, 4 or 5. Finally, the community agreed that any new parking facility should be located underground.

Although the scope of the proposed project is closely based on the planning and design frameworks set by the community, several issues and concerns are raised in CB3’s resolution. To ensure the economic stability of the neighborhood, the community wants the commitment of permanent affordable housing on the project site. To further ensure that the project will progress in the direction intended by the planning guidelines, CB3 wishes to create a task force to engage in the Request for Proposal (“RFP”) and its selection process. Additionally, the community has been supportive of giving affordable housing priority to former SPEURA site tenants. Other conditions expressed in CB3’s resolution include:

- that there be a housing component in every phase of project development, and that it reflects the affordable to market rate housing ratio expressed in the planning guidelines;
- that big-box retail development would be restricted from the project site;
- that the project will follow local hiring practices and uphold living wage standards;
- that the selected developer(s) will partner with a local development corporation;

- that the community's preference for the selection of multiple developers, stated in the guidelines, is met;
- that the existing Essex Street Market vendors be charged the same rent and fees in the new space, and be compensated for the move; and
- that a public school be provided on the project site.

BOROUGH PRESIDENT'S COMMENTS

The proposed project is the largest tract of publicly-owned land south of 96th Street. During a time when Manhattan real estate comes at a premium and families struggle to meet rising costs of living, this project provides an opportunity to provide relief for many working and middle class New Yorkers. Generally, approval of this project will bring new housing, business opportunities, open space, and help create a vital mixed-use community in the Lower East Side. The development will create new jobs, a minimum of 450 new affordable units and a new publicly-accessible open space. Additionally, the proposed project anticipates providing preference to former site tenants, which will compensate some of the families displaced from their homes nearly five decades ago.

Moreover, over the last four years, the city has taken a comprehensive approach to understanding the needs of the community and crafting a plan that addresses those needs. The proposed project represents a positive direction for the Lower East Side community and will revitalize an area that has remained undeveloped for decades. While much of the proposal reflects the ideals of the community planning guidelines, CB3's ULURP recommendation articulates several policy and planning concerns that remain unaddressed. The Board and local community groups have requested the project be modified to:

- increase the number of affordable units by increasing the total amount of residential units and ensuring these units are permanently affordable;
- locate former site tenants and inform them of their right to reoccupy affordable housing units on the site;
- engage the community in the economic benefits of the proposal through local hiring;
- encourage the selection of multiple developers to promote a varied built character;
- restrict large-format retail store sizes to 30,000 square feet;
- provide Essex Street Market vendors with compensation for their relocation costs; and
- provide a public school on the project site.

Affordable Housing

The creation of affordable housing is an ongoing citywide goal as it is vital to the economic diversity and health of this city. This project presents an immense opportunity to fill a widening housing gap in Manhattan. The Lower East Side in particular has thrived as a diverse community and greatly benefited from the different populations that lived and still live in the neighborhood today. The proposed 50% affordable housing is an important step in preserving diversity and maintaining housing stability in the neighborhood. Several main components, however, must be in place in order to achieve this vital neighborhood quality. The applicants have publicly committed to make the affordable units permanent. To date, however, this commitment has not been codified in the application materials. Given that permanency protects diverse housing for future generations and ensures city residents continue to benefit from this project, the application materials should be updated to reflect this commitment.

Additionally, the subject site is one of the few remaining tracts of publicly-owned land in Manhattan that has the potential to provide significant amounts of affordable housing, and therefore, it is necessary to continue to explore whether there can be an increase in the total number of affordable units. Currently, the applicants anticipate the project's public benefits to be entirely paid for through the commercial uses and market-rate housing. Unfortunately, increasing the amount and level of affordability will require reexamining this model, which may require the inclusion of other city subsidies. Therefore, while this is important, it may be difficult in the current budget climate. As the process continues, the applicants should explore all options to increase the number of affordable units.

Housing Former Site Tenants

The former SPEURA site, encompassing nearly 20 acres, contained approximately 131 residential and 27 non-residential buildings. The site housed more than 1,800 families and 300 commercial tenants.⁸ While some lots were developed into housing, five lots subject to the proposed actions have remained vacant. Tenants from the former SPEURA site were displaced and their homes were cleared under the assumption that new buildings would shortly fill the lots. The tenants, at that time, were given the right to return after construction. That promise has gone unrealized for nearly fifty years as the lots remained vacant and the tenants never had the opportunity to return.

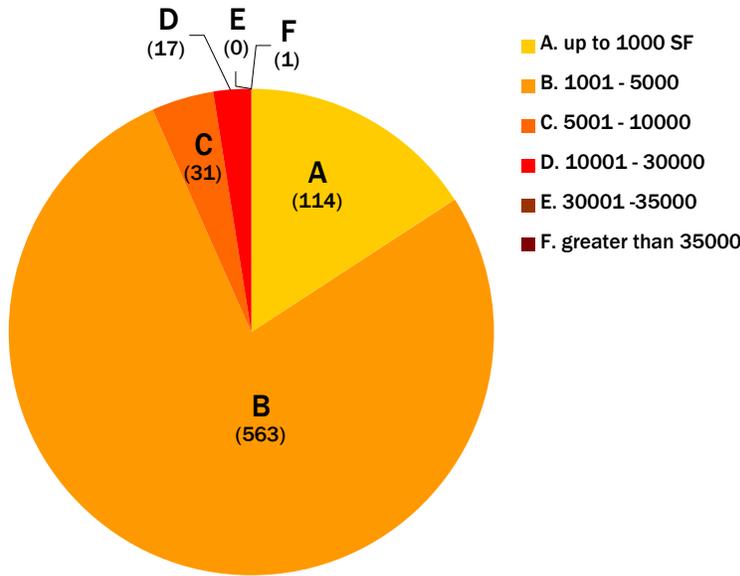
It is important that HPD does everything in its power to identify qualified former site tenants and correct the 50 years of inaction. The city has assumed its responsibility to accommodate those tenants wishing to return by granting them priority to affordable units developed in this project. Tenants wishing to occupy affordable units must otherwise qualify under income requirements. HPD is currently working with community groups to develop methods to locate former tenants and notify them of the housing opportunity in the proposed project. The applicants must maintain these efforts. HPD has confirmed that it will continue to work with community groups, CB3, local elected officials, and agencies to locate former residents. Through working with these stakeholders, the city should be able to create a thoughtful systematic approach to ensure all qualified former site tenants are notified of their rights to the new housing opportunities.

Neighborhood Retail

⁸ *The Housing and Redevelopment Board*, "Seward Park Extension", c. 1965.

The current proposal includes several text amendments and waivers that are designed to provide flexibility for commercial uses. The applicants stress that this flexibility is necessary to guarantee the financial solvency of the project. While these waivers facilitate several commercial and retail options, they could potentially create large retail establishments that are atypical of the surrounding built environment.

Figure 2: The number of retail spaces by size within ¼ mile of SPURA boundaries



Generally, the development of large stores on the site would be inconsistent with the existing retail in the area. With a history of street vendors and peddlers, the Lower East Side neighborhood is long known for its active street retail. The prominence of small-scale ground-floor shops largely contributes to the lively atmosphere in the Lower East Side. A retail presence with varied storefronts and provisions of different goods and local services generally encourage greater pedestrian activity.

Source: NYC Department of City Planning PLUTO data

The Lower East Side, and in particular the immediate area surrounding the proposed project site, consists mainly of small-scale shops. The majority of retail spaces or approximately 94% of

retail establishments within a ¼ mile of the proposed SPURA site are less than 5,000 SF. More than half of those stores are less than 2,000 SF. (Refer to **Figure 2** for a breakdown of retail by size within a ¼ mile of SPURA).

Beyond neighborhood character, large retail establishments are also more likely to become destination retail, which would bring vehicular traffic to the heavily-trafficked Delancey Street. Delancey Street has recently become the subject of significant concern due to an unusually high number of vehicle-pedestrian conflicts. The Department of Transportation has been working with CB3 and elected officials to incorporate a number of traffic calming measures around the northern boarder of the development site. Therefore, all agencies must make every effort not to undermine these efforts with significant traffic generators.

To encourage retail diversity, reduce traffic impacts, maintain the character of the neighborhood and promote the vitality of small businesses in the area, the project should limit the size of certain use groups to prevent stores of unlimited size. While some flexibility may be desired for

specific uses like supermarkets and cinemas, the flexibility should not be extended carte blanche to all uses.

The applicants should craft an RFP that favors development proposals that limit retail store sizes to 30,000 SF with the exception of neighborhood-oriented uses such as grocery stores. A 30,000 SF restriction would still allow stores large enough to take up nearly an entire floor plate of the proposed buildings (minus internal circulation, mechanicals, etc.), without significantly altering the neighborhood's character.

Public School

School overcrowding continues to be an ongoing concern in Manhattan. As the Borough President has found through three separate reports on the subject of overcrowding,⁹ the city's process of identifying needs for school seats is highly flawed. As a result, many of Manhattan's communities have felt that agencies like the Department of Education ("DOE") do not proactively address overcrowding and only respond after significant public outrage.

The *GDEIS* shows that many existing elementary schools are at or near capacity.¹⁰ The study also projects that the elementary schools in the area will be well over capacity in the next ten years even without the proposed project.¹¹ This is in part due to Community School District 1 ("CSD1") being one of the fastest growing school districts in the city.

As this project does not *significantly* add to the projected overcrowding problem, the creation of a new school is not legally required mitigation. However, this site is one of the few city-owned properties with the potential for locating a new school. Public services, such as schools must keep pace as more housing is built and the city continues to grow.

The proposed development anticipates up to 600,000 SF of community facilities, more than enough square footage to construct a public school. While the DOE does not currently believe there is a need to place a school on the site, the *GDEIS* demonstrates that the need will exist in the near future. Therefore, as part of the development approvals, the city should develop a means to evaluate school overcrowding as construction commences, and reserve land until the final phase of the project that could be developed with a public school. With appropriate thresholds in place, if the utilization rate demonstrated by the *GDEIS* is realized, then a new school can be incorporated into the development plan before construction is completed. This safeguard will give the project some flexibility without completely discarding the opportunity of building a school on publicly-owned land.

Local Hiring and Jobs

⁹ *Crowded Out*, April 2008; *Still Crowded Out*, September 2008; *School Daze: Fuzzy Numbers Mean Overcrowded Schools*, September 2009.

¹⁰ 8 out of the 14 schools in the study area are at or above 90% utilization rate and three of those schools are over capacity surpassing 100% utilization rate

¹¹ Without the proposed project, the elementary schools in CSD1, sub-district 1 will have a 125% utilization rate; CSD1, sub-district 2 will have a 112% utilization rate; and CSD2, sub-district 1 will have a 122% utilization rate. Only one of three sub-districts is projected to experience over-capacity in its intermediate school in the next ten years.

The potential for both short-term and long-term job creation in various fields and professions are significant in a project of this size and scope. As much of this proposal generates various economic activities, it is appropriate that the local community experiences the positive benefits of the economic generators of this project. While the recently passed Prevailing Wage Law is still untested, it appears that the majority of the proposed project would be subject to its provisions. Therefore, the jobs from this project should provide a prevailing wage.

The city plans to implement the HireNYC Program (the “Program”), which connects developers to local workforce organizations to help meet hiring goals for the project. Program goals include hiring at least 50% of the target population defined as those who have incomes below 200% of the poverty level. The Program assesses businesses’ needs and identifies the available resources to help meet those goals. Unfortunately, the city has determined that while they can set hiring goals through income, they cannot set local hiring targets. In spite of these limitations, HireNYC has been successful in hiring a significant number of local workers in other economic development projects across the city, including the Coney Island Redevelopment Project.

The success of HireNYC in reaching local residents is based on its outreach to local hiring organizations. The applicants have confirmed that HireNYC will work closely with local training and employment agencies including, but not limited to, the Lower East Side Employment Network, Henry Street Settlement’s Workforce Development Center, and New York City Housing Authority’s Training and Employment Center. Additionally, the RFP indicates that any developer who does not show a good faith effort to meet the hiring goals is subject to liquid damages. The liquid damages will enable city agencies to enforce hiring goals. The developer and agency will agree on the extent of the liquid damages and the metrics for determining a good faith effort in the contract of sale.

Working with local employment organizations and having an enforcement mechanism are positive steps to ensuring the local community will benefit from the economic development aspects of the project. The applicants should continue to work and consult with the community during the RFP and selection processes regarding the workforce employment plan as well as the details of the enforcement mechanism.

Multiple Developers and Local Development Corporation Partnerships

Pending the successful completion of the ULURP process, the applicants have committed to design the RFP to select either a single or multiple developers. However, there are several advantages to selecting multiple developers, given the scale of the proposed project. First, the project would have multiple funding streams, which would prevent construction work from being completely stalled as a result of potential financial setbacks of a single developer. Second, multiple developers could create a more interesting combination of building forms with a wider range of designs and built materials. A variety of buildings would be more fitting for the existing neighborhood as it reflects the mixture of building types in the immediate surrounding area. Lastly, selecting multiple developers would provide greater opportunity to engage local community development corporations (“CDC”) that have experience developing affordable and supportive housing and working in the specific neighborhood.

To achieve the aforementioned benefits and advantages of selecting multiple developers for a project this size, the selection criteria in the RFP should be designed to favor multiple developers. If for any reason a single large developer is selected, the RFP should favor developers that not only have reliable funding streams, but plan on having other advantages found with multiple developers such as varied building form and the inclusion of local CDCs that have experience in the community.

Essex Street Market

The Essex Street Market is located on Site 9 of the proposed project. In recent years, the market has experienced growth and gained community-wide popularity. It has become a mainstay for the community and an attraction for visitors. This indoor market consists of 23 vendors and is one of the few places in the immediate area to purchase fresh produce, fish and meats, which contribute to healthy eating. The market has also become an incubator for fledgling restaurateurs and artisanal food makers, providing them with affordable space and a supportive environment to grow their businesses. Because of these positive elements, many area residents have spoken passionately about preserving the Essex Street Market.

The applicants recognize the positive impacts of the market and have proposed to relocate it to Site 2, directly across the street from its existing location. However, many of the existing vendors are small business owners with limited capital flow and may not be able to afford the relocation. Additionally, many of the vendors have created successful business models based on current rents and stall sizes, and may not be able to continue to thrive under significantly changed conditions.

The potential new space will also, however, have apparent advantages. It will accommodate more food vendors and have an improved internal layout design to aid pedestrian circulation. The new space will include climate control, improved storage capabilities and garbage handling, have enhanced energy efficiency and be in compliance with the Americans with Disabilities Act. These are all amenities not available in the current market.

As the Essex Street Market has been a success, it is important that any new space preserves as much of the market's appeal as possible. The vendors are essential to this character, and therefore, it is instrumental that emphasis be placed on helping vendors thrive as conversations continue. As much as possible, rents and stall sizes in the new space should remain comparable to existing conditions, which will assist in retaining vendors.

Further, it is critical that the city work with the vendors on relocation. At this time, the full cost of the vendor relocation has not been determined. EDC has confirmed, however, that in the coming days they will issue a survey to all current vendors to assess relocation costs. The survey is an important step to determine the impacts of relocation, and will help determine the feasibility of a move. If the cost proves prohibitive to vendors, the applicants should either reassess the market's relocation or explore the feasibility of covering the associated costs.

Project Phasing

The proposed project includes a significant amount of public benefits and economic generators. The RFP and proposed actions, however, do not prescribe when the affordable housing units need to be constructed. The recent economic downturn has demonstrated that projects can become stalled, and if the affordable housing is not included in the early phase of the project, then the chances of it not being developed are potentially higher.

With the site's history of five decades of vacancy, and the recent increase of stalled construction sites across the city, measures should be taken to ensure that the potential benefits of this project are realized throughout the project's phasing. As such, the RFP should indicate a preference for developments providing significant affordable housing at every stage of the project.

RFP Process

Many aspects of the proposed development cannot be known until the RFP is issued and developer(s) are selected. Since the proposed project is proceeding through ULURP prior to developer selection, it is important to clarify the RFP process at this stage. The applicants have indicated that they will include the community in creating RFP goals, and in evaluating development proposals. This commitment to community engagement is a positive sign towards an inclusive planning process, and the city should be commended for continuing its efforts to engage the public.

BOROUGH PRESIDENT'S RECOMMENDATION

The proposed project will generally benefit the community through the inclusion of significant amounts of affordable housing and business opportunities. As one of the largest development sites south of 96th Street, the Seward Park Mixed-Use Development Project has the potential to positively transform the neighborhood and activate blighted, underutilized properties. The proposed project meets many of the community's goals and has taken positive steps forward since certification.

Since certification, the applicants have agreed to permanent affordability of the affordable housing units, confirmed they will continue to work with all stakeholders to identify former site tenants, are assessing the costs of moving Essex Street Market vendors, and most importantly will include the community in the RFP process.

Therefore, the Manhattan Borough President recommends conditional approval of ULURP Application Nos. C 120156 MMM, C 120226 ZMM, C 120228 ZSM, C 120229 ZSM, N 120230 ZAM, C 120231 ZSM, C 120233 ZSM, C 120234 ZSM, N 120227 ZRM, C 120235 ZSM, N 120236 HAM, C 120237 PQM, C 120245 PPM, provided that the applicants:

- 1. continue to work with the community on the amount of housing constructed, and determine the feasibility of increasing the affordable units;**

2. follow through on commitments to work with community groups, the community board, elected officials and city agencies to identify former site tenants and notify them of their right to occupy affordable units subject to income requirements;
3. include a public school or reserve space in the final development phase for a public school to ensure the city does not lose the opportunity to reclaim the space;
4. provide a preference in the RFP process to proposals that have retail plans that restrict large-format retail greater than 30,000 SF;
5. follow through on commitments to create an enforcement mechanism and work with local employment training agencies to ensure local residents benefit from the new jobs;
6. continue to work with the Essex Street Market vendors to assess the impacts of relocation to ensure a potential move of the market does not displace small businesses; and
7. give preference in the RFP to development proposals that provide affordable housing at all stages of development.



Scott M. Stringer
Manhattan Borough President